

The Pennsylvania State University
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Department of Communication Arts and Sciences

**“I WELCOME THIS DEBATE”:
THE LIMITS OF DEMOCRATIC DELIBERATION OVER NATIONAL
SECURITY POLICY IN THE OBAMA ADMINISTRATION**

A Dissertation in
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by

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ABSTRACT

This study explores the limits of public deliberation over contemporary national security policies. In the years since the 9/11 attacks, the United States has grappled with the new global reality of the post-Cold War era, in which the most immediate security threats have come from stateless adversaries empowered by international instability. The nation has addressed these threats through military operations, the development of new technologies to combat terrorism, and the frequent reevaluation of the proper balance between civil liberties and public safety. I argue that the discourse surrounding the Obama administration's national security policy calls for critics—both within the academy and in the broader public—to engage in meta-deliberative critique. To illustrate how such a meta-deliberative critique could function in different contexts, I submit three chapters, each of which explores a different area of the Obama administration's national security policy: traditional war powers and military interventions, the use of targeted killing in the “war on terror,” and the surveillance state. I argue that each of these case studies illustrates the importance of exploring the underlying conditions of public debate, in order to better understand the forces that shape the public's capacity to meaningfully participate in democratic processes.

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Introduction

“The choices we make about war can impact—in sometimes unintended ways—the openness and freedom on which our way of life depends. And that is why I intend to engage Congress about the existing Authorization to Use Military Force, or AUMF, to determine how we can continue to fight terrorism without keeping America on a perpetual wartime footing. . . .

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 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.”

President Barack Obama, May 23, 2013, Fort McNair¹

“Can you tell the Muslim people their lives are as precious are our lives? Can you take the drones out of the hands of the CIA? Can you stop the signature strikes?

I love my country! I love the rule of law! The drones are making us less safe! And keeping people in indefinite detention in Guantanamo is making us less safe! Abide by the rule of law! You're a constitutional lawyer!”

Medea Benjamin, Code Pink Activist, May 23, 2013, Fort McNair²

On May 23, 2013, President Barack Obama delivered an address at the National Defense University in Washington in which he declared that the United States was at a “crossroads” in the struggle against terrorism. He also called for a public debate aimed at rethinking the “perpetual wartime footing” that had defined U.S. national security posture for more than a decade. Covering a laundry list of military, legal, and ethical issues, Obama’s hour-long Memorial Day speech pursued two tracks: one highlighting his administration’s successes while underscoring the need for ongoing attention to the terrorist threat, and another emphasizing a shared “commitment to constitutional principles” that he said should serve as a “compass” for future counterterrorism policies.

Predictably, the speech met with criticism on multiple fronts. “The president’s speech today will be viewed by terrorists as a victory,” argued Republican Senator Saxby Chambliss. Chambliss even accused Obama of seeking to unwisely roll back “successful counterterrorism activities.”³ Simultaneously, “liberal discontent” was palpable.⁴ Obama’s opposition to the invasion of Iraq and his strong condemnation of the Bush administration’s alleged abuses of executive power had earned him considerable support from anti-war voters during the 2008 presidential campaign. But many on the left had grown disillusioned with Obama due to a perception that he had failed to act more decisively to reign in the aggressive policies of his predecessor. That discontent and disillusionment was not confined to scattered blogs or passive handwringing, and by 2013 some were arguing that Obama was “as bad—or worse—than Bush” on a multitude of liberal priorities.⁵ Even his National Defense University address, which called for a drastic rethinking of the “war on terror,”⁶ was not immune to such criticism.

Prominent anti-war protestor Medea Benjamin, a co-founder of Code Pink, interrupted Obama's speech three separate times. After listening quietly for roughly 49 minutes, Benjamin began questioning the president about an ongoing hunger strike by detainees at the Guantanamo Bay Naval Base. Obama attempted to placate Benjamin by repeatedly assuring her that he was going to address her concern:

So—let me finish, ma'am. So today, once again. . .
 I'm about to address it, ma'am, but you've got to let me speak. I'm about to address it. . . .Let me address it. . .
 Why don't you let me address it, ma'am. . .
 Why don't you sit down and I will tell you exactly what I'm going to do. . .
 Thank you, ma'am. Thank you. Ma'am, thank you. You should let me finish my sentence. Today, I once again call on Congress to lift the restrictions on detainee transfers from "Gitmo."⁷

Less than a minute later, Benjamin interrupted Obama again, insisting that the government "release them today," to which an increasingly frustrated Obama replied, "Now, ma'am, let me finish. Let me finish, ma'am. Part of free speech is you being able to speak, but also, you listening and me being able to speak." When he discussed the issue of hunger strikes a short time later, he deviated from his prepared remarks to add, "I'm willing to cut the young lady who interrupted me some slack because it's worth being passionate about." Just over a minute later, Benjamin spoke up yet again, this time to raise the issue of 16-year-old U.S. citizen Anwar al-Aulaqi and other casualties of U.S. drone strikes. A flustered Obama struggled to push forward with his remarks, then paused. While Benjamin was escorted from the venue, he briefly intoned, "we're addressing that, ma'am," before standing silently for almost 30 seconds. Benjamin complied with security personnel's orders to leave, but continued chastising the president as she exited, calling on him to address the drone program's impact on Muslim populations and noting his "constitutional lawyer"⁸ status in beseeching him to act.

When Obama resumed his address after Benjamin's removal, he took a moment to directly react to the disruption and reflect on the importance of her perspective:

I think that—and I'm going off script, as you might expect here. The voice of that woman is worth paying attention to. Obviously, I do not agree with much of what she said, and obviously she wasn't listening to me in much of what I said. But these are tough issues, and the suggestion that we can gloss over them is wrong.⁹

That Obama would face such vocal criticism, and react to it with substantive and nuanced arguments and a willingness to engage on the issue, calls attention to wider threads woven throughout the national security rhetoric of his political career. From his emergence on the national political scene in 2004, Obama was a major participant in the nation's unending conversations¹⁰ involving war, executive power, civil liberties, and transparency—conversations which have taken on special significance in the post-9/11 world. Even before he was elected president, Obama's national security rhetoric played an important role in the national conversation over U.S. foreign policy, and that rhetoric helped elevate him from the Illinois State Senate to the White House in four short years. But Obama's complicated legacy as president reveals far more about the nation's political institutions and culture, and offers an exceptional opportunity to interrogate the potential of public deliberation over matters of national security policy and executive power. This study is an attempt to make sense of that legacy in order to better understand the serious challenges facing scholars of contemporary war rhetoric and citizens seeking influence on major issues of the day. It is therefore part of a broader collaborative effort to chart the forces shaping the deliberative processes over one of the most basic and consequential governmental functions: the application of collective violence.

**Authority, Transparency, and Deliberation:
A Rhetorical Sketch of Barack Obama's National Security Policy**

More than two years before he would gain national prominence as the keynote speaker at the 2004 Democratic National Convention, Illinois State Senator Barack Obama spoke to an anti-war rally in Chicago. His October 2, 2002, speech, delivered almost six months before the Bush administration launched "Operation Iraqi Freedom" through a "shock and awe" strategy, was of little immediate impact. Obama neither held, nor was he a candidate for, any federal office. But his opposition to military intervention in Iraq, which he characterized as "a dumb war" and a "rash war" that was "based not on reason but on passion, not on principle but on politics,"¹¹ would have long-term political ramifications. Eighteen months later, Obama would win a crowded primary election for the Democratic nomination for an open U.S. Senate seat. He had an early polling edge over the Republican nominee in blue-leaning Illinois, and he became a prohibitive favorite when a scandal caused that rival to drop out of the race.¹²

Democratic presidential nominee John Kerry was searching for an "attention-getting" speaker for the convention, and he unexpectedly selected Obama after being "impressed with the charismatic political hot shot" during a joint campaign appearance.¹³ The July 27, 2004, speech was exceptionally well-received by the mainstream press and political commentators.¹⁴ Pundits could not resist speculating about Obama's political future, with at least one pondering Obama's presidential prospects before he gave the speech.¹⁵ Many more joined the chorus immediately afterward.¹⁶ Others were more measured in their praise. Rhetorical scholar Martin Medhurst gave a positive assessment but cautioned against prematurely historicizing the speech in his remarks to the press.¹⁷ Interpreting Obama's speech as a romantic recasting of the "American Dream" and a

liberal counterpoint to Ronald Reagan's conservative vision, Robert C. Rowland and John M. Jones have described Obama's keynote as "electrifying."¹⁸

Obama coasted to a landslide victory in his Senate race, earning 70 percent of the vote against replacement Republican candidate Alan Keyes and two minor-party candidates.¹⁹ A little more than two years after taking his seat in the Senate, Obama announced the formation of a presidential exploratory committee via a video on his campaign website.²⁰ Shortly thereafter, he officially declared his candidacy for the Democratic Party nomination.

The 2008 Presidential Campaign

Obama launched his presidential bid at a February 10, 2007, rally in Springfield, Illinois.²¹ Introduced by the state's senior senator, Richard Durbin, Obama gave a 20-minute speech in sub-zero temperatures. Obama touched on many political issues and stressed his own personal story, but one issue was prominently and repeatedly emphasized: war. After briefly thanking those in attendance for their support and for braving the inclement weather, Obama wasted no time in defining the issues that he deemed most important to them. In the fourth sentence of his speech, Obama assessed his audience's values, saying, "In the face of war, you believe there can be peace."²² Toward the end of his remarks, after twice more touching briefly on the theme of war, Obama refocused on the issue, framing war as an obstacle to progress on other fronts:

But all of this cannot come to pass until we bring an end to this war in Iraq. Most of you know I opposed this war from the start. I thought it was a tragic mistake. Today we grieve for the families who have lost loved ones, the hearts that have been broken, and the young lives that could have been. America, it's time to start bringing our troops home. It's time to admit that no amount of American lives can resolve the political disagreement that lies at the heart of someone else's civil war. That's why I have a plan that will bring our combat

troops home by March of 2008. Letting the Iraqis know that we will not be there forever is our last, best hope to pressure the Sunni and Shia to come to the table and find peace.

Speaking on his own behalf and not as a surrogate, Obama was free to emphasize his opposition to the war in a way he could not as the DNC keynote speaker in 2004.

Obama's consistent stance against the war in Iraq would help define his candidacy. Stumping for Kerry, Obama was forced to downplay his opposition to the invasion of Iraq and speak only in abstractions about his party uniting "patriots who opposed the war in Iraq and patriots who supported it" behind issues that resonated more broadly with Democratic and moderate independent voters. Just as importantly, Obama's duty to promote the party's nominee rendered him unable to emphasize major policy disagreements he had with Kerry. Like many Democratic leaders, Kerry had voted to authorize President Bush to use military force against Iraq, leading to a 2004 general election that was muddled on issues of foreign policy. Many Americans opposed the war, but Kerry's critique of Bush was effectively characterized as a flip-flop: his "inarticulate" comments implied that he was for the war before he was against it.²³

Obama's consistent stand against the war, combined with greater public war-weariness and an increasingly unpopular Republican administration, gave him a powerful argument to raise his profile and criticize prominent opponents—most notably Senator Hillary Clinton—who voted as Kerry did. Obama cited the speech at nearly every campaign rally during the primary season, elevating the issue to "the most important national security question since the Cold War," and reminding voters that he was "the only candidate who opposed the war in Iraq from the beginning."²⁴ The Obama campaign considered the 2002 speech so crucial to his candidacy that, upon realizing that only 14 seconds of "grainy" video could be located, they had Obama re-record the speech.

Campaign spots played the new audio over still photos from the event and stock images.²⁵

The consistent anti-war position had an additional benefit: it served not only as a weapon, but as a shield insulating him from attacks and mitigating his opponents' natural strengths. When Obama arguably committed a gaffe during a July 2007 debate by expressing a willingness to meet with the leaders of hostile nations during his first year as president, a position Clinton attacked as "naïve," Obama capitalized on the opportunity to show contrast.²⁶ He made the "inevitable" move to "flesh out his foreign policy views"²⁷ with a major address. Choosing not to walk back his comments, he doubled down on his critique of those so committed to orthodoxy as to be unwilling to negotiate with other nations.²⁸ Deriding "the diplomacy of refusing to talk to other countries" as part of a "color-coded politics of fear," Obama linked such "rigid" thinking with the decision to invade Iraq and argued for a more thoughtful and flexible approach to combatting terrorism.²⁹ He supplemented his substantive foreign policy *bona fides* with an essay in *Foreign Affairs*, published by the influential Council on Foreign Relations. His essay endorsed a foreign policy that blending realism and internationalism, strengthened multilateral cooperation, and left open the possibility of humanitarian interventions.³⁰

"I have the experience. John McCain has the experience," Clinton would argue, pointing to Obama's obvious weakness, despite his efforts to bolster his credentials. "All Barack Obama has is a speech."³¹ Obama's go-to rebuttal to the "experience" argument was to tout his "judgment."³² Emphasizing his consistency and prescience on the war issue, he both sharpened and expanded his critique, faulting the entire political culture for lacking the wisdom and fortitude to oppose the Bush administration's propaganda:

The American people weren't just failed by a president—they were failed by much of Washington, by a media that too often reported spin instead of facts. By a foreign policy elite that largely boarded the bandwagon for war. And most of all by the majority of a Congress—a coequal branch of government—that voted to give the president the open-ended authority to wage war that he uses to this day. Let's be clear: Without that vote, there would be no war.³³

The experience-versus-judgment debate continued to escalate in 2008, with Obama arguing in a televised debate that Clinton's vote "facilitated and enabled" Bush's actions.³⁴ The Clinton campaign released the infamous "3 a.m. phone call" advertisement in late February,³⁵ arguing that voters should choose a candidate familiar with military and world leaders—a candidate who is "tested and ready to lead in a dangerous world."³⁶ Obama responded forcefully, accusing his opponent of fear-mongering and questioning the premise of the question with a familiar refrain: "The question is not about picking up the phone. The question is what kind of judgment will you exercise when you pick up that phone?"³⁷ His campaign also recycled an earlier spot featuring General Merrill A. McPeak, who praised Obama's judgment for opposing the war "from the start, showing insight and courage others did not"³⁸ and slamming the "old Washington hands" who had let the nation down.³⁹

Obama's critique capitalizing on his anti-war position overlapped with two other prominent themes of the 2008 campaign more directly aimed at the Bush administration and its allies. Although the primary campaign technically extended into June, a string of 12 consecutive Obama victories after the February 5 "Super Tuesday" contests rendered a Clinton nomination improbable.⁴⁰ Narrow victories in Ohio and Texas gave Clinton the momentum to "soldier on,"⁴¹ but did little to change the "delegate math."⁴² With the Democratic nomination all but secured,⁴³ Obama turned his attention to the general election and focused his attacks on the Republican administration which had controlled

the executive branch for nearly eight years. At a March 31 town hall debate in Lancaster, Pennsylvania, Obama took the opportunity to critique President Bush's approach to executive power while promoting his background as a law professor:

I taught constitutional law for ten years. I take the Constitution very seriously. The biggest problems that we're facing right now have to do with George Bush trying to bring more and more power into the executive branch and not go through Congress at all. And that's what I intend to reverse when I'm President of the United States of America.⁴⁴

Obama stuck to this broader theme throughout the general election campaign, reiterating more specific indictments first expressed in his major foreign policy address in 2007.⁴⁵

He attacked Bush for "ignoring the law when it is inconvenient" on surveillance, detention, and other fronts. And in an often-cited December 20, 2007, Q&A with reporter Charlie Savage, Obama addressed a number of issues relating to executive war power, articulating clear limits to the president's authority to use military force without congressional authorization or absent an imminent attack on the nation.⁴⁶

Related to these themes of executive power was Obama's consistent support of government transparency and accountability. His campaign promised to "Open [the] Executive Branch to the Public," crack down on secrecy, and implement a five-day public comment period before signing bills. Significantly, Obama condemned the Bush White House on "transparency and sunshine," labelling it "the most secretive administration, maybe in our history."⁴⁷ He championed the value of public deliberation, and celebrated whistleblowers during the 2008 campaign, arguing that their "acts of courage and patriotism, which can sometimes save lives and often save taxpayer dollars, should be encouraged rather than stifled."⁴⁸ The Obama-Biden campaign platform pledged to "ensure that federal agencies expedite the process for reviewing whistleblower claims and whistleblowers have full access to courts and due process."⁴⁹

The Obama Presidency

Exactly one minute after Barack Obama was legally sworn into office, the White House posted a news release announcing their “new media efforts,” centering on “three priorities”: communication, transparency, and participation. The release announced that President Obama had “committed to making his administration the most open and transparent in history.”⁵⁰ The following day, Obama addressed his senior staff and stressed to them, “Let me say it again: transparency and the rule of law will be the touchstones of this presidency.”⁵¹ Unwinding U.S. military interventions would require a methodical strategy, and steering the massive bureaucratic apparatus in a new direction was a long-term undertaking. Still, those calling for legal reform had high hopes and emphasized the urgency of “bringing the United States government back under the rule of law,” fearing the consequences of allowing controversial practices to calcify into a “new understanding of the Constitution.”⁵²

The Obama administration quickly followed through on several high-profile commitments. The withdrawal of combat troops from Iraq proceeded under the terms of a treaty agreed to by the Iraqis and the Bush administration in 2008, despite pressure to renegotiate the agreement and leave behind a residual force.⁵³ The drawdown in Iraq coincided with a troop “surge” in Afghanistan.⁵⁴ The newly minted president signed an executive order on his second day in office to shut down the Guantanamo Bay detention facility, but his “distinctly technocratic”⁵⁵ effort was thwarted by interagency infighting and congressional prohibitions on prisoner transfers. Obama reportedly expressed regret over the issue in 2015, conceding to a seventh grader in Cleveland, Ohio that “the path of least resistance was just to leave it open.”⁵⁶ The middle ground Obama took drew flak

from all sides. Failing to renegotiate a status of forces agreement to keep a U.S. presence in Iraq was a precipitous retreat that undermined the nation's ability to stabilize the Middle East, or it was not fast enough and the troops were just shifted to another conflict. Trying to close the Guantanamo detention facility made us less safe; failing to close it made Obama insincere or feckless. As a president whose foreign policy defied simplistic classification, he was just as likely to be condemned by doves as hawks.

That same trope would be extended to other aspects of the administration's national security policy—particularly in areas where candidate Obama's platform appeared more divorced from President Obama's performance. Three broad categories in particular followed this pattern. In 2011, Obama ordered U.S. forces to participate in a multilateral intervention in Libya without congressional authorization. Seemingly contradicting Obama's 2007 position on executive war powers,⁵⁷ the White House argued that it needed no legislative imprimatur. Only after U.S. forces had already joined the effort did the president address the nation to provide an "update" and vague assurances that congressional leaders were consulted. When Congress ultimately took up the issue, the House of Representatives delivered a "major repudiation" of the mission and voted 295-123 against continued authorization.⁵⁸ A slightly different scenario unfolded in 2013, as the regime of Syrian President Bashar al-Assad allegedly carried out a chemical weapons attack against insurgents near Damascus. One year earlier, Obama had described such hypothetical incidents as crossing a "red line," and on August 31, 2013, he announced to the world his intention to respond with military strikes. Obama asserted both the moral urgency to respond and the constitutional prerogative to act without seeking legislative approval, but asked Congress to deliberate the matter, citing the

benefits to unity and democratic principles. Ten days later, after public opinion had mobilized against intervening in Syria and a series of events led to a diplomatic breakthrough, Obama again spoke, withdrawing his request.⁵⁹

A second area of the Obama administration's national security policy following this same pattern involved the development of the U.S. government's targeted killing regime. While the use of "drones" as a weapon in the fight against terrorism began during the Bush administration, the dramatic quantitative and qualitative expansion of the program—which became known as the "disposition matrix"—emerged as a major issue during Obama's presidency. The program's extreme secrecy raised questions related to the separation of powers, and its parameters reportedly expanded to include the targeting of U.S. citizens without any judicial oversight or remedy. The 2011 killing of cleric and U.S. citizen Anwar al-Aulaqi and the subsequent unveiling of a partial legal rationale for lethal targeting led to significant public outcry over the proper limits of executive power and raised eyebrows given Obama's prior positions on civil liberties and due process. Despite an increased focus on the issue, substantive reforms were been virtually nonexistent, and neither the limits of executive authority nor the role of public deliberation were significantly clarified.

The third and final category encompassed deliberation over the U.S. government's surveillance programs. Beginning in June 2013, materials released by former National Security Agency contractor Edward Snowden fueled a series of major media stories revealing the scope of the surveillance apparatus, the legal authorities claimed by the government, and the startling degree of secrecy surrounding these issues. The Snowden leaks ignited global public debates about surveillance and privacy,

including U.S.-based reflections on appropriate roles of secrecy, congressional oversight, judicial review, and public participation in national security policy.

Each of these categories represents a set of policies, actions, and discourses that exemplified a conflicted president struggling to achieve balance between competing values and commitments—all while being engaged by public and factional discourses from multiple perspectives. For many who demand a more assertive U.S. role in shaping global outcomes and ensuring security, Obama was a negligent, dithering leader who shamefully apologized for America’s rightful place in the world order. Others bemoan the former constitutional law professor who made firm commitments to roll back the power of the presidency, and ultimately betrayed those commitments and legitimized—or even extended—the dangerous practices of the Bush administration. Obama excoriated excessive executive power, but he “trust[ed] himself to use these powers more than” he trusted others.⁶⁰ He sought “to reinvigorate the very idea of public reason,”⁶¹ in contrast to his predecessor’s “Decider” image,⁶² and he was also a frustrated executive who responded to perceived obstruction by threatening, “I’ve got a pen, and I’ve got a phone.”⁶³ He prosecuted multiple wars and thousands of drone strikes,⁶⁴ and he was awarded the Nobel Peace Prize.⁶⁵

Those tensions inform this project, but an additional one guides it. In many ways, the events of 2013 revealed the full range of these contradictions in each of the major categories of Obama’s national security policy. Signature moments in each area—targeted killing, surveillance, and traditional military intervention—coalesced within a six-month period. Senator Rand Paul’s March 6 filibuster on lethal drone strikes, the June surveillance disclosures initiated by Edward Snowden, and the August-September Syrian

“red line” crisis serve as focal points for the case studies in each individual chapter of this project. Each of those chapters addresses an area of national security policy within which the Obama administration, in one way or another, sought to expand the limits of executive authority. In each of those areas, the administration also sought to avoid, subvert, or restrict public deliberation. Yet in each of those areas, Obama himself explicitly welcomed or encouraged public and legislative debate. That tension—between Obama’s democratic desire for public deliberation and his institutional prerogative to shield issues from scrutiny by controlling and obfuscating the conditions of debate—is at the heart of this project.

Rhetoric, Deliberation, and National Security

Assessing the capacity for the public to meaningfully participate in democratic deliberation, John Dewey in 1927 opined that “*the* problem of the public” centered on “the essential need” for “the improvement of the methods and conditions of debate, discussion, and persuasion.”⁶⁶ Twelve years later, Dewey argued that conditions were still not adequate: “The facts bring out in sharp outline that as yet the full conditions, economic and legal, for a completely democratic experience have not existed.”⁶⁷ Dewey’s writings explore many social, economic, and political factors that directly or indirectly impact the “methods and conditions” he sought to improve. But even today, despite drastic improvements in education, technology, living standards, and access to information, Dewey would likely still critique what passes for “debate, discussion, and persuasion” in political culture.

In the elite-driven realm of national security policy, there is little space for public deliberation. My intellectual foundation for this project is Deweyian. I seek to better understand the conditions of debate, discussion, and persuasion in order to interrogate the public's capacity to meaningfully engage in the deliberative process. This effort inevitably involves looking not just at public deliberation over national security policy, but also looking at deliberation *about* public deliberation over national security policy. As the recent controversies over drones, surveillance, or foreign intervention invariably demonstrate, the rhetorical front is not typically the ultimate, substantive policy outcome. The front, when and where it appears, is one step removed. It raises questions over *what information should be available, who should be consulted, who has the ultimate say over decisions, and what procedures exist to challenge substantive decisions*. I describe these as meta-deliberative questions, insofar as they are *a priori* to—in reality or hypothetically—the substantive deliberative process. A meta-deliberative critique assesses the adequacy of the conditions of debate as a prerequisite for substantive judgment.

A notable example from a 2012 discussion over drone policy helps to illustrate the essence of meta-deliberative critique. On the September 9, 2012, episode of “Up with Chris Hayes” on *MSNBC*, a panel discussion on “Decider-ness” and “decisiveness” in the aftermath of the 2012 Democratic National Convention—during which the killing of Osama bin Laden had been invoked for political benefit—turned to the topic of targeted drone strikes. An exchange between reporter Jeremy Scahill and the program's host serves as a notable example of a meta-deliberative moment:

SCAHILL: I not too long ago interviewed Senator Ron Wyden, who is on the Senate Intelligence Committee. And I was asking him about this issue, because,

you know, they have a right to have access to this information. They're supposed to be briefed about many of these sensitive operations. And I was asking about this process for how an American citizen ends up on a kill list. And what Wyden was saying was he believes that the Intelligence Committee hasn't actually had that fully explained—to these people with the special security clearances.

Moreover, he said that the American people would be shocked if they were allowed to access the administration's interpretation of the same laws that the American people can read, publicly. In other words, Wyden said there are two sets of laws in this country: one that the American people are allowed to read, and one which exists in secret—which is the administration's interpretation of those laws.

That's a pretty sobering thing to hear from someone who's been on the Intelligence Committee since 2001.

HAYES: I should note, to me, there's two distinct issues here, we should be clear about. One is the substantive policy, right? The ways in which we're using both special forces and drones as a tool of counter-terrorism, that means engaging in hostile activities, sometimes—in a few cases—against American citizens, in countries we haven't declared war with, as the means of fighting the “war on terror.” Essentially, as a means of going after al-Qaida.

And whether that's a justifiable policy from a strategic standpoint, in terms of whether it actually is in the best interests of U.S. national security; from a legal and constitutional standpoint, whether it actually adheres to our basic constitutional due process.

So there's the substantive issue, then there's just the *secrecy* issue, right? Before you even get to that issue, it's “what do we know about what our government is doing?” Will they even admit to and address the fact that, say, Anwar al-Aulaqi was an American citizen, was put on a kill list, clearly—evidently—killed by an American drone? And that is almost primary to the second-order issue. I mean, it seems to me that it might be possible, that under conditions of more transparency, I could be persuaded about the substance of the policy. But, under the current conditions, you can't really even get to *that* argument because of the amount of secrecy that surrounds it.⁶⁸

The Scahill-Hayes exchange simultaneously underscores the nature of meta-deliberative critique and explicates how it applies to political issues cloaked in secrecy. Here, an informed, intelligent, and interested citizen demonstrates a capacity to deliberate on a complicated issue and notes its practical, value-based, and legal dimensions. But that

citizen is forced to concede that they are utterly unqualified to weigh in given the underlying conditions of debate.

My development and implementation of meta-deliberative critique as a foundational orientation is guided by scholarship in three broadly defined areas: scholarship addressing democracy and the politics of war, argumentation and public policy scholarship, and the rhetorics of power, war, and the presidency.

Theories of Democracy and the Politics of War

Two lenses for viewing democracy with a rhetorical orientation inform my critical perspective. Robert A. Dahl⁶⁹ defines democracy by suggesting five criteria: inclusion, participation opportunities, enlightened understanding, voting equality at the decisive age, and control of the agenda.⁷⁰ Within such a paradigm, democracy is not a binary proposition. Instead, nations are more or less democratic based on how successfully they meet the criteria. In particular, the concepts of enlightened understanding and control of the agenda play important roles in my thinking, given the public's often-lacking capacity to fairly assess dissenting viewpoints and their inability to impact the political process on certain issues. I also draw from David Zarefsky's interpretation of the relationship between democracy and rhetoric. Zarefsky proposes that democratic rhetoric can be described as having two faces—a "benign" one characterized by the invitation to deliberate and a "threatening" face embodying the "engineering of consent." The special link between democracy and rhetoric, he argues, stems from democracy's tacit acceptance of human fallibility and "the fundamental defining condition of the rhetorical situation": "the need to make collective decisions under conditions of uncertainty."⁷¹

While I approach this study from a humanistic lens, I am also influenced by deliberative democracy scholarship, particularly efforts to systematize deliberative processes. John Gastil outlines two deliberative processes of effective deliberation: one analytic⁷² and informed by social-scientific insights on effective decision-making, and a social⁷³ process which “draws on both Habermasian and Barberic conceptions of talk.”⁷⁴ While Gastil presents these processes within the context of deliberative ideals for relatively small groups, they can be—and sometimes are—applied more expansively to larger-scale political debates. Given the potential of these concepts to help assess real-world political discourse, and given the importance of the “deliberative turn” in democratic theory,⁷⁵ I find them useful tools in practicing meta-deliberative criticism.

I also rely upon scholarship examining the political processes of national security decision-making. While much of this work can be characterized as journalistic or centered in political science scholarship, it provides a useful perspective on the intersection between institutional and cultural factors impacting the public’s capacity to meaningfully engage in debates over national security issues. Andrew Bacevich’s work on U.S. foreign policy argues that certain premises undergirding policy decisions are off limits to debate, making his analysis particularly useful for scholars of deliberation.⁷⁶ Other work on the presidency from related disciplines is also relevant to understanding the tension between secrecy and disclosure in public deliberation. Dana Nelson’s *Bad for Democracy* is a scathing look at how “presidentialism,” or the public’s celebration of the presidency, undermines meaningful deliberation in favor of a form of hero-worship.⁷⁷ The divide between supporters’ expectations for the Obama administration, cultivated during an optimistic campaign in 2007-2008, and the realities of governance, reflects

Nelson's argument that the presidency itself—and not the occupant of the office—cultivates a dangerous public faith that we can merely elect the “right person” and achieve desirable policy outcomes. Nelson's analysis beckons us to seek alternatives to the proxy politics posited by presidentialism. Chaim Kauffman's research on the Bush administration's efforts to “sell” the invasion of Iraq is also highly relevant to rhetorical scholars seeking to understand post-9/11 foreign policy and the tension between secrecy and disclosure—both inside government and beyond it.⁷⁸ Kauffman does not focus on a single text; instead, he surveys the discursive field and finds a number of factors that influenced how Congress, elites, and the citizenry engaged in the debate prior to the 2002 vote to authorize intervention in Iraq. I argue that Kaufmann's work balances the need for thick, historically minded description which appreciates the complexity of the rhetorical environment and concern for theoretical issues. In many respects, it is in line with Raymie McKerrow's description of critical rhetoric.⁷⁹

Finally, I approach this project from an admittedly normative perspective given my appreciation for democratic theory that assesses the people's moral responsibility for their government's actions. While national security policy is largely the domain of politicians and not the public, citizens of all stripes most accept some responsibility for the policies of their nations.⁸⁰ Michael Walzer's analysis centers on the shame and responsibility citizens should feel over actions done on their behalf. Citing J. Glenn Gray's argument that “the greater the possibility of free action in the communal sphere, the greater the degree of guilt for evil deeds done in the name of everyone,” Walzer suggests that citizens in a democracy bear a much greater degree of responsibility for war crimes than those in less-free societies.⁸¹ In order to better explain the nature of

democratic responsibility, Walzer constructs a “perfect democracy”: a relatively small community where all citizens are informed and participate in the deliberative process. If such a community were to engage in an aggressive war, the individual citizen’s degree of responsibility would be contingent upon many factors. Those who voted against the war and resisted it actively would bear little to no responsibility. Citizens who voted against the war but did little to resist it because their “their opposition to the war wasn’t all that strong,” those who failed to vote at all, and those who supported the war would bear steadily increasing levels of responsibility. While noting that not every citizen is the “author of every state policy,” Walzer nevertheless argues that all citizens must accept some responsibility—even in a perfect democracy.⁸²

In actually existing democracies, Walzer expands the scope of government and the distance—both geographical and hierarchical—between the citizen and decision-makers. In such a democracy, elections yield little in terms of choice, as not all officials face the voting public and “at the time of the choice very little is known about [candidates’] programs and commitments.”⁸³ Public access to information is more limited. And individual political participation is more “occasional, intermittent, [and] limited in its effects.”⁸⁴ This combination of forces makes it more difficult to impose responsibility on the individual citizen. The distance between citizen and government, according to Walzer, can even explain “patriotic excitement” and “war fever,” as the public lacks a clear picture of conditions on the battlefield.⁸⁵ Still, the defects of a large democracy are mitigated to some extent by another dynamic: the potential for opinion leaders. Walzer qualifies his critique of larger polities, noting:

But as an account of all the citizens, even in such a state, this is certainly exaggerated. For there exists a group of more knowledgeable men and women,

members of what political scientists call the foreign policy elites, who are not so radically distanced from the national leadership; and some subset of these people, together with others in touch with them, is likely to form an “opposition” or perhaps even a movement of opposition to the war.⁸⁶

This emergent elite can guide the public in different (often opposing) directions, and, in the context of an imperfect democracy, can be more “potentially blameworthy” if they fail to object to unjust foreign policies. It is this set of factors—a large, elite-driven democracy in which access to the information needed to formulate meaningful opinions is restricted—that impinges upon the ability of U.S. citizens to fulfill their moral obligations. And it is these moral obligations which influence my view of democratic theory as applied to my meta-deliberative approach to national security policy.

Argumentation and Public Policy

Several influential theories in the field of argumentation have influenced the development of my meta-deliberative approach and inform this project. G. Thomas Goodnight’s scholarship on argument spheres is particularly applicable to an exploration of public deliberation on issues plagued by secrecy.⁸⁷ For Goodnight, issues of controversy can be categorized as either personal, technical, or public. Topics requiring specialized knowledge or training naturally lend themselves to the technical sphere, but considerable dynamic tension exists at the boundary of the technical and the public spheres on issues of law and politics. Goodnight’s work has already inspired multiple studies on contemporary national security issues.⁸⁸

Similarly, Robert C. Rowland’s development of the liberal public sphere provides a useful mechanism for evaluating the character of public deliberation.⁸⁹ Grounding his ideas in James Madison and John Stuart Mill, Rowland advocates a “liberal public

sphere” which protects individual rights, values participatory democracy, and serves as an alternative to more critical public theories. For Rowland, the liberal public sphere is practical and not idealized, and it depends on the effectiveness of four components: the public, its representatives, the press, and elites.⁹⁰ Rowland explains the interconnectedness of these components, noting:

Each of these four actors must fulfill its responsibilities if the public sphere is to function effectively. Representatives must provide sufficient information to facilitate public deliberation and decision making. The public must pay adequate attention to the issues and take the time to sort through competing ideas. Of course, it is not reasonable to expect every citizen to search out material on all of the important issues of the day. In this context, the media play two crucial roles: providing information to the public and testing claims made by representatives of the public. Finally, where issues relate to specialized knowledge, relevant experts play a crucial role in informing both the media and representatives of the public. In a properly functioning public sphere, experts do not usurp the public's decisions but, rather, provide information and, often, competing viewpoints that the media and representatives convey to the public.⁹¹

The role of the argumentation critic, according to Rowland, is to “[play] the role of expert peering into the public sphere in order to draw conclusions.”⁹²

I also incorporate some aspects of pragma-dialectic scholarship, most notably David Zarefsky’s interventions suggesting the merging of dialectic procedures and norms into actually existing rhetorical practice. Zarefsky’s work on “strategic maneuvering,” which is best exemplified by his discussion of “persuasive definitions” as a form of the president’s power to define and shape public perception, incorporates pragma-dialectical principles as a means encouraging “the argumentation scholar” to strive to “narrow the gap between the ideal and the real by using both analysis and pedagogy to bring practice more into line with the norms of rhetorical models.”⁹³ In particular, my exploration of limit case argumentation in chapter 4 seeks to extend Zarefsky’s work and to provide critical and political tools for meta-deliberative strategic maneuvers.

While not a comprehensive view of argumentation or public deliberation, my concept of meta-deliberation also accounts for the work of Herbert W. Simons, who proposed the concept of “going meta” as a rhetorical move.⁹⁴ Simons defines “going meta” as a conscious move between two conversants “communicating about each other’s communications,”⁹⁵ further explicating: “To *go meta* is to provide a *strategic, reflexive, frame-altering response to another’s prior message or messages, or to a shared message context.*”⁹⁶ Simons provides some useful analysis of how going meta can be an effective political move, but his work is confined to political candidate debates. He offers no assessment of how his notion of “meta” might serve as a critical lens, nor does he suggest it as a move with deliberative implications.

Rhetorics of Power and War

At first glance, using a rhetorical lens for this study may seem problematic. This project explores the limits of public deliberation on issues marked by secrecy and over programs meticulously shielded from public scrutiny. Common definitions of rhetoric—from vernacular to classical to contemporary—may not be seen as immediately applicable to such a project. Rhetoric can simplistically be equated with “speeches,” more accurately be abstracted to “the available means of persuasion,”⁹⁷ or be addressed by scholars concerned with how those means of persuasion are “used by the orator as the material cause of a speech.”⁹⁸ Thomas B. Farrell’s more contemporary definition argues that the purpose of rhetoric is to give “emphasis and importance to contested matters,” or more simply: “to help us care.”⁹⁹ These perspectives provide little space to study forces that deemphasize issues, make them less important, and do not seek to persuade.¹⁰⁰

However, I argue that such forces are themselves rhetorical, and that a broad

interpretation of “the available means of persuasion” should include means of shaping the debate in other ways. Persuading an audience not to care, be it through distraction, concealment, or the cultivation of acquiescence, inexorably involves persuasion. Therefore, it is still within the scope of rhetorical criticism, although it requires the critic to be cognizant of their choice of tools and concepts.

Because of that concern, this project departs somewhat from more traditional approaches to presidential rhetoric. Explorations of the “rhetorical presidency” became common in the 1980s and 1990s,¹⁰¹ premised on the recognition that presidents “regularly ‘go over the heads’ of Congress” in order to state their cases directly to the American people.¹⁰² Rhetoricians and political scientists share similar interests in understanding how presidents shape public opinion through formal speeches in order to accumulate extra-constitutional power. Rhetorical presidency scholarship emerged from political science and was initially marked by its relationship to political structures. While rhetoricians have tended to deemphasize those structural considerations, the concept’s roots are subject to scrutiny. Martin Medhurst describes the rhetorical presidency scholarship as embracing an “essentialist perspective”¹⁰³ that is “largely, if not entirely, institutional” and “most concerned with the nature, scope, and function of the presidency as a constitutional office.”¹⁰⁴ Jeffrey K. Tulis’s seminal work on the rhetorical presidency observes how “popular or mass rhetoric has become a principle tool of presidential governance”¹⁰⁵—a dynamic I heartily concede, but find ill-suited to explain the tensions between public deliberation and anti-deliberative forces that pervade national security issues.¹⁰⁶

Across the scholarly divide, George C. Edwards and others have expressed skepticism about rhetoric's influence in politics and its significance to presidential leadership. Edwards observes that the "substantial and rapidly increasing body of literature focusing on presidential rhetoric" is undergirded "by the premise that the president can employ rhetoric to move the public." He then states flatly that these scholars "virtually never provide evidence for their inferences about the president's effect."¹⁰⁷ Edwards's position is inherently social scientific and reflects a narrow appreciation for humanistic assessments of public debate. Still, he concedes that presidents and their allies value public support, that presidents possess the capacity to "influence the public's understanding of what issues are about," and that they can ultimately structure "the choices about policy issues in ways that favor the president's program" and "set the terms of the debate on his proposals and thus the premises on which the public evaluates them."¹⁰⁸ This perspective is echoed in rhetorical scholarship on foreign policy, notably in J. Michael Hogan's description of the power of "an administration and its allies" to "not only to decide the issues to be debated, but also define the terms of disagreement and the range of 'responsible opinion.'"¹⁰⁹

Approaches to presidential rhetoric can address the institutional concerns of rhetorical presidency, attend to the tenor of public deliberation, and remain mindful of Edwards's critique of presidential capacity to shift opinions through direct rhetorical appeals. For those concerned with how one, "who might happen to be a U.S. president," seeks "to achieve his or her ends by symbolic means,"¹¹⁰ a focus on rhetorical principles can be fruitful. Encouraging critics to examine the limitless variations of presidential discourse, Medhurst observes:

A rhetorical context is the unique array of forces—rhetorical, historical, sociological, psychological, strategic, economic, and personal—that exists at any given moment in time and that impacts the speaker’s selection and presentation of topics, the ways in which the message is composed and treated, and the manner in which the audience is invited to experience and understand the discourse. That these factors are everywhere and always different make accurate the descriptor “unique.”¹¹¹

Instead of confining the critic to the study of “those formal occasions that call for speech or discourse,” Medhurst suggests that “all of life is the domain of the rhetorical.”¹¹²

While the rhetorical significance of strategic silence or obfuscation has not been adequately addressed, this expansive view of the rhetorical frees scholars of presidential rhetoric to attend to the “constantly evolving”¹¹³ nature of presidential rhetoric and explore less obvious texts—or even the strategic absence of texts—to increase our understanding of how the executive branch interacts with other branches of government and the American people.

The study of rhetoric, war, and national security issues enjoys a rich history that traces back to Aristotle.¹¹⁴ Kenneth Burke’s epigraph to *A Grammar of Motives*, “*ad bellum purificandum*,”¹¹⁵ loosely translated as “toward the purification of war,” signals his commitment to exposing the rhetorical and cultural factors that fuel human conflict.¹¹⁶

A companion phrase Burke displayed in his home, “*potius convincere quam conviciari*”—“better to demonstrate than to revile”—further contextualizes Burke’s privileging of vigorous debate. As Debra Hawhee interprets, Burke stressed “the importance of the back-and-forthing of rhetoric as a means of deterring war.”¹¹⁷ That guiding perspective can be found throughout contemporary scholarship on war and related issues. Burke’s 1939 “Rhetoric of Hitler’s ‘Battle’” presciently sought to “discover what kind of ‘medicine’” Hitler had “concocted, that we may know, with greater accuracy, exactly what to guard against, if we are to forestall the concocting of

similar medicine in America.”¹¹⁸ More recent scholars have examined how leaders have sought brewed concoctions to demonize enemies and expand their authority. Robert L. Ivie traces the historical evolution of the *topoi* of savagery in American war rhetoric, arguing that “images of savagery have permeated the rhetoric of war throughout the nation’s history, either implicitly or explicitly.” Ivie’s contentions that U.S. adversaries have historically been depicted as opposed to irrational, aggressive, and opposed to freedom remain salient in an era of endless conflict with an “enemy” that has been routinely described in such terms.¹¹⁹ Lynn Boyd Hinds and Theodore O. Windt view “Cold War” rhetoric as “all-encompassing rhetorical reality” that “transcended”¹²⁰ then-contemporary disputes and potentially foreshadowed a “perpetual state of war with an amorphous enemy.”¹²¹ Ivie also examines the importance of “danger” in justifications for war through his analysis of President Truman’s crisis rhetoric during the Korean conflict.¹²² Similarly, Richard A. Cherwitz analyzes the Gulf of Tonkin incident and notes the “inherent rhetorical powers of the presidency to prevent Congressional disagreement” through the presentation of a military response as a *fait accompli*, arguing that predictions of a decline in the “Imperial Presidency” were premature.¹²³ Bonnie J. Dow’s critique of rhetorical reality in the age of nuclear weapons echoes Windt’s ominous warnings. For Dow, nuclear weapons make significant military conflict “virtually unthinkable,” thereby increasing public acquiescence to “the power of the President to wage undeclared war in the name of ‘international crisis.’” Dow argues that the “shift from declared to undeclared hostilities” transforms the nature of crisis itself, as crisis rhetoric “highlights the importance of deliberative response to these situations.”¹²⁴

These findings can easily be applied to current issues impacting national security policy and their impact on public deliberation.

While these studies provide an array of lenses through which to view contemporary national security issues, war rhetoric has struggled to define itself as a genre. Karlyn Kohrs Campbell and Kathleen Hall Jamieson undertake the most ambitious “effort to construct boundary conditions for the analysis of” war rhetoric,¹²⁵ listing “five pivotal characteristics”¹²⁶ of the genre. Unfortunately, several of their characteristics are immanent, even tautological,¹²⁷ and their generic description likely cannot be not extended beyond formal public statements by the president.¹²⁸ More recently, scholars have begun to address the shifting grounds of national security rhetoric and policy. Noting the rhetorical presidency’s tendency to “diminish rather than enrich public deliberation,” the National Task Force on Presidential Rhetoric in Times of Crisis cautioned of a post-9/11 “republic of fear and a state of executive preeminence that should remind rhetorical scholars of their calling to criticism.”¹²⁹

Influential scholarship has emerged under the loosely defined banner of “acquiescent rhetorics,” seeking to better explain the complex forces that constrain public deliberation through obfuscation, deflection, or misrepresentation. Most notably described by Jeremy Engels and William O. Saas, acquiescent rhetorics do not seek assent in the traditional understanding of rhetoric as persuasion or justification. Instead, they “aim to disempower citizens by cultivating passivity and numbness”¹³⁰ and “preclude dissent.”¹³¹ Noting the disturbing shift toward acquiescent rhetorics as a threat to public deliberation, Engels and Saas call on critics to “describe and ultimately demystify the discourses justifying war”¹³² in a way that echoes the rationale for critical

rhetoric.¹³³ Specifically, Engels and Saas suggest that “perhaps the most vital contribution rhetorical critics can make would be to generate a meaningful critique of endless war's evolving rhetorical infrastructure.”¹³⁴ In the short time since, critics have begun explicitly answering and extending that call,¹³⁵ and other compatible scholarship has been produced on drone warfare,¹³⁶ conventional war powers,¹³⁷ civilian casualties,¹³⁸ and secrecy.¹³⁹ The focus on acquiescence is part of a wider trend in the discipline to better understand how public deliberation is constrained by forces not necessarily perceptible in traditional texts or critical approaches.¹⁴⁰ Stephen John Hartnett and Jennifer Rose Mercieca polemically declare “the death of presidential rhetoric,” replaced by a “post-rhetorical presidency” that uses “ubiquitous public chatter. . .to confuse public opinion, prevent citizen action, and frustrate citizen deliberation.”¹⁴¹ Vanessa B. Beasley suggests that scholarly interest in the rhetorical presidency may have led to the neglect of another paradigm that better explains certain aspects of presidential rhetoric and public policy: “the unitary executive.” In contrast with the rhetorical presidency’s focus on direct appeals to the public, Beasley’s framing of the unitary executive underscores “the institutional reasons why presidents might not use public discourse to promote their policies, relying instead on the expanding powers of the executive branch itself for considerably more private mechanisms of policy creation and enforcement.”¹⁴² Beasley notes contemporary presidents’ increased reliance on these mechanisms, which “bypass more traditional opportunities for public deliberation,” and she calls upon scholars to adapt their “critical orientation to the study of the presidency”¹⁴³ to better address changes in political *praxis*.

The scholarly contributions referenced in the previous paragraph have filled an urgent disciplinary need by calling for critics to adapt their approaches to meet the changing challenges of contemporary presidential rhetoric—particularly as applied to national security policy. I not only consider this project as answering the spirit of calls for demystification of the national security state’s rhetorical infrastructure and adaptation of critical orientations, I view my work as extending both the scholarly discussion on acquiescent rhetorics initiated by Engels and Saas, and the effort to address anti-deliberative executive capacities raised by Beasley. I pursue those tasks with a critical rhetoric orientation: one that embraces the need for unending critique that accepts the premise “*absence* is as important as *presence*”¹⁴⁴ and remains sensitive to the need to construct texts from polysemic fragments. In the following section, I briefly preview how each chapter pursues those ends.

Chapter Preview

To illustrate how a meta-deliberative critique could function in different contexts, I submit three chapters, each of which explores a different area of the Obama administration’s national security policy. In chapter 1, I examine conventional presidential war powers by focusing on two case studies: the Libyan intervention of 2011 and the Syrian “interruption” of 2013. I begin the chapter by situating Obama’s foreign policy image as a presidential candidate, arguing that Obama essentially constructed both stylistic and substantive foreign policy personae that were interpreted in different ways by different constituencies. I then separately explore the Libyan intervention and the Syrian “red line” crisis—in which President Obama announced a planned military

intervention that never came to fruition—analyzing each case in relation to candidate Obama’s foreign policy image. I conclude with an analysis of how Obama’s polysemic rhetoric of peace and deliberation, combined with cultural and institutional forces, constrained his rhetoric and his actions in office and shaped public reaction to his policies. I argue that the Libyan and Syrian episodes demonstrated Obama’s complicated balancing of deliberative values with other commitments: upholding human rights, promoting international consensus, and utilizing the U.S. military for humanitarian purposes. While much of the criticism surrounding Obama’s openness to military intervention involved misinterpretations of Obama’s campaign rhetoric, one key element of Obama’s substantive campaign platform was undermined in these instances: his clear articulation of the limits of executive power to use military force without congressional approval. Obama’s intervention in Libya contradicted this position, while 2013’s unusual announcement of a decision to intervene in Syria suggests an attempt to accommodate both his geopolitical preferences and his commitment to the separation of powers and deliberation.

Chapter 2 delves into the “disposition matrix”: the U.S. government’s chosen moniker for its “capture and kill” lists. I argue that the disposition matrix raises crucial concerns given its implications for the law of war and democratic responsibility for state violence, but that public capacity to deliberate its merits is severely constrained. In particular, I argue that the administration drastically reshaped the deliberative landscape over targeted killing through the strategic management of information. By restricting the flow of information to the public and engaging in deliberate leaks, the administration shielded its programs from judicial scrutiny and constrained public debate, reducing the

American public's capacity to identify with and grieve for the victims of drone violence. I then introduce the idea of "limit case" argumentation: a form of strategic maneuvering in which advocates present hypothetical test cases designed to shape the boundaries of a policy without clearly defining those boundaries. I suggest that limit cases have deliberative value, and that they can be used as a meta-deliberative critique in order to demonstrate the status quo's lack of clarity or a policy's dangerously delimited parameters.

Chapter 3 pivots away from direct considerations of war and violence, and shifts from covert policies to clandestine ones, focusing on the surveillance state. I explore the concept of rhetorical authority as it applies to the presidency, with a particular focus on national security policy. I argue that Barack Obama possessed numerous advantages in terms of rhetorical authority, ranging from those inherent in the presidency to aspects of charismatic authority unique to his status as a post-Bush reformer. Drawing on Edwin Black's concept of "translation," I demonstrate how the Obama administration utilized secrecy and disclosure to enhance its rhetorical authority while limiting the ability of those with competing perspectives to become credible participants in the marketplace of ideas. This further shielded the government's already-secret surveillance policies from public scrutiny and critique, making meaningful opposition difficult. I argue that the 2013 surveillance disclosures that resulted from NSA contractor Edward Snowden's intelligence leaks were able to impact the public debate in large part due to Snowden's unusual ability to generate *ethos*. Through a unique performance of *parrhesia*, Snowden was able to overcome sizable rhetorical disadvantages to be seen by many as a credible advocate for expanded deliberation and surveillance policy reform.

I conclude this project by returning to Obama’s Memorial Day 2013 speech at National Defense University, in order to offer reflections on how Obama’s meta-deliberative discourse—both in response to specific exigencies and as broader attempts to shape the agenda—can be interpreted. I argue that a strict meta-deliberative approach may pose challenges, but that meta-deliberative critique offers significant potential for better understanding the flawed conditions of public debate, pushing for a rehabilitation of deliberative culture, and resisting the temptation of acquiescent rhetorics.

Notes

¹ Barack Obama, “Remarks by the President at the National Defense University,” May 23, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>.

² Roberta Rampton and Susan Cornwell, “Obama in Heated Exchanges with Code Pink Anti-War Protester,” *Reuters*, May 23, 2013, <http://www.reuters.com/article/us-usa-obama-speech-heckler-idUSBRE94N01L20130524>.

³ Karen DeYoung and Greg Miller, “Obama: U.S. at ‘Crossroads’ in Fight Against Terrorism,” *Washington Post*, May 23, 2013, https://www.washingtonpost.com/politics/obama-outlines-new-rules-for-drones/2013/05/23/1b5918e6-c3cb-11e2-914f-a7aba60512a7_story.html.

⁴ Peter Baker, “Reviving Debate on Nation’s Security, Obama Seeks to Narrow Terror Fight,” *New York Times*, May 24, 2013.

⁵ See Steven Rosenfeld, “8 Ways Obama Is As Bad—Or Worse—Than Bush On Civil Liberties,” *AlterNet*, March 18, 2013, <http://www.alternet.org/civil-liberties/8-ways-obama-bad-or-worse-bush-civil-liberties>.

⁶ Allison L. Rowland, “Life-Saving Weapons: The Biogitimacy of Drone Warfare,” *Rhetoric & Public Affairs* 19, no. 4 (Winter 2016): 615.

⁷ I have omitted cross-talk and interjections that occurred during this exchange, and are represented in the transcript, in order to focus specifically on Obama’s response to the interruptions. Obama, “Remarks by the President at the National Defense University.”

⁸ The transcript provided by the White House omits—or lists as “inaudible”—several portions of the exchanges between Obama and Benjamin. Given the fact that no

Q&A was planned for the event, it is understandable that the recording equipment picked up only faint audio of Benjamin's interjections and that the transcript is therefore incomplete. I rely on published media accounts of Benjamin's interruptions to more accurately capture the incident. See Rampton and Cornwell, "Obama in Heated Exchanges."

⁹ I have omitted the indications of laughter and applause included in the transcript.

¹⁰ Kenneth Burke, *The Philosophy of Literary Form: Studies in Symbolic Action*, 3rd ed. (Berkeley: University of California Press, 1974), 110-111.

¹¹ Barack Obama, "Speech Against the Iraq War," *NPR*, October 2, 2002, <http://www.npr.org/templates/story/story.php?storyId=99591469>.

¹² Liam Ford and Rudolph Bush, "Ryan Quits Race," *Chicago Tribune*, June 26, 2004, <http://www.chicagotribune.com/chi-0406260116jun26-story.html>.

¹³ David Bernstein, "The Speech," *Chicago Magazine*, June 2007, <http://www.chicagomag.com/Chicago-Magazine/June-2007/The-Speech/>.

¹⁴ "A successful convention speech is no guarantee of a political future but Barack Obama had the convention buzzing with talk of 'a star is born.'" "Awed Hush for the New Kid on the Block," *Irish Times*, July 29, 2004, sec. World News.

¹⁵ Rupert Cornwell, "An Unknown Rookie, but Can Obama Be First Black President?," *Independent*, July 27, 2004, <http://www.independent.co.uk/news/world/americas/an-unknown-rookie-but-can-obama-be-first-black-president-554570.html>.

¹⁶ See Amy Sullivan, "Obama for President," *Washington Monthly*, July 28, 2004, <http://washingtonmonthly.com/2004/07/28/obama-for-president/>.

¹⁷ Medhurst appraised the speech as "well above average," but not a masterpiece on par with Mario Cuomo's 1984 keynote. "I think it is much too early to say what's ahead, said Medhurst, a professor at Baylor University in Waco, Texas. 'The man has yet to serve a day in the United States Senate.'" Sumana Chatterjee, "Dems Buzzing over Obama's Keynote Speech," *Jersey Journal*, July 29, 2004.

¹⁸ Robert C. Rowland and John M. Jones, "Recasting the American Dream and American Politics: Barack Obama's Keynote Address to the 2004 Democratic National Convention," *Quarterly Journal of Speech* 93, no. 4 (2007): 427.

¹⁹ Scott Fornek, "Obama Takes Senate Seat in a Landslide 'Thank You, Illinois! I Don't Know about You, but I'm Still Fired Up!'," *Chicago Sun-Times*, November 3, 2004, <https://www.highbeam.com/doc/1P2-1553596.html>.

²⁰ Associated Press, “Obama to Explore 2008 White House Race,” *MSNBC.com*, January 16, 2007, <http://www.nbcnews.com/id/16652674/ns/politics/t/obama-explore-white-house-race/>.

²¹ “Obama Launches Presidential Bid,” *BBC News*, February 10, 2007, <http://news.bbc.co.uk/2/hi/americas/6349081.stm>.

²² Barack Obama, “Our Past, Future & Vision for America,” February 10, 2007, <http://obamaspeeches.com/099-Announcement-For-President-Springfield-Illinois-Obama-Speech.htm>.

²³ “Kerry Discusses \$87 Billion Comment,” *CNN*, September 30, 2004, <http://www.cnn.com/2004/ALLPOLITICS/09/30/kerry.comment/>.

²⁴ Don Gonyea, “Obama Still Stumps on 2002 Anti-War Declaration,” *NPR*, March 25, 2008, <http://www.npr.org/templates/story/story.php?storyId=88988093>.

²⁵ Jim Rutenberg, “Finding Archives Lacking, Obama Returns to 2002,” *New York Times*, October 12, 2007.

²⁶ Marie Horigan, “Obama’s Foreign Policy Speech Leaves Room for Debate,” *New York Times*, August 1, 2007, http://www.nytimes.com/cq/2007/08/01/cq_3207.html.

²⁷ *Ibid.*

²⁸ Barack Obama, “The War We Need to Win,” August 1, 2007, <http://www.americanrhetoric.com/speeches/barackobamawilsoncenter.htm>.

²⁹ *Ibid.*

³⁰ Barack Obama, “Renewing American Leadership,” *Foreign Affairs*, August 2007, <http://www.foreignaffairs.com/articles/62636/barack-obama/renewing-american-leadership>.

