

Managing the Terrorism Threat with Drones

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INTRODUCTION

The contours of America's counterterrorism strategy against al Qaeda and the Islamic State have remained remarkably consistent over the past two decades. Broadly, the strategy focuses on eliminating threats to the U.S. homeland or American interests abroad by degrading al Qaeda's and the Islamic State's external attack capabilities and global networks, disrupting their operations through military operations or enhanced law enforcement and border security, and denying them sanctuaries.¹ After Afghanistan and Iraq, the United States sought to limit its force commitments and counterterrorism-linked combat operations abroad.² Although U.S. officials still called for the defeat of the transnational terrorist organizations, U.S. strategy became focused on the terrorist threats they posed to American interests and shifted the responsibility of defeating the local manifestations of these organizations to partners. The U.S. military thus invested heavily in cultivating partnerships with local security forces to combat the various al Qaeda and Islamic State branches, embracing the "by, with, and through" operational approach to limit direct combat exposure of U.S. forces.³ This approach also changed the role of armed drones in counterterrorism operations. Drone strikes now supplement local partnerships and other counterterrorism activities because their long-range strike precision complements a low-footprint, partner-based approach.⁴

Today, U.S. drones target terrorist leaders and networks in Africa, the Middle East, and South Asia. Their use has expanded geographically since the first drone strike killed al Qaeda's military chief, Mohammed Atef, in Afghanistan on

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1. The Biden administration has not released a national strategy for counterterrorism yet. For previous strategies, see: BUSH WHITE HOUSE, NATIONAL STRATEGY FOR COMBATING TERRORISM (2003), <https://perma.cc/K5NC-QDX3>; BUSH WHITE HOUSE, NATIONAL STRATEGY FOR COMBATING TERRORISM (2006), <https://perma.cc/23XQ-G4Y3>; OBAMA WHITE HOUSE, NATIONAL STRATEGY FOR COUNTERTERRORISM (2011), <https://perma.cc/U4GD-LA2E>; TRUMP WHITE HOUSE, NATIONAL STRATEGY FOR COUNTERTERRORISM (2018), <https://perma.cc/9JYQ-AXD2>.

2. Press Briefing, U.S. Dep't of Defense, Pentagon Press Secretary John F. Kirby and Dr. Mara Karlin, Performing the Duties of Deputy Under Secretary of Defense for Policy, Hold a Press Briefing (Nov. 29, 2021), <https://perma.cc/D6K2-TWA4>; Donald Trump, Remarks by President Trump on the Strategy in Afghanistan and South Asia (Aug. 21, 2017), <https://perma.cc/2LE8-KKVB>.

3. Joseph L. Votel & Eero R. Keravuori, *The By-With-Through Operational Approach*, 89 JOINT FORCES Q. 40, 41 (2018).

4. Drones provide an over-the-horizon strike capability that can be utilized to neutralize emerging and imminent terrorist threats while partner forces combat the local terrorist group.

November 14, 2001.⁵ The vast majority of drone strikes occurred in Afghanistan, Iraq, and Pakistan for almost a decade, although others occurred outside those zones.⁶ The first such strike killed Qaed Salim Sinan al Harithi, an al Qaeda operative, in Yemen on November 3, 2002.⁷ In 2011, the United States began regularly conducting strikes in Yemen and Somalia, and then in 2014 and 2016, the United States used drones to target terrorists in Syria and Libya, respectively.⁸ Who the United States targeted and how they were identified has also changed.⁹ Controversial “signature” strikes once targeted unknown individuals based on certain behavioral patterns rather than specific identification of individuals or sites but have been largely phased out.¹⁰ Notably, the Obama administration authorized the first addition of an American citizen to the kill list in 2010 with Anwar al Awlaki, killed in September, 2011.¹¹ The United States has justified these actions as self-defense in an active, armed conflict against foreign terrorist organizations.¹²

Drones have become a key counterterrorism tool for the United States even as the tempo of drone strikes has risen and fallen in conjunction with U.S. attention

5. *Reports Suggest al Qaeda Military Chief Killed*, CNN (Nov. 16, 2001, 8:15 PM), <https://perma.cc/TWW9-JL3G>.

6. For a breakdown of drone strike statistics through 2016, see Micah Zenko, *Obama's Final Drone Strike Data*, COUNCIL ON FOREIGN RELS. (Jan. 20, 2017), <https://perma.cc/4EV5-E3N7>.

7. The November 2002 drone strike in Yemen also killed the first American, Kamal Derwish, who was in the vehicle. U.S. airstrikes against terrorist targets in Somalia and Yemen were conducted primarily with cruise missiles or attack helicopters before 2011. James Risen, *THREATS AND RESPONSES: DRONE ATTACK; An American Was Among 6 Killed by U.S., Yemenis Say*, N.Y. TIMES, Nov. 8, 2002, at A13; CNN, *U.S. Confirms Death of Man Linked to Alleged Buffalo Terror Cell* (Nov. 12, 2002, 1:17 PM), <https://perma.cc/A3LD-AWGD>.

