

# IS AL-QAEDA WINNING? GRADING THE ADMINISTRATION'S COUNTERTERRORISM POLICY

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## HEARING BEFORE THE SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS

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## **IS AL-QAEDA WINNING? GRADING THE ADMINISTRATION'S COUNTERTERRORISM POLICY**

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**TUESDAY, APRIL 8, 2014**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2 o'clock p.m., in room 2172 Rayburn House Office Building, Hon. Ted Poe (chairman of the subcommittee) presiding.

Mr. POE. The committee will come to order. Without objection, all members may have 5 days to submit statements, questions and extraneous materials for the record subject to the length of limitation in the rules.

Al-Qaeda is not on the verge of defeat. The administration called al-Qaeda's affiliates a junior varsity squad of wannabes. If groups like ISIS and al-Nusra are junior varsity I would hate to see what the varsity team looks like.

Al-Nusra, as you may recall, has taken credit for the Benghazi murders. Since the death of bin-Laden the administration has announced the near defeat of al-Qaeda, describing the core leadership as a shell of its former self.

But some intelligence officials say that the organization in fact is changing and actually franchising. In recent testimony, Director of National Intelligence James Clapper and Defense Intelligence Director Lieutenant General Mike Flynn said that al-Qaeda was not on the run and not on the path to defeat.

It has been 13 years since 9/11. The administration sometimes can't even get on the same page about the nature of al-Qaeda's threat to America and the rest to the world. When our soldiers raided bin-Laden's home in Pakistan, they recovered a treasure trove of documents, computers and the like.

These bin-Laden documents should be publicly released. This would not harm U.S. national security in any way. Actually, it is the opposite. If world renowned al-Qaeda experts could analyze these files they could tell us a lot we don't know about al-Qaeda, how they operate, what their vulnerabilities are, et cetera.

For some reason the administration seems to be pushing back. According to news reports, intelligence officials with knowledge of documents say that they show a far more complicated picture of al-Qaeda than the administration seems to be willing to admit.

If these documents are not made public, they should at least be provided to the new independent commission that has been established by Congress to study how al-Qaeda has evolved since 9/11.

Think of this as a new 9/11 commission. Al-Qaeda has not been reduced to a few old men hiding somewhere in Pakistan. Al-Qaeda and their affiliates have a strong global presence as we can see by the map that is on each side of the wall. The red areas mark the areas where al-Qaeda is today and the blue areas mark other terrorist groups. As we can see these are in Africa and the Middle East primarily.

Al-Qaeda and their affiliates are devastating Iraq. We have seen more deaths in Iraq over the last year than the worst year when our troops were there.

Al-Qaeda is all over Somalia. This branch crossed over into Kenya to launch a spectacular attack. It killed over 60 people who were just shopping at a mall.

Al-Qaeda is resurgent in Libya. The government can't go into the eastern half of its own country because it is controlled by terrorists.

Al-Qaeda affiliates killed three Americans when they took over an Algerian gas plant last January. One of those victims was my constituent from Texas, Victor Lovelady. Much like Benghazi, the victims still don't have justice. In Syria groups like ISIS and al-Nusra are the most capable of the fighters.

As many as 11,000 foreign fighters have traveled to Syria to join the fight against the dictator Assad. Many of these potential terrorists are from Europe. Some are from even the United States.

At some point they will return home radicalized and highly trained. This is not a pleasant thought. Today, al-Qaeda controls and operates in more territory than it has at any time since its creation. Al-Qaeda on the run? Hardly.

Although the use of armed drones and precision kill or capture raids can kill bad guys here and there, this is not a universal strategy or long-range plan. There does not seem to be a whole government plan to disrupt, dismantle and defeat al-Qaeda.

At some point, al-Qaeda could destabilize the entire Middle East and then work its will in North Africa. If it is allowed to go down that road the consequences for U.S. national security are unthinkable. Al-Qaeda is playing the long-term game.

In the United States, it is questionable whether we are in the game. The core group of al-Qaeda and many of their affiliates actively seek ways to strike the United States at home and abroad.

Many of these plots, luckily, have either been foiled or failed because of incompetence or luck. We need to call this like it is. Al-Qaeda is a robust global organization that is not on the path to defeat. They still have a global plan—a global long-range plan. Until we come to terms with this, we cannot hope to develop an effective approach to defeat them.

And I will now yield 5 minutes to the ranking member for his opening statement, Mr. Sherman from California.

Mr. SHERMAN. Thank you, Mr. Chairman. I am impressed with the witnesses we have been able to start this panel off on and I am not sure that we should have a hearing grading the administration's past. But if we are able to secure such fine witnesses with such a title then maybe it is worthwhile.

I am much more interested in determining what our policy should be in the future than grading the past. But if you are going to grade this administration we ought to grade on the curve. And there are only two Presidents in this century focusing post-9/11.

The number one terrorist organization is the Iranian Government, the number one state sponsor of terrorism. Now, where were they on September 12th, 2001? They faced a great ideological opponent in al-Qaeda and the Taliban in Afghanistan.

Their number one geostrategic threat was Saddam Hussein, who had killed close to 1 million Iranians. They faced a unified American population galvanized by the events of 9/11 and they were nowhere close to a nuclear weapon.

What happened after that? We removed Iran's enemies east and west. Baghdad, which had been their number one geopolitical threat, became their number one geopolitical ally.

The unity of the American people was squandered by the absence of weapons of mass destruction in Iraq and a decision to invade Iraq even after Saddam at the last minute agreed to inspections of even his presidential sites.

And as for Iran's nuclear program, we went 8 years in which President Bush used all the power of the presidency to prevent this Congress from adopting any new sanctions of significance and refused, after hearing a hearing in this room, to enforce the laws we already had. And so when this President came to office, bin-Laden was alive and the Iranian nuclear program was alive and kicking.

Since then we have gotten out of Iraq. We got out of Afghanistan. We have killed bin-Laden. So I would say if you are going to grade on the curve you got to give this administration an A. What are the standards that we should have?

There are those who believe that if only this President had a different personality that all the Islamic extremists would endorse Jeffersonian democracy. It is not true. We as a people have agreed to only 9 percent of our GDP being collected in income taxes.

That is 9 percent to cover our international and domestic government excluding Social Security, and for that we are told that somehow by force of personality the President should be able to assure the territorial integrity of Ukraine, Japanese sovereignty over every island in dispute and the complete abolition of al-Qaeda-inspired terrorism.

That is a lot to expect. The fact is we have a limited budget, a limited willingness to commit our forces and given those limits this administration has achieved a lot.

Now, al-Qaeda has metamorphasized but they haven't been able to have the technological capacity to hit us again, as they did on 9/11. That doesn't mean that Islamic extremism is not alive and well and living on the map that the chairman just showed us.

So I think given the limited taxes we are willing to collect, the limited money that is available for international operations including the Pentagon and the intelligence agency, given how close Iran was to a nuclear weapon on the day this President took power, I would say that if we grade it on a curve we will award an A.

But I look forward to trying to craft a foreign policy that looks forward rather than grading any past President and with that—oh,

finally, I do want to comment upon the chairman's idea that the papers collected with bin-Laden should be made public.

They should only go to the Intelligence Committee. They are as sensitive as all the other documents that only go to the Intelligence Committee and if we were to publish those papers it would be a last will and testament from a man with millions of supporters ready to die for him or millions of supporters and many willing to die for him.

Those papers would provide guidance as to what he was thinking, guidance as to what targets he thinks should be hit, ideological inspiration to those who find their ideological inspiration in Islamic terrorism.

So I don't think that the last will and testament or final papers or anything else of Mr. bin-Laden's should be revealed to anyone who we will not reveal the most sensitive secrets, and I yield back.

Mr. POE. The chair recognizes Mr. Kinzinger from Illinois for a 1-minute opening statement.

Mr. KINZINGER. Well, thank you, Mr. Chairman, and to our witnesses thank you for being here. It is great to see you. I am unapologetic about American strength and American power around the globe.

I think America is a great stabilizing force. We don't seek to be an empire but we also can't stand by and watch people oppressed. We can't stand by and see threats to our homeland.

And I would like to remind everybody that this discussion emanates because of 9/11 when thousands of our fellow brothers and sisters in this country were killed by a ruthless murderer and many of his offshoots still exist today.

I believe that when America retreats from the world that chaos fills that vacuum or the leadership from a country that we are not necessarily good friends with. So I am looking forward to hearing from our witnesses about how the United States can play a stronger role.

I agree with Mr. Sherman about the importance of having a discussion about military spending and diplomatic spending. But I think at the end of the day we must never tire, we must never waver and we must never forget the enemy that we are facing lest we face them again back here on the shores.

And I thank you for our witnesses and, Mr. Chairman, I yield back.

Mr. POE. The chair recognizes Mr. Perry from Pennsylvania for 1 minute in his opening statement.

Mr. PERRY. Thank you, Mr. Chairman. I would like to thank the witnesses as well. Great to see you again. This will be my opinion.

Al-Qaeda and its affiliates control more territory now than ever—than they ever have and are using that space as previously done in Afghanistan to plan and prepare attacks against the U.S. and U.S. interests.

President Obama and the administration repeatedly have conveyed that al-Qaeda is on the run and has been decimated. However, for months al-Qaeda and its affiliates have been increasing their presence and attacks in Iraq, neighboring Syria and elsewhere in the region.



Having served in Iraq as a commander of a large task force, I personally witnessed the courage and sacrifice of our troops in Iraq, and to correct the record we found the very same WMDs currently found in Syria when I was in Iraq.

As U.S. forces withdraw in 2011, however, President Obama's administration failed to negotiate an agreement with Iraq that could have allowed a limited U.S. military presence to help the Iraqis keep al-Qaeda from filling the power vacuum created by the withdrawal.

If this administration again fails to reach an agreement allowing a critical stabilizing force in Afghanistan it will create yet another power vacuum but this time in al-Qaeda's traditional sanctuary where the Islamist militants and terrorists likely will thrive again.

And I yield back. Thank you, Mr. Chairman.

Mr. POE. And without objection, the chair recognizes the gentleman from California, Mr. Rohrabacher, for his opening statement.

Mr. ROHRABACHER. Thank you very much, and I welcome my former colleagues and nice to see you again, Jane, and Senator, and I appreciate seeing you. Let me just note America—this is not a piling on our President because he happens to be a Democrat.

Most of us are adult enough to and have seniority enough here to remember that the worst mistake made in my time in Congress was supporting George W. Bush's order to go into Iraq, which turned out to be a catastrophe for our country, and we ended up ousting a secularist leader from that part of the world.

But what we have today is a President of the United States who the American people don't trust his word. The President of the United States has lied to us about Benghazi. It is clear that he has intentionally lied to us about an attack that left an American Ambassador dead.

We know also that he was—we don't understand the relationship that he had with President Morsi and whether that had something to do with this lie to the American people.

And finally, we have a President who is being very cautious about helping General el-Sisi, who is the one bulwark against radical Islam in that part of the world. So we are not just making this partisan. We recognize George Bush's mistakes. But we have to focus on where this President is leading us and it is right over the cliff.

Mr. POE. Gentleman's time has expired. I will now introduce the witnesses that we have. First, without objection, all the witnesses' prepared statements will be made part of the record. I ask that each witness will keep their presentation to no more than 5 minutes and we will begin with our first panel of witnesses.

We have two excellent witnesses here today and I appreciate—we all appreciate the fact you took time, both of you, to be here. Senator Lieberman, as a former senator from Connecticut, congratulations on UCONN, by the way.

Mr. LIEBERMAN. We consider that to be an event of international importance.

Mr. POE. In March 2013, he joined the American Enterprise Institute as the co-chair of the American Internationalism Project. The project aims to rebuild and reshape a bipartisan consensus

around American global leadership and engagement. He is also senior counsel at Kasowitz Benson Torres & Friedman.

Representative Jane Harman is the director, president and CEO of the Woodrow Wilson International Center for Scholars. During her nine terms as a representative in the 36th District of California, she served on all the major security committees in the House of Representatives.

Senator Lieberman, we will start with you and you can present your testimony.

**STATEMENT OF THE HONORABLE JOSEPH LIEBERMAN  
(FORMER UNITED STATES SENATOR)**

Mr. LIEBERMAN. Thank you very much, Chairman Poe, Ranking Member Sherman, distinguished members of the committee. I am honored to appear before you today and particularly happy to be here with my dear friend, Jane Harman.

You have two of the four of us of one Gang of Four, the other two being Pete Hoekstra and Susan Collins, who spent a lot of time working with all of you to pass the Terrorism Prevention Act of 2004.

Let me begin by thank you for holding this hearing. We all know that in the aftermath of 9/11 the overwhelming focus of our Government was on the threat of terrorism, in particular, al-Qaeda.

Twelve years later that is no longer the case. This is in large part a consequence of our success but the fact is that the absence of an attack anything like 9/11 since then is not because of an absence of terrorist plots or plans against the United States.

Rather, it is because of the vigilance, determination, courage and creativity by national security professionals and elected leaders across two administrations as well as the close cooperation in help of America's allies and partners around the world. Pride in this achievement, however, has got to be tempered by an awareness of several realities.

First, al-Qaeda and its affiliates remain a ruthless, determined and adaptive adversary. The underlying ideology that inspires and drives al-Qaeda to hate and attack us and our allies, which is the ideology of violent Islamist extremism, is obviously neither defeated nor exhausted.

For that reason, our safety as a nation is ultimately inseparable from our ability first to recognize the continuing threat from violent Islamist extremism and to adapt and meet it, and I want to say that we will do that not only with a strong counter terrorism program but by making sure that we stay engaged more generally in the world beyond our borders.

Unfortunately, we increasingly hear voices who say that the threat from terrorism is receding or that it was overblown in the first place and that the end of this conflict is near.

I wish I could say I agree with that but those arguments are badly mistaken. There is no question that the U.S. beginning under President Bush and continuing under President Obama has inflicted severe damage to core al-Qaeda.

But if I may borrow a phrase from David Petraeus, the progress we have achieved against core al-Qaeda, though real and significant, is also fragile and reversible.

While space for core al-Qaeda in tribal Pakistan has been reduced thanks to U.S. pressure in recent years, territory where al-Qaeda affiliates can find sanctuary has grown dramatically during this same period, particularly in the Middle East, North Africa and sub-Saharan Africa.

Al-Qaeda and other Islamist extremist groups have repeatedly exploited Muslim majority countries weakened or fragmented by conflict and neglected by the international community.

They take advantage of these places and people to recruit, radicalize and train the next generation of extremist foot soldiers. That is why al-Qaeda first went to Afghanistan in the '90s, why they turned to Yemen and Somalia in the 2000s and why today they are fighting to build sanctuaries in Syria, Libya and Iraq.

Several factors make the prospect of al-Qaeda sanctuaries in these three countries especially dangerous. The first is their respective locations. Syria and Iraq are the heart of the Arab Middle East, bordering key American allies including Israel, Jordan, Turkey and Saudi Arabia.

Libya and Syria are Mediterranean states comparatively easy to reach from the West, in contrast to remote Afghanistan and Pakistan, and Libya is also adjacent to vast Sahel with its weak and poorly-governed states.

These are also places, I want to stress, where U.S. policy makers have signaled that involvement of the U.S. military is for all intents and purposes off the table or at least severely constrained. And that means that the U.S. is not able to effectively combat or even deter the rise of al-Qaeda in these countries.

Of the three countries that I have mentioned, the situation in Syria is, I believe, by far the most alarming, the failure of American policy by far the most profound and its implications for our national security the most severe.

According to analysts, there could be as many as 10,000 foreign fighters in Syria today. This means that there are more foreign fighters in Syria now than there were during the peak of the wars in either Iraq or Afghanistan.

To me, that is a stunning number. The director of national intelligence recently described Syria as an apocalyptic disaster. Secretary of Homeland Security recently warned that Syria has become, and I quote, "a matter of homeland security."

In my opinion, Syria has become the most dangerous terrorist sanctuary in the world today and as far as I can tell the U.S. has no coherent or credible policy for dealing with that reality. There is much we could be doing that we are not and I will briefly describe what I hope we will do.

In Afghanistan, we can choose not to squander the gains of the past decade and instead keep a sufficient follow-on military presence to sustain the increasingly capable Afghan national security forces in our shared fight against al-Qaeda and the Taliban.

In Libya, we can put in place a large-scale well-resourced U.S.-led effort to build up the new Libyan army and security forces. In Iraq, we can make clear, and I hope we will, we are willing to support Iraqis against al-Qaeda including with a selective use of U.S. air power, and if the Iraqis are prepared to talk to us again about a SOFA that grants immunity to our soldiers on the ground there

I hope we will talk about a presence of a small force of American military, particularly embedded advisors.

In Syria, we can much more aggressively provide militarily-relevant support to non-extremist rebel forces who are fighting our two most dangerous enemies in the world there at once—al-Qaeda and Iran.

None of these actions represent simple or quick solutions. The fact is there is no simple or quick solution to the threat posed by al-Qaeda.

But in my opinion, there are smart measured steps we can take that will put us in a stronger position to deal with these threats and make us safer as a country. It is also worth noting that in every one of these countries we have repeatedly seen that al-Qaeda and its extremist vision, violent vision, are rejected by the overwhelming majority of people living there.

In Iraq, Syria and Libya we have seen popular grassroots movements rise up against al-Qaeda and their extremist allies and in Afghanistan as recently as this past weekend we saw millions of people peacefully and enthusiastically participating in a democratic election, defying the threats of the Taliban as well, frankly, as the naysayers in the West who claim that the Afghans don't want democracy.

They obviously do want to control their own future and they do not want to go back to the Taliban past. The question is whether we will provide these anti-extremist majorities in the Muslim world with the help and support they need or whether we will abandon them to the tyranny of a violent majority.

Let me say finally that ultimate success in this struggle depends not simply on the death of particular terrorist leaders or the destruction of particular terrorist groups, important though that is.

It requires the discrediting of violent Islamist extremism as an ideology, and let me underscore here the enemy is violent Islamist extremism, a political ideology that seeks to justify totalitarian political systems by misusing a great world religion.

Mr. Chairman, if I may say in closing and go back to a great world leader of the last century, when it comes to the fight against al-Qaeda and violent Islamist extremism, the harsh truth is, according to Churchill, now this is not the end. It is not even the beginning of the end. But it is perhaps the end of the beginning.

Thank you.

