TESTIMONY

"Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing"

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This testimony will attempt to answer a number of key questions about the controversial CIA drone program. It will enumerate the number of strikes the CIA has carried out in both Pakistan and Yemen since 2002 and trace the rising trajectory of the program under the administration of George W. Bush, as well as the dramatic amplification of the program under President Obama. It will also delve into the issue of civilian casualties and the less discussed issue of the number of militant leaders who have been killed in the strikes. It will attempt to assess the impacts the drone program has had on al-Qaeda and the Taliban, and it will examine the expansion of drone programs around the world. Finally, it will assess the effects of the CIA drone strikes on public opinion in Pakistan and in the United States, and suggest a way forward for the CIA drone program.[1]

## 1. A Rapid Rise in Drone Strikes and Deaths

The CIA drone program began quietly under President George W. Bush with one strike in Yemen in 2002, and then a smattering of strikes in Pakistan between 2004 and 2007 before a more sustained campaign in 2008. During his two terms in office, Bush authorized a total of 48 strikes in Pakistan.

Upon taking office in January 2009, President Barack Obama almost immediately made drones one of his key national security tools. By mid-April 2013, he had already authorized 307 strikes in Pakistan, six times more than the number of strikes carried out during President Bush's entire eight years in office. Under Obama, the drone program accelerated from an average of one strike every 40 days to one every 4 days by mid-2011.

Using reports from a variety of reliable news outlets, the New America Foundation—a non-partisan think tank in Washington, D.C.—has calculated that some 2,003 to 3,321 people were killed by drone strikes in Pakistan between 2004 and mid-April 2013. At this point, the number of estimated deaths from the Obama administration's drone strikes in Pakistan—somewhere between 1,614 and 2,765—is more than four times what it was during the Bush administration.[2] Interestingly, the lowest estimate of deaths from drone strikes in Pakistan under Obama is around double the total number of detainees sent to Guantanamo by Bush.

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[1] Thanks to Jennifer Rowland for her help in preparing this testimony.
[2] http://counterterrorism.newamerica.net/drones

Number of U.S. Drone Strikes in Pakistan
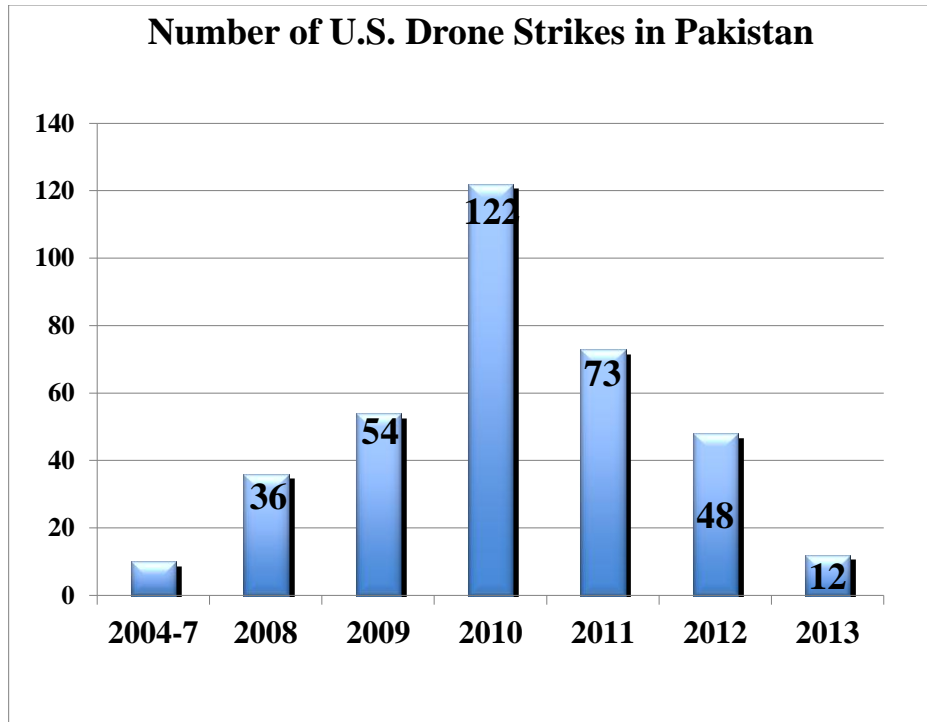
The year 2010, with a record 122 strikes in Pakistan, marked the most intense period of the Obama drone campaign in Pakistan. This, combined with the May 2011 raid on Osama bin Laden's compound in Abbottabad and the killing of 24 Pakistani soldiers in a NATO air strike in November 2011, severely damaged the relationship between the United States and Pakistan and resulted in the eviction of CIA-controlled drones from Shamsi Air Base in Baluchistan.[3] At the same time, Cameron Munter, the then-U.S. Ambassador to Pakistan, was urging that there be more judicious targeting of the drone strikes as well as increased consultation with the Pakistanis about them.[4]

Some combination of U.S. Department of State pushback, increased congressional oversight, the closure of the CIA drone base in Pakistan (and, perhaps, a declining number of targets in the tribal regions), and a greater desire to heed Pakistani sensitivities about drone attacks led to a sharp fall in the number of strikes in 2011. The number of drone strikes in Pakistan in 2011 fell by 40 percent from the record number of strikes in 2010.

Meanwhile in Yemen, after the first attack in 2002, there were no reported drone strikes until President Obama took office in 2009. Obama vastly accelerated the drone campaign in Yemen, particularly in 2011 and 2012, just as drone strikes in Pakistan began to slow. At least 46 strikes

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[3] http://www.nytimes.com/2011/12/12/world/asia/cia-leaves-pakistan-base-used-for-drone-strikes.html?_r=1&adxnnl=1&adxnnlx=1346429026-IgsqFC2urQuAzdR9ZA2qJw
[4] http://online.wsj.com/article/SB10001424052970204621904577013982672973836.html

took place in Yemen in 2012, marking the first time the number of drone strikes in Yemen and Pakistan reached comparable levels. As of mid-April 2013, U.S. drone and air strikes have killed an estimated 467 to 674 people in Yemen, all but six of whom were killed under Obama.

2. Who Are the Targets?

Between 2004 and mid-April 2013, the drone campaign in Pakistan has killed 55 militant leaders whose deaths have been confirmed by at least two credible news sources. (A list of those al-Qaeda and Taliban leaders can be found in Appendix A and B, respectively.) While this represents a significant blow to the militant chain of command, these 55 deaths account for only two percent of all drone-related fatalities in Pakistan. Thirty-four leaders have been reported killed in Yemen, representing around six percent of the total casualties resulting from U.S. strikes there.