³¹ Gonyea, “Obama Still Stumps.”

³² In a foreshadowing of the eventual 2008 campaign themes, a 2006 MSNBC analysis found that Obama and Clinton had similar Senate voting records, and noted that “the biggest difference between the two ‘appears to be judgment versus experience.’” Tom Curry, “Clinton versus Obama: Is There Any Difference?,” *MSNBC.com*, November 29, 2006, http://www.nbcnews.com/id/15920730/ns/politics-tom_curry/t/clinton-versus-obama-there-any-difference/; See also Alec MacGillis, “Obama Revisits Key Antiwar Speech,” *Washington Post*, October 3, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/02/AR2007100202036.html>.

³³ MacGillis, “Obama Revisits.”

³⁴“Barack Obama and What He Said on the Iraq War,” *Telegraph*, December 14, 2011, <http://www.telegraph.co.uk/news/worldnews/barackobama/8956959/Barack-Obama-and-what-he-said-on-the-Iraq-war.html>.

³⁵ Ariel Alexovich, “Clinton’s National Security Ad,” *Caucus*, February 29, 2008, <https://thecaucus.blogs.nytimes.com/2008/02/29/clintons-national-security-ad/>.

³⁶ *Hillary Clinton Campaign Ad: 3 A.M.*, n.d., <https://www.youtube.com/watch?v=7yr7odFUARg>.

³⁷ Jeff Zeleny, “Obama Responds to Phone Ad,” *Caucus*, February 29, 2008, <https://thecaucus.blogs.nytimes.com/2008/02/29/obama-responds-to-phone-ad/>.

³⁸ Eric Black, who had “written before, admiringly, about the October 2002 speech Barack Obama gave opposing the war in Iraq,” noted that Obama’s claim that his opposition to the war “demonstrated political courage” was suspect, as 9 of the 11 Democratic members of Illinois congressional delegation, including Senator Richard Durbin, opposed the 2002 Authorization for the Use of Military Force. Eric Black, “Obama’s War Speech: How Much Political Courage Did It Take?,” *MinnPost*, January 25, 2008, <https://www.minnpost.com/eric-black-ink/2008/01/obamas-war-speech-how-much-political-courage-did-it-take>; See also Gonyea, “Obama Still Stumps.”

³⁹ *Barack Obama Campaign Ad: Gulf*, n.d., <https://www.youtube.com/watch?v=ag8gOXZulXg>.

⁴⁰ See Alex Mooney and Rebecca Sinderbrand, “Clinton, Obama Camps Wrangle over Delegate Math,” *CNN.com*, February 20, 2008, <http://www.cnn.com/2008/POLITICS/02/20/dems.delegates/index.html>.

⁴¹ Adam Nagourney, “Big Wins for Clinton in Texas and Ohio; McCain Clinches Race as Foe Concedes,” *New York Times*, March 5, 2008.

⁴² The Democratic Party’s proportional allocation of delegates makes recovering from a significant deficit difficult. For an explanation of Clinton’s chances of winning a majority of elected delegates after early March, see “Hillary’s Math Problem,” *Newsweek*, March 3, 2008, <http://www.newsweek.com/hillarys-math-problem-83777>.

⁴³ Simply put, two scenarios existed that could have led to Clinton securing the nomination: a monumental collapse of Obama’s public support costing him the pledged-delegate lead, or a surge of so-called “superdelegates” backing Clinton and overriding the popularly elected pledged delegates at the Democratic National Convention. The consensus among commentators held that either scenario would require a major scandal sinking Obama’s viability. See “Hillary’s Math Problem.”

⁴⁴ Jonathan Karl, “Obama’s Long Lost Campaign Promise,” *ABC News*, February 17, 2014, <http://abcnews.go.com/blogs/politics/2014/02/obamas-long-lost-campaign-promise/>.

⁴⁵ Obama, “The War We Need to Win.”

⁴⁶ Charlie Savage, “Barack Obama’s Q&A,” *Boston Globe*, December 20, 2007, <http://www.boston.com/news/politics/2008/specials/CandidateQA/ObamaQA/>.

⁴⁷ *C-SPAN2: Barack Obama Town Hall* (Cape Girardeau, Missouri, 2008), <https://www.youtube.com/watch?v=mk10jYKIN1I>.

⁴⁸ Megan Chuchmach and Rhonda Schwartz, “Will Obama Keep His Promise to Federal Whistleblowers?,” *ABC News*, August 4, 2009, <http://abcnews.go.com/Blotter/story?id=8241580&page=1>.

⁴⁹ Obama for America, “The Change We Need in Washington,” accessed June 21, 2017, http://obama.3cdn.net/0080cc578614b42284_2a0mvyxpz.pdf.

⁵⁰ Macon Phillips, “Change Has Come to WhiteHouse.gov,” *Whitehouse.gov*, January 20, 2009, <https://obamawhitehouse.archives.gov/blog/2009/01/20/change-has-come-whitehousegov>.

⁵¹ Barack Obama, “Remarks to White House Senior Staff,” *Government Printing Office*, January 21, 2009, <https://www.gpo.gov/fdsys/pkg/PPP-2009-book1/pdf/PPP-2009-book1-Doc-pg4.pdf>. See also Ian Swanson, “Obama Says His Is ‘Most Transparent Administration’ Ever,” *Hill*, February 14, 2013, <http://thehill.com/blogs/blog-briefing-room/news/283335-obama-this-is-the-most-transparent-administration-in-history>.

⁵² Adam Cohen, “Opinion | Democratic Pressure on Obama to Restore the Rule of Law,” *New York Times*, November 18, 2008.

⁵³ Tony Karon, “Iraq’s Government, Not Obama, Called Time on the U.S. Troop Presence,” *Time*, October 21, 2011, <http://world.time.com/2011/10/21/iraq-not-obama-called-time-on-the-u-s-troop-presence/>.

⁵⁴ Peter Baker, “How Obama Came to Plan for ‘Surge’ in Afghanistan,” *New York Times*, December 5, 2009, <https://www.nytimes.com/2009/12/06/world/asia/06reconstruct.html>.

⁵⁵ Connie Bruck contrasts Obama’s “sweeping rhetoric” calling for the closure of the facility with her assessment of a lackluster effort to actually achieve that objective, concluding that Obama succumbed to other legislative priorities and did not make Guantanamo a priority. Connie Bruck, “The Guantánamo Failure,” *New Yorker*, August 1, 2016, <http://www.newyorker.com/magazine/2016/08/01/why-obama-has-failed-to-close-guantanamo>.

⁵⁶ *Ibid.*

⁵⁷ Savage, “Barack Obama’s Q&A.”

⁵⁸ “House Rejects Measure Backing Libya War,” *CBS News*, June 24, 2011, <http://www.cbsnews.com/news/house-rejects-measure-backing-libya-war/>.

⁵⁹ Dan Balz and Peyton M. Craighill, “Poll: Americans Strongly Back Diplomatic Solution on Syria but Give Obama Low Marks,” *Washington Post*, September 17, 2013, https://www.washingtonpost.com/politics/poll-americans-strongly-back-diplomatic-solution-on-syria-but-give-obama-low-marks/2013/09/16/b40d68e0-1efb-11e3-94a2-6c66b668ea55_story.html.

⁶⁰ Peter Baker, “Obama’s Path from Critic to Overseer of Spying,” *New York Times*, January 16, 2014.

⁶¹ Robert C. Rowland, “Barack Obama and the Revitalization of Public Reason,” *Rhetoric & Public Affairs* 14, no. 4 (2011): 696.

⁶² George E. Condon Jr., “Obama: Decider or Ditherer?,” *Atlantic*, February 20, 2014, <https://www.theatlantic.com/politics/archive/2014/02/obama-decider-or-ditherer/442725/>.

⁶³ Rebecca Kaplan, “Obama: I Will Use My Pen and Phone to Take on Congress,” *CBS News*, January 14, 2014, <http://www.cbsnews.com/news/obama-i-will-use-my-pen-and-phone-to-take-on-congress/>.

⁶⁴ Joshua Reeves and Matthew S. May, “The Peace Rhetoric of a War President: Barack Obama and the Just War Legacy,” *Rhetoric & Public Affairs* 16, no. 4 (Winter 2013): 623–50.

⁶⁵ Robert E. Terrill, “An Uneasy Peace: Barack Obama’s Nobel Peace Prize Lecture,” *Rhetoric & Public Affairs* 14, no. 4 (Winter 2011): 761–79.

⁶⁶ John Dewey, *The Public and Its Problems* (New York: Holt, 1927), 208.

⁶⁷ John Dewey, *Freedom and Culture* (Buffalo, NY: Prometheus Books, 1989), 61.

⁶⁸ *Up with Chris Hayes* (MSNBC, September 9, 2012), <http://www.youtube.com/watch?v=YZAw1yv23WA>.

⁶⁹ Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989).

⁷⁰ John Gastil collapses Dahl’s criteria down to three “by counting agenda setting and voting as critical forms of participation.” I typically utilize Gastil’s adaptation, but cite Dahl given his origination of the criteria. See John Gastil, *Political Communication and Deliberation* (Los Angeles: SAGE Publications, 2008), 13.

⁷¹ David Zarefsky, “Two Faces of Democratic Rhetoric,” in *Rhetoric & Democracy: Pedagogical and Political Practices*, ed. Todd F. McDorman and David M. Timmerman (East Lansing: Michigan State University Press, 2008), 119.

⁷² The analytic process includes: create a solid information base, prioritize the key values at stake, identify a broad range of solutions, weigh the pros, cons, and trade-offs among solutions, and make the best decision possible. Gastil, *Political Communication*, 20.

⁷³ The social process includes: adequately distribute speaking opportunities, ensure mutual comprehension, consider other ideas and experiences, and respect other participants. *Ibid.*, 20.

⁷⁴ *Ibid.*, 19.

⁷⁵ Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice After the Deliberative Turn* (Oxford: Oxford University Press, 2008).

⁷⁶ See, Andrew J. Bacevich, *The Limits of Power: The End of American Exceptionalism* (New York: Metropolitan Books, 2008); Andrew J. Bacevich, *Washington Rules: America's Path to Permanent War* (New York: Metropolitan Books, 2010).

⁷⁷ Dana D. Nelson, *Bad for Democracy: How the Presidency Undermines the Power of the People* (Minneapolis: University of Minnesota Press, 2008).

⁷⁸ Chaim Kaufmann, “Threat Inflation and the Failure of the Marketplace of Ideas: The Selling of the Iraq War,” *International Security* 29, no. 1 (July 1, 2004): 5–48.

⁷⁹ Raymie E. McKerrow, “Critical Rhetoric: Theory and Praxis,” *Communication Monographs* 56, no. 2 (June 1989): 91.

⁸⁰ “I will begin with the assignments and judgments that are required by the crime of war itself. That is to begin with politics rather than combat, civilians rather than soldiers, for aggression is first of all the work of political leaders.” Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 3rd ed. (New York: Basic Books, 2000), 289.

⁸¹ *Ibid.*, 298; J. Glenn Gray, *The Warriors: Reflections on Men in Battle* (New York: Harper & Row, 1967), 199.

⁸² Walzer, *Just and Unjust Wars*, 299.

⁸³ *Ibid.*, 301.

⁸⁴ *Ibid.*, 301.

⁸⁵ *Ibid.*, 302.

⁸⁶ Ibid., 302.

⁸⁷ G. Thomas Goodnight, “The Personal, Technical, and Public Spheres of Argument: A Speculative Inquiry into the Art of Public Deliberation,” *Journal of the American Forensic Association* 18 (1982): 214–27.

⁸⁸ See Heather Ashley Hayes, “Don’t Fear the Reaper: The Disturbing Case of How Drones Reconfigure Technologies of Deliberation,” in *Disturbing Argument*, ed. Catherine H. Palczewski (New York: Routledge, 2014), 329–35; G. Thomas Goodnight and Gordon R. Mitchell, “Drones: Argumentation in a Communication Control Society,” in *Disturbing Argument*, ed. Catherine H. Palczewski (New York: Routledge, 2014), 323–28.

⁸⁹ Robert C. Rowland, “A Liberal Theory of the Public Sphere,” in *Critical Problems in Argumentation: Selected Papers from the 13th Biennial Conference on Argumentation*, ed. Charles Arthur Willard (Washington, DC: National Communication Association, 2005), 281–87.

⁹⁰ Ibid., 284.

⁹¹ Robert C. Rowland, “Campaign Argument and the Liberal Public Sphere: A Case Study of the Process of Developing Messages in a Congressional Campaign,” *Argumentation & Advocacy* 42, no. 4 (Spring 2006), 208.

⁹² Ibid., 206.

⁹³ David Zarefsky, “Strategic Maneuvering through Persuasive Definitions: Implications for Dialectic and Rhetoric,” *Argumentation* 20 (2006): 415.

⁹⁴ See Herbert W. Simons, “Going Meta: Definition and Political Applications,” *Quarterly Journal of Speech* 80, no. 4 (November 1994): 468; “Going Meta in Political Confrontations.” In *Spheres of Argument: Proceedings of the Sixth SCA/AFA Conference on Argumentation.*, edited by Bruce E. Gronbeck, 207-10. Annandale, VA: Speech Communication Association, 1989.

⁹⁵ Simons, “Going Meta: Definition,” 470.

⁹⁶ Ibid., 469.

⁹⁷ “Rhetoric may be defined as the faculty of observing in any given case the available means of persuasion.” Aristotle, “*Rhetoric* (Book I, Ch. II),” in *The Rhetorical Tradition*, ed. Patricia Bizzell and Bruce Herzberg, trans. W. Rhys. Roberts (Boston, MA: Bedford/St. Martin’s, 2001), 179.

⁹⁸ George A. Kennedy, *Classical Rhetoric and Its Christian and Secular Tradition from Ancient to Modern Times* (Chapel Hill: University of North Carolina Press, 2008), 63.

⁹⁹ Thomas B. Farrell, "Sizing Things Up: Colloquial Reflection as Practical Wisdom," *Argumentation* 12, no. 1 (February 1998): 1.

¹⁰⁰ Interestingly, Farrell also argues that the "antithesis" of rhetoric "is futility, the anomic meeting of helplessness and hopelessness." *Ibid.*, 1.

¹⁰¹ Medhurst argues that "there is no debate about when the interdisciplinary interest in the intersection of the presidency and the practice of rhetoric commenced." He cites the essay by Ceaser, Thurow, Tulis, and Bessette as "the intellectual precursor to much of the recent interest in presidential rhetoric." The Ceaser et al. article was developed an idea proposed by Ceaser's advisee and co-author, Jeffrey Tulis, who later wrote the more commonly cited book-length exploration of the rhetorical presidency. Martin J. Medhurst, "Introduction: A Tale of Two Constructs: The Rhetorical Presidency versus Presidential Rhetoric," in *Beyond the Rhetorical Presidency*, ed. Martin J. Medhurst (College Station: Texas A&M University Press, 1996), xiii. See also James W. Ceaser et al., "The Rise of the Rhetorical Presidency," *Presidential Studies Quarterly* 11, no. 2 (April 1, 1981): 158–71.

¹⁰² Jeffrey Tulis, *The Rhetorical Presidency* (Princeton, NJ: Princeton University Press, 1987), 4.

¹⁰³ Medhurst, *Beyond the Rhetorical Presidency*, xxii.

¹⁰⁴ *Ibid.*, xiii.

¹⁰⁵ Tulis, *The Rhetorical Presidency*, 4.

¹⁰⁶ I am mindful of similar theories offered by political scientists to explain how presidents use rhetoric to expand their power. Richard E. Neustadt famously argues that "presidential power is the power to persuade," but his project is centered on the expansion of presidential power through effective negotiation with other branches of government, not the public. Samuel Kernell's concept of "going public" entails presidents mobilizing public factions in order to pressure Congress to advance an agenda. Neither of these ideas are particularly applicable to this study. See Richard E. Neustadt, *Presidential Power: The Politics of Leadership* (New York: New American Library, 1964), 11; Samuel Kernell, *Going Public: New Strategies of Presidential Leadership*, 4th ed. (Washington, DC: CQ Press, 2007).

¹⁰⁷ George C. Edwards, *On Deaf Ears: The Limits of the Bully Pulpit* (New Haven: Yale University Press, 2003), 6.

¹⁰⁸ *Ibid.*, 157. This concession basically serves as a *stasis* point in Edwards's clash with David Zarefsky, who likewise concedes some of Edwards's arguments regarding effects claims and maintains that presidential rhetoric "defines political reality" in key ways. David Zarefsky, "Presidential Rhetoric and the Power of Definition," *Presidential Studies Quarterly* 34, no. 3 (September 1, 2004): 611.

¹⁰⁹ J. Michael Hogan, *The Panama Canal in American Politics: Domestic Advocacy and the Evolution of Policy* (Carbondale: Southern Illinois University Press, 1986), 10.

¹¹⁰ Medhurst, *Beyond the Rhetorical Presidency*, xiv.

¹¹¹ *Ibid.*, xix.

¹¹² *Ibid.*, 219.

¹¹³ *Ibid.*, xviii.

¹¹⁴ Aristotle lists “war and peace” as one of the five most common topics of deliberative rhetoric. Aristotle, “*Rhetoric* (Book I, Ch. IV),” 187.

¹¹⁵ Kenneth Burke, *A Grammar of Motives* (Berkeley, CA: University of California Press, 1969).

¹¹⁶ See M. Elizabeth Weiser, *Burke, War, Words: Rhetoricizing Dramatism* (Columbia, SC: University of South Carolina Press, 2008).

¹¹⁷ Debra Hawhee, “Kenneth Burke and American Studies: A Response to Giorgio Mariani,” *American Literary History* 21, no. 1 (2009): 125.

¹¹⁸ Kenneth Burke, “The Rhetoric of Hitler’s ‘Battle,’” in *The Philosophy of Literary Form: Studies in Symbolic Action* (New York: Vintage Books, 1957), 191.

¹¹⁹ Robert L. Ivie, “Images of Savagery in American Justifications for War,” *Communication Monographs* 47, no. 4 (November 1980): 283, 284. Ivie later updated his theme, releasing a book with Oscar Giner on the recurring theme of demonization. See Robert L. Ivie and Oscar Giner, *Hunt the Devil: A Demonology of US War Culture* (Tuscaloosa: University Alabama Press, 2015).

¹²⁰ Lynn Boyd Hinds and Theodore Otto Windt Jr., *The Cold War as Rhetoric: The Beginnings, 1945-1950* (New York: Praeger, 1991), xix.

¹²¹ Jean G. Jones, “Tales of a Texas Cynic: Theodore O. Windt Remembered,” *Communication Quarterly* 54, no. 4 (November 2006): 528.

¹²² Robert L. Ivie, “Declaring a National Emergency: Truman’s Rhetorical Crisis and the Great Debate of 1951,” in *The Modern Presidency and Crisis Rhetoric*, ed. Amos Kiewe (Westport, CT: Praeger, 1994), 1–18.

¹²³ Richard A. Cherwitz, “Lyndon Johnson and the ‘Crisis’ of Tonkin Gulf: A President’s Justification of War,” *Western Journal of Speech Communication* 42, no. 2 (Spring 1978): 103-104.

¹²⁴ Bonnie J. Dow, "The Function of Epideictic and Deliberative Strategies in Presidential Crisis Rhetoric," *Western Journal of Speech Communication: WJSC* 53, no. 3 (Summer 1989): 302.

¹²⁵ The description of Campbell and Jamieson's genre classification applies to an earlier edition of the book, then titled *Deeds Done in Words: Presidential Rhetoric and the Genres of Governance*. As cited in Medhurst, *Beyond the Rhetorical Presidency*, xix.

¹²⁶ Karlyn Kohrs Campbell and Kathleen Hall Jamieson, *Presidents Creating the Presidency: Deeds Done in Words* (Chicago: University of Chicago Press, 2008), 221.

¹²⁷ Harrell and Linkugel describe two extremes of generic description. "Immanent classification" is characterized as classification in a "*de facto* manner" or "a descriptive grouping of objects which common-sense tells us look alike, even though they may not be the same." In contrast, "transcendent classification. . . inheres in the concept of normative participation. Norms represent the central tendencies which are analytically derived, not inferred from surface observation." In essence, genres developed from more transcendent systems of classification require critics to engage in deeper analysis than categorizing and evaluating texts merely based on surface-level traits. Jackson Harrell and Wil A. Linkugel, "On Rhetorical Genre: An Organizing Perspective," *Philosophy & Rhetoric* 11, no. 4 (Fall 1978): 266-268.

¹²⁸ In addition to being too narrowly tailored, Campbell and Jamieson's generic description is arguably too broad, as well. In my previous work, I conclude that that President Obama's 2009 health care reform address to Congress functions as war rhetoric under Campbell and Jamieson's conceptualization if one interprets the immanent terms in a transcendent manner. Michael J. Bergmaier, "War Rhetoric Reframed: Barack Obama's Health Care Reform Address and the Evolution of the War Rhetoric Genre," *Paper Presented at the Biennial Meeting of the Rhetoric Society of America, Philadelphia, PA*, May 26, 2012.

¹²⁹ Denise M. Bostdorff et al., "Report of the National Task Force on Presidential Rhetoric in Times of Crisis," in *The Prospect of Presidential Rhetoric*, ed. James Arnt Aune and Martin J. Medhurst (College Station: Texas A&M University Press, 2008), 369.

¹³⁰ Jeremy Engels and William O. Saas, "On Acquiescence and Ends-Less War: An Inquiry into the New War Rhetoric," *Quarterly Journal of Speech* 99, no. 2 (2013): 231.

¹³¹ *Ibid.*, 227

¹³² *Ibid.*, 225.

¹³³ McKerrow argues that "a critical rhetoric seeks to unmask or demystify the discourse of power." McKerrow, "Critical Rhetoric," 91.

¹³⁴ *Ibid.*, 226.

¹³⁵ The demystification of acquiescent rhetorics is ubiquitously proffered as a critical objective by conference panelists, and several recent publications have framed their scholarship in these terms. See Rowland, “Life-Saving Weapons”; Jessy J. Ohl, “Nothing to See or Fear: Light War and the Boring Visual Rhetoric of U.S. Drone Imagery,” *Quarterly Journal of Speech* 101, no. 4 (November 2015): 612–32.

¹³⁶ Heather Ashley Hayes, *Violent Subjects and Rhetorical Cartography in the Age of the Terror Wars* (London: Palgrave Macmillan, 2016).

¹³⁷ Reeves and May, “The Peace Rhetoric”; Kelly M. Young et al., “Restoring Balance: An Academic Review of Arguments for and Against the Restriction of Presidential War Powers,” *Contemporary Argumentation & Debate* 34 (2013/2014 2013): 51–128.

¹³⁸ Frank J. Stec, “Bringing Attention to the Human Costs of War: Grievability, Deliberation, and Anti-War Numbers,” *Southern Communication Journal* 81, no. 5 (November 2016): 271–88.

¹³⁹ Atilla Hallsby, “Imagine There’s No President: The Rhetorical Secret and the Exposure of Valerie Plame,” *Quarterly Journal of Speech* 101, no. 2 (May 2015): 354–78.

¹⁴⁰ See also Donovan Conley and William O. Saas, “Occultatio: The Bush Administration’s Rhetorical War,” *Western Journal of Communication* 74, no. 4 (July 2010): 329–50; Hamilton Bean, “‘A Complicated and Frustrating Dance’: National Security Reform, the Limits of Parrhesia, and the Case of the 9/11 Families,” *Rhetoric & Public Affairs* 12, no. 3 (Fall 2009): 429–59.

¹⁴¹ Stephen John Hartnett and Jennifer Rose Mercieca, “‘A Discovered Dissembler Can Achieve Nothing Great’; Or, Four Theses on the Death of Presidential Rhetoric in an Age of Empire,” *Presidential Studies Quarterly* 37, no. 4 (December 2007): 600. Hartnett and Mercieca’s argument resembles the “hyper-rhetorical presidency” thesis advanced by political scientists John J. DiIulio, Jr. See John J. Jr. DiIulio, “The Hyper-Rhetorical Presidency,” *Critical Review* 19, no. 2–3 (January 1, 2007): 315–24.

¹⁴² Vanessa B. Beasley, “The Rhetorical Presidency Meets the Unitary Executive: Implications for Presidential Rhetoric on Public Policy,” *Rhetoric & Public Affairs* 13, no. 1 (Spring 2010): 12.

¹⁴³ *Ibid.*, 9.

¹⁴⁴ McKerrow, “Critical Rhetoric,” 107.

Chapter One

Polysemy, Power, and Peace: The Libyan Intervention and the Syrian Interruption

“I am like a Rorschach test.”

*Barack Obama, 2008*¹

On March 28, 2011, President Barack Obama addressed the nation to “update the American people” and justify U.S. involvement in a “broad coalition” to intervene in the Libyan civil war.² Nine days earlier, the United States and a coalition of NATO allies and regional partners, acting to enforce a U.N.-sanctioned no-fly zone, commenced a coordinated aerial assault against the regime of Libyan dictator Muammar Gaddafi. The “Arab Spring”—a revolutionary wave of civil unrest and demonstrations that began in December, 2010 and spread throughout the Middle East and North Africa—fueled protests against Gaddafi’s oppressive, 40-year rule. The regime’s violent crackdown exacerbated the unrest and led to international condemnation and, ultimately, intervention.

Nearly 29 months later, on August 31, 2013, Obama spoke from the White House Rose Garden to announce his decision to take military action against the Syrian regime of Bashar al-Assad. Pro-Assad forces, Obama claimed, had recently “massacred” more than 1,000 people “in the worst chemical weapons attack of the 21st century.”³ Beginning in 2011, Syria had also faced unrest as part of the Arab Spring, and the ethnically and religiously diverse country rapidly fell into a full-fledged, multi-sided civil war. A western-educated physician, Assad was once considered by some observers as a

promising reformer⁴ and an “engageable”⁵ figure in the region, but his handling of the deteriorating conditions led to growing international condemnation, outreach to rebel factions, and calls for regime change. In an August 20, 2012, White House press conference, Obama confirmed that the U.S. had set a “red line” regarding the use or movement of chemical weapons in Syria.⁶ Assad crossed that red line, Obama argued, with a chemical weapons attack in opposition-controlled suburbs outside Damascus on August 21, 2013.

U.S. involvement in the Libyan and Syrian civil wars would prove politically problematic for the Obama administration. The Arab Spring unexpectedly pitted longstanding American values of human rights and democracy promotion against U.S. support for cooperative but often undemocratic rulers. Critics from across the ideological spectrum questioned the wisdom of the operations on a variety of grounds. Perhaps most important to rhetorical scholars is the way in which Obama’s actions and rationalizations placed his presidency in an apparent conflict with the ideals he championed just a few years earlier as a presidential candidate. Criticism of President George W. Bush’s pre-emptive invasion of Iraq and alleged abuses of executive power were major tenets of Obama’s election platform. The Obama campaign drew a stark contrast between the principles of the charismatic newcomer and the policies of the unpopular Bush administration, and the Obama platform was enthusiastically embraced by those in the electorate who were “exhausted by years of fighting and thousands of military deaths, with no end in sight.”⁷ Although economic issues would become the main focus of the 2008 general election, Obama’s successful defeat of one-time frontrunner Senator Hillary Clinton in the Democratic primaries was, in large part, attributable to perceptions that the

two represented different foreign policy visions. Primary voters were offered a choice between a known and “tested” leader and an inspirational newcomer who had the “judgment” to oppose the invasion of Iraq.⁸

Of course, characterizations of Clinton as a hawk and Obama as anti-war are gross oversimplifications. Obama’s 2007 article in *Foreign Affairs*, in which he called for “renewed American leadership,” dispels any misconception of Obama as a peace candidate. The underdog candidate expressly advocated the use of military force, even in situations that did not involve the direct defense of the United States. More specifically, Obama celebrated the right of people to “choose their leaders in climates free of fear,” and argued that intervention in order “confront mass atrocities” was justified.⁹ Nevertheless, Obama’s early opposition to the invasion of Iraq—he decried the action as “a dumb war” and “a rash war,” while most major Democratic Party leaders supported the mission—enabled him to connect with anti-war voters.¹⁰ In Obama’s candidacy, the electorate was presented a foreign policy Rorschach test. Moderate voters were able to see the pragmatic, nuanced ideals of Obama’s more substantive arguments as proof that the candidate was reasonable and mainstream, while those desiring dramatic reform could interpret his harsh criticism of Bush policies and his campaign’s stylized promises of “change” as a signal that Obama was one of them. These interpretations proved problematic for President Obama as he grappled with the realities of governance and the difficulty of placating his base. The president’s course of action in Libya stands out above other issues, with influential critics lamenting the administration’s legal justifications for the mission as “ludicrous on their face” and warning that “Obama is bringing America closer to the imperial presidency than Bush ever did.”¹¹ Not lost on

Obama's detractors was the fact that the candidate himself explicitly rejected the very theories of executive power his administration invoked.¹²

In this chapter, I show how candidate Obama strategically employed a polysemic rhetoric of peace, projecting two different foreign policy personae.¹³ One version of candidate Obama articulated a nuanced, moderate foreign policy vision designed to appeal to elites and the political center, while the other emphasized a vague, stylized image of peace, optimism, and change to position himself in contrast to Bush-era policies. The two Obamas—frequently divergent but not inherently contradictory—came into conflict during the 2011 Libyan civil war and the 2013 Syrian “red line” crisis. Obama's foreign policy decisions in these cases were, in most respects, consistent with the substantive foreign policy principles he advocated in the 2008 campaign but inconsistent with his stylized persona of peace. On issues of executive power and deliberative culture, however, his substantive and stylistic campaign personae intersected in more meaningful ways. Subsequently, Obama governing actions on those issues clashed most dramatically with the expectations he created through his campaign discourse, provoking sharp criticism.

This relationship between candidate Obama's personae compels us to reexamine how presidential candidates and executive branch officials discuss foreign policy, the power of the presidency, and the proper role of the deliberative process when the United States considers military action. A politician's supporters expressing disillusionment over perceived broken promises is nothing new. I show that many critiques of Obama's alleged inconsistencies on national security issues fell into predictable patterns owing to the nature of polysemic political discourse, changing geopolitical circumstances, or the

complexities of policy-making. But the Obama legacy exceeds these established ways of understanding presidential rhetoric. Not only was his stylistic campaign persona an emphatic rejection of his predecessor's publicly held governing image, but candidate Obama's specific, substantive interpretations of law, power, and deliberation were offered as firm principles defining—and ostensibly constraining—his presidency. The Obama administration's subsequent record underscores the difficult tasks citizens face in opposing expansive executive power and calls into question the substantive stability of campaign rhetoric on national security matters.

I engage these issues by proceeding in four sections. In the first section, I demonstrate how Obama cultivated both substantive and stylistic foreign policy personae in the 2008 presidential campaign. In the second and third sections, I analyze the 2011 Libyan intervention and the 2013 near-intervention in Syria, respectively, attending to President Obama's framing of his policies and deliberative practices through the lens of the various foreign policy commitments made by his two campaign personae. In the final section, I argue that Obama's polysemic foreign policy rhetoric and subsequent actions in office problematize existing notions of the relationship between presidential campaign rhetoric and the constraints of governing, particularly in foreign affairs.

The Two Obamas: Style and Substance on the Campaign Trail

In the midst of the 2008 presidential primary race, the Obama campaign spent roughly \$250,000 on a television commercial aired during the Super Bowl.¹⁴ The 30-second spot was understandably light on specifics. The advertisement eschewed substantive debate and detailed policy proposals in favor of a simplistic and stylized

message centered on vague themes of “hope” and “peace.” The stylized message depicted Obama as an agent of significant change, particularly on foreign policy issues, without committing the candidate to a specific set of policies.

In contrast, Obama’s 5,000-plus word treatise in *Foreign Affairs*, published only seven months earlier, explicated the candidate’s more nuanced, substantive foreign policy vision. While the ideals championed by Obama via his substantive persona are by no means incompatible with those expressed by his stylistic counterpart, I argue that the rhetoric of these two Obamas constructed an ambiguous foreign policy image that enabled the electorate to interpret Obama’s candidacy in various ways.

The distinctions between Obama’s substantive and stylistic campaign personae are not absolute; these are not stable, mutually exclusive categories. Rather, they represent ideal types. A stylistic persona is not devoid of substance, and even the most deliberative and substantive discourse includes stylistic elements that are open to interpretation. Indeed, some of the Obama campaign’s most significant rhetoric problematizes these distinctions. One of the candidate’s more substantive arguments contrasting him with the Bush’s perceived excesses transcended the boundary between the substantive and stylistic personae—firmly signaling his commitment to more dramatic change and setting the stage for much of the controversy that would arise during the Libyan intervention. Unpacking the different functions of Obama’s personae enables us to better understand the polysemic power of his candidacy.

The Stylized Agent of Change, Deliberation, and Peace

The Obama campaign was not the first to utilize a vague platform critical of war to position itself as the “peace candidate.” American history is rife with examples of candidates running on platforms of peace and military restraint, winning the election, but then subsequently initiating or expanding U.S. military engagements.¹⁵ However, Obama’s successful deployment of both a substantive, nuanced foreign policy persona and a stylistic image that vaguely embraced the mantle of peace is particularly interesting given the presidential field and public attitudes regarding national security policies.

The campaign’s Super Bowl advertisement perfectly embodies the approach of the stylistic campaign persona. The campaign opted for an upbeat approach in the ad, titled “Join,” which begins with the Obama sound bite: “We want an end to this war, and we want diplomacy and peace.” Still images of devastation in a war zone flash on the screen amidst youthful, cheering crowds at an Obama rally. The textual message “we can end a war” briefly appears and vanishes, and within ten seconds, the message shifts to the economy and the environment. Foreign policy is not directly mentioned again, but the ad concludes with vague and optimistic assurances that the audience can “change the world” by supporting Obama. Viewers are encouraged to text “HOPE” to a campaign phone number as Obama boldly declares, “We’re tired of fear,” “We want something new,” and “The world as it is is not the world as it has to be.”

Campaign messages—especially mediated messages—are necessarily simplistic. Attempts to communicate more complex, substantive policies through broadcast media are fraught with challenges.¹⁶ But campaigns possess more control over paid media, and are able to control the messages they communicate. The Obama campaign opted to

emphasize concepts with tremendous resonance, such as diplomacy and peace, simplistically declaring that “we can end this war,” condemning the culture of fear that contributed to the foreign policy of the unpopular incumbent administration, and optimistically suggesting that Obama could “change the world.” These strategic decisions underscore the campaign’s attempt to connect with those supporting drastic changes in U.S. foreign policy. No effort is made to provide substantive details or convey the candidate’s more nuanced or more practical positions. It is left to the audience to enthymematically intuit the foreign policy platform of a candidate explicitly claiming the mantle of change.

Obama’s strategy paid off. Hillary Clinton began the campaign as a heavy favorite and enjoyed a significant advantage in fundraising, party support, and name recognition. Clinton held her lead in the polls through the end of 2007, but the perceived foreign policy differences between her and Obama presented to voters the choice between an experienced figure and a fresh face who was ahead of the curve on foreign policy. Specifically, Clinton’s Senate vote in favor of the invasion of Iraq proved a problematic distinction. Obama’s contrasting public opposition¹⁷ to the then-unpopular war and his vague, stylistic persona of peace enabled him to successfully position himself as the “darling of the anti-war left.”¹⁸

The stylized Obama persona has since come to represent a political Frankenstein’s monster—a creature knowingly constructed by the campaign, but over which they had no control once unleashed. That creature has become defined not solely by the intent of its creators, but by circumstances and outside perception. Obama’s strategic attempt to position himself as an anti-war agent of change through vague and

multivalent rhetoric succeeded in 2008, but it also subjected him to the late, inevitable disappointment of a constituency whose expectations—even if they are based only on their subtextual perception of Obama’s ideals—went unfulfilled.¹⁹

The Substantive Obama

While the anti-war left is a significant force, its support alone is insufficient to secure an electoral victory—even in a Democratic Party primary. Obama’s stylistic foreign policy persona would not have been appealing to moderates or foreign policy elites. Indeed, a common attack from the Clinton campaign was that Obama was inadequately prepared for the challenges of the Oval Office. Inspirational rhetoric and rock-star appeal alone do not qualify one to successfully answer the White House phone at 3:00 a.m.²⁰ Obama’s article in *Foreign Affairs*, a magazine published by the Council on Foreign Relations and read primarily by academics and policymakers, was intended to convey his policy gravitas and sophistication. Anxious to avoid a perception by elites that he was unprepared—or, perhaps worse, too radical—Obama articulated a nuanced, balanced approach to foreign policy that criticized the Bush administration while still championing specific strategies that were most often not radically different from it.

Drawing comparisons to the foreign policies of Kennedy, Truman, and FDR, Obama’s critique of the Bush administration functioned alongside a call for “renewing American leadership.”²¹ Obama laid out a series of foreign policy goals that included modernizing and expanding the U.S. military, opposing nuclear proliferation, rebuilding global partnerships and American credibility, and combating climate change. Obama also echoed several signature Bush objectives, stressing the importance of the global fight against terrorism and democracy promotion. While Obama’s overt critique of the Bush

administration's failures—particularly with regard to Iraq and strained relationships with global partners—was present, the candidate did not present a vision for a drastically different foreign policy. Instead, Obama argued for using military force more wisely, in clearly defined missions, and after articulating a rationale to the American people. But he explicitly argued that he would “not hesitate to use force, unilaterally if necessary.” He even expressed willingness to “consider using military force in circumstances beyond self-defense in order to provide for the common security that underpins global stability—to support friends, participate in stability and reconstruction operations, or confront mass atrocities.”²² Obama distinguished his approach from that of Bush's in this regard, arguing that “when we do use force in situations other than self-defense, we should make every effort to garner the clear support and participation of others.”²³ Outlining his more nuanced foreign policy approach in an elite outlet enabled Obama to convey a seriousness of purpose to a specific, narrow audience while still protecting his stylistic persona as an agent of change.

The Two Obamas Collide: The Critique of Executive Overreach and Exclusion

The distinction between candidate Obama's stylistic and substantive foreign policy personae enables a fruitful analysis of his success at winning the support of anti-war voters while maintaining a relatively moderate, responsible image in the eyes of the mainstream electorate. Perhaps the most rhetorically significant move by candidate Obama—a move that would later constrain his presidency—was his forceful critique of the Bush administration's view of executive power. In strongly condemning the abuses of the incumbent, Obama fueled the narrative undergirding his stylistic persona: he was an agent of dramatic change who would reject the unpopular practices of the status quo.

However, this critique went beyond vague, stylistic rhetoric. In articulating a clear vision of the presidency and a specific constitutional interpretation, Obama simultaneously conveyed substance and seriousness of purpose. This critique represented an intersection in which the stylistic Obama and the substantive Obama both unambiguously signaled their respective constituencies.

Obama framed his conception of the presidency in terms of respect for the rule of law, telling a crowd of supporters in 2007, “I was a constitutional law professor, which means unlike the current president, I actually respect the Constitution.”²⁴ In an extensive 2007 Q&A with political reporter Charlie Savage that discussed the limits of presidential power, Obama laid out his vision of a restrained executive.²⁵ He rejected the “extreme arguments of the Bush administration” that “the president may do whatever he deems necessary to protect national security.” Specifically, Obama opposed his predecessor’s claim “that the president has plenary authority under the Constitution to detain U.S. citizens without charges as unlawful enemy combatants.” Obama’s most striking arguments, in hindsight, revolved around the limited legal authority of the president to unilaterally order U.S. forces into hostilities:

SAVAGE: In what circumstances, if any, would the president have constitutional authority to bomb Iran without seeking a use-of-force authorization from Congress? (Specifically, what about the strategic bombing of suspected nuclear sites -- a situation that does not involve stopping an IMMINENT threat?)

OBAMA: The president does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation. As commander-in-chief, the president does have a duty to protect and defend the United States. In instances of self-defense, the president would be within his constitutional authority to act before advising Congress or seeking its consent. History has shown us time and again, however, that military action is most successful when it is authorized and

supported by the legislative branch. It is always preferable to have the informed consent of Congress prior to any military action.²⁶

Ironically, that same month, Senator Joe Biden, then a rival for the nomination and later Obama's running mate and vice president, delivered a more strongly worded statement along the same lines during an appearance on *Hardball*:

MATTHEWS: You said that if the president of the United States had launched an attack on Iran without congressional approval, that would have been an impeachable offense.

BIDEN: Absolutely.

MATTHEWS: Do you want to review that comment you made? Well how do you stand on that now?

BIDEN: Yes, I do. I want to stand by that comment I made. The reason I made the comment was as a warning. . . .I teach separation of powers and constitutional law. This is something I know. . . .[T]he president has no constitutional authority to take this nation to war against a country of 70 million people, unless we're attacked, or unless there is proof that we are about to be attacked. And if he does, if he does, I would move to impeach him. The House, obviously, has to do that. But I would lead an effort to impeach him.²⁷

These stern condemnations from candidate Obama and his eventual running mate intertwined policy interpretation and leadership style in a significant way. Not only did candidates Obama and Biden express disdain for the actions—and hypothetical future actions—of the Bush administration, but they embraced an entirely different model of deliberation and management.

Shortly after the publication of his *Foreign Affairs* article, Obama would more explicitly reject the alleged modus operandi of the Bush White House. Obama was grappling with the fallout over a statement made during a televised primary debate that he would be willing to meet with the leaders of hostile nations in his first year in office.²⁸ Citing President John F. Kennedy,²⁹ he doubled down on his theme of a fresh approach, embracing international engagement and deriding “the diplomacy of refusing to talk to

other countries” as part of a “color-coded politics of fear.” He reminded his audience of Congress’—and, by implication, Clinton’s—failure to prevent the invasion of Iraq, and forcefully condemned as a violation of American values the Bush administration’s legal theories. Obama detailed a litany of Bush-era policies that unnecessarily undermined “our Constitution and our freedom,” before framing his own vision of the presidency:

No more ignoring the law when it is inconvenient. That is not who we are. And it is not what is necessary to defeat the terrorists. The FISA court works. The separation of powers works. Our Constitution works. We will again set an example for the world that the law is not subject to the whims of stubborn rulers, and that justice is not arbitrary.³⁰

Obama’s declaration that desirable policy outcomes do not justify legal shortcuts emphasized his stylistic persona’s rejection of Bush’s “Decider” image—his self-labeled brand of decisive, often aggressive, decision-making, particularly on foreign policy issues.³¹ At the intersection of his substantive and stylistic campaign personae, candidate Obama committed himself to set of legal and procedural principles embodied in the Constitution, particularly the separation of powers and respect for civil liberties. But he also articulated a deliberative vision for the presidency derived from those principles. That vision pushed back against the cloistered, unilateral nature of his predecessor’s decision-making in favor of openness, collaboration, and engagement—both internationally and in the domestic political arena. For Obama, such criteria defined his governing vision not merely because they could pragmatically achieve better outcomes, but because they reflected American democratic values which had been sorely neglected.

These themes remained a major aspect of Obama’s governing ethos as the campaign season concluded and the transition to power began. One minute after officially taking office, the White House posted a news release online framing their “new media efforts” around “three priorities”: communication, transparency, and participation. His

administration noted that “President Obama has committed to making his administration the most open and transparent in history.”³² Obama spoke to his senior staff the following day and set that same tone, telling them, “Let me say it again: transparency and the rule of law will be the touchstones of this presidency.”³³ Less than nine months³⁴ later, Obama was unexpectedly awarded the Nobel Peace Prize, in large part due to his impact in creating “a new climate in international politics”³⁵ and his “readiness for dialogue”³⁶—and the fact that he was not George W. Bush.³⁷ His projected values of participation, dialogue, the rule of law, and the promotion of peace would be rhetorically and politically tested as the Arab Spring swept through the Middle East and the Obama faced new pressures for military interventions.

The Libyan Intervention: Obama’s *Fait Accompli*

Muammar Gaddafi’s rise to power began following a bloodless coup in 1969 that deposed King Idris I. The 27-year-old Gaddafi was promoted from captain to colonel and named chief of the armed forces. Several months later, Gaddafi assumed the role of prime minister. Gaddafi’s rapid rise to power was widely attributed to his “ascetic but colorful personality, striking appearance, energy, and intense ideological style.”³⁸ His title and governing philosophy would change several times during the course of Gaddafi’s turbulent, 42-year rule.

Libya’s place in the international community—particularly its relationship with the West—fluctuated under Gaddafi. His pan-Arabism, involvement in the formation of OPEC, and antagonism toward Israel, made him an occasionally popular figure in the Arab world, but a pariah in the eyes of the United States and its allies. The Libyan

regime's involvement with various terrorist and paramilitary entities and its pursuit of weapons of mass destruction ultimately led to the U.S. government declaring it a state sponsor of terrorism in 1979. Two years later, Libya's embassy in Washington was closed and its staff expelled. A U.S.-Libyan naval clash in the Mediterranean Sea and the bombing of a Berlin nightclub by a Libyan agent, both in 1986, further isolated Gaddafi and prompted retaliatory American airstrikes. These actions failed to deter Libyan involvement in terrorist activities. In 1988, Libya was blamed for the bombing of Pan Am Flight, which killed all 259 passengers and crew traveling from London to New York. Eleven more people died from falling debris in Lockerbie, Scotland. A Libyan intelligence agent was convicted on 270 counts of murder in 2001. Libya formally admitted responsibility in 2003, and the regime's former justice minister asserted in 2011 that Gaddafi himself had ordered the attack.³⁹

Gaddafi commenced serious efforts to normalize Libya's foreign relations in 1999 by turning over the indicted Lockerbie suspects for trial. Ironically, the September 11, 2001, terrorist attacks presented a further opportunity for the Gaddafi regime to rebuild ties to the West. Libya abandoned its weapons of mass destruction program in 2003, paid billions of dollars in compensation to the victims of its sponsored terrorist attacks, and cooperated in anti-terrorism intelligence sharing with the West.⁴⁰ These moves prompted Washington to lift economic sanctions and resume full diplomatic relations in 2004. Documents uncovered during the 2011 civil war underscored the extent of Gaddafi's bizarre rehabilitation. Gaddafi's top intelligence officials exchanged information with American and British intelligence services. The Libyans' cooperation even extended to

controversial “extraordinary rendition” activities, in which terror suspects were abducted by U.S. agents and delivered to Libya, where they were allegedly subjected to torture.⁴¹

Despite increased Western acceptance of Gaddafi, the regional unrest of the Arab Spring led to the autocrat’s rapid fall from power. Inspired by the Tunisian and Egyptian revolutions, significant protests in Libya began on February 15, 2011. The Gaddafi regime responded with a violent crackdown, and Gaddafi himself took to the airwaves to blame the revolt on everything from the United States to al Qaida to hallucinogenic drugs slipped into the Nescafé of the demonstrators.⁴² Despite Gaddafi’s attempts to maintain his grip on power, the combination of government defections and an increasingly defiant and armed civilian population quickly thrust the nation into a full-fledged civil war.

Early media reports put the death toll at over 1,000, with tens of thousands more fleeing the country. The international community condemned the violence and contemplated formal action.⁴³ Sensational anecdotal reports flooded in: snipers targeting protestors, security forces firing on crowds attempting to bury the dead, and Gaddafi vowing to go “house by house” to exterminate the protesting “cockroaches.” The Arab League promptly suspended Libya’s membership.⁴⁴ On March 17, the United Nations Security Council passed Resolution 1973, demanding an immediate cease fire and condemning “gross and systematic violation of human rights, including arbitrary detentions, enforced disappearances, torture and summary executions.”⁴⁵ The measure authorized a no-fly zone and “all necessary measures” to protect civilians and civilian areas.⁴⁶ Two days later, the United States and European partners launched at least 110 Tomahawk cruise missiles at Libyan air defense systems “to degrade the regime’s capability to resist the no-fly zone we are implementing” and ultimately “deny the Libyan

regime the ability to use force against its own people.”⁴⁷ The air strikes represented the first stage of sustained international military operations aimed at the Gaddafi regime.

The Obama Administration stressed the international cooperation involved in the Libyan intervention, and NATO ultimately assumed command of the operation on March 31. The United States played a prominent role in the mission from its beginning, however. U.S. Predator drones played a major role in reconnaissance and intelligence operations, and on April 23 the U.S. military confirmed the first unmanned drone strike in Libya.⁴⁸ The allied mission quickly weakened Gaddafi’s grip on power. Within weeks, he was on the defensive against a loose alliance of rebels. On October 20, he was captured and unceremoniously executed in the city of his birth.

Libya and the Stylistic Obama

Descriptions of Barack Obama as a “peace candidate” are too numerous to detail at length. Certainly, Obama had no substantive claim to such a mantle. Nevertheless, even serious assessments of Obama invoked the simplified phrase:

When Obama begins his campaign for the presidency, he separates himself from the military boundary in a radical way. . . .He also defines himself as a peace candidate vehemently opposed to the Iraq War . . . This anti-war position proves a winning strategy in a nation exhausted by years of fighting and thousands of military deaths—with no end in sight.⁴⁹

Alexander’s description cannot plausibly portray Obama as a peace candidate without placing that portrayal within the context of a winning political strategy. Indeed, understanding Obama’s role as a peace candidate—if he is to have assigned that label—must inevitably involve positioning him in relation to other political actors. Given Obama’s more nuanced platform, he can only be a peace candidate relative to someone else. In *The Violence of Peace*, Stephen L. Carter describes conversations with his

students in which entire classrooms interpret Obama as far more pacifistic than one could reasonably do so upon considering his substantive platform. However, the actions of the Obama administration, even when being lauded for his efforts to promote peace, began to weaken the flawed perception of his stylistic campaign persona:

With his Nobel Prize acceptance address in December of 2009—and with his words and conduct before and since—the man who many considered the peace candidate in the last election was transformed into a war President.⁵⁰

Obama’s eroding stylistic persona of peace, even as he was presented the Nobel Peace Prize, underscores the interpretive nature of his foreign policy image. Those interpreting Obama as more radical than his substantive policies fell victim to a classic Aristotelian error: their misinterpretation was not due to deliberate deception, but “owing to the defects of the hearers.”⁵¹

Obama’s intervention in Libya, despite its consistency with the substantive foreign policy vision he outlined during the campaign, still attracted mainstream criticism from those who clearly misconstrued his platform.⁵² The intervention even prompted several world leaders to call on Obama to return his Nobel Prize—a call he promptly brushed aside.⁵³ In awarding him the prize in 2009, the Nobel Committee cited his “extraordinary efforts to strengthen international diplomacy and cooperation between peoples” and remarked, fittingly, that “only very rarely has a person to the same extent as Obama captured the world’s attention and given its people hope for a better future.”⁵⁴ Obama was not honored for a commitment to nonviolence, but for his stylistic potential to change the global political dynamic. Intervening in Libya did not directly contradict the committee’s rationale; in fact, it conformed to several elements of it.⁵⁵

“Renewing American Leadership”: The Substantive Obama’s Consistency

Despite popular conception of Obama as a “peace candidate,” both U.S. involvement in the Libyan civil war and the arguments used to justify it were consistent with candidate Obama’s substantive foreign policy vision. At first glance, military intervention against a brutal dictator with links to terrorism may have seemed, to some, a continuation of Bush’s aggressive neoconservatism and incompatible with ideals of the Nobel Prize-winning “change” candidate. However, the stated rationale for intervention validated the foreign policy vision outlined by Obama in his *Foreign Affairs* article. The substantive candidate Obama clearly conveyed his willingness to use military force, even in situations that did not involve the direct defense of the United States. More specifically, he celebrated the right of people to “choose their leaders in climates free of fear,” and argued that intervention in order “confront mass atrocities” was justified.⁵⁶ Secretary of Defense Robert Gates, making the Sunday talk show rounds on March 27, 2011, invoked the specter of such atrocities in justifying the mission, claiming that intervention had “prevented the large-scale slaughter that was beginning to take place, has taken place in some places.”⁵⁷ Obama directly applied this rationale to the mission in his March 28 address:

Gaddafi declared that he would show “no mercy” to his own people. He compared them to rats, and threatened to go door to door to inflict punishment. In the past, we had seen him hang civilians in the streets, and kill over a thousand people in a single day. Now, we saw regime forces on the outskirts of the city. We knew that if we waited one more day, Benghazi—a city nearly the size of Charlotte—could suffer a massacre that would have reverberated across the region and stained the conscience of the world. It was not in our national interest to let that happen. I refused to let that happen.⁵⁸

Ultimately, the image of Obama as a “peace candidate” is overly simplistic and fails to account for his consistent support for humanitarian interventions and the liberal

internationalism that lay at the foundation of his rationale for intervention in Libya. The administration's argument that U.S. involvement in Libya was in line with America's foreign policy interests also mirrored candidate Obama's substantive platform.

In one important respect, the deliberative process—and the end result of that process—was also consistent with the vision set forth by Obama during the 2008 campaign. Obama's critique of the Bush administration's largely unilateral approach was centered on concern that the Iraq invasion's "coalition of the willing" was, in reality, a fig leaf concealing the administration's stubborn pursuit of a globally unpopular mission. Obama argued that Bush "dismissed European reservations about the wisdom and necessity of the Iraq war," and he pledged to "rally our NATO allies to contribute more troops to collective security operations" while rededicating the United States to the United Nations and its mission.⁵⁹ Obama was insistent that revitalizing the nation's alliances and the effectiveness of international institutions required that the nation not engage in "bullying other countries to ratify changes we hatch in isolation. It will come when we convince other governments and peoples that they, too, have a stake in effective partnerships."⁶⁰ Subsequently, the Obama administration's course of action in Libya represented a commitment to liberal internationalism which differed greatly from the approach taken prior to the Iraq invasion. Although Bush sought a clear U.N. mandate for the invasion of the Iraq, he did not receive it, and the United States pushed forward over the objections of key allies. Obama formed a much broader coalition, and received an explicit U.N. resolution authorizing the mission in Libya. Obama's justification for U.S. involvement, accordingly, noted the broad support of the international community and tangible contributions of NATO and other parties:

In this effort, the United States has not acted alone. Instead, we have been joined by a strong and growing coalition. This includes our closest allies—nations like the United Kingdom, France, Canada, Denmark, Norway, Italy, Spain, Greece, and Turkey—all of whom have fought by our side for decades. And it includes Arab partners like Qatar and the United Arab Emirates, who have chosen to meet their responsibility to defend the Libyan people. To summarize, then: in just one month, the United States has worked with our international partners to mobilize a broad coalition, secure an international mandate to protect civilians, stop an advancing army, prevent a massacre, and establish a No Fly Zone with our allies and partners.⁶¹

In terms of collaboration with global partners and securing clear United Nations authorization, the deliberative process surrounding the Libyan intervention differs from that preceding the 2003 invasion of Iraq and remains faithful to Obama’s substantive campaign ideals.

Departing from Candidate Obama’s Deliberative and Constitutional Critiques

While the Libyan intervention embodied many of the elements of Obama’s foreign policy platform, the process by which it was undertaken marked a dramatic departure from candidate Obama’s vision for a transparent and deliberative administration that adhered to prescribed limits of executive power. Obama’s March 28 address functioned as deliberative rhetoric insofar as he provided justification for his course of action and briefly acknowledged competing perspectives,⁶² but no political space was left open for actual deliberative engagement.

From his opening sentence, Obama framed his words not as argument, but an “update” on the efforts, including “what we’ve done, what we plan to do, and why this matters to us.” Much as George W. Bush preferred an epideictic style in which “objectives and actions were announced”⁶³ and the people “were not asked to debate policy,”⁶⁴ Obama’s declarative tone revealed policy and did not seek any form of

audience support. Obviously, nothing can be done to change actions already undertaken, and Obama framed those events as having left no room for choice or time for lengthy debate. Nine days earlier, Obama argued, “the United States and the world faced a choice.” Even a one-day delay in action could have resulted in “a massacre that would have reverberated across the region and stained the conscience of the world.”

Accordingly, Obama consulted with congressional leaders and authorized action. Any options moving forward were presented to the audience as settled decisions. “As the bulk of our military effort ratchets down,” he declared, “what we can do—and will do—is support the aspirations of the Libyan people.” The nation’s course, past, present, and future, were *fait accompli* and “automatic, natural responses dictated by our character.”⁶⁵

Obama also campaigned on a constitutionally restrained presidency that condemned the excesses of the Bush administration and emphasized the prerogatives of Congress over the use of military force. Candidate Obama’s argument that the commander in chief “does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation” was directly contradicted by his administration’s interpretation of the separation of powers. The administration addressed this issue indirectly, quietly asserting that explicit congressional support for the mission—while welcome—was not legally necessary. In defending the president’s authority to intervene, the White House made three arguments.