[The prepared statement of Mr. Lieberman follows:]

Joseph I. Lieberman  
Former United States Senator  
House Committee on Foreign Affairs  
“Is al-Qaeda Winning? Grading the Administration’s Counterterrorism Policy”

April 8, 2014

Thank you, Chairman Poe, Ranking Member Sherman, distinguished Members of this Committee. I am grateful to appear before you today.

Let me begin by commending you for holding this hearing. In the aftermath of September 11, 2001, the overwhelming focus of our government was on the threat of terrorism and in particular al Qaeda. Today, that is no longer the case. This is in large part a consequence of the success we have achieved—namely, the fact that we have not had another catastrophic attack on our homeland on the scale of that terrible September morning.

This success, however, is not because of an absence of terrorist plots against us. Rather, it has been achieved through the vigilance, determination, courage, and creativity of national security professionals and elected leaders across two Administrations, as well as the close cooperation and help of America’s allies and partners around the world.

Pride in this achievement, however, must be tempered by an awareness of several realities. First, al Qaeda and its affiliates remain a ruthless, determined, and above all *adaptive* adversary. Just as importantly, the underlying ideology that inspires and drives al Qaeda to attack us and our allies—the ideology of violent Islamist extremism—is neither defeated nor exhausted.

For these reasons, our safety as a nation is inseparable from our own ability to adapt to meet an evolving threat. It also requires that we stay engaged in the world beyond our borders.

Yet increasingly we hear voices—on both sides of the political spectrum—who say that the threat from terrorism is receding, or that it was overblown in the first place, and that the end of this conflict is near.

With respect, I believe these arguments are badly mistaken.

There is no question, the United States—beginning under President Bush and accelerating under President Obama—has inflicted severe damage to ‘core’ al Qaeda, the senior leadership that reconstituted itself in the mid-2000s in the tribal areas of northwestern Pakistan, after being driven from neighboring Afghanistan.

To borrow a phrase used by David Petraeus, the progress we have achieved against core al Qaeda is real and significant. But it is also *fragile* and *reversible*.

What has degraded core al Qaeda in the tribal areas of Pakistan has been the persistent, targeted application of military force against these individuals and networks. The precondition for these operations, and the intelligence that enables them, has been our presence in Afghanistan. If the United States withdraws all of our military forces from Afghanistan at the end of this year—the so-called “zero

option,” as some now advocate—you can be assured that al Qaeda will regenerate, eventually on both sides of the Afghan-Pakistan border.

If you doubt this, I urge you to look at what is happening in western Iraq, where just a few years ago, during the U.S.-led surge, al Qaeda was dealt an even more crippling blow than core al Qaeda has suffered in Pakistan today. Yet al Qaeda is surging back in Iraq, hoisting its black flag over cities like Fallujah, murdering hundreds of innocent Iraqis this year, pushing violence back to 2007 levels.

This leads to my next point. While space for core al Qaeda in tribal Pakistan has been reduced thanks to persistent U.S. pressure in recent years, territory where al Qaeda affiliates can find sanctuary has grown elsewhere during this same period, including in the Middle East, North Africa, and Sub-Saharan Africa.

Al Qaeda and other Islamist extremist groups have long exploited Muslim-majority countries weakened or fragmented by conflict, and neglected by the international community. They take advantage of these places to recruit, radicalize, and train the next generation of extremist foot soldiers. They use them to plot and plan attacks.

That is why al Qaeda and its affiliates first went to Afghanistan in the 1990s. That is why they later turned to Yemen and Somalia in the 2000s. And it is why they are fighting to build sanctuaries in Syria, Libya, and Iraq today.

Several factors make the prospect of al Qaeda sanctuaries in these three countries especially dangerous. The first is their respective locations. Syria and Iraq are the heart of the Arab Middle East, bordering key American allies like Israel, Jordan, Turkey, and Saudi Arabia. Libya and Syria are Mediterranean states—comparatively easy to reach from the West, in contrast to remote Afghanistan and Pakistan. And Libya is also adjacent to the vast Sahel, with its weak and poorly governed states.

Equally worrisome, these are all places where U.S. policymakers have signaled that involvement of the U.S. military is for all intents and purposes off the table, or at least severely constrained. This means that the United States is not able to combat the rise of al Qaeda in these countries effectively.

Of the three countries, the situation in Syria is by far the most alarming; the failure of U.S. policy by far the most profound; and its implications for our national security by far the most severe.

According to one estimate, there are today more foreign fighters in Syria than in Iraq and Afghanistan combined over the past ten years.

The Director of National Intelligence recently described Syria as—and I quote—“an apocalyptic disaster.” And the Secretary of Homeland Security recently warned that Syria has become—and again I quote—“a matter of homeland security,” as extremists there “are actively trying to recruit Westerners, indoctrinate them, and see them return to their home countries with an extremist mission.”

Put very bluntly, Syria has become the most dangerous terrorist sanctuary in the world today—and the United States has no coherent or credible policy for dealing with it. Nor is there any apparent strategy in place to address al Qaeda’s growth in Iraq or Libya.

Let me be very clear. No one is advocating sending tens of thousands of troops to these countries. Nor is it within our power, or our responsibility, to solve every problem these countries face.

But there is much we could be doing that we are not.

In Afghanistan, we can choose not to squander the gains of the past decade and instead keep a sufficient follow-on military presence to sustain the increasingly capable Afghan National Security Forces in our shared fight against al Qaeda and the Taliban.

In Libya, we can put in place a large-scale, well-resourced, U.S.-led effort to build up new Libyan army and security forces as quickly as possible—rather than the disorganized, poorly-resourced effort now in place.

In Iraq, we can make clear we are willing to support Iraqis against al Qaeda with U.S. airpower, as well as a presence of a small number of embedded advisors on the ground, while using that increased assistance as leverage to encourage political reconciliation.

And in Syria, we can much more aggressively, robustly, and creatively provide militarily-relevant support to non-extremist rebel forces, who are fighting our two most dangerous enemies in the world there—al Qaeda and Iran. We should also, in my view, reopen the debate about the limited use of American airpower—to degrade Bashar al-Assad’s ability to terrorize civilians through indiscriminate aerial bombardment, and to target the transnational jihadists that the moderate opposition is fighting.

None of these actions represent simple or quick solutions. There are no easy solutions for al Qaeda. But there are smart, measured steps we can take that will put us in a stronger position to deal with the evolving threats we face and that will ultimately make us safer as a country.

It is also worth noting that, in all of these countries, we have repeatedly seen that al Qaeda and its extremist vision are rejected by the overwhelming majority of people living there. In Iraq, Syria, and Libya, we have seen popular, grassroots movements rise up against al Qaeda and other extremist groups. The question is whether we provide these anti-extremist movements with the help and support they need, or abandon them.

Before closing, let me make one final point. Ultimate success in this struggle depends not simply on the death of particular terrorist leaders or the destruction of terrorist groups, important though that is. Rather, it requires the discrediting of violent Islamist extremism as a worldview.

And let me underscore here, the enemy is violent Islamist extremism—a political ideology that seeks to justify totalitarian political system by perverting a great world religion. The enemy, we can never stress enough, is *not* Islam itself.

Nor, I would add, is it political Islam per se. In fact, there are Islamists who are neither violent nor extremist, and who recognize al Qaeda to be a mortal threat just as much if not more than we do. In Tunisia, for instance, we see an Islamist party that has proven thus far to be respectful of democracy and of political pluralism.

For this reason, the U.S. does have a core national interest in the political development of the Middle East towards greater freedom. Human rights and democracy are not periphery considerations in the fight against al Qaeda; in the long run, they are vital to its defeat.

Mr. Chairman, the progress we have made against al Qaeda is real. But we should not delude ourselves into thinking that this fight is anywhere near over. Perhaps the best description of where we find ourselves can be found in the words of a great statesman of the last century, speaking of a very different struggle against a similarly totalitarian foe.

Speaking in late 1942, after the first British victories in North Africa, Winston Churchill told the House of Commons: "Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning."

So, too, perhaps it is for us now "the end of the beginning" in our struggle with al Qaeda. If so, that is reason to hope—but also to recognize that much danger and difficulty still lies ahead.



Mr. POE. Thank you, Senator Lieberman. As you all have heard, it is those famous bells that are ringing but we will go as far as we can before we recess for votes.

Representative Harman.

**STATEMENT OF THE HONORABLE JANE HARMAN, DIRECTOR, PRESIDENT, AND CHIEF EXECUTIVE OFFICER, THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS (FORMER MEMBER OF CONGRESS)**

Ms. HARMAN. Thank you, Mr. Chairman.

I don't miss the bells but I do miss many friends and I express especially warm affection for the Californians on your panel and for my dear friend, Joe Lieberman, who I consider an honorary Californian.

So it is nice to be before you today. I said to Ranking Member Sherman that many good people continue to serve in this House. The problem is the business model is broken and that is a frustration I know for all of you and I see heads nodding on a bipartisan basis.

On the subject at hand, I flew in from Boston today, mindful that the anniversary of the Boston Marathon bombing is next week. At a time of horror, Boston was resilient and remained strong.

The damage was contained, evidence that our country has changed and matured since 9/11. Last week, however, Ayman al-Zawahiri, who is, as we know, successor to Osama bin-Laden as the leader of al-Qaeda, released an audio message about the death of someone called Abu Khalid al-Suri, who was Zawahiri's representative in Syria.

Al-Suri was also a founding member and senior leader in Ahrar ash-Sham, a militant group in the Islamic front, a coalition of several rebel groups. Al-Suri was killed in February by two suicide bombers in Aleppo.

In the audio tape Zawahiri recalled knowing al-Suri since the conflict against the Soviet Union forces in Afghanistan in the '80s—in the 1980s and he called for Islamist fighters to reject the infighting in Syria. Sounds a little bit like Congress.

Zawahiri said, "Everyone who has fallen into these sins must remember that they accomplish for the enemies of Islam what they could not accomplish by their own abilities."

So why does this matter? Because now more than any other time since 9/11 it is extremely hard to differentiate terror groups from your average band of militants or to understand their various missions and strategies.

No longer is it just good guys and bad guys. It is also terrorist on terrorist. It is bad guy versus bad guy, complicated further by misguided and dangerous transfers of weapons and money by some Gulf States to groups like ISIS, which even al-Qaeda has denounced.

In a perverse twist, 13 years after the U.S. entered Afghanistan, a country with little governance that served, as we all know, as a safe haven for al-Qaeda to plan the 9/11 attacks, we may be seeing its sequel in Syria.

And after years of small steps, our options to influence the situation are limited. Some predict that the only way America will en-

gage directly in the Syrian conflict is a CT mission following an attack on us or our interests.

At a dinner I attended in London over this weekend, several prominent observers predicted just this. I sure hope it doesn't turn out that way.

The good news is that it is highly unlikely that the U.S. will suffer a catastrophic terror attack on the scale of 9/11 ever again based on the security improvements put in place since then.

But the risk of lower tech and lone wolf attacks remains and perhaps grows. Crucial is an understanding of the field of play. As the threat continues to evolve, the U.S. must continue to reevaluate our strategy to counter terrorism and consider answers to the following four questions.

One, how has the threat evolved over time? We all know that what once was a highly centralized structure, core al-Qaeda, has been decimated. I personally don't think it will be able to recreate itself but we should watch it.

Rather than disappear, however, al-Qaeda has morphed into a decentralized horizontal organization composed mainly of so-called affiliates.

Question two—are we giving al-Qaeda too much credit? There are affiliates and connected groups but they are opportunistic and don't always share the same goals and aren't always welcomed by al-Qaeda. The latest Zawahiri audio tape is a case in point and let us remember that it helps the al-Qaeda narrative to call every terror group al-Qaeda. They are not.

Question three—how will the long-term consequences of a war-torn and destabilized Syria impact our strategy? As Homeland Security Secretary Jeh Johnson said recently at the Wilson Center, Syria is now a homeland security problem.

A major part of our effort must be to use a whole of government approach including aid and development efforts rather than just kinetic tools to deal with refugees, stagnant economies and challenged leaders.

Forty-one percent of Syrians have been displaced, 150,000 are dead and millions are squatting outside the country in neighboring states like Jordan.

Question number four, perhaps the most important, and I will conclude very quickly, Mr. Chairman—what is our narrative? As mentioned, next week marks the anniversary of the Boston bombing.

The Tsarnaev brothers, at least Tamerlan, were radicalized in part on the Internet. We need to win the argument with the next kid who is trying to decide whether or not to plant a pressure cooker bomb or strap on a suicide vest.

Many think out in the world that the U.S. stands for drones, Gitmo, gun violence and spying. What do we really stand for? The rule of law, tolerance, economic opportunity, generosity to our neighbors and those in foreign lands plagued by natural disasters.

But we aren't making the sale. The Middle East Research Institute found that since Inspire Magazine's launch in 2010—that is the Islamist hate magazine published in the boonies of Yemen—over 20 young people have been arrested on terrorism connected

charges with copies of Inspire in their possession, and that is just in the United States.

There may be many more we don't know about. Ending the wars in Afghanistan and Iraq should help but we must also stop using the AUMF as the legal bedrock for a grab bag of CT operations around the world.

Closing Guantanamo Bay Prison must happen and we still haven't fully explained the legal framework for our surveillance efforts, efforts I support but under and within a strict legal framework.

In conclusion, as one European colleague said recently, we have changed our culture from need to know to need to share. But the new paradigm, sadly, is need to blame.

As I have often said, the terrorists won't check our party registration before they blow us up. So on the anniversary of Boston, let us unite to tell the right story about America.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Harman follows:]

**The Honorable Jane Harman**  
**Testimony before the House Foreign Affairs Subcommittee**  
**on Terrorism, Nonproliferation and Trade**  
**April 8, 2014**

I flew in from Boston today—mindful that the anniversary of the Boston Marathon bombing is next week. At a time of honor, Boston was resilient and remains strong—and the damage was contained. Our country has changed and matured since 9/11.

Last week, Ayman al-Zawahiri—the leader of al Qaeda—released an audio message about the death of Abu Khalid al-Suri, who was Zawahiri's representative in Syria.

Al-Suri was also a founding member and senior leader in Ahrar al-Sham, a militant group in the Islamic Front, a coalition of several rebel groups.

Al-Suri was killed in February by two suicide bombers in Aleppo.

In the audio tape, Zawahiri recalled knowing al-Suri since the conflict against Soviet Union forces in Afghanistan in the 1980s, and he called for Islamist fighters to reject the infighting in Syria.

Zawahiri said, “Everyone who has fallen into these sins must remember that they accomplish for the enemies of Islam what they could not accomplish by their own abilities.”

***Evolution of the Threat***

Why does this matter? Because now—more than any other time since 9/11—it is extremely hard to differentiate terror groups from your average band of militants, or to understand their varied missions and “strategies.”

No longer is it just good guys and bad guys. It’s terrorist-on-terrorist.

It’s bad guy versus bad guy, complicated further by misguided and dangerous transfers of guns and money to groups like ISIS, which even Al Qaeda has denounced.

In a perverse twist, thirteen years after the US entered Afghanistan—a country with little governance that served as a safehaven for al Qaeda to plan the 9/11 attacks—we may be seeing its sequel in Syria.

And after years of tepid steps, our options to influence the situation are limited.

Some predict that the only way America will engage directly in the Syria conflict is if there is a counterterrorism mission following an attack.

The good news is that it's highly unlikely that the US will suffer a catastrophic terror attack on the scale of 9/11 again, based on the security improvements put in place since then. But the risk of lower-tech and lone-wolf attacks remains.

***Understanding the field of play***

As the threat continues to evolve, the US must continue to reevaluate its strategy to counter terrorism and consider answers to the following questions.

1. ***How has the threat evolved over time?*** We all know that what once was a highly centralized structure—core al Qaeda leadership—has been decimated. But, rather than disappear, it has morphed into a decentralized horizontal organization—composed mainly of so-called “affiliates.”
2. ***Are we giving al Qaeda too much credit?*** There are affiliates and connected groups, but they are opportunistic and don't always share the same goals – and aren't always welcomed by al Qaeda. The latest Zawahiri audio tape is case in point.
3. ***How will the long-term consequences of a war-torn and destabilized Syria impact our strategy?*** As Homeland Security Secretary Jeh Johnson said recently at the Wilson Center, Syria is now a “homeland security problem.” A major part of our effort must be to use a whole of government approach—including aid and development efforts, rather than just kinetic tools, to deal with refugees, stagnant economies, and challenged leaders. Forty-one percent of Syrians have been displaced—150,000 dead—and millions are squatting outside the country in neighboring states like Jordan.
4. ***What's our narrative?*** As mentioned, next week marks the anniversary of the Boston bombing. The Tsarnaev brothers—at least Tamerlan—were radicalized in part on the internet. We need to win the argument with the next kid who is trying to decide whether or not to plant a pressure-cooker bomb or strap on a suicide vest.

Many think the US stands for drones, Gitmo, gun violence, and spying. What do we really stand for? The rule of law, tolerance, economic opportunity—generosity to our neighbors and to those in foreign lands plagued by natural disasters. But we aren't making the sale.

The Middle East Research Institute found that since Inspire magazine's launch in 2010, “over 20 young people have been arrested on terrorism-connected charges with copies of Inspire in their possession.” There may be many more we don't know about.

Ending the wars in Afghanistan and Iraq should help, but we must also stop using the Authorization for the Use of Military Force as the legal bedrock for a grab-bag of CT operations around the world. Closing Gitmo must happen and we still haven't fully explained the legal framework for our surveillance efforts.

***Conclusion***

Sadly, as one European colleague said recently, we have changed the culture of “need-to-know” to “need-to-share.” But the new paradigm is “need-to-blame.” As I have often said, the terrorists won’t check our party registration before they blow us up. On the anniversary of Boston, let’s unite to tell the right story about America.

Mr. POE. I want to thank both of our witnesses for their testimony. We are going to be in recess until the votes are over. Ten minutes after the last vote we will reassemble and then we have a few questions for you all.

Thank you very much for your patience.

[Recess.]

Mr. POE. The meeting will come to order. Thank you both for returning. I hope you had a good conversation while we were voting to save the country.

Several questions—you both are experts. I want to make the questions general so you both can weigh in on them. Tell me a little more in detail about al-Qaeda. How many of them are there? Senator, can you tell us?

Mr. LIEBERMAN. Yes. Of course, when I was a senator I could say I would like to tell you but I can't—it is classified. But the truth is at this moment I don't know the exact answer.

I am struck by the number, which has gained some currency, that there are—if not al-Qaeda there are 10,000 foreign fighters in Syria now so they are members of al-Qaeda or associated groups or groups that could fit the general description of violent Islamist extremists.