Given the fact that the CIA drone program first evolved as a measure to kill hard-to-capture al-Qaeda or Taliban leaders, this is a striking finding. The drone program has increasingly evolved into a counterinsurgency air platform, the victims of which are mostly lower-ranking members of the Taliban (Pakistan) and lower-level members of al-Qaeda and associated groups (Yemen). In 2010, a militant told a *New York Times* reporter, "It seems they really want to kill everyone, not just the leaders."[5]

In September 2012, President Obama told CNN that drone strikes were only used in "[situations] in which we can't capture the individual before they move forward on some sort of operational plot against the United States." Clearly the threshold to mount drone strikes is far lower than this standard would suggest given the fact that overwhelmingly the victims of the strikes are lower-level militants who do not have the capacity to plot effectively against the United States.

Under Bush, about a third of all drone strikes in Pakistan killed a militant leader compared to less than 13 percent from the time Obama took office to mid-April 2013. While Bush sought to decapitate the leadership ranks of al-Qaeda, Obama seems to be aiming to collapse the entire network of allied groups, such as Tehrik-i-Taliban Pakistan (TTP), the Pakistani Taliban. As a result, so-called "signature strikes" have become a hallmark of Obama's drone war.[6] These are drone attacks based merely on patterns of suspicious activity by a group of men, rather than the identification of particular militants. They have decimated the ranks of lower-level combatants, killing somewhere between 1,558 and 2,700 reported militants in Pakistan as of mid-April 2013.

During the Bush administration, the drone campaign appeared to put emphasis on killing significant members of al-Qaeda but under Obama, it underwent a quiet and largely unheralded

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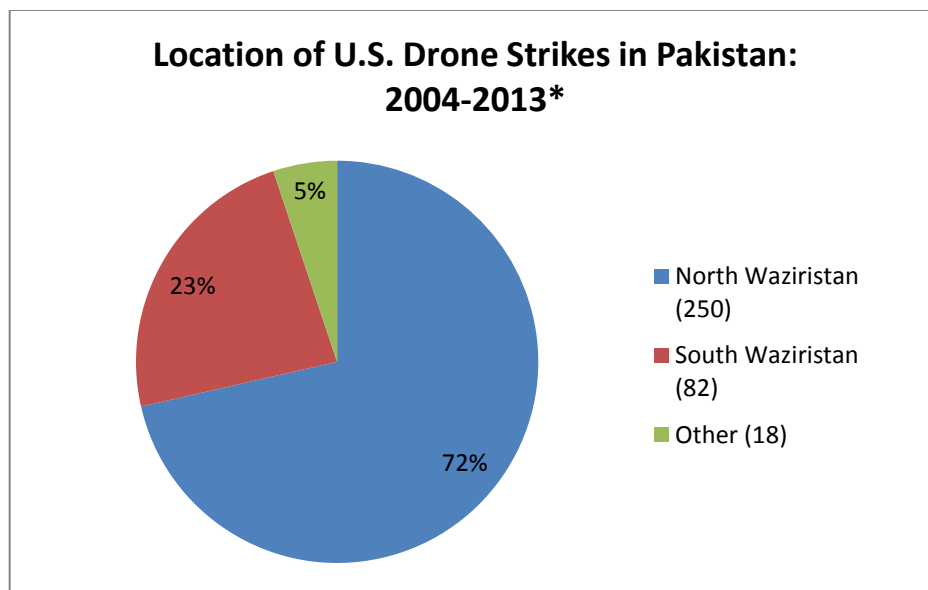[5] http://www.nytimes.com/2010/04/05/world/asia/05drones.html?_r=1
[6] http://www.nytimes.com/2012/04/26/world/middleeast/us-to-step-up-drone-strikes-inside-yemen.html

shift to focus increasingly on killing Taliban foot soldiers. To the extent that the targets of drone attacks can be ascertained, under Bush, al-Qaeda members were killed or identified as the likely target for 25 percent of all drone strikes, compared to 40 percent for the Taliban. Under Obama, only 10 percent of targets appear to be al-Qaeda militants, compared to just over 40 percent for the Taliban.

Early in his administration, President Obama took it upon himself to act as the chief decision-maker on whether individuals were added to the U.S. drone "kill list" or not. He would reportedly gather with a small group of his top national security advisors every Tuesday to pour over intelligence gathered on suggested new targets, "determined to keep the tether [on the drone program] pretty short," according to National Security Advisor Thomas Donilon.[7] It was reported in October 2012 that the administration had been working for at least two years on a secret "disposition matrix" to replace the "kill list." With the matrix, officials sought to lay out all of the U.S. resources being used to track down and build a case against terrorist suspects who may be either in the reach of drones or outside established drone theaters.[8]

3. Where are the Targets?

Geographically speaking, of all the U.S. drone strikes reported in Pakistan's tribal regions, over 70 percent have struck North Waziristan, home to factions of the Pakistani Taliban and the Haqqani Network, which has often launched operations in Kabul against civilian targets.

*As of April 19, 2013

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[7] http://www.nytmes.com/2012/05/29/world/obamas-leadership-in-war-on-al-Qaeda.html?pagewanted=all
[8] http://articles.washingtonpost.com/2012-10-23/world/35500278_1_drone-campaign-obama-administration-matrix

Over a third of the strikes in North Waziristan have reportedly targeted members of the Taliban, with at least 10 of the strikes killing senior Taliban commanders, as well as hundreds of lower-level fighters.

It is interesting to note that of the more than 350 drone strikes the CIA has mounted in Pakistan over the past nine years, none have occurred outside of Pakistan's tribal areas. The extension of the drone program to the "settled" areas of northwest Pakistan or Baluchistan is highly unlikely, as it would cause very significant problems for the ever-fragile U.S.-Pakistan relationship. (The one exception to this might be a drone strike targeting Ayman al Zawahiri, the current leader of al-Qaeda. A drone strike using a small experiment bomb was one of the options considered by President Obama and his national security advisers in the spring of 2011 as they contemplated what to do about the intelligence that bin Laden might be living in a compound in Abbottabad).