First, the administration conceded that the Libyan intervention did not involve a significant threat to the nation—that there were no direct national security concerns at stake. Even Gates, who justified U.S. involvement on humanitarian grounds, explicitly

acknowledged that there were no “vital national interests” in Libya, much to the shock of those in Congress who insisted that the president required congressional approval for the commitment of U.S. forces.⁶⁶

Second, the Obama administration stressed the involvement of congressional leadership in the deliberative process. Obama did not receive, nor did he actively seek, prior authorization from Congress; the administration consistently maintained the position that authorization would be “helpful” and welcomed.⁶⁷ Instead, Obama emphasized that he committed to a course of action “after consulting the bipartisan leadership of Congress.”⁶⁸ No further explication was given as to the substance of those consultations, and those seven words were the only reference to the legislative branch in the nearly half-hour speech to the nation delivered on March 28. Those consultations, and the military briefings offered to members of Congress and senior staff, were also referenced in administration legal briefs in an attempt to allude to compliance with the War Powers Resolution’s requirements.⁶⁹ However, as each administration has done since the resolution’s passage in 1973 over President Nixon’s veto, these reports were characterized as “consistent with” the resolution’s provisions, not “pursuant to” them.⁷⁰ This distinction underscores the position of the executive branch that the War Powers Resolution is unconstitutional and that the president is not necessarily bound by its restrictions.⁷¹

Finally, the administration took the position that the mission in Libya did not qualify as “hostilities,” and, as such, the president was not required to seek authorization from Congress.⁷² This argument also extended to the resolution’s provision limiting military involvement to 60 days—with an additional 30-day withdrawal period—absent

congressional authorization.⁷³ The suggestion that military intervention in Libya did not constitute “hostilities” was supported by dubious claims, including an assertion that launching strikes against Gaddafi’s forces did not meet the “hostilities” threshold because the regime was unlikely to shoot back.⁷⁴

The cumulative effect of these three arguments was insufficient at placating Congress, and the House rebuked the president in June for failing to abide by the War Powers Resolution.⁷⁵ Its resolution was nonbinding and not taken up by the Senate, but was nevertheless “an unusually blunt confrontation with an American president during a military conflict.”⁷⁶ In an ironic twist, Obama’s harsh campaign critique of Bush’s unilateral foreign policy had come full circle: President Obama secured international cooperation for its military intervention, but failed to gain legal authorization from his own legislature. His predecessor had done the opposite.

The Syrian Interruption: A Tale of Two Speeches

When Obama addressed the nation on August 31, 2013, in response to a widely reported chemical weapons attack near Damascus, it marked a significant step in the rapid decline of Syrian President Bashar al-Assad’s international credibility. Syria’s civil unrest began in March 2011, and by the time the United Nations officially declared the situation a civil war in June 2012, world leaders had already begun to question Assad’s legitimacy. At an August 20, 2012 press conference,⁷⁷ Obama responded to a question from reporter Chuck Todd by calling for Assad to “step down” and by stating that the United States was trying to facilitate diplomatic and humanitarian solutions to the crisis. Obama elaborated by declaring that “a red line” would be crossed if “we start seeing a

whole bunch of chemical weapons moving around or being utilized. That would change my calculus.” When Todd followed up by asking if the president was confident about plans to contain the threat of chemical weapons, Obama elaborated:

In a situation this volatile, I wouldn't say that I am absolutely confident. What I'm saying is we're monitoring that situation very carefully. We have put together a range of contingency plans. We have communicated in no uncertain terms with every player in the region that that's a red line for us and that there would be enormous consequences if we start seeing movement on the chemical weapons front or the use of chemical weapons. That would change my calculations significantly.

In the intervening months, debate raged as to how best to secure the region and work toward a peaceful, post-Assad Syria. On August 21, 2013, news broke that approximately 1,500 people had been killed in a sarin gas attack in Ghouta, an opposition-controlled suburb of Damascus. Blame was quickly placed on the Assad government, and Obama, the United States, and the international community were forced to confront an increasingly precarious situation.

Bashar al-Assad's father, Hafez al-Assad, led Syria from 1970-2000 following a military career and involvement in coup d'états in 1963, 1966, and a “corrective movement” in 1970.⁷⁸ The elder Assad transformed Syrian politics, concentrating power into the hands of Ba'ath Party elites and elevating the status of his fellow Alawites—who make up less than 15 percent of Syria's population—through patronage, secularism, support from other religious minority sects, and iron-fisted rule. He had a complicated relationship with the West due to his antagonism toward Israel and sometimes-cordial ties with the Soviet Union and Iran, but did join the U.S.-led coalition in the first Gulf War against Iraq.⁷⁹ When his eldest son Bassel died in 1994, Hafez turned to Bashar and began grooming him to take power.

Bashar was hurriedly given military training and prominent positions before taking on diplomatic responsibilities.⁸⁰ He was tasked with handling citizen complaints and managing an anti-corruption initiative, which boosted his public image as a reformer while simultaneously allowing him to marginalize potential rivals by putting them on trial.⁸¹ When his father Hafez died in 2000, Bashar “inherited” the presidency and was quickly confirmed via referendum.⁸² He adopted a platform of political reform and economic modernization, and the “Damascus Spring” of 2000-2001 saw the release of hundreds of political prisoners. While some of the progress was short-lived and Syria remained an “international pariah” in some circles,⁸³ many outsiders continued to view Bashar al-Assad as a reform-minded agent of stability even when the unrest of the Arab Spring threw many nations into chaos. Citing his personal popularity,⁸⁴ demographic diversity, and the Syrian people’s fear of the repressive security forces, observers doubted that significant uprisings would take hold in Syria.⁸⁵

Initially, the Arab Spring seemed to pass by Syria and Assad. A called-for “day of rage” attracted little interest. For weeks, journalists and academics noted the relative silence emanating from the Syrian streets. “Syria is the last country where regime change will occur,” the *New York Times* quoted an anonymous political activist as opining. Bassam Haddad, Director of the Middle East Studies program at George Mason University and a visiting scholar at the Carnegie Endowment for International Peace, wrote on March 9 that Syria was “unlikely to be next,” “barring an extraordinary event.”⁸⁶ Six days later, sustained protests began. On the fourth day, following numerous arrests, several protesters were killed, leading to a dramatic escalation in the size and number of demonstrations.⁸⁷ Experts were still skeptical that the Syrian situation would

deteriorate, with Secretary of State Hillary Clinton expressing concern over the regime's response but noting: "There is a different leader in Syria now. Many of the members of Congress of both parties who have gone to Syria in recent months have said they believe he's a reformer."⁸⁸

Assad attempted to handle the nascent unrest on a number of seemingly contradictory fronts. The government made thousands of arrests and carried out violent crackdowns on protestors.⁸⁹ Simultaneously, Assad announced broad concessions to mollify potential dissidents: constitutional reforms opened up the political process to new parties, the 45-year-old state of emergency was lifted,⁹⁰ salaries were increased, and the length of mandatory conscription was shortened. Despite acknowledging these concerns, Assad, in a highly anticipated address to the Syrian parliament on March 30, blamed the chaos on "satellite T.V." and a conspiracy of outside agitators led by Israel.⁹¹ The *Guardian's* Brian Whitaker characterized the speech as either "supreme confidence or extreme recklessness."⁹²

The unrest continued to escalate. By mid-May, 1,000 had been killed⁹³ and by late-July a full armed insurgency was in effect. Former United Nations Secretary-General was named a U.N.-Arab League special envoy and attempted to broker a ceasefire, but ultimately resigned in frustration in early-August, 2012. By the end of that year, the U.N. had formally declared the situation a civil war, and 60,000 had died.⁹⁴

Obama's August 20, 2012 "red line" comments called for Assad to "step down" due to a loss of legitimacy but fell short of advocating military engagement to effect regime change. Even in the event that the Assad government violated Obama's ultimatum by using or "moving around" chemical weapons, the expected response was left

ambiguous: a change in Obama's "calculus" and "equation," and "enormous consequences." The Ghouta sarin attack—which the West blamed on Assad—would test Obama's willingness to respond and follow through on his threat.

August 31, 2013: Reconciling Presidential Power and the Deliberative Tradition

Speaking from the Rose Garden on a Saturday afternoon over Labor Day weekend, Obama explained to the nation the importance of the Syrian chemical attack and informed them of his chosen course of action. He labeled the incident "the worst chemical weapons attack of the 21st century." Obama placed blame on the Assad regime by briefly citing the conclusion of intelligence sources and the "powerful case" made a day earlier by Secretary of State John Kerry "that the Syrian government was responsible for this attack on its own people."⁹⁵ Obama channeled moral outrage almost immediately, opening his speech by noting that "the world watched in horror" and labeling the attack as "an assault on human dignity."

Emphasizing that he had gone through a process of "careful deliberation," Obama announced to the nation that he had decided to take military action in order to "hold the Assad regime accountable for their use of chemical weapons, deter this kind of behavior, and degrade their capacity to carry it out." In several respects, Obama's framing resembled his *fait accompli* during the Libyan intervention. In both instances, he announced an already-determined course of action, presented a moral justification, conveyed support for the mission from the international community,⁹⁶ and assured the public that congressional leaders had been consulted. But three key elements distinguished this address from his 2011 speech on Libya.

The most immediately evident difference involved time. Obama spoke to the nation in 2011 to “inform” them of an intervention that had already begun, while in 2013 he announced his decision in advance of substantive action. The president remarked that the “military has positioned assets in the region,” but did not specify if any movement was ordered for the sake of the operation, or if the necessary forces were already in place. He noted that military leaders “informed me that we are prepared to strike whenever we choose,” but gave no timetable, instead assuring those eager to act that “our capacity to execute this mission is not time-sensitive; it will be effective tomorrow, or next week, or one month from now. And I’m prepared to give that order.” This indecisive time frame directly relates to the second element distinguishing Obama’s speech on Syria from his earlier address on Libya.

Immediately following his assurance that he was prepared to order military action against the Assad regime, Obama made an abrupt move that broke the mold cast by the Libyan intervention. His 2011 address includes one brief reference to consulting leaders in Congress, while his Rose Garden speech empowered the legislature, referencing Congress 12 times and extending extraordinary deference to their role in the nation’s deliberative process:

But having made my decision as commander in chief based on what I am convinced is our national security interests, I’m also mindful that I’m the President of the world’s oldest constitutional democracy. I’ve long believed that our power is rooted not just in our military might, but in our example as a government of the people, by the people, and for the people. And that’s why I’ve made a second decision: I will seek authorization for the use of force from the American people’s representatives in Congress.

Obama argued that the White House had “heard from members of Congress” who wanted to speak out, and that he agreed they should have the opportunity to do so. He notes that both parties’ House and Senate leaders concurred that having a congressional debate was

“the right thing to do for democracy,” and encouraged them to schedule a debate and a vote when Congress returned from its recess. In a series of moves that embodied his approach’s alienation of hawks⁹⁷ and doves alike, the president pushed for military action but waited; he deferred to the “people’s representatives,” but explicitly maintained the power to act regardless of public opinion, declaring: “I believe I have the authority to carry out this military action without specific congressional authorization.”

The third major difference between Obama’s Rose Garden speech and his 2011 response to the Libyan intervention involved the articulation of national security. In 2011, Obama made little effort to deny that the Libyan uprising fell short of a threat to U.S. national security—he noted that “there will be times, though, when our safety is not directly threatened, but our interests and our values are”—opting instead to make a case grounded in moral and humanitarian terms. In calling for action against the Assad regime, Obama openly labeled the chemical weapons attack “a serious danger to our national security.” He provided only modest support for that claim, referencing the importance “of the global prohibition on the use of chemical weapons” and alluding to terrorism and undefined dangers posed to neighboring states. More importantly, and more subtextually, Obama expanded the importance of responding to the sarin attack by speaking about “implications beyond chemical warfare.” “If we won’t enforce accountability,” Obama asked rhetorically, “. . . what does it say about our resolve to stand up to others who flout fundamental international rules?” This subtly disguised allusion to credibility—to the need to act given the president’s articulated “red line”—was made even more abstract as the discussion turned to integrity itself: “We cannot raise our children in a world where we will not follow through on the things we say, the

accords we sign, the values that define us.” Obama stopped short of saying, “I made a promise and now I have to keep it.” Yet his defense of credibility as a key concept in international relations was complicated by his unexpected deference to interbranch deliberation and public dialogue—particularly given the circumstances of his prior intervention.

September 10, 2013: Yielding to Public Opposition and Political Reality

Obama’s Rose Garden speech pleased few constituencies and disappointed both those calling for decisiveness and those opposed to U.S. engagement. Public opinion had already led to a parliamentary setback in the United Kingdom,⁹⁸ and the announcement of planned U.S. action added fuel to global protests against a possible military intervention in Syria,⁹⁹ and sparked new opposition in the United States.¹⁰⁰ Once viewed as a near-certainty, the likelihood of U.S.-led military action steadily diminished in the ensuing weeks. Analysis and reporting in late-August was premised on the largely unquestioned expectation that Obama would order action. The Rose Garden speech then announced intended action, and confusion over the president’s deference to the legislative branch notwithstanding, initial speculation was that Congress would follow Obama’s lead. The leaders of both parties in both houses publicly backed the president’s plan, and polling data suggested that Americans would support a limited intervention given evidence of atrocities.¹⁰¹

Congress was not due to return until September 9, but it quickly became apparent that Obama could not count on congressional support. On September 1, Senator Rand Paul calculated the chances of an authorization of force passing in the House of Representatives at “50-50.”¹⁰² Prominent figures including Secretary of State Kerry and

Senator John McCain stressed the importance of intervening and argued that “the consequences of a Congress of the United States over-riding a decision of the president of the United States on this magnitude are really very serious.”¹⁰³ The administration continued to stress not only the need to act, but the limited scope of the proposed intervention. There would be no boots on the ground, no attempt at regime change, and a limited duration to any strikes. At times, the administration’s attempts to reassure skeptics led to gaffes, and those calling for stronger action ridiculed the notion that the United States should carry out “pin pricks.”¹⁰⁴

The president’s reassurances that the mission would not be a significant or long-term commitment failed to sway public opinion. A *Washington Post-ABC News* poll from September 1 found that 59 percent of Americans opposed missile strikes, compared to only 36 percent in support. Even more problematic than those top-line numbers were the intensity of opinion and the gradual shift in the weeks after Obama’s Rose Garden Speech. Those “strongly opposed” to strikes dwarfed the number of those who “strongly supported” them, 45 percent to 17 percent. And a subsequent *Post-ABC* poll published one week later showed opposition rising to 64 percent and support falling to 30 percent.¹⁰⁵ As Congress prepared to return to session, the administration faced evaporating support and the likelihood that a vote to authorize force would fail.

The outcome to the immediate crisis was unusual not only in terms of the solution itself, but the unusual path toward. A remark made by Kerry during a support-building trip to Europe cracked open the door to a peaceful alternative, and that door was swung open by Russian President Vladimir Putin. At a joint press conference in London with U.K. Defense Minister William Hague, a *CBS News* reporter asked Kerry if Assad could

do anything to avert U.S.-led military action. “Sure. He could turn over every single bit of his chemical weapons to the international community in the next week,” Kerry said, raising his hands in a shrugging motion as if to indicate fruitless speculation. “Turn it over, all of it, without delay, and allow a full and total accounting for that. But he isn't about to do it, and it can't be done, obviously.”¹⁰⁶ Reporters and experts have speculated about whether Kerry's offhand answer represented a thought-out strategy, a trial balloon, or a gaffe.¹⁰⁷ The State Department quickly released a statement clarifying that Kerry's comment was not a formal offer or an ultimatum,¹⁰⁸ but the wheels were already in motion.¹⁰⁹ Within hours, former Secretary of State Hillary Clinton, speaking out for the first time on the contemporary Syrian crisis, commented that the suggestion had merit.¹¹⁰ Russian Foreign Minister Sergei Lavrov put together a brokered framework, and Obama “signaled he might have to adjust his approach because of the Russian proposal.”¹¹¹ As the Russians gained a pledge from the Assad regime to fully comply with the provisions of Kerry's idea, the administration's options seemed limited. On September 10, with Congress a day away from voting on a seemingly doomed military authorization and news breaking of a tentative diplomatic agreement that could forestall strikes, Obama once again spoke to the nation.

Obama began his September 10, 2013, remarks in a formulaic fashion that was direct, but relegated the significant news of his decisions to later in the speech. “My fellow Americans,” Obama began, “tonight I want to talk to you about Syria—why it matters, and where we go from here.”¹¹² Obama restated the events that had transpired in Syria and again blamed the Assad regime—this time in more definitive terms—for the use of chemical weapons. He again described the moral and geopolitical cost of inaction,

and reminded the audience of the decision he announced on August 31. As in that speech, he followed up on his determination by positioning himself within the American political system and tradition, describing himself as not only commander in chief, but “also the president of the world’s oldest constitutional democracy.”

Obama’s arguments regarding the constitutional prerogative of the president were largely unchanged between the two speeches. He again asserted the authority to order military action, but this time elaborated that he believed he had the power to do so even “in the absence of a direct or imminent threat to our security.” Nevertheless, the absence of such circumstances compelled him to “take this debate to Congress” for the sake of strengthening both democracy and the ultimate material outcome. Obama again acknowledged the nation’s war-weariness and reassured skeptics that he had never intended to “put American boots on the ground in Syria” or pursue “an open-ended action like Afghanistan or Iraq.” After elaborating on the scope of his proposal and the complexity of the situation in Syria, he pivoted toward the value of a diplomatic solution.

The recent days, Obama argued, revealed “some encouraging signs.” Obama credited the “credible threat of U.S. military action” and U.S.-led diplomacy with helping to bring the Russians to the cause of “pushing Assad to give up his chemical weapons.” The product of these efforts was an admission by the Assad government that it had chemical weapons, their willingness to join the Chemical Weapons Convention, and tentative framework for securing and removing such weapons from Syria. Obama spoke in cautiously optimistic terms, stressing the need to continue monitoring the deal and keep the military in its current posture, but he framed the developments as significant enough to rethink the need for immediate retaliatory strikes. Accordingly, Obama “asked

the leaders of Congress to postpone a vote to authorize the use of force while we pursue this diplomatic path.”

Obama’s speech reinforced many of the arguments and themes of his Rose Garden address, but it contextualized that speech and recent developments in a way that framed his decision to table military action as a response to geopolitical events and not an admission that he lacked the votes for congressional authorization. In the run-up to the speech, many officials—including Obama—supported pursuing the diplomatic option while simultaneously continuing the debate in Congress in order to provide additional leverage and a fallback option should diplomacy fail. In the final hours, however, as congressional leaders took the pulse of their caucuses and the Russia-brokered deal solidified, it became apparent that proceeding in Congress would lead to a politically embarrassing defeat for the measure and the administration.¹¹³

After several more days of negotiations, an international agreement was formalized on September 14.¹¹⁴ Politicians and commentators continued to pontificate about the unusual trajectory of Obama’s solution, and most remained skeptical of the long-term viability of the arrangement. Public support was remarkably high, however, with polling taken during the final negotiations finding roughly four in five Americans in support of the deal, even as a majority disapproved of Obama’s handling of the crisis. From a variety of perspectives, observers pointed to the seemingly “awkward” handling of the “red line” crisis as emblematic of the administration’s foreign policy legacy, but they attached different connotations to that description.¹¹⁵ Whether one viewed the discourse and decisions of Obama as dithering or flexible, disinterested or realistic, unprincipled or pragmatic, was entirely a matter of interpretation.

Whither to “Dither”: Rethinking Obama’s Rhetorical and Strategic Approach

Unlike the Libyan intervention, the complexity of Syrian crisis calls for critics to utilize a more nuanced, contextual approach in evaluating the deliberative implications of the administration’s actions. While the Libyan intervention demonstrates Obama prioritizing competing values—placing some at the forefront while ignoring or making only empty references to others—the Syrian interruption follows a different path. A careful investigation reveals not only Obama’s attempt to prioritize competing values, but an arguably impractical attempt to pursue all of them simultaneously. This flexible approach rendered Obama vulnerable to frequent allegations that he was “dithering,”¹¹⁶ living in a flighty, out-of-touch land of academic pondering and professorial abstraction. Obama’s supporters welcomed the foundation of that critique, if not its façade, by contrasting Obama’s reflective and deliberative style against the impulsive caricature of the “Decider,” George W. Bush. By abruptly reversing course in the hours before his August 31 Rose Garden address, Obama stunned critics and offered up renewed fodder for this narrative. It is through this lens, and with an eye toward the details of the Syrian crisis and his reaction to it, that one can better grasp how Obama’s handling of Syria relates to his substantive and stylistic vision for a deliberative presidency.

It is in those details that one can find the clearest evidence that Obama’s August 31 and September 10 speeches are less meaningfully read as broad, ideologically grounded commitments to be taken at face value, and more appropriately viewed as products of pragmatic necessity responding within rhetorical and political constraints. Put simply, in contrast to his 2011 address on Libya, Obama’s Syria discourse publicly masked his positions in the hopes of achieving his objectives. This can be seen in

numerous ways, one of which is Obama's pragmatic approach to balancing international priorities. Reporter Jeffrey Goldberg was granted extensive, repeated access to the president and key staff over a period of years, culminating in the April 2016 publication of "The Obama Doctrine" in the *Atlantic*.¹¹⁷ Goldberg's article was a detailed tracing of Obama's ideological foundations, objectives, and processes of Obama's foreign policy across time and circumstances. Reports that Obama had a change of heart on Syria shortly before his Rose Garden address circulated before the calendar turned to October 2013.¹¹⁸ But Goldberg's ability to connect themes across multiple years and different events makes his account particularly informative. He begins his 20,000-word piece with the following:

Friday, August 30, 2013, the day the feckless Barack Obama brought to a premature end America's reign as the world's sole indispensable superpower—or, alternatively, the day the sagacious Barack Obama peered into the Middle Eastern abyss and stepped back from the consuming void. . .

The act of stepping back from the abyss of a chaotic civil war—or, to characterize Obama's words, actions, and proposals more accurately, not lurching toward it as quickly as anticipated—cannot be fairly interpreted as a rejection of the values advanced by intervention. Obama advocated for humanitarian intervention, for reducing the threat of weapons of mass destruction, and for opposing brutal regimes. He proved as much by intervening in Libya. But Obama's pragmatism required him to weigh the cost of action, both in terms of real-world consequences and the subordination of other key values. Goldberg describes a president fraught with doubt over the utility of a limited strike that would protect few and allow Assad to remain in power. Obama was also unsettled by the sudden warning from his director of national intelligence that the evidence of the Assad regime's use of sarin gas was not a "slam dunk."¹¹⁹ Wary of the corollary to the invasion

of Iraq, seeing the situation in Libya continue to destabilize into a “shit show,”¹²⁰ and finding difficulty identifying the white hats in a messy conflict—let alone a path toward a good outcome—Obama’s pragmatic concerns underscored the need for him to more carefully weigh those values he was sacrificing for the sake of expediency.

Obama’s pragmatic approach not only subjected him to criticism that he failed to act decisively, it seemed to confirm the argument that he acted without an ideological compass. Goldberg recounts Obama’s livid reaction when his former Secretary of State, Hillary Clinton, was quoted saying that “great nations need organizing principles, and ‘Don’t do stupid stuff’ is not an organizing principle.”¹²¹ While Clinton reportedly apologized and the two reconciled, Obama’s anger that his half-joking mantra¹²² undermined his ability to uphold other core commitments is telling. Obama’s belief that the nation should act to prevent atrocities led him to select Samantha Power, a prominent academic supporter of the “responsibility to protect” doctrine, as his adviser and Ambassador to the United Nations. His support for cultivating stronger international relationships was a factor in his decision to not only intervene in Libya, but to allegedly “lead from behind”¹²³ by allowing other nations to highlight their prominent roles in the mission. But, true to his pragmatic streak, he evaluated each situation on its merits and weighed the potential risks and rewards, including the impact to his values on both sides of the ledger. In Libya, the combination of international support, a tight timetable,¹²⁴ and the global perception that a tyrant was about to “massacre” courageous freedom fighters led to a decision that furthered “R2P” and international cohesion at the expense of another military engagement, constitutional dubiousness, and the forsaking of proper deliberative exchange. With Syria, he went another direction, infuriating Power and some

international allies but avoiding a complicated Middle Eastern entanglement and yet another abuse of executive prerogative. Still, his uncompromising rhetorical condemnation of the Ghouta attack exceeded his discourse on Libya. Obama described to the world a Syrian crisis that was a far greater threat to U.S. and international stability, but his words elsewhere—and his actions—revealed his veiled conclusion that other values mattered as well.

One of those values, the vision for a deliberative and legally restrained executive, serves as another example of Obama's subtly masked discourse on Syria. Largely subordinated during the Libyan intervention, save for a vague and passing reference to "consulting the bipartisan leadership of Congress" in his 2011 speech,¹²⁵ this value remained important to Obama. Goldberg recounts discussing the Syrian crisis with Obama several years later, and describes how Obama noted four factors that had significantly influenced his thinking. Two of the first three involved practical considerations: U.N. inspectors were still on the ground and he worried about the long-term implications after concluding that the strike would not eliminate the chemical weapons stockpile, let alone seriously degrade Assad. Another factor was Prime Minister Cameron's embarrassing defeat in parliament, which indirectly tied into the final factor:

The fourth factor, he said, was of deeper philosophical importance. "This falls in the category of something that I had been brooding on for some time," he said. "I had come into office with the strong belief that the scope of executive power in national-security issues is very broad, but not limitless."¹²⁶

Even without Goldberg's account, the circumstances and the speech itself lend credence to the notion that Obama was, in an unusual way, legitimately promoting deliberative values. The forcefulness with which Obama condemned Assad and the expression of moral and geopolitical imperatives demanding U.S. action exceeded his case for action in

Libya, and yet the president deferred to Congress and the American people. To be fair, Obama did stand on the world stage and voice a theory of executive power that contradicted the parameters he set forth in 2007. And the administration continued to make the case that Obama could, and might, act absent congressional authorization.¹²⁷ But unlike the Libyan intervention, his response to Syria was anything but a *fait accomplis*. He not only refrained from acting on those theories, his subsequent actions privileged the value of deliberative democracy over the supposedly mandatory moral obligation of responding to the horror of Ghouta. In his rhetoric, Obama's preference for deliberation and a restrained executive were constrained by the realities of the presidency as an institution traditionally dedicated to protecting and expanding its authority.

That same dynamic—the presidency itself demanding words and actions from a less-than-enthusiastic occupant of the office—undergirds the final example of Obama's masked discourse. From the moment Obama announced a “red line” in August, 2012, he unleashed a series of constraints that would bind him, his administration, and the nation's foreign policy. Scholars and practitioners of international relations have long debated the importance of “credibility” as a key tenet of a state's capacity function in the diplomatic arena. Arrangements frequently expire or need to be renegotiated, relationships can shift, treaties are occasionally abrogated—all of which impact credibility in various ways. But the consensus holds that a major military power pays a price when significant promises are not upheld.¹²⁸ Scholars and practitioners often deride the establishment's obsession with credibility, pointing to a lack of means to quantify the impact of a failure to act on one's pledges. But Obama's off-the-cuff communication of a red line, which may have come to regret, constrained his choices and forced him to throw his and the nation's

credibility into the balancing act of competing values. Goldberg's conversations with Obama provide interesting insight into the president's skepticism toward the

“Washington playbook”¹²⁹ and the privileging of credibility:

Assad, it seemed, had succeeded in pushing the president to a place he never thought he would have to go. Obama generally believes that the Washington foreign-policy establishment, which he secretly disdains, makes a fetish of “credibility”—particularly the sort of credibility purchased with force. The preservation of credibility, he says, led to Vietnam. Within the White House, Obama would argue that “dropping bombs on someone to prove that you’re willing to drop bombs on someone is just about the worst reason to use force.”¹³⁰

Obama's handling of his own red line supports the interpretation that he was unwilling and resistant hostage to credibility. He artfully attempted to reframe the red line at a September 4 press conference in Sweden, claiming “I didn’t set a red line; the world set a red line.” The question, which specifically asked if whether military action was “needed in order to preserve your credibility for when you set these sort of red lines,” evoked a lengthy response from Obama that deflected the theme of credibility in nearly identical terms as the red line itself.

One should not be surprised by the common thread connecting two of the most pivotal rhetorical moments at the center of U.S. involvement in the Syrian crisis: their unscripted nature. Both Obama's “red line” remarks and Kerry's hypothetical solution were responses to reporters' questions. Neither are viewed as particularly polished articulations of official policy. The public may never know the full story regarding how spontaneous these moments were, but their ability to shape events in ways that—to the best of our knowledge—uncomfortably constrained their sources underscores the importance of properly contextualizing expressions of political priorities. As I address in

the next section, presidential discourse does not exist in a vacuum. It functions within cultural and institutional logics that must be accounted for.

Polysemy, Promises, and the Myth of the Peace Candidate

Obama's 2008 campaign crafted the message that his presidency would represent a new approach—one that valued civil liberties and represented the antithesis of the Bush era's expansive executive.¹³¹ Debates over President Obama's legacy will continue, but most of these debates implicitly revolve around Obama's stylized campaign persona. Assessing an administration's transparency, compassion, or commitment to abstract values like civil liberties is inherently relativistic and confounded by many political factors. Yet the Obama administration's evolving articulation of presidential war powers lacked this nuance, making the rhetorical defense of the Libyan intervention and Syrian interruption particularly meaningful. Candidate Obama's substantive and stylistic image as a thoughtful leader who "actually respect[s] the Constitution" and would seek congressional approval prior to utilizing military force was directly violated. This schism between candidate Obama and President Obama affords scholars a unique opportunity to reconsider what constraints, if any, campaign rhetoric imposes on the future foreign policy decisions of presidential candidates.

The cynical belief that political candidates are quick to make campaign promises but even quicker to abandon them is rejected by scholars like Thomas E. Patterson. In responding to this strain of cynicism, Patterson argues that presidents generally attempt to fulfill their promises. When they fail, they do so most often because of congressional

interference, changing conditions, or a conflict with “higher-priority” commitments.

Those rationalizations would seem to cover almost any broken promise, but even

Patterson recognizes the significance of candidates remaining faithful to specific promises:

There is one type of campaign lie, however, that has no place in a democratic election. In terms of motive and context, this form of lying destroys the bond of trust between candidates and voters. It consists in making a promise to take a given course of action, to pursue a particular policy or program, that the candidate has no intention of keeping, and which is made not only to deceive the voters but to trick them into acting in a manner – voting for the candidate – that is contrary to their interest.¹³²

Patterson’s arguments that politicians should pursue the specific policies on which they campaign, and that deliberate deception of the electorate is deplorable, are well taken.

But in identifying intention as the key variable in excusing broken promises, Patterson advocates a critical burden of proof that can almost never be met. A candidate’s intentions can rarely be ascertained conclusively, and even clearly articulated policies are situated within specific contexts that can change: the balance of power can shift, real-world situations can be different (or can be perceived differently when one has access to the information provided to the president), and priorities can be pitted against one another. Patterson’s reliance on intention, when combined with the common excuses he offers when presidents fail to adhere to their campaign platforms, therefore lacks critical utility in evaluating fidelity to campaign rhetoric. Instead, I rely on close reading of a candidate’s substantive, specific policy positions. This approach requires consideration of the circumstances faced by a president and analysis of the contextual relationship between campaign promises and presidential action. Such a critical approach is more fruitful than psychoanalytic attempts to divine the intention of candidates.

It would be a leap to argue that candidate Obama intended to deceive anti-war voters. As one might expect, a variety of factors militate against an assertion that the views Obama expressed in the Savage interview were disingenuous—that Obama had no intention of remaining faithful to limitations on executive power he outlined in 2007. I engage in a discussion of these issues factors not because they speak to Obama’s intent, but because of their relevance to a close reading of Obama’s earlier views and his 2011 actions. An analysis of these three factors—the “myth of the peace candidate,” Obama’s overzealous critique of executive power, and the institutional constraints of the presidency—further demonstrates the critical value of viewing candidate Obama’s foreign policy discourse through the lens of his campaign personae. This discussion offers insights useful in future scholarship examining foreign policy campaign rhetoric, and poses new questions for rhetorical scholars seeking to understand the evolution of the discourses of war.

The Myth of the Peace Candidate

Perceptions of Obama as the “peace candidate,” and subsequently as a wholesale betrayer of his campaign image, follows a larger pattern in American history in which publicly-held views of presidential candidates are contradicted by their actions as president. Carter examines the Obama administration’s foreign policy from the perspective of just war theory and argues that “it is simply not true that the nation never elects the peace candidate. The better interpretation of the history—and the interpretation that makes perfect sense of President Obama’s Nobel Address—is that there are no true peace candidates.”¹³³ From Woodrow Wilson’s reelection in 1916 on a slogan of “He

Kept Us Out of War,” to Richard Nixon’s secret plan to end the conflict in Vietnam, American presidential campaigns have repeatedly featured candidates who have been unable to meet the lofty expectations placed upon them by anti-war voters.¹³⁴ The left’s disillusionment with Obama was hardly unique; those perceived as peace candidates do not become peace presidents.¹³⁵

While acknowledging the widespread public image of Obama as a peace candidate, Carter recommends analyzing the “nascent Obama Doctrine” through Obama’s own words and actions, and he concludes that “the contrast between President Obama and his predecessor is quite a bit smaller than most observers expected.”¹³⁶ Those voters hoping for a more dramatic departure from the policies of the Bush administration, in many respects, construed the Obama platform in a way that ignored the nuanced, substantive policy program articulated by the candidate. In essence, Carter argues that the primary source of disillusionment is not Obama’s record in office, but the misinterpretation of his foreign policy ideals by supporters during the 2008 campaign. This misinterpretation, however, does not fully account for the perceived disconnect between candidate Obama’s two foreign policy personae, nor does it fully explain the Obama administration’s dramatic reversal on presidential war powers.

Candidate Obama’s Aggressive Critique

The Obama campaign’s critique of George W. Bush’s foreign policy was not limited to questioning the wisdom of the Iraq invasion; it included a powerful condemnation of the Bush administration’s expansive view of executive power which, as president, Obama promised to reject. While several elements of his handling of the Libyan and Syrian crises were consistent with candidate Obama’s substantive platform,

President Obama's unilateral decision to introduce U.S. forces into hostilities in Libya, and his subsequent assertions of power in the 2013 Rose Garden speech, violated candidate Obama's pledge to limit the powers of the commander in chief.

The Obama administration declined to secure—or even pursue—prior congressional authorization for the Libyan intervention, instead choosing to cloak itself in legal arguments that were widely ridiculed, even by those voicing support for the mission itself.¹³⁷ The White House's limited consultation with Congress led to pushback on partisan, procedural, and substantive grounds. Indeed, Obama's discourse on Libya fueled the narrative among some of the left's leading voices that the administration had been even worse than its predecessor with regard to executive power.¹³⁸ Unlike the general disillusionment that anti-war activists have expressed over a perceived betrayal of Obama's implied campaign platform of peace, President Obama's failure on this issue flowed from his rhetorical decision to explicitly condemn the Bush administration and outline a very specific, circumscribed view of presidential war powers. The argument that president lacks the authority to launch military attacks without prior congressional approval was one Obama chose to make. Even Carter, who defends the administration's general foreign policy and partly excuses as typical the contradiction between Obama's critique and his behavior in office, acknowledges that “the vehement attacks” on Bush's excesses “were overblown.”¹³⁹ While Obama's campaign rhetoric on this issue may have helped develop his *bona fides* as a “change” candidate, it subsequently subjected the president to charges of hypocrisy, particularly given the likelihood that Congress would have authorized the Libya mission had the president merely asked for it.¹⁴⁰ In this respect, Obama—no doubt inadvertently—channeled George W. Bush in assuming a synecdochal

foreign policy persona and framing the government's actions not as policies to be deliberated, but as *fait accomplis* dictated by the nation's inherent character as interpreted by the "Decider."¹⁴¹

The 2013 Syrian crisis was a much more complicated series of events that requires a more nuanced, interpretive, and even speculative analysis. On the surface, the Obama announced a decision and planned course of action without meaningful or open debate in Congress. Furthermore, he went further than in Libya by explicitly advancing a theory of executive war power that flew in the face of his 2007 position. The mere articulation of a theory is arguably less significant than acting on that same theory without explicitly advancing it, but an overt public expression of limits carries with it an element of clarity that ambiguous and unexplained action cannot. On the other side of the ledger, Obama's approach to Syria championed broader deliberation in ways his Libyan actions did not. The Rose Garden speech represented an awkward nod to the value of public participation and the role of Congress in the deliberative process—both touchstones of his campaign platform. The president assured the nation he had deliberated thoroughly, including discussions with members of Congress he referenced by name, and announced his decision prior to acting for the expressed purpose of facilitating additional debate. And Obama's subsequent September 10 speech returned, in some respects, to the clearly defined limits of executive power he and Vice President Biden separately emphasized during the 2008 campaign. Narrowly confining one's analysis to the text reveals this much, but expanding the gaze suggests the existence of more beneath the surface that might explain Obama's attempt to reconcile competing values.

Media reports contemporaneous to the Rose Garden speech and its immediate aftermath describe a president grappling with the proper way to respond to an atrocity while avoiding geopolitical blunders and adhering to his articulated vision for a deliberative, restrained presidency. The “surprise U-turn”¹⁴² not only delayed action, it prompted befuddled reactions that the Obama seemed “to be continually having an argument with himself” instead of embodying the decisive leadership expected of presidents.¹⁴³ But closer looks at the White House deliberative process and Obama’s thinking, in particular the exhaustive reporting of Jeffrey Goldberg, suggest a president consciously attempting to balance a variety of competing values and material realities. The moral imperative to respond to atrocities, the need to condemn the use of chemical weapons, and the importance of personal and national “credibility” were at odds with Obama’s assessment of the real-world consequences in Syria. Of more direct relevance to his clearly stated values, unilateral action also lacked the broad international support Obama preferred, further entrenched the militaristic posture of a nation weary of war, and exceeded his interpretation of executive authority—a factor he had been “brooding on for some time.”¹⁴⁴ It is reckless to conclude that the Libyan experience and the political fallout of circumventing Congress and violating the values of his campaign were decisive in Obama’s calculation on Syria. But the circumstances, behind-the-scenes accounts, and rhetorical connections are difficult to dismiss. He tells Goldberg that the “scope of executive power” is “not limitless,” and that that concern was one of four shaping how he approached the events of 2013.¹⁴⁵ More broadly, his words and actions suggest a leader juggling a litany and values and derivative policy preferences—some deeply cherished, some reluctantly accepted, and others strategically camouflaged.

The Institutional Constraints of the Presidency

On two major fronts, President Obama has faced constraints that were created by his own campaign rhetoric but were significantly influenced by other factors: the mediated nature of contemporary campaigns, and the institutional constraints of the presidency. The Obama campaign shoulders much of the responsibility—or, viewed within the context of his successful campaign, credit—for constructing an image that would later bind his presidency. Yet to exclude the mediated nature of campaigns and the institutional dynamics of the presidency from the analysis would be to ignore important contributing factors that influence all politicians.

While political campaigns strive to construct favorable public perceptions of candidates, those perceptions are not transmitted directly from the candidate to the voter. Rather, the mediation of political discourse impacts what information is presented and influences how it is interpreted by the public. In his bestselling 2006 autobiography, *The Audacity of Hope*, Obama reflected on this media influence, recognizing it as “the filter through which my votes are interpreted, my statements analyzed, my beliefs examined. For the broad public at least, I am who the media says I am. I say what they say I say. I become who they say I become.”¹⁴⁶ Obama was not the first “celebrity” candidate, but characterizations of him as an iconic “rock star” were prevalent in a way not seen in recent history.¹⁴⁷ The mediated image of Obama as an agent of change fueled a simplistic, publicly held perception of Obama as a peace candidate and exaggerated the differences between Obama’s stated approach to the presidency and that of George W. Bush.¹⁴⁸

Upon taking office, candidate Obama underwent a metamorphosis common to all elected presidents. Quite simply, campaigning gave way to governing. Even if one ascribes to Patterson's optimistic view that most candidates are genuinely committed to their platforms, the realities of governance inevitably complicate promises made during the campaign. The value of reining in executive power can clash with the need to expediently confront global crises, and the conditions upon which campaign promises were made can change. The argument can certainly be made that Obama's foreign policy vision of opposing atrocities was a higher priority than his adherence to constitutional separation of powers.¹⁴⁹ That argument, however, is undermined by the administration's derided claims regarding presidential war powers that strained credulity and directly contradicted candidate Obama's 2007 articulation of executive authority. Whether one interprets Obama's critique of Bush as politically motivated or a heartfelt objection, the end result was the same: when faced with the power and responsibility of the nation's highest office, Obama found it necessary to distance himself from the principles he articulated during the campaign.¹⁵⁰ In this respect, that rhetorical and political distancing was more typical.

Carter frames Obama's "transformation" from a peace candidate to a "war president" by positing his belief that "President Obama has learned what so many of his predecessors were also brought unwillingly to accept: that America faces real enemies in the world, and keeping the nation at peace, ironically, sometimes requires battle."¹⁵¹ Carter's analysis indirectly affirms Patterson's suggestion that conditions change between a politician's campaign and their administration, even if that "condition" is nothing more than the individual's reluctant acceptance of geopolitical reality.

Conclusion

It is tempting for observers to oversimplify political time into a linear narrative.¹⁵² When applied to a political figure's career, such an approach can characterize a politician as "evolving" on an issue from point A to point Z, with each intervening stop representing some incremental checkpoint at which their policies, actions, and discourse can be tracked. I concede that politicians change, and that political time inform our understanding of a given moment. But my analysis of Obama's rhetoric on the value of deliberation and limits to executive war power, albeit confined to these case studies, yields more nuanced findings. Obama did not march steadily from his campaign (A) to his handling of the Libyan intervention (B) to the Syrian crisis (C). I concede that, from a distance and through a narrow lens, such a case can be made: candidate Obama strongly supported transparency and inclusive deliberation and rejected expansive theories of executive power; the 2011 version of Obama acted in contravention of those values; the 2013 version of Obama explicitly embraced those expansive theories of power and argued that deliberation is a mere luxury. Such an analysis of rhetoric and events offers a distorted perspective of both the broader narrative and of discrete texts. It views political events in a vacuum and political actors as one-dimensional. I interpret Obama's 2013 destination not as the endpoint of a line, but as yet another instance of an agent attempting—perhaps expertly, perhaps awkwardly—to reconcile competing values with unique circumstances. The Obama of 2013 was not a drifting continuation of his past, but the culmination or synthesis of it.

How Obama communicated, the way world events shaped—and were shaped by—his rhetoric, and the cultural and institutional environments in which Obama inhabited must all be accounted for. To appreciate Obama's actions and rhetorical choices, and to more adequately understand the how presidents and candidates approach the limits of their authority and the deliberative vision they seek to cultivate, scholars must look beyond the discourse itself. Attending to the meta-deliberative realm—to the explicit and implicit debate over how issues are deliberated—is a step toward that broader understanding.

This approach reveals that Obama's unique foreign policy legacy provides an opportunity to better understand how the deliberative approaches of contemporary candidates-turned-presidents may evolve. Simultaneously, publicly held perceptions of Obama's foreign policy consistency have often been distorted, and some—although certainly not all—of Obama's alleged evolution can be characterized as typical given the polysemic nature of campaigning and the complexities of politics. Still, Obama's place in political time, his background as a legal scholar, and his atypical specificity on the limits of executive power differentiate him—if not by kind, then at least by significant degree—from previous presidents. However one accounts for this difference, its existence underscores the importance of constant critique attending to the underlying conditions of national security debate. If Obama's explicit rejection of his predecessor's deliberative and legal approaches lacked substantive clarity, citizens hoping to extract meaning from campaign discourse face a daunting challenge. And candidate speeches, themes, platforms, and debate performances may be of little value as deliberative texts unless they are examined as part of a broader study of rhetorical conditions. Similarly, if Obama's

governing philosophy changed or his administration's rhetoric was repurposed to serve pragmatic ends, the factors spurring such changes must be elucidated. In short, campaign rhetoric is inherently polysemic, national security issues are plagued by nuance and changing conditions, and the clearest words from the sincerest candidates may be far less significant than the unseen forces shaping political reality and constraining rhetorical possibilities.

That these concerns are immediately apparent in areas of foreign policy that are relatively open to debate and scrutiny further reinforces the need to address questions of power, authority, and transparency from a meta-deliberative perspective. The nation's overt military interventions may seem shielded from scrutiny when compared to domestic policy, but they are far more accessible than covert or clandestine activities. As I explore in the following chapter, the public's capacity for meaningful deliberation over covert actions and programs is further undermined by radically decreased access to information and greater claims of executive autonomy.

Notes

¹ Michael Powell, "Obama, the Self-Described 'Rorschach Test,' Liberal but Inscrutable," *New York Times*, June 4, 2008, <http://www.nytimes.com/2008/06/04/world/americas/04iht-obama.1.13459637.html>.

² Barack Obama, "Remarks by the President in Address to the Nation on Libya," March 28, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya>.

³ Barack Obama, "Statement by the President on Syria," August 31, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/08/31/statement-president-syria>.

⁴ Heather Horn, "To Know a Tyrant: Inside Bashar Al-Assad's Transformation from 'Reformer' to Killer," *Atlantic*, September 18, 2012,

<https://www.theatlantic.com/international/archive/2012/09/to-know-a-tyrant-inside-bashar-al-assads-transformation-from-reformer-to-killer/262486/>.

⁵ Flynt Leverett, *Inheriting Syria: Bashar's Trial by Fire* (Washington, D.C.: Brookings Institution Press, 2005).

⁶ "Remarks by the President to the White House Press Corps," August 20, 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/08/20/remarks-president-white-house-press-corps>.

⁷ Jeffrey C. Alexander, *The Performance of Politics: Obama's Victory and the Democratic Struggle for Power* (New York: Oxford University Press, 2010), 153.

⁸ Don Gonyea, "Obama Still Stumps on 2002 Anti-War Declaration," *NPR*, March 25, 2008, <http://www.npr.org/templates/story/story.php?storyId=88988093>.

⁹ Barack Obama, "Renewing American Leadership," *Foreign Affairs*, July/August 2007, <http://www.foreignaffairs.com/articles/62636/barack-obama/renewing-american-leadership>.

¹⁰ Obama's major rivals for the 2008 Democratic Party presidential nomination supported or voted in favor of the 2002 Iraq Resolution, as did 2004 nominee John Kerry. Obama would frequently reference this fact during the campaign, and emphasized its significance, arguing at a rally in 2008: "On the most important national security question since the Cold War, I am the only candidate who opposed the war in Iraq from the beginning." Gonyea, "Obama Still Stumps."

¹¹ Glenn Greenwald, "The Illegal War in Libya," *Salon*, May 19, 2011, http://www.salon.com/2011/05/19/libya_7/; Bruce Ackerman, "Obama's Unconstitutional War," *Foreign Policy*, March 24, 2011, <https://foreignpolicy.com/2011/03/24/obamas-unconstitutional-war/>.

¹² Greenwald, "The Illegal War in Libya."

¹³ Hebdige rejects "the simple notion of reading as the revelation of a fixed number of concealed meanings," and notes that the idea of *polysemy* views each text as capable of generating "a potentially infinite range of meanings." Through polysemy, the position of the rhetor and the process of meaning-construction take on added importance, and the aesthetic distinctions between form and content are blurred. Given the Obama candidacy's use of style and the multivalent interpretations of Obama's platform—particularly on foreign policy—I view polysemy as a useful explanatory concept. Dick Hebdige, *Subculture: The Meaning of Style* (New York: Routledge, 1979), 117-118.

¹⁴ The spot aired in 24 states, and thus cost far less than a typical Super Bowl advertisement shown nationwide. Jeff Zeleny, "Obama's Super Bowl Ad: 'Join,'" *Caucus*, February 3, 2008, <http://thecaucus.blogs.nytimes.com/2008/02/03/obamas-super-bowl-ad-join/>.

¹⁵ Stephen L. Carter, *The Violence of Peace: America's Wars in the Age of Obama* (New York: Beast Books, 2011), 5.

¹⁶ Hallin notes that the duration of the average political sound bite presented on television news dropped from 43 seconds in 1968 to nine seconds in 1988. Daniel C. Hallin, "Sound Bite News: Television Coverage of Elections, 1968-1988," *Journal of Communication* 42, no. 2 (1992): 5; Similar findings have been reported for print journalism. See David M. Ryfe and Markus Kemmelmeier, "Quoting Practices, Path Dependency and the Birth of Modern Journalism," *Journalism Studies* 12, no. 1 (2011): 10-26.

¹⁷ Obama's opposition was essentially as a private citizen. While serving as a state senator, Obama delivered a speech in 2002 criticizing the invasion. See Gonyea, "Obama Still Stumps."

¹⁸ Sam Youngman, "Once the anti-war candidate, Obama strikes military posture," *Hill*, March 19, 2011, <http://thehill.com/homenews/administration/150803-once-the-anti-war-candidate-obama-strikes-military-posture>.

¹⁹ *Ibid.*

²⁰ Hillary Clinton's memorable "3 a.m." television commercial argued that voters should select someone with experience and familiarity with global leaders who is "tested and ready to lead in a dangerous world," strongly implying that Obama lacked those qualifications. Obama's general election opponent, John McCain, would later run a much-criticized advertisement lampooning Obama's "rock-star" status and questioning his readiness.

²¹ Obama, "Renewing American Leadership."

²² *Ibid.*

²³ *Ibid.*

²⁴ Joe Miller, "Obama a Constitutional Law Professor?" *FactCheck.org*, March 28, 2008, <http://www.factcheck.org/2008/03/obama-a-constitutional-law-professor/>.

²⁵ The *Boston Globe* published the exchange as a "Q&A" without further explanation. In my personal conversation with him, Savage indicated that these answers were provided as written responses to a questionnaire, and he strongly believes they were written by Jeh Johnson. Johnson served as a key adviser to Obama's 2008 campaign, General Counsel to the Department of Defense during Obama's first term and Secretary of Homeland Security during his second.

²⁶ Charlie Savage, "Barack Obama's Q&A," *Boston Globe*, December 20, 2007, <http://www.boston.com/news/politics/2008/specials/CandidateQA/ObamaQA/>.

²⁷ *Hardball with Chris Matthews* (MSNBC, December 4, 2007), accessed December 1, 2011, <http://www.youtube.com/watch?v=8hj5hvmCYIY>.

²⁸ Marie Horigan, "Obama's Foreign Policy Speech Leaves Room for Debate," *New York Times*, August 1, 2007, http://www.nytimes.com/cq/2007/08/01/cq_3207.html.

²⁹ "President Kennedy said it best: 'Let us never negotiate out of fear, but let us never fear to negotiate.'" Barack Obama, "The War We Need to Win," August 1, 2007, <http://www.americanrhetoric.com/speeches/barackobamawilsoncenter.htm>.

³⁰ Ibid.

³¹ For background on Bush's "Decider" image, see Sheryl Gay Stolberg, "The Decider," *New York Times*, December 24, 2006, WK4, <http://www.nytimes.com/2006/12/24/weekinreview/24stolberg.html>.

³² Macon Phillips, "Change Has Come to WhiteHouse.gov," *Whitehouse.gov*, January 20, 2009, <https://obamawhitehouse.archives.gov/blog/2009/01/20/change-has-come-whitehousegov>.

³³ Barack Obama, "Remarks to White House Senior Staff," *Government Printing Office*, January 21, 2009, <https://www.gpo.gov/fdsys/pkg/PPP-2009-book1/pdf/PPP-2009-book1-Doc-pg4.pdf>.

³⁴ Nominations for the Nobel Peace Prize closed on February 1, 2009—12 days after Obama took office. "US Media on Obama Nobel Award," *BBC News*, October 9, 2009, <http://news.bbc.co.uk/2/hi/americas/8299697.stm>.

³⁵ Walter Gibbs, "From 205 Names, Panel Chose the Most Visible," *New York Times*, October 9, 2009, A10, <http://www.nytimes.com/2009/10/10/world/10oslo.html>.

³⁶ German Chancellor Angela Merkel said "In a short time he has been able to set a new tone throughout the world and to create a readiness for dialogue." Steven Erlanger and Sheryl Gay Stolberg, "Surprise Nobel for Obama Stirs Praise and Doubts," *New York Times*, October 9, 2009, A1, <http://www.nytimes.com/2009/10/10/world/10oslo.html>.

³⁷ "The Nobel committee's embrace of Mr. Obama was viewed as a rejection of the unpopular tenure, in Europe especially, of his predecessor, George W. Bush." Ibid.

³⁸ Helen Chapin Metz, *Libya: A Country Study* (Washington: GPO for the Library of Congress, 1987), <http://countrystudies.us/libya/29.htm>.

³⁹ "Muammar Gaddafi Ordered Lockerbie Bombing, Says Libyan Minister," *NewsCore*, February 24, 2011, <http://www.news.com.au/breaking-news/muammar-gaddafi-ordered-lockerbie-bombing-says-libyan-minister/news-story/c50c72d02fcbdfaebd7e77081bd24a7e>.

⁴⁰ Ben Wedeman, “Documents Shed Light on CIA, Gadhafi Spy Ties,” *CNN.com*, September 3, 2011, <http://www.cnn.com/2011/WORLD/africa/09/03/libya.west.spies/index.html>.

⁴¹ Wedeman, “Documents Shed Light.”

⁴² “Gaddafi Says Protesters Are on Hallucinogenic Drugs,” *Reuters*, February 24, 2011, <http://www.reuters.com/article/2011/02/24/us-libya-protests-gaddafi-idUSTRE71N4NI20110224>.

⁴³ Adrian Blomfield, “Libya: ‘More Than 1,000 dead,’” *Telegraph*, February 23, 2011, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8342543/Libya-more-than-1000-dead.html>.

⁴⁴ See Blomfield, “Libya,”; “Gaddafi: ‘I Will Not Give up’, ‘We Will Chase the Cockroaches,’” *Times of Malta*, February 22, 2011, <https://www.timesofmalta.com/articles/view/20110222/local/gaddafi-in-fighting-speech-i-will-not-give-up.351487>; “Libya: Anti-Gaddafi Protesters ‘Under Fire’ in Tripoli,” *BBC News*, February 25, 2011, <http://www.bbc.com/news/world-africa-12576427>; “Libya Unrest: Scores Killed in Benghazi ‘Massacre,’” *BBC News*, February 20, 2011, <http://www.bbc.com/news/world-africa-12517327>.

⁴⁵ “UN Security Council Resolution 1973 (2011) on Libya – Full Text,” *Guardian*, March 17, 2011, <https://www.theguardian.com/world/2011/mar/17/un-security-council-resolution>.

⁴⁶ Richard Roth, “U.N. Security Council Approves No-Fly Zone in Libya,” *CNN.com*, March 18, 2011, <http://www.cnn.com/2011/WORLD/africa/03/17/libya.civil.war/index.html>.

⁴⁷ “US Briefs Journalists on Libya Operation,” *Al Jazeera English*, March 19, 2011, <https://www.youtube.com/watch?v=VII2SZ5iMWA>.

⁴⁸ “Libya: US confirms first Predator strike,” *BBC News*, April 23, 2011, <http://www.bbc.co.uk/news/world-africa-13176645>.

⁴⁹ Alexander, *The Performance of Politics*, 153.

⁵⁰ Carter, *The Violence of Peace*, 2.

⁵¹ Aristotle, *Rhetoric*, Book III Ch. 1. Voters supporting other candidates would also misconstrue the foreign policy positions of 2008 presidential contenders. Exit polling in the early Republican Party primaries found that John McCain, the GOP’s “most relentless and unapologetic guardian of an enduring American presence in Iraq, [had] become the favored candidate of antiwar voters.” Sasha Issenberg, “McCain, Hawk on Iraq, Getting Antiwar Vote,” *Boston Globe*, January 25, 2008, http://archive.boston.com/news/nation/articles/2008/01/25/mccain_hawk_on_iraq_getting_antiwar_vote/.

⁵² “It’s a good thing we didn’t elect John McCain in 2008. . . . Instead, we elected Barack Obama, who firmly rejected military action for purely humanitarian reasons.” Steve Chapman, “War: Obama’s Fatal Attraction,” *Chicago Tribune*, March 24, 2011, http://articles.chicagotribune.com/2011-03-24/news/ct-oped-0324-chapman-20110324_1_president-obama-candidate-obama-barack-obama.

⁵³ MJ Lee, “Obama Is Keeping His Peace Prize,” *Politico*, March 24, 2011, http://www.politico.com/politico44/perm/0311/a_noble_defense_dccb5644-d067-404b-8580-b939a4056f06.html.

⁵⁴ “The Nobel Peace Prize for 2009,” *Nobel Media*, October 9, 2009, http://www.nobelprize.org/nobel_prizes/peace/laureates/2009/press.html.

⁵⁵ The Nobel Committee also noted Obama’s commitment to multilateralism, international institutions such as the United Nations, democracy, and human rights.

⁵⁶ Obama, “Renewing American Leadership.”

⁵⁷ Jon Hilsenrath, “Gates Says Libya Not Vital National Interest,” *Wall Street Journal*, March 27, 2011, <http://www.wsj.com/articles/SB10001424052748704308904576226704261420430>.

⁵⁸ Obama, “Remarks by the President in Address to the Nation on Libya.”

⁵⁹ Obama, “Renewing American Leadership.”

⁶⁰ *Ibid.*

⁶¹ Obama, “Remarks by the President in Address to the Nation on Libya.”

⁶² Obama dedicated a relatively brief portion of his remarks to addressing the concerns of Americans who, “despite the success of our efforts over the past week. . . continue to have questions.” He grouped dissenters into those who “question why America should intervene at all” and “others who have suggested that we broaden our military mission. . . and do whatever it takes to bring down Gaddafi and usher in a new government.” Curiously, Obama framed the debate as having “put forward a false choice.” *Ibid.*

⁶³ John M. Murphy, “‘Our Mission and Our Moment’: George W. Bush and September 11th,” *Rhetoric & Public Affairs* 6, no. 4 (2003): 612.

⁶⁴ *Ibid.*, 616.

⁶⁵ Michael J. Bergmaier, “The Presidential Campaign of Rudolph Giuliani: An Analysis through the September 11 Textual Frame of George W. Bush.” (Central States Communication Association, Milwaukee, WI, 2011), 4.