I mean, the truth is in some of the countries we worry about the numbers of al-Qaeda or associates are probably in the hundreds and yet if you are, you know, prepared to blow yourself up to kill people you can still have a terribly painful effect on a society.

Mr. POE. If you talk about the 10,000 foreign fighters in Syria, are you just talking about those that are fighting against the government or are you including Hezbollah on the side of the government?

Mr. LIEBERMAN. No, I am not including Hezbollah. These are primarily, excuse me, Sunni and, of course, I am not including the Free Syrian Army or the other opposition groups that started this with a peaceful protest.

These are violent Islamist extremists who have come in from around the world, not just the region. That is a big number and that is why I said in my testimony that I think that Syria today is rapidly becoming the most threatening terrorist sanctuary in the world.

Mr. POE. Representative Harman.

Ms. HARMAN. Well, I said in my testimony that some are predicting now that the way we will finally intervene adequately in Syria is when there is, unfortunately, a terrorist attack against us or our interests by those there.

I agree with Senator Lieberman that Syria could easily become the sequel to Afghanistan in training large numbers of terrorists.

But on your question of how many in al-Qaeda, I think there is no answer to that question. I mean, think amoebas. I mean, it is a—there is a loose affiliation of terror groups that form and reform around projects. Some of them are al-Qaeda. Some of them are not.

Al-Qaeda is now fighting with groups like ISIS, which it considers too radical. I find that quite amazing to get your head around. But also there are Sunni and Shi'a terror groups inside of Syria, for example.

Hezbollah is a Shi'a terror group and yet a lot of these other groups, al-Qaeda being one, are Sunni groups and they are fighting each other. So it is just two conclusions. Number one, it is I think impossible to measure but, number two, let us not overstate the number of al-Qaeda. That is their narrative. We don't want to make them look good. Some of these groups are not al-Qaeda.

Mr. POE. All right. Senator, you mentioned during the—your testimony three areas of concern—Syria, Libya, Somalia—and my opinion is the United States, the public, is “war weary” of military intervention in some other country.

So what would be, is or should be our foreign policy, our plan, our national defense plan in specifically those areas and more generally al-Qaeda worldwide?

Mr. LIEBERMAN. Well, the public obviously is war weary. I mean, we are going through a period now not unlike others we have in our history that usually follow either unpopular wars or wars ending, and often coincide with tough economic times and people want to pull back from the world.

Almost every time that happens we get drawn in late to conflict at a much greater price in life and national assets—national treasure. So like so much else this comes down to leadership.

I mean, you are holding this hearing, I believe, to remind at least, if I may say so respectfully, to remind your colleagues and Congress and hopefully the public that al-Qaeda is not defeated—that the violent Islamic extremists are out there and they despise us.

They want to kill us, and give them an opportunity and they will, and it is a slogan but it has a lot of substance to it. I would rather fight them over there than here, and we see now the evidence of them massing in these places we have talked about—Syria, Libya, increasingly Iraq and Afghanistan if we totally pull out.

And so I think it requires leadership that has the fortitude to stand up and say if we—and I am not talking about a big ground war anywhere in the world but if we stay involved sometimes economically in Libya, assisting the development of their army, sometimes being willing to assist with the limited use of our air power we are going to save ourselves a lot of lives and a lot of trouble later on.

Ms. HARMAN. Well, I agree but I would add another dimension. As I said in my testimony, I think just using kinetics is not going to defeat this problem and most of our major military leaders say the same thing.

I do think we have to win the argument with some kid in the boonies of Yemen deciding whether to strap on a suicide vest and the way we win our argument—we win that argument is to convince him of a narrative about the United States, very different from the one he believes—the propaganda he has been brainwashed to believe and that will require more than the use of kinetic force.

I would keep it on the table but I also would do other things—diplomatic efforts, economic efforts, doing things that we are now doing in North Africa to keep states from failing. We are inserting—it is a very interesting thing that we are doing—some of our special command forces to keep governments from failing. That



helps. So I think it is a complicated problem but Whac-A-Mole is not an adequate solution.

Mr. LIEBERMAN. Mr. Chairman, if I can really briefly, I want to say that I would actually agree with Congresswoman Harman and in my opinion it is not an either/or. There are circumstances where we have to use our muscle or we have to help train local forces in our own self-security interests.

But in the end, as I mentioned briefly in my remarks, this is an ideological conflict, as ideological as the Cold War was, with a radical minority within the Muslim world rejected every time there is a vote by the majority of Muslims in the countries that we have got to stop ideologically.

Mr. POE. Thank you. I yield to the ranking member for his questions.

Mr. SHERMAN. Yes. First, an observation—I couldn't agree with the two witnesses more that not only do we need kinetic force but we have to win the argument, and part of that is broadcasting and webcasting and getting our message out. But another part is recognizing that there is a whole area of discourse that is foreign to us.

We make our arguments based on this news development that is reported on Fox or that insight on MSNBC. To my knowledge, our broadcasting board of governors hasn't employed a single Islamic scholar and yet if we are going to make this argument it can't just be based on econometrics.

It can't just be based on the things that are relevant to our political discourse. We have got to meet them Koran verse to Koran verse and Hadith to Hadith. But that is an observation. Now I am going to move on to an incredibly long question.

The big buzz word in foreign policy is pivot to Asia, and I wish we were talking about trade missions to Tokyo and teaching Mandarin in our schools. But that is not what it means.

Pivot to Asia means focus our national security assets to confront China, and the Senkaku Islands give us a good pretext and rallying cry to do that. It means that all the decisions being made at the Pentagon today about which—what kind of research to do, what weapons to procure, what kind of training, deployment, budgeting is all focused at least until Crimea on the seas around China.

And my theory, and it is an unfortunate one perhaps, is that we often in this country don't make decisions based on what is in the national interest but rather based on what is in the interests of the institutions making the decision.

Now, the Pentagon and the rest of our national security establishment have a history. Since 1898, we have had a glorious victory every time we have confronted a conventional military foe, and perhaps our most glorious victory was against the Soviet Union where we won a tremendous victory without a major kinetic action.

And since the Philippine insurrection briefly after the Spanish war, every time we have confronted a non-uniformed asymmetrical enemy we have had a frustrating situation that didn't meet the needs of and actually undermined the national security establishment.

Now, the idea is we are going to pivot toward Asia. That allows us to confront a conventional foe and to prevail because our airplanes can shoot down their airplanes. But pivot toward Asia as-

sumes that we can pivot away from the Middle East and Islamic extremist terrorism.

I would ask our witnesses have we, like, solved this whole Islamic extremism problem and is it time to pivot away from the Middle East and North Africa and wash our hands of it? Ms. Harman.

Ms. HARMAN. Absolutely not. I have been saying lately no more pivots. I think U.S. leadership and focus is needed everywhere in the world and it is a very dangerous world and our leadership is enormously important.

Obviously, everything is not equal and in every part of the world we have to prioritize. But the Middle East—the problems in the Middle East are not going away and our leadership is indispensable.

As we have now learned from Crimea, the problems in Central Europe and Europe are not going away and our leadership is indispensable, ditto Africa, Latin America, et cetera, including Asia.

The word pivot is also a—I think a wrong description of what we intended in Asia. It was corrected to be rebalanced but even with that I would take issue. I think it is important to have a focus on Asia. I think that focus should not be on confronting China.

I think that focus should be on supporting our allies in the region and hoping that China's rise is a peaceful rise and that we are—we build a stronger relationship that is not adversarial.

I don't mean it will be easy but we build a stronger relationship that is not adversarial and in that regard I finally would say that I hope this Congress will find a version of trade promotion authority it can support and then will help conclude trade negotiations with Europe and Asia and pass trade agreements in both regions.

Mr. SHERMAN. I will just jump in and point out that the middle class of the United States has suffered a lot from the trade policy we have had so far and also what is not illustrated is if you double trade you double the opportunity to recognize income in the Cayman Islands.

And our ability to support our military is dependent upon those income tax collections that are very hard to collect from multinational business. But Senator Lieberman, should we be focusing on the Senkaku Islands or on Islamic extremism or raising taxes so we can do both?

Mr. LIEBERMAN. So it is not easy but the truth is we have got to—we can't pivot away from any one region in the world because they all matter to our security and our prosperity.

Probably today we are more threatened by what is happening—our own security here at home in the Middle East. So we can't leave it. That Middle East, North Africa, sub-Saharan Africa, that is where the threat of Islamic extremism is coming from.

On the other hand, we do have—I am sure there was a way in which people who were fashioning our policy in the administration saw the pivot or the rebalance, which is a better term, to Asia as part of the end of the era of Iraq and Afghanistan, and moving on to this dynamic region of the Asia Pacific, which was also extraordinarily active economically and increasingly important to us in the U.S. economically.

But, you know, the fact is both of those arguments are right and therefore you can't turn away from either one, and the irony here is—you probably all have found this—if you talk to people who are in the government of our allies in Asia they are unsettled as they watch the Middle East and they think that we are pulling out because they are seeing themselves and they are saying whoa, if—you know, if we get in trouble—if we have a problem with China will the United States come to our aid.

There was an Ambassador from one Asian country. I asked about the pivot to the Asia Pacific and he said to me, I am sure the Americans are on the way—they just haven't arrived yet, because they don't see that pivot and it is very important to them.

Mr. SHERMAN. I believe my time has expired but I will note that Japan, which is willing to have us spend hundreds of billions of dollars to have the naval forces to protect the—they call them islands, the barren rocks in question, continues to refuse to spend even 1 percent of its GDP on its own defense. I yield back.

Mr. POE. The chair recognizes the gentleman from Illinois, Mr. Kinzinger.

Mr. KINZINGER. Thank you, Mr. Chairman, and thanks for holding this very important hearing and one that I think, unfortunately, has lost a lot of the attention of the American people. Senator, Representative, I thank you guys for being here. Thanks for your service to your country.

You know, we—the chairman mentioned and, you know, you hear it all the time in the media this idea of war weariness, and while I think there is something to it I am actually in the process right now of reading a book about a company commander in World War II and, you know, you see about a guy that literally started out with a couple hundred people under his command and ended up with one at the end of various battles.

And you think about the intensity of which America confronted her enemies back in World War II, and while today 1 percent of Americans actually serve in the military and so I understand an idea of war weariness but I don't think we have carried near the burden as what the generation of World War II carried.

And my concern is in 10 years and in 20 years when history books are written about this moment, which I think is a very important moment in American world history, what is it going to say about the United States?

Is this the moment at which we doubled down and said we are committed to a free world, we are committed to a strong America, we are committed to allowing the people that live behind the new soft iron curtain and the iron curtain of tyranny to look at the United States as an example of what they want to be and what they want to aspire to?

Or is it the moment we decided to withdraw within ourselves in an increasingly global world and we will find that that bites us in the backside? And one of the areas I have been concerned with, to both of you, is Iraq. I am a veteran of Iraq.

I flew airplanes in Iraq and I feel every day almost a sense of mourning when I see the flag of al-Qaeda flying over where the Marines fought the hardest that they have fought since Vietnam—that bothers me—in Fallujah.

I think of my colleague out here, Duncan Hunter, who is a veteran of Fallujah and think of now what that leadership is on and I think of the message that we sent to our enemy that the moment we said, you know, we fought hard, we spent a lot of lives and treasure and we can argue about whether we should have gone in or shouldn't.

But then at the end of the day because in my mind to keep a political promise we pulled all the troops out of Iraq and didn't leave a residual force, and I look at now what is going on in Afghanistan with concern. The elections went well and I hope that the bilateral security agreement is signed.

But I think it is important for us to show a strong presence post-2014 lest we repeat the mistakes that we repeated in Iraq. I spent a long time opening that up but, Senator, I wanted to ask you specifically about Syria.

I hear people talking, and I was a big supporter of saying we needed to enforce the red line in Syria. I believe that was a turning point in American foreign policy when we failed to do that. But I am hearing people, sadly, say that Assad is the only protector of Christian minorities in Syria.

I hear people say that Assad is maybe not a good man but he is better than the opposition. Senator, can I ask you—can you talk about the opposition and dispel this notion about the fact that the opposition is all al-Qaeda and we either have to support a brutal dictator or we are supporting al-Qaeda?

I heard somebody famously say in my own party that had we enforced the red line we would act as al-Qaeda's air force, something that is very offensive to me as an Air Force pilot. So go ahead, sir.

Mr. LIEBERMAN. Thanks, Congressman. I totally agree with you. Assad is not a good man. He is a bad man. He is a brutal dictator. I mean, this all started with peaceful protests against his government and then he turned his weapons on his own people.

I went over there pretty early in the conflict and met with some colleagues from the Senate with the opposition to Assad and my judgement was and my colleagues' was very strongly that these were not al-Qaeda or violent Islamist extremists.

These were Syrian nationalists. They were patriots. They were sick and tired of being abused by the Assad administration, and I will tell you that their motivations were as much economic as they were political.

They felt quite rightly, just as the protestors in Egypt and Libya and Tunisia did, that the ruling clique, which is Assad and his group, were essentially stealing the wealth of the country and these people, a lot of them educated, had no chance to live better for their families.

We didn't support them when we should have and it allowed Assad to kill a lot of people and it opened up a vacuum in which these thousands of foreign extremist fighters have come in. But we still know who the moderate anti-Assad people are.

We can't yield to Assad. This man has blood on his hands in the most awful way and I think we have got to go in. We got to find people who we agree with, we know who they are, people who want us to come in who are pro-American and support them as best we can.

And, you know, I am one who would still go back to that decision the President made about the red line and use American air power to inflict some punishment on the Assad government, which is our only hope now of bringing him to any kind of discussion of ending this conflict because right now Assad thinks he is winning, and you know what? He is.

Mr. KINZINGER. I think a multi prong strategy of both enforcing the red line and also holding true what we have for a decade, that there will be no safe haven for al-Qaeda anywhere in the world and that includes parts of Syria.

So with that, Mr. Chairman, thank you and thank you to the guests. I yield back.

Mr. LIEBERMAN. Thank you.

Mr. POE. The gentleman yields back. Chair recognizes the other gentleman from Illinois, Mr. Schneider.

Mr. SCHNEIDER. Thank you, Mr. Chair. Again, to the witnesses, thank you for being here today. Thank you for your service to our country. Representative Harman, I want to go back to what you talked about—winning the argument—and the argument, if you will, on one hand is about narratives.

It is about where do we see or how do we help people see a different future, set their goals and aspirations to something that will pull them away from al-Qaeda. But for al-Qaeda I fear that the argument is an ideology and it is much harder to change or win an ideological argument. How do we balance those two things or how do we make sure that we can win that ideological argument?

Ms. HARMAN. Well, there are some in al-Qaeda who can't be rehabilitated and I am not against the use of force. I am not against the use of drones. I am not against the use of Special Forces in some cases under strict explainable legal limits to act against those folks.

I was not unhappy when Osama bin-Laden was taken out. I certainly was not unhappy when a dual national, al-Awlaki, a U.S.-Yemeni dual national, was taken out in Yemen. I didn't think there was another alternative and I didn't think that guy was rehabilitatable and he posed an imminent threat to us and he couldn't have been captured. So I get that part.

But I am talking about the fresh recruits to al-Qaeda, the kids who are a huge part of the force that is willing to die who could go either way. I mean, think about our inner city gang problems. It is similar.

If there is some impressionable kid who hears only from hardened gang members that kid will probably go that way. On the other hand, if that kid has other messages and other opportunities he/she may not.

So winning the argument is both being tough with those we can't persuade but also finding ways through their own governments to reach folks who could be persuaded—decent education, better living standards, respect, fair treatment of women and girls. I mean, a whole list of things we understand.

If I could just add one thing. Mr. Sherman said it and Mr. Kinzinger said it too though. We have to understand better what tribal societies look like. That is one of our problems in Syria.

We didn't really know—some in our Government really didn't know the best way to intervene with the opposition because they worried that helping X would hurt Y and so on and so forth.

We need more sophistication and I do agree with Mr. Sherman that having some Islamist scholars guide us is a good idea. The foreign minister of the E.U., Catherine Ashton, was at the Wilson Center recently and she said our understanding of tribal societies is very poor—the West's understanding. I agree, and if we are going to win the argument we have to have a better understanding.

And finally, I would say that a model—it is not perfect but a model for what could happen in Syria is what did happen in Yemen. Not perfect, but remember the real bad guy voluntarily left the government. Someone else, in fact his deputy but there was support by many tribes, was elected and there is still—there is still huge problems with parts of Yemen. But it is a much more peaceful society than it was before this happened.

Mr. SCHNEIDER. Well, I think as you touched on using the analogy of gangs is understanding that all of this takes place within a certain context and in Syria the context is within clans and tribes and the different regions and how that is playing out.

My understanding is there are many—as many foreign fighters on both sides of the battle in Syria. There is al-Qaeda, al-Nusra and the Sunni fighters but you have Hezbollah and Iranian Guard and fighting on behalf of Assad and that is the fight that is taking place within the context.

And Senator, I guess I will turn this to you with the last minute that I have. The idea of U.S. leadership, the idea of having our narrative and the vision of giving people the opportunity to achieve their dreams, women and children, all of that being something that allows people to see a different story, a different future for their communities and their countries, what more can we or should we be doing to make sure that we do win this war with al-Qaeda?

Mr. LIEBERMAN. Well, that has to start with the President and, really, this President is capable of excelling at communication but I think forces have drawn him inward post-Iraq and Afghanistan and we suffer from it.

By our Declaration of Independence we were given a mandate, a responsibility, a kind of destiny to carry that message which was universal human rights and there is no people in the world that don't respond to that. We are just not making the case.

We are not out there making the case enough and, obviously, Congressman Sherman talked about the lack of an Islamic scholar on the board of governors—broadcast board of governors. That ought to be. We ought to be—because the—part of the essence of our enemy here is a terrible exploitation and abuse of Islam.

We have to—and it represents really a minority of the Muslim world. We have to fight that and come back at it on the ground of Islam. Incidentally, we also have to say, which I think we believe—I certainly do—that not every form of political Islam is wrong.

There are moderate political Islamists. You know, religion plays a large part in the public life of America. We have—some of our allies in Europe are run by people who lead parties called Christian Democratic Parties. There is nothing inherently wrong with linking religion and politics. But once you take it as al-Qaeda does to vio-

lence and extremism then it has got to stop and I think we have got to make that case.

Congress can do more, broadcasting can do more but honestly it has to start with the number one American, who is the President.

Mr. SCHNEIDER. Thank you. I am out of time. With that, I yield back.

Mr. POE. Chair recognizes the gentleman from Pennsylvania, Mr. Perry.