4. Civilian and Other Casualties

The U.S. drone campaign became increasingly controversial as it ramped up under President Obama and captured more of the public's interest. Many human rights activists claim that a substantial number of civilians are killed in the attacks, while Obama administration officials, including the president's top counterterrorism advisor John Brennan, said publicly in 2011 that there were no civilian casualties as a result of the strikes.[9]

According to data generated by the New America Foundation, by averaging the high and low casualty estimates of militant and non-militant deaths published in a wide range of reliable media outlets, the estimated civilian death rate in U.S. drone strikes in Pakistan has declined dramatically since 2006, when—due to two large-scale strikes—it was almost 100%.

U.S. government officials have asserted that the civilian casualty rate is zero. And it has been reported that the Obama administration considers any military-age male in the strike target area as a "militant".[10] The New America data is not based on the U.S. official definition of a militant and does not rely on any U.S. official counting of the strikes. Rather, New America records as a militant only those people identified in credible news reports as a militant or a "suspected militant." The media outlets used by New America in its database of drone strikes are the *Associated Press*, *Reuters*, and *Agence France Presse*; *The New York Times*, *The Washington Post*, *The Los Angeles Times*, and *The Wall Street Journal*; the British newspapers *The Telegraph* and *The Guardian*; and the Pakistani news outlets *The Express Tribune*, *Dawn*, *The Daily Times*, *Geo TV*, and *The News*; as well as the BBC and CNN. The majority of these sources get information on CIA drone strikes in Pakistan from Pakistani intelligence, security, and local government officials, as well as local villagers.

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[9] http://www.nytimes.com/2011/08/12/world/asia/12drones.html?pagewanted=all
[10] http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-Qaeda.html?pagewanted=all&_r=1&

The New America Foundation's casualty counts also differentiate between individuals identified as "militants" and those identified as "civilians." The murkiness of some reporting in the tribal regions of Pakistan and in Yemen led New America researchers to designate another category for "unknown" casualties. If two or more media reports refer to those killed as militants, they are labeled as militants in the New America data. Similarly, if two or more media reports refer to those killed as civilians, they go under the civilian column in the New America database. And if the different media reports on a single strike are so contradictory that researchers do not feel comfortable placing either label on those killed, they are listed as "unknown."[11]

Over the life of the drone program in Pakistan, the estimated non-militant (civilian and unknown) death rate is 20 percent according to the New America data. Under President Bush, it was about 47 percent while under President Obama it has been about 16 percent. In 2012, the proportion of total civilians (2 percent) and unknowns (9 percent) killed was 11 percent. The New America data shows that between 454 and 637 non-militant (civilian and unknown) individuals were killed by U.S. drone strikes in Pakistan between 2004 and mid-April 2013. New America estimates that the confirmed number of Pakistani civilians who have been killed by drone strikes during the same time frames is between 258 to 307, or 10.6 percent of the total number of casualties.

Estimated Total Deaths from U.S. Drone Strikes in Pakistan, 2004 - 2013*

Year	Militant Low	Militant High	Unknown Low	Unknown High	Civilian Low	Civilian High	Total Low	Total High
2013	44	53	3	5	0	0	47	58
2012	197	317	19	31	5	5	221	349
2011	304	488	31	36	56	64	367	600
2010	555	960	38	50	16	21	611	1,028
2009	241	508	44	136	66	80	354	721
2008	157	265	49	54	23	28	229	347
2004-2007	43	76	16	18	95	107	155	200
Total	1,588	2,700	200	330	261	305	2,003	3,321

*As of April 19, 2013

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[11] http://counterterrorism.newamerica.net/drones/methodology

The London-based Bureau of Investigative Journalism (BIJ) and the D.C.-based Long War Journal also maintain counts of drone casualties in Pakistan. BIJ reports that between 411 and 884 Pakistani civilians have been killed in U.S. drone strikes, representing 16 to 25 percent of the total casualties BIJ has counted. On the low end, the Long War Journal reports that 153 Pakistani civilians have been killed, representing just 5.8 percent of the 2,660 deaths it has recorded over the life of the drone campaign.

All three databases report relatively low civilian casualty figures for 2012: New America reported 5 (as well as 23 to 29 unknowns), BIJ reported 7 to 42 civilian deaths, and the Long War Journal reported 4.

In March 2013, following a visit to Pakistan, Ben Emmerson, the U.N. special rapporteur on human rights and counter-terrorism, emailed the *Associated Press* that the Pakistani government had told him it had confirmed at least 400 civilian deaths by U.S. drones. This number is in the range of the low estimate of 411 civilian deaths by the BIJ and also computes with the New America figures estimating between 258 and 307 civilians and a further 196 to 330 unknowns have been killed.

All of these estimations, however, are far below the civilian death rate that some Pakistani officials and private research groups such as Pakistan Body Count have claimed in the past. According to a report from *Dawn*, one of Pakistan's leading English-language newspapers, Pakistani authorities in 2010 estimated that for every militant killed in a drone strike in 2009, 140 Pakistani civilians also died, and that the civilian casualty rate for that year was more than 90 percent.[12] And the Pakistan Body Count's ongoing tally estimates the civilian casualty rate over the life of the drone campaign to be between 75 percent and 80 percent.[13]

However, Pakistani security officials acknowledged during background interviews with the *Washington Post* in mid-2010 that, in fact, better technology, a deeper network of on-the-ground informants, and better coordination between U.S. and Pakistani intelligence officials had all contributed to a significant drop in civilian deaths in drone strikes.[14] And Major General Ghayur Mahmood, a commander of Pakistani troops in North Waziristan where the majority of drone strikes take place, conceded publicly in March 2011 that "myths and rumors about U.S. Predator strikes and the casualty figures are many, but it's a reality that many of those killed in these strikes are hardcore elements, a sizeable number of them foreigners."[15] The general went on to say that drone strikes had killed some one thousand militants in North Waziristan.

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[12] http://archives.dawn.com/archives/144960
[13] http://pakistanbodycount.org/drone_attack
[14] http://www.washingtonpost.com/wp-dyn/content/article/2010/04/25/AR2010042503114.html
[15] http://dawn.com/2011/03/09/most-of-those-killed-in-drone-attacks-were-terrorists-military/

The drop in the number of civilian and unknown casualties in Pakistan since 2009 came as a result of several developments, one of which was a directive issued from the White House just days after President Obama took office tightening up the way the CIA selected targets and carried out strikes. Specifically, Obama wanted to evaluate and personally sign off on any strike if the agency did not have a "near certainty" that it would result in zero civilian casualties. The CIA also began utilizing smaller munitions for more pinpoint strikes.[16] Also drones can now linger for longer periods of time over targets—ascertaining whether civilians are around the target area—than was the case several years ago.