⁶⁶ “‘I was startled to hear Secretary Gates say that Libya was not in our vital interest,’ said Sen. Richard Lugar of Indiana, the ranking Republican on the Senate Foreign Relations Committee. ‘I personally don’t think we should be engaged in a Libyan civil war.’” Hilsenrath, “Gates.”

⁶⁷ See Michael A. Memoli and Lisa Mascaro, “White House Sees No Need for Congressional Approval on Libya,” *Los Angeles Times*, June 15, 2011, <http://articles.latimes.com/2011/jun/15/news/la-pn-white-house-libya-20110615>; Charlie Savage, “Justice Memo Upholds Libya Strikes,” *Caucus*, April 7, 2011, <https://thecaucus.blogs.nytimes.com/2011/04/07/justice-memo-upholds-libya-strikes/>; Jake Tapper and Devin Dwyer, “President Obama’s Libya Intervention Hits 60-Day Legal Limit,” *ABC News*, May 20, 2011, <http://abcnews.go.com/Politics/libya-president-obama-congress-faces-questions-war-powers-act/story?id=13642002>.

⁶⁸ Obama, “Remarks by the President in Address to the Nation on Libya.”

⁶⁹ See Joseph E. Macmanus and Elizabeth L. King, *United States Activities in Libya*, (June 15, 2011), <https://fas.org/man/eprint/wh-libya.pdf>.

⁷⁰ “Libya, War Powers Start White House, Congress on Collision Course,” *PBS*, June 14, 2011, <https://www.pbs.org/newshour/amp/bb/libya-war-powers-start-white-house-congress-on-collision-course>.

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Jennifer Steinhauer, “House Rebukes Obama for Continuing Libyan Mission Without Its Consent,” *New York Times*, June 3, 2011, <http://www.nytimes.com/2011/06/04/world/africa/04policy.html>.

⁷⁴ The Obama administration’s legal memo to Congress argued that “The President is of the view that the current U.S. military operations in Libya are consistent with the War Powers Resolution and do not under that law require further congressional authorization, because U.S. military operations are distinct from the kind of “hostilities” contemplated by the Resolution’s 60 day termination provision.” Jack Goldsmith, head of the Department of Justice’s Office of Legal Counsel under President George W. Bush, was among those who criticized the Obama administration’s argument. See Jack Goldsmith, “Problems with the Obama Administration’s War Powers Resolution Theory,” *Lawfare*, June 16, 2011, <https://www.lawfareblog.com/problems-obama-administrations-war-powers-resolution-theory/>. Many who supported the administration’s decision to intervene were also critical of the president for failing to secure congressional authorization. See “Editorial: Libya and the War Powers Act,” *New York Times*, June 16, 2011, <http://www.nytimes.com/2011/06/17/opinion/17fri1.html>.

⁷⁵ Steinhauer, “House Rebukes Obama.” A second House resolution, authored by Democratic Rep. Dennis Kucinich, was more critical of the administration and demanded the withdrawal of U.S. forces. It failed by a vote of 148-265.

⁷⁶ Ibid. Although the Senate did not take up the House's resolution, on March 30, Republican Senator Rand Paul unsuccessfully attempted to amend a small-business reauthorization bill by including language adopting, as the official "sense of the Senate," Barack Obama's 2007 interpretation of presidential war powers. The language in Paul's amendment was taken, verbatim, from Obama's responses to Charlie Savage of the *Boston Globe*. In response, Senate Majority Leader Harry Reid "abruptly adjourned" the chamber. Robert Costa, "Paul Rankles Reid on Libya," *National Review*, April 1, 2011, <http://www.nationalreview.com/corner/263650/paul-rankles-reid-libya-robert-costa>.

⁷⁷ "Remarks by the President to the White House Press Corps."

⁷⁸ See Patrick Seale, "Hafez Al-Assad," *Guardian*, June 14, 2000, <http://www.theguardian.com/theguardian/2000/jun/15/guardianweekly.guardianweekly1;Leverett, Inheriting Syria>.

⁷⁹ Seale, "Hafez Al-Assad."

⁸⁰ Eyal Zisser, *Commanding Syria: Bashar Al-Asad and the First Years in Power* (London: I.B. Tauris, 2006).

⁸¹ "Syrian President Bashar Al-Assad: Facing down Rebellion," *BBC News*, October 21, 2015, <http://www.bbc.com/news/10338256>.

⁸² Leverett, *Inheriting Syria*.

⁸³ Farid N. Ghadry, "Syrian Reform: What Lies Beneath," *Middle East Quarterly* 12, no. No. 1 (2005): 61–70.

⁸⁴ Assad was "confirmed" with 97.3 percent of the vote in 2000 and "reelected" with 97 percent in another referendum in 2007. He was unopposed on the ballot. Ian Black, "Democracy Damascus Style: Assad the Only Choice in Referendum," *Guardian*, May 27, 2007, <https://www.theguardian.com/world/2007/may/28/syria.ianblack>; "Syrian President Bashar Al-Assad"; Associated Press, "Syrians Vote for Assad in Uncontested Referendum," *Washington Post*, May 28, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/27/AR2007052701117.html>.

⁸⁵ "However, analysts say that in addition to the repressive state apparatus, factors such as a relatively popular president and religious diversity make an uprising in the country unlikely." Cajsja Wikstrom, "Syria: 'A Kingdom of Silence,'" *Al Jazeera*, February 9, 2011, <http://www.aljazeera.com/indepth/features/2011/02/201129103121562395.html>.

⁸⁶ Bassam Haddad, "Why Syria Is Unlikely to Be Next...for Now," *Syria Comment*, March 11, 2011, <http://www.joshualandis.com/blog/why-syria-is-unlikely-to-be-next-for-now-by-bassam-haddad/>.

⁸⁷ Suleiman al-Khalidi, “Syrian Mourners Call for Revolt, Forces Fire Tear Gas,” *Reuters*, March 19, 2011, <http://www.reuters.com/article/us-syria-idUSTRE72I22020110319>.

⁸⁸ “Face the Nation” (CBS, March 27, 2011).

⁸⁹ “Syria Protests: Rights Group Warns of ‘Deraa Massacre,’” *BBC News*, May 5, 2011, <http://www.bbc.com/news/world-middle-east-13299793>.

⁹⁰ “Syria’s State of Emergency,” *Al Jazeera*, April 17, 2011, <http://www.aljazeera.com/programmes/insidestory/2011/04/201141811610800805.html>.

⁹¹ Katherine Marsh and Martin Chulov, “Assad Blames Conspirators for Syrian Protests,” *Guardian*, March 30, 2011, <https://www.theguardian.com/world/2011/mar/30/syrian-protests-assad-blames-conspirators>; Bashar Al-Assad, “Speech to the Syrian Parliament by President Bashar Al-Assad,” trans. Joshua Landis, *Syria Comment*, March 30, 2011, <http://www.joshualandis.com/blog/speech-to-the-syrian-parliament-by-president-bashar-al-assad-wednesday-march-30-2011/>.

⁹² Brian Whitaker, “Syria: The Boldness of Bashar Al-Assad,” *Guardian*, March 31, 2011, <https://www.theguardian.com/commentisfree/2011/mar/31/syria-boldness-bashar-al-assad>.

⁹³ Kim Ghattas, “US Policy on Syria ‘Depends on Success in Libya,’” *BBC News*, May 24, 2011, <http://www.bbc.com/news/world-middle-east-13529923>.

⁹⁴ Louis Charbonneau, “Syria Conflict Now a Civil War, U.N. Peacekeeping Chief Says,” *Reuters*, June 12, 2012, <http://www.reuters.com/article/us-syria-crisis-un-idUSBRE85B11V20120612>; Peter Beaumont, “60,000 Killed in Syrian War, Says UN,” *Guardian*, January 2, 2013, <https://www.theguardian.com/world/2013/jan/02/60000-killed-syrian-war-un>.

⁹⁵ On August 30, 2013, Kerry gave a lengthy statement detailing many of the findings of U.S. and foreign intelligence services. Kerry emphasized that the U.S. intelligence community had “carefully reviewed and re-reviewed information regarding this attack,” and that “the American intelligence community has high confidence, high confidence” that the Assad regime was responsible. John Kerry, “Statement on Syria,” *U.S. Department of State*, August 30, 2013, <https://2009-2017.state.gov/secretary/remarks/2013/08/213668.htm>.

⁹⁶ The circumstances surrounding the international community’s support for strikes against the Syrian government were somewhat different from those surrounding Libya in 2011. Obama argued that some “friends” had expressed support “privately,” but listed no specific nations or organizations that had offered support. No U.N. Security Council Resolution had been passed authorizing an intervention, and key allies were less willing to publicly back the mission or take part in operations. Specifically, United Kingdom Prime Minister David Cameron, who had been forceful in his private push for

the United States to strike quickly, suffered a defeat in Parliament when a resolution supporting British involvement failed to pass. See Fred Kaplan, “Obama’s Gamble,” *Slate*, August 31, 2013, http://www.slate.com/articles/news_and_politics/war_stories/2013/08/obama_s_syria_speech_his_decision_to_seek_congressional_approval_for_his.html; Jeffrey Goldberg, “The Obama Doctrine,” *Atlantic*, April 2016, <https://www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/#1>.

⁹⁷ Many, including foreign leaders and prominent figures close to the administration, expected Obama to authorize strikes on August 30, 2011. See Goldberg, “The Obama Doctrine.”

⁹⁸ Patrick Sawyer, “Syria Crisis: Anti-War Protesters Claim Public Opinion Victory,” *Telegraph*, August 31, 2013, <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10278242/Syria-crisis-Anti-war-protesters-claim-public-opinion-victory.html>.

⁹⁹ Steve LeBlanc et al., “Possibility of US Strike in Syria Sparks Global Protests,” *Associated Press*, August 31, 2013, <http://www.foxnews.com/world/2013/09/01/possibility-us-strike-in-syria-sparks-global-protests.html>.

¹⁰⁰ Paul Martella, “Anti-War Demonstrators Protest Proposed U.S. Military Strike in Syria,” *KTLA*, August 31, 2013, <http://ktla.com/2013/08/31/anti-war-demonstrators-protest-u-s-military-action-in-syria/>.

¹⁰¹ “Surveys have found Americans generally support military action to stop genocide, but the 2013 debate laid bare the public’s hesitation about forcefully punishing Syria for using chemical weapons.” Scott Clement, “Analysis | Americans Hated the Idea of Strikes against Syria in 2013. But Trump’s Could Be Different.,” *Washington Post*, April 7, 2017, <https://www.washingtonpost.com/news/the-fix/wp/2017/04/07/military-strikes-in-syria-were-very-unpopular-four-years-ago-but-trumps-could-be-different/>.

¹⁰² Haroon Siddique and Tom McCarthy, “Kerry Says Obama ‘Has the Right’ to Strike Syria without Congress – as It Happened,” *Guardian*, September 1, 2013, <https://www.theguardian.com/world/2013/sep/01/syria-crisis-reaction-obama-decision-military-action>.

¹⁰³ Siddique and McCarthy, “Kerry Says Obama.”

¹⁰⁴ The “pin prick” critique was largely deployed by hawkish Republicans and was a caricature of the administration’s position. On September 9, Kerry described the proposed mission as a “very limited, very targeted, short-term effort” and “unbelievably small.” Tal Kopan, “‘Unbelievably Small,’” *Politico*, September 9, 2013, <http://www.politico.com/story/2013/09/syria-john-kerry-unbelievably-small-comment-96461.html>.

¹⁰⁵ Clement, “Analysis.”

¹⁰⁶ Reporter Margaret Brennan asked for Kerry's reaction to Assad's denials that his forces were responsible for the attack and asked, "Is there anything at this point that his government could do or offer that would stop an attack?" U.S. Department of State, "Secretary Kerry Delivers Remarks with United Kingdom Foreign Secretary Hague," September 9, 2013, https://www.youtube.com/watch?v=h_ONOiEPxWc.

¹⁰⁷ See Anischuck; Matt Spetalnick and Arshan Mohammed, "Analysis: How Kerry's Off-Hand Remark Put a Deal on Syria in Play," *Reuters*, September 10, 2013, <http://www.reuters.com/article/us-syria-crisis-analysis-idUSBRE98902D20130910>.

¹⁰⁸ Patrick Wintour, "John Kerry Gives Syria Week to Hand over Chemical Weapons or Face Attack," *Guardian*, September 9, 2013, <https://www.theguardian.com/world/2013/sep/09/us-syria-chemical-weapons-attack-john-kerry>.

¹⁰⁹ Matt Viser, "How Secretary of State John Kerry's Offhand Comment Set off Diplomatic Scrambling," *Boston Globe*, September 11, 2013, <https://www.bostonglobe.com/news/nation/2013/09/10/how-secretary-state-john-kerry-offhand-comment-set-off-diplomatic-scrambling/6YyGZn4dfUc4YXm8DVn06J/story.html>.

¹¹⁰ Spetalnick and Mohammed, "Analysis."

¹¹¹ *Ibid.* See also "Watch Obama: 'It's Fair to Say That I Haven't Decided'," *MSNBC*, September 9, 2013, <http://www.msnbc.com/msnbc/watch-obama-its-fair-say-i-haven>.

¹¹² Barack Obama, "Remarks by the President in Address to the Nation on Syria," September 10, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/09/10/remarks-president-address-nation-syria>.

¹¹³ "Vote count estimates by the *Washington Post* and the *New York Times*, among others, indicate that far more members of Congress oppose military action in Syria than support it – a reflection of Americans' wariness of engagement in another conflict in the Middle East." Spetalnick and Mohammed, "Analysis."

¹¹⁴ Michael R. Gordon, "U.S. and Russia Reach Deal to Destroy Syria's Chemical Arms," *New York Times*, September 14, 2013, <https://www.nytimes.com/2013/09/15/world/middleeast/syria-talks.html>.

¹¹⁵ "In fact, the red line chapter *is* emblematic of Obama's foreign policy strategy: This kind of long-range, flexible, restrained and targeted policy is a hallmark of his unique approach to global problems. But instead of being seen as a mistake, it should be considered an accomplishment." Derek Chollet, "Obama's Red Line, Revisited," *Politico*, July 19, 2016, <http://politi.co/2a425qD>.

¹¹⁶ The use of "dithering" as an—often partisan—insult against Obama for a perceived lack of aggressive action was seen countless times during his presidency. For

two typical examples of it used as a pejorative, see Peter Foster, “Barack Obama a ‘Dithering, Controlling, Risk-Averse’ US President,” *Telegraph*, March 4, 2013, <http://www.telegraph.co.uk/news/worldnews/barackobama/9908260/Barack-Obama-a-dithering-controlling-risk-averse-US-president.html>; Walter Russell Mead, “The Cost of Obama’s Syria Dithering,” *Time*, August 27, 2013, <http://ideas.time.com/2013/08/27/obama-and-the-sybil-2/>. For a counterexample in which “dithering” is reappropriated into a compliment, see Matt Bai, “Escalations,” *New York Times*, October 29, 2009, <https://www.nytimes.com/2009/11/01/magazine/01fob-wwln-t.html>.

¹¹⁷ Goldberg, “The Obama Doctrine.”

¹¹⁸ Chuck Todd, “The White House Walk-and-Talk That Changed Obama’s Mind on Syria,” *NBC News*, September 1, 2013, <http://www.nbcnews.com/news/other/white-house-walk-talk-changed-obamas-mind-syria-f8C11051182>; Paul Lewis, “US Attack on Syria Delayed after Surprise U-Turn from Obama,” *Guardian*, August 31, 2013, <https://www.theguardian.com/world/2013/aug/31/syrian-air-strikes-obama-congress>.

¹¹⁹ Director of National Intelligence James Clapper “chose the term carefully,” given the intelligence communities sensitivity toward the failures in the period leading up to the invasion of Iraq. Goldberg, “The Obama Doctrine.”

¹²⁰ “*Mess* is the president’s diplomatic term; privately, he calls Libya a ‘shit show.’” Ibid.

¹²¹ Goldberg, “The Obama Doctrine.”

¹²² White House insiders commonly refers to it as “Don’t do stupid shit.” Ibid.

¹²³ See Ryan Lizza, “Leading from Behind,” *New Yorker*, April 26, 2011, <http://www.newyorker.com/news/news-desk/leading-from-behind>.

¹²⁴ When asked about the reasoning behind his change of heart on unilateral Syrian strikes at a press conference in Stockholm on September 3, Obama framed the issue largely in terms of imminent danger. “In terms of my decision to take the issue to Congress, this had been brewing in my mind for a while. Some people have noted -- and I think this is true -- that had I been in the Senate in the midst of this period, I probably would have suggested to a Democratic or a Republican President that Congress should have the ability to weigh in on an issue like this that is not immediate, imminent, time-sensitive. When the Chairman of the Joint Chiefs, Mr. Dempsey, indicated to me that whether we struck today, tomorrow, or a month from now, we could still do so effectively, then I think that raised the question of why not ask Congress to debate this in a serious way?” “Remarks by President Obama and Prime Minister Reinfeldt of Sweden in Joint Press Conference,” September 4, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/09/04/remarks-president-obama-and-prime-minister-reinfeldt-sweden-joint-press->.

¹²⁵ Obama, “Remarks by the President in Address to the Nation on Libya.”

¹²⁶ Goldberg, “The Obama Doctrine.”

¹²⁷ Siddique and McCarthy, “Kerry says Obama.”

¹²⁸ Stephen Sestanovich, “Why Credibility Matters,” *Atlantic*, March 14, 2016, <https://www.theatlantic.com/international/archive/2016/03/obama-doctrine-goldberg-free-rider-credibility/473616/>.

¹²⁹ “‘Where am I controversial? When it comes to the use of military power,’ he said. ‘That is the source of the controversy. There’s a playbook in Washington that presidents are supposed to follow. It’s a playbook that comes out of the foreign-policy establishment. And the playbook prescribes responses to different events, and these responses tend to be militarized responses. Where America is directly threatened, the playbook works. But the playbook can also be a trap that can lead to bad decisions. In the midst of an international challenge like Syria, you get judged harshly if you don’t follow the playbook, even if there are good reasons why it does not apply.’” Goldberg, “The Obama Doctrine.”

¹³⁰ *Ibid.*

¹³¹ George Washington University law professor Jeffrey Rosen argued in a 2008 editorial that Obama’s “candidacy offers a unique opportunity” to “elect our first president who is a civil libertarian.” Jeffrey Rosen, “A Card-Carrying Civil Libertarian,” *New York Times*, March 1, 2008, A17, <http://www.nytimes.com/2008/03/01/opinion/01rosen.html>. Three years later, Rosen’s GWU colleague Jonathan Turley evaluated Obama as an unexpected “disaster” on civil liberties, arguing that he “not only retained the controversial Bush policies, he expanded on them.” Jonathan Turley, “Obama: A Disaster for Civil Liberties,” *Los Angeles Times*, September 29, 2011, <http://articles.latimes.com/2011/sep/29/opinion/la-oe-turley-civil-liberties-20110929>. See also Rachel Quigley, “‘I No Longer Hope for Audacity’: Matt Damon Turns against Obama as President Loses His Celebrity Friends,” *Daily Mail*, March 4, 2011, <http://www.dailymail.co.uk/news/article-1362992/I-longer-hope-audacity-Matt-Damon-slams-Obama-running-country.html>.

¹³² Thomas E. Patterson, *Out of Order: An Incisive and Boldly Original Critique of the News Media’s Domination of America’s Political Process* (New York: Vintage, 1994), 11.

¹³³ Carter, *The Violence of Peace*, 6.

¹³⁴ *Ibid.*, 5.

¹³⁵ *Ibid.*, 161.

¹³⁶ *Ibid.*, 3-4.

¹³⁷ “Editorial,” *New York Times*.

¹³⁸ “At the same time, his assertions of executive authority to prosecute warfare seem to me significantly broader than those of his predecessor, George W. Bush.” Carter, *The Violence of Peace*, x.

¹³⁹ *Ibid.*, xi.

¹⁴⁰ “All that aside, what is undeniable is that Obama could have easily obtained Congressional approval for this war — just as Bush could have for his warrantless eavesdropping program — but consciously chose not to, even to the point of acting contrary to his own lawyers’ conclusions about what is illegal.” Glenn Greenwald, “Obama Rejects Top Lawyers’ Legal Views on Libya,” *Salon*, June 18, 2011, http://www.salon.com/2011/06/18/libya_10/.

¹⁴¹ “[W]e were not asked to debate policy, volunteer for the armed services, contribute to bond drives, or perform other public acts. Instead, the government would act in the public sphere and make policy. The citizens would act in the private sphere structured by that policy.” Murphy, “Our Mission,” 616.

¹⁴² Lewis, “US attack on Syria.”

¹⁴³ William Imboden, Chair of the Clements Center for National Security at the University of Texas at Austin, quoted in David Zucchini, “VOICES: Reactions to President Obama’s Syria Address,” *Los Angeles Times*, September 10, 2013, <http://graphics.latimes.com/towergraphic-reactions-obamas-syria-address/>.

¹⁴⁴ Goldberg, “The Obama Doctrine.”

¹⁴⁵ *Ibid.*

¹⁴⁶ Barack Obama, *The Audacity of Hope: Thoughts on Reclaiming the American Dream* (New York: Three Rivers Press, 2006), 145.

¹⁴⁷ See Alexander, *The Performance of Politics*; JibJab, *He’s Barack Obama*, June 19, 2009, <http://www.youtube.com/watch?v=kVFdAJRvm94>.

¹⁴⁸ Alexander, *The Performance of Politics*.

¹⁴⁹ For a discussion of how governing in the era of mediated politics leads to heightened scrutiny and the concept of a “permanent campaign,” see Sidney Blumenthal, *The Permanent Campaign: Inside the World of Elite Political Operatives* (Boston, MA: Beacon Press, 1980).

¹⁵⁰ “Some of the candidates’ lies are more rhetorical than real. In the heat of the campaign, candidates can seemingly convince themselves that wild charges about their opponents are true.” Patterson, *Out of Order*, 8.

¹⁵¹ Carter, *The Violence of Peace*, 2, xi.

¹⁵² For an exploration of “political time” that rejects a simplistic linear understanding in favor of recurring patterns, see Stephen Skowronek, *Presidential Leadership in Political Time: Reprise and Reappraisal*, 2nd ed. (Lawrence, KS: University of Kansas Press, 2011).

Chapter Two

Identity, Transparency, and Deliberation: The Limits of Power in the “War on Terror”

“I had been thinking so intensely so much about the global war on terror, especially the heavy silence that has surrounded the use of drones to assassinate people outside this country. I just realized that we’re facing here is an empathy gap. . . .

Killing a bunch of people in Sudan and Yemen and Pakistan, it’s like, ‘Who cares—we don’t know them.’ But the current discussion is framed as ‘When can the president kill an American citizen?’ Now in my mind, killing a non-American citizen without due process is just as criminal as killing an American citizen without due process—but whatever gets us to the table to discuss this thing, we’re going to take it.”

Teju Cole, Writer, March 6, 2013¹

On May 1, 2010, President Barack Obama issued a stern warning to potential evildoers: “Two words for you: Predator drones. You won’t see it coming.” This admonition was not, however, directed toward al-Qaeda operatives or enemies of the state. Obama had spotted teen heartthrobs the Jonas Brothers in the audience at the White House Correspondents’ Dinner and remarked that “Sasha and Malia are huge fans. But boys, don’t get any ideas.”²

On one hand, Obama was following a longstanding comedic tradition of overprotective fathers scrutinizing their daughters’ would-be suitors. But this was a far cry from Al Bundy aggressively showing the door to a grungy biker he caught making out with his daughter. This was the commander in chief joking about his power to rain death from the skies simply to protect his daughter from amorous advances. Progressives like Will Bunch of the *Philadelphia Daily News* lamented the lack of media

condemnation directed toward Obama, tweeting: “Let’s be honest, fellow progressives, we’d be all over Bush if he made the same ‘predator drone’ joke that Obama told last night.”³

Seventeen months later, few in the political or media establishments were surprised when Muslim cleric Anwar al-Aulaqi was killed by a U.S. drone in Yemen on September 30, 2011. The emergence of a “kill list”—later redubbed the “disposition matrix”—was hardly a secret.⁴ Unsurprising, too, was Aulaqi’s status as a target. As far back as early 2010, media reports, citing unnamed sources, chronicled the administration’s internal discussions which culminated in the “extraordinary step of authorizing the targeted killing of an American citizen.”⁵ Aulaqi’s precarious status was sufficiently public that the American Civil Liberties Union filed a lawsuit on behalf of his father, a former University of Minnesota professor, seeking an injunction against a possible government operation.⁶

This series of events—the administration’s extraordinary move to target a U.S. citizen for death, the use of deliberate leaks to make the target’s status an open secret, the lack of judicial process or remedy to block executive actions, the lack of meaningful public debate, and the ultimate operation itself—raises important questions about the state of public deliberation surrounding the “war on terror.” The executive’s legal and moral authority to carry out the unprecedented killing of a U.S. citizen was neither fully concealed from public scrutiny nor openly debated. Instead, the Obama administration managed a muted public discussion through a variety of rhetorical moves: bureaucratic pronouncements, communication with legislative and judicial figures, and strategic interactions with the media. Missing from this broader strategy were direct efforts to

inform the public, let alone persuade them, of the merits of targeting Aulahi or of the broader drone program. There were no speeches announcing the president's decision, media releases revealing a shift in policy, or press conferences to engage the public in a discussion over the processes of targeted killing. Prior to Obama's September 30, 2011, speech informing the nation of Aulahi's death, his administration had shaped the deliberative milieu in subtler, but no-less-profound ways.

In the months that followed, the Obama administration adjusted its strategy to manage the debate by more openly discussing its counterterrorism activities and emphasizing its commitments to transparency, deliberation, and the rule of law. Prominent officials gradually engaged the public on the executive's authority to target individuals in the "war on terror." Major speeches by Attorney General Eric Holder and Homeland Security Advisor John Brennan vaguely outlined the Obama administration's legal rationale and internal procedures while stressing the seriousness with they approached these difficult issues. These entreaties were supported by the continued use of unofficial disclosures. Unsourced behind-the-scenes narratives of the deliberative process and unattributed Department of Justice legal drafts portrayed the national security team as responsible stewards making thoughtful decisions that balanced important priorities. Still, the White House remained reticent to recognize enforceable limits on their authority and was hesitant to disclose specifics about its programs, processes, or legal frameworks. Simultaneously, the administration stressed its commitment to transparency and deliberation, arguing that its activities were authorized and overseen by Congress, and that it continued to provide adequate information and consultation opportunities to legislators. Accordingly, this chapter attends both to the significant rhetorical texts

surrounding the targeted killing of U.S. citizens, and to how public deliberation over the disposition matrix was shaped in other ways.

I argue that the Obama administration utilized powerful tools, both established and innovative, to shape the deliberative landscape over the limits of executive power and the merits of the disposition matrix. Consequently, critics of the disposition matrix, its legal foundations, or the various deliberative processes through which they were carried out or contested encountered a difficult meta-deliberative obstacle: accounting for the factors hindering meaningful public debate. Such a task can seem Sisyphean. Citizens seeking to intervene in the discussion faced informational and rhetorical disadvantages which made it difficult to construct compelling and credible arguments. For scholars, describing—let alone demystifying or demobilizing—“the discourses justifying war” is an endless collective endeavor.⁷ Further complicating critical efforts to understand and adapt, the disposition matrix exemplified “endless war’s evolving rhetorical infrastructure”⁸ through the deployment of both new technologies of violence and new technologies of deliberation. These constraints make it impossible for any study to fully chart the forces that underwrote the disposition matrix and undermined deliberation about it. Instead, I focus my attention on the relationship between the identities of disposition matrix victims and the public’s role in deliberating national security policy. I argue that the Obama administration’s management of the debate over the disposition matrix reconfigured the role of the public. By deemphasizing the importance of enmity and framing victims in a way that resisted meaningful reflection about their identities, the administration undermined the public’s capacity to identify with—and subsequently

grieve for—those impacted by the disposition matrix. This fostered public acquiescence to the administration’s already opaque policies.

Confronting the meta-deliberative challenges posed by the disposition matrix required creative argumentation strategies to address the issue of identity. I explore and categorize one of the most prominent such approaches, the “limit case,” and argue that it successfully stimulated public discussion about the limits of executive power by critiquing hypothetical scenarios involving identifiable and grievable victims. This enabled opponents of targeted killing to redirect attention to issues of transparency, democratic principles, and due process, rather than being drawn into the deliberative trap of criticizing actual operations—and implicitly lamenting the death of accused terrorists. Accordingly, I argue that the limit case is a potential argumentative anecdote to meta-deliberative challenges associated with opaque debates over national security policy.

In support of these arguments, I proceed in four sections. First, I provide a brief historical narrative of the Aulaqi killing in order to contextualize the deliberative process as it unfolded publicly. In the second and third sections, I address the underlying implications of this debate as they pertain to identity. The second section attends to the intersection of democratic theory and the laws of war as they relate to public enmity toward the targets of state violence. In the third section, I pivot to the challenges facing critics and citizens opposing expanded executive power to target individuals. I address the limits of identification and grievability inherent in how we view the Other within the “war on terror,” with a focus on contemporary presidents’ rhetorical power to construct the identities of the nation’s enemies. The fourth and final section is an exploration of one potential avenue to address these challenges. In that section, I define the argumentative

technique of the limit case: a form of strategic maneuvering that utilizes examples to draw attention to the questionable boundaries of an opposing position without clearly defining the limits of one's own.

Anwar al-Aulaqi

On September 30, 2011, President Barack Obama announced the death of Anwar al-Aulaqi from a Hellfire missile fired by an unmanned U.S. Predator drone over the mountains of Yemen.⁹ In many respects, this revelation was banal. Numerous suspected terrorists had been killed by the United States—indeed, the killing of al-Qaeda leader Osama bin Laden had occurred less than six months prior—and Aulaqi had been frequently portrayed by Western media as a radical, anti-American cleric with ties to known terror plots, including the 2009 Fort Hood shooting and the attempted “underwear bombing” by Umar Farouk Abdulmutallab.¹⁰ The most exceptional characteristic of the announcement of Aulaqi's death revolved around the fact that, for arguably the first time, the U.S. government had openly carried out the targeted, extrajudicial killing of one of its own citizens.¹¹

Anwar al-Aulaqi was born in 1971 in Las Cruces, New Mexico to an American mother and Yemeni Nasser al-Aulaqi, who was earning a master's degree in agricultural economics at New Mexico State University.¹² The elder Aulaqi, a Fulbright scholar, went on to earn a doctorate from the University of Nebraska and to teach at the University of Minnesota before returning with his family to Yemen in 1978, where he would serve in a number of prominent academic and government posts.¹³

Anwar al-Aulaqi returned to the United States at age 19 to study civil engineering at Colorado State University. He found engineering boring, however, and “didn’t last long at the engineering job that followed.”¹⁴ Instead, he turned to preaching while pursuing graduate studies in education. He worked at mosques in Denver and San Diego and earned a master’s degree from San Diego State University. In 2000, he moved to Washington, D.C. To appease his father, he enrolled in a doctoral program at George Washington University while serving as a chaplain at the school and later as an imam at the prestigious Dar al-Hijrah mosque in Falls Church, Virginia.¹⁵

9/11 and Aulaqi’s Growing Stature

In the aftermath of the September 11 attacks, Aulaqi’s public profile grew considerably. He had rapidly gained prominence in the mosques where he held positions. His parishioners frequently praised his “bicultural charisma,” his connection to young people, and his ability to win over “diverse, sometimes fractious communities.”¹⁶ The 9/11 terrorist attacks expanded Aulaqi’s exposure beyond the Muslim-American community. Media reports highlighted his admonitions against inflammatory rhetoric and terrorist violence, with the *New York Times* characterizing him as being “held up as a new generation of Muslim leader capable of merging East and West.”¹⁷ He was even invited to dine at the Pentagon as part of an outreach program. Governmental authorities widely considered Aulaqi a “‘moderate’ imam” and a “leading [member] of the Muslim community.”¹⁸

Simultaneously, however, Aulaqi was viewed with suspicion. Authorities investigated him in 1999 and 2000 due to his indirect association with Omar Abdel-

Rahman, who was commonly known as “The Blind Sheikh” and had been sentenced to life in prison for his role in the 1993 World Trade Center bombings. The FBI closed its investigation of Aulaqi in March 2000, finding that “the imam. . .does not meet the criterion for [further] investigation.”¹⁹

Suspicion and Indecision

Aulaqi became the target of renewed scrutiny after the September 11 attacks, however, as investigators reported that three of the hijackers had met with him in mosques in San Diego and Northern Virginia. Amid suspicion that Aulaqi may have been the “spiritual adviser” of at least two of the hijackers, investigators sought to “get him in a chair and put the screws to him,” according to former Hoover Institution fellow Paul Sperry.²⁰ When authorities could not prove a meaningful link between the attacks and Aulaqi—the FBI went on record downplaying his role—they began to “look at him under a microscope” in search of other grounds to arrest him.²¹ He was placed under 24-hour surveillance and his calls were monitored.²²

The FBI found that he had been arrested twice in San Diego for soliciting prostitution, but served no jail time.²³ In the months after September 11, unnamed FBI sources allegedly observed Aulaqi “taking Washington-area prostitutes into Virginia,” leading authorities to consider invoking a federal sex trafficking statute to pressure the cleric into cooperating.²⁴ Aulaqi left the United States for Yemen in March 2002, and his name was placed on an early version of a terror “watch list” when he allegedly received money from the subject of another terror investigation.²⁵ When Aulaqi stepped off a plane in New York on October 10, 2002, agents were able to detain him based on that

designation.²⁶ But interagency communication subsequently broke down, and authorities bungled their best chance to hold on to Aulaqi. They found the grounds they needed to arrest him: passport fraud. The U.S.-born Aulaqi allegedly had declared on his visa application that he was born in Yemen, leading a federal judge in Denver to approve an arrest warrant in October 2002.²⁷ However, several hours after he was detained, agents at John F. Kennedy Airport were told the arrest warrant had been “pulled back.” Three hours after he was intercepted, according to an Immigration and Naturalization Service report of the incident, Aulaqi and his family were released “with thanks for their patiens” [sic].²⁸ Within weeks, Aulaqi would leave the United States permanently—first for London, then Yemen.²⁹

It is always difficult to convey a comprehensive picture of a person’s politics, but attempting to adequately explain a figure whose public persona shifted so dramatically is particularly challenging. Most observers agree that, prior to the September 11 attacks, Aulaqi presented a “moderate public face” and openly abhorred violence and divisive rhetoric.³⁰ In 2001, Aulaqi not only condemned the September 11 attacks, he expressed a hope that Muslims or Arabs were not responsible in an interview with *National Geographic News*. When asked to explain the attacks on the United States, Aulaqi prefaced his answer by clarifying that it reflected how the perpetrators would justify the attacks, and emphasizing “that does not mean that scholars of the Muslim world approve.” Perhaps most striking, given later allegations of his prominent role with an al-Qaeda affiliate, was Aulaqi’s harsh critique of Osama bin Laden: “My worry is that because of this conflict, the view of Osama bin Laden will become appealing to some of the population of the Muslim world. . . .That’s a very frightening thing.”³¹

New York Times reporter Scott Shane, who extensively chronicled Aulahi's rise, fall, and the aftermath of his assassination, suggests that the cleric "seemed to be quite self-consciously auditioning for a dual role: explainer of Islam to America and of America to Muslims." In the aftermath of the attacks, Aulahi called upon his congregation to reject violence. "We came here to build, not to destroy," he proclaimed in a sermon at Dar al-Hijrah. "We are the bridge between America and one billion Muslims worldwide."³² If Aulahi subscribed to an extremist ideology during this period, he went to great lengths to conceal it. "We could have all been duped," mused a senior imam at Dar al-Hijrah. "But I think something happened to him, and he changed his views."³³

One theory suggests that Aulahi's "unlikely . . . path to radicalization" began in early 2002 when the U.S. government began aggressively surveilling mosques.³⁴ When "federal agents on a hunt for terrorist financiers swept through the Islamic institutions in Northern Virginia and the homes of their leaders," Aulahi harshly condemned them in his Friday sermon.³⁵ "So this is not now a war against Muslims," Aulahi forcefully declared. "It is a war against Muslims and Islam. . . . Not only is it happening worldwide, but it is happening right here in America, that is claiming to be fighting this war for the sake of freedom while it's infringing on the freedom of its own citizens, just because they're Muslim."³⁶ This perception of a war against Islam combined with Aulahi's newfound belief that he was being personally persecuted. Aulahi's brother suggests that the imam was "angry, upset, sad, maybe confused" when he learned that the FBI had a file on him that "could destroy [his] life." Shane's *New York Times* report reveals that, a few days

earlier, according to the FBI, “the manager of an escort service” warned him that federal agents had asked about his visits to prostitutes.³⁷ Days later, Aulaqi left the United States.

Aulaqi’s hostility toward the United States steadily increased in the ensuing years. He made a series of attempts to reach out to U.S. officials, ostensibly to assuage the government’s concerns about his activities and facilitate an eventual return to the United States, but those efforts had ended by 2004.³⁸ The invasion of Iraq and Guantánamo Bay pushed Aulaqi to gradually sharpen his rhetoric. He was arrested in Yemen in 2006 and held for 18 months—by his account, the first nine of those months in solitary confinement—for which he blamed the United States.³⁹ He was surveilled by the Yemeni government.

By most accounts, Aulaqi’s rhetoric became increasingly violent and anti-American after his imprisonment, and he developed strong ties to perpetrators of terrorist plots. U.S. authorities allege that Major Nidal Hasan, who fatally shot 13 people at Fort Hood in 2009, began contacting Aulaqi in 2008 in search of spiritual guidance. Aulaqi would subsequently label Hasan a “hero,” even though he denied that he ordered the attack.⁴⁰ Officials alleged that he not only met with Umar Farouk Abdulmutallab—the Nigerian “underwear bomber” who attempted to blow up a Detroit-bound flight on Christmas Day, 2009—but that Aulaqi “took a direct operational role” in the attack.⁴¹ Countless other suspected terrorists—from Fort Dix to Canada—were allegedly inspired by Aulaqi’s internet sermons, and he was variously labelled an al-Qaeda recruiter and propagandist for the group calling itself al-Qaeda in the Arabian Peninsula.

In early 2010, media reports that the administration had decided to target Aulaqi provoked little debate. High-ranking officials shied away from publicly discussing the

matter, and political figures who weighed in tended to frame the story by emphasizing the danger Aulaqi posed to U.S. interests. Congresswoman Jane Harman, then chair of a key House subcommittee on homeland security intelligence, described Aulaqi as “probably the person, the terrorist, who would be terrorist No. 1 in terms of threat against us.”⁴² Critics, on the other hand, worried that the extrajudicial killing of a U.S. citizen, even one as vocally anti-American and arguably dangerous as Aulaqi, would set a dangerous precedent.⁴³

In December of 2010, a federal judge dismissed a lawsuit brought by Nasser al-Aulaqi, the former University of Minnesota professor and father of Anwar al-Aulaqi. The suit, filed with the assistance of the ACLU, “sought an injunction...to prevent the Obama administration from targeting and killing his son.”⁴⁴ The judge in the case sidestepped several of the more contentious political and legal issues—including the administration’s state secrets argument and a dispute over whether the 2001 Authorization for Use of Force Against Terrorists applied to Yemen—ruling that the elder Aulaqi lacked standing to sue and that “decisions about targeted killings in such circumstances were a ‘political question’ for executive branch officials to make—not judges.”⁴⁵ Within months, Anwar al-Aulaqi was dead. His 16-year-old son Abdulrahman, also a U.S. citizen, was killed two weeks later in a separate drone strike.⁴⁶

An “Extraordinary Step”: Implications of Targeted Killings for Democratic Deliberation and the Law of War

The killing of Aulaqi brought about increased media coverage and a revisiting of many of the arguments that had simmered for more than a year. What had previously been a hypothetical scenario became a reality, and the political, moral, and legal

ramifications of the targeted killing of a U.S. citizen took on new significance. Some semblance of public deliberation transpired between the earliest unconfirmed reports that Aulahi had been targeted by the government and his death. But the divide between decision-makers and average citizens severely limited the desire for, and impact of, public debate. Imbalances in access to information, expertise, and participation affect all forms of deliberation. Representative democracies must grapple with these concerns on a grander scale, particularly as the body politic grows larger and as decision-making processes become more complex and detached from everyday life. Covert national security policies typically lie near the end of this spectrum. In the case of the disposition matrix, these drastic incongruities ensured that public attitudes were easily dismissed as idle speculation from ill-informed novices. Most citizens were in the dark. Even those who learned enough to be motivated to form an opinion wandered in twilight, seeing only those parts of the world illuminated by the stray beams of light leaking through the atmosphere. In the aftermath of Aulahi's death, two factors significantly enhanced the clarity of the disposition matrix: increased public engagement, and the willingness of administration officials to openly contribute to the discussion.

Aulahi's killing raised a litany of important legal issues that lie beyond the scope of this project: due process rights and the right to legal notice; the limits of Article II of the U.S. Constitution and the 2001 and 2002 authorizations for the use of military force; the relevance of various executive orders and federal laws prohibiting assassination and the murder of citizens overseas; the legal powers of Congress and the judiciary to constrain the executive's foreign policy actions; and the role of the laws of war in limiting military options with regard to time, geography, and sovereign borders. While

these factors inform this project, the primary focus of my analysis is on who decides the legal limits of targeted killing, who makes case-by-case decisions on such operations, how those decisions are made, and how the decision-making processes are portrayed and disseminated to the broader public. The implications of the deliberative process in the case of the Aulaqi targeting can be best understood by revisiting and expanding my discussion of democratic responsibility for war and exploring how the administration's rhetoric cultivated public acquiescence.

Targeted Killing and Democratic Responsibility for War

In my introduction to this project, I discussed how political theory and the laws of war apply to military interventions. Even as the shape of war changes, the moral implications of war continue to require democratic citizens to examine that which is done in their name. However, changes in culture, military service, and technology have inexorably altered warfare in ways that necessitate a renewed look at influential philosophical perspectives on war. Carl von Clausewitz's 19th century ideas have retained currency over time, but its most basic tenets are impacted by how wars are fought, who fights them, who is impacted by them, and how they are viewed from afar. His famous "trinity" of the people, the government, and the military—already challenged by technology and the professionalization of the military, both of which profoundly distance the citizenry from the violence and human cost of war—is further strained by the decreasing frequency of traditional state-on-state military conflicts. In one sense, there are no "wars" anymore. In another, we are constantly at war but cannot define the belligerents in terms of lines on a map. This evolution complicates the public's efforts to understand and influence government policy. But that evolution does not nullify Walzer's

admonition that conscientious citizens must accept moral responsibility for their nation's actions—and feel shame if atrocities are committed.⁴⁷ The nature of the disposition matrix presents a particularly instructive opportunity to better interrogate Clausewitz's key notion of enmity by bringing it into conversation with contemporary rhetorical theory.

Clausewitz's description of enmity emphasizes the important role of the public and is predicated on an early incarnation what would today be classified as foreign policy realism. Clausewitz argues that war is not merely a kinetic collision of dispassionate armies or even a strictly rational calculation over resources or territory; it requires some form of Other to be consciously opposed, if not demonized.⁴⁸ Waging war requires the cooperation and support of the government, the military, and the people, with the people supplying the needed “primordial violence, hatred, and enmity,” passions which “must already be inherent” in them.⁴⁹ Without such enmity, the public's unwillingness to confront the enemy will undermine, or even render impossible, successful military action.

The rhetoric of the 20th century's world wars exemplified Clausewitz's notion of enmity. Whether through preexisting cultural or nationalist-fueled dislike of the enemy, anger at their atrocious actions, or coordinated propaganda campaigns designed to foment hatred—and, in many cases, a combination of these factors—the people's active involvement was cultivated in ways that went beyond support for their side to opposition to their adversaries. Even the decades-long Cold War functioned within Clausewitz's framing of enmity, as politicians on both sides demonized their evil rivals. As I addressed in the previous chapter, this framing became less immediately apparent when considering more recent military interventions—often described as “humanitarian” or pursuing

“regime change”—but a reduced form of enmity has typically still been present. Its diminished scope has represented a function of political changes in which the people’s role in the trinity has been reconfigured.

Most recently, the disposition matrix has posed a new challenge to enmity and the traditional trinity by bringing it into conflict with contemporary thinking surrounding the acquiescent nature of war rhetoric. As Jeremy Engels and William Saas argue, the struggle against terrorism has been marked by “a war rhetoric suited to a new *style* of war” which “does not care much about civic mobilization for war; it says, *trust us, we’ve got this*, and then aims to distract attention away from war.”⁵⁰ Tracing the recognition of war rhetoric’s acquiescent qualities to Randolph Bourne’s writings during World War I, Engels and Saas suggest that the last century of technological and political change has greatly influenced the potency of acquiescence in the contemporary American “war-technique.”⁵¹ In many respects, the unwillingness of decision-makers to openly discuss the disposition matrix has conformed to this perspective on acquiescence. Efforts to engage on—or worse, challenge—the program or its intricacies has been responded to with silence, off-the-record obfuscation, or overt claims of privilege or national security. Still, even prior to Aulaqi’s killing, *some* rhetoric originating from the highest levels of the administration was disseminated to the public. Through surrogates, sources talking to reporters on condition of anonymity, and strategic leaks, the administration sought to control—but not extinguish—debate over the disposition matrix and the targeting of Aulaqi. The administration provided just enough material to keep public interest low and deliberation opaque, thus managing the narrative and preventing a “bombshell” or allegations that a dramatic secret had been concealed—while minimizing available fodder

for critics. In essence, this merging of enmity and acquiescence reflected the suggestion by Engels and Saas that “assent has been reduced to something like a 2 percent additive to the black oil of public acquiescence that now powers the war machine.”⁵² Enmity still seems to matter, but this reasoning suggests that it no longer provides a key ingredient necessary for war. Instead, it cultivates acquiescence by deterring sympathy for the nation’s adversaries, forestalling potential public opposition to military operations.

Along these lines, the Obama administration’s rhetorical strategy valued enmity as a means of maintaining public acquiescence toward the disposition matrix. When pressed on the issue, the president’s allies in Congress and beyond invariably portrayed Aulaji as a loathsome and dangerous figure, pointing to allegations of his involvement in multiple terror plots and his publicly available anti-American sermons.⁵³ Media outlets, relying on unnamed military or White House sources, described Aulaji as a “jihadist,”⁵⁴ a “hate cleric,”⁵⁵ and a “regional al-Qaeda leader.”⁵⁶ By cultivating public enmity in support of an acquiescent rhetorical strategy, the Obama administration’s brand of *trust us; we’ve got this* included a coda: *you should hate and fear this guy; but we don’t want to discuss it any further*. The democratic impulse to question authority was superseded if that questioning might jeopardize security by revealing sources or methods to the enemy.

The merging of acquiescent rhetorics and the cultivation of enmity poses particular problems when seeking potential avenues for critical or political intervention. Bourne’s analysis of the difficulty one faces opposing an inexorable march toward war is worth considering, as it provides insight into the gravitational pull that influenced public debates over neutrality versus intervention, and over attitudes toward the Central Powers and the Allies, during World War I. But this century-old framing of the war-technique

fails to adequately capture the implications of a contemporary deliberation in which the public is discouraged from reflective thinking—except through brief and limited encouragements of enmity toward a usually amorphous enemy. In the following subsection, I explore the rhetoric of Obama administration officials in order to better explicate the meta-deliberative contours of the rhetorical defense of the disposition matrix in the immediate aftermath of Aulaqi’s killing.

Constrained Deliberation and Expanded Executive Power

The implications of the Aulaqi case extended far beyond the fate of one person. Of arguably far greater importance was the way in which the limits of power were radically redefined. The rhetorical strategy of the Obama administration, which initially sought to manage a muted public debate, pivoted in the aftermath of Aulaqi’s 2011 death. The administration retained its focus on cultivating public enmity—President Obama’s public remarks announcing Aulaqi’s death serving as the most notable example⁵⁷—while doing something it previously had avoided: openly discussing the program and the limits of executive power.⁵⁸ Major speeches in 2012 by Attorney General Eric Holder and counterterrorism adviser John Brennan outlined an interpretation of constitutional, statutory, and international law in which the president possessed sweeping discretion to use lethal force free from external constraints. In February 2013, Michael Isikoff of *NBC News* released and reported on⁵⁹ a 16-page “white paper” produced by the Department of Justice that expounded on the “legal framework”⁶⁰ for such executive power. Subsequent reporting by Charlie Savage of the *New York Times* revealed that the white paper was originally drafted in 2011 to appease legislators who requested the White House’s legal rationale for the Aulaqi operation.⁶¹ Journalists and critics contextualized the rhetorical

shift as part of a broader move to develop “new blueprint for pursuing terrorists”⁶² that “formally institutionaliz[ed] this president’s power to decide who dies under the Orwellian title ‘disposition matrix.’”⁶³ In this subsection, I examine this discourse with an eye toward understanding the administration’s view of the role of public and intragovernmental deliberation surrounding the disposition matrix.

The administration’s discourse projected a tension between responsible, deliberative decision-making and the executive branch’s prerogative to act without external approval. Speaking at the Woodrow Wilson Center at an event chaired by its new president, the recently retired Congresswoman Jane Harman, Brennan emphasized “the high bar we require ourselves to meet when making these profound decisions today” and the “rigorous standards of process and review”—a process only opaquely defined and not framed as legally required.⁶⁴ Holder’s address to the Northwestern University School of Law took a similar approach, using the word “process” 13 times while also repeatedly stressing a commitment to “robust oversight.”⁶⁵ Both officials used nearly identical wording about the administration’s policy of “informing appropriate members of Congress,”⁶⁶ while implying that explicit congressional approval of operations was not required. Brennan even framed congressional consultation as a pragmatic endeavor in pursuit of results, not a legal requirement: “Indeed, our counterterrorism programs, including the use of lethal force, have grown more effective over time because of congressional oversight and our ongoing dialogue with members and staff.” Holder, in particular, referenced numerous statutes as evidence of Congress’ involvement in the deliberative process, while noting that the impetus was on the legislature to constrain the executive’s “legal authority,” as “neither Congress nor our federal courts has limited the

geographic scope of our ability to use force.” Even then, Holder’s reference to the president’s constitutional powers under Article I—which he argued “empowers the president to protect the nation from any imminent threat of violent attack”—called into question the ability of Congress to meaningfully oppose presidential decisions regarding the disposition matrix.

The executive’s stated prerogative to act without judicial oversight was more striking. In particular, Holder’s speech explicitly delineated a distinction between the constitutional right to due process and an active role for the courts. Given the significance and nuance of the argument, I quote Holder at length:

The Supreme Court has made clear that the Due Process Clause does not impose one-size-fits-all requirements, but instead mandates procedural safeguards that depend on specific circumstances. . . . Some have argued that the president is required to get permission from a federal court before taking action against a United States citizen who is a senior operational leader of al-Qaeda or associated forces. This is simply not accurate. “Due process” and “judicial process” are not one and the same, particularly when it comes to national security. The Constitution guarantees due process, not judicial process. The conduct and management of national security operations are core functions of the executive branch, as courts have recognized throughout our history. Military and civilian officials must often make real-time decisions that balance the need to act, the existence of alternative options, the possibility of collateral damage, and other judgments—all of which depend on expertise and immediate access to information that only the Executive Branch may possess in real time. The Constitution’s guarantee of due process is ironclad, and it is essential—but, as a recent court decision makes clear, it does not require judicial approval before the President may use force abroad against a senior operational leader of a foreign terrorist organization with which the United States is at war—even if that individual happens to be a U.S. citizen.

While Holder extensively referenced judicial precedents in defense of his interpretation, he did so to bolster his underlying position about the executive branch’s broad powers in the realm of national security: the judiciary had defined certain limits and the executive had the authority to act within those limits free from judicial interference. Of greater concern was the implication that there was no significant role for judicial oversight; one

could not appeal the executive's decision on the merits of the case, nor could one question whether the "procedural safeguards" were constitutionally appropriate or if the executive had exceeded the limits of its authority. This legal reasoning prompted Stephen Colbert, in his conservative persona, to remark:

Exactly! "Due process" does not mean "judicial process." The founders weren't picky. I mean, trial by jury, trial by fire, rock, paper scissors, who cares? Due process just means *there is a process that you do*. Folks, from what I can understand, the current process is apparently, first the president meets with his advisers and decides who he can kill. Then he kills them.⁶⁷

The administration responded to attempts to challenge the disposition matrix—most notably Nasser al-Aulaqi's ACLU-backed lawsuits—with claims of state secrecy, national security, standing, and the "political questions" doctrine.⁶⁸ In short, the Obama administration argued, opponents were barred from challenging the factual determinations of the executive, the constitutional adequacy of the process, and the underlying limits of the president's authority.⁶⁹ This constrained deliberative sphere was further restricted by the administration's amorphous interpretations of several key elements of its legal rationale.

In claiming that only the executive has the authority—and effective capacity—to "make real-time decisions" on what Holder described as "fact-specific, and potentially time-sensitive" questions, the administration significantly narrowed the scope of deliberation. What was already a program that fell "markedly outside of public deliberation" was explicitly framed as properly relegated to "one of the most limited forms of technical argument to date."⁷⁰ But several of the fact-specific elements that comprised the contours of the Obama administration's publicly disclosed framework gave the executive tremendous additional discretion. And the administration's statements and conduct revealed a willingness to interpret those elements in ways that expanded

their authority even more. The discourse of national security in the post-9/11 world has been littered with terms reminiscent of Orwellian Newspeak, such as “unlawful combatant,” “extraordinary rendition,” “insurgent,” and “military-aged male.” But three elements of the rhetorical defense of broad discretion within the disposition matrix served to constrain deliberation and empower the executive even further: “feasible,” “leader,” “associated force,” “imminent attack.”

The administration outlined lethal force as a justifiable option when three conditions were met, one of them being that “capture is infeasible.”⁷¹ Both Brennan and Holder highlighted the gravity of their responsibility to address national security threats, and the high value they placed on nonviolent solutions, as part of their justification for operational flexibility, with Brennan arguing that “there is no more consequential a decision than deciding whether to use lethal force against another human being.”⁷² Unsurprisingly, such a determination was both fact-specific and subjective, as each case involved different factors and the weighing of potential risk. Few would dispute that an operation would be infeasible if it were impossible or nearly impossible, or even if good-faith projections suggested that significant loss of life to civilians or personnel would occur. However, the administration was free to set a lower threshold for feasibility, including *any* risk to personnel or even a preference on the part of the host country that ground troops not be involved.⁷³

That a target of lethal action must have been a “leader” of al-Qaeda or an “associated force” preceded the three conditions, and both of those determinations were fraught with controversy. Proving that one was even affiliated with, much less a “leader” of, a clandestine organization opened up space for ambiguity, but the executive’s

unilateral determination was sufficient and not subject to appeal. Similarly, the term “associated force” was a legally dubious expansion of the executive’s claimed authority under the 2001 Authorization for the Use of Military Force. That expansion enabled the targeting of individuals and groups never mentioned in the statute and who had no connection to the September 11 attacks—even if those parties’ activities were not directed at the United States.⁷⁴

By far the most controversial fact-specific element of the framework was “imminence.” A determination “that the targeted individual poses an imminent threat of violent attack against the United States” was the centerpiece of the first of three conditions for lethal action. At face value, this notion is similar to domestic law empowering the shooting of armed criminals who pose an immediate threat. That Aulaqi was killed while eating breakfast at a café in Yemen called into question what constituted an imminent threat of attack, and the administration’s rhetoric further eroded any traditional denotative understanding of the term. The Department of Justice white paper released after the attack began its discussion of aspects that “require additional explication” by claiming that “the United States does not have to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future.”⁷⁵ These developments led critics to question what, if any, protection the first condition of the framework provided. Greenwald claimed that it “expanded the concept of ‘imminence’ beyond recognition,” and the ACLU’s Jameer Jaffer concurred that the argument “redefines the word imminence in a way that deprives the word of its ordinary meaning.”⁷⁶

Not only did the disposition matrix represent a dramatic expansion of executive power to act in the material world, it was an equally dramatic alteration of the deliberative environment surrounding national security policy. G. Thomas Goodnight and Gordon R. Mitchell describe the administration's post-Aulaqi rhetoric as a "tactical" pivot bent on "buying time and co-opting criticism," but their analysis stops short of recognizing the long-term deliberative repercussions of the disposition matrix.⁷⁷ By following their unprecedented actions with novel legal arguments, the administration set new political, legal, and deliberative precedents—precedents that were not successfully challenged. Greenwald reacted to these developments by emphasizing "the need to vehemently object to radical theories of power" immediately, lest they become institutionalized and legitimized. He noted the time-honored tradition of expanded powers initially being applied to "the most marginalized and easily demonized targets" so as to thwart opposition and encourage acquiescence. "The time to object—the only effective time—is when that power theory first takes root," Greenwald argued.⁷⁸ Citizens seeking comfort in the limits proposed by the Obama administration were resigned to the reality that "the limits are elastic and vaguely defined, and it's easy to see how they could be manipulated."⁷⁹ As Greenwald argued, the executive branch's framework could be most accurately described as "creating a ceiling, not a floor." The released white paper supported these concerns, noting that it "does not attempt to determine the minimum requirements necessary to render such an operation lawful."⁸⁰

Even Americans in positions of power found it difficult to influence the deliberative process—either directly or indirectly. The Obama administration's claims that it appropriately consulted with the legislative branch notwithstanding, influential

legislators continued to demand more answers and more access in order “for Congress and the American public to have a full understanding of how the executive branch interprets the limits and boundaries of this authority.”⁸¹ Options for judicial intervention seemed equally constrained. Ruling on a Freedom of Information Act suit brought by the *New York Times* to compel the government to release its legal rationale for the targeted killing program, U.S. Judge Colleen McMahon rebuked the administration for its incomplete legal arguments, but argued that she was “caught in a ‘veritable Catch-22.’” She relented that she could not order the administration to honor the request because of “the thicket of laws and precedents that effectively allow the executive branch of our government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws while keeping the reasons for the conclusion a secret.”⁸² This expansion of power and consolidated deliberative environment may have heralded the emergence of a new trinity in foreign policy operations: the executive alone has the authority, the executive alone has the most relevant information, and the executive alone has the expertise required to act.