Mr. PERRY. Thank you, Mr. Chairman, and great to see you both again. Thanks for your testimony and your candor. And I think about the discourse and I would agree with my colleague that I think much of America has kind of lost track of this discussion over lost airplanes and Ukraine and or economy or jobs, et cetera. But, you know, this briefing I have describes al-Qaeda as either in the minimalist view or the expansive view.

And I don't know if you are familiar but, you know, the minimalist view views and understands al-Qaeda as group senior leadership and recognized affiliates, and also sees it more of a brand—more of a brand than a hierarchal organization and it is not really al-Qaeda if it is not planning attack against the United States or United States interests.

You know, is it partisan to say—is it—would it be your view that the administration has kind of taken on that minimalist view of al-Qaeda based on that description?

Mr. LIEBERMAN. That is really interesting. So I would say that the administration has been committed to this fight against al-Qaeda. I mean, I have had arguments with them because they won't broaden the vocabulary to say the fight is against not just al-Qaeda but violent Islamist extremism. That is really what it is.

But I do think that the administration's pulling back from global leadership more generally has contributed significantly to that view, that essentially the battle against al-Qaeda has been won—we can move on to Asia—the Asia Pacific.

And it is not so. I want to just finish my response and go back in a way to what Congressman Schneider asked me. I think that though everybody is prepared to say the American people are war weary and on polls they seem to suggest that they are not for a lot of the things that—more involvement in Syria, et cetera, they have seemed to be awakened by what has happened in the Crimea.

But I want to just point out something else. I think ultimately that public opinion is much more nuanced and complicated than we are rushed to make it and maybe this is a transition to the next panel you have Fred Kagan on. I hope he forgives me if I cite his brother, Bob.

Bob Kagan just wrote a fascinating piece in which he said look at all these public attitudes in America about involvement in crises around the world. The American people say they don't want us to get involved.

The President doesn't get involved and yet you ask the American people do you approve or disapprove of the President's foreign policy. The numbers are lower than if you ask the President—if you ask do you approve of the President's policy on the economy or, dare I add, health care reform.

In other words, a lower opinion of his policy on foreign policy. So, you know, this goes back to American ideals. American people ultimately they don't want us to go recklessly picking fights everywhere around the world.

Mr. PERRY. But this is real. This al-Qaeda threat is real. It is real.

Mr. LIEBERMAN. And people get it. I mean, the people still remember—

Mr. PERRY. And it is not partisan to say it is real—

Mr. LIEBERMAN. Not at all.

Mr. PERRY [continuing]. And this approach of pulling back and kind of watching what is over there and as long as they are not launching planes into buildings here we don't have to worry about it. That is not partisan. That is just reality.

Mr. LIEBERMAN. Right. And your point, I think, is—it is one thing to say we are launching drones against terrorists in Pakistan or Yemen or wherever. I support that.

But then if at the same time you just stand back from Syria and Iraq you are inviting the same sanctuaries for terrorists that happened in Afghanistan before 9/11 and from that, as Jane said earlier, they will attack us once again.

Mr. PERRY. And I can tell Ms. Harman is bristling.

Ms. HARMAN. Yes. If I could just add. I am not sure I agree with the way you have phrased the question. I agree with a lot of what you believe but not phrased that way.

First of all, I always said that the so-called war on terror was a misnomer. Terror is a tactic. It was and it should be a war on al-Qaeda and its affiliates and we still are at war with al-Qaeda, and I think the actions of this administration on that specific point have been pretty robust.

Remember, al-Qaeda is not a top-down vertically integrated structure anymore. It might become that again but it isn't now. It is a set of horizontally affiliated—loosely affiliated opportunistic groups. They are not all al-Qaeda. They come together sometimes to do missions together. They also fight with each other, something I was pointing out.

We have to be vigilant against those folks and I think the actions of this administration, using drones and using Special Forces in particular, have taken out more al-Qaeda than the actions of the prior administration.

I don't think this is a score card but it is a fact that that has happened. So what does all that mean? I don't think it is fair to say has this administration abandoned the fight against al-Qaeda.

I think the answer to that is no. Should America offer robust leadership all over the world? The answer to that needs to be yes and there I would say some of our leadership needs to be a lot stronger.

And so I just see the question differently and I do admit and I said it in my testimony and I know we agree on this that there is a real al-Qaeda threat, different from the threat on 9/11 but a real al-Qaeda threat in lower tech attacks and homegrown terror and things of that kind, not just in the United States but it is in the United States.

Mr. PERRY. I yield, Mr. Chairman.



Mr. POE. Gentleman yields back. I want to thank both of you for being here today and the time you spent. The testimony has been excellent, superb and you are both free to go if you wish or you can come up here and ask some questions, whichever you prefer.

Mr. LIEBERMAN. Thanks, Mr. Chairman. Thanks again to you and Congressman Sherman for convening this hearing and trying to focus us back on this real threat to our security.

Ms. HARMAN. Mr. Chairman, if I might add that we shouldn't just talk about things being bipartisan. With Joe Lieberman here they are tripartisan.

Mr. POE. That is correct. Thank you very much. We will move on to our next panel.

Thank you, gentlemen, both for waiting and I am sure you took in the testimony of our two other witnesses. I will introduce our three members of this panel and then we will have your testimony and proceed from there.

Dr. Seth Jones is associate director of the International Security and Defense Policy Center at the Rand Corporation as well as an adjunct professor at Johns Hopkins University School for Advanced International Studies.

He served as a representative for the commander of U.S. Special Operations Command to the assistant secretary of defense for special operations. Before that he served as a plans officer and advisor to the commanding general of U.S. special operations forces in Afghanistan.

Dr. Fred Kagan is the Christopher deMuth chair and director of the Critical Threats Project at the American Enterprise Institute. In 2009, he served in Kabul, Afghanistan as part of the General Stanley McChrystal Strategic Assessment Team and returned years later to conduct research for Generals Petraeus and Allen. In July 2011, Chairman of the Joint Chiefs of Staff Admiral Mike Mullen awarded him the Distinguished Public Service award, the highest civilian honor.

And Mr. Benjamin Wittes is a senior fellow in the governance studies at the Brookings Institution. He is a co-founder and is the editor-in-chief of the Lawfare blog which covers hard national security choices and is a member of the Hoover Institution's task force on national security and law.

He is the author of many books and is currently writing a book on data and technology proliferation and their implications for security.

Dr. Jones, you may proceed with your opening statement.

**STATEMENT OF SETH JONES, PH.D., ASSOCIATE DIRECTOR,  
INTERNATIONAL SECURITY AND DEFENSE POLICY CENTER,  
RAND CORPORATION**

Mr. JONES. Chairman Poe, Ranking Member Sherman and other members of the subcommittee, thank you for inviting us to testify at this hearing.

I have divided my comments into three sections. The first provides an overview of the evolving terrorism threat. The second examines the role of special operations, which is what I was asked to comment on, and the third offers a brief conclusion.

Let me just talk briefly about the threat. I know we have heard from other members and then the witnesses in the first panel but let me just say that at least based on my estimates the United States will likely face a persistent threat from groups operating particularly in North Africa, the Middle East and South Asia.

Of particular concern is the threat from al-Qaeda and other Salafi jihadist groups. A couple of concerning trends I just wanted to highlight. One is when you look at the data, collect the data on groups and fighters, the number of jihadist groups and fighters have both significantly increased since 2010 in countries like Syria, Lebanon, Egypt, Libya, Mali, Algeria, Tunisia.

There has also been a notable increase in the number of attacks, particularly by al-Qaeda and its affiliates, and I am happy to talk about the data later.

Second, though, it is worth noting that the broader movement has become more decentralized among a range of tiers from the core in Pakistan to formal affiliates, a panoply of other jihadist groups who haven't sworn allegiance to al-Qaeda but whose goal is still establishing an extremist Islamic emirate in areas they control and then the inspired individuals that we saw 1 year ago in Boston.

Let me say, though, that using the core al-Qaeda and its strength or weakness as a gauge of the movement, in my view, is increasingly anachronistic because of what we are seeing more broadly.

And then finally, I think it is worth noting that the threat posed by this diverse set of groups varies widely and we can certainly talk about that later. Again, in my view, the most significant threat remains the group operating in Yemen.

Somewhat recently the core appears to have become more involved in plotting including in Europe and potentially against the U.S. homeland so I would not count the core out in Pakistan.

Let me turn briefly to one of the issues I was asked to talk about, which is the role of special operations. Based on this persistent threat, it is probably worth noting that a range of military, intelligence, financial, law enforcement, diplomatic and other tools from across the U.S. Government are important in conducting counter terrorism.

Nonetheless, special operations forces—and I was in special operations command and then worked in and for the assistant secretary for special operations in the Pentagon—special operations can play important roles in several areas. One of them is building partner capacity and supporting foreign internal defense overseas.

People often think of special operations forces as conducting direct action, targeted killing or capture. But I think without a doubt the vast majority of special operations activity and some of its most useful is training local forces and government entities. Special operations forces are trained to understand local culture, society, language, economy, history and politics. So quite useful.

On the direct action side, they can also get involved in precision targeting of terrorist groups and that is useful, although I would also say they have been very useful in seizing supplies, undermining finances of groups, overseeing psychological and information operations, conducting and collecting intelligence, engaging

with state and substrate entities. But there are a range of ways that they can be useful.

I wanted to highlight the role of the drones. This is a controversial subject. In my view, there are risks with some of these activities. There are limitations to using armed drones to strike terrorists.

There is mixed evidence, at least as far as I have looked at this issue, that drone strikes and then broader decapitation strategies alone are effective. Groups can survive a strike when they establish more decentralized leadership, possess an ideology that still has followers or are able to appoint competent leaders in their places.

So I would—I would warn against focusing too much on the drone strikes. Let me just conclude by noting that Congress has played and should continue to play a critical role in helping support the conduct of special operations forces in counterterrorism missions.

But again, and they can do this in a whole range of ways including Section 1208 and 1206 authorities, but let me just say this is a lot more than just strike operations. The training overseas, especially of weak governments that need assistance, is a critical part.

Thank you, Chairman Poe, Ranking Member Sherman and other members of the committee. I look forward to your questions.

[The prepared statement of Mr. Jones follows:]

## Counterterrorism and the Role of Special Operations Forces

Seth G. Jones

RAND Office of External Affairs

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Seth G. Jones<sup>1</sup>  
The RAND Corporation

*Counterterrorism and the Role of Special Operations Forces*<sup>2</sup>

Before the Committee on Foreign Affairs  
Subcommittee on Terrorism, Non-Proliferation, and Trade  
United States House of Representatives

April 8, 2014

Chairman Poe, Ranking Member Sherman, and members of the Subcommittee, thank you for inviting me to testify at this hearing, "Is al-Qaeda Winning? Grading the Administration's Counterterrorism Policy." I have been asked to focus my written remarks on the nature of the terrorism threat and the role of U.S. special operations forces. Consequently, I have divided my comments into threat sections. The first provides an overview of the evolving terrorism threat. The second section examines the role of special operations forces. And the third offers brief conclusions.

**A Persistent Threat**

Based on current trends, the United States will likely face a persistent threat from terrorist groups operating in such regions as North Africa, the Middle East, and South Asia. Of particular concern is the threat from al Qaeda and other Salafi-jihadist groups.<sup>3</sup> Groups that are Salafi-jihadist generally meet two criteria. First, the group emphasizes the importance of returning to a "pure" Islam, that of the Salaf, the pious ancestors. Second, the group believes that violent jihad is *fard 'ayn* (a personal religious duty).<sup>4</sup> *Fard 'ayn* includes tasks every Muslim is required to perform, such as *zakat* (almsgiving), *hajj* (the pilgrimage to Mecca), *salat* (daily prayers), *sawm* (fasting during Ramadan), and the *shahada* (accepting Muhammad as God's messenger).<sup>5</sup> Jihad is not one of these five pillars. It is, instead, a collective duty

<sup>1</sup> The opinions and conclusions expressed in this testimony are the author's alone and should not be interpreted as representing those of RAND or any of the sponsors of its research. This product is part of the RAND Corporation testimony series. RAND testimonies record testimony presented by RAND associates to federal, state, or local legislative committees; government-appointed commissions and panels; and private review and oversight bodies. The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND's publications do not necessarily reflect the opinions of its research clients and sponsors.

<sup>2</sup> This testimony is available for free download at <http://www.rand.org/pubs/testimonies/CT408.html>.

<sup>3</sup> While non-Salafi-jihadist groups like Hezbollah are a threat, the focus of this hearing is on al Qaeda and its allies.

<sup>4</sup> See, for example, bin Laden's fatwa published in the London newspaper *Al-Quds al-'Arabi* in February 1998, which noted that "to kill Americans is a personal duty for all Muslims." The text can be found at:

[http://www.pbs.org/newshour/updates/military/jan-june98/fatwa\\_1998.html](http://www.pbs.org/newshour/updates/military/jan-june98/fatwa_1998.html)

<sup>5</sup> On Sayyid Qutb's interpretation of armed jihad as a duty, see Sayyid Qutb, *Ma'alim fi al-Tariq* [Milestones], Reprint Edition (New Delhi: Islamic Book Service, 2007).

(*fard kifaya*) under certain circumstances. Most Salafi-jihadists consider violent jihad an individual duty, or *fard 'ayn*.<sup>6</sup> Ayman al-Zawahiri, among others, has emphasized both Salafism *and* armed jihad.<sup>7</sup>

There are a number of concerning trends regarding Salafi-jihadist groups. First, the number of Salafi-jihadist groups and fighters has increased after 2010. Examples include groups operating in Tunisia, Algeria, Mali, Libya, Egypt (including the Sinai Peninsula), Lebanon, and Syria. There has also been an increase in the number of attacks perpetrated by al Qa'ida and its affiliates. These trends suggest that the United States – including special operations forces – need to remain focused on countering al Qa'ida and other Salafi-jihadist groups, which have started to resurge in some parts of North Africa and the Middle East.

Second, the broader Salafi-jihadist movement has become more decentralized among four tiers: (1) core al Qa'ida in Pakistan, led by Ayman al-Zawahiri; (2) formal affiliates that have sworn allegiance to core al Qa'ida, located in Syria, Somalia, Yemen, and North Africa; (3) a panoply of Salafi-jihadist groups that have not sworn allegiance to al Qa'ida but are committed to establishing an extremist Islamic emirate; and (4) inspired individuals and networks. Using the state of the core in Pakistan as a gauge of al Qa'ida's strengths (or weaknesses) is increasingly anachronistic for such a heterogeneous movement. In addition, while there are some similarities among Salafi-jihadists, there are also substantial differences. Salafi-jihadist leaders and groups often disagree about how much, if at all, to target Western countries and their citizens; the size and global nature of their desired emirate; and their willingness to attack Shi'a. This decentralized structure creates substantial vulnerabilities for al Qa'ida and other Salafi-jihadist groups.

Third, the threat posed by this diverse set of groups varies widely. As I just mentioned, some are locally focused and have shown little interest in attacking Western targets. Others, like al Qa'ida in the Arabian Peninsula, present an immediate threat to the U.S. homeland, along with inspired individuals like the Tsarnaev brothers – the perpetrators of the April 2013 Boston Marathon bombings. In addition, several Salafi-jihadist groups pose a medium-level threat because of their desire and ability to target U.S. citizens and facilities overseas, including U.S. embassies. Examples include Ansar al-Sharia Tunisia, al Shabaab, the Muhammad Jamal Network, al Qa'ida in the Islamic Maghreb, and the various Ansar al-Sharia groups in Libya.

<sup>6</sup> Gilles Kepel, *Muslim Extremism in Egypt: The Prophet and the Pharaoh*, translated by John Rothchild (Berkeley, CA: University of California Press, 1993); Olivier Roy, *Globalized Islam: The Search for a New Ummah* (New York: Columbia University Press, 2004), p. 41.

<sup>7</sup> On the term Salafi-jihadists see, for example, Assaf Moghadam, "Motives for Martyrdom: Al-Qaida, Salafi Jihad, and the Spread of Suicide Attacks," *International Security*, Vol. 33, No. 3, Winter 2008/2009, pp. 46–78; Moghadam, "The Salafi-Jihad as a Religious Ideology," *CTC Sentinel*, Vol. 1, No. 3, February 2008, pp. 14–16. Also see Alain Grignard, "La littérature politique du GIA, des origines à Djamel Zitoun - Esquisse d'une analyse," in F. Dassetto, ed., *Facettes de l'Islam belge*, Louvain-la-Neuve: Academia-Bruylant, 2001.

As Table 1 illustrates, al Qa'ida and other Salafi-jihadist groups can be divided into three categories: those that pose a high threat because they are involved in active plotting against the U.S. homeland; those that pose a medium threat because they are involved in plotting attacks against U.S. structures (such as embassies) and U.S. citizens overseas; and those that pose a low threat because they are focused on targeting local regimes or other countries.

**Table 1: Examples of Salafi-Jihadist Groups and Threats to the U.S.**

	High Threat	Medium Threat	Low Threat
<i>Characteristics</i>	Active plotting against the U.S. homeland and U.S. targets overseas (e.g. U.S. embassies and citizens)	Active plotting against U.S. targets overseas (e.g. U.S. embassies and citizens)	Limited or no active plotting against U.S. targets overseas
<i>Examples</i>	<ul style="list-style-type: none"> <li>• Al Qa'ida in the Arabian Peninsula</li> <li>• Core al Qa'ida</li> <li>• Some inspired individuals and networks</li> </ul>	<ul style="list-style-type: none"> <li>• Al Shabaab</li> <li>• Ansar al-Sharia Libya</li> <li>• Muhammad Jamal Network</li> <li>• Al Qa'ida in the Islamic Maghreb</li> </ul>	<ul style="list-style-type: none"> <li>• East Turkestan Islamic Movement</li> <li>• Suqor al-Sham</li> </ul>

The highest threat likely comes from al Qa'ida in the Arabian Peninsula, which retains a capability and desire to target the U.S. homeland and U.S. interests overseas. Several Yemen-based operatives – such as leader Nasir al-Wuhayshi, senior military commander Qasim al-Rimi, and senior official Ibrahim al-Banna – continue to support attacks against the United States. Core al Qa'ida also presents a threat because of its interest in targeting the U.S. homeland, led by individuals such as external operations chief Abdullah al-Shami. But core al Qa'ida leaders have had difficulty recruiting – or even inspiring – competent operatives in the West.<sup>8</sup> In an effort to reach out to Western jihadis, the first edition in 2014 of core al Qa'ida's magazine, *Resurgence*, was dedicated to radicalizing Westerners and encouraging independent attacks in the West. A small number of inspired individuals, like the Tsarnaev brothers, who perpetrated the April 2013 Boston Marathon bombings, also pose a threat. The growth in social media and the terrorist use of chat rooms, Facebook, Twitter, YouTube, and other sites has facilitated radicalization inside the United States.