Additionally, the drone program has come under increasing congressional oversight in the past couple of years, a layer of accountability that one former CIA official said was unheard of when he left the agency in 2009.[17] Since early 2010, members of the Senate and House intelligence committees have held monthly meetings at CIA headquarters to watch video recordings of specific drone strikes, as well as to review the intelligence upon which CIA agents on the ground in Pakistan based their target selection.

5. The Impact of Drones on Militant Groups

Osama bin Laden himself recognized the devastation that the drones were inflicting on his organization, writing a lengthy memo about the issue that was later recovered in the Abbottabad compound where he was killed. In the October 2010 memo to a lieutenant, bin Laden advised his men to leave the Pakistani tribal regions, where the drone strikes have been overwhelmingly concentrated, and head to a remote part of Afghanistan. He also suggested that his son Hamza decamp for the tiny, rich Persian Gulf kingdom of Qatar.[18]

Evidence of the drone strikes' impact can be found in the description provided by David Rohde, the former *New York Times* reporter held by the Taliban Haqqani Network for months in 2009, who called the drones "a terrifying presence" in South Waziristan. Key Taliban commanders reportedly started sleeping outside under trees to avoid being targeted and regularly executed suspected "spies" accused of providing information to the United States, suggesting they feared betrayal from within.

The drone attacks in Pakistan have undoubtedly hindered some of the Taliban's operations and killed hundreds of their lower-level fighters and a number of their top commanders. Conversely, the CIA strikes may also be fueling terrorism. Faisal Shahzad, an American citizen of Pakistani descent trained by the Pakistani Taliban, tried to detonate a car bomb in Times Square on May 1,

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[16] http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-Qaeda.html
[17] http://www.latimes.com/news/nationworld/world/middleeast/la-na-drone-oversight-20120625,0,7967691,full.story
[18] http://articles.cnn.com/2012-03-16/opinion/opinion_bergen-bin-laden-final-writings_1_drone-strikes-year-bin-bin-laden?_s=PM:OPINION

2010. The plot failed, but Shahzad subsequently claimed that the drone program had fueled his anger against the United States.

6. Evolution of Public Opinion

Beginning in 2012, Pakistani officials rarely based their criticism of U.S. drone strikes on the incidence of civilian casualties and have instead pointed, quite reasonably, to another objection: the U.S. violation of Pakistan's national sovereignty. The Pakistani parliament voted in April 2012 to end any authorization for the program, a vote that the United States government has ignored.

This may be because despite their public protests, some senior Pakistani officials such as President Asif Ali Zardari privately support the drone strikes. In a 2008 State Department cable that was made public by WikiLeaks, Zardari signed off on the drone program in a discussion with U.S. officials saying, "Kill the seniors. Collateral damage worries you Americans. It does not worry me."

Further confirmation of official Pakistani support for the strikes came in mid-April 2013 when Pakistan's former president Pervez Musharraf acknowledged to CNN that his government had secretly signed off on U.S. drone strikes, the first public admission by a senior Pakistani official to such a deal. Musharraf claimed that Pakistan's government signed off on those strikes "only on a few occasions, when a target was absolutely isolated and no chance of collateral damage."

Even though in recent years fewer civilians have been killed by drone strikes, the program remains deeply unpopular within the Pakistani public.[19] During the summer of 2010, the New America Foundation sponsored one of the few public opinion polls ever to be conducted in Pakistan's Federally Administered Tribal Areas (FATA) and found that almost 90 percent of the respondents opposed U.S. military operations in the region.[20] A Pew poll conducted in June 2012 found that just 17 percent of Pakistanis support the U.S. conducting drone strikes to help combat militancy in their country.

A poll of 21 countries in 2012 also found widespread global opposition to the CIA drone program. Muslim countries such as Egypt (89 percent) and Jordan (85 percent) expressed high levels of disapproval, while non-Muslim countries that are close American allies also registered significant displeasure with the program—Germany and France respectively polled at 59 and 63 percent disapproval.

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[19] http://www.nytimes.com/2012/04/13/world/asia/pakistan-demands-an-end-to-cia-drone-strikes.html
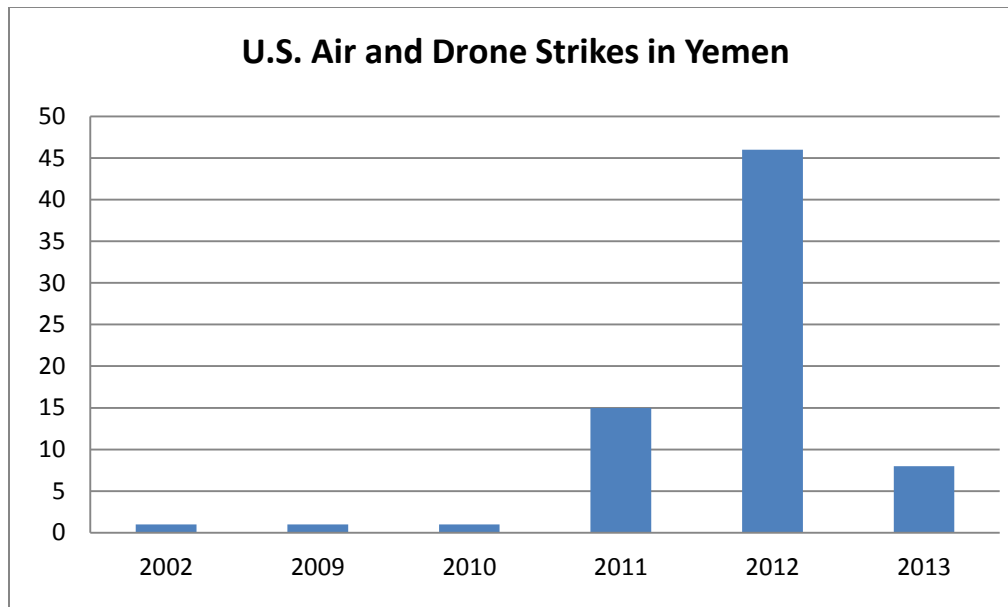[20] http://pakistansurvey.org/

Meanwhile in the United States, the drone program has enjoyed widespread support. In a February 2013 Pew Research Center poll, 56 percent of Americans said they approve of lethal drone attacks in countries such as Pakistan, Yemen, and Somalia.[21] This is hardly surprising as the human, financial and political costs of the drone program are very low. There are no American boots on the ground and a drone costs a tiny fraction of the costs of deploying fighter aircraft or bombers.