Constructing the Other: Framing and the Limits of Identification and Grievability

On December 16, 2012, President Barack Obama spoke at the Sandy Hook Prayer Vigil, condemning the senseless tragedy that had occurred several days earlier:

We can't accept events like this as routine. Are we really prepared to say that we're powerless in the face of carnage, that the politics are too hard? Are we prepared to say that such violence visited on our children year after year after year is somehow the price of our freedom?⁸³

The next day, writer George Monbiot argued in the *Guardian*:

It must follow that what applies to the children murdered there by a deranged young man also applies to the children murdered in Pakistan by a somber American president. These children are just as important, just as real, just as deserving of the world's concern. Yet there are no presidential speeches or presidential tears for them, no pictures on the front pages of the world's newspapers, no interviews with grieving relatives, no minute analysis of what happened and why. . . . The children of north-west Pakistan, it seems, are not like our children. They have no names, no pictures, no memorials of candles and flowers and teddy bears. They belong to the other: to the non-human world of bugs and grass and tissue.⁸⁴

In addition to the political and legal factors that thwarted critiques of the disposition matrix, the stark contrast between the affect produced by the Sandy Hook shooting and the rationalized acceptance—or even celebration—of drone deaths posed a serious challenge to meaningful deliberation. In this section, I explore how the identities of those most adversely impacted by drone warfare were constructed, and how those constructions limited the U.S. public's capacity to identify with, and grieve for, their suffering. I argue that the capacity to recognize a person as grievable, a precondition for cosmopolitan equality and procedural justice, was imperiled under a system that vested significant power in the executive to construct the subject of an Other.

The Post-September 11 State of Exception

The importance of one's ability to recognize or identify with another human being is a familiar notion to scholars of rhetoric.⁸⁵ That ability is already taxed as individuals and groups see less and less in common—less consubstantiality—with others given real or perceived differences in nationality, race, ethnicity, language, religion, culture, values, or ideology.⁸⁶ We should not be shocked the copious references to war—“that ultimate *disease* of cooperation”—that pervade Kenneth Burke's analysis of identification and

division as the cornerstones of rhetoric's persuasive power.⁸⁷ But the cultural climate of the post-September 11 era has exacerbated that problem, fomenting the fear of asymmetrical non-state violence, increasing the skepticism of the public, and empowering the politically powerful.

In his work on the state of exception, Giorgio Agamben credits German jurist Carl Schmitt for earlier addressing the “essential contiguity between the state of exception and sovereignty.”⁸⁸ Agamben builds upon this work, seeking to demonstrate how governments expand their power in response to “a problem that up to now has not been held in due consideration by the general theory of law.”⁸⁹ The problem—or political crisis—opens the space for the sovereign to suspend the law in some form, whether that suspension is confined in terms of time, geography, or particular policy area. As Agamben describes it, “the state of exception is not a special kind of law (like the law of war); rather, insofar as it is a suspension of the juridical order itself, it defines the law's threshold or limit concept.”⁹⁰ In this sense, the state of exception is analogous to a state of emergency.

Within the context of the disposition matrix, those targeted found themselves within the state of exception: inside a “no-man's-land between public law and political fact, and between the juridical order and life.”⁹¹ This “no-man's-land” differed from traditional warfare. The combatants need not have represented nation-states. The need not have been located in a conventional war zone. And they were not subject to the ordinary protections of the laws of war. This became especially problematic given the constructed nature of subject, which I discuss in the second section of this essay, and the temporal and geographic expansion of the state of exception.

Typically, we understand the state of exception—just as we understand a state of emergency—as an unusual occurrence. A sense of normalcy precedes a natural disaster or an economic downturn, for example. And we expect a gradual return to normalcy. We also expect the normal legal order to be reinstated when the crisis abates: restrictions on price gouging, curfews, wage and price controls, and stimulus packages are not designed to be permanent fixtures. The declaration of a “war on terror” problematized the temporary nature of a state of exception and the changes that accompanied it, as it purported to combat a tactic of asymmetric warfare, not a specific enemy.⁹² Even though laws such as the USA PATRIOT Act were passed with sunset provisions and specific military interventions were expected to end, the overall state of exception continued; laws designed to sunset were repeatedly renewed, and new military fronts were opened. Historian Bruce Hoffman’s suggestion that such a war “does not have a clear beginning and an end” raises the specter of the state of exception being endless: as long as there may be those who violate the norms of war—or threaten to do so, or can be portrayed as posing a threat to do so—the state of exception could continue to be justified.⁹³

Also expansive was the state of exception’s spatial scope. Often, the state of exception is understood as one that is geographically limited—particularly with regard to war. Conquered or occupied territories are understood to be under a state of exception, and active war zones are inherently fraught with danger. The stateless nature of terrorism has complicated the conventional understanding of war, however. The “enemy” has been sought out wherever it resides and has been opposed through drone technology, covert operations, or cooperation with friendly governments.⁹⁴ Of course, the idea of an expansive war did not originate on September 12, 2001. In interpreting the First World

War as a total war, Schmitt's analysis of such a global state of exception—in which the enemy is irredeemable and must be destroyed, wherever they reside—is particularly applicable:

Such a war is necessarily unusually intense and inhuman because, by transcending the limits of the political framework, it simultaneously degrades the enemy into moral and other categories and is forced to make of him a monster that must not only be defeated but also utterly destroyed. In other words, he is an enemy who no longer must be compelled to retreat into his borders only.⁹⁵

Schmitt's argument mirrors the modern antiterrorism strategy that has eschewed containment in favor of the aggressive pursuit of terrorists and the routing out of "safe havens."⁹⁶ Nevertheless, descriptions of the enemy as a "monster" or a "savage" with whom there can be no reasoning are common throughout history.⁹⁷ New is the idea of a stateless enemy whose tactics and evasiveness require a massive expansion of the territory included in the state of exception.⁹⁸

In practice, the state of exception has expanded to include everything beyond the nation's borders, where the rules of law ostensibly still apply. Wendy Brown draws upon Schmitt's work in observing the indifference to violence beyond one's own borders:

"Beyond the line," Schmitt says, force can be used "freely and ruthlessly," with indifference to law. Hence the layers of meaning and history packed into the expression "beyond the pale," a phrase conjuring what lies outside the bounds of "propriety and courtesy" but also of "protection and safety." The boundary designated by a pale—a wooden stake used to make a fence—originally delineated English colonial territory in Ireland...[W]hat is "beyond the pale" appears as uncivilized in two disparate, yet politically linked senses: It is where civilization ends, but is also where the brutishness of the civilized is therefore permitted, where violence may be freely and legitimately exercised.⁹⁹

In Holder's Northwestern address, he suggested that legal precedents from World War II—most notably the 1945 mission that killed Japan's Isoroku Yamamoto—permitted the president to authorize targeted, lethal force against enemy leaders around the globe.¹⁰⁰

Once the executive successfully constructed the subject as an Other divorced from American soil and American values—and therefore unworthy of being seen as a worthy, grievable life—it became difficult for the citizen to recognize that distant, constructed subject in a way that broke or defied the dominant frame.

Framing and *Homo Sacer* in the “War on Terror”

The temporal and spatial expansion of the state of exception has been problematic, but has also been further complicated by the power of the executive to construct the subject of the Other. In this powerful state of exception, the only relevant variable has become the constructed identity of the potential target of the disposition matrix. During the Obama administration, the government’s actions and stance opaque disclosures constructed the target as a threat profoundly undeserving of sympathy.¹⁰¹ There was no external debate about their hostility, their intentions, or the appropriate sentence for their crimes; adequate information to engage in such a debate was not made available. When information was released, it was done so for the strategic benefit of the administration in order to bolster support for its prosecution of the “war on terror” and forestall sympathy for those targeted.

Judith Butler explains framing, in this context, as occurring when the dominant power “manipulates the terms of appearance” of the Other—or, I argue, of a broader dispute—to create the perception of guilt “without valid evidence and without any obvious means of redress.”¹⁰² This constructs the subject in a manner very different from a criminal trial, in which rules of evidence, the burden of proof, and the adversarial system provide greater protection against the arbitrary application of state violence. Despite the weaker evidence, the effect is actually stronger, as “the frame guides the

interpretation” in such a way that “one’s guilty status becomes the viewer’s inevitable conclusion.”¹⁰³ In practice, the Obama administration assured the public that they took seriously the decision to target another human, subjected each case to thorough reviews, informed Congress, and followed due—if not judicial—process. The disclosed effectiveness and precision of disposition matrix tactics, most notably the utilization of unmanned drone aircraft, further served to dispel any reservations over the strategy. The administration’s authority advantage on issues of foreign policy and its ability to control the release of intelligence information and set the grounds for the national security debate. This rendered precarious any challenges to its interpretation of threats in a post-9/11 world.¹⁰⁴ Those who would take on that challenge were positioned on the side of targets who were, at best, hostile to the United States.

The frame did not need to hold up to legal scrutiny; in fact, the Obama administration preferred not to litigate the facts behind specific cases of targeting or the legal theories underwriting the strategy.¹⁰⁵ The point of selective disclosure was to create a frame which made the deliberative environment so slanted that meaningful challenges on behalf of the Other became difficult. As some commentators opined, the intent and effect of this strategy warranted that it not be considered a mode of transparency, but of propaganda.¹⁰⁶ As I argue in the third section, this obstructed the recognition of the Other as grievable human life.

The boundary separating the normal system of law and justice from the state of exception became the boundary separating terrorist threat from civilian. Glenn Greenwald argued that terrorism itself became an empty term, on par with Justice Potter Stewart’s description of “hard-core pornography”: “I know it when I see it.”¹⁰⁷ Instead of

being able to define it in terms of a specific criminal act or even desired intention, it becomes subjective. The dominant subjective interpretation in contemporary American society was that terrorism was generally committed by a subset of radical Muslims against the West, creating the need for a separate system of justice:

It is hard to overstate the centrality of the term "terrorism" when it comes to state power, policy and law. It is the term that launches wars and sustains the US posture of endless war, justifies unprecedented state secrecy, serves as the pretext for due-process-free imprisonment and assassinations, and sends countless of our fellow (Muslim) citizens to prison for decades for the most trivial, and often constitutionally protected, acts. Those Muslims convicted under separate rules of justice don't just get sent to normal prisons, but to their own special prison units now as oppressive as Guantanamo.¹⁰⁸

Of course, there were exceptions, such as pro-life extremists, eco-terrorists, and the perpetrators of the Oklahoma City bombing. But those exceptions seemed to prove the rule, and justified a new state of exception. While observers generally acknowledged the exception's spatial growth and endless duration, the true nature of the exception involved the alleged identity of the Other as "terrorist." Crossing that threshold triggered the need for proactive measures and a decreased standard of proof in the name of safety. It is in this way that even a U.S. citizen could find him or herself inside the disposition matrix; being perceived as sympathizing with an irreconcilable Other was a form of treason so severe that one forfeited the rights of citizenship—or even of civilization—and could be disposed of outside the justice system.

It is along these lines that Agamben resurrects—or arguably recreates—the notion of *homo sacer*: the sacred man.¹⁰⁹ Taken from "an obscure figure of archaic Roman law," *homo sacer* was a societal outcast who had "separated themselves from other men in a sphere beyond both divine and human law."¹¹⁰ They were no longer entitled to the ordinary protections of the law, and "may be killed" by anyone without consequences.¹¹¹

Nevertheless, they were still subject to the color of law.¹¹² Schmitt had previously articulated how the state could, through “special laws or general descriptions” declare individuals “enemies of the state.”¹¹³ With the rights of citizenship stripped away, the true power of the executive’s act of framing comes into relief. One need not be convicted under the juridical system in order to be declared *homo sacer*. And once so designated, one is not subject to the protections of that system.

By merely constructing a subject as an Other, the powerful can strip away the true identity of its enemy. In practice, a common trope of those who cheered the denial of legal protections to suspected terrorists—from protections against assassination without due process to protections against unlawful detention—was that those who “joined with the enemy” did not deserve legal protection. In 2011, Senator Lindsey Graham, one of the leading proponents of increased executive power to detain terror suspects, voiced support for a bill authorizing military detention of alleged terrorists—including U.S. citizens seized within the country—by proudly proclaiming, “If you’re an American citizen and you betray your country, you’re not going to be given a lawyer.”¹¹⁴ Not only did we debate the limitations of the drone program along the lines of citizenship, but actions that were allegedly disloyal were dubbed “treasonous” without regard for the literal or legal meanings of treason. And legislation enabling due-process-free revocations of U.S. citizenship was periodically introduced by the likes of Democratic Senator Joseph Lieberman and Republican Senator Ted Cruz.¹¹⁵ Ironically, then-Senator Barack Obama condemned the Bush administration’s attempt to “create a legal black hole at Guantanamo”¹¹⁶ and celebrated the Supreme Court’s ruling in *Boumediene vs. Bush*, which upheld the rights of detainees—those unilaterally declared “enemy combatants” by

the executive branch—to challenge their detention in court.¹¹⁷ Obama’s administration unexpectedly backed an even harsher “legal black hole” for terrorist suspects—one out of which they could never climb: death. In the context of the disposition matrix, where the deprivation of justice against the enemy was permanent and irreversible, such a parallel system of justice—whereby the due process rights of citizenship were subject to the whims of the accuser—took on a heightened impact. Those framed as the modern homo sacer—the terrorist—found themselves still subject to the laws and might of the state, but stripped of the rights and protections afforded to citizens of the world. As Agamben would argue, they were reduced to “bare life.”

Anwar al-Aulaqi as Homo Sacer

Even among opponents of the disposition matrix and its legal rationale, full-throated defenses of Anwar al-Aulaqi were rare. Objections to the Obama administration’s policies, to the secretive approach they employed, and to the precedents they set, were common. Suggestions that that Aulaqi was morally innocent were not. At a minimum, he was a hostile propagandist and provocateur. But despite his antagonistic transgressions, Aulaqi’s U.S. citizenship and the weaknesses of the publicly disclosed evidence against him would seem to have made it difficult to declare him *homo sacer*. Allegations abounded, but little concrete evidence was publicly offered that Aulaqi committed any offenses beyond the questionable exercise of his First Amendment rights.¹¹⁸ That disloyalty, however, was sufficient to have “separated [himself] from other men in a sphere beyond both divine and human law.”¹¹⁹ That rhetorical separation was accomplished by the construction of Aulaqi as an enemy of the state.

Although accounts frequently noted his unique status as an American citizen, that description was generally framed in a manner so as to contrast his citizenship with his allegedly despicable beliefs, associations, and actions. A 2010 Treasury Department press release publicized an executive order formally designating Aulahi a terrorist, thus prohibiting “U.S. persons from engaging in any transactions with him.” It characterized him as a threat by including a laundry list of accusations, including that he: was a “key leader of Al-Qa’ida in the Arabian Peninsula,” had “ties” to the Christmas Day bomber, played “a major role in setting the strategic direction” of established terrorist groups, and recruited individuals to participate in terror plots.¹²⁰ The release did not highlight Aulahi’s U.S. citizenship, though it did mention it in a section on “identifying information.” This and other descriptions of Aulahi clearly placed him within Schmitt’s categorization of *hostis*, or enemy: he was portrayed as espousing hatred toward America and showing appreciation for—if not an active role in—violent attacks against the West. Even a skeptical view of the government’s claims would lead one to conclude that Aulahi was far from a model citizen; he, at minimum, expressed radical views of U.S. foreign policy and celebrated horrific acts, placing him outside the prism of honor. At minimum, his anti-American polemics and lack of personal effort to dispute the government’s allegations defied the image of one who valued their U.S. citizenship. He placed himself in a sphere far removed from U.S. society, allowing himself to be portrayed as part of the well-established enemy. Accordingly, in naming him *homo sacer*, the sovereign faced only token resistance in exercising its prerogative to name the enemy.

Interestingly, the “sacred” nature of *homo sacer* also came into play. While the ancient interpretation of this term suggests a prohibition on ritual sacrifice, it also extends

to what we would today describe as a formal, procedural execution by the state. In arguing that they cannot be “executed,” as if via a lethal injection after receiving due process, the modern *homo sacer* is dehumanized and marginalized. They are deprived not only of the substantive protections of citizenship, but of the dignified death of granted even to the condemned criminal. The criminal is offered the opportunity to know the manner and time of his death, is afforded the opportunity to challenge his sentence, and is killed in a manner deemed “humane” by the polis. The killing of Aulaqi, like the killing of Osama bin Laden before him, was carried out and described in cold, sterile terms. While the government did not take active steps to desecrate the body or behave sacrilegiously in their deaths—in bin Laden’s case, the government claimed that it buried his remains at sea in keeping with Islamic custom—the brutal nature of the deaths defied the dignity befitting a citizen. The detached, calculated, silent, unexpected, and mechanical death from a drone strike reflected the sovereign’s desire to see the modern *homo sacer* killed, but without the ritual due the relatively protected criminal, or *inimicus*.

In Search of Grievability

As ominous as the disposition matrix may have sounded when applied to citizens, critics of broader U.S. drone policy noted a more pressing issue: the dual standard toward the lives of those who were deemed grievable and those who were not. The president led the nation in appropriately grieving for the loss of innocent life in Newtown, but the death the state inflicted on innocent life globally was largely overlooked, rationalized, or even celebrated. Butler argues that the successful framing of the Other in war ensures that

“certain lives do not qualify as lives or are, from the start, not conceivable as lives.” For Butler, “these lives are never lived nor lost in the full sense.”¹²¹ The challenge becomes unpacking how some lives, such as the victims at Sandy Hook, were recognizable and grievable, while other lives were not.¹²² Doing so requires an exploration of affect and the totalizing frames employed in a state of “war.”¹²³

A critique of the lack of media coverage of global tragedy notwithstanding, Americans are capable of recognizing instances of death and tragedy.¹²⁴ However, this recognition takes place on a different level. Butler argues that we “read about lives lost and are often given the numbers,” but fail to develop an affective connection to the victims—and therefore fail to cultivate “ethical and political judgment” about global issues.¹²⁵ The problem lies in the executive’s capacity for framing the nature of the struggle as existential, and the victims as serious threats—or, at best, necessary sacrifices. In the context of the “war on terror,” in which the enemy has been portrayed as unable to be contained or pacified through the traditional tactics of state-based warfare, the contrast between our grievability and that of the Other becomes more dramatic. I quote Butler at length here, as she touches upon two key areas of analysis.

If we accept that affect is structured by interpretive schemes that we do not fully understand, can this help us understand why it is we might feel horror in the face of certain losses but indifference or even righteousness in light of others? In contemporary conditions of war and heightened nationalism, we imagine that our existence is bound up with others with whom we can find national affinity, who are recognizable to us, and who conform to certain culturally specific notions about what the culturally recognizable human is. This interpretive framework functions by tacitly differentiating between those populations on whom my life and existence depend, and those populations who represent a direct threat to my life and existence. When a population appears as a direct threat to my life, they do not appear as “lives,” but as the threat to life (a living figure that figures the threat to life). Consider how this is compounded under those conditions in which Islam is seen as barbaric or pre-modern, as not yet having conformed to those norms that make the human recognizable. Those we

kill are not quite human, and not quite alive, which means that we do not feel the same horror and outrage over the loss of their lives as we do over the loss of those lives that bear national or religious similarity to our own.¹²⁶

Nationalism itself constructs us as subjects with collective identities and affinities, and the very concept of war exploits that division by playing on our differential recognition of the Other and their (lack of) grievability.¹²⁷ The enemy is inherently less valuable, and less human, than one's fellow citizens. In fact, for Butler, if we value life, we must tolerate the destruction of the enemy for two reasons.

First, we have an affective connection to those "recognizable to us" in a cultural sense: our neighbors and fellow citizens. Insofar as we are threatened, and some of us have perished in the conflict, we see the Other as a threat to life itself. The use of lethal force is not death. In a sense, it is the prevention of death. It logically follows from the Bush-era proclamation that "to win the war on terror we must take the fight to the enemy."¹²⁸ Theoretically, the killing of the Other becomes more than mere self-defense, since the Other represents the negation of life itself.¹²⁹ In practice, this idea has manifested itself as the main rationale for preventive war.

Butler references another element of recognition that goes beyond the confines of the short-term conflict: the Other as culturally deficient. The rhetorical framing of the "war on terror" capitalized on this humanitarian element by noting the backwards nature of societies from Afghanistan to Iraq. These societies were described, in either sympathetic or condescending tones, as lacking respect for gender equality and freedom of religion, as being corrupt autocracies, and as not rising to the level of responsible members of the community of nations. Even if one removes the perception that the Other represents a threat, this trope of cultural deficiency still frames the Other as less human and less deserving of recognition. They lack our cultural, religious, and political values.

They have failed to develop their societies. In short, they appear barbaric. We may feel some sympathy for their loss of life, but the loss is insignificant, as they never would have lived full lives to begin with.

In a macabre sense, the increased lethality and detached, antiseptic image of drone warfare actually reduced the recognizability and grievability of the Other.¹³⁰ There was no body, imprisoned in a state of limbo, over which to cry out for due process. There was only deniability, obfuscation, and finality. The dead were dead. Squabbles over where to try the Other and what habeas corpus rights applied became moot. No court ruling could interrupt the injustice midstream; the administration's claims of state secrecy and national security proved compelling to the judicial branch. Even suits filed after the fact yielded no real success, and they could never bring back the dead. In the frame presented to Americans, those targeted shifted from not being alive to never having lived at all. The technology of drones furthered this sense of inhumanity. Michael Hastings reported that:

Unlike traditional pilots, who physically fly their payloads to a target, drone operators kill at the touch of a button, without ever leaving their base—a remove that only serves to further desensitize the taking of human life. (The military slang for a man killed by a drone strike is “bug splat,” since viewing the body through a grainy-green video image gives the sense of an insect being crushed.) As drone pilot Lt. Col. Matt Martin recounts in his book *Predator*, operating a drone is “almost like playing the computer game *Civilization*” – something straight out of “a sci-fi novel.”¹³¹

Confronting this inhumanity is a difficult task. Principles of equality of citizenship, or of cosmopolitan justice that defies citizenship altogether, require a radical rejection of the dominant mode of recognition. In short, equality—at least “a kind of qualitative equality that might be described as an equality of respect or of care”—necessitates a subordination of international power differentials and a reconsideration of U.S. global hegemony.¹³²

While such justice could theoretically be achieved without quantitative or material

equality, it demands a change in cultural psychology that may be even more infeasible: that we value the lives of the Other just as highly as our own citizens.

The challenge for the critic has become how best to deconstruct the act of framing. The mindset voiced by commentator Joe Klein, who argued that the death of innocent children abroad was justified on the grounds that it could prevent the death of American children, was not—and is not—atypical.¹³³ Viewing deaths overseas as “bug splat” and differentially grieving the loss of innocent life on the basis of nationalism or cultural affinity only guarantees a continuation of the violence and the inability of combatants on all sides to recognize the precariousness and humanity of all individuals. Butler suggests that an inclusive view of humanity requires us to do more than recognize the Other, but to expose the “taken-for-granted reality” disseminated by those with authority and to understand how dominant frames “must circulate in order to establish their hegemony.”¹³⁴ Such an enterprise requires that we reject as insufficient any attempts to frame the Other if those attempts are predicated on the selective release of information. If we lack sufficient information to evaluate a threat, or to develop a realistic perception of another person, group, nation, or culture, we must demand the access to information that enables proper deliberation. Only then can we “try to install new frames that enhance the possibility of recognition.”¹³⁵ Passively consuming selectively leaked scraps of data, even if said data is accurate, serves the interest of the framer and prevents recognition. Even when the limited information suggests that the Other is an enemy, or suggests that a course of action is desirable, citizens can defend the principle that “the public’s right to know about the activities of its military, or. . .to judge the war on the basis of full evidence is part of the democratic tradition of participation and deliberation.”¹³⁶ In the

following section, I explore the use of limit case argumentation as a tactic potentially compatible with such a critical stance.

The Limit Does (Not) Exist: Targeted Drone Strikes and the Rhetoric of Limits

The killing of Anwar al-Aulaqi marked a shift in the tenor of public deliberation over what would later become known as the disposition matrix. Public debate over drone policy had previously subsisted on speculation and isolated information strategically released by the government, but was significantly elevated by the direct involvement of the president and top administration officials. The partial disclosure of a legal rationale for targeting U.S. citizens fueled a debate that evolved over the course of years, at times emerging as front-page news. I argue that a major element of that debate involved the deployment of “limit cases”: examples designed to test the validity and boundaries of a system. In this section, I briefly define the limit case as an argumentative tool before attending to the two predominant sets of arguments raised in the aftermath of the Aulaqi killing. I conclude the chapter with an exploration of how critics and scholars might approach limit cases as meta-deliberative strategic maneuvers.

Coloring Outside the Lines: Limit Cases Defined

Scholars and citizens frequently deploy the logic of limit case argumentation, but the concepts themselves are not particularly well-defined. In key respects, limits and limit cases each bear similarities to the “edge case”—sometimes referred to as a “boundary case.” Edge cases are most commonly explored in engineering, where they describe scenarios that are “out of the ordinary,” “tricky to handle,” but still “allowed by the

preconditions” or parameters of a system.¹³⁷ Edge cases frequently reveal “bugs” in the system and typically exist at the extremes—the boundaries—of acceptable parameters, but can also involve qualitatively unusual characteristics. This mirrors the term’s more colloquial connotations, in which edge cases can refer to anything from unusually fast completion times,¹³⁸ to unexpected tax loopholes¹³⁹ and high-profile airline incidents.¹⁴⁰

While edge cases imply “engineering”—literal or otherwise—problems to be solved within a system, limit cases explore the very boundaries of systems. Philosopher Barry Miller distinguishes the limit case from the “limit,” or “limit simpliciter,” by suggesting that limit itself represents a boundary: a person must be at least 35 years old to serve as President of the United States, the highest possible score in bowling is 300, a line must have at least two points and a polygon must have at least three sides. Limit cases also explores boundaries but do so from outside of a definition, set, or system. This is most useful where it is difficult or impossible to identify a clear limit, but an example can be cited of something beyond the limit. One cannot define the shortest possible line or the maximum number of sides in a polygon, but can find limit cases for both: a single point is not a line, and a circle is not a polygon.¹⁴¹

As tools of both dialectical and rhetorical argument, limits and limit cases serve an analogous purpose by clarifying, shaping, and sometimes breaking boundaries. Most specifically, they can be used in pursuit of stasis or to problematize ways of thinking by revealing flaws in the parameters of those with competing interpretations. A useful way to illustrate this process is to consider two interlocutors debating so-called “stand-your-ground” laws and questioning the extent to which one has a “duty to retreat” when threatened:

PARTICIPANT A: Imagine you're in your home with your spouse and infant child. An intruder bursts through the door. You flee to the second floor, but are followed. You fear for your life. Do you risk jumping out of the window, knowing that you or a loved one could be seriously injured or killed? Or are you justified in firing at the intruder?

PARTICIPANT B: Imagine you get into a shouting match with another driver over a parking space. They get out of their car and tell you to back off. You make an obscene gesture, and they walk toward you and demand that you roll down your window. Do you have a duty to drive away, or can you shoot to kill if you feel threatened?

Neither participant in this exchange defines any limit to either the right to self-defense or the duty to retreat, but both present scenarios that they anticipate lie outside their opponent's conceived criteria. As such, they serve as limit cases that explore boundaries without clearly tracing their contours.

While limit cases may seem inefficient at establishing firm limits, they can nevertheless be useful argumentative tools. Their deployment can assist in approximating limits, arriving at stasis in dialectic and rhetorical exchanges. In matters of public concern—particularly on issues involving political and legal authority—limit cases can draw critical, expert, or public attention to disputes over appropriate limits. This utility is normatively ambivalent, however. That limit cases can draw attention, stimulate deliberation, or enhance clarity, does not mean that they must. Limit cases can easily be deployed as anti-deliberative argumentative tools in pursuit of concentrated, unaccountable authority. In arguments over the disposition matrix, this ambivalence can be readily seen.

Clash of the Limit Cases

Despite seeking drastically different deliberative and political ends, the major players in the debate over the disposition matrix used strikingly similar argumentative

tools to rhetorically construct targets of lethal action. While the discourse surrounding the disposition matrix was extensive, and a characterization of that discourse as “two-sided” would be a gross oversimplification, an exploration of the most prominent texts is both warranted and instructive. I have chosen to center my analysis on the major public statements of the Obama administration and the arguments raised during Senator Rand Paul’s nearly 13-hour Senate filibuster which began on March 6, 2013.¹⁴²

Aside from Obama’s September 30, 2011 announcement of Anwar al-Aulaqi’s death,¹⁴³ the most noteworthy texts emanating from the Obama administration—Attorney General Eric Holder’s March 5, 2012 speech at Northwestern University’s School of Law, Homeland Security Advisor John Brennan’s April 30, 2012 remarks at the Wilson Center, and the leaked Justice Department white paper published on February 4, 2013¹⁴⁴—portrayed a legitimate, hypothetical target of lethal action. This target, a thinly veiled allusion to Aulaqi, was invoked in order to justify novel legal theories and the subversion of broader deliberation and oversight. In contrast, Paul’s rhetorical strategy was to conjure a variety of hypothetical targets, from specific historical figures to abstract subjects defined by specific traits. These constructed targets called into question the delimited nature of the administration’s theories and invited his audience to imagine potential victims of state violence as grievable.

Targeting the Other: “Aulaqi”¹⁴⁵ as the Obama Administration’s Limit Case

It is safe to conclude that information strategically disseminated by the U.S. government contributed to Western media characterizations of Anwar al-Aulaqi.¹⁴⁶ In the months prior to his killing, major print media outlets—often citing military or White House sources in other aspects of their reporting—described Aulaqi as a “jihadist,”¹⁴⁷ a

“hate cleric,”¹⁴⁸ and a “regional al-Qaeda leader.”¹⁴⁹ U.S. and British authorities were cited as accusing Aulaqi of inspiring “others to commit acts of terrorism,” including convicted “underwear bomber” Umar Abdulmutallab and Fort Hood shooter Nidal Hasan.¹⁵⁰ The Treasury Department would go further, arguing in a press release that Aulaqi had “taken on an increasingly operational role” with a group calling itself “al-Qaeda in the Arabian Peninsula.”¹⁵¹ Simultaneously, media accounts began to circulate, fueled by inside sources, reporting that the administration had considered, and ultimately endorsed, placing Aulaqi on a “kill list.”¹⁵² No public justification—for such an operation, for the killing of a U.S. citizen more broadly, or for the deliberative processes involved—was offered. It was only after Aulaqi was killed that these components were addressed.

On the day of Aulaqi’s death, Obama took a far more direct approach. Speaking near the Pentagon at a ceremony marking the retirement of Admiral Michael Mullen as Chairman of the Joint Chiefs of Staff and the introduction of General Martin Dempsey as his replacement, Obama dedicated nearly one-fourth of his remarks to the Aulaqi operation.¹⁵³ Obama announced Aulaqi’s death early in his remarks¹⁵⁴—without explicitly revealing any U.S. role in the mission—and immediately delivered a series of accusations about Aulaqi’s “hateful ideology” and the danger he posed to Americans. Obama specifically alleged that Aulaqi:

- “repeatedly called on individuals in the United States and around the globe to kill innocent men, women and children to advance a murderous agenda.”
- was the “leader of external operations” of “al-Qaeda in the Arabian Peninsula,” which was “al-Qaeda’s most active operational affiliate” and “directly responsible for the deaths of many Yemeni citizens.”
- “took the lead in planning and directing efforts to murder innocent Americans.”

- “directed the failed attempt to blow up an airplane on Christmas Day in 2009.”
- “directed the failed attempt to blow up U.S. cargo planes in 2010.”

These specific allegations against Aulaqi would lay the rhetorical foundation for a broader defense of the administration’s actions and theories.

In the months that followed, the administration defended the Aulaqi killing indirectly by gradually revealing a partial legal framework for the targeted killing of U.S. citizens.¹⁵⁵ The full legal rationale was not publicly disclosed, and Aulaqi himself was rarely mentioned by administration officials in policy contexts. But his specter loomed large. Three texts were central in this effort: the 2012 speeches by Holder and Brennan, and the Justice Department white paper made public in 2013—but drafted for legislators in November, 2011.¹⁵⁶ Collectively, these texts justified the “lawfulness of a lethal operation directed against a U.S. citizen who is a senior operational leader of al-Qa’ida or an associated force”¹⁵⁷—a description that could apply to various targets, but left no doubt as to its intended referent. The administration’s theories implicated several important material and deliberative questions. Among these were two components that serve to rhetorically construct a potential target, both of which I discussed at length in the second section of this chapter: the target’s leadership role in al-Qaeda or “associated forces” and the imminence of a violent attack against the United States. Also raised—and previously explored in the same section—were the feasibility of capture and the role of due process, both of which were reinterpreted in ways that delimited executive authority and thwarted outside deliberative intervention. Two additional elements, to which I have previously alluded but not directly analyzed, had profound impacts on how and where the

executive could act using the disposition matrix. These elements were central themes implicated through the use of limit case argumentation: geography and citizenship.

The ending of the Cold War and the advent of the “war on terror” signaled a shift away from the traditional view of warfare as a territorially confined, state-on-state phenomenon. The Obama administration’s rhetorical assertion that the “war on terror” was global was hardly new—President George W. Bush’s September 20, 2001 address to Congress decreed that the conflict “will not end until every terrorist group of global reach has been found, stopped, and defeated.” The Department of Defense formally labelled the campaign the “Global War on Terror” until 2009. But its legal theories, which decreed that the president had the prerogative to use military force anywhere on the planet, without explicit congressional approval, raised eyebrows. The administration rationalized this authority both constitutionally and statutorily, and Holder cited both affirmative authorizations and the absence of explicit prohibitions:

Our legal authority is not limited to the battlefields in Afghanistan. Indeed, neither Congress nor our federal courts has limited the geographic scope of our ability to use force to the current conflict in Afghanistan. We are at war with a stateless enemy, prone to shifting operations from country to country. Over the last three years alone, al-Qaeda and its associates have directed several attacks – fortunately, unsuccessful – against us from countries other than Afghanistan. Our government has both a responsibility and a right to protect this nation and its people from such threats.

The geographic scope of the disposition matrix, particularly when combined with other delimiting components, empowered the executive to target individuals outside of war zones. Civil rights attorney Vincent Warren, who joined with Nasser al-Aulaqi’s legal effort to block the killing of Anwar al-Aulaqi, decried this expansive view in 2010 by arguing that “Yemen is nearly 2,000 miles from Afghanistan or Iraq. The U.S. government is going outside the law to create an ever-larger global war zone and turn the

whole world into a battlefield.”¹⁵⁸ The 2013 publication of the Department of Justice white paper further elaborated on this theory, maintaining that the president “retains authority to use force against al-Qaida and associated forces outside the area of active hostilities.” Reacting to that claim, Greenwald argued that John Kerry had denounced similar theories during his 2004 presidential campaign, and added that “to posit the world as a battlefield is, by definition, to create an imperial, omnipotent presidency.”¹⁵⁹

Perhaps the most talked-about and contentious aspect of the Aulaqi mission was his status as a U.S. citizen. For likely the first time in the nation’s history, the government had knowingly and deliberately targeted one of its citizens for extrajudicial killing. On a material level, the impact of crossing this Rubicon was dwarfed by the thousands of non-American lives lost as a result of other elements—such as geography, due process, and mission creep—of the rapidly expanding drone program. Heather Ashley Hayes astutely laments the tendency of U.S.-centered debate over drone strikes to disproportionately “dwell upon” the “effect on U.S. citizens” at the expense of “meaningful deliberation about the program’s violent consequences for Muslim populations around the globe.”¹⁶⁰ Symbolically, however, the unprecedented targeting of Aulaqi was important given the qualitative shift it heralded for political and deliberative norms. Most previous efforts to significantly restrict the rights of U.S. citizens accused of terrorism, such as proposals from Senator Joseph Lieberman¹⁶¹ and Senator Ted Cruz¹⁶² to strip the citizenship of those accused of joining terror groups, had garnered little traction. Speaking in support of the controversial 2011 National Defense Authorization Act, Senator Lindsey Graham argued that U.S. citizens who join with the enemy should not have a right to counsel, proclaiming, “if you’re an American citizen and you betray your country, you’re not

going to be given a lawyer.”¹⁶³ However, legal scholars disagreed on the exact nature and impact of the NDAA’s detention provisions, and those provisions have never been applied to a U.S. citizen.¹⁶⁴

In light of the symbolic importance of the executive having targeted a U.S. citizen for the first time, the action and its ensuing debate generated public awareness and reflection about national security measures, opening up space for renewed consideration of U.S. policies and values. It was unsurprising that the Obama administration pursued a pre-2011 strategy of public silence and incremental, behind-the-scenes leaks designed to contain the debate. It was equally unsurprising that once Aulaqi had been killed, the administration opted to publicly engage by constructing a villainous image of “Aulaqi” before openly promulgating a theory of executive power tailored to that image. G. Thomas Goodnight and Gordon R. Mitchell describe this as a “tactical” approach aimed at “buying time and co-opting criticism.”¹⁶⁵ The task of publicly explaining the executive’s legal reasoning appropriately fell to the Attorney General, who announced the administration’s position that “it’s clear that United States citizenship alone does not make such individuals immune from being targeted.” Holder buttressed this claim by providing a set of criteria mirroring those previously attributed to Aulaqi: “Let me be clear: an operation using lethal force in a foreign country, targeted against a U.S. citizen who is a senior operational leader of al-Qaeda or associated forces, and who is actively engaged in planning to kill Americans, would be lawful” under conditions I have previously addressed in this chapter. The Justice Department’s white paper addressed the citizenship question with similarly tailored criteria supported by a lengthier legal analysis.

The net result of the Obama administration's public arguments regarding "Aulaqi" and the legality of targeted killing was a bizarre deliberative contradiction: a more-transparent articulation of a radically less-transparent legal and deliberative regime. The administration, out of necessity, responded to calls for more information about its programs, processes, and underlying legal theories. But their answers hardly provided clarity. Instead, they relied upon "Aulaqi" as a limit case to reshape the boundaries of executive power and interbranch deliberation. Rather than precisely delineating new boundaries, they pointed to "Aulaqi" as a way of demonstrating that alternate interpretations were overly restrictive. Aulaqi was properly targeted, they argued, therefore any dissenting view of the limits executive power—whether related to geography, citizenship, or judicial review—was flawed. "Aulaqi" was the case outside those limits—the exemplar exploding the boundaries of absolute prohibition in favor of unbridled executive autonomy.

Imagining a Grievable Other: Limit Cases as Grounds for Reconsideration

Responding to the Obama administration's defense of targeted drone strikes was akin to untying the Gordian knot: only through a "cheat" could one truly succeed. This chapter has explored several aspects of the disposition matrix that involve what Heather Ashley Hayes describes as "invisible logics inaccessible to scrutiny."¹⁶⁶ But the administration's deployment of "Aulaqi" opened space for increased critique and deliberation. Still, critics challenging the disposition matrix faced an uphill battle. The late Michael Hastings noted that intelligence officials had "no interest in debating the legal niceties of drone strikes." "The CIA is laughing at you guys," Hastings quoted former CIA attorney John Rasdan as telling attendees at a human rights seminar at

Columbia University. “You’re worried about international law, and the CIA is laughing.” The “Aulaqi” limit case created some room for deliberation but did not lend itself to a direct challenge. As Hastings quoted one anonymous White House official as saying, “If Anwar al-Awlaki is your poster boy for why we shouldn’t do drone strikes, good fucking luck.”¹⁶⁷ The executive’s information and authority advantages, its strategic manipulation of public consciousness, and post-9/11 public deference for aggressive antiterrorism policy conspired against advocates who attempted to counter to the administration’s arguments on their own terms.

Instead of directly challenging the wisdom of killing Aulaqi, opponents of the disposition matrix were incentivized to engage in forms of strategic maneuvering in order to critique the Obama administration’s legal and deliberative frameworks. Opponents’ strategic maneuvers were often derided both by those labeling the arguments fantastical and those calling for greater direct, principled clash. This maneuvering was most evident during Paul’s March 6-7, 2013 filibuster of Brennan’s nomination to head the CIA. Earlier that day, during testimony before the Senate Judiciary Committee, Attorney General Eric Holder was hesitant to definitively address the legality of targeting U.S. citizens on U.S. soil who do not “pose an imminent threat.”¹⁶⁸ Despite repeated questioning from Senator Ted Cruz regarding constitutional limits, Holder initially and repeatedly defined such a hypothetical operation as “inappropriate” before clarifying his answer:¹⁶⁹

CRUZ: You keep saying “appropriate.” My question isn’t about propriety. My question is about whether something is constitutional or not. As attorney general you are the chief legal officer of the United States. Do you have a legal judgment on whether it would be constitutional to kill a U.S. citizen on U.S. soil in those circumstances?

HOLDER: A person who is not engaged, as you describe — and this is the problem with hypotheticals. The way in which you have described this person sitting at the cafe not doing anything imminently, the use of lethal force would not be appropriate, would not be something —

CRUZ: I find it remarkable that you still will not give an opinion on the constitutionality. Let me move on to the next topic because we've gone round and round.

HOLDER: Let me be clear: Translate my “appropriate” to “no.” I thought I was saying no, all right? No.

SENATOR DIANNE FEINSTEIN (D – CA, COMMITTEE CHAIR): You have “no.”

CRUZ: Well, then I am glad. After much gymnastics I am very glad to hear that it is the opinion of the Department of Justice that it would be unconstitutional to kill a U.S. citizen on U.S. soil if that individual did not pose an imminent threat. That statement has not been easily forthcoming. I wish you had given that statement in response to Senator Paul's letter asking you it.¹⁷⁰

Roughly one hour later, Paul began his filibuster.

Paul explained his action as an effort to force the Obama administration to unambiguously define the scope of its powers. In first minute of his filibuster, he described his purpose as promoting the idea “that no American should be killed by a drone on American soil without first being charged with a crime, without first being found to be guilty in a court.” Several minutes later, Paul added that he planned to keep speaking “until the president responds and says: No, we won't kill Americans in cafés. No, we won't kill you at home in your bed at night. No, we won't drop bombs on restaurants.” In a colloquy with Cruz that took place several hours later, Paul acknowledged Holder's eventual concession, but expressed disappointment “that it took so much work and so much effort of cross-examination to finally get an answer.” A more concrete acknowledgement of the limits of executive power, Paul argued, was needed:

Well, words do make a difference, and I would feel a little more comfortable if we would get in writing a letter that says he doesn't believe killing people, not actively engaged in combat with drones . . . on American soil is constitutional.

Beyond Paul's explicit—if only symbolic—call for the administration to acknowledge some limits to its power, Paul repeatedly drew upon the same inventional resources of those he criticized. Arguing that “no American should be killed by a drone on American soil” without having been charged with a crime and being found guilty, Paul proceeded to construct limit cases of his own: grievable, hypothetical targets of an unrestrained disposition matrix.

In lieu of describing his limit cases in explicit detail, Paul's targets were portrayed in a variety of ways that highlighted different traits corresponding to specific delimited elements of the “Aulaqi” limit case and the Obama administration's theories of executive power. Specifically, Paul explored the controversial delimited elements of geography and imminence by presenting hypothetical targets who could be killed:

- in a variety of locations: a car, a café on Massachusetts Ave. or in Louisville, San Francisco, or Seattle; a restaurant in Houston, a cafeteria in Dearborn, Michigan, a home in Bowling Green, Kentucky, in the Rocky Mountains where there are no roads, in the suburbs of Atlanta, at school at Kent State or Ann Arbor.
- while doing any number of innocuous activities: eating, sleeping, typing emails, walking to church, having coffee, driving, sitting in traffic, spending time with family.

Paul's effort to encourage his audience to imagine potential drone victims as hailing from familiar places and engaged in everyday activities purposely avoided critiquing the Aulaqi operation. In fact, Paul conceded that Aulaqi “was a bad guy” and “I think, a traitor.” Paul expressed “no sympathy for his death”—although he would have preferred that Aulaqi had been tried in federal court for treason.

Despite his Paul's professed lack of sympathy for Aulaqi, he questioned the theories of unchecked presidential authority that had been deployed to define the enemy. He detailed a litany of ways that one's status as a loyal citizen could fall under suspicion,

leading them to be placed at risk of state-sanctioned violence. Among these characteristics are a variety of factors beyond an individual's control, including immutable traits and the behavior of loved ones. Paul postulates that a citizen could be at increased risk because they:

- have relatives or acquaintances who have engaged in suspicious activities, or because they did not have a “more responsible father.”¹⁷¹
- they are males “between the age of 16 and 60,” and therefore is “a combatant unless proven otherwise.”
- they are racial minorities.
- they are “missing fingers on one hand.”

Paul extended the citizenship trope of his limit cases beyond immutable characteristics by exploring to how one practices citizenship, specifically referencing the exercising of the rights of political, personal, and economic expression. According to Paul, authorities are more likely to view a citizen with suspicion if they:

- have certain views on policy issues, such as dissenting against a war, sympathizing with the enemy, supporting pro-life policies or causes, or supporting increased border security.
- are ideological minorities or support third-party political candidates.
- “own more than one gun” or “weatherized ammunition.”
- “have seven days of food in their house”
- “have changed the color of their hair.”
- have “stains on their clothing.”
- “like to pay in cash.”

These variations on identity and citizenship—ranging from immutable characteristics to protected expression—collectively represented a recognizable constellation of traits that, while arguably indicators of a higher likelihood of disloyalty or criminality, were all ostensibly within the range of acceptable social behavior. Paul's arguments did not call upon the average American to grieve for Aulaqi, but instead to reflect on our own atypical qualities and those of our loved ones.

On isolated occasions, Paul's hypothetical limit cases shifted from abstractions to concrete examples. He moderated his critique by stressing that he would "voted [that Aulahi] was [guilty of] committing treason" if he were a juror, and "wouldn't have had trouble at all with a drone strike on him." However, he then returned to the claim that the standards justifying Aulahi's killing opened the door to abuse:

If we are going to take by extension the standard we used in putting him on the list that he was a sympathizer, agitator, and a pain in the royal you-know-what on the Internet, there are a lot of those people in America if that is going to be our standard.

This logic was deployed when Paul speculated on the appropriateness of targeting other easily recognizable sympathizers and agitators. "No one will ever forget Jane Fonda swiveling around in North Vietnamese armored guns, and it was despicable," Paul argued. "It is one thing if you want to try her for treason, but are you going to drop a drone Hellfire missile on Jane Fonda? Are you going to drop a drone Hellfire missile on those at Kent State?" Paul's examples of Fonda sympathizing with a "despicable" enemy and the tragedy of protestors dying at Kent State were brief moments where his limit cases were expressed as specific, real individuals.

Paul's approach was subjected to criticism from a variety of perspectives. Heather Ashley Hayes argues that Paul's focus on American victims of drone violence diverted attention away from the predominantly non-white, non-American, and Muslim victims of the disposition matrix.¹⁷² Hayes's analysis of the paucity of U.S. discussion of global drone violence is accurate, and her dismay appropriate. But her critique but rests on the assumption that directly attempting to stimulate public engagement over overseas drone deaths is a prudent strategy. Ironically, this viewpoint was also reflected by staunch defenders of aggressive military action. Conservative commentator Charles Krauthammer

accused Paul of fixating on a trivial “stumble” by Holder, and mocked his concerns as “most ridiculous and absurd.” Krauthammer sarcastically thanked Paul for focusing on the issue, saying:

I am grateful he raised this issue, because I think we have reached a point in the country where we are sick and tired of the way the administration is going around blowing people to kingdom come while sitting in their living rooms because of a suspicion they might be al-Qaeda – I’m talking about Americans. Just last week, my neighbor was blown away during a chicken barbeque by his pool.¹⁷³

But Krauthammer accurately diagnosed the rhetorical landscape surrounding Paul’s choices, labeling the filibuster “a stroke of political genius”¹⁷⁴ for finding “a way to get into the issue. Rand Paul’s opposition largely had to do with drone attacks overseas. . . . But he cleverly chose an issue on which everybody agrees.”¹⁷⁵ Polling data seemed to support Krauthammer’s assessment. A Gallup survey released several weeks after the filibuster found only 13 percent of Americans supported “airstrikes in the U.S. against U.S. citizens living here who are suspected terrorists,” and also indicated increased opposition to drone attacks regardless of location or the citizenship of the intended target.¹⁷⁶

By constructing limit cases U.S. citizens could find grievable, the Paul filibuster increased media and public awareness of broader drone program and called into question aspects of the disposition matrix that had drastically expanded executive power and had limited deliberation. The argumentative strategy Paul utilized to critique the Obama administration’s position was remarkably similar to the strategy the administration had previously used to justify its theories. Just as the “Aulaqi” limit case undermined interpretations of citizenship, imminence, and due process that might restrict executive power, Paul’s filibuster reversed the process. Paul deployed more relatable limit cases to

expose the potentially unlimited scope of the disposition matrix. The American audience was provided a broad menu of ideological, behavioral, and immutable characteristics and invited to ponder the ways in which they, or someone they know, could be viewed as a potential threat. The end result was consideration of the question: *Under these limits, who falls outside the boundary?* The morning after the filibuster, Holder acceded to Paul's request to clarify the boundary. In a three-sentence letter described as "snarky"¹⁷⁷ and "a slight shift in position,"¹⁷⁸ Holder responded to the question "Does the president have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?" His answer was simple: "no."¹⁷⁹

The limit case is thus best viewed as a strategic maneuver designed to explore the integrity of definitional or material limits. Software engineer Josh Zimmerman encourages students of computer programming to aggressively consider the parameters of systems:

If you're trying to test code, it's really important to come at it with the attitude that you want to break it. Pretend your worst enemy wrote the code, and that you want to show them all of the problems with it to get them back for that thing they did, even the pedantic weird cases that probably won't come up in practice. (This is necessary because in the real world you will have to deal with edge cases: if you don't, your code will break for at least some people [but probably thousands], possibly making whatever you wrote unusable for them.)¹⁸⁰

Limit case argumentation, whether it takes place in dialectical exchange, ideal rhetorical argument, or real-world rhetoric, functions similarly. It presents scenarios—real, rhetorical constructions of reality, or purely fictional hypothetical abstractions—to test the merits of a way of thinking. As such, limit case argumentation is a form of strategic maneuvering that can be either a boon or a bane to healthy deliberation.

Conclusion: The Limit Case and Meta-Deliberative Critique

That both prominent sides in the debate over the disposition matrix utilized limit case argumentation demonstrates the normative ambivalence of the technique, and provides an insight into the ubiquitous nature of strategic maneuvering more broadly. A debate over the appropriate limits of the executive branch's authority to carry out lethal attacks could, hypothetically, be undertaken without relying on limit case argumentation. Participants could confine the discussion to setting the parameters of the drone program, outlining specific conditions and procedures, and defining the roles of the legislative and judicial branches in the deliberative process. Such a detached approach would lack the self-evident benefits of testing policy systems by applying real-world scenarios, but it could result in clarification of the rules under which the executive might act.

On the other hand, an overreliance on limit cases—or, more accurately, deploying them to critique one set of boundaries without clearly defining an alternative—may lead to more obfuscation than clarity. Rhetors, sometimes out of necessity, can also use limit cases to strategically avoid direct clash in favor of describing circumstances under which their opponents' more foundational thinking might be flawed. The successful limit cases of one side can reject existing limits as insufficient, proving “if we cannot kill *him*, we must rethink the rules.” Meanwhile, equally successful limit cases deployed as counterarguments merely reject the opaqueness of the first rejection: “under the rules permitting you to kill him, who can you *not* kill?”

This dynamic underscores the important role of the rhetorical critic in assessing the norms and practices of public debate. In actually existing democracy, we must often settle for rhetorical practices that fall far short of well-intentioned dialectical exchanges.

David Zarefsky's characterizations of dialectic, ideal rhetorical argument, and actual rhetorical argument chart these distinctions.¹⁸¹ In dialectic, interlocutors attempt to resolve disagreements under fair conditions and without a strong commitment to a particular outcome. In ideal rhetorical argument, participants seek to persuade, but remain committed to norms and procedures of argument that would be acceptable to the universal audience.¹⁸² When procedural objections are raised, they must be addressed before deciding substantive issues. Zarefsky identifies "derailments of strategic maneuvering" as incidents that could spur such objections.¹⁸³ A signature derailment specified by Zarefsky is abuse of the "persuasive definition,"¹⁸⁴ a form of argument by definition¹⁸⁵ in which labels stand in for argument or evidence. Defining an individual as a "combatant," a "radical," a "terrorist," or an "operational leader" attaches discursive connotations, and challenging those labels in real-world rhetorical situations places a heavy burden on the challenger.

Unlike dialectic or ideal rhetorical argument, actual rhetorical argument is relatively devoid of stable normative procedures; the participants remain committed to a fair exchange only as needed to persuade their actual audience. The burden of responding to derailments of strategic maneuvering falls on the party raising the objection, and unless the audience demands a higher standard of discourse, such an objection is likely to be ignored or counterproductive. In national security debates, the stakes are clear. "The power to persuade is, in large measure," according to Zarefsky, "the power to define,"¹⁸⁶ and the president's power is unrivaled.¹⁸⁷ Zarefsky specifically explains the difficulty facing those seeking to challenge the president's persuasive definitions in a post-9/11 environment:

Not only does the challenger of strategic maneuvering in an actual case bear a greater burden, but discharging that burden is exceedingly difficult, because the frame of reference being challenged often can be appealed to in order to envelop the challenge. Questioning the applicability of “war” to September 11 easily can be characterized as being unpatriotic, not supporting the troops, weakening the Commander-in-Chief, being irresolute in the face of the terrorist threat, and so on. In other words, the very act of challenging this use of strategic maneuvering can undercut the utility of the challenge and question the motives of the challenger.¹⁸⁸

The logic of the disposition matrix goes even further in evading critique, by overtly cutting off the right to challenge the president’s interpretations.¹⁸⁹ The appropriate response, Zarefsky argues, is to “draw upon” the executive’s strategic maneuvering in order to demonstrate how it undermines universally shared values.¹⁹⁰

This makes the deployment of a limit case a potentially useful tool for those seeking to critique policies with anti-deliberative implications. As a strategic counter-maneuver, the limit case can serve a meta-deliberative function by fostering further debate where it might otherwise be foreclosed and by raising a procedural objection that is more likely to be supported by a public audience.¹⁹¹ The Obama administration’s “Aulaqi” limit case had meta-deliberative implications insofar as it referenced—and implicitly sought to restructure—the interbranch and intrabranched deliberative processes relating to executive power. But the limit cases offered by critics were significantly more meta-deliberative given their responsiveness to the administration’s theories of presidential autonomy and their suggestion that Obama had not simply lowered the “floor” of executive power, but had removed it entirely.¹⁹² It is perhaps fitting, then, that Paul’s filibuster served also as a procedural objection in terms of both argumentation theory¹⁹³ and political reality. The filibuster is a procedural tactic that obstructs the progress of substantive business and, by definition, extends debate.¹⁹⁴ By blocking the business of the Senate—specifically the confirmation of the president’s nominee to head

the CIA—until the administration clarified its legal interpretation, Paul’s meta-deliberative filibuster was simultaneously a strategic counter-maneuver cum procedural objection aimed at a broad, rhetorical audience, and a parallel tactic within the highly regulated U.S. Senate.

For those concerned with the quality of public deliberation more broadly, limit cases represent a form of meta-deliberative critique worthy of further consideration. Zarefsky calls on scholars of both rhetoric and dialectic to “assess the gap between the real and the ideal” and “work to close it” through “analysis and pedagogy.”¹⁹⁵ On the issue of drone policy, that gap is so broad that opinion leaders in the public sphere proclaim a need for procedural reconsideration before they can begin to develop informed opinions on substantive matters. In the introduction to this project, I cite a lengthier version of Chris Hayes’s September 9, 2012 comments on drone policy and secrecy. Hayes noted the existence of “two distinct issues”: “substantive policy” and “the secrecy issue.” Hayes then elaborated:

And [the Aulahi killing] is almost primary to the second-order issue. I mean, it seems to me that it might be possible, that under conditions of more transparency, I could be persuaded about the substance of the policy. But, under the current conditions, you can’t really even get to that argument because of the amount of secrecy that surrounds it.¹⁹⁶

Hayes’s meta-deliberative analysis, almost a year after the death of Aulahi, echo Michael Walzer’s assessment of public acquiescence to U.S. involvement in Vietnam: “that it is not possible for them to be sure whether it is just or not . . . and that nothing they can do will make much difference anyway.”¹⁹⁷ Citizens denied information and a meaningful role in the democratic process are stripped of their capacity to influence the policies carried out in their name. A meta-deliberative critique of the forces restricting debate thus becomes a priority for scholars of rhetoric and democratic deliberation. As I explore in

the chapter that follows, those forces manifest themselves in new ways when the policies involved are not only covert, but clandestine.