Several Salafi-jihadist groups pose a medium-level threat because of their interest in and capability to target U.S. citizens and installations overseas. Ansar al-Sharia Tunisia, for instance, has planned attacks against U.S. diplomats and infrastructure in Tunis, including the U.S. embassy. Several groups with a presence in Libya – such as Ansar al-Sharia Libya, the Muhammad Jamal Network, and al Qa'ida in the

<sup>8</sup> Brian Michael Jenkins, *Stray Dogs and Virtual Armies: Radicalization and Recruitment to Jihadist Terrorism in the United States Since 9/11* (Santa Monica, CA: RAND Corporation, 2011).



Islamic Maghreb – also pose a threat. Al Shabaab's objectives are largely parochial, and it has conducted attacks in Somalia and the region. But al Shabaab possesses a competent external operations capability to strike targets outside of Somalia. The Westgate Mall attack was well-planned and well-executed, and involved sophisticated intelligence collection, surveillance, and reconnaissance of the target.<sup>9</sup> These skills could be used for other types of attacks directly targeting the United States facilities and citizens overseas. In addition, some Americans have traveled to Somalia over the past several years to fight for al Shabaab, though these numbers have apparently dropped in recent years.<sup>10</sup> Several al Shabaab leaders, including deputy leader Ma hat Karate and Jihad Serwan Mostafa (a U.S. citizen), have allegedly been interested in targeting Western and U.S. interests in the region.<sup>11</sup>

The Islamic State of Iraq and al-Sham, along with Jabhat al-Nusrah, are primarily interested in establishing Islamic emirates in Iraq, Syria, and the broader region. But the network of Salafi-jihadist groups in Syria could pose a growing threat in the future. Jabhat al-Nusrah's access to foreign fighters, external network in Europe and other areas, and bomb-making expertise suggest that it may already have the capability to plan, support, and conduct attacks against the West. There appears to be a growing contingent of foreign fighters – over ten thousand – traveling to Syria to fight in the war. A significant number – perhaps 10 to 15 percent (roughly 1,000 to 1,500 fighters) – appear to be coming from Europe, especially from Belgium, France, and Sweden. Security agencies from such European countries as France, Belgium, Germany, Netherlands, United Kingdom, and the Balkans have arrested fighters departing to, or returning from, Syria. It is currently unclear whether most of these fighters will remain in Syria and other battlefields over the long run, move to other war zones such as North Africa, or return to the West. And even if some return, it is uncertain whether they will become involved in terrorist plots, focus on recruiting and fundraising, or become disillusioned with terrorism. Still, foreign fighters have historically been agents of instability.<sup>12</sup>

Finally, some Salafi-jihadist groups present a low-level threat to the United States. They do not possess the capability or intent to target the United States at home or overseas. They include such groups as the East Turkestan Islamic Movement, which is primarily interested in Chinese targets. Despite this categorization, there is some fluidity between levels. And more broadly, the terrorist threat to the United States will likely persist.

<sup>9</sup> On Westgate see *United States Army, Case Study: Terrorist Attack on Westgate Mall, Nairobi, Kenya: 21-24 September 2013* (Washington, DC: United States Army, 2014); Kevin Yorke, *Analysis of Al-Shabaab's Attack at the Westgate Mall in Nairobi, Kenya* (New York: New York City Police Department, 2013).

<sup>10</sup> Committee on Homeland Security, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland*, Majority Investigative Report (Washington, D.C.: U.S. House of Representatives, July 27, 2011), p. 2.

<sup>11</sup> See, for example, Jihad Serwad Mostafa, Rewards for Justice, U.S. Department of Justice. Available at: <http://www.rewardsforjustice.net/index.cfm?page=mostafa&language=english>. Accessed on January 22, 2014.

<sup>12</sup> Thomas Hegghammer, "The Rise of Muslim Foreign Fighters: Islam and the Globalization of Jihad," *International Security*, Vol. 35, No. 3, 2011, pp. 53–94.

### The Role of Special Operations Forces

Based on this persistent threat, an effective U.S. counterterrorism strategy needs to involve a range of military, intelligence, financial, law enforcement, diplomatic, and other tools from across the U.S. government. The U.S. State Department, intelligence community, Department of Justice, Department of Treasury, Department of Homeland Security, Department of Defense, and other U.S. federal, state, and local agencies are pivotal. Nonetheless, special operations forces can play an important role in several areas.

**Partner Capacity and Foreign Internal Defense:** One is building partner capacity and supporting foreign internal defense, which includes a variety of activities like security force assistance and developing professional, capable, and sustainable foreign security forces.<sup>13</sup> Special operations forces are trained to work "by, with, and through" partner forces, which generally makes them the provider of choice for building partner capacity. They are also trained to understand local culture, society, language, economy, history, and politics. For counterterrorism purposes, building partner capacity can involve deploying U.S. Army Special Forces and other units to train, advise, and assist local security forces and build the capacity of local governments to provide services, secure their populations, and deal with the causes of terrorism in their countries. A number of countries threatened by Salafi-jihadist groups in North Africa, the Middle East, and South Asia could benefit from U.S. or other outside training and assistance. This is particularly true in cases where the weakness of the local government makes it desirable to prevent the terrorist threat from worsening. One example is Somalia, where al Shabaab has not plotted attacks against the U.S. homeland, though it has conducted attacks in neighboring countries and includes operatives like Abdikadir Mohammad (or "Ikrima") that have plotted attacks against U.S. targets overseas. Somalia has one of the weakest governments in the world, ranking as the worst-performing government in five of six categories in the World Bank's governance indicators.<sup>14</sup> In addition, foreign militaries participating in the African Union Mission in Somalia could use assistance from the special operations forces, such as additional equipment and financial support, to conduct offensive operations in al Shabaab's strongholds in southern Somalia.

Figure 2 provides a rough illustration of the strategic challenge. The y-axis measures the capacity of local governments to establish the rule of law in their countries, using data from the World Bank. The x-axis measures the terrorist threat to the United States, using author estimates.<sup>15</sup> The bottom right-hand

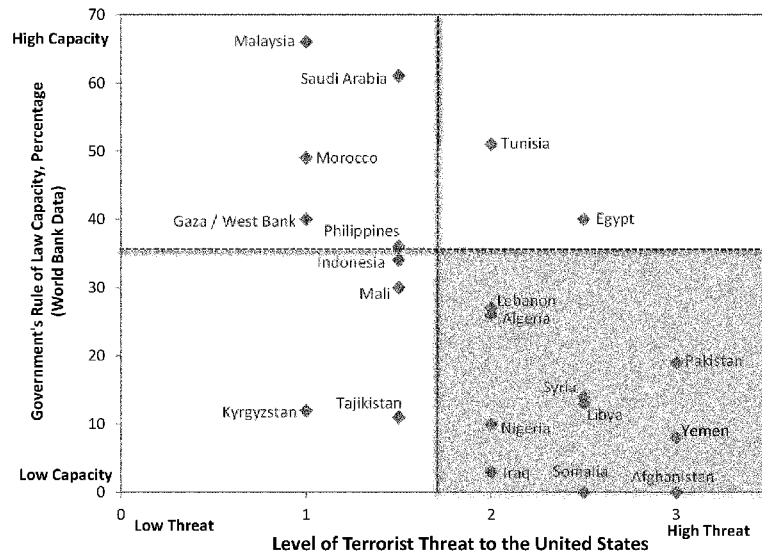
<sup>13</sup> On foreign internal defense see U.S. Department of Defense, *Foreign Internal Defense, Joint Publication 3-22* (Washington, DC: U.S. Department of Defense, July 12, 2010).

<sup>14</sup> The data are for 2012. World Bank, *Worldwide Governance Indicators Data Set*, accessed January 8, 2014.

<sup>15</sup> Countries were coded according to the following qualitative criteria for groups operating there. Score of 3.0: Group engaged in active plotting attacks against the U.S. homeland and U.S. target overseas (such as embassies); Score of

quadrant indicates the countries where there is a high terrorist threat and low government capacity. The data suggest that the most concerning countries for the United States include Afghanistan, Pakistan, and Yemen, where there is a high potential threat to the United States and limited local rule of law. There are another set of troubling countries in the lower right-hand quadrant – such as Somalia, Iraq, Syria, Libya – with a medium Salafi-jihadist threat to the United States (including to U.S. interests overseas) and weak local governance.

**Figure 2: Countries of Concern for the United States**



But there are risks with building partner capacity and foreign internal defense. First, local governments can be fickle and uncooperative. A government that is willing to target Salafi-jihadist groups at one point can change its assessment. Pakistan, for example, was more willing to target al Qa'ida operatives on its soil in the immediate aftermath of 9/11 than it is today. Governments can also collapse. Egyptian President Hosni Mubarak, whose regime effectively countered terrorist groups, was overthrown

2.5: Group engaged in limited plotting against the U.S. homeland, but active plotting against U.S. targets overseas; Score of 2.0: Group not engaged in plotting against the U.S. homeland, but active plotting against U.S. targets overseas; Score of 1.5: Group not engaged in plotting against the U.S. homeland, but limited plotting against U.S. targets overseas; Score of 1.0: No groups involved in serious plots against the U.S. homeland or U.S. targets overseas.

in 2011 during the Arab uprisings. Second, U.S. participation risks emboldening the Salafi-jihadist narrative. Third, combating terrorist and insurgent groups is difficult, especially in countries with weak governments. There is no guarantee that building the capacity of local partners will weaken or defeat terrorist groups.

Despite these risks, special operations forces can bolster the capacity of local governments in cases where there is a terrorism threat to the United States and limited local capacity.

**Direct Action and Unconventional Warfare:** Special operations forces can also be critical in precision targeting of terrorist groups and their financial, logistical, and political support networks. They can orchestrate covert raids to capture or otherwise target terrorists, seize their supplies, and undermine their finances; conduct air strikes from drones, fixed-wing aircraft, and helicopters; oversee psychological operations to undermine terrorist support; collect and analyze intelligence about terrorist groups (their networks, locations, capabilities, and intentions); and engage with tribal and other local actors.<sup>16</sup> In countries that are hostile to the United States but have groups that pose a threat – such as Iran (where there are some al Qaeda operatives) and Syria (where there are a range of Salafi-jihadist groups) – U.S. engagement may be limited to such options as unconventional warfare or covert action by intelligence operatives or special operations forces acting under Title 50 authority.<sup>17</sup> Unconventional warfare includes activities to enable a resistance to coerce, disrupt, or undermine a government or occupying power by operating through or with an underground, auxiliary, and guerrilla force in a denied area.

Special operations forces are critical since the U.S. deployment of conventional forces to fight terrorists overseas has generally been counterproductive.<sup>18</sup> In Iraq, for instance, the large U.S. presence contributed to radicalization. In general, large numbers of U.S. forces tend to facilitate Salafi-jihadist recruitment and propaganda efforts. Perhaps more importantly, most successful overseas operations against al Qaeda operatives in the past decade – such as against Khalid Sheikh Mohammad in Pakistan in 2003, Abu Mus'ab al Zarqawi in Iraq in 2006, Osama bin Laden in Pakistan 2011, and Anwar al-Awlaki in Yemen in 2011 – were perpetrated by clandestine U.S. intelligence units and special operations forces. And most of the terrorists involved in serious homeland plots after September 11, 2001 – from José

<sup>16</sup> Depending on a Salafi-jihadist group's organizational structure, capabilities, support base, and other factors, an engagement strategy might involve decapitation (catching or killing the group's leadership), negotiations, or other options. On how terrorist groups end see, for example, Audrey Kurth Cronin, *How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns* (Princeton, NJ: Princeton University Press, 2009); Seth G. Jones and Martin C. Libicki, *How Terrorist Groups End: Lessons for Countering al Qaeda* (Santa Monica, CA: RAND, 2008).

<sup>17</sup> As outlined in the National Security Act of 1947, covert action refers to "an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly." See National Security Act of 1947, Section 503e. In addition, Title 50 of the U.S. Code allows the U.S. military to conduct covert action under a CIA-run operation. See United States Code, Title 50: War and National Defense, Section 413.

<sup>18</sup> Barry R. Posen, "Pull Back: The Case for a Less Activist Foreign Policy," *Foreign Affairs*, Vol. 92, No. 1, January / February 2013, pp. 116-128.

Padilla's plan to blow up apartment buildings in the United States and Hasan's mass shooting at Fort Hood to Najibullah Zazi and Faisal Shahzad's respective plots to conduct terrorist attacks in New York City – were motivated, in part, by the deployment of large numbers of U.S. combat troops in Muslim countries and by a conviction, however erroneous, that Muslims were its helpless victims.<sup>19</sup>

Still, there are risks with direct action and unconventional warfare. First, they can embolden the narrative of Salafi-jihadist groups, who will invariably attempt to portray the conflict as one between Islam and infidel countries. Direct U.S. participation will likely become public, despite efforts to keep it clandestine. Some in the United States may also balk at direct engagement in a foreign war. Second, there is a potential for blowback. In cases where Salafi-jihadist groups are not interested in targeting the U.S. homeland or its embassies, U.S. strikes against the group could cause a change in their behavior. After the 2009 U.S. killing of Tehreek-e-Taliban Pakistan (TTP) leader Baitullah Mehsud, for example, the TTP became increasingly interested in targeting the United States. In May 2010, Faisal Shahzad attempted to detonate a car bomb in Times Square, New York City, after being trained by TTP leaders in Pakistan.

In addition, the United States has utilized drone strikes against some terrorist groups. But there are limitations to using armed drones for direct action missions. There is mixed evidence, at best, that drone strikes and broader decapitation strategies alone are effective.<sup>20</sup> Groups can survive a strike when they establish – or shift to – a more decentralized leadership structure, possess an ideology that still has followers, or are able to appoint competent replacements for leaders that have been killed. In addition, successful counterterrorism and counterinsurgency campaigns generally require the local government to control territory using its security forces.

But the benefits of direct action and unconventional warfare outweigh the risks in most cases where Salafi-jihadist groups are *already* plotting attacks against the U.S. homeland and its interests overseas (such as U.S. embassies), especially where the local government has minimal capabilities or little political will to counter the groups. One example is Yemen, where al Qa'ida in the Arabian Peninsula has been involved in multiple plots against the U.S. homeland and U.S. embassies, but whose government is relatively weak and embroiled in several domestic insurgencies and political unrest. Beginning in the summer of 2012, Yemeni President Abd Rabbuh Mansur Hadi became increasingly cautious about conducting operations against al Qa'ida in the Arabian Peninsula to minimize government casualties. He avoided large-scale ground offensives in favor of airstrikes against al Qa'ida safe havens, including its

<sup>19</sup> Seth G. Jones, *Hunting in the Shadows: The Pursuit of Al Qa'ida Since 9/11* (New York: W.W. Norton, 2012).

<sup>20</sup> Audrey Kurth Cronin, *How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns* (Princeton, NJ: Princeton University Press, 2009); Jenna Jordan, "When Heads Roll: Assessing the Effectiveness of Leadership Decapitation," *Security Studies*, Vol. 18, No. 4, December 2009, pp. 719-755; Stephen T. Hosmer, *Operations against Enemy Leaders* (Santa Monica, CA: RAND, 2001). On the effectiveness of drones see Patrick B. Johnston, "Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns," *International Security*, Vol. 36, No. 4, Spring 2012, pp. 47-49.

stronghold in Mahfad District, Abyan governorate. In addition, the Yemeni military was fraught with problems. Many rank-and-file Yemeni soldiers did not receive their full pay because of endemic corruption in the military, undermining the military's effectiveness in countering al Qa'ida.

In these cases, a U.S. failure to directly engage special operations forces or intelligence units could severely jeopardize U.S. national security if a group were to strike the U.S. homeland or a U.S. embassy. The risks of not being engaged could be serious. Still, the possibility that direct U.S. engagement could inflame the local population suggests that U.S. policymakers should carefully weigh the type of engagement.

#### **Conclusions**

Congress has played – and should continue to play – a critical role in helping to support the conduct of counterterrorism efforts by special operations forces to protect U.S. national security. Tools like Section 1208 and 1206 authorities have been helpful to maintain pressure on al Qa'ida and other Salafi-jihadist groups. In addition, special operations forces will need to employ versatile platforms, including manned and unmanned fixed wing assets with intelligence, surveillance, and reconnaissance (ISR) capabilities. Examples range from the man-portable RQ-20A Puma to the medium altitude MQ-9 Reaper.

Over the foreseeable future, the United States should prioritize its U.S. counterterrorism resources – such as military, intelligence, diplomatic, financial, and law enforcement assistance – more systematically than it has done in the past. The United States will likely continue to need special operations forces for direct action, unconventional warfare, and partner capacity missions in Pakistan, Afghanistan, Yemen, and possibly Syria, where there are significant threats to the U.S. homeland. Over the long run, the United States needs to devote sufficient special operations resources – from signals collection capabilities to human intelligence collectors – to understand and counter Salafi-jihadist threats in these areas.

In addition, the United States needs to utilize special operations forces to help build partner capacity and conduct foreign internal defense with a limited set of countries in Africa (such as Nigeria, Algeria, Somalia, and Egypt) and the Middle East (such as Lebanon and Iraq). In these countries, terrorist groups may not be plotting attacks against the U.S. homeland, but they may be involved in attacks against U.S. structures (such as embassies), citizens, and other interests overseas. In addition, several regional countries – such as Jordan, Turkey, and Israel – are important allies in countering these terrorist groups.

Finally, there are several countries – such as Tunisia, Morocco, and Mali – where the United States should encourage allies (including NATO countries) to work with local governments, though there may be a limited role for special operations forces and other U.S. government agencies. In these countries, there is a low threat to the United States or sufficient local government capacity or an ally (like a NATO country)

willing to counter Salafi-jihadist groups. In Mali, for example, French and Malian forces retook most territory controlled by Salafi-jihadist groups in 2013 during Operation Serval. These steps should not be static, and the United States would need to reassess its options when there are changes in the threat environment or the counterterrorism capacity and willingness of local governments.

Over the long run, the persistent nature of the terrorism threat to the United States suggests that special operations forces should remain a key part of the struggle against al Qaeda and other Salafi-jihadist groups. Thank you Chairman Poe, Ranking Member Sherman, and members of the Subcommittee. I look forward to your questions.