7. The Drone Campaign in Yemen

The CIA inaugurated the lethal drone program in Yemen on November 3, 2002, with a Hellfire missile launched from a Predator drone at a vehicle in the province of Maarib, about 100 miles east of the capital city of Sana'a. The attack killed al-Qaeda's top operative in Yemen, Qaed Salim Sinan al-Harethi, who was also a suspect in the 2000 bombing of the USS *Cole* off the Yemeni coast. In the car with al-Harethi were five other militants, all of whom were killed, including U.S. citizen Kamal Derwish. He was the first reported American casualty in the CIA's drone campaign. After the 2002 U.S. drone strike, there were no reported U.S. air or drone strikes in Yemen until December 2009, when a sustained campaign of attacks began. That change came when al-Qaeda's Yemen-based affiliate, al-Qaeda in the Arabian Peninsula (AQAP), attempted a number of terrorist attacks against the United States.

While the drone campaign in Pakistan was on the wane between 2011 and 2013, it simultaneously ramped up against the al-Qaeda affiliate in Yemen. In 2012 alone, Obama authorized at least 46 drone strikes in Yemen, while Bush only launched one drone attack there during his entire two terms in office, according to data compiled by the New America Foundation.

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[21] http://www.people-press.org/2013/02/11/continued-support-for-u-s-drone-strikes/

U.S. Air and Drone Strikes in Yemen

A bar chart titled "U.S. Air and Drone Strikes in Yemen" showing the following values by year:
- 2002: 1
- 2009: 1
- 2010: 1
- 2011: 15
- 2012: 46
- 2013: 8

The y-axis ranges from 0 to 50 in increments of 5.

*As of April 19, 2013

As of mid-April 2013, U.S. air and drone strikes had killed an estimated 427 to 679 people in Yemen, 439 to 583 of whom were identified in media reports as militants, according to the New America Foundation's data.[22] That data is derived from reports in the *Associated Press*, *Reuters*, CNN, and the *Yemen Post*. Of these deaths, all but six occurred during Obama's presidency. The non-militant casualty rate from these strikes is estimated to be between 7 percent and 14 percent, roughly comparable with the civilian and unknown casualty rate from the U.S. drone program in Pakistan, which averaged 11 percent in 2012, according to New America Foundation data.

Counting drone attacks and airstrikes in Yemen, however, is perhaps even more complicated than in Pakistan because it has often been unclear whether attacks were launched from drones or from fighter jets, and villagers regularly provide conflicting accounts of the kinds of aircraft used in these attacks. To make data collection on these strikes even more difficult, diplomatic cables released by WikiLeaks revealed that the Yemeni government has sometimes taken credit for airstrikes that were in fact being carried out by the United States. According to one cable, then-Yemeni President Ali Abdullah Saleh told then-CENTCOM Commander General David Petraeus in January 2010, "We'll continue saying the bombs are ours, not yours," after which Deputy Prime Minister Rashad al-Alimi joked that he had just "lied" to the Yemeni Parliament about the American role in such strikes.[23]

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[22] http://yemendrones.newamerica.net/
[23] http://www.guardian.co.uk/world/2010/dec/03/wikileaks-yemen-us-attack-al-qaida

After the longtime Yemeni strongman Saleh stepped down in February 2012, the American drone strikes and airstrikes increased. From March through May 2012, the United States launched an estimated 23 air and drone strikes in Yemen. By comparison, there were just 18 attacks in the previous two years.

During the Obama administration, U.S. drones have killed at least 34 key al-Qaeda militants in Yemen, including the Yemeni-American cleric Anwar al-Awlaki and Fahd al-Quso, who was suspected of involvement in the 2000 bombing of the USS *Cole*.[24] The death of AQAP's senior leader Said al-Shihri from wounds sustained in a U.S. drone strike in October 2012 dealt the organization an important blow.[25] (A list of the AQAP leaders who have been killed by drones can be found in Appendix C). AQAP hasn't attempted a plot against a Western target since its attempt to bring down US-bound cargo planes in October 2010, and the group has lost control of the string of towns in southern Yemen it held in 2011.

Balanced against this is the fact that some of the popular resentment toward the U.S. drone campaign that has long been the case in Pakistan is beginning to emerge in Yemen where small demonstrations by local tribesman have occurred. The drone program in Yemen is also stirring some of the same international controversy that the strikes in Pakistan have done for years. Human rights groups in the United States are particularly aggrieved by the targeted killing of al-Awlaki, an American citizen who was killed by a drone on September 30, 2011, as was his teenage son.

Unlike Pakistan, where political leaders have almost universally—at least in public—condemned the strikes, Yemeni President Abed Rabbo Mansour Hadi said during an interview with the *Washington Post* in September 2012 that he personally signs off on all U.S. drone strikes in Yemen and that they hit their targets accurately, asserting, "The drone technologically is more advanced than the human brain."

8. The US Government Begins to Open Up About Drones.

President Obama made his first public comments about the covert drone program on January 30, 2012, when he told participants of a Google+ Hangout that the United States only conducts "very precise, precision strikes against al-Qaeda and their affiliates, and we're very careful in terms of how it's been applied."[26] The administration also maintains that international law does not prohibit the use of lethal force against an active enemy "when the country involved consents or is unable or unwilling to take action against the threat."[27] Many U.S. officials have argued that the

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[24] http://www.cnn.com/2011/09/30/world/meast/analysis-anwar-al-awlaki/index.html
[25] http://www.huffingtonpost.com/2013/01/24/saeed-al-shihri-dead_n_2545067.html
[26] http://content.usatoday.com/communities/theoval/post/2012/01/obama-defends-drone-strikes/1
[27] http://www.cnn.com/2013/02/07/us/drones-classified-document/index.html

unprecedented precision of drones makes them by far the most effective weapon for striking a target and for avoiding civilian casualties.