Notes

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² Barack Obama, “Remarks at the White House Correspondents’ Dinner,” *C-SPAN*, May 1, 2010, <https://www.c-span.org/video/?293275-1/2010-white-house-correspondents-dinner>.

³ Will Bunch, “Let’s Be Honest, Fellow Progressives, We’d Be All over Bush If He Made the Same ‘Predator Drone’ Joke That Obama Told Last Night.,” *Twitter*, @Will_Bunch, May 2, 2010, https://twitter.com/Will_Bunch/status/13252873512.

⁴ Greg Miller, “Plan for Hunting Terrorists Signals U.S. Intends to Keep Adding Names to Kill Lists,” *Washington Post*, October 23, 2012, https://www.washingtonpost.com/world/national-security/plan-for-hunting-terrorists-signals-us-intends-to-keep-adding-names-to-kill-lists/2012/10/23/4789b2ae-18b3-11e2-a55c-39408f8e6a4b_story.html.

⁵ Scott Shane, “U.S. Approves Targeted Killing of American Cleric,” *New York Times*, April 6, 2010, A12, <http://www.nytimes.com/2010/04/07/world/middleeast/07yemen.html>.

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⁷ Jeremy Engels and William O. Saas, “On Acquiescence and Ends-Less War: An Inquiry into the New War Rhetoric,” *Quarterly Journal of Speech* 99, no. 2 (May 2013): 225.

⁸ *Ibid.*, 226.

⁹ Peter Finn and Greg Miller, “Anwar al-Awlaki’s Family Speaks out Against His, Son’s Deaths,” *Washington Post*, October 17, 2011,

http://www.washingtonpost.com/world/national-security/anwar-al-awlakis-family-speaks-out-against-his-sons-deaths/2011/10/17/gIQA8kFssL_story.html.

¹⁰ Scott Shane, "U.S. Approves."

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¹³ "Plaintiff's Complaint, *Al-Aulaqi v. Panetta*," July 18, 2012, <https://www.aclu.org/legal-document/al-aulaqui-v-panetta-complaint>.

¹⁴ Scott Shane, "The Lessons of Anwar al-Awlaki," *New York Times Magazine*, August 27, 2015, <http://www.nytimes.com/2015/08/30/magazine/the-lessons-of-anwar-al-awlaki.html>.

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¹⁶ Shane, "The Lessons."

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²⁰ Joseph Rhee and Mark Schone, "How Anwar Awlaki Got Away," *ABC News*, November 30, 2009, <http://abcnews.go.com/Blotter/FtHoodInvestigation/anwar-awlaki/story?id=9200720>.

²¹ *Ibid.*

²² Shane, "The Lessons."

²³ "Al-Awlaki has previously described these charges as 'bogus.'" Rhee and Schone, "How Anwar Awlaki Got Away."

²⁴ A 2004 *U.S. News & World Report* article reporting these allegations includes the subheadline “A skirt-chasing mullah is just one more mystery for the 9/11 panel.” See Ragavan, Hook, and Ekman, “The Imam’s.”

²⁵ Various watch lists, created in the aftermath of the 9/11 attacks, have evolved in recent years. Inclusion on such a list can have a variety of consequences, ranging from denying individuals the ability to fly (i.e. the “No Fly List”) to subjecting them to additional screening. It is unclear on which list Anwar al-Aulaqi was placed, but given that he was able to board a plane to the United States, he was likely on a form of the “Terrorist Watch List” or the “Selectee List,” which can subject individuals to additional screening or lead to individuals being detained for questioning.

²⁶ Rhee and Schone, “How Anwar Awlaki Got Away.”

²⁷ One report argues that Aulaqi lied on his visa application in order to qualify for a taxpayer-funded scholarship available only to foreign-born students. See Catherine Herridge, “Radical Muslim Cleric Lied to Qualify for U.S.-Funded College Scholarship,” *Fox News*, April 12, 2010, <http://www.foxnews.com/us/2010/04/12/radical-muslim-cleric-lied-qualify-funded-college-scholarship.html>; Additional reporting suggests that prosecutors dropped the case due to insufficient evidence, in part because Aulaqi “corrected the place of birth.” Felisa Cardona, “U.S. Attorney Defends Dropping Radical Cleric’s Case in 2002,” *Denver Post*, December 2, 2009, http://www.denverpost.com/technology/ci_13914150; See also Rhee and Schone, “How Anwar Awlaki Got Away.”

²⁸ Rhee and Schone, “How Anwar Awlaki Got Away.”

²⁹ *Ibid.*

³⁰ Scott Shane, “Born in U.S., a Radical Cleric Inspires Terror,” *New York Times*, Nov. 18, 2009, <http://www.nytimes.com/2009/11/19/us/19awlaki.html>.

³¹ Awlaki’s response to the question “How have the events of September 11 affected the Arab-American community?” was somewhat ambiguous and began with: “For us it has been a very dramatic change. First of all, many of us, as soon as we saw what happened, hoped that the ones doing this were not Muslim or Arab because we had already experienced a backlash in the Oklahoma City bombing and the earlier attack on the World Trade Center. There is still this guilt by association. We are viewed as guilty even though we might not have anything to do with [a bombing]. There is an expectation that Muslims should apologize for something that they never did. That was something I heard echoed by a few Muslims.” Later in the interview, he described the attacks as a “tragic loss for everyone” and emphasized that “Islam does not approve of this.” Brian Handwerk and Zain Habboo, “Attack on America: An Islamic Scholar’s Perspective - Part 1,” *National Geographic News*, September 28, 2001, http://news.nationalgeographic.com/news/2001/09/0927_imampart1.html.

³² Shane, “The Lessons.”

³³ Shane, “Born in U.S.”

³⁴ Sudarsan Raghavan, “Cleric Linked to Fort Hood Attack Grew More Radicalized in Yemen.” *Washington Post*, December 10, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/09/AR2009120904422.html>.

³⁵ Shane, “The Lessons.”

³⁶ Anwar al-Aulaqi, “War Against Islam,” March 22, 2002, accessed June 3, 2016, <https://www.youtube.com/watch?v=Qj4j-ic2D04>.

³⁷ Shane, “The Lessons.”

³⁸ According to Shane, Aulaqi made overtures to the FBI as late as 2004, seeking to meet in London or Yemen to “clear up any suspicions.” He also confided in family members that he might return to live in the United States. Shane characterizes this “tantalizing period” as having held the potential for “an alternate history” in which the U.S. government recognized Aulaqi’s influence, achieved a reconciliation, and forestalled his eventual radicalization. *Ibid.*

³⁹ Raghavan, “Cleric Linked.”

⁴⁰ Raghavan, “Cleric Linked.”

⁴¹ Orr, “Qaeda-Linked.”

⁴² Shane, “U.S. Approves.”

⁴³ Greenwald, “Due-process-free Assassination.”

⁴⁴ Tom Finn and Noah Browning, “An American Teenager in Yemen: Paying for the Sins of His Father?,” *Time*, October 27, 2011, <http://www.time.com/time/world/article/0,8599,2097899,00.html>.

⁴⁵ Charlie Savage, “Suit Over Targeted Killings Is Thrown Out,” *New York Times*, December 7, 2010, <http://www.nytimes.com/2010/12/08/world/middleeast/08killing.html>.

⁴⁶ Finn and Browning, “An American Teenager.”

⁴⁷ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 3rd ed. (New York: Basic Books, 2000).

⁴⁸ Thomas Waldman, *War, Clausewitz and the Trinity [electronic Resource]* (Burlington, VT: Ashgate, 2013), 162.

⁴⁹ Carl von Clausewitz, *On War*, Indexed Edition, trans. Michael Eliot Howard and Peter Paret, Reprint (Princeton: Princeton University Press, 1989), 89.

⁵⁰ Engels and Saas, “On Acquiescence,” 228.

⁵¹ Engels and Saas argue that the increased professionalization and privatization of military forces, along with technology, advance the “distance” of war, leading to a “reduction of American bodies at risk.” *Ibid.*, 229. See also Randolph S. Bourne, *War and the Intellectuals: Collected Essays, 1915-1919* (Indianapolis: Hackett Pub., 1999), 3, 36.

⁵² Engels and Saas, “On Acquiescence,” 226.

⁵³ I have abbreviated my analysis of this issue, as an exploration of Aulaqi was portrayed as an ungrievable enemy is the central theme of the next major section of this chapter.

⁵⁴ William Saletan, “Drones Are Death Warrants,” *Slate*, October 3, 2011, http://www.slate.com/articles/news_and_politics/human_nature/2011/10/anwar_al_awlaki_and_drone_strikes_on_u_s_citizens_due_process_wo.html.

⁵⁵ Krissy Storrar, “Cleric ‘Urged BA Jet Bomb Plotter to Sell Soul to Allah,’” *Daily Mirror*, February 9, 2011, <http://www.mirror.co.uk/news/uk-news/cleric-urged-ba-jet-bomb-109377>.

⁵⁶ Dana Priest, “U.S. Military Teams, Intelligence Deeply Involved in Aiding Yemen on Strikes,” *Washington Post*, January 27, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/26/AR2010012604239.html>.

⁵⁷ This issue is explored in detail in the fourth major section of this chapter. See Barack Obama, “Remarks by the President at the ‘Change of Office’ Chairman of the Joint Chiefs of Staff Ceremony,” *Whitehouse.gov*, September 30, 2011, accessed July 12, 2015, <https://www.whitehouse.gov/the-press-office/2011/09/30/remarks-president-change-office-chairman-joint-chiefs-staff-ceremony>.

⁵⁸ Heather Ashley Hayes argues that, during this time, the “disposition matrix” fell “markedly outside of public deliberation,” with its discussion largely relegated to “one of the most limited forms of technical argument to date.” Heather Ashley Hayes, “Don’t Fear the Reaper: The Disturbing Case of How Drones Reconfigure Technologies of Deliberation,” in *Disturbing Argument*, ed. Catherine H. Palczewski (New York: Routledge, 2014), 331, 333.

⁵⁹ Michael Isikoff, “Justice Department Memo Reveals Legal Case for Drone Strikes on Americans,” *NBC News*, February 4, 2013, http://investigations.nbcnews.com/_news/2013/02/04/16843014-justice-department-memo-reveals-legal-case-for-drone-strikes-on-americans.

⁶⁰ “Department of Justice White Paper: Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who Is a Senior Operational Leader of Al-Qa’ida or An

Associated Force,” accessed July 9, 2013, http://msnbcmedia.msn.com/i/msnbc/sections/news/020413_DOJ_White_Paper.pdf.

⁶¹ A nearly identical version of the white paper, published in 2014 by Charlie Savage of the *New York Times*, included the words “Draft November 8, 2011.” Savage writes that the then-unclassified document “was prepared by the Department of Justice in 2011 for lawmakers to read in response to their requests for access to the then-classified Office of Legal Counsel memo on targeting Anwar Al-Awlaki.” The administration had opposed Freedom of Information Act requests for the memo, claiming its release was a matter of “discretion,” until a “leaked version” was published by *NBC News*. Charlie Savage, “DOJ White Paper on Killing Citizens Deemed Terrorists,” *New York Times*, June 24, 2014, <https://www.nytimes.com/interactive/2014/06/24/us/killingcitizenswhitepaper.html>; “Department of Justice White Paper: Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who Is a Senior Operational Leader of Al-Qa’ida or An Associated Force (Draft),” November 8, 2011, <https://assets.documentcloud.org/documents/612407/draft-white-paper.pdf>; Steven Aftergood, “DoJ White Paper Released as a Matter of ‘Discretion,’” *Secrecy News*, February 11, 2013, https://fas.org/blogs/secrecy/2013/02/doj_discretion/.

⁶² Miller, “Plan for Hunting.”

⁶³ Glenn Greenwald, “Chilling Legal Memo from Obama DOJ Justifies Assassination of US Citizens,” *Guardian*, February 5, 2013, <http://www.theguardian.com/commentisfree/2013/feb/05/obama-kill-list-doj-memo>.

⁶⁴ John O. Brennan, “The Efficacy and Ethics of U.S. Counterterrorism Strategy,” *Woodrow Wilson International Center for Scholars*, April 30, 2012, <http://www.wilsoncenter.org/event/the-efficacy-and-ethics-us-counterterrorism-strategy>.

⁶⁵ Eric Holder, “Attorney General Eric Holder Speaks at Northwestern University School of Law,” *The United States Department of Justice*, March 5, 2012, <http://www.justice.gov/iso/opa/ag/speeches/2012/ag-speech-1203051.html>

⁶⁶ Holder maintains that “. . .the Executive Branch regularly informs the appropriate members of Congress about our counterterrorism activities” while Brennan’s words his remarks: “. . .regularly informing appropriate members of Congress and the committees who have oversight of our counterterrorism programs.”

⁶⁷ “The Word - Due or Die,” *Colbert Report* (Comedy Central, March 6, 2012), <http://www.cc.com/video-clips/nzr8wl/the-colbert-report-the-word---due-or-die>.

⁶⁸ “Decision, *Al-Aulaqi v. Obama*,” December 7, 2010, https://www.aclu.org/sites/default/files/field_document/2010-12-7-AulaqivObama-Decision.pdf.

⁶⁹ “The completeness of the administration’s public accounts of its legal arguments was also sharply criticized last month by U.S. Judge Colleen McMahon in response to a lawsuit brought by the *New York Times* and the ACLU seeking access to the

Justice Department memos on drone strikes targeting Americans under the Freedom of Information Act. McMahon, describing herself as being caught in a ‘veritable Catch-22,’ said she was unable to order the release of the documents given ‘the thicket of laws and precedents that effectively allow the executive branch of our government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws while keeping the reasons for the conclusion a secret.’ In her ruling, McMahon noted that administration officials ‘had engaged in public discussion of the legality of targeted killing, even of citizens.’ But, she wrote, they have done so ‘in cryptic and imprecise ways, generally without citing ... any statute or court decision that justifies its conclusions.’” Isikoff, “Justice Department Memo.”

⁷⁰ Hayes, “Don’t Fear the Reaper,” 331, 336.

⁷¹ “Department of Justice White Paper.” Interestingly, both Brennan and Holder couched their arguments on this factor in terms of capture being “preferable” from pragmatic and moral perspectives.

⁷² Holder told his audience that he goes “to sleep each night thinking of how best to keep our people safe.”

⁷³ During a question-and-answer session following his speech at the Wilson Center, Brennan provided additional perspective on the idea of feasibility of capture: “Well, as I said, one of the considerations that we go through is the feasibility of capture. We would prefer to get these individuals so that they can be captured. Working with local governments, what we like to be able to do is provide them the intelligence that they can get the individuals, so it doesn’t have to be U.S. forces that are going on the ground in certain areas. But if it’s not feasible, either because it’s too risky from the standpoint of forces or the government doesn’t have the will or the ability to do it, then we make a determination whether or not the significance of the threat that the person poses requires us to take action, so that we’re able to mitigate the threat that they pose.”

⁷⁴ University of London Law Professor Kevin Jon Heller argues: “The actual organization of “al-Qa’ida and its associated forces” fatally undermines the White Paper. If those terrorist groups do not form a single organized armed group, there can be no single NIAC between the US and “al-Qa’ida and its associated forces.” And if there is no single NIAC between the United States and “al-Qa’ida and its associated forces,” the US cannot — by its own standards — justify targeting anyone who is a “senior operational commander” in one of those groups simply by citing the existence of the hostilities between the US and al-Qai’da in Afghanistan. On the contrary, in order to lawfully target a “senior operational commander” in a terrorist group that does not qualify as part of al-Qai’da in Afghanistan [sic], the US *would*, in fact, have to show (under *Tadic*) that there is a separate NIAC between the US and that group where that group is located.” Kevin Jon Heller, “The DoJ White Paper’s Fatal International Law Flaw—Organization.” *Opinio Juris*. February 5, 2013. <http://opiniojuris.org/2013/02/05/the-doj-white-papers-fatal-international-law-flaw/>.

⁷⁵ “Department of Justice White Paper,” 6.

⁷⁶ Isikoff, “Justice Department Memo.”

⁷⁷ G. Thomas Goodnight and Gordon R. Mitchell, “Drones: Argumentation in a Communication Control Society,” in *Disturbing Argument*, ed. Catherine H. Palczewski, (New York: Routledge, 2014), 323.

⁷⁸ Glenn Greenwald, “Three Democratic Myths Used to Demean the Paul Filibuster,” *Guardian*, March 10, 2013, <http://www.guardian.co.uk/commentisfree/2013/mar/10/paul-filibuster-drones-progressives>.

⁷⁹ The ACLU’s Jameel Jaffer, as quoted in Isikoff, “Justice Department memo.”

⁸⁰ “Department of Justice White Paper,” 16.

⁸¹ Most notably, Senator Ron Wyden authored a letter, which was signed by three Republican and eight Democratic senators, asking for further clarification of the executive branch’s interpretation in the aftermath of public disclosure of the white paper. Ron Wyden, “Letter to President Obama,” February 4, 2013, <https://www.wyden.senate.gov/download/letter-to-president-obama-seeking-legal-opinions>.

⁸² Isikoff, “Justice Department memo.”

⁸³ Barack Obama, “Remarks by the President at Sandy Hook Interfaith Prayer Vigil” (speech, Newtown, CT, December 16, 2012), *The White House*, <http://www.whitehouse.gov/the-press-office/2012/12/16/remarks-president-sandy-hook-interfaith-prayer-vigil>

⁸⁴ George Monbiot, “In the US, Mass Child Killings Are Tragedies. In Pakistan, Mere Bug Splats,” *Guardian*, December 17, 2012, <http://www.guardian.co.uk/commentisfree/2012/dec/17/us-killings-tragedies-pakistan-bug-splats>

⁸⁵ See Kenneth Burke, *A Rhetoric of Motives*, Revised ed. (Berkeley, CA: University of California Press, 1969).

⁸⁶ See Kenneth Burke, *A Grammar of Motives* (Berkeley, CA: University of California Press, 1969).

⁸⁷ Burke, *A Rhetoric of Motives*, 22-23.

⁸⁸ Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005), 1.

⁸⁹ Carl Schmitt, *Die Diktatur*, (Munich-Liepzig: Duncker & Humblot, 1921), xvii, quoted in Agamben, *State of Exception*, 32. Agamben and Schmitt approach this “problem” from radically different perspectives, with Agamben highly critical of state power and Schmitt seeking ways to expand it.

⁹⁰ Ibid., 4.

⁹¹ Ibid., 1.

⁹² Many, including Francis Fukuyama, have noted the difficulty of declaring war on a tactic. See Guy Raz, “Defining the War on Terror,” *NPR*, November 1, 2006, <http://www.npr.org/templates/story/story.php?storyId=6416780>

⁹³ Ibid.

⁹⁴ In addition to the major military commitments in Afghanistan and Iraq, the United States has utilized drones or covert forces in Pakistan, Libya, Yemen, Somalia, and Mali. See Glenn Greenwald, “Obama’s Libya response highlights his foreign policy mentality,” *Guardian*, October 3, 2012, <http://www.guardian.co.uk/commentisfree/2012/oct/03/obama-libya-embassy-attack>

⁹⁵ Schmitt, *The Concept of the Political* (Chicago: The University of Chicago Press, 2007), 31.

⁹⁶ Michael Innes, ed., *Denial of Sanctuary: Understanding Terrorist Safe Havens* (Westport, CT: Praeger, 2007).

⁹⁷ Robert L. Ivie, “Images of savagery in American justifications for war,” *Communication Monographs* 47 (1980), 279-294.

⁹⁸ “We are at war with a stateless enemy, prone to shifting operations from country to country. Over the last three years alone, al-Qaeda and its associates have directed several attacks – fortunately, unsuccessful – against us from countries other than Afghanistan. Our government has both a responsibility and a right to protect this nation and its people from such threats.” Holder, “Attorney General.”

⁹⁹ Wendy Brown, *Walled States, Waning Sovereignty* (New York: Zone Books, 2010), 45-46.

¹⁰⁰ Holder concedes that the United States cannot “use military force whenever or wherever we want,” but argues that “the use of force in foreign territory would be consistent with these international legal principles if conducted, for example, with the consent of the nation involved—or after a determination that the nation is unable or unwilling to deal effectively with a threat to the United States.” Holder, “Attorney General.”

¹⁰¹ “Perception and policy are but two modalities of the same process whereby the ontological status of a targeted population is compromised and suspended.” Judith Butler, *Frames of War: When Is Life Grievable?* Reprint edition (New York: Verso, 2016), 29.

¹⁰² Ibid., 11.

¹⁰³ Ibid., 8.

¹⁰⁴ Chaim Kaufmann, “Threat Inflation and the Failure of the Marketplace of Ideas: The Selling of the Iraq War,” *International Security* 29 (2004, Summer), 5.

¹⁰⁵ “This is all just part-and-parcel of the administration's modus operandi when it comes to classified information. The same administration that has launched an unprecedented persecution campaign against whistleblowers (who disclose information about high-level deceit and wrongdoing) routinely leaks classified information for political gain. Only Bad Leaks (ones that expose government wrongdoing) are punished, while Good Leaks (making Obama look good) are overlooked if not officially sanctioned. Similarly, as the ACLU documented in a Guardian op-ed last June, the same administration that continuously blocks courts from reviewing the legality of their conduct by invoking secrecy claims compulsively leaks classified information to the media about those very same programs in order to depict the president as our ‘tough’ and resolute protector.” Glenn Greenwald, “The Bin Laden Raid Exposes the Obama Administration’s Selective Secrecy,” *Guardian*, August 23, 2012, <http://www.guardian.co.uk/commentisfree/2012/aug/23/bin-laden-raid-exposes-obama-administration-selective-secrecy>

¹⁰⁶ See Jameel Jaffer and Nathan Wessler, “First the ‘Targeted Killing’ Campaign, Then the Targeted Propaganda Campaign,” *Guardian*, June 6, 2012, <http://www.guardian.co.uk/commentisfree/2012/jun/06/targeted-killing-campaign-propaganda>

¹⁰⁷ Stewart wrote in his concurring opinion, “I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description, and perhaps I could never succeed in intelligibly doing so. But I know it when I see it, and the motion picture involved in this case is not that.” *Jacobellis v. Ohio*, 378 U.S. 184 (1964).

¹⁰⁸ Glenn Greenwald, “New York’s Top Court Highlights the Meaninglessness and Menace of the Term ‘Terrorism,’” *Guardian*, December 16, 2012, <http://www.guardian.co.uk/commentisfree/2012/dec/16/court-terrorism-morales-gangs-meaningless>.

¹⁰⁹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 86.

¹¹⁰ *Ibid.*, 8, 86.

¹¹¹ *Ibid.*, 8.

¹¹² *Ibid.*, 8. Analysis similar to that in this paragraph was used in a prior project.

¹¹³ Schmitt, *The Concept*, 47.

¹¹⁴ Glenn Greenwald, “Congress Endorsing Military Detention, a New AUMF,” *Salon*, December 1, 2011,

http://www.salon.com/2011/12/01/congress_endorsing_military_detention_a_new_aumf/singleton/

¹¹⁵ Jordan Fabian, “Lieberman Wants to Strip Citizenship of Americans Who Join Foreign Terror Orgs.,” *Hill*, May 4, 2010, <http://thehill.com/blogs/blog-briefing-room/news/95967-lieberman-wants-to-strip-citizenship-of-americans-who-join-foreign-terror-orgs>; Alex Rogers, “Cruz Floats Bill to Revoke Citizenship of Americans Who Fight for ISIS,” *Time*, Sept. 8, 2014, <http://time.com/3303531/senator-ted-cruz-american-terrorists-citizenship-bill/>.

¹¹⁶ Glenn Greenwald, “Obama and Habeas Corpus—Then and Now,” *Salon*, April 11, 2009, http://www.salon.com/2009/04/11/bagram_3/.

¹¹⁷ See David Stout, “Justices Rule Terror Suspects Can Appeal in Civilian Courts,” *New York Times*, June 13, 2008, <http://www.nytimes.com/2008/06/13/washington/12cnd-gitmo.html>; *Boumediene v. Bush*, 553 U.S. 723 (2008).

¹¹⁸ Paula Newton, “Al-Awlaki’s Father Denies Endorsing Terror,” *CNN.com*, December 8, 2011, accessed July 13, 2016, http://articles.cnn.com/2011-12-08/middleeast/world_meast_yemen-awlaki-father_1_imam-anwar-drone-strike-awlaki

¹¹⁹ Agamben, *Homo Sacer*, 86.

¹²⁰ “Treasury Designates Anwar Al-Aulaqi, Key Leader of Al-Qa’ida in the Arabian Peninsula,” July 16, 2010, <http://www.treasury.gov/press-center/press-releases/Pages/tg779.aspx>

¹²¹ Butler, *Frames of War*, 1.

¹²² “. . .grievability is a presupposition for the life that matters.” *Ibid.*, 14.

¹²³ “. . .war is framed in certain ways to control and heighten affect in relation to the differential grievability of lives. . .” *Ibid.*, 26.

¹²⁴ Jodi Enda, “Retreating from the World,” *American Journalism Review*, January, 2011, <http://www.ajr.org/article.asp?id=4985>

¹²⁵ Butler, *Frames of War*, 13.

¹²⁶ *Ibid.*, 41-42.

¹²⁷ *Ibid.*, 38, 47.

¹²⁸ George W. Bush, “2007 State of the Union Address,” January 23, 2007, *American Rhetoric*, <http://www.americanrhetoric.com/speeches/stateoftheunion2007.htm>.

¹²⁹ President Obama’s counterterrorism adviser Bruce Reidel recently described this sentiment by arguing that drone strikes must be continuous to prevent the growth of

threats: “You’ve got to mow the lawn all the time. The minute you stop mowing, the grass is going to grow back.” Miller, “Plan for hunting.”

¹³⁰ *MSNBC* morning show host Joe Scarborough, in critiquing the drone policy following the final 2012 presidential debate, brusquely objected on October 23 to the lack of discussion during the campaign about drones. “This is offensive to me, though. Because you do it with a joystick in California—and it seems so antiseptic—it seems so clean—and yet you have 4-year-old girls being blown to bits because we have a policy that now says, ‘You know what? Instead of trying to go in and take the risk and get the terrorists out of hiding in a Karachi suburb, we’re just going to blow up everyone around them.’ This is what bothers me. . . . We don’t detain people anymore; we kill them, and we kill everyone around them.” See Glenn Greenwald, “Joe Klein’s Sociopathic Defense of Drone Killings of Children,” *Guardian*, October 23, 2012, <https://www.theguardian.com/commentisfree/2012/oct/23/klein-drones-morning-joe>.

¹³¹ Michael Hastings, “The Rise of Killer Drones: How America Goes to War in Secret,” *Rolling Stone*, April 16, 2012, <http://www.rollingstone.com/politics/news/the-rise-of-the-killer-drones-how-america-goes-to-war-in-secret-20120416>

¹³² Fred Dallmayr, “Globalization and Inequality: A Plea for Cosmopolitan Justice,” *Comparative Studies of South Asia, Africa and the Middle East* 26, no. 1 (2006), 63.

¹³³ Greenwald, “Joe Klein’s.”

¹³⁴ Butler, *Frames of War*, 12-13.

¹³⁵ *Ibid.*, 12.

¹³⁶ *Ibid.*, 40.

¹³⁷ Josh Zimmerman, “Unit Testing: Principles of Imperative Computation [course Handout],” 2013, 1, <http://www.cs.cmu.edu/~rjsimmon/15122-s13/rec/07.pdf>.

¹³⁸ “I’ll be interested to see what happens if someone can pull in within 10 minutes, but in this day and age, in this city, that seems like an edge case.” Todd Bishop, “Click to Trunk in 15 Minutes? Testing Amazon’s New Ridiculously Fast Order Fulfillment,” *GeekWire*, May 26, 2017, <https://www.geekwire.com/2017/click-trunk-15-minutes-testing-amazons-ridiculously-fast-order-fulfillment/>.

¹³⁹ “...check it out for a fun history of the sales tax and incredible anecdotes, including how a pizza place rebranded itself as a bakery and how a food delivery service started serving unassembled wraps, both just to avoid paying taxes. Granted, these edge cases may seem remote if you are running an e-commerce, but local tax laws could impact your business nonetheless...” Pierre-Alexander Meyer, “A Primer on Sales Tax,” *Kill Bill*, September 18, 2015, <http://killbill.io/blog/a-primer-on-sales-tax/>.

¹⁴⁰ Referring to a 2017 incident in which United Airlines passenger David Dao was forcibly removed from a flight he had boarded, having been “bumped” in order to make room for airline staff, Matthew Yglesias writes: “This particular case resonated with the public because it was unusual and egregious—a sumptuous blend of a moderately rare edge case doused with a hefty dose of poor judgment.” Matthew Yglesias, “Why Flying in America Keeps Getting More Miserable, Explained,” *Vox*, April 12, 2017, <https://www.vox.com/new-money/2017/4/12/15247172/why-airlines-are-terrible>.

¹⁴¹ Barry Miller, *The Fullness of Being: A New Paradigm for Existence* (Notre Dame, IN: University of Notre Dame Press, 2012).

¹⁴² U.S. Congress, *Congressional Record*, 113th Cong., 1st sess., March 6, 2013, S1150-S1226.

¹⁴³ Barack Obama, “Remarks by the President at the ‘Change of Office’ Chairman of the Joint Chiefs of Staff Ceremony,” September 30, 2011. <https://obamawhitehouse.archives.gov/the-press-office/2011/09/30/remarks-president-change-office-chairman-joint-chiefs-staff-ceremony>

¹⁴⁴ The leaked memo itself is undated, but was likely written shortly after Aulaqi’s death in order to be shown to members of Congress in lieu of the administration’s full legal analysis. See Savage, “DOJ White Paper.”

¹⁴⁵ In this section, I occasionally utilize “Aulaqi”—in quotation marks—to distinguish Aulaqi the individual with the rhetorically constructed abstraction used as a limit case. Within quotation marks, “Aulaqi” indicates a reference not to the individual, but to the hypothetical (and typically unnamed) target sharing some of his alleged characteristics.

¹⁴⁶ See Glenn Greenwald, “How the Obama Administration Is Making the US Media Its Mouthpiece,” *Guardian*, June 8, 2012, <http://www.theguardian.com/commentisfree/2012/jun/08/obama-administration-making-us-media-its-mouthpiece>.

¹⁴⁷ Saletan, “Drones.”

¹⁴⁸ Storrar, “Cleric.”

¹⁴⁹ Priest, “U.S. Military Teams.”

¹⁵⁰ Thomas Joscelyn, “Awlaki’s Emails to Terror Plotter Show Operational Role,” *Long War Journal*, March 2, 2011, http://www.longwarjournal.org/archives/2011/03/anwar_al_awlakis_ema.php.

¹⁵¹ “Treasury Designates.”

¹⁵² Bill Roggio, “US Adds Anwar Al Awlaki to List of Designated Terrorists,” *Long War Journal*, July 16, 2010, http://www.longwarjournal.org/archives/2010/07/us_designates_anwar.php.

¹⁵³ Barack Obama, “Remarks by the President at the ‘Change of Office’ Chairman of the Joint Chiefs of Staff Ceremony,” September 30, 2011. <https://obamawhitehouse.archives.gov/the-press-office/2011/09/30/remarks-president-change-office-chairman-joint-chiefs-staff-ceremony>

¹⁵⁴ Obama briefly acknowledged several members of the audience before turning his attention to Aulaqi: “Before I begin, I want to say a few words about some important news.”

¹⁵⁵ Goodnight and Mitchell, “Drones,” 2013

¹⁵⁶ Savage, “DOJ White Paper”; Isikoff, “Justice Department Memo”; “Department of Justice White Paper.”

¹⁵⁷ “Department of Justice White Paper.”

¹⁵⁸ Josh Gerstein, “Treasury to Allow Anwar Al-Awlaki Lawsuit,” *Politico*, August 3, 2010, http://www.politico.com/news/stories/0810/40616_Page2.html.

¹⁵⁹ Greenwald, “Chilling Legal Memo.”

¹⁶⁰ Hayes, “Don’t Fear the Reaper.”

¹⁶¹ Fabian, “Lieberman Wants to Strip Citizenship.”

¹⁶² Cruz’s bill specifically applied to U.S. citizens accused of joining ISIS. Rogers, “Cruz Floats Bill to Revoke Citizenship.”

¹⁶³ Glenn Greenwald, “Congress Endorsing.”

¹⁶⁴ See Chris McGreal, “Military Given Go-Ahead to Detain US Terrorist Suspects without Trial,” *Guardian*, December 14, 2011, <https://www.theguardian.com/world/2011/dec/15/americans-face-guantanamo-detention-obama>; Adam Serwer, “The Defense Bill Passed. So What Does It Do?,” *Mother Jones*, December 16, 2011, <http://www.motherjones.com/crime-justice/2011/12/defense-bill-passed-so-what-does-it-do-ndaa/>; Joanne Mariner, “The NDAA Explained: Part Two in a Two-Part Series of Columns on the National Defense Authorization Act,” January 2, 2012, <https://verdict.justia.com/2012/01/02/the-ndaa-explained>.

¹⁶⁵ Goodnight and Mitchell, “Drones.”

¹⁶⁶ Hayes, “Don’t Fear the Reaper.”

¹⁶⁷ Hastings, “The Rise of the Killer Drones.”

¹⁶⁸ Cruz’s line of questioning followed up on a written exchange between Holder and Paul. Paul had asked Holder’s opinion as to whether “the President has the power to authorize lethal force, such as a drone strike, against a U.S. citizen on U.S. soil, and without trial.” Holder replied on March 4, 2013 that “the U.S. government has not carried out drone strikes in the United States and has no intention of doing so,” but added that “[i]t is possible, I suppose, to imagine an extraordinary circumstance in which it would be necessary and appropriate under the Constitution and applicable laws of the United States for the President to authorize the military to use lethal force within the territory of the United States.” Eric Holder, “Letter to Sen. Rand Paul,” March 4, 2013. See also Grace Wyler, “Attorney General Sends Brief and Snarky Letter to Rand Paul,” *Business Insider*, March 7, 2013, <http://www.businessinsider.com/drones-rand-paul-obama-eric-holder-2013-3>.

¹⁶⁹ The full exchange between Cruz and Holder on the topic of drones lasts approximately five minutes, and approximately three minutes of discussion preceded the section I have transcribed here.

¹⁷⁰ “Cruz v. Holder Domestic Drones,” *3/6 Judiciary Hearing* (C-SPAN 3, March 6, 2013), <https://www.c-span.org/video/?c4373316/cruz-v-holder-domestic-drones>.

¹⁷¹ Paul references an exchange between reporters and former White House Press Secretary Robert Gibbs, who was then serving as a senior adviser to Obama’s reelection campaign, after the October 16, 2012 presidential debate at Hofstra University. Asked about the killing of Abdulrahman al-Aulaqi, Gibbs remarked, “I would suggest that you should have a far more responsible father if they are truly concerned about the well-being of their children. I don’t think becoming an al-Qaida jihadist terrorist is the best way to go about doing your business.” Conor Friedersdorf, “How Team Obama Justifies the Killing of a 16-Year-Old American,” *Atlantic*, October 24, 2012, <http://www.theatlantic.com/politics/archive/2012/10/how-team-obama-justifies-the-killing-of-a-16-year-old-american/264028/>.

¹⁷² Hayes, “Don’t Fear the Reaper.”

¹⁷³ Jeff Poor, “Krauthammer: Of All Issues, Rand Paul’s Drone Concern ‘most Ridiculous and Absurd,’” *Daily Caller*, March 10, 2013, accessed April 22, 2013, <http://dailycaller.com/2013/03/10/krauthammer-of-all-issues-rand-pauls-drone-concern-most-ridiculous-and-absurd-video/>.

¹⁷⁴ In a separate column, Krauthammer describes the filibuster as “theatrically brilliant and substantively irrelevant,” crediting Paul for the “political adroitness” of “being too smart to say. . .openly and unequivocally” that his “unease applies to non-American drone targets as well.” Charles Krauthammer, “Codify the Drone War,” *Washington Post*, March 14, 2013, [https://www.washingtonpost.com/opinions/charles-krauthammer-codify-the-drone-war/2013/03/14/5dd87058-8cd6-11e2-9f54-f3fdd70acad2_story.html?](https://www.washingtonpost.com/opinions/charles-krauthammer-codify-the-drone-war/2013/03/14/5dd87058-8cd6-11e2-9f54-f3fdd70acad2_story.html?hpid=hp_hp-top-table-main-drone-war%3Acodify%3Ahomepage%2Fstory&hpid=hp_hp-top-table-main-drone-war%3Acodify%3Ahomepage%2Fstory)

¹⁷⁵ Poor, “Krauthammer.”

¹⁷⁶ In comparing public opinion after the filibuster with results of a *Fox News* poll taken three weeks earlier, Gallup cautions that the two polls were conducted somewhat differently, which could have “affected the way in which respondents answered subsequent questions about drone use on U.S. soil.” The two polls found a decrease in support for strikes against suspected terrorists abroad (74 percent to 65 percent), U.S. citizens abroad (60 percent to 41 percent), non-citizens on U.S. soil (56 percent to 25 percent), and U.S. citizens on U.S. soil (45 percent to 13 percent). Alyssa Brown and Frank Newport, “In U.S., 65% Support Drone Attacks on Terrorists Abroad,” *Gallup.com*, March 25, 2013, <http://www.gallup.com/poll/161474/support-drone-attacks-terrorists-abroad.aspx>; Dana Blanton, “Fox News Poll: Majority Supports Use of Drones,” *Fox News*, March 4, 2013, <http://www.foxnews.com/politics/2013/03/04/fox-news-poll-majority-supports-use-drones.html>.

¹⁷⁷ Wyler, “Attorney General.”

¹⁷⁸ Justin Sink, “Holder: US Has No Authority to Kill Americans with Drones on US Soil,” *Hill*, March 7, 2013, <http://thehill.com/policy/defense/286841-holder-to-paul-no-drone-strikes-against-americans-on-american-soil>.

¹⁷⁹ Eric Holder, “Letter to Sen. Rand Paul,” March 7, 2013, <https://assets.documentcloud.org/documents/611986/letter-from-attorney-general-eric-holder-to-sen.pdf>.

¹⁸⁰ Zimmerman, “Unit Testing,” 2.

¹⁸¹ David Zarefsky, “Strategic Maneuvering through Persuasive Definitions: Implications for Dialectic and Rhetoric,” *Argumentation* 20 (2006): 401.

¹⁸² See Chaïm Perelman and L. Olbrechts-Tyteca, *The New Rhetoric: A Treatise on Argumentation*, trans. John Wilkinson and Purcell Weaver (Notre Dame: University of Notre Dame Press, 1969).

¹⁸³ Zarefsky, “Strategic Maneuvering,” 403.

¹⁸⁴ The “persuasive definition” was first identified by Charles L. Stevenson. See Charles L. Stevenson, *Ethics and Language* (New Haven: Yale University Press, 1944).

¹⁸⁵ See David Zarefsky, “Definitions,” in *Argument in a Time of Change: Definitions, Frameworks, and Critiques—Proceedings of the 10th Biennial NCA/AFA Summer Conference on Argumentation*, ed. James F. Klumpp (Annandale, VA: National Communication Association, 1997): 1–11.

¹⁸⁶ David Zarefsky, *President Johnson’s War on Poverty: Rhetoric and History* (University, AL.: University of Alabama Press, 1986), 1.

¹⁸⁷ David Zarefsky, “Presidential Rhetoric and the Power of Definition,” *Presidential Studies Quarterly* 34, no. 3 (2004): 607–619.

¹⁸⁸ Zarefsky, “Strategic Maneuvering,” 413.

¹⁸⁹ “[T]here exists no appropriate judicial forum to evaluate these constitutional considerations.” “Department of Justice White Paper,” 10.

¹⁹⁰ Zarefsky, “Strategic Maneuvering,” 414-415.

¹⁹¹ More broadly, limit cases fit within two of the categories of strategic maneuvering identified by van Eemeren and Houtlosser: presentational choice and audience demand. See F. H. van Eemeren and Peter Houtlosser, “Strategic Maneuvering: Maintaining a Delicate Balance,” in *Dialectic and Rhetoric: The Warp and Woof of Argumentation Analysis*, ed. F. H. van Eemeren and Peter Houtlosser, 2002 edition (Dordrecht Netherlands; Boston: Springer, 2002), 131–59.

¹⁹² “[T]his paper does not attempt to determine the minimum requirements necessary to render such an operation lawful.” “Department of Justice White Paper,” 16; Greenwald characterizes this move as “creating a ceiling, not a floor.” Greenwald, “Chilling.”

¹⁹³ Specifically, I refer to pragma-dialectical projects concerned with rules of critical discussion and procedural objections. See van Eemeren and Houtlosser, “Strategic Maneuvering.”

¹⁹⁴ Two aspects of this claim are worthy of elaboration. First, the filibuster—or threat of a filibuster—can also be used to impede debate. Additionally, in practical terms, the filibuster need not always involve actually holding the floor of the Senate, much less discussing matters of substance. Paul’s approach was described by comedian Jon Stewart as “a good old-fashioned, actual ‘talkie’ filibuster.” “Rand Paul’s Filibuster,” *The Daily Show with Jon Stewart* (Comedy Central, March 6, 2013), <http://www.cc.com/video-clips/g81wf7/the-daily-show-with-jon-stewart-rand-paul-s-filibuster>.

¹⁹⁵ Zarefsky, “Strategic Maneuvering,” 402, 415.

¹⁹⁶ *Up with Chris Hayes* (MSNBC, September 9, 2012), accessed November 30, 2016, <http://www.youtube.com/watch?v=YZAw1yv23WA>.

¹⁹⁷ Walzer, *Just and Unjust Wars*, 301.

Chapter Three

Deliberating with/in Secret: Barack Obama, Edward Snowden, and the Power of Translation

“I’m no different from anybody else. I don’t have special skills. I’m just another guy who sits there day to day in the office, watches what’s happening and goes, ‘This is something that’s not our place to decide, the public needs to decide whether these programs and policies are right or wrong.’ . . . You should decide whether we need to be doing this.”

Edward Snowden, 29-year-old High-School Dropout, June 9, 2013¹

“Now, having said all that, you’ll remember when I made that speech a couple of weeks ago about the need for us to shift out of a perpetual war mindset, I specifically said that one of the things that we’re going to have to discuss and debate is how are we striking this balance between the need to keep the American people safe and our concerns about privacy? Because there are some tradeoffs involved.

I welcome this debate. And I think it’s healthy for our democracy. I think it’s a sign of maturity, because probably five years ago, six years ago, we might not have been having this debate.”

Barack Obama, President of the United States, June 7, 2013²

On June 9, 2013, a 29-year-old contractor assigned to the National Security Agency publicly stepped in front of a camera and confessed to the world. He admitted to taking classified documents, fleeing the United States, and turning them over to reporters because, he argued, Americans needed know the extent of their government’s secret surveillance programs. Edward Snowden’s revelation that he was the source behind articles in the *Guardian* and the *Washington Post* capped a five-day media frenzy during which government surveillance dominated the headlines and cable news chatter. Starting

on June 5, stories disclosing the U.S. government's mass-collection of cell phone metadata³ and internet traffic,⁴ foreign spying,⁵ and datamining⁶—all based on documents and analysis provided by Snowden—were published in steady fashion. Administration officials and allies were quick to defend the programs, but also recognized the need to provide more context and information in order to justify their value.⁷

Public disputes over surveillance policy are hardly a new phenomenon. In recent history, controversies have arisen over activities of questionable legality, including a wiretapping program under the George W. Bush administration⁸ and controversial leak probes targeting reporters in 2013.⁹ The years leading up to Snowden's revelations, however, were relatively devoid of significant deliberation over the issue. Health care, the economy, overseas wars, the evolution of the “war on terror,” and partisan bickering took up most of the political conversation, while expressions of concern over surveillance policies were faint and cryptic.¹⁰

Snowden's revelations jump-started global debates over sovereignty, privacy, democratic values, civil liberties, and the limits of executive authority that ultimately resulted in significant political change. Despite the fact that his administration oversaw the questionable surveillance programs and the policies and procedures that kept them shielded from public scrutiny, President Obama expressed an eagerness to engage on these issues—even while acknowledging that such a debate would not have taken place without the actions of a leaker¹¹ he condemned and sought to prosecute.

This chapter traces the factors constraining the debate over surveillance, and the role those factors played as the issue rose to the fore in 2013. I center my analysis on the rhetorical personae of Obama and Snowden in order to better understand not only that

specific debate, but how rhetorical authority functions in national security debates more broadly. I argue that Obama drew upon numerous sources of rhetorical authority in the debate over surveillance policy: the rhetorical power of the presidency, its dominant role in foreign policy, its post-9/11 enhancements, and Obama's unique charismatic authority as a critic of the Bush administration. Obama's resulting rhetorical authority granted him significant capacity to shape debates over surveillance, and reduced the potential for successful challenges to his policies. Only through extreme measures could a challenger construct the *ethos* necessary to successfully oppose the Obama administration's surveillance policies and reshape the public debate. I submit that Snowden was successful in his efforts in large part due to his unique *ethos*, which combined expertise, goodwill, and self-sacrifice.

To that end, I proceed in three sections. First, I explore the concept of rhetorical authority, in particular its relationship to public deliberation and the presidency. I then examine the Obama administration's approach to the surveillance debate, focusing on the unique advantages Obama enjoyed in that debate because of his authority—and how those advantages allowed the administration to manage information and shape the public debate. In the third section, I address the other side of the debate and explore how critics can make their voices heard on these issues and alter the agenda. Despite the significant disadvantages such critics face, I argue that Snowden was able to successfully generate *ethos* through his individualized performance of *parrhesia*, enabling him to become an effective advocate for transparency and deliberation.

Authority, Deliberation, and the Presidency: The Power of Translation

Theories of authority are ubiquitous throughout rhetorical studies, political science, and associated disciplines. For more than two millennia students of rhetoric have mapped the factors influencing how audiences gauge the authority of persuaders, focusing on issues of competence, credibility, and trustworthiness,¹² while political scientists and others have focused on the institutional and cultural sources of political authority. In this section, I do not presume to undertake an exhaustive study of authority, or even the myriad ways to understand presidential authority. Instead, I focus my analysis on the theoretical and practical threads connecting authority to democratic deliberation—particularly as these threads are revealed on matters of national security. This analysis is broken down into three parts: the importance of expertise and authority in public deliberation, the concept of “translation” as a source of authority, and how the presidency functions to maximize rhetorical authority. My goal is to demonstrate how expertise and authority manifest themselves in debates over national security, empowering presidential administrations to control information and shape the range of acceptable and reliable opinions. The result is a drastically constrained deliberative environment in which authority is concentrated within the executive branch, preventing outsiders from being viewed as knowledgeable or credible. This stifles the development of divergent viewpoints and makes successful challenges to dominant perspectives exceedingly difficult.

Expertise and Authority in Public Argument and Democratic Deliberation

Authority is intimately connected to matters of shared significance. No society—no matter how democratic its institutions or enlightened its people—can obviate the need for specialized knowledge. While Walter Lippmann’s characterization of the Deweyian ideal¹³ of participatory democracy is fallacious, or at best *argumentum ad absurdum*, he is correct that the “omnicompetent, sovereign citizen” is an unattainable ideal.¹⁴ Along the lines of Lippmann’s thinking, democratically elected leaders naturally come to mind when pondering the notion of rhetorical authority. But the political realm is nuanced and leadership is complex; it is insufficient to gauge political authority by equating it with popularity. Two ways of viewing public deliberation can help illustrate this complexity.

G. Thomas Goodnight’s work on argument spheres analyzes debates by attending to where they are located: the personal sphere, technical sphere, or public sphere. Public sphere argument, by its nature, entails commonly accessible language and standards for evaluation so that a greater portion of the citizenry can take part. In contrast, arguments situated in the technical sphere typically address “more specialized forms of reasoning” and favor more “limited rules of evidence, presentation, and judgment.”¹⁵ Inevitably, disputes arise as to where an argument should be decided. Should specialized procedures and dense jargon mark the debate, making it relatively inaccessible to the masses? Or should the debate be democratized?

In his attempt to merge argumentation theory with the ideas of the nation’s founders, Robert C. Rowland interprets the writings of James Madison as containing “an implicit theory of the public sphere.”¹⁶ Rowland attributes to Madison a vision for a healthy democratic culture which would require four groups functioning properly: the

people, their representatives, the press, and relevant experts. Through such a perspective, authority becomes more than unipolar concept. Madison opines that although a “portion of [the] knowledge” required to serve in government “may, no doubt, be acquired in a man’s closet,”¹⁷ officials will need to seek out additional information. His argument underscores the importance of expertise. People who serve as elected officials, be they worldly polymaths or the simplest of folk, obtain much of the necessary knowledge and wisdom through everyday experience. But no one can be an expert on every issue of public concern. Even those with indisputable public authority, by nature of holding popularly elected office, are compelled to seek the counsel of others who are more authoritative on particular subjects.

Both Goodnight’s spheres of argument model and Rowland’s theory of the liberal public sphere stress the indispensable role of expertise in modern democratic life. Their theories each provide important heuristics for evaluating public argument and critically intervening, but the recognition of expertise as a crucial rhetorical and political concept is not revelatory. As E. Johanna Hartelius recounts, expertise has been a pivotal component of public life for millennia:

From the early democratic experiments of Athens and Rome to the democracies of today, political participation remains a challenge. Historically, ordinary citizens’ access to politics was restricted by socioeconomic status. Government was the business of the upper class. Today, the decision-making minority is largely delineated by specialized, technical expertise. Nevertheless, the determining factor for decision-making authority continues to be access. Today’s citizens are often removed from important political issues as a result of information barriers. Even though we are not legally excluded from participating by some anti-democratic agent, the problems facing our society are sometimes so complex as to in effect prevent mass popular participation.¹⁸

Hartelius’s analysis explicates more about expertise than its historical staying power.

Expertise is not simply something rhetorical audiences look for in order to imbue their

leaders with political authority. It is a double-edged sword, offering the allure of substantively better outcomes at the risk of undemocratic, exclusive processes. To value expertise is to seek a better life. To overvalue it is to embrace elitism, and taken to extremes, to invite subjugation.

The Translator: Generating Authority by Managing Information

In conceptualizing certain rhetorical dynamics in which expertise looms large, I rely upon Edwin Black's articulation of the role of the "translator." For Black, the translator fills "archetypal role. . .so familiar to us that we scarcely acknowledge its existence"¹⁹ by unlocking and revealing hidden meaning. Put simply, those who explain gain power. In Black's more theoretical terms, one:

who provides 'readings' of a sacred text, who mediates between his audience and ultimate mystery, is regarded as having a privileged access to arcane truths. This endowment exalts his status for those to whom he translates and confers on him an authority that extends even to the temporal realm."²⁰

That power, consistent with my description of authority as a double-edged sword, is similarly inescapable and "morally ambivalent."²¹ Black presents translation not as the centerpiece of his essay, but as one way of instantiating the "rhetorical forms" of secrecy and disclosure. Although he neglects to fully explicate his interpretation of forms, I submit they can best be viewed as rhetorical moves with latent meaning beyond the specific information they reveal or conceal.²² With the possible exception of ideal types—radical openness, total concealment, pathological dishonesty—the quantitative performance of secrecy and disclosure (how much one reveals/conceals, or how often one reveals/conceals) is far less impactful than the qualitative instantiation of translation.

Translation is pervasive in public life, evident in religion, science, the academy, and the political realm. Black cites a diverse array of examples for whom “the key to meaning was the key to power,” ranging from physicians diagnosing a patient to Hitler, Stalin, and the “Southern California hermeneutics” of Charles Manson, but pays particular attention to translation’s deep connection to religion.²³ All forms of knowledge, however common or mundane, can enable translation. A person’s familiarity with their hometown makes them an authority when an out-of-town stranger asks for directions or restaurant recommendations. But more arcane forms of knowledge create greater space for the translator to engage in hermeneutics, unlocking the secrets buried within the text. And the more consequential those secrets are perceived as being, the more potential authority they convey. One is unlikely to drive long distances or wait patiently for hours to hear a friend’s suggestions regarding which film to see—no matter how much one enjoys the cinema or how much faith they put in their friend’s opinion. But our reverence and patience is far greater when dealing with a renowned doctor who can save our lives, or a spiritual leader who can save our soul. The theologian’s familiarity with sacred texts, impenetrable to the flock, empowers them to transmit moral or spiritual messages that would otherwise be lost. They then become cloaked, often literally, in the trappings of authority. The white coat, the black robe, and the mitre become synecdoches obscuring the individual and symbolizing scientific truth, justice, or special access to a higher power. Those trappings are not seen as earned lightly. Only through the occupationally appropriate combination of skill, intense training, righteousness, popular will, and divine right can someone don them legitimately.

Three important and arguably interrelated aspects of translation must be further unpacked to better capture the phenomenon's relationship with presidential authority on national security matters. The first involves its moral and normative ambivalence. As one might expect when considering the implications of relying on authority, translation can result in an infinite variety of outcomes. Translation can drastically improve individual lives and the broader world through accurate medical diagnoses, spiritual messages of hope and tolerance, and sound practical advice. But "the persona of the translator can as potently serve profane ends as sacred ones."²⁴ A Wall Street banker with a conflict of interest could market his employer's toxic investments to unsavvy consumers; a lawyer might misrepresent an obscure loophole to set a criminal free; and a demagogue can tap into shared nationalistic, ethnic, or religious delusions to stir a nation into a genocidal frenzy.

That moral ambivalence relates to the other two important elements of translation, one of which is relative power under different social conditions. Black's assessment that translation is morally ambivalent does not mean that it is "politically neutral."²⁵ Given its "special status and persuasive power," Black argues, translation "is especially suited to more hierarchical social orders. Where egalitarianism is highly valued, there the role of translator will be less likely to be played."²⁶ The egalitarianism to which Black refers spans the entire breadth of the translation process. When clerics engage in hermeneutics, for example, their actions entail a variety of components. In addition to innate skill, they must have access to the education necessary to engage the text, access to the text, and the opportunity to convey meaning to relatively unenlightened others. And they often must have sanction to undertake each of those steps. Hierarchical orders are more likely to

deny educational opportunities, prohibit access to information, and restrict who may engage in disseminating privileged truths. Relatively benign incarnations of hierarchical translation, such as the prohibition against impersonating a physician, can be contrasted with malevolent ones that marginalize populations. True to Black's theological theme, the last five centuries of organized Christianity—from the Protestant Reformation to the relaxation of the Latin Mass in 1967, and beyond—could be defined by its grappling with hierarchy and the capacity of individuals to interpret divine meaning for themselves instead of through the official ceremonies of “the one true Church.”

A social order's relative egalitarianism influences the final component of translation that must be explicated: interpretation. Black presents translation on a spectrum ranging from “passive” hermeneutics, wherein “a message appears to pass without distortion or modification,” to a more active or “refractive” approach in which the translator's “obvious interpretive involvement” influences the final message.²⁷ This more active interpretive style highlights the form's potentially anti-egalitarian—or even anti-democratic—bias. Where access to the text and to the skills necessary to translate it are more readily available, the role of a refractive translator tends to be less privileged and stripped of much of its persuasive power. However, much as a quantitative assessment of secrecy and disclosure may ignore the broader qualitative implications of patterns of translation, it is important to avoid falling into a normative trap when considering the difference between passive and refractive hermeneutics on a micro-level. All forms of translation involve interpretation and can be used for noble or odious ends. This notion is underscored by Black's argument that the “task” of both passive and active (“refractive”) translation requires “artfulness.”²⁸ Black is ambiguous on how secrecy and

disclosure might function symbiotically, and silent on how active and refractive translation might do the same. I view them both as situational tools of mediating reality.²⁹ Of greater consequence than the tools used is how information is presented, misrepresented, or hidden through the deployment of translation, the translator's accrual of prestige and authority, and the subsequent leveraging of that authority.

The egalitarian ideals of participatory democracy, universal education, and government transparency conflict with a hierarchical valuing of powerful and refractive translators, at least on most political questions. Therefore, an educated population has less need for an elite ruling class claiming the possession of privileged knowledge or interpretive abilities. Still, the translator does not vanish in the context of western liberal democracy's embrace of the prerogative of the demos to deliberate on matters of public concern. Even educated polities find themselves in need of specialists in public life: jurists, social scientists, and subject-matter experts to advise and administer policy. But the democratization of knowledge and power reduces the translators' persuasive appeal by enabling individuals to engage in their own hermeneutics or to seek alternate translations from those with competing explanations. Thus, what we choose to believe, who we choose to read, and how we align ourselves politically are all influenced by our relationship to contemporary translators.