Mr. POE. Thank you, Dr. Jones.  
Dr. Kagan, you have 5 minutes.

**STATEMENT OF FREDERICK W. KAGAN, PH.D., CHRISTOPHER  
DEMUTH CHAIR AND DIRECTOR, CRITICAL THREATS  
PROJECT, AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC  
POLICY RESEARCH**

Mr. KAGAN. Thank you, Mr. Chairman, Ranking Member Sherman. I will start by agreeing with everything that Seth said, which has become more and more common for us so I won't reiterate that ground.

I want to make a few points that are—some of which are in my written testimony and some of which are extrapolations from it. First of all, I think it is very important to step back in this conversation and stop compartmentalizing problems to the degree that we have been.

There is a lot going on. We get a very staccato news cycle. We get now it is this week it is Ukraine, you know, next—now it is the Iranian negotiations, now it is this, now it is that.

And al-Qaeda—the al-Qaeda problem gets put in a pigeon hole, historically a rather large one, now an ever shrinking one, I would say, and within that there are a number of individual pigeonholes that we put al-Qaeda groups into and that especially this administration has been eager to parse the groups, I think, too finely and talk about al-Qaeda core as being the real problem and get into arguments about whether this group or that group is actually part of al-Qaeda or is actually covered by the authorization to use military force, which Ben will talk about.

And the legalisms are very important and getting the legislation right is important. But it should not be allowed to shape the way that we understand the group because the group is a holistic entity and it does not make sense to look at an al-Qaeda franchise in Yemen or al-Shabaab or al-Qaeda in Iraq, now ISIS, and argue about whether these are parts of al-Qaeda.

They are parts of al-Qaeda and they do share the global ideology of al-Qaeda and this is one of the things that I think has also gotten lost in the discussion about local groups versus global groups, that the administration talks about a lot on the premise that we shouldn't really concern ourselves too much with local groups—locally focused groups—and we should really focus on those that are trying to attack the United States.

And the problem is that as you look at what happened in Syria when we got into—when they got into the argument about whether the Islamic state of Iraq and ash-Sham was or was not operating in Syria and Zawahiri came in, it forced the actual Syrian al-Qaeda franchise, Jabhat al-Nusra, to decide whether or not to declare itself publically as an al-Qaeda franchise.

And the issue was put very starkly then to Jabhat al-Nusra as we have seen it in a couple of other places, namely what is meant by that, what is the distinction between Jabhat al-Nusra focused on Syria and being Jabhat al-Nusra as a member of al-Qaeda.

And the distinction is signing up to the global jihad, signing up to the global ideology and signing up to the support of attacking



the West, and I think this has gotten lost in the conversation. This is a live discussion amongst radical Islamist groups.

Do you or do you not support the global jihad? Do you or do you not believe that we should take the fight to the West? Would you or would you not support that whether or not you would do it yourself?

And what is interesting is that groups like Jabhat al-Nusra who have been confronted with that and pay a price locally in Syria for being affiliated with al-Qaeda nevertheless adhere when pushed and say yes, we are an al-Qaeda franchise and in fact we are the only al-Qaeda franchise.

That should give us a lot of pause because that is a conscious decision that that group has made to stake a claim to an ideology that is explicitly distinguished from the alternatives by the fact that it is part of the global movement and sees the United States in part as a major enemy.

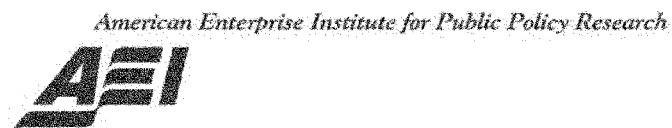
About the AUMF, we had been having a very good conversation previously and I will leave it to the expert on the AUMF to talk about the language there. My sense is that the administration has tended to take—this administration has tended to take an overly narrow view of the AUMF by deciding in many cases that it is only applicable to people who were actually members of al-Qaeda on September 11, 2001 which I don't think is what it says and which, of course, is an absolutely failed strategy regardless of what—whether or not the AUMF covers that.

But the more important point to me is that we have come to mistake the AUMF for the strategy against al-Qaeda and this is a huge mistake because the AUMF authorizes force by which we mean targeted strikes and so forth, and Seth made the point better than I could that that is not an—that is not a strategy and it will not be effective against this organization.

We need to understand that special operations forces do fit. We need to understand that there have to be other components of a strategy than simply attacking the leadership under an AUMF. And so as we talk about the AUMF, as we think about under what authorities people do anything, it is very important not to allow us—not to allow that discussion to shape our entire discussion of a strategy that is going to have to be a lot more holistic than that and for which, frankly, the military and the administration already have a lot of authorities and don't need authorities to do it in a lot of places, don't need special authorities to do various other things.

But we have gotten too focused on targeted killing and we are not going to be able to kill our way out of this problem. Thank you.

[The prepared statement of Mr. Kagan follows:]



Statement before the House Committee on Foreign Affairs  
Subcommittee on Terrorism, Nonproliferation, and Trade on "Is al Qaeda  
Winning? Grading the Administration's Counterterrorism Policy"

**Missing the Target:  
Why the U.S. Has Not Defeated al Qaeda**

Frederick W. Kagan

Christopher DeMuth Chair and Director, Critical Threats Project

American Enterprise Institute

April 8, 2014

*The views expressed in this testimony are those of the author alone and do not necessarily represent those of the  
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All conditions are set for a series of significant terrorist attacks against the US and its allies over the next few years. But that's not the worst news. Conditions are also set for state collapse in Iraq, Syria, Lebanon, Yemen, and possibly Jordan. Saudi Arabia, facing a complex succession soon, is likely to acquire nuclear weapons shortly, if it has not already done so. Turkey and Egypt confront major crises. Almost all of Northern and Equatorial Africa is violent, unstable, and facing a growing al Qaeda threat. And Vladimir Putin's assault on Ukraine is likely to empower al Qaeda-aligned jihadists in Crimea and in Russia itself. That eventuality is, of course, less worrisome than the prospect of conventional and partisan war on the European continent, likely threatening NATO allies. The international order and global stability are collapsing in a way we have not seen since the 1930s. There is little prospect of this trend reversing of its own accord, and managing it will require massive efforts by the US and its allies over a generation or more.

This distressing context is essential for considering the al Qaeda threat today. On the one hand, it makes that threat look small. The long-term effects of global chaos and conflict among hundreds of millions of people across Europe, Africa, and the Middle East on US security, interests, and way of life are surely greater than any damage al Qaeda is likely to do to us in the immediate future. Yet the two threats feed each other powerfully. Disorder and conflict in the Muslim world breed support for al Qaeda, which is starting to look like the strong horse in Iraq and even in Syria. Al Qaeda groups and their allies, on the other hand, powerfully contribute to the collapse of state structures and the emergence of horrific violence and Hobbesian chaos wherever they operate. They are benefiting greatly from the regional sectarian war they intentionally triggered (the destruction of the Samarra Mosque in 2006 was only the most spectacular of a long series of efforts by al Qaeda in Iraq to goad Iraq's Shi'a into sectarian conflict, for which some Shi'a militants, to be sure, were already preparing)—and have been continuing to fuel. Al Qaeda is like a virulent pathogen that opportunistically attacks bodies weakened by internal strife and poor governance, but that further weakens those bodies and infects others that would not otherwise have been susceptible to the disease. The problem of al Qaeda cannot be separated from the other crises of our age, nor can it be quarantined or rendered harmless through targeted therapies that ignore the larger problems.

Yet that is precisely how the Obama administration has been trying to deal with al Qaeda. Neither the White House nor the intelligence community has offered anything approaching a clear definition of al Qaeda, as a forthcoming paper by Mary Habeck from AEI's Critical Threats Project (CTP) shows in detail. But such statements as the Administration has made—and its actions and inactions, which speak louder than its words—make the scope of its definition pretty clear. This White House, like its predecessor, focuses on al Qaeda as a terrorist group aiming to attack the US homeland. It appears to have narrowed the scope of what it considers to be al Qaeda even more than did the Bush Administration, by observing an extremely limited and legalistic reading of the 2001 Authorization for Use of Military Force (AUMF) resolution that requires individuals and groups to have been al Qaeda members on 9/11/2001. There are several

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problems with this approach that ensure that it will be ineffective against al Qaeda in the long run.

To begin with, this administration is compounding an important mistake made by the Bush White House by seeing al Qaeda as a terrorist group. It certainly is that, of course, but that is not its main focus. As my fellow panelists and many other colleagues have shown, al Qaeda never conceived of itself as a terrorist group and has long devoted the lion's share of its global resources to what it regards as its main effort—seizing and governing terrain and populations in the Muslim world. Al Qaeda has always seen itself as a global insurgency that uses terrorism, and its ability to field small irregular armies in Iraq, Syria, and elsewhere demonstrates the seriousness with which it takes that self-conception.

Mis-defining al Qaeda as a US-focused terrorist group has important ramifications for US policy. It encourages the belief that the "real" threat from the "real" al Qaeda—that is the portion of the group actively planning and preparing for further attacks on the US—is very small and susceptible to attrition and disruption by targeted strikes. The corollary is that the much larger, more organizationally-sophisticated, better-equipped, and wealthier "franchises" such as al Qaeda in the Islamic Maghreb (AQIM) or the erstwhile al Qaeda in Iraq are either not "real" al Qaeda groups or are part of the network in a way that means that the US can largely disregard them as threats apart from isolated individuals within them, who can be removed as needed.

Since al Qaeda does not define itself in this way, it should be no surprise that it has not behaved as expected in the face of the massive attrition of its "core group" largely in Pakistan. The killing of Osama bin Laden certainly warranted a victory lap, although not one as grandiose and full of leaks of highly-sensitive details as this White House took. But the sequel highlights the falsity of the narrow conception of the threat. If al Qaeda really were a small group of extremists hiding out in the mountains—or villas—of Pakistan and dreaming of flying planes into more American buildings, then the death of bin Laden and the deaths of most of the leaders who were active in 2001 should have demoralized the group and its supporters. Al Qaeda's failure, despite repeated efforts, to carry off any other mass-casualty attacks in the US should also have been devastating to group cohesion, support, morale, and activity. Above all, it should have damaged the al Qaeda brand severely. Al Qaeda supporters are fanatics, and in some cases, willing to die (although not the leaders, interestingly, who take great pains to avoid the martyrdom toward which they encourage their followers), but they don't like losing any more than normal people do. On the contrary, Islam has a very strong tradition of seeing divine blessing or curse manifested in this-worldly success or failure.

Yet the brand is spreading like wildfire, the groups affiliating themselves with it control more fighters, land, and wealth than they ever have, and they are opening up new fronts. The Syrian civil war—and the refusal of this White House and the West generally to support the moderate Sunni opposition materially and meaningfully early on, has allowed and encouraged the emergence of a new al Qaeda affiliate, Jabhat al Nusra (JN), alongside al Qaeda in Iraq, which

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precociously and mutinously now calls itself the Islamic State of Iraq and al Sham (ISIS; al Sham refers to the land that is now both Syria and Lebanon). African Union forces drove affiliate al Shabaab from many of its strongholds in Somalia, although it is fighting to defend those it still has and to regain some of the ground it has lost. But al Shabaab has also metastasized throughout the region, activating and expanding cells in Kenya (such as the one that conducted the Westgate Mall attack), in Burundi, and in Uganda.

AQIM has seen the most dramatic expansion of its capabilities and operating area of any al Qaeda franchise in recent years. Not long ago, AQIM was little more than a small terrorist cell sitting atop a large kidnap-for-ransom and smuggling apparatus. Now it is a fighting force organized into "battalions" and "brigades" that operate in Algeria, Tunisia, Mali, and Libya. AQIM has excelled at putting sub-components through branding bankruptcy periodically, presenting a bewildering array of group names. But as a recent product by CTP's Andreas Hagen shows, the human networks have remained the same despite multiple rebrandings.<sup>1</sup>

AQIM, ISIS, JN, AQAP (al Qaeda in the Arabian Peninsula), al Shabaab, the Islamic Emirate of the Caucasus, and the rest of the al Qaeda alphabet soup, are primarily engaged in regional conflicts to which they devote the overwhelming proportion of their resources. The Obama administration has consistently indicated that it does not see those "locally-focused" groups as major threats to the US or even, depending on the briefer, part of the "real" al Qaeda. Katherine Zimmerman, Senior Analyst and al Qaeda Team Lead at the Critical Threats Project, has shown the degree to which such a parsing of the networks is simply wrong.<sup>2</sup> The very fact that all of these groups retain their formal al Qaeda affiliations and branding speaks volumes.

Jihadist leaders are evil and, by our standards, insane. That does not mean they are stupid. They are well aware that any individual or group claiming to be part of al Qaeda is considerably more likely to be targeted by the US and many other states. They have even discussed such things—bin Laden opposed formally recognizing al Shabaab as an affiliate for fear of attracting attention to it. But the group continued to clamor for al Qaeda recognition, which bin Laden's successor, Ayman al Zawahiri, granted shortly after taking power. Jabhat al Nusra in Syria tried for some time to obfuscate its relationship with al Qaeda in order to portray itself as a Syrian nationalist group. Its leadership (and Zawahiri) was incensed when ISIS declared itself the single al Qaeda franchise in both Iraq and Syria, forcing JN to publicly accept or repudiate its al Qaeda affiliate status. JN not only affirmed its status, but also appealed to Zawahiri rather publicly to mediate the dispute with ISIS—which he did, ineffectively, ultimately "expelling" ISIS from al Qaeda, although the effects of that "expulsion" remain unclear.

The Syria case put sharply the issue of al Qaeda membership. JN recognized that al Qaeda is regarded throughout the Muslim world not simply as a radical Sunni fighting force, but also as an ideology with regional and global aspirations. All al Qaeda affiliates know that membership in the group antagonizes other local fighting groups and some local populations (there have been anti-ISIS popular uprisings in Syria, in fact), as well as exposing them to Western attack. Yet

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they fight—literally in the case of Syria—to retain the affiliation and reaffirm it when publicly challenged. Why?

None of the possible answers support the current Administration assessments of al Qaeda or the current strategy. Affiliates are certainly not fighting to join and stay with a group and brand they believe is "on its last legs" or losing or about to lose. Neither are they driven by any local imperatives, since those imperatives drive the other way. They surely are not taking risks and paying a price to be part of a group whose networks, leadership, shared resources, and cooperation are as tenuous and limited as some analysts have suggested. We should be comfortable with the idea that their motivations seem crazy to us, but not with the idea that they are just plain dumb.

There are two major reasons that make sense for groups to show this degree of loyalty to al Qaeda, and they are not mutually-exclusive: the affiliates get something from membership and/or they really believe in the ideology. The something they get is likely money in the form of donations from wealthy Gulfis who believe in and value the brand and the human networks that control it. Flows of "foreign fighters" from around the Muslim world are directed in part by the al Qaeda networks in ways that can favor or disadvantage particular local groups. Those fighters bring zeal, expertise, money, and, frequently, either the desire for martyrdom or the psychological weaknesses upon which skilled handlers can play to produce suicide bombers. But the affiliates seem also to seek some form of group governance that leads groups like JN to imagine that Zawahiri can and will mediate on their behalf with other affiliates. All these benefits suggest a network and leadership that is real enough to be worth risking life and group success to be part of.

We should also seriously consider the possibility that they really believe in the ideology, and, specifically in the part that is most dangerous to us. The global (and anti-US) objectives that lead to efforts to attack the US and Europe are precisely the things that distinguish the al Qaeda brand of Sunni violent extremism from all others. If you're just a *takfiri* who wants to make all women wear burqas, stop people from smoking, and implement a distorted and draconian interpretation of something you call Shari'a law, you do not need to join al Qaeda. Plenty of extremist groups have those goals, and some, like the Afghan Taliban, explicitly reject al Qaeda's global aims (without, however, repudiating its ties to al Qaeda in the Taliban's case). The ideological reason for joining al Qaeda is precisely because you believe in global jihad at some point, even if you are currently caught up in local struggles. Sound threat assessment therefore requires assuming that affiliates that have consciously chosen to adhere to this global objective do, in fact, intend to attack the US and its allies at some point or at least to support such attacks. From which it follows that the capabilities those groups are developing may be used in the future to facilitate such attacks.

And that is the most worrying thing of all, since multiple affiliates have shown the ability to plan and execute year-long campaigns at the operational level of war integrating improvised explosive

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devices (IEDs), car bombs, suicide attacks, light infantry operations, crew-served weapons, and even, on limited occasions, armored vehicles. Nothing would please the US military more, of course, than the fielding of an al Qaeda armored division, which we could easily destroy even after the foolish decision to retire the A-10 without replacement. Nor will al Qaeda find it easy to set up vehicle-borne improvised explosive device (VBIED) cells or infantry training centers in the US. The skills they have shown in planning, logistics, communications, direction and control of operations, training, and adaptability, however, are all transferable. The transfer has, in fact, already begun as fighters from Syria, Iraq, and the Maghreb have started to return to their homes in Europe, Ukraine, and Russia—and the U.S. The U.S. intelligence community has put the number of foreign fighters in Syria at around 7,000. What will happen when a lot of them start going home? The good news is that the al Qaeda of 2001 is gone; the bad news is that Son of al Qaeda is a lot more lethal.

No discussion of the al Qaeda threat these days can be complete without considering the nature of our defenses. Here conditions are parlous and getting worse. I will not get into the merits of the debate over civil liberties, what the NSA is or is not doing, how complete or accurate is the Senate report on CIA interrogations, or what should be done about any of these important issues. Torture is bad and should be forbidden, and we can have a sensible conversation about where to draw the line. Civil liberties are vital to the American way of life and must be protected, even at the cost of greater risk to life and limb. Again, we can and must have a sensible discussion about how to draw the balance.

But NSA operations are already being curtailed by White House fiat even before we have completed that national discussion, and the CIA bids fair to become the “Central Self-Defense Agency” in the face of this Senate report. So the guardians on whom we rely to see and understand the minute changes in intent that alone distinguish potential from actual threats posed by al Qaeda groups with expanding capabilities will be distracted by internal debates, attacks, and requirements just as the danger grows most acute. And they will be further distracted by dramatic budget reductions that also constrain their abilities to keep up with the evolving threats. That is why I began this statement by saying that all conditions are set for future attacks. The threat is growing in size and capability while we are dismantling our defenses. Surely we should consider other approaches, and soon.