Critics of the drone program—both in the public and the government—have long called for the process of choosing drone targets to be more transparent, for casualty counts to be made public, and for leaders to be held accountable for the strikes.[28] In mid-February 2013, Brennan himself said in written responses to questions from Chairwoman Feinstein that he believes the government should publicize civilian casualty counts from drone strikes. Brennan also said in those responses that "in those rare instances in which civilians have been killed," the CIA conducts investigations and provides monetary compensation to the families of victims when appropriate.[29]

Additionally, calls for the military to take control of the CIA's drone program began to grow. In an early February 2013 interview with NBC, then-Secretary of Defense Panetta voiced some support for such a transition, which would allow for more transparency on U.S. procedures for identifying targets and conducting strikes.[30] Officials close to Brennan said later that month that he too supports moving the bulk of the program to the military's jurisdiction.[31] Meanwhile, in early 2013, the Obama administration was expected to receive a draft of a "playbook" codifying the policies developed during its first term to govern the use of drones for targeted killing operations. Drone attacks in Pakistan would reportedly be exempt from this document, allowing the CIA to continue the current program without complying with any new requirements for at least another year.[32]

As media coverage and discussion of U.S. drone strikes have proliferated, the U.S. government has become more candid about the program, its legal basis, and its procedures. Members of the Senate Intelligence Committee grilled Brennan, President Obama's nominee as director of the CIA, about drone strikes at his confirmation hearing in February 2013, the first time officials had sparred publicly over the covert program. And just days before the hearing, a Justice Department memo summarizing the legal basis for killing U.S. citizens in drone strikes abroad was leaked, sparking a flurry of discussion over the administration's secret decisions and possible abuse of executive power.

9. A World of Drones

A decade ago, the United States had a virtual monopoly on drones. Not anymore. According to data compiled by the New America Foundation, more than 70 countries now own some type of

[28] http://www.foxnews.com/politics/2013/02/10/lawmakers-urge-oversight-us-drone-program/
[29] http://www.reuters.com/article/2013/02/15/us-obama-nominations-brennan-drones-idUSBRE91E18N20130215
[30] http://presspass.nbcnews.com/_news/2013/02/03/16819717-press-pass-leon-panetta?lite
[31] http://articles.latimes.com/2013/feb/17/nation/la-na-targeted-killing-20130217
[32] http://articles.washingtonpost.com/2013-01-19/world/36474007_1_drone-strikes-cia-director-playbook

drone, though just a small number of those nations possess armed drone aircraft. This explosion in drone technology promises to change the way nations conduct war and threatens to begin a new arms race as governments scramble to counterbalance their adversaries.

In August 2010, Iran unveiled what it claimed was its first armed drone. And on Tuesday, the country's military chief, General Amir Ali Hajizadeh, disclosed details of a new long-range drone that he said could fly 2,000 kilometers (1,250 miles), putting Tel Aviv easily in range. And China took the United States by surprise at the 2010 Zhuhai Air Show when it unveiled 25 drone models, some of which were outfitted with the capability to fire missiles. It remains unclear just how many of China's drones are operational and how many of them are still in development, but China is intent on catching up with the United States' rapidly expanding drone arsenal.

When President George W. Bush declared a "War on Terror" 11 years ago, the Pentagon had fewer than 50 drones. Now, it has around 7,500. As Bush embarked on that war, the United States had never used armed drones in combat. The first U.S. armed drone attack, which appears to be the first such strike ever, took place in Afghanistan in mid-November 2001 and killed Mohammed Atef, the military commander of al-Qaeda.

Only the United States, the United Kingdom, and Israel are known to have launched drone strikes against their adversaries, although other members of the International Security Assistance Force in Afghanistan, such as Australia, have "borrowed" drones from Israel for use in the war there.

Drone technology is proliferating rapidly. A 2011 study estimated that there were around 680 active drone development programs run by governments, companies, and research institutes around the world, compared with just 195 in 2005. In 2010, U.S.-based drone developer General Atomics received export licenses to sell unarmed versions of the Predator drone to Egypt, Morocco, Saudi Arabia, and the United Arab Emirates. And in March 2012, the U.S. government agreed to arm Italy's six Reaper drones but rejected a request from Turkey to purchase armed Predator drones. An official in Turkey's Defense Ministry said in July 2012 that Turkey planned to arm its own domestically produced drone, the Anka.

Israel is the world's largest exporter of drones and drone technology, and the state-owned Israeli Aerospace Industries has sold the platforms to countries as varied as Mexico, Nigeria, and Russia. Building drones, particularly armed drones, takes sophisticated technology and specific weaponry, but as armed drones are increasingly seen as an integral part of modern warfare, governments are increasingly willing to invest the necessary time and money to either buy or develop them. France, Greece, Italy, Spain, Sweden, and Switzerland are working on a joint project through state-owned aeronautical companies and are in the final stages of developing an advanced armed drone prototype called the Dassault nEURon, from which France plans to derive armed drones for its air force. And Pakistani authorities have long tried to persuade the United

States to give them armed Predator drones, while India owns an armed Israeli drone designed to detect and destroy enemy radar, though it does not yet have drones capable of striking other targets.

The Teal Group, a defense-consulting firm in Virginia, estimated in June 2012 that the global market for the research, development, and procurement of armed drones would just about double in the next decade from $6.6 billion to $11.4 billion.

States are not alone in their quest for drones. Insurgent groups are also moving to acquire this technology. In 2011, Libyan opposition forces trying to overthrow the dictator Moammar Gadhafi bought a sophisticated surveillance drone from a Canadian company for which they paid in the low six figures. As drone technology becomes more widely accessible, it is only a matter of time before well-financed drug cartels acquire them. And one can easily imagine a day in the not too distant future where armed drones are used to settle personal vendettas. Given the relatively low costs of drones—already far cheaper than the costs of a fighter jet and of training a fighter jet pilot—armed drones will play a key role in future conflicts.

10. Conclusion

As of early 2013, the drone campaign was no longer Washington's worst kept secret; it was, for all intents and purposes, out in the open. This new openness is a good thing. As U.S. Supreme Court Justice Louis Brandeis observed a century ago, "Sunlight is the best disinfectant." Key questions that need to be considered publicly include:

- To what extent has the tactic of using drone strikes overwhelmed the broader strategic objectives of the United States? For instance, have the hundreds of drone strikes in Pakistan all really been necessary? If the cost of the drone program in Pakistan, whose victims are largely lower-level members of the Taliban, is the increasingly hostile view of the U.S. now prevalent among the 180 million citizens of Pakistan—a country with nuclear weapons and the second largest Muslim country in the world—is that cost too high?

- Has the increased emphasis at the CIA on targeted killings hampered the agency's ability to understand really important political developments in the Muslim world, such as the Arab Spring? As a senior Obama official has noted: "The CIA missed Tunisia. They missed Egypt. They missed Libya." Even after the Egyptian revolution occurred, the CIA appears to have entirely missed the fact that the ultra-fundamentalist Salafists would do very well at the election box, winning around quarter of the votes in the 2011 parliamentary election, making them the second largest political bloc in Egypt after the Muslim Brotherhood.