Translation, Authority, and the Presidency

At first glance, the United States possesses many of the egalitarian traits that might militate against political leaders drastically enhancing their authority through translation. Nonetheless, the presidency remains a powerful institution that wields

tremendous rhetorical authority and restricts the capacity of competing hermeneutics. President Theodore Roosevelt's famous characterization of the presidency as a "bully pulpit" heralded the emergence of what Jeffrey K. Tulis labels the "rhetorical presidency," one of several contemporary political science theories incorporating communication as an element of governing.³⁰ Tulis's theory of executive power tracks the emergence of an extra-constitutional basis for presidential power tapped into by executives appealing directly to the people to shape and mobilize public opinion.³¹ Similarly, Samuel Kernell's description of presidents "going public" involves enhanced executive power through the use of public discourse, but through a different political strategy. Kernell's concept largely entails presidents mobilizing specific public constituencies, which in turn pressure Congress.³²

Outside of political science, other lenses for viewing the presidency help explain its rhetorical authority. The concept of "presidentialism," Dana D. Nelson's term for the public's overvaluing of the presidency at the expense of other democratic institutions and engagement, provides an analogous way of understanding translation, especially when applied to those who lionize their preferred political candidates and sacrifice critical objectivity.³³ Rhetorical scholars have followed the development of rhetorical presidency research with interest, but have largely strived to avoid the perceived "essentialist perspective" of Tulis's institutionally focused rhetorical presidency.³⁴ Bruce E. Gronbeck argues that the crucial challenges facing society relate more to media and culture than to the presidency's institutional evolution. Mary E. Stuckey notes the narrative opportunities available to the president as "interpreter-in-chief,"³⁵ while both Stuckey³⁶ and Vanessa B.

Beasley³⁷ have separately explored the relationship between the presidency and the nation's identity.

These rhetorical explorations of the presidency function consistent with, if not because of, the material and political realities of the modern office. As the sole elected official chosen by the entire country, the president has the strongest claim to the mantle of national political leadership, allowing him to synecdochally and symbolically embody the nation. That embodiment, a function of the country's strong civil religion, enables presidents to command respect from millions—though certainly not all—of the nation's citizens, including those who oppose them or their policies. Despite the particularly divisive contemporary political climate, it is still not uncommon to encounter the democratic logic of “I didn't vote for him, but he's still my president.” Beyond that political authority, presidents have unrivaled power to communicate to the nation and to do so under controlled conditions. As the leader of a massive bureaucracy, the president has access to unrivaled information and expertise. Presidents cannot completely control the public sphere, but more than anyone else they can influence the prerequisite to persuasion: “the power to define” realities and set the agenda.³⁸

Despite all of these factors, American democratic culture remains sufficiently egalitarian to allow effective resistance to presidential domination. Dissent is possible, and the president's many advantages cannot guarantee him victory in a deliberative confrontation. Citizens have the capacity to reject the president's vision in favor of their own hermeneutic reading of the issues or a competing vision expounded by another translator. On the minimum wage and gun laws, for example, the president's expertise

counts, but a variety of other voices can—and often do—compete with the president in the marketplace of ideas.

In the preceding paragraphs, I have surveyed some of the rhetorical advantages of the presidency as they relate to authority, but I have purposefully done so in general terms. The scope of the president's authority advantage, and the space available to challenge that authority, depends on the particular political context. On many topics there exists a robust marketplace of ideas, accessible and open to everyone—albeit not on completely equal terms. But on other issues the typical citizen stumbles around the marketplace in the dark, blinded by a “hierarchical social order”³⁹ that conceals reality from them, but makes it available to a privileged few. The translator-president can show you the way, shining their flashlight to reveal a portion of the hidden world. Foreign policy in general exists in such a world; the president's authority advantage on such issues is practically insurmountable. And the more those issues relate to national security, the darker the marketplace of ideas becomes.

As I have discussed elsewhere in this project, presidential power is strongest with regard to foreign policy for a number of reasons. The executive has greater legal power on foreign policy by constitutional design and broad statutory authorization. The scope of the president's *de facto* institutional power expands when one accounts for congressional inaction, partisan loyalty, case law,⁴⁰ and judicial deference. The president's vastly superior access to information—including intelligence that is kept secret or involves faraway events⁴¹—also makes challenging presidential authority difficult. Black specifically addresses the concept of classified information, relating it to the preservation of a hierarchical order:

In governmental circles, secret information is "classified" and information to which the public may have access is "unclassified." It is easy enough to understand how these terms came to be used in these ways: In conformity with the law, a formal action must be taken to designate something an official secret and thus make it is disclosure a crime. Such an action is a "classifying" in the strictest sense. Yet, we must observe the general associations of the term "classified" with the ideas of having been contained, enclosed, encompassed within a category, placed in a class, ranked. We have but to extend these associations to the political sphere to see again a remarkable consonance between the idea of secrecy and the ideas of hierarchy and order. Correspondingly, something that is "unclassified" can be generally interpreted to be undefined, indefinite, uncontained, without fixed identity: free.⁴²

Without privileged access, citizens may not only be unable to access the information necessary to develop informed opinions, they are frequently unaware of an issue's very existence. And what little information does seep into the public conversation may serve to confuse the issue, mollify concerns, or enhance the interests of the administration—occasionally by design.⁴³

These facets of enhanced presidential power mutually enforce one another, strengthening the president's authority and concentrating it in such a way as to reinforce a mantra that constrains deliberation over foreign policy: "Politics stop at the water's edge." While public opinion may constrain the president given the right circumstances, public opinion is itself constrained as an influence upon foreign policy. Foreign policy is an elite-driven realm in which "an administration and its allies have the power, not only to decide the issues to be debated, but also define the terms of disagreement and the range of 'responsible opinion.'"⁴⁴

Barack Obama and the Power of Presidential Translation

Presidential authority, a powerful force to begin with, is significantly enhanced in the realm of foreign policy—particularly as issues grow more technical, distant, or secret. Under conditions of war or crisis, that enhancement almost takes on a life of its own, as the president sometimes comes to personify the nation itself. In each chapter of this project, I discuss different aspects of how war and crisis rhetoric limits the potential of democratic deliberation. The introduction to this work situates the project within the broader disciplinary conversation over war and crisis rhetoric, and the two previous chapters in this study have explored how President Obama's rhetorical and substantive handling of foreign atrocities and the targeted killing program, respectively, positioned him as the most authoritative source of news and information on the subject. A common theme of each of these case studies was how the president's information advantage made it difficult for critics to mount meaningful, substantive challenges to presidential decisions. To a greater or lesser degree, both chapters illustrated the difficulty of genuine, robust public deliberation over a foreign policy issues.

In this chapter I argue that the obstacles facing those challenging the administration's surveillance policies rivaled those described in the previous two chapters. In this case, however, those obstacles can be most meaningfully understood and critiqued through the application of Black's concept of translation. I make that argument in two parts. First, I explore how Barack Obama's candidacy generated a charismatic following that ultimately enabled him to weather criticism surrounding his policies' impact on civil liberties. I then examine the Obama administration's handling of the debate over surveillance and secrecy, attending to Obama's direct response to the NSA

leaks and to the administration's strategic balancing of secrecy and disclosure in an effort to constrain and shape public debate.

The Charismatic Appeal of Obama's Post-Bush Presidency

Understanding the charismatic appeal of Obama and the unique advantages he enjoyed as a result of following the two-term Bush presidency requires a brief look at his meteoric political ascension and the context of the 2008 campaign. When Obama gave the keynote address at the 2004 Democratic National Convention, he was a relatively unknown state senator from Illinois. Although considered a rising star by political insiders, just four years earlier he was unable to secure a floor pass to the convention. "Fresh from a failed bid for Congress," he was "dispirited and nearly broke."⁴⁵ Adding insult to injury, his maxed-out credit card was declined when he tried to rent a car at the Los Angeles airport.

By 2004, his fortunes had changed. He had won a contested seven-way primary race for the Democratic nomination for an open U.S. Senate seat in a blue-leaning state, and he led his Republican opponent by a large margin in early polls.⁴⁶ When a sex scandal prompted his opponent to withdraw from the race, Obama was able to campaign unopposed for more than a month. Obama seemed headed for an easy victory as the Republicans struggled to find a replacement candidate. They ultimately settled on Alan Keyes, a former ambassador, four-time unsuccessful candidate for office, and a Maryland resident.⁴⁷ Keyes had some name recognition given his two runs for the presidency, but had been badly defeated in two runs for the Senate in his home state. Moreover, he had no ties to Illinois, and he had earned only single-digit percentages of the vote in two presidential primary elections there.⁴⁸ Still, despite his all-but-certain path to the Senate,

Obama's inexperience, foreign-sounding name, and personal background—the son of a Kenyan father and a white mother from Kansas—made him an unlikely political star. When Democratic nominee John Kerry's campaign decided to look outside the box in their search for an “attention-getting” convention speaker, Obama made the short list of finalists and was ultimately chosen after a joint campaign appearance with Kerry left the nominee “impressed with the charismatic political hot shot.”⁴⁹

Obama's rise and much of his popularity can be seen through the lens of German sociologist Max Weber's concept of “charismatic authority.” Weber contrasts this idea with other forms of authority—legal and traditional—and centers it on the public perception of exceptional qualities in a leadership figure. Through his rapid ascension, Obama demonstrated these qualities in three different ways. First, he personally embodied dramatic change. Charismatic authority stands in opposition to “traditionalist (patriarchal domination), which rests upon a belief in the sanctity of everyday routines”⁵⁰ by virtue of it being “‘revolutionary’ in the sense of not being bound to the existing order.”⁵¹ The U.S. Senate had long been an exclusive club dominated by rich white males.⁵² Barack Hussein Obama—a man of humble origins carrying with him a name that conjured connections to both the brutal Iraqi dictator and the leader of al-Qaida⁵³—would become only the third African American to serve in the Senate since Reconstruction. When he announced his campaign for the presidency barely two years after his election to the Senate, he extended his embodiment of revolution: a young, new voice who would be a historic “first” should he occupy the White House.

A second quality of charismatic authority involves the leader's extraordinary abilities—in this case, prophetic foresight. In his underdog campaign for the Democratic

nomination for president, Obama countered Hillary Clinton’s narrative of “experience” by stressing his “judgment.” Specifically, he focused on Clinton’s vote in favor of the 2002 Authorization for Use of Military Force Against Iraq to depict himself as a leader with the foresight lacking in others—particularly the sitting Bush administration. Few major figures, even within the Democratic Party, had opposed the invasion at the time. And Obama’s framing of his opposition, which took the form of a 2002 speech in Illinois while serving as a state legislator, was a major element of Obama’s appeal within the anti-war left.⁵⁴ Weber describes this element of charismatic authority in comparison to “the oracles of prophets” and notes that “revelation” is one of the two “extraordinary powers” people sense in charismatic leaders.⁵⁵ That Obama’s judgment on Iraq had little political significance in 2002—he expressed his views essentially as a private citizen and had no vote in the Senate until 2005—is irrelevant. Weber frames the connection between the charismatic and political authority in terms of perception:

In the following discussions the term “charisma” shall be understood to refer to an *extraordinary* quality of a person, regardless of whether this quality is actual, alleged, or presumed. “Charismatic authority,” hence, shall refer to a rule over men, whether predominantly external or predominantly internal, to which the governed submit because of their belief in the extraordinary quality of the specific *person*.⁵⁶

In this regard, Obama’s opposition to the Iraq invasion, expressed at a time when mainstream Democratic figures such as Clinton and Kerry seemed to lack the charismatic foresight to oppose what would later become an unpopular war, was successfully conveyed to his followers as “proof” of his prescience and leadership qualities.

Obama’s appeal in this regard needed only be directed to a segment of the population: those politically inclined to support peace and oppose the war in Iraq. Weber notes that:

Charisma can be, and of course regularly is, qualitatively particularized. This is an internal rather than an external affair, and results in the qualitative barrier of the charisma holder's mission and power. In meaning and in content the mission may be addressed to a group of men who are delimited locally, ethnically, socially, politically, occupationally, or in some other way. If the mission is thus addressed to a limited group of men, as is the rule, it finds its limits within their circle.⁵⁷

Along these lines, Weber's analysis also provides explanations for the lack of success others who might have attempted to appeal to the same "delimited" segments of the electorate. Others seeking the Democratic nomination, including Representative Dennis Kucinich and former Senator Mike Gravel, attempted to "address" their "mission" to anti-war voters. But they lacked the personal embodiment of revolutionary charisma many voters sensed in Obama. In the eyes of many voters, they remained too connected to the "everyday routine."⁵⁸

Weber's work contains a nascent treatment of audience, assigning to them an important role in bestowing charismatic authority. Weber describes this audience role as "recognition." Leaders have a duty to seek out followers, he argues. But charismatic leadership is ultimately a two-way street. The holder of charisma seizes the task that is adequate for him and demands obedience and a following by virtue of his mission. His success determines whether he finds them. His charismatic charm breaks down if his mission is not recognized by those to whom he feels he has been sent. If they recognize him, he is their master – so long as he knows how to maintain recognition through "proving" himself. But he does not derive his "right" from their will, in the manner of an election. Rather, the reverse holds: it is the *duty* of those to whom he addresses his mission to recognize him as their charismatically qualified leader.⁵⁹

Obama's campaign themes of "hope" and "change," along with his sharp critique of the establishment and "divisive, special interest politics"⁶⁰ enabled him to appeal to

those seeking—in Weberian terms—“revolutionary” rejections of “everyday routines.” This concept was utilized by Obama in several ways as he “sought to frame his hope-driven message as an antidote to the cynicism of political insiders.”⁶¹ That appeal, and Obama’s campaign in general, went beyond merely seeking votes on election day. Obama’s 2008 campaign embodied a more active, participatory relationship with his supporters.⁶² As the Center for Responsive Politics noted, “Donating to campaigns for so long has been the exclusive domain of an elite few,” but “this election seems to be the first one to indicate that’s changing.”⁶³ Obama’s reliance on small donations from those typically not empowered by the political process specifically mirrored Weber’s analysis of the charismatic leader who seeks peace: “If the mission is one of peace, individual patrons will provide the necessary means for charismatic structures; or those to whom the charisma is addressed provide honorific gifts, donations, or voluntary contributions.”⁶⁴

Obama’s “revolutionary” campaign against the status quo motivated new voters, the disenchanting, and those seeking drastic reforms from the “everyday routines” of the political order.⁶⁵ But two other components of Weber’s ideas of charismatic authority warrant development in light of their relationship to Obama’s subsequent performance in office. The first of these involves the continued demonstration of special abilities in order to maintain a connection with followers. Weber explains how the maintenance of charisma requires leaders to continually “maintain recognition through ‘proving’”⁶⁶ themselves through “miracles, victories and other successes.”⁶⁷ Without success—or worse, with failures—the “claimed authority” can disappear, or threaten to disappear, as soon as the proof is lacking and as soon as the charismatically qualified person appears to be devoid of his magical power or forsaken by his god.”⁶⁸

The act of proving can largely be interpreted in a modern political context as following through on the political expectations of one's following, which proved problematic given how Obama's following expanded far beyond those seeking radical change who "recognized" him as their charismatic leader. When a leader seen as revolutionary transitions into power, "the material interests of an increased following are the compelling factor."⁶⁹ Obama's relationship with those on the left, many of whom expressed disappointment over his handling of national security policy, became a complicated in this regard. By the time he took office, Obama represented not just his earliest supporters, but the Democratic Party and eventually the nation. This led to a predictable outcome, as Obama's perceived failures—many of which were the result of representing a larger constituency or dealing with legislative obstruction—became seen as an inability to "prove" himself.

Obama's failure to maintain his full charismatic authority interacts with another element of Weber's thinking: routinization. In Weber's eyes, as a "charismatic movement may be routinized into traditionalism or into bureaucratization."⁷⁰ Ultimately, such a shift has little to do with Obama, as routinization "does not depend primarily upon the subjective intentions of the followers or of the leader; it is dependent upon the institutional framework of the movement, and especially upon the economic order." Obama rose to prominence and to victory in 2008 as a charismatic figure, but inherited a traditional, bureaucratically constrained power structure. Within that power structure, his policy ambitions had to be tempered to assure passage of his legislative agenda and satisfy the broader public. Bolder goals, like the closing of the detention facility at Guantánamo Bay, were thwarted by traditional power structures. Implementing change

required coping with the pace and procedures of the bureaucracy. Many of Obama's followers were patient, lowering their expectations and acknowledging that Obama, like all presidents, had to work within the system to change it. Others remain skeptical, however, and feared the aphorism that "the office of the presidency transforms its occupant."⁷¹ This seemed especially true of Obama when he dealt with matters of national security.

Obama and Secrecy: Translation and Concealment in Defense of Authority

Obama's rapid rise to the presidency can be explained, in part, by his ability to authentically tap into the nation's war-weariness and energize voters disenchanted by the traditional political establishment. The overlap between translation and charismatic authority revolves around the prophetic aspects of revealing truth, or conveying to followers an enlightening and coherent vision of the world consistent with their own. There are few clearer expressions of fundamental human disagreement than, "we simply do not see the world the same way." Where translation falls relatively silent is in extending prophetic revelation backward to the past.⁷² To generate charismatic authority, one must "prove" "extraordinary powers" of revelation that go beyond the everyday. A leader claiming to see the world as their potential followers do, but whose past statements or actions contradict this claim, will struggle to explain miraculous conversion. They will typically be seen as "flip-flopping," occasionally derided as disingenuous, and only rarely be trusted as having truly changed. Those without past records will have no proof that they have—or that they lack—revelatory powers. But those who can document their ability to see the world prophetically, particularly when others faltered, demonstrate the

ability to mediate truth and action, melding charismatic authority and a durable “privileged access to arcane truths.”⁷³

Obama’s seeming shift toward a more bureaucratic form of authority caused angst among some of his more progressive followers, and the June 2013 Snowden leaks posed a particular problem for the leader embraced by many for his strong defense of civil liberties, transparency, and the rule of law. At various times in its handling of the surveillance debate, the Obama administration utilized different translation strategies and pursued diverse ends. By concealing programs that the administration undoubtedly knew would be controversial, and by disclosing some information only to select legislators who were then prohibited from revealing what they had learned, the administration claimed to balance the need for transparency against national security considerations that required secrecy. Two days after the initial Snowden stories broke—before Snowden had come forward as the source of the leaks—Obama broached the subject after he had delivered prepared remarks on healthcare reform at an event in San Jose, California. In what was possibly an unplanned exchange with reporters,⁷⁴ Obama responded at some length to a question from *New York Times* reporter Jackie Calmes:

OBAMA: I’m going to take one question. And then, remember, people are going to have opportunities to also—answer questions when I’m with the Chinese president today. So I don’t want the whole day to just be a bleeding press conference. But I’m going to take Jackie Calmes’ question.

JACKIE CALMES: Mr. President, could you please react to the reports of secret government surveillance of phones and Internet? And can you also assure Americans that the government—your government doesn’t have some massive secret database of all their personal online information and activities?

OBAMA: Yes. When I came into this office, I made two commitments that are more important than any commitment I made: Number one, to keep the American people safe; and number two, to uphold the Constitution. And that includes what I consider to be a constitutional right to privacy and an observance of civil liberties.

Now, the programs that have been discussed over the last couple days in the press are secret in the sense that they're classified. But they're not secret in the sense that when it comes to telephone calls, every member of Congress has been briefed on this program. With respect to all these programs, the relevant intelligence committees are fully briefed on these programs. These are programs that have been authorized by broad bipartisan majorities repeatedly since 2006.

And so, I think at the outset, it's important to understand that your duly elected representatives have been consistently informed on exactly what we're doing. Now, let me take the two issues separately.

When it comes to telephone calls, nobody is listening to your telephone calls. That's not what this program is about. As was indicated, what the intelligence community is doing is looking at phone numbers and durations of calls. They are not looking at people's names, and they're not looking at content. But by sifting through this so-called metadata, they may identify potential leads with respect to folks who might engage in terrorism. If these folks—if the intelligence community then actually wants to listen to a phone call, they've got to go back to a federal judge, just like they would in a criminal investigation.

So I want to be very clear—some of the hype that we've been hearing over the last day or so—nobody is listening to the content of people's phone calls. This program, by the way, is fully overseen not just by Congress, but by the FISA Court -- a court specially put together to evaluate classified programs to make sure that the executive branch, or government generally, is not abusing them, and that it's being carried out consistent with the Constitution and rule of law.

Now, having said all that, you'll remember when I made that speech⁷⁵ a couple of weeks ago about the need for us to shift out of a perpetual war mindset, I specifically said that one of the things that we're going to have to discuss and debate is how are we striking this balance between the need to keep the American people safe and our concerns about privacy? Because there are some tradeoffs involved.

So in summary, what you've got is two programs that were originally authorized by Congress, have been repeatedly authorized by Congress, bipartisan majorities have approved on them, Congress is continually briefed on how these are conducted. There are a whole range of safeguards involved, and federal judges are overseeing the entire program throughout. We're also setting up—we've also set up an audit process, when I came into office, to make sure that we're, after the fact, making absolutely certain that all the safeguards are being properly observed.

I welcome this debate. And I think it's healthy for our democracy. I think it's a sign of maturity, because probably five years ago, six years ago, we might not have been having this debate. And I think it's interesting that there are some folks on the left but also some folks on the right who are now worried about it who weren't very worried about it when there was a Republican President. I think that's good that we're having this discussion.

Obama continued to elaborate, discussing procedural safeguards and his view that the programs appropriately balanced security and privacy, before returning to the issue of oversight:

But, again, these programs are subject to congressional oversight and congressional reauthorization and congressional debate. And if there are members of Congress who feel differently, then they should speak up. And we're happy to have that debate.

UNIDENTIFIED REPORTER: Do you welcome the leaks, sir? Do you welcome the leaks? Do you welcome the debate?

OBAMA: I don't welcome leaks, because there's a reason why these programs are classified. I think that there is a suggestion that somehow any classified program is a "secret" program, which means it's somehow suspicious.

The fact of the matter is in our modern history, there are a whole range of programs that have been classified because—when it comes to, for example, fighting terror, our goal is to stop folks from doing us harm. And if every step that we're taking to try to prevent a terrorist act is on the front page of the newspapers or on television, then presumably the people who are trying to do us harm are going to be able to get around our preventive measures. That's why these things are classified.⁷⁶

Obama's lengthy defense of the government's surveillance programs ran the gamut by offering justification of the pragmatic necessity, secrecy, deliberative process, and respect for civil liberties involved. A number of these themes warrant analysis, and several of them are addressed in the subsection that follows. But two warrant immediate attention.

First, Obama repeatedly emphasized a commitment to deliberation. Yet he articulated a number of aspects of that deliberative process of which the average citizen could not be aware—and would have limited ability to verify. Obama assured the world that the program was legitimate as it was authorized and overseen by Congress, and that it adhered to constitutional protections by seeking judicial approval as needed. His careful wording as to Congress' role—he implied that all members of Congress are only "briefed" on some programs, and that only "relevant intelligence committees" were "fully briefed" on all the programs—pushed any disagreement on the issue to the realm of

bureaucratic authority. Any dispute over exactly who was briefed, about what programs, and to what extent, would fade into the irreconcilable minutiae of institutional politics.

Additionally, Obama positioned himself as the agent of change and reform. By provisionally defending the status quo but suggesting a desire to reassess, he both portrayed himself as a responsible steward and as an open-minded reformer who rejected the politics of fear. He was the one fighting for the civil libertarian agenda: committed to “uphold the Constitution,” implement safeguards, and proactively “shift out of a perpetual war mindset.” If anyone was to blame for excesses, it was those in Congress who failed to “speak up,” whether out of indifference or a lack of courage. And Obama labeled it “interesting” to hear critiques from the right, throwing a gentle jab at the hypocrisy of those who failed to object to secrecy when there was a Republican president. He sought to open a debate on these issues; others had simply rubber-stamped the established bureaucratic machinery and failed to join his cause.

While appeasing the most vocal critics of government overreach was an impossible task, Obama’s defense reemphasized the key values that gained him a reputation as a charismatic and prophetic figure capable of seeing the flaws in the established order and envisioning change. At the time, Obama had no reason to suspect the source of the intelligence leaks would be capable of refuting those claims—much less winning such a standoff with the president. Obama’s speculation on that point was correct. Some legislators pushed back on the president’s claims of congressional oversight, but such nuanced disputes rarely sway opinions.

Most importantly, Obama was uniquely positioned to withstand a devastating assault on his ethos by virtue of who he was not: George W. Bush. While

criticism from the left quibbled over the finer points of Obama's defense, critics on the right scoffed that there was a debate at all. They even demanded more action and condemned the still-unknown, treacherous leaker. Obama continued to echo his recurring themes, now bogged down in the routinized bureaucratic system. Any of his followers who might have ceased believing in him—those for whom he had stopped performing Weberian “miracles, victories, and other successes”—were simply “defanged”⁷⁷ and “neutralized.”⁷⁸ The routinization of partisanship helped him in both directions: his natural opponents could be framed as hypocritical and opportunistic, while his jaded allies for the most part “embraced party tribalism”⁷⁹ and let Obama “get away with some abuses” because he engaged in war “more eloquently and reluctantly.”⁸⁰

Translation via Concealment

A president's effective use of translation can also be seen in how tactfully their administration deploys the combination of secrecy and disclosure in the cultivation—and when necessary, defense—of *ethos*. Because the potential “suasory power” of translation reflects the degree of secrecy and the perceived importance of that which is hidden, the inherently clandestine world of intelligence is a potential gold mine of *ethos*.

Intelligence operations provide multiple layers of information control, and the numerous iterations of secrecy can be difficult to keep track of. Consider the context of the contemporary U.S. intelligence community. It is tasked with uncovering secrets by using secret programs. Those programs are kept secret from outsiders by secret safeguards. They are authorized by secret executive interpretations, administered by secret courts, and—we are assured—periodically reviewed by a secret group of executive employees using secret criteria. Some information about these programs is shared with a

select subset of legislators, who are sworn to secrecy and from whom secrets are often kept. These secrets are aggregated and utilized in secret ways, in order to secretly neutralize danger. When these programs are called into question, a strategic relaxation of secrecy can be utilized: selective disclosures can justify the necessity of secret programs by revealing a dangerous world and pointing to the programs' successes, or they can downplay the degree to which they were truly secret, highlighting the role of judicial and legislative involvement.

On the surface, penetrating such layered surveillance programs seems impossible. One would not even know where to jab, or if there even is something to jab. In Black's theological metaphor, the commander in chief serves as the über-translator in the surveillance state, with his allies as acolytes, trained to master specific gospels and hermeneutic techniques and strictly forbidden from revealing secrets to the outside world under penalty of excommunication. The translators meet in a room no one can access, to conduct rituals no one can see, that have meanings no one can understand. They are guided by divine scrolls no one may touch, which include directives no one can read, all sanctioned by a hidden book written in a language no one can decipher. All of this enables the privileged to see the obscured reality of the world, both material and legal, that is inaccessible to the masses.

Of course, that hierarchical and controlled order rarely holds. Democracy's egalitarian streak encourages skepticism, nagging questions, and calls for accountability. Hermetically sealing the hermeneutic circle is impractical. The executive's most effective means of controlling the debate and maintaining its authority advantage entails the strategic balancing of secrecy and disclosure in order to achieve opacity. An opaque

administration's toolbox is engineered to translate the world by zealously waterproofing the most vital secrets while allowing some sensitive disclosures to flow into the public sphere.⁸¹ This calls for loyal officials to collaborate with reporters, usually by providing classified information on the condition of anonymity in order to disseminate favorable narratives.⁸² To maximize opacity and strategic ambiguity, officials are rarely named when revealing anything sensitive. In order to keep "the intelligence strip tease going,"⁸³ on the rare occasion that officials are on the record, they speak in hypotheticals and abstractions. With nothing concrete on the record proving what the government's policies are, the administration is free to play the state secrets card to shield programs from judicial scrutiny and knock plaintiffs out of court for lack of standing.⁸⁴ Freedom of Information Act requests are opposed on the same grounds, further containing the debate.⁸⁵ Alternatively, some executive branch officials are discouraged from electronic correspondence altogether⁸⁶—no paper trail. Even public deception and dishonesty—up to and including perjury—could be overlooked if done in the best interests of the nation or the administration.⁸⁷

The modest drip of unattributable assertions only does so much. As these sources are often revealing classified information—and therefore breaking the law—or because on-the-record disclosures might open up space for judicial scrutiny, there are limits to their effectiveness and a backlash emerges. In the case of the Obama administration, journalists started to gripe about feeling used⁸⁸ and experts chided the White House for "essentially conducting the foreign policy of the U.S. by leaked journalism."⁸⁹

The diminishing returns of strategic disclosure presents another problem as an administration must determine how to handle competing narratives. Keeping disclosed

information classified turns leaks—even friendly, controlled, favorable leaks that serve the administration’s interests—into crimes.⁹⁰ The administration can turn a blind eye, but its translating capacity would be undermined. Or it could balance secrecy and disclosure by encouraging favorable leaks while criminalizing unfavorable ones, opening it up to charges of hypocrisy, and potentially criminality. An unauthorized leaker or aggressive third party poses a threat to the administration’s opacity strategy. If those leaks are tolerated and the administration is unwilling to respond on the record, competing narratives can gain currency. Journalists who feel manipulated by an administration’s opacity are more inclined to put stock in unfavorable portrayals of the administration that do not benefit the leaker. If the administration doubles down and gets tough on whistleblowers while continuing to engage in leaking, it faces backlash from the press. In the case of the Obama administration, the strategy of doubling down resulted in the prosecution of more cases under the Espionage Act than all previous administrations combined.⁹¹ In what some commentators considered excessive attempts to control the information flow, they allegedly snoop on reporters in order to plug unfriendly internal leaks, prompting criticism from press groups.⁹² In the refractive hermeneutics of translation, loyalty displaced legality as the determining factor in prosecutorial discretion, and a vicious cycle emerged:

The drama is unfolding as Congress debates whether to toughen anti-leak laws to crack down on classified information being provided to the news media. The Obama administration has responded by ordering that thousands of U.S. intelligence and law enforcement employees be questioned about media leaks when they’re polygraphed during security clearance screenings. In an unprecedented move, the administration also has criminally prosecuted numerous government employees for leaking. Whistleblower and media advocates fear that the aggressive efforts will have a chilling effect on the reporting of government wrongdoing but won’t stop classified information from being leaked when it’s politically advantageous to administrations.⁹³

The tactics of the Obama administration demonstrated how, by doubling down, the mechanics of secrecy can fold back on themselves. Even the instantiation of disclosure became anchored to secrecy, in dizzying fashion. Some disclosures of secrets were punished. Simultaneously, a parallel strategy was used: keeping secret the disclosure of other secrets proffered under the condition that the identity of the source remained secret in order to protect the legal fiction of secrecy and subvert deliberation.

The average citizen pays little mind to the inside baseball of process stories. They accept that they cannot know the entire truth, and they are placated by scant pieces of the whole that portray an incomprehensible world and well-intentioned experts committed to dealing with that world. Black suggests that “the magnification of openness and candor is strongly related to the promotion of sincerity as a virtue.”⁹⁴ But that virtue is not counterbalanced by pure vice. Instead, Black argues:

Its opposite is not a denigration of sincerity, but rather a resigned acceptance of the impenetrability of surfaces, an adjustment to the fact of mystery, an assimilation of bafflement. One orientation reviles secrecy and the other accepts it as inevitable.⁹⁵

In that fashion, the management of translation, even if opaque or deceptive, functions to legitimize bureaucratic authority as inevitable. We expect that politicians will lie and that government will do things they would prefer we don’t understand. We only hope for the translator to embody, even in an impure form, “a supremely coherent mind behind the social diversity” and a “source of reassuring faith.”⁹⁶ We accede to the acquiescent rhetorics of national security as they contain deliberation through the stewardship logic of “*don’t worry, we’ve got this*”⁹⁷ and backstopped by the subtext of “*it’s too complicated for you to grasp, and there’s nothing you can do to stop it.*”

Edward Snowden and the Potential for Meta-Deliberative Exposé

The Obama administration leveraged its authority advantage by mediating truth in different ways—concealment, selective disclosure, making a public case—and for different ends: preventing, containing, or shaping public debate; rhetorically constructing a crisis; achieving policy objectives; political expediency. They successfully compartmentalized information, shared just enough with other branches of government to avert claims of extreme secrecy, and cultivated a broader narrative of responsible stewardship of national security. The extreme lengths to which one would have to go to construct a counter-narrative would entail technological expertise, media access and savvy, and—most importantly—a willingness to break the law.

The best way to understand the Snowden narrative is to work backward chronologically. Less than two months after the Snowden leaks, the Amash-Conyers Amendment was defeated 205-217 in one of the more “fascinating” congressional votes in recent memory.⁹⁸ The legislation, which would have drastically curtailed the government’s surveillance powers and mandated judicial oversight, was opposed by the Obama administration, the intelligence community, and the leadership of both parties. The vote defied party lines, with 94 Republicans and 111 Democrats voting in favor, and followed a debate that one observer characterized as lacking any “common threads.”⁹⁹ Eventually, a milder intelligence reform measure was enacted in 2015.

For an issue to emerge from obscurity and garner so much attention—and then to lead to legislation opposed by the entire political establishment—is almost unthinkable in an era of partisan discipline, tribalism, and deference to the national security state. The

issues raised by the Snowden leaks were undoubtedly important. But the process by which those issues came to the public's attention—from the first story on June 5, 2013 through Snowden's unveiling four days later and the "human interest" drama that ensued—is even more interesting. Clearly, Snowden's leaks caught the Obama administration and defenders of the government's surveillance policies flat-footed. In this section, I seek to better understand how Snowden was able to project a translating *ethos* capable of generating so much interest, awareness, and support for reform. I undertake that task in three parts, each corresponding to one of the three elements of *ethos*: in Aristotle's terms, the "three reasons" accounting for "why speakers themselves are persuasive."¹⁰⁰ First, I look to Snowden's self-revelation on June 9, 2013 and assess how it generated a sense of *phronēsis*, or practical wisdom, one of the three components of *ethos*. I then tack both backward and forward, exploring how the narrative of Snowden's past was deployed in the debate over his virtue, or *arête*. I then examine the Snowden's choice—his decision to break the law and undermine his prospects for freedom and happiness—and analyze how it functioned to shape an *ethos* of *eunoia*, or goodwill, aided by self-sacrifice.

Snowden and the Reveal: Translation via Exposé

For a 29-year-old hacker, Snowden proved remarkably adept at public relations and aware of the axiom: "define yourself before your opponents define you."¹⁰¹ In real time, even without the benefit of post-facto accounts of Snowden's calculated personal unveiling, it was apparent that Snowden had gotten the jump on his critics. He identified journalists who would be sympathetic to his cause and assist him while still having the

connections and talent to break the story effectively. He had fled to a position of relative safety and revealed himself on his terms—speaking to the world, unfiltered, in order to portray himself and his motivations in a favorable light.

The steady pace of disclosures seemed professionally choreographed in order to maximize control of the news cycle and keep the U.S. government perpetually on the defensive. On June 6, 2013, the *Guardian* reported that, under a secret Foreign Intelligence Surveillance Court order, the NSA had been collecting the phone records of millions of Verizon customers.¹⁰² The story instantly gained traction, with politicians taking sides and news network discussions exploring the nuances of “metadata” and the USA PATRIOT Act. The following day, the *Washington Post* and the *Guardian* broke separate stories about the PRISM program, revealing that the NSA and FBI were “tapping directly into the central servers of nine leading U.S. Internet companies.”¹⁰³ Surveillance remained the dominant news story, and the likelihood that a major leak was involved became a common talking point. During a June 7 appearance on *CNN*, Glenn Greenwald responded to arguments from former White House Press Secretary Ari Fleischer, noting, “he’s right that we should debate it. And the only reason we are debating it is because there was a source, or sources, within the United States government, who saw what the government was doing.”¹⁰⁴ A *Guardian* report on U.S. cyber-attacks followed, keeping the trickle of new revelations active into the weekend.¹⁰⁵ The mediated debate intensified, with the *New York Times* editorial board harshly attacking the Obama administration as having “lost all credibility on this issue.”¹⁰⁶ Greenwald, the lead reporter on the *Guardian* stories and a former constitutional lawyer, took to the cable news networks to promote the stories and debate defenders of broader

surveillance powers. President Obama was ultimately compelled to provide a lengthy response to reporters at an otherwise unrelated healthcare speech with no planned Q&A. On Sunday, June 9, Snowden revealed himself as the source behind the stories.

Upon his unveiling, Snowden took the opportunity to frame the rationale for his actions both in terms of his experience as an insider in the intelligence community and as a citizen concerned with democratic values of transparency and deliberation. Just as importantly, he was able to preempt claims about his identity, motivations, and allegiance. With major disclosures dominating the news for days, speculation as to their source—or sources—had run rampant. Words like “treason” were tossed about lightly,¹⁰⁷ and one reporter even noted that intelligence officials were not shy about openly suggesting the leaker and reporter behind the disclosures should be “disappeared.”¹⁰⁸ Snowden made clear to the reporters with whom he was working—Glenn Greenwald, Laura Poitras, and Ewen MacAskill—that he wanted to keep the focus on the disclosures and not his own personal story.¹⁰⁹ “I know the media personalizes everything, and the government will want to make the story about me, to attack the messenger,”¹¹⁰ he told Greenwald. But knowing that the spotlight would eventually find him, he worked with the reporters to find a way to turn it to his advantage. “Our idea was simple:” Greenwald wrote, “to churn out one huge story after the next, every day, a journalistic version of shock and awe. . . culminating with unveiling our source.”¹¹¹ When Snowden’s girlfriend informed him that two officials from the NSA had come to their house looking for him, Snowden and the reporters decided it was time for him to step forward.

That unveiling took place on June 9, 2013. A 12-and-a-half-minute interview video filmed and edited by Laura Poitras, with questions asked by Greenwald, was the

centerpiece.¹¹² An additional print interview by Ewen MacAskill, assembled over several days, accompanied the story online.¹¹³ Snowden began his introduction to the world with a few biographical details: his age, place of residence, and a few of his titles in the intelligence business. He was then asked the question on everyone's mind: Why did you do it? Snowden's answer centered on his privileged access. Someone in his position as a systems administrator, he argued, is "exposed to a lot more information" than the typical employee in the intelligence community and sees "things that may be disturbing" on a "frequent basis." As that exposure builds and one develops an "awareness of wrongdoing," they "feel compelled to talk about it," Snowden explained. "And the more you talk about the more you're ignored. The more you're told it's not a problem until eventually you realize that these things need to be determined by the public and not by somebody who was simply hired by the government." In short order, Snowden had effectively introduced himself, established his bona fides, and framed his motivation as both a reflection of the wrongs he had witnessed and an ethical obligation grounded by a deeper belief in democratic and deliberative values.

This strategy functioned to imbue Snowden with particular components of *ethos* necessary for translation—especially given his circumstances as a previously unknown figure. First, they established his access, a key component of translation. Without access to the sacred text, any attempt to mediate its hidden meaning to an unknowing public was futile. By pointing out that he not only had access—essentially a foregone conclusion given the leaks that had already been disseminated—but broad access given his position, he was able to construct an image of a translator who had seen many pieces of the hidden text and their interconnected relationship. His array of different job titles and stations

implied a breadth of understanding of these programs. He was not merely someone who was able to access information out of context; he was capable of engaging in a “more comprehensive”¹¹⁴ translation and give the experience of learning the truth “coherence.”¹¹⁵

Additionally, Snowden’s role as a “refractive” translator was tempered by his ability to both communicate with the broader audience and with “initiates”—the reporters with whom he worked—both in a general sense and by opening up the mysteries of the text to direct examination. While Snowden’s promises of revelation were what drew the reporters to meet with him, and his background knowledge was indispensable in helping them understand the context needed to write the earliest stories, he ultimately turned complete control over the “sacred text” to those reporters.¹¹⁶ This extended form of disclosure might, at first glance, seem to diminish Snowden’s potential suasive power as a translator. Democratizing the text is an egalitarian move that reduces the need for the translator altogether. But that move also facilitated verification of the revelations and diminished potential arguments that his “persona” sought to “serve profane ends.”¹¹⁷ Alternatively, one could argue that Snowden’s surrendering of the complete archive—a massive transfer of information—constituted a monumental act of disclosive translation that elevated his status. Despite the fact that he had no more concrete pieces of the text to share, he could still utilize his skills and experience to mediate the meaning of complex intelligence jargon.

Snowden also conveyed an ideological commitment to transparency and deliberation that undergirded his decision to step forward. Providing contrast with his narrative of expertise, Snowden later humanized himself by asserting that he was “no

different from anybody else” and had no “special skills.” Through this line of argument, he presented himself as capable of understanding both the complexities of the hidden intelligence world and the everyday morality of the average citizen, declaring that “the public,” not he or his colleagues, “needs to decide whether these programs are right or wrong.” He elaborated on this trope by arguing that he, too deserved public scrutiny.

When asked why he did not try to “take steps to remain anonymous,” he replied:

I think that the public is owed an explanation of the motivations behind the people who make these disclosures that are outside of the democratic model. When you are subverting the power of government that's a fundamentally dangerous thing to democracy and if you do that in secret consistently as the government does when it wants to benefit from a secret action that it took. It'll kind of give its officials a mandate to go, “Hey tell the press about this thing and that thing so the public is on our side.” But they rarely, if ever, do that when an abuse occurs. That falls to individual citizens but they're typically maligned. It becomes a thing of “These people are against the country. They're against the government” but I'm not.¹¹⁸

Snowden’s move to shift the deliberative burden from the elites to the public—with himself as a conduit—presented an interesting challenge. Snowden assigned an odious, anti-democratic character to the programs he exposed and to the regime of secrecy that concealed them. But his disclosures, by his own admission, were “outside the democratic model” as well. While Snowden and his supporters consistently argued that internal whistleblowing procedures were inadequate—that any attempt by someone in his position to reveal wrongdoing would either be ignored or illegal¹¹⁹—his critics used this point to condemn his actions.

Interestingly, much of the criticism of Snowden was tinted by a grudging recognition that, in all likelihood, Snowden’s motives were sincere—albeit misguided. Discussing the Snowden reveal in a June 10 interview with *NPR*, former CIA Director James Woolsey said:

If it's an act of conscience, it's an act of such an extraordinarily full-of-himself conscience that he's decided his conscience is better than the considered conscience of the Foreign Intelligence Surveillance Act Court, of the committees of the Congress that review this regularly and the President of the United States.¹²⁰

This theme was expressed somewhat differently by conservative columnist Ramesh Ponnuru, who argued that attacks against Snowden's judgment could backfire under the logic of "then why was he given so much authority over information?" For Ponnuru, Snowden's claims were less powerful than his image: "Snowden may not make many good arguments against these surveillance programs, but he *is* a good argument."¹²¹ This thread illustrates a key aspect of Snowden's success as a translator. Even those who disagreed with him on the value of the programs he revealed, the appropriateness of their classification, and the legitimacy of his actions had a difficult time marshalling credible arguments that his disclosures themselves were dishonest or driven by nefarious motives.

Snowden's rhetorical authority derived from a specific mechanism capable of competing against powerful, hierarchical leaders: the exposé. As Black explains, "one who conducts an exposé" is another kind of "translator" who discloses "secrets in the belief that [those] secrets. . .are simultaneously concealed because they are evil and evil because they are concealed."¹²² Snowden, through his disclosure of an unknown number of classified documents, sought to portray the world in a different light than the Obama administration. Unlike the vast majority of citizens, Snowden had access to the sacred text. The point of departure is in the divergent refractive interpretations of those who sought to conceal the programs and those who disclosed them. The line between exposé and paranoia is subjective, and those inclined to favor government secrecy could find fodder in Snowden's own use of terms such as "turn-key tyranny" and "architecture of

oppression.”¹²³ Conversely, transparency advocates could claim that their translator mediated a more accurate reality, while the establishment not only concealed but lacks credibility given the demonstrably false—and unpunished—statements of leading intelligence officials.¹²⁴

By engaging in translation via exposé, Snowden unlocked the possibility of enhanced *ethos* by highlighting the concept of *phronēsis*. Ultimately, whether one deems Snowden to have displayed paranoia or wisdom may hinge more on an evaluation of the importance of his leaks than on his public relations savvy or personal backstory. But insofar as his rhetorical choices shaped the debate, he managed to significantly alter the narrative, forcing his opponents to respond on his terms and minimizing their opportunities to define him. Through his actions, his deliberate management of disclosures, and his well-executed self-revelation, Snowden was able to emerge on the scene projecting a persona of concern for his country and its foundational democratic values. Even if the debate over Snowden was secondary to the debate over his disclosures, the arguments he offered—through both his words and his actions—built a case his critics struggled to answer.

Excavating Snowden¹²⁵

It would not be long, however, before critics attacked Snowden’s persona. Critics both inside and outside government soon questioned Snowden’s integrity, his motivations, and even his autobiographical claims. Snowden’s effective initial reveal, along with the support of his fiercest backers—including Greenwald, a former debater and attorney who was virtually omnipresent on news broadcasts in the days following the

revelations—and relatively friendly press treatment, helped buffer Snowden’s public image against much of the initial criticism. Nevertheless, Snowden’s future was largely beyond his own control, as it was constrained by the decisions of far more powerful forces: most notably the U.S. and Russian governments. The battle over Snowden’s past and future became a struggle over *arête*, or the perception of his virtue, that Snowden himself could not entirely control.

While Snowden has repeatedly claimed that he sought to minimize the media attention paid to him, the unfolding human interest saga proved too difficult for the press to resist. The young man who left behind his girlfriend, his plush job, and his life in Hawaii for self-imposed exile found himself scrambling to escape Hong Kong before U.S. officials could arrange his extradition. Snowden’s 39-day stay in the luxurious transit section of Moscow’s Sheremetyevo Airport following the U.S. revocation of his passport, and his eventual acceptance of temporary asylum in Russia, added some degree of credence to his critics’ claims that he was unwilling to face the legal consequences of his actions—arguably a necessary component of civil disobedience.¹²⁶ This fueled one of the more common critiques of Snowden, one that anchors this subsection given the temptation to psychologize Snowden’s distant past and post-leak actions: “*hate the leaker, love the leak.*”¹²⁷

Since Snowden stepped forward, there has been a flood of media reports that look back into Snowden’s past in order to ascribe new meaning to his actions and his character. These stories have ranged from banal human interest pieces on his family to deeper explorations of his political activities that purport to better explain his ideology and motives. Some even found news in Snowden’s seemingly trivial quibbles with his

employers over salary and job titles. The resulting mosaic was apparently interesting to some, but it is hard to draw significant conclusions about Snowden's character from the fact that he voted for a third-party candidate or took extreme security precautions when communicating with journalists. By and large, post-facto depictions of Snowden served either to confirm the critics' preconceptions about him or, at best, to paint a picture of a complex-yet-ordinary twenty-something young man.

Among the more bizarre explorations of Snowden's past were two stories from the technology news website *Ars Technica*.¹²⁸ Written by Joe Mullin, the articles focused strictly on comments Snowden made under the handle TheTrueHOOHA on the *Ars Technica* website, including its news articles, its Web forum, and its Internet relay chats (IRCs). These articles arguably shed light on inconsistencies in Snowden's thinking by exploring comments he made about agnosticism, anime, gaming, guns, and government."¹²⁹ One article rationalized this focus by arguing that, "In his public statements, Snowden is smooth and uncompromising, radiating intelligence. Snowden has insisted the focus remain on the leaked documents, not him. But he has also kept himself in the spotlight, speaking to three newspapers, doing live Q&As, and dribbling out more documents over time."¹³⁰ It concluded that Snowden's ideological leanings had changed: "Snowden may have leaned libertarian on some issues, but he also exhibited strong support for America's security state apparatus. He didn't just work for it as a quiet dissident. Four years before he would leak the country's secrets, Snowden was cheering its actions and insisting that it needed healthy funding. To anyone who questioned US actions in his favored online hangout, he could be derisive."¹³¹ The implication was that

meaningful insight into Snowden's persona could be gained by combing through archived chats of TheTrueHOOHA from as far back as 2003.

These analyses gained little traction. Despite the contention that they shed light on the character of a man who has been both hailed as a hero and condemned as a traitor,¹³² they failed to establish a clear connection between Snowden's youthful performance behind a keyboard—a performance played out in a specific discourse community with unique and arcane norms—and his adult beliefs and behaviors. In evaluating Snowden's *arête*, the most immediately relevant factors revolved around his career in the intelligence community, the access he was afforded, and his apparent ability to successfully compile and abscond with a significant archive of classified data. One could conceive of information that might have damaged the perception of his technical skill or capacity to interpret the stolen data, but such information could not be culled from the digital small talk of the younger Snowden.

Snowden the *Parrhesiastes*: *Ethos* through Self-Sacrifice

The successful performance of translation via exposé requires more than access to the sacred text. It requires the cultivation of *ethos* in the eyes of the audience, or the public to whom the disclosure of hidden truth is made. As this chapter has shown, the hierarchical character of the presidency—particularly its position in the national security apparatus—grants it a tremendous authority advantage. The president's ability to control the flow information, to disseminate favorable stories, and to define the world made opaque to the average citizen, renders them rhetorically powerful and difficult to oppose. Additionally, President Obama's unique position as a charismatic leader conveyed political advantages that served to mollify some disappointed supporters and neutralized

others. I argue that a successful enactment of the exposé—a form of counter-translation practiced by one who discloses information in the belief that it is “simultaneously concealed because it is evil and evil because it is concealed”¹³³—requires supplementary *ethos* in order to advance a meaningful critique. The mere passing of information without context or verification is not enough. It inevitably spurs questions about intent, context, and authenticity. By establishing *eunoia*—or good will—with the audience, the counter-translator is more likely to successfully convey their truth, gain suasive power, and influence the debate. One way Snowden was able to accomplish this was by cultivating an image of self-sacrifice.

Eunoia is important to whistleblowing and counter-translation because the whistleblower does not begin from a position of power. The whistleblower is typically not elected. In exposing secrets deemed worthy of attention, he or she must demonstrate more than an ability to convey previously unknown facts and explain them. When that disclosure violates the established order—for instance, when it breaks the law—the presumed malevolence of the discloser increases the need for *eunoia*. Even when the counter-translator presents evidence that revealing secrets benefits the demos, suspicions cast upon the discloser’s character or motives can weaken the impact of their action.

Edward Snowden’s successful performance of *eunoia* took several forms. He first had to convince the journalists to whom he reached out of his honorable intentions. Had he failed, the lack of a journalistic imprimatur on his allegations would have rendered them unpersuasive. Snowden’s June 9, 2013 performance, in which he stepped forward as the source of the disclosures, introduced himself to the world, and explained the rationale for his actions, was a powerfully effective performance of *eunoia*. In that initial

reveal and in his ensuing rhetoric, Snowden stressed his belief in the values of privacy, transparency, and public deliberation and explained his actions as an effort to bring about positive political and cultural reforms.

Predictably, Snowden's critics tried to undermine the rationale behind his leaks by suggesting that he was instead driven by ego or even disloyalty. Those efforts proved mostly unsuccessful, largely due to Snowden's ability to cultivate *eunoia*, which generally requires that the audience perceive the rhetor as empathetic. Snowden's success was fueled by the perception that he sacrificed in order to serve their interests, and therefore acted with good will.¹³⁴ To understand self-sacrifice in the revelation of secrets, I draw on Michel Foucault's work on *parrhesia*.¹³⁵ While Foucault notes that *parrhesia* is invariably polysemic, he notes that the term's more common usage is simple: "to tell the truth."¹³⁶

Early in his lecture on the topic, Foucault establishes a foundation for *parrhesia* that resembles my appropriation of translation: "The '*parrhesiastic* game' presupposes that the *parrhesiastes* is someone who has the moral qualities which are required, first, to know the truth, and secondly, to convey such truth to others."¹³⁷ But he builds on that presupposition by emphasizing "courage" as a form of proof of the rhetor's sincerity. Foucault then goes into detail on the nature of danger and risk as a key element of *parrhesia*. I quote one passage at length due to its remarkable applicability to Snowden's predicament:

Someone is said to use *parrhesia* and merits consideration as a *parrhesiastes* only if there is a risk or danger for him or her in telling the truth. For instance, from the ancient Greek perspective, a grammar teacher may tell the truth to the children that he teaches, and indeed may have no doubt that what he teaches is true. But in spite of this coincidence between belief and truth, he is not a *parrhesiastes*. However, when a philosopher addresses himself to a sovereign,

to a tyrant, and tells him that his tyranny is disturbing and unpleasant because tyranny is incompatible with justice, then the philosopher speaks the truth, believes he is speaking the truth, and, more than that, also takes a risk (since the tyrant may become angry, may punish him, may exile him, may kill him).

The element of personal danger and sacrifice accepted by the *parrhesiastes* goes a long way toward generating rhetorical authority. Consider the dichotomy between Snowden and Director of National Intelligence James Clapper. On March 12, 2013, Clapper lied before the Senate Select Committee on Intelligence when asked by Senator Ron Wyden if the NSA gathered data on Americans. After the Snowden revelations, Clapper suggested that he had tried to answer in the “least untruthful manner” he could, arguing that he had been asked “a ‘when are you going to stop beating your wife?’ kind of question.”¹³⁸ Clapper committed perjury, but did so from a position of power and in support of programs favored by the establishment. Despite calls for his prosecution, he faced no consequences and kept his job through the end of the Obama administration. Snowden cited Clapper’s testimony, which he knew to be false, as the straw that broke the camel’s back and convinced him to engage in his *parrhesiastic* acts. As a relatively powerless cog in the hierarchy—albeit one with significant access, but a station with even less status¹³⁹ than Pentagon Papers leaker Daniel Ellsberg¹⁴⁰—he faced the full consequences of speaking truth to power. He sacrificed his privileged life in Hawaii, spent weeks uncertain if he would even be able to leave a Moscow airport, and now lives in exile—which he obviously prefers to decades in prison.

Foucault frames *parrhesia* as an exercise that views truth-telling as a duty, entails risk, and is typically utilized by those without power.¹⁴¹ This understanding¹⁴² provides a needed complement to my earlier explanation of Snowden’s successful effort to obtain rhetorical authority. Snowden’s success was not only a function of his capacity

to reveal and explain information, nor of his self-portrait as empathetic to the needs of ordinary citizens. It also was the product of his dutiful self-sacrifice in service of the common good.

Conclusion

The course of events from June 6 to June 9, 2013 serve as a fascinating study in the power of the presidency, the role of public deliberation over programs shielded from transparency, and the often unbridgeable divide between those with traditional rhetorical authority and those who thrust themselves into the spotlight to influence the public dialogue. President Obama's response to a reporter's question on June 8—"I welcome this debate, and I think it's healthy for our democracy"—resonated with many Americans who viewed it as sincere. Undeniably, Obama was an advocate for an enhanced public dialogue and committed himself to the cultivation of a more engaged public culture.¹⁴³ At the same time, even Obama's most loyal supporters could not escape the reality of his tenure, which saw an unprecedented crackdown on whistleblowers and multiple controversies involving policies deliberated and executed under conditions of secrecy. For these Americans, Obama's invitational gesture seemed disingenuous. The reality was, as it often is, more complicated. A side of Obama likely *did* welcome the debate over the secrecy of his administration's policies, just as a side of him zealously enforced that secrecy and sought to crack down on those who violated it. In that sense, Obama's claim seemed to some a curious contradiction. Writing nearly a decade before this controversy, the National Task Force on Presidential Rhetoric in Times of Crisis presciently opined that "Presidents do not welcome crises they cannot easily control or

solve.”¹⁴⁴ But the years since that observation have shown the extent to which the office of the presidency, and those chosen to occupy it, can change.

The post-9/11 era has complicated our politics, our foreign policy, and our critical approaches to the presidency. Obama’s presidency was defined, in large part, by the security threats the nation continued to face. But even if we eventually pass through this extended period of “crisis” and into some form of normalcy, the problems of translation will always be a part of our political culture. A representative democracy will always require some form hierarchical decision-making and the rhetorical practices that accompany it. There will always be a need for subject-area expertise, and there will always be some tension between privileging that expertise and respecting democratic principles of political equality. Geopolitical reality will likely always necessitate covert and clandestine programs, and the layers of secrecy which surround them. These factors will continue to create the potential for leaders to gain authority by performing the role of translator.

It is hard to imagine another confrontation akin to that between Barack Obama and Edward Snowden. The leaker’s unlikely path from high school dropout to privileged intelligence employee to opinion leader and international fugitive required an improbably combination of skill, access, guile, ideology, *kairos*, institutional blunders, and sheer happenstance. Realistically, critics—both inside the academy and in the political sphere—will have to adjust their strategies to deal with conditions of secrecy and opacity. On June 9, 2013, in the midst of the NSA leaks and just before Snowden revealed himself to the world, Representative Mike Rogers, chair of the House Intelligence Committee and a staunch supporter of surveillance programs and the secrecy associated with them, said

that Glenn Greenwald didn't "have a clue" about how surveillance programs worked. Greenwald's response was not to challenge Rogers to a fight he could not win, but to launch a meta-deliberative salvo at Rogers by turning his claim to rhetorical authority into an indictment of the conditions of debate: "That's why transparency's needed."¹⁴⁵ Greenwald—an intelligent, educated, informed, and driven advocate and lawyer who had dedicated years to chipping away at the calcification surrounding civil liberties and democratic culture—found himself ill-prepared to engage Rogers on equal footing. His move to question Rogers's premise was a recognition of the rarity of an Edward Snowden moment. It acknowledged the difficulty facing even the strongest advocates who struggle to shape the debate from outside the circles of established political authority.