<sup>1</sup> Andreas Hagen, “Al Qaeda in the Islamic Maghreb: Leaders and their Networks,” AEI’s Critical Threats Project, March 27, 2014, <http://www.criticalthreats.org/al-qaeda/hagen-aqim-leaders-and-networks-march-27-2014>.

<sup>2</sup> Katherine Zimmerman, “The al Qaeda Network: A New Framework for Defining the Enemy,” AEI’s Critical Threats Project, September 10, 2013, <http://www.criticalthreats.org/al-qaeda/zimmerman-al-qaeda-network-new-framework-defining-enemy-september-10-2013>.

Mr. POE. I thank the gentleman.  
Mr. Wittes.

**STATEMENT OF MR. BENJAMIN WITTES, SENIOR FELLOW,  
GOVERNANCE STUDIES, THE BROOKINGS INSTITUTION**

Mr. WITTES. Thank you, Chairman Poe and Ranking Member Sherman for inviting me to present my views. You have asked me to address both the AUMF and intelligence collection under Section 702 of the FISA Amendments Act, so I am not sure these issues directly concern, you know, whether al-Qaeda is winning much less do I mean to sit here and try to grade the administration's performance to date.

But they definitely do involve sort of the structural question of whether the administration, this one and the next one and the one after that, will have the tools to make sure al-Qaeda doesn't win and that our counterterrorism policy gets to receive good grades in the future.

So as a preliminary matter, the two topics that you have asked me to address are actually kind of, sort of only oddly related to one another. They involve different legal authorities passed at different times with fundamentally different purposes.

But there is a very important common thread between them that I want to draw out here. These are two of the most important legal instruments in the struggle this committee is endeavouring to assess. One is the key legal authority for virtually every military action the United States undertakes in its battle against al-Qaeda, its offshoots and its affiliates.

And the other is the single most important legal authority the intelligence community has for collecting intelligence against the al-Qaeda target as well as against a sort of wide variety of other national security priorities. And, importantly, both laws are today for very different reasons under considerable stress.

So, you know, to put it bluntly, major pillars of the legal architecture of our conflict with al-Qaeda are now on the legislative table and Congress, over the next few years, is not going to be able to avoid the question of how much it wants to alter the fundamental architecture of that conflict.

So let us start with the AUMF and why, exactly, that is under stress today. So President Obama has announced that he wants to end the AUMF conflict. He has spoken passionately about this and I think, you know, entirely sincerely, and I am sympathetic to the objective, frankly.

I am not—you know, the idea of endless war is not attractive and most analysts, whether they favor repeal of the AUMF or reauthorization and refinement of it in some form of agree that the current AUMF is badly out of date.

So it is tied textually to the September 11th attacks and for some of the reasons that my colleagues have said here it does not really describe well the conflict the United States is currently pursuing.

This actually creates operational problems. Specifically, there are groups that oppose ongoing and growing threats that the application of the AUMF to which is something of a puzzle and in some cases hard to make a good legal argument for and the administration has struggled with that a lot.



So as you can probably tell, the answer to these problems, in my view, is not the repeal of the AUMF or the declaration of the end of the conflict. The first and most obvious reason for that, and I go into some others in my written statement, is that Congress may wish to continue to authorize military force against foreign terrorist groups that actively threaten the United States, and unless one believes that the result of ending the AUMF conflict will be the near exclusive reliance on law enforcement authorities and that this is a desirable outcome, the realistic alternative to a new AUMF is not—is likely to be excessive reliance on the President's inherent Article 2 powers, and I confess I can't see that as an attractive option.

I think the better option is a statutory option, which is to modernize the AUMF. In my view, Congress ought to authorize the executive branch to use force against groups the executive formally designates as posing an imminent threat to the United States, and it should pass a series of accountability mechanisms so that Congress is kept informed of the executive's view of the scope of the authorization's coverage.

The idea here is to create both a more nimble instrument—as the enemy continues to shift it stays current and more adaptable—but also to create a more accountable instrument that ensures appropriate interbranch cooperation in defining the contours of the conflict.

So if I may, I would like to tie this very briefly to the question of intelligence collection under Section 702. Good intelligence is key to any armed conflict and good technical intelligence is a huge U.S. advantage in the fight against al-Qaeda.

But technical intelligence, ironically, becomes more important the more one attempts to narrow the conflict. So the fewer boots on the ground we have in Afghanistan, the more we rely on drone strikes in areas where we lack large human networks, the more, not less, we will rely on technical intelligence collection.

And if you imagine staying on offense against a metastasizing al-Qaeda after the withdrawal from Afghanistan, you have to imagine a huge burden on technical collection. And this is why it is such a problem that even as we have narrowed the AUMF conflict and contemplate its formal end, serial leaks have generated such incredible anxiety about Section 702 collection and collection under Executive Order 12333, and all these calls in the press and the general public, among our allies and in Congress for reform and substantial changes to these practices.

Section 702 actually sunsets in 2017. If we don't maintain the political will to have these authorities they actually go away. The legal regime here is one that Congress knowingly and deliberately created and in my view, really requires no apology.

It really needs an active defense, and there are certainly areas where the regime could benefit from reform. The big risk here is that overreaction and panic in the face of exposure will lead to a burdening of our core signals intelligence capacity with legal processes designed to protect domestic civil liberties.

To the extent that members of this committee and this body continue to believe, as I do, in the essential integrity and value of the legal authorities for intelligence collection and oversight, the essen-

tial legislative task in this environment is to defend that architecture publicly and energetically to ensure it remains available.

Thank you. I would be happy to take any questions you may have.

[The prepared statement of Mr. Wittes follows:]



April 8, 2014

**Prepared Statement of  
Benjamin Wittes  
Senior Fellow at the Brookings Institution  
before the  
House Subcommittee on Terrorism,  
Nonproliferation, and Trade  
Committee on Foreign Affairs  
“Is Al Qaeda Winning: Grading the  
Administration’s Counterterrorism Policy”  
April 8, 2014**

## OPENING REMARKS



Benjamin Wittes is a senior fellow in Governance Studies at The Brookings Institution. He co-founded and is the editor-in-chief of *Lawfare*.

Thank you, Chairman Royce, Ranking Member Engel, and members of the subcommittee for inviting me to present my views on the future of the Authorization for the Use of Military Force (AUMF)<sup>1</sup> and intelligence collection under Section 702 of the FISA Amendments Acts (FAA).<sup>2</sup> I am a Senior Fellow in Governance Studies at the Brookings Institution. I co-founded and am Editor in Chief of *Lawfare*, a website devoted to sober and serious discussion of “Hard National Security Choices.” I am the author or editor of several books on subjects related to law and national security: *Detention and Denial: The Case for Candor After Guantánamo* (2011), *Law and the Long War: The Future of Justice in the Age of Terror* (2008), and *Legislating the War on Terror: An Agenda for Reform* (2009). I have written extensively both on the AUMF and on NSA collection under various provisions of the Foreign Intelligence Surveillance Act (FISA).<sup>3</sup> The views I am expressing here are my own.

The topics of the vitality and adequacy of the AUMF for the conflict the United States is currently fighting and the NSA surveillance programs that have, of late, dominated news headlines may seem largely unconnected. The AUMF and the FAA, after all, are profoundly different legal authorities, passed at different times, and with different fundamental purposes—one to authorize the conflict with Al Qaeda and the Taliban in response to the September 11 attacks, the other to gather foreign intelligence both inside and outside of the context of that armed conflict.

Yet in considering the question of the state of the U.S. confrontation with Al Qaeda, there is something to be said for considering these questions in conjunction with one another. These are, after all, two of the most important legal instruments in the struggle this committee is endeavoring to assess. One is the key legal authority for virtually every military action the United States undertakes in its military battle against Al Qaeda, its offshoots, and its affiliates. The other is the single most important legal authority the intelligence community has for collecting intelligence against the Al Qaeda target—not to mention other foreign targets of great national security significance. This intelligence is key to arrests and the thwarting of terrorist plots against the United States and its allies. It is also key to accurate and precise targeting judgments in lethal force operations.

<sup>1</sup> Pub. L. 107-40, 115 Stat. 224.

<sup>2</sup> FISA Amendments Act of 2008, Pub. L. 110-261, 112 Stat. 2436 (codified as amended at 50 U.S.C. § 1861(a) (2012)).

<sup>3</sup> Pub. L. 95-511, 92 Stat. 1783 (codified as amended at 50 U.S.C. § 1801 *et seq.* (2012)).

What's more, both laws, for very different reasons, are under considerable stress right now. President Obama has announced that he wants to end the AUMF conflict, raising profound questions both about the plausibility and timeframe of that objective and about what legal instrument—if any—will replace the AUMF. Meanwhile, serial leaks have generated enormous political anxiety about NSA programs and persistent calls for reform in the press, in the general public, among allies, and in this body. Section 702 will sunset in 2017 absent action by Congress to renew this important collection authority.<sup>4</sup> So major pillars of the legal architecture of America's conflict with Al Qaeda have been placed—in different ways and for very different reasons—on the table. This body thus cannot avoid the question of how much, if at all, it wants to alter the most fundamental architecture of the conflict.

In my view, as I will lay out, the critical task facing the Congress is different with respect to these two laws. With respect to the AUMF, the Congress should legislate to clearly authorize, and establish proper oversight of, the conflict the United States is likely to continue fighting after its withdrawal from Afghanistan. With respect to Section 702, the task is simpler: to maintain the intelligence community's capacity to support both the broad national security objectives of the United States and the conflict's prosecution under whatever legal authorities may succeed the AUMF.

#### The Adequacy and Relevance of the AUMF

On May 23, 2013, President Obama, speaking at the National Defense University, said:

The AUMF is now nearly 12 years old. The Afghan war is coming to an end. Core Al Qaeda is a shell of its former self. Groups like AQAP must be dealt with, but in the years to come, not every collection of thugs that labels themselves al Qaeda will pose a credible threat to the United States. Unless we discipline our thinking, our definitions, our actions, we may be drawn into more wars we don't need to fight, or continue to grant Presidents unbound powers more suited for traditional armed conflicts between nation states.

*So I look forward to engaging Congress and the American people in efforts to refine, and ultimately repeal, the AUMF's mandate. And I will*

<sup>4</sup> See Edward C. Liu, Congressional Research Service, Reauthorization of the FISA Amendments Act 1 (2013).

*not sign laws designed to expand this mandate further. Our systematic effort to dismantle terrorist organizations must continue. But this war, like all wars, must end. That's what history advises. That's what our democracy demands (emphasis added).*<sup>5</sup>

I am sympathetic to the objective the President articulated, and who would not be? The idea of endless war is repugnant. And the current conflict's end is tantalizing and in some respects within grasp. The modalities of the conflict with Al Qaeda are shifting in important ways—away from U.S. combat operations and towards support for allied governments in their own confrontations with local extremist movements. And the president always retains the power to use force on his own authority when necessary to protect the nation against imminent attack. President Obama has already limited drone strikes to situations of imminent threat and in which capture of the target is not a feasible option, situations that would generally satisfy both the international law and domestic constitutional law requirements for the use of force during peacetime. So the AUMF arguably plays less of a role today than it did even in the relatively recent past.<sup>6</sup> That will grow more true once U.S. combat forces are no longer in Afghanistan.

Moreover, most analysts—whether they favor repeal of the AUMF or some form of reauthorization or refinement of it—agree that the current AUMF is badly out of date. Tied to the September 11 attacks, it no longer describes well the conflict the United States is currently pursuing, a conflict that includes groups that had nothing to do with 9/11 in parts of the world quite remote from those places where the core of the AUMF conflict has taken place. While I believe the administration's reading of the law, which has allowed it to reach such targets where they lurk, is a reasonable one, it is not obvious when one reads the text of a law authorizing force against groups responsible for 9/11 how it authorizes force against groups in Yemen that did not exist in 2001. What's more, the administration's reading of the law has stopped short of reaching some potentially important targets against which a reasonable Congress might wish it to wield a freer hand—targets, for example, in Somalia and Mali. In short, the AUMF describes rather badly the conflict that the United States is currently fighting, and that problem is likely to get far worse in the coming years.

<sup>5</sup> See President Barack Obama, Remarks by the President at the National Defense University (May 23, 2013), available at <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>.

<sup>6</sup> See, e.g., Chapter 3 of Kenneth Anderson and Benjamin Wittes, *Speaking the Law: The Obama Administration's Addresses on National Security Law* (2013), available at <http://www.lawfareblog.com/speaking-the-law-the-obama-administrations-addresses-on-national-security-law/>; Robert Chesney, *Postwar*, Harv. Nat. Sec. J. (forthcoming, 2014) (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2532223](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2532223)).

There are at least three reasons to believe that the answer to the AUMF's problems is not either its repeal or to declare the end of hostilities under it. The first and most obvious is that Congress may wish to continue to authorize military force against foreign terrorist groups which actively threaten the United States. The world remains a dangerous place and Al Qaeda has metastasized. If one believes, as I do, that military force should still play a role in the American confrontation with Al Qaeda's many successor groups, it makes sense for this body to define the authorized parameters of that military force. Unless one believes that the result of ending the AUMF conflict will be the near-exclusive reliance on law enforcement authorities and that this is desirable, the realistic alternative to a new AUMF is the excessive reliance on the inherent Article II powers of the president as Commander in Chief to use force to defend the nation. I confess that I cannot see how this is an attractive alternative. American counterterrorism is at its strongest when the Congress and the administration are on the same page as to the authorities the country means to deploy against the enemy. This is no time, in my view, to return to the days of counterterrorism based on unilateral exertions of executive authority. I fear this is what would happen if the AUMF were allowed to lapse.

Second, in the absence of the AUMF, what is now policy with respect to only conducting drone strikes in circumstances of imminent threat where capture is not feasible would become law. This would, I worry, put enormous pressure on the concepts of imminence and feasibility of capture, as operators faced circumstances in which they could not conclude in good faith that the threats posed by significant targets rose to the threshold of imminence or in which they concluded that capture was, indeed, feasible but only by risking the lives of US troops. The administration has already faced criticism for stretching the meaning of terms like imminence and feasibility. How much more elastic would they prove to be if they became not merely policy but actual targeting law?

Finally, the repeal of the AUMF would require the release of a group of detainees the administration has been unable to bring to trial yet regards as too dangerous to set free. Some of these individuals are major terrorist leaders. The AUMF provides the only current legal basis for their detentions. It is impossible to contemplate a repeal of the AUMF without a clear plan for the disposition of these cases. No such plan has ever materialized, at least not in public.

For all of these reasons, the better approach is to take the President up on his suggestion of working with Congress "to refine" and to modernize the

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AUMF, to rewrite it to describe the conflict the United States is actually fighting today and will likely be fighting for some time to come, rather than the conflict we imagined in the days following 9/11 we would be fighting. A number of suggestions for refinements to the AUMF have emerged over the past year, proposals which take very different approaches to the problem.

One that I coauthored sought to authorize the executive branch to use force against groups it designated as posing an imminent threat to the United States and proposed a series of accountability mechanisms so that Congress is kept informed of the executive's view of the scope of the authorization's coverage. It also proposed the sunseting both of designations under the law and the law itself at statutorily designated intervals to prevent the authorization from morphing into an authorization for endless war.<sup>7</sup> The idea is not only to create a more nimble instrument that stays current as an adaptable, ever-changing enemy continues to shift but also to create a more accountable instrument that ensures appropriate interbranch cooperation in defining the contours of the conflict.

#### Defending Intelligence Law

As I said at the outset of this statement, the question of intelligence collection under Section 702 of the FAA may seem connected to the AUMF's future in only the most distant fashion. In fact, the connection between intelligence collection authorities and the underlying regime authorizing the conflict itself is a critical one. Good intelligence is key to any armed conflict and good technical intelligence is a huge U.S. strength in the fight against Al Qaeda. Yet ironically, the more one attempts to narrow the conflict, the more important technical intelligence becomes. The fewer boots on the ground we have in Afghanistan, for example, the greater our reliance will become on technical collection. The more we rely on drone strikes, rather than large troop movements, in areas where we lack large human networks, the more we rely on technical intelligence. Particularly if one imagines staying on offense against a metastasizing Al Qaeda in the context of a withdrawal from Afghanistan and a narrowing—or a formal end—of the AUMF conflict, the burden on technical intelligence collection to keep us in the game will be huge even ignoring the many other foreign intelligence and national security interests Section 702 surveillance supports.

<sup>7</sup> See Robert Chesney, et al., A Statutory Framework for Next-Generation Terrorist Threats (2013), available at <http://www.lawfareblog.com/2013/02/a-statutory-framework-for-next-generation-threats/>.



Section 702 is a complicated statute, and it is only one part of a far more complicated, larger statutory arrangement. But broadly speaking, it permits the NSA to acquire without an individualized warrant the communications of non-US persons reasonably believed to be overseas when those communications are transiting the United States or stored in the United States. Under these circumstances, the NSA can order production of such communications from telecommunications carriers and internet companies under broad programmatic orders issued by the Foreign Intelligence Surveillance Court (FISC), which reviews both targeting and minimization procedures under which the collection then takes place. Oversight is thick, both within the executive branch, and in reporting requirements to the congressional intelligence committees.

Make no mistake: Section 702 is a very big deal in America's counterterrorism arsenal. It is far more important than the much debated bulk metadata program, which involves a few hundred queries a year. Section 702 collection, by contrast, is vast, a hugely significant component not only of contemporary counterterrorism but of foreign intelligence collection more generally. In 2012, the Senate Select Committee on Intelligence wrote that "[T]he authorities provided [under section 702] have greatly increased the government's ability to collect information and act quickly against important foreign intelligence targets. . . . [The] failure to reauthorize [section 702] would 'result in a loss of significant intelligence and impede the ability of the Intelligence Community to respond quickly to new threats and intelligence opportunities.'"<sup>8</sup> The President's Review Group on Intelligence and Communications Technologies, after quoting this language, wrote that "Our own review is not inconsistent with this assessment. . . . [W]e are persuaded that section 702 does in fact play an important role in the nation's effort to prevent terrorist attacks across the globe."<sup>9</sup> The *Washington Post* has reported that 702 was in 2012 the single most prolific contributor to the President's Daily Brief.<sup>10</sup>

Yet we have seen enormous anxiety about Section 702 collection, along with its close cousin, collection overseas against non-US person targets under

<sup>8</sup> Senate Select Committee on Intelligence, Report on FAA Sunsets Extension Act of 2012, 112th Congress, 2d Session (June 7, 2012).