- Is the United States setting a dangerous precedent for other nations with its aggressive and secretive drone programs in Pakistan and Yemen? Just as the U.S. government justifies its drone strikes with the argument that it is at war with al-Qaeda and its affiliates, one could imagine a Chinese strike against Uighur separatists in western China or an Iranian attack on Baluchi nationalists along its border with Pakistan. The rules and regulations the U.S. government places on its use of drones as targeted killing machines will decide whether future U.S. leaders will be able to call on other countries to self-impose similar limitations. A failure to stand up a transparent, accountable structure within which drone targets are chosen, collateral damage decisions are made, and post-hoc evaluations are held could have important ramifications should countries like China and Russia cite U.S. precedents if using armed drones against individuals or groups they consider to be terrorists.

- Should there be an international framework governing the use of drone attacks? The time has come for some kind of international convention on the legal framework surrounding the uses of such weapons, which promise to shape the future of warfare as much as tanks and aerial bombers did during the 20th century. Yet so far, there has been virtually no substantive public discussion about drone attacks among policymakers at the international level.

- Should Washington transfer responsibility for the drones flying over Pakistan from the CIA to the U.S. military? The CIA's control of the program in Pakistan is more a legacy of its longtime dominance of operations targeting al-Qaeda than a reflection of any special expertise in drone warfare, and military control would have several advantages. In Afghanistan, where U.S. drone programs are already controlled by the Pentagon, U.S. military lawyers ensure that the strikes conform to the laws of war. In Pakistan, whatever vetting process the CIA observes remains largely opaque. In Afghanistan, the U.S. military also tends to pay compensation for accidental civilian deaths, whereas Pakistani civilians in the tribal areas can seek little legal or material recourse from the United States when their relatives are slain. Military control of the drone program in Pakistan would also place the strikes more clearly in the chain of command and link U.S. actions in eastern Afghanistan more directly with those in Pakistan's tribal regions. Coordinated Afghan-U.S. military operations now give the Afghan government more ownership over security conditions in Afghanistan. A similar arrangement should be struck in Pakistan.

Note: Attached to this statement are appendices that detail the names of the leaders of al Qaeda and the Taliban who have been killed in drone strikes in Pakistan as well as the leaders of al Qaeda in Yemen who have also been killed by drones.

Appendix A

This is a list of the 37 al-Qaeda and affiliated group leaders who have been killed in the CIA drone campaign in Pakistan.

May 18, 2005: Haitham al-Yemeni, an al-Qaeda explosives expert

December 1, 2005: Abu Hamza Rabia, a top al-Qaeda official

January 29, 2008: Abu Laith al-Libi, described as the then-"Number Three" man in al-Qaeda who orchestrated a 2007 suicide attack targeting then-Vice President Dick Cheney while he was visiting Bagram Airfield

May 14, 2008: Abu Sulayman Jazairi, an Algerian al-Qaeda planner

July 28, 2008: Abu Khabab al-Masri, al-Qaeda's WMD expert

September 4, 2008: Abu Wafa Al Saudi, an al-Qaeda commander and logistician

September 8, 2008: Abu Haris, al-Qaeda's chief in Pakistan

October 2008 (exact date unknown): Abu Hassan al-Rimi, an al-Qaeda "emir" who led cross-border operations against coalition forces in Afghanistan

October 16, 2008: Khalib Habib, a senior member of al-Qaeda

October 31, 2008: Mohammad Hasan Khalil al-Hakim—also known as Abu Jihad al-Masri—al-Qaeda's propaganda chief

November 19, 2008: Abdullah Azzam Al Saudi, a senior member of al-Qaeda

November 22, 2008: Abu Zubair al-Masri, a senior member of al-Qaeda

2009 (exact date unknown): Saad bin Laden, Osama bin Laden's second eldest son whose death was confirmed by documents found in the Abbottabad compound

January 1, 2009: Osama al-Kini, al-Qaeda's then-chief of operations in Pakistan who also played a central role in the 1998 bombings of U.S. embassies in Kenya and Tanzania

January 1, 2009: Sheikh Ahmed Salim Swedan, al-Kini's lieutenant who also played a role in the 1998 embassy bombings

April 29, 2009: Abu Sulayman al-Jazairi, an Algerian al-Qaeda planner who American intelligence officials believe helped train operatives for attacks in Europe and the United States [no relation to the Abu Sulayman al-Jazairi killed on May 14, 2008]

September 14, 2009: Nazimuddin Zalalov—also known as Yahyo—a leader of the Islamic Jihad Union and a bin Laden lieutenant

December 8, 2009: Saleh al-Somali, al-Qaeda's external operations chief and the link between al-Qaeda in Afghanistan and Pakistan and al-Qaeda abroad

December 17, 2009: Zuhaib al-Zahibi, a well-known al-Qaeda commander in North Waziristan

February 15, 2010: Abdul Haq al-Turkistani, an al-Qaeda-linked leader of the Turkistani Islamic Party

February 17, 2010: Sheikh Mansoor, an Egyptian-Canadian al-Qaeda leader

March 8, 2010: Sadam Hussein Al Hussami—also known as Ghazwan al-Yemeni—an al-Qaeda planner and explosives expert with contacts in AQAP, the Afghan Taliban, and TTP

May 21, 2010: Mustafa Abu al-Yazif, al-Qaeda's then-"Number Three"

September 26, 2010: Sheikh al-Fateh, an al-Qaeda chief in Afghanistan and Pakistan

June 3, 2011: Ilyas Kasmiri, a senior al-Qaeda commander in Pakistan

August 22, 2011: Atiyah Abd al-Rahman, al-Qaeda's then-"Number Two"

September 11, 2011: Abu Hafs al-Shahri, then-al-Qaeda's chief of operations in Pakistan

January 10, 2012: Aslam Awan, a senior al-Qaeda operations organizer in Abbottabad

February 9, 2012: Badar Mansoor, thought to be al-Qaeda's most senior leader in Pakistan

June 4, 2012: Abu Yahya al-Libi, al-Qaeda's then-"Number Two"

August 21, 2012: Badruddin Haqqani, commander of military operations and third-in-command for the Haqqani Network

September 24, 2012: Abu Akash al-Iraqi, a senior al-Qaeda operative

September 24, 2012: Seleh al-Turki, a mid-level al-Qaeda operative

October 11, 2012: Maulana Shakirullah, the commander of TTP's Hafiz Gul Bahadur group

October 11, 2012: Umar Haqqani, a Taliban commander in the Punjab region of Pakistan

December 1, 2012: Abdul Rehman al-Zaman Yemeni, an al-Qaeda operative said to have had links to bin Laden

December 6, 2012: Abdel Rehman al-Hussainan—also known as Abu Zaid al-Kuwaiti—a senior member of al-Qaeda

Appendix B

This is a list of the 18 Taliban leaders who have been killed in the CIA drone campaign in Pakistan.