Under such conditions of debate, critics should be wary of falling into a trap by engaging substantive issues on which they have limited access to information. Instead, they might withhold their assent while demanding access to the information necessary for genuine deliberation. If we hope to improve democratic practices, rhetorical critics can contribute to that effort by engaging in meta-deliberative analyses that more clearly describe the existing conditions of debate, and proscribe potential solutions to achieve more genuinely democratic public deliberation. By illuminating the conditions under which the people might become real participants in debates over topics shrouded in secrecy, where the information and conditions of public debate are controlled by those in positions of authority, we might shine more light on those dark corners in the "marketplace of ideas."

Notes

¹ Glenn Greenwald, Ewen MacAskill, and Laura Poitras, “Edward Snowden: The Whistleblower behind Revelations of NSA Surveillance,” *Guardian*, June 9, 2013, <http://www.guardian.co.uk/world/2013/jun/09/edward-snowden-nsa-whistleblower-surveillance>.

² “Statement by the President,” June 7, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/06/07/statement-president>.

³ Glenn Greenwald, “NSA Collecting Phone Records of Millions of Verizon Customers Daily,” *Guardian*, June 5, 2013, <http://www.guardian.co.uk/world/2013/jun/06/nsa-phone-records-verizon-court-order>.

⁴ Barton Gellman and Laura Poitras, “U.S., British Intelligence Mining Data from Nine U.S. Internet Companies in Broad Secret Program,” *Washington Post*, June 7, 2013, http://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497_story.html; Glenn Greenwald and Ewen MacAskill, “NSA Prism Program Taps in to User Data of Apple, Google and Others,” *Guardian*, June 7, 2013, sec. US news, <http://www.theguardian.com/world/2013/jun/06/us-tech-giants-nsa-data>.

⁵ Glenn Greenwald and Ewen MacAskill, “Obama Orders US to Draw up Overseas Target List for Cyber-Attacks,” *Guardian*, June 7, 2013, <http://www.guardian.co.uk/world/2013/jun/07/obama-china-targets-cyber-overseas>.

⁶ Glenn Greenwald and Ewen MacAskill, “Boundless Informant: The NSA’s Secret Tool to Track Global Surveillance Data,” *Guardian*, June 11, 2013, <https://www.theguardian.com/world/2013/jun/08/nsa-boundless-informant-global-datamining>.

⁷ Dan Roberts and Spencer Ackerman, “Anger Swells after NSA Phone Records Court Order Revelations,” *Guardian*, June 6, 2013, <https://www.theguardian.com/world/2013/jun/06/obama-administration-nsa-verizon-records>; Dan Roberts, Ewen MacAskill, and James Ball, “NSA Snooping: Obama under Pressure as Senator Denounces ‘Act of Treason,’” *Guardian*, June 10, 2013, <http://www.guardian.co.uk/world/2013/jun/10/obama-pressured-explain-nsa-surveillance>.

⁸ Charlie Savage and James Risen, “N.S.A. Wiretaps Were Unlawful, U.S. Judge Rules,” *New York Times*, April 1, 2010, A1, <http://www.nytimes.com/2010/04/01/us/01nsa.html>.

⁹ Dana Milbank, “Dana Milbank: In AP, Rosen Investigations, Government Makes Criminals of Reporters,” *Washington Post*, May 21, 2013, http://articles.washingtonpost.com/2013-05-21/opinions/39419370_1_obama-administration-watergate-benghazi; Aamer Madhani and Kevin Johnson, “Are Justice

Department Leak Probes Causing a Chill?," *USA Today*, May 20, 2013, <https://www.usatoday.com/story/news/politics/2013/05/20/justice-leak-probes-cause-chill/2343827/>.

¹⁰ Most notably, Senators Ron Wyden and Mark Udall sounded "cryptic" warnings over surveillance policy. "Yet shackled by strict rules on the discussion of classified information, Mr. Wyden and Mr. Udall, members of the Senate Select Committee on Intelligence could not—and still cannot—offer much more than an intimation about their concerns. They had to be content to sit in a special sealed room, soak in information that they said appalled and frightened them, then offer veiled messages that were largely ignored." Jonathan Weisman, "Sounding the Alarm, But with a Muted Bell," *New York Times*, June 7, 2013, A19, <https://www.nytimes.com/2013/06/07/us/politics/senators-wyden-and-udall-warned-about-surveillance.html>

¹¹ While the term "whistleblower" is reasonable with regard to Snowden, I most frequently use "leaker" due to it being more value-neutral. Under U.S. laws, the term "whistleblower" can carry specific connotations. See U.S. Department of Labor, "Whistleblower Protection Program," accessed May 2, 2017, <https://www.whistleblowers.gov/>.

¹² Aristotle, *On Rhetoric*, trans. George A. Kennedy (New York: Oxford University Press, 1991).

Isocrates, "Against the Sophists," in *Isocrates Volume II*, trans. George Norlin (Cambridge, MA: Harvard University Press, 1929).

¹³ John Dewey, *The Public and Its Problems* (Chicago: Swallow Press, 1954).

¹⁴ Walter Lippmann, *The Phantom Public* (New Brunswick, NJ: Transaction Publishers, 1925), 29.

¹⁵ G. Thomas Goodnight, "The Personal, Technical, and Public Spheres of Argument: A Speculative Inquiry into the Art of Public Deliberation," *Journal of the American Forensic Association* 18 (1982): 220.

¹⁶ Robert C. Rowland, "A Liberal Theory of the Public Sphere," in *Critical Problems in Argumentation: Selected Papers from the 13th Biennial Conference on Argumentation*, ed. Charles Arthur Willard (Washington, DC: National Communication Association, 2005), 284.

¹⁷ James Madison, Federalist 53, February 12, 1788, ¶ 8.

¹⁸ E. Johanna Hartelius, *The Rhetoric of Expertise* (Lanham, MD.: Lexington Books, 2011), 5.

¹⁹ Edwin Black, "Secrecy and Disclosure as Rhetorical Forms," *Quarterly Journal of Speech* 74, no. 2 (1988): 134.

²⁰ Ibid., 134.

²¹ Ibid., 135.

²² It is not entirely clear how closely Black's notion of "forms" resembles Platonic forms. A brief endnote clarifies that "'Rhetorical form' here refers to a pattern by which commitments are solicited." This is further complicated by Black's subsequent reference to "the role of translator," previously framed as an instantiation of forms, as a rhetorical form itself. My appropriation of Black's work, and my understanding of forms as they apply to these concepts, is neither an embrace nor a rejection of Black's precise meaning, but my own perspective on how the ideas he introduced might best be understood and deployed. Ibid., 149, 135.

²³ Ibid., 135.

²⁴ Ibid., 135.

²⁵ Ibid., 135.

²⁶ Ibid., 135.

²⁷ Ibid., 134.

²⁸ Ibid., 134. For the purposes of elaboration, consider that a translator's malevolence might not be evidenced by how often they keep the truth secret or make false revelations, but by how they selfishly lead their victims astray with the tiniest of lies amidst seas of truth, or even patterns of selective honesty that portray the world in a false light. Similarly, a well-intentioned friend's omission of hurtful information is not necessarily "profane" or normatively troubling; it may not even be "refractory." Portraying the world accurately entails attending to context and analyzing how information will be interpreted by an actual audience. Therefore, I argue that portraying the world accurately (translating as passively and clearly as possible for its own sake) requires no less artfulness than communicating the most abstract or fantastical fictions.

²⁹ Birchall conveys a compatible conclusion, noting that "the moral discourse that condemns secrecy and rewards transparency may cause us to misread the symbiotic relationship between these terms." She "makes the case for working with the tension between these terms rather than responding to the dyad as a choice. We need to find different ways of staying with the aporia of transparency-as-secrecy and secrecy-as-transparency. Despite common demands to support either transparency or secrecy in political and moral terms, we live with the tension between these terms and its inherent contradictions daily." Clare Birchall, "Introduction to 'Secrecy and Transparency': The Politics of Opacity and Openness," *Theory, Culture & Society* 28, no. 7 (2011): 7.

³⁰ I have deliberately excluded Richard E. Neustadt's work on presidential leadership from my analysis, as I am tracing the president's public authority. Neustadt argues that "presidential power is the power to persuade," but his project is centered on the expansion of presidential power through effective negotiation with other branches of

government, not the public. Richard E. Neustadt, *Presidential Power: The Politics of Leadership* (New York: New American Library, 1964), 11.

³¹ While the “rhetorical presidency” can most clearly be observed as a phenomenon that begins in the 20th century, I argue, as does Tulis, that President Andrew Johnson was an early, isolated practitioner of this concept. Tulis labels Johnson “the Great Exception” to “the old way.” Jeffrey Tulis, *The Rhetorical Presidency* (Princeton, NJ: Princeton University Press, 1987), 87.

³² Samuel Kernell, *Going Public: New Strategies of Presidential Leadership*, 4th ed. (Washington, DC: CQ Press, 2007).

³³ Dana D. Nelson, *Bad for Democracy: How the Presidency Undermines the Power of the People* (Minneapolis: University of Minnesota Press, 2008).

³⁴ Martin J. Medhurst argues that “the primary focus and basic concern of those working within the construct of the rhetorical presidency is largely, if not entirely, institutional. They are most concerned with the nature, scope, and function of the presidency as a constitutional office.” Martin J. Medhurst, “Introduction: A Tale of Two Constructs,” in *Beyond the Rhetorical Presidency*, ed. Martin J. Medhurst, (College Station: Texas A&M University Press, 1996), xiii.

³⁵ Mary E. Stuckey, *The President as Interpreter-in-Chief*, (Chatham, NJ: Chatham House Publishers, 1991).

³⁶ Mary E. Stuckey, *Defining Americans: The Presidency and National Identity* (Lawrence, KS: University Press of Kansas, 2004).

³⁷ Vanessa B. Beasley, *You, the People: American National Identity in Presidential Rhetoric*, (College Station: Texas A&M University Press, 2004).

³⁸ David Zarefsky, *President Johnson’s War on Poverty: Rhetoric and History* (Tuscaloosa, AL.: University of Alabama Press, 1986), 1.

³⁹ Black, “Secrecy and Disclosure,” 135.

⁴⁰ A 1937 U.S. Supreme Court decision referenced the “. . . very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution.” While controversial with some political scientists and constitutional scholars who argue that the passage is *obiter dicta*—Latin for “by the way” and indicating wording that is not a key finding of decision and is not intended to be construed as precedent—and has not been formally recognized by the courts, it remains an important statement on the president’s foreign policy power relied upon by the executive branch. *United States v. Curtiss-Wright Export Corp*, 299 U.S. 304 (1936).

⁴¹ As Bostdorff observes, “foreign locales are so distant and knowledge of them is far removed from most Americans’ lives. . .” Denise M. Bostdorff, *The Presidency and the Rhetoric of Foreign Crisis* (Columbia: University of South Carolina Press, 1994), 1.

⁴² Black, “Secrecy and Disclosure,” 146. Internal citations omitted.

⁴³ On the matter of selective disclosures of the drone program, the ACLU’s Jameel Jaffer and Nathan Wessler argue: “Whether a court will compel the CIA to retire the increasingly untenable fiction that the targeted killing program is a secret remains to be seen. There is no doubt, though, that selective disclosures – and selective secrecy – about the program has distorted public debate. Last week’s New York Times article serves as a reminder that our public debate about the government’s bureaucratized killing program is based almost entirely on the government’s own selective, self-serving, and unverifiable representations about it. This surely puts far too much power in the hands of the CIA, and too little in the hands of ordinary citizens.” Jameel Jaffer and Nathan Wessler, “First the ‘Targeted Killing’ Campaign, Then the Targeted Propaganda Campaign,” *Guardian*, June 6, 2012, <https://www.theguardian.com/commentisfree/2012/jun/06/targeted-killing-campaign-propaganda>.

⁴⁴ J. Michael Hogan, *The Panama Canal in American Politics: Domestic Advocacy and the Evolution of Policy* (Carbondale: Southern Illinois University Press, 1986), 10.

⁴⁵ David Bernstein, “The Speech,” *Chicago Magazine*, June 2007, <http://www.chicagomag.com/Chicago-Magazine/June-2007/The-Speech/>.

⁴⁶ Liam Ford and Rudolph Bush, “Ryan Quits Race,” *Chicago Tribune*, June 26, 2004, <http://www.chicagotribune.com/chi-0406260116jun26-story.html>.

⁴⁷ “Plan B for Illinois,” *New York Times*, August 10, 2004, <https://www.nytimes.com/2004/08/10/opinion/plan-b-for-illinois.html>; “The GOP’s Rent-a-Senator,” *Chicago Tribune*, August 6, 2004, http://articles.chicagotribune.com/2004-08-06/news/0408060313_1_mr-keyes-judy-baar-topinka-alan-keyes.

⁴⁸ “The GOP’s Rent-a-Senator.”

⁴⁹ Bernstein, “The Speech.”

⁵⁰ Max Weber, “The Social Psychology of the World Religions,” in *From Max Weber: Essays in Sociology*, trans. H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1958), 297.

⁵¹ Weber, “The Social,” 297.

⁵² For a discussion of the economic background of U.S. senators, see Sean Loughlin and Robert Yoon, “Millionaires Populate U.S. Senate,” *CNN*, June 13, 2003, <http://www.cnn.com/2003/ALLPOLITICS/06/13/senators.finances/>; For a discussion of the ethnic and racial composition of the body, see Associated Press, “Senate Likely to Be

Less Diverse after Elections,” *MSNBC*, February 5, 2010, http://www.nbcnews.com/id/35254048/ns/politics-decision_2010/t/senate-likely-be-less-diverse-after-elections/.

⁵³ The use of Obama’s full name, in order to emphasize his Arabic middle name “Hussein” and draw connections to Iraqi leader Saddam Hussein, became a disturbing meme during the 2008 campaign and was associated with implied racism, religious intolerance, and xenophobia. For a particularly distasteful view of an author linking Obama’s name to both Osama bin Laden and Saddam Hussein, see Andrew Walden, “Obama’s Dirty-Money Hawaii Connection,” *Hawai’i Free Press*, January 2, 2007, <http://www.freerepublic.com/focus/f-news/1761444/posts>.

⁵⁴ Don Gonyea, “Obama Still Stumps on 2002 Anti-War Declaration,” *NPR*, March 25, 2008, <http://www.npr.org/templates/story/story.php?storyId=88988093>.

⁵⁵ Weber, “The Social,” 297.

⁵⁶ Weber, “The Social,” 295.

⁵⁷ Max Weber, “Wirtschaft Und Gessellschaft,” in *From Max Weber: Essays in Sociology*, trans. H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1958), 247.

⁵⁸ Both Kucinich and Gravel had served lengthy careers in Congress, are white, and are considerably older than Obama—Kucinich by 15 years and Gravel by 32.

⁵⁹ Weber, “Wirtschaft,” 246.

⁶⁰ Associated Press, “Obama Says He’s Agent of Change, Blasts Clinton,” *MSNBC*, September 4, 2007, <http://www.nbcnews.com/id/20578151/ns/politics/t/obama-says-hes-agent-change-blasts-clinton/>.

⁶¹ *Ibid.*

⁶² Weber argues: “The subjects may extend a more active or passive ‘recognition’ to the personal mission of the charismatic master. His power rests upon this purely factual recognition and springs from faithful devotion. It is devotion to the extraordinary and the unheard-of, to what is strange to all rule and tradition and which therefore is viewed as divine. It is devotion born of distress and enthusiasm.” Weber, “Wirtschaft,” 240.

⁶³ Fredereka Schouten, “Small Donors Increase Impact,” *ABC News*, May 2, 2008, <http://abcnews.go.com/Politics/story?id=4771073&page=1>.

⁶⁴ Weber, “Wirtschaft,” 247.

⁶⁵ The phrase “mythical hero” exemplifies some views of Obama’s charisma. See Jeffrey C. Alexander, *The Performance of Politics: Obama’s Victory and the Democratic Struggle for Power* (New York: Oxford University Press, 2010), 155.

⁶⁶ Weber, “Wirtschaft,” 246.

⁶⁷ Weber, “The Social,” 296.

⁶⁸ *Ibid.*

⁶⁹ H. H. Gerth and C. Wright Mills, “Introduction: The Man and His Work,” in *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1958), 54

⁷⁰ *Ibid.*

⁷¹ Stephen L. Carter, *The Violence of Peace: America’s Wars in the Age of Obama* (New York: Beast Books, 2011), 169.

⁷² Black does not directly address the significance of the translator’s past ability to see or convey truth. The closest he comes to addressing this matter is in his claim that: “The translator’s relationship to the text, therefore, can be one of perpetual engagement.” I argue that Black’s analysis is compatible with a backward-looking perspective on a translator’s accuracy, but that some of his analysis assumes specialized training that one could acquire in order to see truth, and that his argument could just as easily be extended those granted spontaneous hermeneutic power through some form of epiphany. Black, “Secrecy and Disclosure,” 135.

⁷³ *Ibid.*, 134.

⁷⁴ At the start of his remarks, Obama was interrupted by a reporter attempting to ask a question. He responded: “I’m going to have a—I’m going to answer a question at the end of the remarks, but I want to make sure that we get the remarks out.” He then spoke for approximately 11 minutes before recognizing Jackie Calmes of the *New York Times* for a question. “President Obama on Health Care Law California,” *C-SPAN*, June 7, 2013, <https://www.c-span.org/video/?313244-1/president-obama-health-care-law-california>.

⁷⁵ Obama is referencing his speech at National Defense University. Barack Obama, “Remarks by the President at the National Defense University,” May 23, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>.

⁷⁶ “Statement by the President.”

⁷⁷ “Medea Benjamin of Code Pink was asked why so few on the left oppose Obama. ‘He’s totally defanged us,’ she said, citing his party, his affability—and his race.” Howard Kurtz, “Defanging the Left: Why Liberals Are Staying Silent on Obama’s War,” *Fox News*, September 26, 2014,

<http://www.foxnews.com/politics/2014/09/26/defanging-left-why-liberals-are-staying-silent-on-obamas-war.html>.

⁷⁸ Dana Milbank, “Obama Endures as the Lesser Evil for Liberals,” *The Washington Post*, September 23, 2014, https://www.washingtonpost.com/opinions/dana-milbank-obama-endures-as-the-lesser-evil-for-liberals/2014/09/23/69619b16-4355-11e4-9a15-137aa0153527_story.html?utm_term=.8fdc9a6b9df0.

⁷⁹ Falguni A. Sheth, “The Submissive, Indifferent Democrats,” *Salon*, March 8, 2013, http://www.salon.com/2013/03/08/the_invisible_shrinking_democrats/.

⁸⁰ Liberal activist David Swanson, quoted in Milbank, “Obama Endures.”

⁸¹ Black’s passage on “classification” includes an insightful footnote on leaks: “Testifying on July 21, 1987 before the Joint Committee of the U.S. Congress investigating the Iran-Contra affair, Admiral John Poindexter defended his concealments by saying, ‘I firmly believe in very tight compartmentalization.’ The term ‘compartmentalization’ was borrowed from naval architecture. It is used there to refer to the division of a submarine or a surface vessel into separate watertight sections or units. The purpose of compartmentalization, of course, is to minimize the damage caused by leaks.” Black, “Secrecy and Disclosure,” 150.

⁸² Glenn Greenwald, “The Casual, Corrupting Use of Anonymity for Political Officials,” *Salon*, March 6, 2009, <http://www.salon.com/2009/03/06/anonymity/>.

⁸³ Scott Shane, “Drones and Cyberattacks Renew Debate Over Secrecy,” *New York Times*, June 6, 2012, A1, <https://www.nytimes.com/2012/06/07/world/americas/drones-and-cyberattacks-renew-debate-over-security.html>.

⁸⁴ Murtaza Hussain, “Obama DOJ’s New Abuse of State-Secrets Privilege Revealed,” *Intercept*, February 14, 2014, <https://theintercept.com/2014/02/14/ongoing-abuse-state-secrets-privilege/>.

⁸⁵ “‘There’s something wrong with aggressive leaking and winking and nodding about the drone program, but saying in response to Freedom of Information requests that they can’t comment because the program is covert,’ Mr. Goldsmith said.” Shane, “Drones and Cyberattacks.”

⁸⁶ Kate Sheppard, “Scientist Accuses Obama’s Interior Department of Misconduct,” *Mother Jones*, August 14, 2012, <http://www.motherjones.com/politics/2012/08/interior-department-whistleblower-science/>.

⁸⁷ Dan Froomkin, “It’s About the Lying,” *Intercept*, July 31, 2014, <https://firstlook.org/theintercept/2014/07/31/lying/>.

⁸⁸ “The administration invokes secrecy to shield the details while simultaneously deploying a campaign of leaks to build public support. For *The Times*, and its peers, this dynamic is beyond awkward: it gives the appearance that the government is manipulating them.” Arthur S. Brisbane, “Public Editor: The Secrets of Government Killing,” *New York Times*, October 9, 2011, SR12.

⁸⁹ Ibid.

⁹⁰ Uri Friedman, “Good Leak, Bad Leak,” *Foreign Policy*, June 8, 2012, http://www.foreignpolicy.com/articles/2012/06/07/good_leak_bad_leak.

⁹¹ Dan Froomkin, “The Big Chill: How Obama Is Operating in Unprecedented Secrecy -- While Attacking the Secret-Tellers,” *Huffington Post*, October 17, 2012, http://www.huffingtonpost.com/dan-froomkin/obama-white-house-leaks_b_1973649.html.

⁹² Madhani and Johnson, “Are Justice Department Leak Probes.”

⁹³ Marisa Taylor, “National Reconnaissance Office Officials Accused of Contracting Crimes, Retaliation,” *McClatchy*, August 13, 2012, <http://www.mcclatchydc.com/news/special-reports/article24734755.html>.

⁹⁴ Black, “Secrecy and Disclosure,” 146.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Jeremy Engels and William O. Saas, “On Acquiescence and Ends-Less War: An Inquiry into the New War Rhetoric,” *Quarterly Journal of Speech* 99, no. 2 (2013): 231.

⁹⁸ Nick Gillespie, “Mapping the Vote to Limit the NSA via Amash-Conyers Amendment,” *Reason*, July 25, 2013, <http://reason.com/blog/2013/07/25/mapping-the-vote-to-limit-the-nsa-via-am>.

⁹⁹ Ibid.

¹⁰⁰ Aristotle, *On Rhetoric*, 120-121.

¹⁰¹ Snowden told the *Guardian*'s Ewen MacAskill, “I think pretty much as soon as they start trying to make this about me, which will be any day now, I’ll come out.” Laura Poitras, *Citizenfour* (Starz / Anchor Bay, 2015).

¹⁰² Greenwald, “NSA Collecting Phone Records.”

¹⁰³ Gellman and Poitras, “U.S., British Intelligence”; Greenwald and MacAskill, “NSA Prism Program.”

¹⁰⁴ “Anderson Cooper 360°,” *CNN*, June 7, 2013, <http://ac360.blogs.cnn.com/2013/06/07/greenwald-govt-operates-in-the-dark/>

¹⁰⁵ Greenwald and MacAskill, “Obama Orders US.”

¹⁰⁶ “Editorial: President Obama’s Dragnet,” *New York Times*, June 7, 2013, A26, <http://www.nytimes.com/2013/06/07/opinion/president-obamas-dragnet.html>

¹⁰⁷ Alexander Burns, “Establishment Harsh on Snowden,” *Politico*, June 12, 2013, <http://www.politico.com/story/2013/06/edward-snowden-washington-reaction-92614.html>.

¹⁰⁸ Reporter Steve Clemons writes for the *Atlantic* and *National Journal*. Steve Clemons, “In Dulles UAL Lounge Listening to 4 US Intel Officials Saying Loudly Leaker & Reporter on #NSA Stuff Should Be Disappeared Recorded a Bit,” *Twitter*, @SCClemons, (June 8, 2013), <https://twitter.com/SCClemons/status/343392529913356289>.

¹⁰⁹ Poitras, *Citizenfour*.

¹¹⁰ Glenn Greenwald, *No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State* (New York: Picador, 2015), 52.

¹¹¹ *Ibid.*

¹¹² Greenwald, MacAskill, and Poitras, “Edward Snowden: The Whistleblower.”

¹¹³ Ewen MacAskill, “Edward Snowden, NSA Files Source: ‘If They Want to Get You, in Time They Will,’” *Guardian*, June 10, 2013, <https://www.theguardian.com/world/2013/jun/09/nsa-whistleblower-edward-snowden-why>.

¹¹⁴ Black, “Secrecy and Disclosure,” 135.

¹¹⁵ *Ibid.*, 134.

¹¹⁶ Snowden claimed to have turned over all access to the leaked files prior to leaving his hotel in Hong Kong. This action is documented in Poitras’s documentary. Poitras, *Citizenfour*.

¹¹⁷ Black, “Secrecy and Disclosure,” 135.

¹¹⁸ Greenwald, MacAskill, and Poitras, “Edward Snowden.”

¹¹⁹ A full accounting of the post-hoc arguments about whistleblowing options available to Snowden is beyond the scope of this project, but a line from his June 9 interview with MacAskill is noteworthy for its implicit critique of the administration’s larger double standard on secrecy and favorable leaks, as discussed in the second section

of this chapter: “We have seen enough criminality on the part of government. It is hypocritical to make this allegation against me. They have narrowed the public sphere of influence.” MacAskill, “Edward Snowden.”

¹²⁰ “Opinion Roundup: Edward Snowden and the NSA Leaks,” *NPR*, June 10, 2013, <http://www.npr.org/2013/06/10/190398617/opinion-roundup-edward-snowden-and-the-nsa-leaks>.

¹²¹ Burns, “Establishment Harsh on Snowden.”

¹²² Black, “Secrecy and Disclosure,” 136.

¹²³ Greenwald, MacAskill, and Poitras, “Edward Snowden.”

¹²⁴ Fred Kaplan, “Fire James Clapper,” *Slate*, June 11, 2013, http://www.slate.com/articles/news_and_politics/war_stories/2013/06/fire_dni_james_clapper_he_lied_to_congress_about_nsa_surveillance.html.

¹²⁵ An earlier draft of this section drew upon analysis that was co-written. I have endeavored to remove or rewrite any text of which I was not the primary author, but some of the research into Snowden’s online persona was primarily undertaken by my co-author. I thank him for his assistance and input. See Michael J. Bergmaier and Jeremy David Johnson, “Secrecy, Identity, and Authority: The Curious Case of Edward Snowden v. Barack Obama” (National Communication Association, Chicago, IL, 2014).

¹²⁶ This critique has been answered repeatedly by Snowden and his defenders, who assert that his acceptance of asylum in Russia was necessitated by his canceled passport, and that his decision not to subject himself to the U.S. justice system enables him to more fully participate in the public debate over the surveillance state. Notably, Pentagon Papers whistleblower Daniel Ellsberg endorsed Snowden’s strategy, claiming that legal and political conditions had changed dramatically since the 1970s, when Ellsberg was freed on bail while going through the legal process.

¹²⁷ Variations on this theme are widespread, but the exact quote is attributable to conservative commentator S.E. Cupp, who adopted it as a mantra and frequently insisted that if Snowden were more honorable, he would have faced the consequences of his actions in the U.S. justice system. Abby Borovitz, “S.E. Cupp: ‘Hate the Leaker, Love the Leak,’” *MSNBC*, June 24, 2013, <http://www.msnbc.com/the-cycle/se-cupp-hate-the-leaker-love-the-leak>.

¹²⁸ Joe Mullin, “NSA Leaker Ed Snowden’s Life on Ars Technica,” *Ars Technica*, June 13, 2013, <http://arstechnica.com/tech-policy/2013/06/nsa-leaker-ed-snowdens-life-on-ars-technica/>; Joe Mullin, “In 2009, Ed Snowden Said Leakers ‘Should be Shot.’ Then he Became One,” *Ars Technica*, June 26, 2013, <http://arstechnica.com/tech-policy/2013/06/exclusive-in-2009-ed-snowden-said-leakers-should-be-shot-then-he-became-one/>.

¹²⁹ Mullin, “NSA Leaker.”

¹³⁰ Mullin, “In 2009.”

¹³¹ Ibid.

¹³² Ibid.

¹³³ Black, “Secrecy and Disclosure,” 136.

¹³⁴ Hartelius argues that “Goodwill and friendliness mean wanting for someone what is good for him rather than wanting what will benefit himself.” While this could be construed as an argument that *eunoia* encompasses self-sacrifice, we argue that Aristotle is not clear on the issue. At best, *eunoia* seems to extend to a perception that the rhetor is not seeking to place their own interest above that of the audience. Hartelius, *The Rhetoric of Expertise*, 12.

¹³⁵ Michel Foucault, *Discourse and Truth: The Problematization of Parrhesia* (Digital Archive: Foucault.info, 1983), <http://foucault.info/documents/parrhesia/foucault.dt4.practiceparrhesia.en.html>.

¹³⁶ Early in his lecture, Foucault distinguishes between “the pejorative sense of the word not very far from ‘chattering’ and which consists of saying any or everything one has in mind without qualification” and the “positive” meaning: “to tell the truth.” Ibid.

¹³⁷ Ibid.

¹³⁸ Kaplan, “Fire James Clapper.”

¹³⁹ Garance Franke-Ruta, “The NSA Leaks and the Pentagon Papers: What’s the Difference Between Edward Snowden and Daniel Ellsberg?,” *Atlantic*, June 15, 2013, <https://www.theatlantic.com/politics/archive/2013/06/the-nsa-leaks-and-the-pentagon-papers-whats-the-difference-between-edward-snowden-and-daniel-ellsberg/276741/>.

¹⁴⁰ Greg Miller, “Edward Snowden, Bradley Manning and the Risk of the Low-Level, Tech-Savvy Leaker,” *Washington Post*, June 11, 2013, https://www.washingtonpost.com/world/national-security/edward-snowden-bradley-manning-and-the-risk-of-the-low-level-tech-savvy-leaker/2013/06/11/f5e3ad72-d2c7-11e2-a73e-826d299ff459_story.html.

¹⁴¹ “When you accept the *parrhesiastic* game in which your own life is exposed, you are taking up a specific relationship to yourself: you risk death to tell the truth instead of reposing in the security of a life where the truth goes unspoken. Of course, the threat of death comes from the Other, and thereby requires a relationship to himself: he prefers himself as a truth-teller rather than as a living being who is false to himself.” Foucault, *Discourse*.

¹⁴² I depart from Foucault on one minor point that is worth noting. Foucault suggests that the powerful cannot engage in *parrhesia*, stating that “the king or the tyrant

generally cannot use *parrhesia*; for he risks nothing.” I agree with Foucault that one with absolute power may risk nothing, but view his argument as vaguely implying that real-world leaders cannot engage in *parrhesia*. In practice, even a king or tyrant cannot be completely free from risk. Foucault, *Discourse*.

¹⁴³ See Robert C. Rowland, “Barack Obama and the Revitalization of Public Reason,” *Rhetoric & Public Affairs* 14, no. 4 (2011): 693–725.

¹⁴⁴ Denise M. Bostdorff et al., “Report of the National Task Force on Presidential Rhetoric in Times of Crisis,” in *The Prospect of Presidential Rhetoric*, ed. James Arnt Aune and Martin J. Medhurst, (College Station: Texas A&M University Press, 2008), 365.

¹⁴⁵ Glenn Greenwald, “That’s Why Transparency’s Needed RT @ThisWeekABC ‘@RepMikeRogers: @ggreenwald Doesn’t ‘Have a Clue’ about How Surveillance Programs Work,’” microblog, @ggreenwald, (June 9, 2013), <https://twitter.com/ggreenwald/status/343721333743558657>.

Conclusion

It is tempting to view contemporary national security rhetoric as an aporia: the critic is either helplessly tracking a moving target that defies capture, or insatiably devouring a movable feast of “evolving rhetorical infrastructure”¹ in order to better chart the deliberative landscape. Both of these ways of thinking have merit. Both inform a meta-deliberative perspective. And both, taken to the extreme, embrace a critical approach that is not only endless but confines the critic to a lifetime of either blind guesses or groundwork-laying. Both extremes evince a pessimism that prevents meaningful critiques of national security rhetoric *in situ*. I choose to envision meta-deliberative critique as a heuristic that openly confronts these concerns without rejecting the potential for more timely and specific intervention. The potential for intervention, however, is inherently subjective and dependent on the critic’s willingness and comfort to accept a particular degree of uncertainty.

The decision to merge a meta-deliberative approach with a more specific, case-based intervention is a contextual one, requiring the critic to strategically—even artfully—balance the exploration of deliberative process with an admittedly constrained understanding of material and rhetorical reality. Such a decision is consistent with James Jasinski’s call for “conceptually oriented criticism” that entails “a back and forth tacking movement between text and the concept or concepts that are being investigated.”² In line with this thinking, a meta-deliberative focus begins as conceptually oriented—enabling the critic to attend to what Robert Asen views as the neglected realm of “fully ‘meta’ questions of place and approach.”³ Simultaneously, it keeps open the possibility of a

more traditional evaluation of a text, case, or policy. Of course, the appropriateness of such a pivot toward contingent interventions is open to critical interpretation. Edwin Black's declaration that "the critic is the sole instrument of observation"⁴ underscores the subjective determination of *kairos* that pervades rhetorical scholarship and is particularly relevant to *topoi* that call for meta-deliberative critique.

These judgments are particularly important to meta-deliberative critique but are hardly foreign to rhetorical scholars, nor are they qualitatively novel for democratic practice. Thomas Farrell observes that public deliberation in conditions of uncertainty is the essence of rhetoric: "[Aristotle's] point was that rhetoric must dwell upon the undecided, unsettled matters that call for the best we can do absent formally compelling grounds for decision."⁵ If rhetoric facilitates decision-making in conditions of uncertainty, then a meta-deliberative critique facilitates the evaluation of rhetorical conditions—and potentialities—from a similarly contingent position. I do not argue that rhetorical criticism more broadly is insensitive to contingency; one could make the case that all critique emanates from an implicitly conditional understanding of text and context. But I do submit that a meta-deliberative critique more directly emphasizes and seeks to explain the nature of contingency. Put another way, the critical decision to "go meta" implies a lack of confidence in the centrality of the accessible text. It is a search for that which mutes or warps the text, in the hopes that diagnosis might unlock the potentiality for yet-unrealized democratic deliberation.⁶

Reflecting on my own personal approach to balancing a focus on demystifying the forces constraining national security deliberation and making limited, contingent critical interventions in specific cases, I find the phrase "obstinate rigor" to be useful. Derived

from Leonardo da Vinci's personal motto for artistic and scientific endeavors (*ostinato rigore*), it embodies a stubborn, constant vigilance in one's pursuit of a goal. Ernesto Laclau and Chantal Mouffe, in their appropriation of obstinate rigor, call upon "participating actors" who wish to intervene but "not to do so blindly" to "wrest as much light as possible from the struggles in which [they] participate and from the changes which are taking place before [their] eyes." Such an approach requires the critic to resist the complacency of allowing political commitments to excessively interfere with analysis and to "temper 'the arms of critique'" by remaining "fully conscious" of material and theoretical conditions.⁷ Tempering one's critique, from a meta-deliberative perspective, does not require abandoning it. The critic can still conditionally evaluate a text while attempting to shine more light on it and its contextual surroundings. They can apply normative commitments—to particular visions of democracy, pedagogy, or deliberative practice—so long as those commitments are themselves subject to reconsideration, and as long as they do not lead to premature judgment that stalls continued analysis. In short, obstinate rigor entails a perpetual pursuit of greater understanding, even if one feels compelled to make a critical, ideological, or political judgment based on the incomplete information at their disposal, so long as judgment is subordinated to the call for further inquiry.

As a critic of argument, I join with David Zarefsky in acknowledging that, in actually existing democracy, we often must settle for actually existing argument and utilize the imperfect tools at our disposal in such situations.⁸ But Zarefsky also implicitly embraces a form of obstinate rigor, seeing the potential for "a rapprochement between dialectical and rhetorical approaches," encouraging critics to raise dialectically driven

objections to the conditions of public debate and calling for rhetoricians to “rehabilitate the art of public deliberation.”⁹ In this project, I have tried to take small steps toward that goal.

I have strived to balance my desire to better understand the forces constraining deliberation over contemporary national security policy with political, ideological, or ethical urges to critically engage in specific cases. The former goal represents the primary focus of this project, while limited forays into the latter hint at the potential for meta-deliberative critique to expand beyond the evaluation of rhetorical conditions. Barack Obama’s Memorial Day 2013 speech at the National Defense University and his engagement with heckler/activist Medea Benjamin illustrate the foundational tensions of critically evaluating contemporary national security issues—and the tensions undergirding the debates themselves. In one speech, Obama presented a rhetorical defense of his broader national security approach and the deliberative process to which it adhered, but also called for a drastic rethinking on both fronts. Echoing distant campaign themes he had been accused of abandoning, he specifically expressed a desire to reengage the legislature and the public in order to clarify and redefine—in ways that would shrink executive power and deescalate American militarism—the limits of the national security state. While his administration expanded executive power and constrained public debate on military interventions, drone policy, and surveillance, Obama repeatedly called for a revitalization of that debate. That seeming contradiction speaks to the tension he, and many presidents, grappled with. It echoed Obama’s search for the proper limits of executive authority, interbranch oversight, and public participation—both for his administration and the presidency more broadly.

Reflecting on Limits

If Barack Obama's candidacy was defined by a message of "change," then his presidency must be defined in large part by his attempt to balance that desire for change with the realities of governance. The expectations of many of his supporters, particularly when viewed against the contrasting backdrop of the Bush administration, were lofty. Obama's critique of Bush-era policies was pointed, and often specific. Where Bush was a plain-spoken, shoot-from-the-hip "Decider," Obama presented himself as a thoughtful, deliberate, Constitutional law professor. For Obama supporters, the principles that Bush supposedly devalued—civil liberties, checks and balances, the pursuit of consensus—would be elevated under an Obama administration. It is not the aim of this project to weigh the relative records of presidents who faced different challenges in different political climates. Rather, I have sought to explicate how the Obama administration handled debates over the limits of its authority over national security policy in order to better understand presidential rhetoric and the public's capacity to deliberate on these issues. I argue that the Obama administration was largely successful in its attempts to shape national security debates in its favor, or circumvent them altogether, enabling the administration to expand executive authority while facing only sporadic resistance on specific issues. That success came at the expense of healthy public deliberation. The administration's strategic management of information and preemptive actions had various effects: shielding issues from scrutiny, cultivating public acquiescence, shaping public opinion, and thwarting the emergence of credible alternative perspectives.

That management of information also backfired, at times, resulting in controversy and dramatic spikes in public engagement. Unexpected leaks and creative opposition rhetoric drew attention to the administration's substantive policies and its preference for secrecy and restricted deliberation. While Obama and his supporters continued to proclaim a desire for open debate, pushback from legislators and judges occasionally cast those proclamations in a dubious light. The net effect of the Obama administration's actions, rhetoric, and legal theories is reflected in the question: *What limits, if any, existed to restrain executive authority and enable legislative, judicial, or public deliberation over national security policy?* The answer provided by the Obama administration was that the limits were, with a few exceptions, internal. Deliberation was celebrated, and decisions were characterized as being the result of careful reflection, but most limits on executive power were limits of discretion, definition, or prerogative. The public was repeatedly assured that criteria for executive action were narrow, that procedures for review were robust, and that rights were highly respected. But absent any external check on presidential authority, such pledges are impossible to verify. Despite being the author of seven of the constitutional amendments that would comprise the Bill of Rights, James Madison was wary of legal limits on power. He questioned whether it would "be sufficient to mark, with precision, the boundaries" of the branches and to "trust these parchment barriers against the encroaching spirit of power?"¹⁰ His preferred solution was primarily structural, but implicitly deliberative: checks and balances were required, as "ambition must be made to counteract ambition."¹¹

In articulating its theories on executive power over national security policy, the Obama administration stressed a role for other branches of government. But that role was

often limited or discretionary. The public was assured that Congress was appropriately consulted or had approved of programs through legislation, but those claims were sometimes contested. And Obama himself stated that he had the authority to order military interventions without explicit legislative authorization. The judiciary retained a role, particularly in overseeing surveillance programs through the Foreign Intelligence Surveillance Court. But when challenged in the courts on other national security fronts, the administration stressed that the executive branch alone was capable of making difficult foreign policy decisions.

This defense of broad executive authority is complicated by Obama's own words, particularly his call at the National Defense University for Congress to rethink its post-9/11 war footing and to limit executive power through new legislation. Sounding more like the Obama of 2003-2008, he put forth a vision that justified the world as it is, but imagined the world as it could be. In different ways, reconciling that vision with reality has been central to the task of each chapter of this project.

In the first chapter, I explored the Obama administration's handling of the 2011 Libyan intervention and the 2013 Syrian "red line" crisis, while also attending to the views on executive power Obama articulated prior to his presidency. I argue that Obama's polysemic campaign rhetoric involved two different personae with regard to national security policy: a moderate, substantive persona and a more change-oriented, stylized persona. This succeeded as a campaign approach, enabling Obama to connect with those on the left seeking drastic change without alienating more centrist voters. As president, Obama's interventions subjected him to two lines of critique associated with his campaign platform. One criticism was relatively unfounded, and framed his military

interventions as a violation of his “peace candidate” platform—a projection based not on Obama’s actual substantive policies but on a misinterpretation of his foreign policy views. The other criticism, that he had gone against his clearly articulated position on executive power, was more appropriate. Obama’s 2011 intervention in Libya was consistent with his positions on humanitarian intervention and international consensus. But it clearly contradicted his stated views on the balance of power between Congress and the president. A similar dynamic unfolded in the 2013 Syrian “red line” crisis, but no intervention ultimately took place. Obama’s unusual handling of the 2013 crisis suggested a less-than-enthusiastic commitment to enforcing the “red line” in order to protect his “credibility,” and his August 31, 2013 address to the nation delivered a conflicted message that simultaneously—and awkwardly—championed public deliberation and presidential authority.

Chapter 2 addresses the deliberation surrounding the Obama administration’s handling of the “disposition matrix,” its program for capturing or killing suspected terrorists. I argue that administration drastically shaped the deliberative landscape over the limits of executive power by controlling the flow of information in order to discourage the public from identifying with the victims of drone strikes. The disposition matrix represented more than a technology of warfare; it coincided with a reconfiguration of the technologies of deliberation, as the administration cultivated a limited public debate over drone policy through off-the-record leaks. This strategy made the program an open secret, but shielded it from judicial scrutiny, while also characterizing the program’s ill-defined targets as violent Others unworthy of legal protection or sympathy. The presidency’s historical power to define, combined with the secrecy of the new program,

made successful challenges difficult. Only through strategic maneuvering could critics generate significant public concern over drone policy—most notably by reframing the debate to consider hypothetical, grievable victims in order to demonstrate the administration’s delimited theories of executive power. I present the argumentative strategy of the “limit case” as a form of strategic maneuvering with the potential to both distract from, and draw attention to, anti-deliberative conditions.

My final chapter transitions from covert policies to clandestine ones, examining the controversy over surveillance policy that emerged in 2013. I argue that surveillance policies are among the most difficult to meaningfully contest, as they involve the combination of numerous aspects of presidential authority, secrecy, and post-9/11 deference. I suggest that viewing rhetorical authority through the lens of translation provides an instructive glimpse at how presidents enjoy significant advantages in debates over surveillance—advantages that often extend to the capacity to shape conditions so dramatically as to prevent controversial issues from emerging in the public sphere. Obama’s particular charismatic appeal further insulated him from critiques, as he was able to mitigate objections from the left on national security issues. To meaningfully oppose the Obama administration on surveillance policy was exceptionally difficult, and only through a unique performance of *eunoia*, *arête*, and *parrhesia* was Edward Snowden able to generate the *ethos* necessary to influence public debate.

Looking Forward

These studies make a preliminary case for attending to the underlying conditions constraining public deliberation on national security issues. My limited exploration of

these areas has produced some insights into the Obama administration's rhetoric of national security, but has also hopefully opened space for additional study—of the Obama administration and national security policy in other contexts. While I have confined my study to the rhetoric of the Obama administration, and argue that there remain many intriguing avenues to explore in this area, I have also attended to some of the enduring institutional and cultural factors that impact national security discourse. In concluding this project—at least for the time being—I present two categories of such further study: intensifying and extending the existing case study areas, and expanding the study to other aspects of national security policy.

Intensifying and Extending

One need not look far beyond Obama's National Defense University speech to find broad sub-areas worthy of vigorous investigation and impacted by clusters of concepts shaping their respective deliberative environments. In his speech, Obama referred to debates over executive war powers, targeted killing, surveillance, and other controversial topics, all under the umbrella of a national security debate that he deemed impoverished. In viewing this speech as near, if not at, the center of this project, I have attempted to underscore the need for continued meta-deliberative critique of national security rhetoric—across presidencies. My limited exploration of this area leaves open the space for additional study in pursuit of a better understanding of this need.

This study could have been expanded by intensifying the analysis of texts included and extending the scope of the study to new texts. By “intensification” I seek to highlight the value of lengthier analyses, perhaps characterizable as single-text or close textual reading, of major artifacts. I made the critical decision, based on my evaluation of

the discursive environment and my focus on the character of deliberation, to eschew focusing on a single text. In each chapter, I engaged in a broader study of multiple major texts or clusters of texts, supplemented by additional supporting material. More narrowly tailored criticism of discrete texts can provide additional insights, and in some cases, such studies are already being undertaken.

The inclusion of additional texts is also warranted. For practical purposes, this study was primarily limited in scope to rhetorical, political, and material events prior to 2014. And in some cases, I have refrained from including broader contextual analysis of events that were tangentially relevant or took place significantly earlier than each case study's period of focus.¹² These considerations open space for each case study to be temporally and contextually extended in ways too numerous to detail. Even as I revise this concluding chapter, stories about surveillance, drone strikes, and military interventions continue to emerge. More specific to this extant project, the passage of time creates the opportunity for a more comprehensive analysis of the entire Obama administration, as opposed to more circumscribed studies with arbitrary temporal focuses. Providing additional opportunities for analysis, but militating against the potential for any "comprehensive" look at any administration, one can anticipate gradually increased access to information as it becomes publicly available through declassification, archiving, or other disclosures.

The case studies can also be extended through cross-application of concepts featured in various chapters. For the purposes of length, balance, and breadth of analysis, I omitted or truncated the application of concepts central to one case study to other chapters. I can—and in some cases, already have—produce additional scholarship in this

manner.¹³ Concepts such as translation, charismatic authority, polysemy, Othering, strategic maneuvering, and limit case argumentation can easily be deployed beyond the case studies I have focused on here. Additional concepts and critical tools can also be applied to help explain the deliberative implications of various aspects of national security policy. In particular, I am interested in exploring the role of fear as a means of cultivating political acquiescence, assent, and resistance to change—an endeavor that would inevitably lead me to a rethinking or expansion of each of these case studies in this project. And I remain engaged in scholarly conversations that regularly generate new and interesting ways of thinking about these issues.

Expanding the Critique of Limits

An exploration of the limits of deliberation over the Obama administration's national security policy could also be enhanced by expanding beyond the areas selected as case studies. In particular, an expansion of this particular project should include at least two significant additions.

The U.S. relationship with the Islamic Republic of Iran, significant in its own right, could form the centerpiece of a related study exploring deliberation and presidential diplomatic powers. U.S.-Iranian relations have long been an important topic, and the Obama-era “P5+1” negotiations over a nuclear accord offer a potentially fruitful case study to understand the tension between elite-driven diplomatic policy and resistance by legislative and public factions seeking to shape the agenda. My own sense is that diplomatic relations function as a relatively distinct sphere of national security policy, warranting treatment on par with traditional war powers, “war on terror” policies, or surveillance programs.

Additionally, deliberation over the response to the rise of the self-proclaimed “Islamic State of Iraq and the Levant” (ISIL) should command attention in any thorough exploration of the Obama administration’s national security policy. Executive, legislative, interbranch, public-facing, and public deliberations over the U.S. response to ISIL warrants consideration in light of its political implications and the scope of legal authorities involved. The debate over how to address ISIL’s rise also demonstrates the intricately interconnected nature of national security deliberation. An issue in its own right, it involves the same issues of authority as the war on terror, the same sorts of surveillance programs, and it raises debates over larger, state-based military interventions—particularly in regards to Syria.¹⁴ Certainly a comprehensive analysis of deliberation over policies toward ISIL would make a substantial contribution to our understanding of the rhetoric of national security policy. Such an exploration would, inevitably, look across presidential administrations.

Other elements related to national security policy are also potential areas of exploration through a meta-deliberative approach. In this project, I have neglected to pay significant attention to issues relating to trade and immigration, both of which impact national security and raise questions regarding the limits of executive authority and the role of public deliberation. While I have no immediate plans to explore these topics, I acknowledge their importance and consider them appropriate objects for meta-deliberative critique.

Finally, the expansion of this project approaches limits of its own: temporal limits that contain it while inviting exploration beyond its borders. A comprehensive work on this subject and the Obama administration would be a useful contribution to rhetorical

studies. Such a project involves countless arbitrary choices, including the choice to limit the study to a particular time period or a particular presidency. I welcome, and hope to participate in, scholarly conversations that look beyond the Obama administration in order to help enhance our understanding of rhetoric, deliberation, national security, and our democratic character.

Closing Thoughts: Critiquing Deliberation, Critiquing Rhetoric, Critiquing Policy

On issues related to war and national security, the complex and shifting rhetorical landscape demands our attention. Many political issues are important, and policies unrelated to war often carry greater material implications despite garnering comparatively little discussion. But is it no coincidence that war has historically been the focus of rhetorical and political attention. More than two millennia ago, Aristotle listed “war and peace” as one of the five most-common topics of deliberative rhetoric.¹⁵ Deciding who is killed and who is spared in the name of the body politic has a qualitative, and often quantitative, significance that clearly resonates. These questions, the questions they in turn spawn, and the foundational environment shaping their consideration, are concerns rhetorical critics are particularly well-suited to address. But they are questions asked by all citizens. In one of his last works, astronomer Carl Sagan studied the evolutionary and anthropological roots of Othering. His inspiration was hardly random, nor was it a sign of a departure from his interest in the future of the cosmos. Instead, Sagan was driven by fear. He envisioned a possibility that technological civilizations might be prone to self-destruct, and that scientific development might provide them the means to that tragic end. Sagan looked to the past to see how we organized, identified, and viewed those outside

the tribe in order to ponder the potential danger if human culture failed to evolve along with advancing technology.¹⁶ As a scholar of democratic deliberation, I view parallel tracings—centered on our capacity to deploy political, cultural, and pedagogical technologies of deliberation—as vitally important.

Given the complexity of national security policy, the opaque knowledge of even the most dogged scholar, and the realities of history’s long reach, it is important to resist the temptation to make striking claims about the presidency of Barack Obama—particularly so soon after the end of his tenure. Obama’s journey as chief steward of the nation’s safety was defined, in large part, by his complicated relationship with deliberative values. In time, as more accounts are disseminated and more materials declassified, we will have a more complete—but never fully complete—picture of how the Obama administration approached the limits of its power and the need for public deliberation. We know that he campaigned as a reflective and open-minded outsider who valued the exchange of ideas and opposed the legacy of the “Decider” who preceded him. From the earliest days of his administration, he encountered considerable obstruction, even when he attempted to engage his political opposition and bring them into the process.¹⁷ A sense of frustration with gridlock, embodied by his 2014 “I’ve got a pen, and I’ve got a phone” statement, may account for some small degree of his unilateral approach.¹⁸ More can be ascribed to the realities of governing. Some can also be chalked up to his disdain for the Bush administration’s judgment, and faith in his own ability to use similarly defined—or undefined—power responsibly.¹⁹ Ultimately, Obama’s administration, and Obama himself, sought to balance the complex relationships between security, liberty, and transparency in complicated, sometimes awkward ways.

No administration can be fully understood by looking solely at its speeches. Looking at what Obama said is insufficient. Fortunately, the expanded scope of rhetorical studies provides many tools for unpacking the interconnected fragments of Barack Obama's rise and tenure. I submit that meta-deliberative critique is a particularly fitting approach for investigating the national security rhetoric of the Obama administration. Given the complicated relationship between candidate Obama's platform, the intricacies of the national security bureaucracy, the domestic political climate, global instability, and the Obama administration's resulting policies, exploring the underlying conditions of debate is just as important—if not more important—than the debate itself. I hope that scholars will continue to study the presidency, national security rhetoric, and democratic deliberation in all its manifestations. But I particularly hope they will continue to attend to “the essential need,” as John Dewey saw it, for “the improvement of the methods and conditions of debate, discussion, and persuasion.”²⁰

It is through confronting these fundamental concerns, and through endless critique, I argue, that we can better explain where we have been, where we are going, and how we made the journey. In seeking understanding of his presidency's rhetorical implications and what they mean moving forward, I close this project not with the final word, but with a hope that productive debate will continue to be welcomed.

Notes

¹ Jeremy Engels and William O. Saas, “On Acquiescence and Ends-Less War: An Inquiry into the New War Rhetoric,” *Quarterly Journal of Speech* 99, no. 2 (2013): 226.

² James Jasinski, “The Status of Theory and Method in Rhetorical Criticism,” *Western Journal of Communication* 65 (2003): 256.

³ Asen argues that rhetorical case studies have provided valuable insights, but that “by focusing primarily on the case” scholars often neglect broader questions relating to the relationship between rhetorical practice, theory, and criticism in the realm of public policy formation. Robert Asen, “Introduction: Rhetoric and Public Policy,” *Rhetoric & Public Affairs* 13, no. 1 (2010): 2.

⁴ Black specifically notes that rhetorical phenomena are too fraught by contingencies, and critics face too many choices in evaluating rhetoric, to enable anything but an openly interpretive investigation. Edwin Black, *Rhetorical Criticism: A Study in Method*, 3rd ed. (Madison: University of Wisconsin Press, 1978), xi.

⁵ Thomas B. Farrell, “Sizing Things Up: Colloquial Reflection as Practical Wisdom,” *Argumentation* 12, no. 1 (February 1998): 2.

⁶ I must acknowledge the contribution of David Marshall in developing this argument and I thank him for his helpful written feedback on an earlier version of part of this project: “‘Going meta’ is a lack of faith in the current centrality of the speech. One turns to the conditions of possibility for speech. Note that this can often take the form of lament.”

⁷ Ernesto Laclau and Chantal Mouffe, “Post-Marxism without Apologies,” *New Left Review* 166 (November-December 1987): 79.

⁸ This acknowledgement notwithstanding, Zarefsky calls upon the critic of argument to “assess the gap between the real and the ideal” and “work to close it.” David Zarefsky, “Strategic Maneuvering through Persuasive Definitions,” *Argumentation* 20 (2006): 407.

⁹ I am ambivalent about Zarefsky’s framing of “rehabilitation,” given the term’s prelapsarian connotations. That minor departure aside, I embrace his call for pedagogical and scholarly efforts to enhance public deliberation. *Ibid.*, 399.

¹⁰ James Madison, Federalist 48, February 1, 1788, ¶ 2.

¹¹ James Madison, Federalist 51, February 8, 1788, ¶ 3.

¹² When possible and practical, I have included additional information—such as political developments—from after this time period. However, I have resisted the temptation to do so on a broader scale and anticipate a significant reworking this project along such lines as it moves forward.

¹³ For example, while the concept of translation is primarily utilized in chapter 3’s examination of surveillance policy deliberation, I have previously deployed as a central critical tool to explain presidential rhetoric over targeted killing.

¹⁴ I have not explicitly raised the inevitability of increased analysis of U.S. deliberation over Syria in this section, as I view it as a natural extension of chapter 1’s exploration of Syria policy from 2012-2013 and not an “expansion” to a new area of

analysis. Needless to say, the continued violence in Syria and deliberation over U.S. response would be addressed in a future project. One likely possibility would be to extend the treatment of Syria in a revised “military intervention” chapter while drafting a new chapter focused on ISIL and the intersection of intervention and terrorism authorities.

¹⁵ Aristotle, “*Rhetoric* (Book I, Ch. IV),” in *The Rhetorical Tradition*, ed. Patricia Bizzell and Bruce Herzberg, trans. W. Rhys. Roberts (Boston, MA: Bedford/St. Martin’s, 2001), 187.

¹⁶ Carl Sagan and Ann Druyan, *Shadows of Forgotten Ancestors: A Search for Who We Are* (New York: Random House, 1992).

¹⁷ Joshua Holland, “Why Opposing Trump Isn’t Like the GOP Obstructing Obama,” *Rolling Stone*, April 14, 2017, <http://www.rollingstone.com/politics/features/why-opposing-trump-isnt-like-the-gop-obstructing-obama-w476367>.

¹⁸ Rebecca Kaplan, “Obama: I Will Use My Pen and Phone to Take on Congress,” *CBS News*, January 14, 2014, <http://www.cbsnews.com/news/obama-i-will-use-my-pen-and-phone-to-take-on-congress/>.

¹⁹ The *New York Times*’ Peter Baker quotes a former Obama aide as saying “He’s sitting on the other end of the pen now. . . .He has more information than he did then. And he trusts himself to use these powers more than he did the Bush administration.” Peter Baker, “Obama’s Path From Critic to Overseer of Spying,” *New York Times*, January 16, 2014, A1, <https://www.nytimes.com/2014/01/16/us/obamas-path-from-critic-to-defender-of-spying.html>.

²⁰ John Dewey, *The Public and Its Problems* (New York: Holt, 1927), 208.

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“I Welcome This Debate”: The Limits of Democratic Deliberation over National Security Policy in the Obama Administration

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