<sup>9</sup> President's Review Group on Intelligence and Communications Technologies, Liberty and Security in a Changing World 145 (2013), available at [http://www.whitehouse.gov/sites/default/files/docs/2013-12-12\\_rg\\_final\\_report.pdf](http://www.whitehouse.gov/sites/default/files/docs/2013-12-12_rg_final_report.pdf).

<sup>10</sup> Robert O'Harrow, Jr., et al., *U.S. Company Officials: Internet Surveillance Does Not Indiscriminately Mine Data*, Jun. 8, 2013, Wash. Post, available at [http://www.washingtonpost.com/world/national-security/us-company-officials-internet-surveillance-does-not-indiscriminately-mine-data/2013/06/08/5b3bb234-d07d-11e2-9f1a-1a7cde20207\\_story.html](http://www.washingtonpost.com/world/national-security/us-company-officials-internet-surveillance-does-not-indiscriminately-mine-data/2013/06/08/5b3bb234-d07d-11e2-9f1a-1a7cde20207_story.html).

Executive Order 12333. Sometimes, these anxieties have been rooted in the supposed effects of this collection on U.S. persons.<sup>11</sup> Sometimes, however, the complaints have stemmed from broader concerns about infringement of privacy worldwide. Europeans have expressed shock, for example, that a U.S. spy agency would presume to collect against an allied foreign leader like German Chancellor Angela Merkel<sup>12</sup>—surveillance that now seems forward-thinking and reasonable given later reports that Merkel has been on the phone frequently during the Crimea crisis with Vladimir Putin.<sup>13</sup> Major news organizations have considered it front-page news that NSA has pursued intelligence targets on online gaming platforms and smartphone apps,<sup>14</sup> that NSA has collected contact lists in large numbers around the world,<sup>15</sup> even that foreign countries *spy on one another*, collect attorney-client communications involving U.S. lawyers along the way, and may share that material with NSA subject to U.S. law and minimization requirements.<sup>16</sup> Whether one considers these stories important journalism or reckless blowing of valuable surveillance activities, they both reflect and further stoke a deep concern about the scope of U.S. surveillance practices. And that concern is creating inexorable pressures for reforms we may regret in the counterterrorism space.

The legal regime here is one that this body knowingly and deliberately created in an iterative set of interactions with the intelligence community

<sup>11</sup> Barton Gellman, *NSA Broke Privacy Rules Thousands of Times Per Year, Audit Finds*, Aug. 15, 2013, Wash. Post, available at [http://www.washingtonpost.com/world/national-security/nsa-broke-privacy-rules-thousands-of-times-per-year-audit-finds/2013/08/15/3316c554-05ca-11e3-a07f-49ddc7417125\\_story.html](http://www.washingtonpost.com/world/national-security/nsa-broke-privacy-rules-thousands-of-times-per-year-audit-finds/2013/08/15/3316c554-05ca-11e3-a07f-49ddc7417125_story.html).

<sup>12</sup> Laura Poitras et al., “A” for Angela: GCHQ and NSA Targeted Private German Companies and Merkel, Mar. 29, 2014, Der Spiegel, available at <http://www.spiegel.de/international/germany/gchq-and-nsa-targeted-private-german-companies-a-961444.html>.

<sup>13</sup> Alison Smale, *Ukraine Crisis Limits Merkel's Rapport with Putin*, Mar. 12, 2014, N.Y. Times, available at [http://www.nytimes.com/2014/03/13/world/europe/ukraine-merkel-finds-limits-of-her- rapport-with-putin.html?\\_r=1](http://www.nytimes.com/2014/03/13/world/europe/ukraine-merkel-finds-limits-of-her- rapport-with-putin.html?_r=1).

<sup>14</sup> See, e.g., James Ball, *Angry Birds and*

*“Leaky” Phone Apps Targeted by NSA and GCHQ for User Data*, Jan. 28, 2014, The Guardian, available at <http://www.theguardian.com/world/2014/jan/27/nsa-gchq-smartphone-apps-angry-birds-personal-data>; Mark Mazetti and Justin Elliott, *Spies Infiltrate a Fantasy Realm of Online Games*, Dec. 9, 2013, N.Y. Times, available at <http://www.nytimes.com/2013/12/10/world/spies-dragonet-reaches-a-playing-field-of-saves-and-trills.html>.

<sup>15</sup> Barton Gellman and Ashkan Soltani, *NSA Collects Millions of Email Contacts Globally*, Oct. 14, 2013, Wash. Post, available at [http://www.washingtonpost.com/world/national-security/nsa-collects-millions-of-e-mail-address-books-globally/2013/10/14/8a58b5be-34f9-11e3-80c6-7e6dd8d22d8f\\_story.html?pid=zi](http://www.washingtonpost.com/world/national-security/nsa-collects-millions-of-e-mail-address-books-globally/2013/10/14/8a58b5be-34f9-11e3-80c6-7e6dd8d22d8f_story.html?pid=zi).

<sup>16</sup> James Risen and Laura Poitras, *Spying by N.S.A. Ally Entangled U.S. Law Firm*, Feb. 15, 2014, N.Y. Times, available at <http://www.nytimes.com/2014/02/16/us/eavesdropping-suspected-american-law-firm.html>.

and the courts. It requires no apology. Rather, it requires an active defense. And while there are certainly areas in which the regime could benefit from reform, the big risk here is that overreaction and panic in the face of exposure will lead to a burdening of the core signals intelligence capacity of the United States with legal processes designed to protect civil liberties domestically. This could happen either because reform efforts go too far or because Congress fails to reauthorize 702 and thus applies the terms of core FISA—which require an individualized warrant based on probable cause—to a wide swath of overseas collection.

Broadly then, the legislative task with respect to Section 702 is something of the opposite of the task with respect to the AUMF. To the extent that members of this committee continue to believe, as I do, in the essential integrity and value of the existing legal authorities for intelligence collection and oversight, the task in the current political environment is to defend that architecture—publicly and energetically—rather than to race to correct imagined deficiencies, or even real structural deficiencies that, however real they may be, bear little relation to the outcomes that disquiet us.

#### Conclusion

To tie these threads together, then, circumstances are forcing us to revisit two of the most basic statutory engines of modern American counterterrorism. In the case of one of those engines, the AUMF, our political system is insufficiently willing to take on the project. In the case of the other, our basic intelligence authorities, we risk diving in with excessive zeal and insufficient care. In both cases, the decisions we will make over the next few months and years will fatefully shape the future of this country's confrontation with Al Qaeda and its successor organizations. In neither are we obviously proceeding in the right direction.



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*Prepared Statement of Benjamin Wittes*

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Mr. POE. Thank you.

Each of you have been furnished a map that I mentioned at the opening statement earlier. Generally, I would like to get your input. Do you think that is a fairly accurate summary of al-Qaeda worldwide? Dr. Jones.

Mr. JONES. I would quibble with the—some of the shaded areas in a few cases and then I would add some areas in a few others. I see no—I see no highlighting of the Sinai in Egypt or the Muhammad Jamal network operating in Egypt. So I think it does reflect a number of countries where al-Qaeda or other groups are operating. I would add a few things, take a way a few things but—

Mr. POE. All right. Let me ask you this, all of you, and weigh in on the money. Where does al-Qaeda generally—the core and these little bitty groups, affiliates—where do they get their money? Finances.

Mr. JONES. I can start.

Mr. POE. Go ahead.

Mr. JONES. It depends on the affiliate and the specific group. There is money that the core has received and some other groups have received from the Gulf. We know that from wealthy Gulf donors.

In some areas in Somalia, for example, al-Shabaab has been involved in both illicit and licit trafficking in a whole range of activities including charcoal. Kidnappings have been extremely profitable among al-Qaeda and al-Qaeda affiliates.

So I would say there is a fair amount of redundancy in the financing from wealthy donors including from the Gulf but also now from the Levant with the Syrian groups from the kidnapping and from other licit and illicit activities.

Mr. POE. Do you want to add anything to that, Dr. Kagan?

Mr. KAGAN. I would say it is important to keep in mind how robust and diversified are the sources of income that these various groups harness.

The threat finance problem here is an absolute nightmare and it is not something that I think we are likely to be very successful with although we could be doing a lot more I think than we have been in come cases.

But one of the things that Seth did mention that I think is very important to keep in mind is where they control territory they tax the population and this is not a terror—

Mr. POE. They set up their own tax structure?

Mr. KAGAN. They do.

Mr. POE. When they control an area they tax the people like they were the legitimate government?

Mr. KAGAN. They do, and it is very important to keep that—

Mr. POE. And they are doing that in Syria, aren't they?

Mr. KAGAN. They are doing it in areas of Syria. They are doing it in Iraq. They are doing it a little bit more carefully in Yemen. They had been doing it a lot in Somalia. They are doing it in North Africa.

They are also—you know, they were trying to do it in the Caucasus until the Russians had at them and that is one of the areas on the map that needs to be added back in because the Islamic emirate of the Caucasus which had been moribund is no longer and

is a group that is going to matter. But they do have the trappings of a state.

They do set up the trappings of a formal state. In fact, al-Qaeda in Iraq, or ISIS, is setting up governorates all around Afghanistan and it is really important, again, that we keep that in mind because too often the discussion is had in terms of al-Qaeda as a terrorist group that intends to attack us.

It is a terrorist group. It does intend to attack us but that is not how it defines itself. It defines itself as an insurgency moving into a governing power wherever it can.

Mr. POE. They go in and take, try to take over an area of some country—

Mr. KAGAN. Right.

Mr. POE [continuing]. And just set up a state within a state of some type?

Mr. KAGAN. Well, they set up an independent emirate and then they talk about the relationship of that emirate to other emirates that they are trying to set up.

Mr. POE. All right. And let me ask this of you. What is—what is our overall plan? We have talked about al-Qaeda here for several hours. What is the United States' overall policy and plan and where do we need to improve it?

I am not looking for criticism of any administration. I just want to know what is our plan, what do we do if we want to eliminate, go after, diminish this al-Qaeda threat? Dr. Jones, you are first again.

Mr. JONES. I don't know what the plan is. We have put out a—the administration has put out a counter terrorism strategy but I see different plans from different government agencies that are sometimes coordinated and sometimes not very well coordinated. I cannot give you a concise answer about what our plan is.

Mr. POE. So we don't have a plan that you know of. What should it be? Dr. Kagan, do you want to weigh in on that in the remaining minute?

Mr. KAGAN. In 30 seconds what should the plan for defeating al-Qaeda be?

Mr. POE. Yes. Thirty seconds.

Mr. KAGAN. I don't know. The problem is that not only do we not have a plan but we don't have an agreed upon definition and this is something that is very distressing at this point. But when you look through administration statements, and we will have a paper coming out soon from AEI from Mary Habeck, going through this in a lot of detail it is actually very hard to figure out exactly what the administration thinks al-Qaeda is. And so before we have a plan—

Mr. POE. So we can't define the enemy, so to speak?

Mr. KAGAN. Well, I think one could define the enemy but I think that this administration has not defined the enemy in any clear way and there is no prospect for having a plan to deal with something that you haven't defined properly.

Mr. POE. Right. I yield to the ranking member, Mr. Sherman, from California.

Mr. SHERMAN. I would point out that al-Qaeda and its ideology will inspire people to die and to kill until such time as it becomes

apparent that dying and killing will not bring any portion of the victory that they are seeking, that it will not recreate a single Islamic caliphate.

It will not conquer additional territories for Islam beyond where there are Islamic majorities today and that it won't take every Islamic society back to the seventh century. We are going to have to spend a decade or two longer managing the problem until it becomes apparent to those with a very long time horizon that their tactics aren't working.

The question is can a society that brought—that defined instant gratification carry on a conflict that may outlast both you and I, Mr. Chairman, because they are not going away anytime soon and as long as their ideology has appeal and the prospect of victory has not been defeated, we are going to be facing them.

Speaking of terrorist financing, Mr. bin-Laden personally was a pretty wealthy man. What happened to his fortune? Does anybody know? I have got two witnesses shaking their heads and one not responding at all so I assume we don't know.

Mr. Wittes, you talk about legal authority and the authorization to use military force. We have a War Powers Act that was designed in response to the Vietnam War where the focus of war powers was troops on the ground for a certain amount of time.

Arguably, an unlimited number of drone attacks is authorized by the War Powers Act that says as long as you get in and out in 60 days I am not sure you even have to file a report.

But if you have to file a report that is all you have to do. You are here visiting the world's most prominent dysfunctional Parliament. Do you really think we are going—beyond relying on the War Powers Act and the authorization to use military force, do you really think we can pass anything else? I would think that perhaps we could pass something that is designed to trim and reduce the authorization to use military force and sell it not as passing something new but restricting something old.

But what would you propose—what should be the legal structure to guide us for the next 10 years?

Mr. WITTES. Well, so, I mean, so the question of what is politically doable is, frankly, beyond my competence. My job is to sort of figure out what I think the right answer is and so I think there is basically two problems with the existing AUMF.

One is that in one sense it is hopelessly over broad, right. It doesn't have an end date. It authorizes sort of endless war against anybody the President decides is responsible for 9/11 or who harbored that person or who is affiliated with that person, right, and it doesn't have a lot of accountability mechanisms associated with it.

And you are quite right that the War Powers resolution asks for—you know, has this sort of very intermittent interaction with deployments of force involving the AUMF. So it does authorize a sort of whole lot of unaccountable, you know, long-term violence.

On the other hand, it is also hopelessly too narrow, right, and some of the issues that Dr. Kagan raised—

Mr. SHERMAN. Are you saying it is too narrow because it doesn't focus on every terrorist group that might wish us harm but only on those that have some connection with the original al-Qaeda?

Mr. WITTES. Well, but take, for example, the group that formulates in the post-9/11 era, joins the fight to various extents and is a rising emergent power that we have every reason to be worried about and that military force may reasonably play a role in counteracting but that hasn't crossed that threshold of—the administration has a complicated and not altogether public legal test about who counts as al-Qaeda but that hasn't yet crossed that threshold or maybe as in the case of al-Shabaab parts of it have and parts of it haven't.

And so you don't really know what the scope of the AUMF is vis-à-vis those groups that you might want to use force against. So what I would think is when you have—when you have an authorization that is in some ways substantively too narrow and in some ways, you know, too broad a grant of unaccountable power, the right strategy and we actually, a group of us—

Mr. SHERMAN. Perhaps you could furnish for the record the AUMF reform act.

Mr. WITTES. As a matter of fact, sir, I can. About a year ago, my colleagues Jack Goldsmith, Bobby Chesney and Matt Waxman and I tried to—tried to figure out sort of what would it take to rewrite the AUMF and we laid out in a sort of series of options what we would do.

And, you know, I was a little but surprised when a few months later the President's reaction not to the paper in particular, obviously, but to the issue in general was that he would not sign and would not contemplate any sort of new AUMF.

He was looking for its repeal. I do think that is the wrong direction to go. But I also think relying indefinitely on the current AUMF is a big mistake and it is asking for trouble. It is asking for trouble across a lot of different—

Mr. SHERMAN. It certainly poses some real risks to civil liberties.

Mr. WITTES. But I would be delighted to give you a copy of this if you want the details of my thoughts on it.

Mr. SHERMAN. Without objection we will make it—excuse me. I would ask unanimous consent that it be made part of the record.

Mr. POE. Without objection it is part of the record.

Mr. SHERMAN. Had to get that role right. I used to sit over there. I yield back.

Mr. POE. I want to thank you all for being here and your testimony—written testimony too is excellent and helps to broaden the scope of our knowledge of what has taken place in the world.

Thank you, all three of you, and the committee—the subcommittee is adjourned.

[Whereupon, at 4:34 p.m. the committee was adjourned.]



## A P P E N D I X

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MATERIAL SUBMITTED FOR THE RECORD

**SUBCOMMITTEE HEARING NOTICE**  
**COMMITTEE ON FOREIGN AFFAIRS**  
 U.S. HOUSE OF REPRESENTATIVES  
 WASHINGTON, DC 20515-6128

**Subcommittee on Terrorism, Nonproliferation, and Trade**  
**Ted Poe (R-TX), Chairman**

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend an OPEN hearing of the Subcommittee on Terrorism, Nonproliferation, and Trade, to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at [www.foreignaffairs.house.gov](http://www.foreignaffairs.house.gov)):

**DATE:** Tuesday, April 8, 2014

**TIME:** 2:00 p.m.

**SUBJECT:** Is al-Qaeda Winning? Grading the Administration's Counterterrorism Policy

**WITNESSES:**

Panel I

The Honorable Joseph Lieberman  
*(Former United States Senator)*

The Honorable Jane Harman  
 Director, President, and Chief Executive Officer  
 The Woodrow Wilson International Center for Scholars  
*(Former Member of Congress)*

Panel II

Seth Jones, Ph.D.  
 Associate Director  
 International Security and Defense Policy Center  
 RAND Corporation

Frederick W. Kagan, Ph.D.  
 Christopher DeMuth Chair and Director  
 Critical Threats Project  
 American Enterprise Institute for Public Policy Research

Mr. Benjamin Wittes  
 Senior Fellow  
 Governance Studies  
 The Brookings Institution

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-3921 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.*

## COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Terrorism, Nonproliferation, and Trade HEARINGDay Tuesday Date April 8, 2014 Room 2172Starting Time 2:00 p.m. Ending Time 4:30 p.m.Recesses 1 (2:28pm to 3:35pm) (\_\_\_\_ to \_\_\_\_) (\_\_\_\_ to \_\_\_\_) (\_\_\_\_ to \_\_\_\_) (\_\_\_\_ to \_\_\_\_)

Presiding Member(s)

*Chairman Poe*

Check all of the following that apply:

Open Session ☒Executive (closed) Session ☐Televised ☒Electronically Recorded (taped) ☒Stenographic Record ☒

TITLE OF HEARING:

*Is al-Qaeda Winning? Grading the Administration's Counterterrorism Policy*

SUBCOMMITTEE MEMBERS PRESENT:

*Reps. Perry, Kinzinger, Poe, Sherman, Castro, Cotton, Brooks, Kennedy*

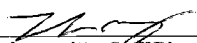
NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an \* if they are not members of full committee.)

*Rep. Rohrabacher*HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐  
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

TIME SCHEDULED TO RECONVENE \_\_\_\_\_

or

TIME ADJOURNED 4:30 p.m.  
Subcommittee Staff Director

[NOTE: The essay submitted for the record by Mr. Benjamin Wittes, senior fellow, Governance Studies, The Brookings Institution, entitled "A Statutory Framework for Next-Generation Terrorist Threats," is not reprinted here but is available in committee records. This essay may also be accessed via the Internet at: <http://www.hoover.org/publications/monographs/141271>]