June 18, 2004: Nek Mohammad, a Taliban leader

August 13, 2008: Abdul Rehman, a Taliban commander in South Waziristan

October 26, 2008: Mohammad Omar, a close associate of Nek Mohammad

August 5, 2009: Baitullah Mehsud, the overall leader of TTP

December 31, 2009: Haji Omar, a key Taliban commander in North Waziristan

January 2010 (exact date unknown): Mahmud Mahdi Zeidan, a Taliban commander from Jordan

February 24, 2010: Mohammad Qari Zafar, a Taliban commander wanted in connection with the March 2006 bombing of the U.S. Consulate in Karachi

December 17, 2010: Ali Marjan, a local commander of Lashkar-e-Islam

October 27, 2011: Khan Mohammad, one of TTP commander Maulvi Nazir's deputies

October 27, 2011: Hazrat Omar, Maulvi Nazir's younger brother

October 27, 2011: Ashfaq Wazir, a Taliban commander

October 27, 2011: Miraj Wazir, a Taliban commander

March 13, 2012: Amir Hamza Toji Khel, one of Maulvi Nazir's senior commanders

March 13, 2012: Shamsullah, one of Maulvi Nazir's senior commanders

January 2, 2013: Maulvi Nazir—also known as Maulvi Nazir Wazir—the TTP leader in South Waziristan

January 2, 2013: Ratta Khan, one of Maulvi Nazir's deputies

January 3, 2013: Shah Faisal, a militant commander under current TTP leader Hakimullah Mehsud

January 6, 2013: Wali Mohammad Toofan, head of the TTP's suicide wing

Appendix C

This is a list of the 35 key al-Qaeda militants who have been killed in U.S. drone attacks in Yemen since 2002.

November 3, 2002: Qaed Salim Sunian al-Harithi, al-Qaeda's chief operative in Yemen and a suspect in the October 2000 bombing of the USS *Cole*

January 15, 2010: Qassem al-Raymi, a top military chief for AQAP

January 15, 2010: Ayed Al Shabwani, AQAP's chief of operations in Maarib Province

January 15, 2010: Ammar al-Waeli, an al-Qaeda arms dealer who was accused of involvement in a July 2007 suicide bombing that killed eight Spanish tourists and two Yemenis

January 15, 2010: Abu Ayman, an Egyptian militant who was believed to have spent time in Afghanistan

March 14, 2010: Jamil Nasser Abdullah al-Ambari, who was believed to be the leader of al-Qaeda in southern Abyan Province

July 14, 2011: Hadi Mohammad Ali, a militant commander in Abyan Province

August 1, 2011: Naser al-Shadadi, a leading al-Qaeda militant

September 30, 2011: Anwar al-Awlaki, a radical Yemeni-American cleric

September 30, 2011: Samir Khan, the Pakistani-American founder and editor of AQAP's English-language magazine *Inspire*

October 14, 2011: Ibrahim al-Bana—also known as Abu Ayman al Masri—AQAP's media chief

December 23, 2011: Abdulrahman al-Wuhayshi, a brother of AQAP leader Nasser al-Wuhayshi

March 9, 2012: Abdulwahhab al-Homaiqani, a local AQAP leader in Bayda Province

March 13, 2012: Nasser al-Zafari, a local AQAP leader in Bayda Province

April 22, 2012: Mohammed al-Umda, the fourth most-wanted al-Qaeda militant in Yemen; he was convicted in 2005 of a 2002 attack on the Limburg oil tanker

May 6, 2012: Fahd al-Quso, who was on the FBI's most-wanted list for his role in the 2000 bombing of the USS *Cole*

May 10, 2012: "Jallad," who was in charge of armaments for AQAP fighters

May 16, 2012: Samir al-Fathani, a senior local commander

June 19, 2012: Salah al-Jawhari, a militant who had spent three years on Yemen's most-wanted list

July 3, 2012: Fahd Saleh al-Anjaf al-Harithi, a senior al-Qaeda operative

July 3, 2012: Hassan Ali al-Ishaqi, a senior al-Qaeda operative

August 6, 2012: Abdullah Awad al-Masri—also known as Abou Osama al Maribi—a top AQAP bombmaker

August 31, 2012: Khaled Batis, a top al-Qaeda militant wanted for his role in the 2002 attack on the Limburg oil tanker

September 5, 2012: Murad Ben Salem, a senior al-Qaeda operative

September 8, 2012: Abdulraoof Ahmad Nasser al-Thahab, the brother of Tariq—al-Qaeda's leader in the Radaa' District of al-Baidha Province

October 18, 2012: Nader Al-Shadadi, al-Qaeda's leader in Jaar, a city in Abyan Province

October 21, 2012: Sanad Abdulla al-Aqili, an al-Qaeda operative

October 28, 2012: Said al-Shihri, AQAP's "Number Two," was wounded in this strike. It has been reported that he died on January 22, 2013 but this has been disrupted by recent AQAP statements. Al-Shihri's status remains unknown at this time.

November 7, 2012: Adnan al-Qadi, an al-Qaeda operative previously detained in relation to 2008 bombing of the U.S. Embassy in Sanaa

December 28, 2012: Abdullah Bawazir, an al-Qaeda operative who was the chief architect behind a mass prison break in Yemen

December 29, 2012: Saleh Mohammed al-Ameri, a prominent local fighter in the Radaa' District of al-Baidha Province

January 3, 2013: Moqbel Ebad Al Zawbah, a senior al-Qaeda figure

January 21, 2013: Ahmed al-Ziadi, an al-Qaeda leader in Marib Province

January 21, 2013: Qasem Naser Tuaiman, an al-Qaeda operative who had been freed from detention by Yemeni authorities

January 21, 2013: Ali Saleh Tuaiman, an al-Qaeda operative who had been freed from detention by Yemeni authorities