8. The United States conducted drone strikes in Libya in 2011 as part of Operation Unified Protector, an anti-Muammar Qaddafi campaign. Jeb Boone & Greg Miller, *U.S. Drone Strike in Yemen is First Since 2002*, WASH. POST (May 5, 2011), <https://perma.cc/M6K8-C8YV>; Greg Jaffe & Karen DeYoung, *U.S. Drone Targets Two Leaders of Somali Group Allied with al-Qaeda*, WASH. POST (June 29, 2011), <https://perma.cc/WPF3-H2ZF>; Karen DeYoung, *U.S. Considers Opening New Front against Islamic State to Create a Safe Zone in Syria*, WASH. POST (Dec. 1, 2014), <https://perma.cc/ZJ3T-YUYE>; Greg Jaffe, Edward Cody, & William Branigin, *Libyan Rebels Welcome U.S. Drones; McCain Visits Benghazi*, WASH. POST (Apr. 22, 2011), <https://perma.cc/2YRP-HQM4>; James Politi, *US Drones to Strike ISIS Targets in Libya from Base in Italy*, FIN. TIMES (Feb. 22, 2016), <https://perma.cc/8UPX-BCKL>.

9. For an overview of current targeting policy, see Charlie Savage, *White House Tightens Rules on Counterterrorism Drone Strikes*, N.Y. TIMES (Oct. 7, 2022), <https://perma.cc/RKM2-3BAH>.

10. For reporting on CIA requests for expanded authorities see, Greg Miller, *CIA Seeks New Authority to Expand Yemen Drone Campaign*, WASH. POST (Apr. 18, 2012), <https://perma.cc/A92H-4JW6>.

11. Spencer S. Hsu, *Obama Invokes “State Secrets” Claim to Dismiss Suit Against Targeting of U.S. Citizen al-Aulaqi*, WASH. POST (Sept. 25, 2010), <https://perma.cc/H7GB-KTYE>; Katherine Zimmerman, *Awlaki Killing May Not Be Lasting Blow to al Qaeda*, WKLY. STANDARD (Sept. 30, 2011), <https://perma.cc/6P4Q-PBPV>.

12. Christian Schaller, “*Until They Are Effectively Destroyed*”: *The U.S. Approach on the Temporal Scope of Armed Conflicts with Terrorist Organizations*, 11 J. NAT'L SEC. L. & POL'Y 636 (June 2021), <https://perma.cc/Z7RJ-BP2D>.

to terrorist groups.¹³ Advances in drones as a long-range precision platform, their cost comparative to ground operations, and apparent efficiency have helped put drones at the center of the U.S. counterterrorism approach.¹⁴ As Nathan Sales, the former U.S. Ambassador-at-Large and Coordinator for Counterterrorism, testified to Congress, “drone strikes allow the United States to remove terrorist leaders and other high-value targets from the battlefield with maximum precision and minimal risk to U.S. troops.”¹⁵ The refined targeting capabilities that drones provide for a relatively low cost seems to have encouraged their use as a default counterterrorism tool and the crafting of a counterterrorism approach with targeting at its core. Accordingly, drone strikes have come to support a strategy to combat al Qaeda and the Islamic State predicated on local partners conducting ground operations and U.S. drone strikes or counterterrorism raids against imminent threats. Though increased strike precision and reduced resource commitments are attractive, the resulting U.S. counterterrorism approach replaces a strategic aim of defeating al Qaeda and the Islamic State with one that instead manages the terrorist threat they pose—a future problem for the United States.

I. DECAPITATING, DEGRADING, AND DISRUPTING WITH DRONES

Armed drones became a crucial component of a U.S. counterterrorism strategy emphasizing decapitating leadership, degrading capabilities, and disrupting operations.¹⁶ They are a precision-strike platform enabling the United States to attack deep within terrorist safe havens without inserting troops or sustaining a significant ground footprint. Instead, drones rely on intelligence, and the better the intelligence streams—satellite imagery, signals intercepts, ground reporting—the better the ability to target senior leaders, planners, and operatives or training camps. The targeting effort nests into a strategic approach that ultimately focuses on weakening terrorist organizations by attacking them directly and isolating their networks from access to various means of support, including financial tools and new recruits.¹⁷ The approach to countering al Qaeda and the Islamic State, heavily reliant on military actions, has remained remarkably consistent across four presidential administrations even as partners and armed drones play a greater role in implementing it.

13. Andy Forney, *Drone Strikes Forever: The Problems with Over-the-Horizon Counterterrorism and a Better Way Forward*, MODERN WAR INST. AT WEST POINT (Oct. 28, 2022), <https://perma.cc/L4M2-SLYN>.

14. “*Targeted Killing*” and the Rule of Law: *The Legal and Human Costs of 20 Years of US Drone Strikes: Statement Before the S. Comm. on the Judiciary*, 117th Cong. (2022) (statement of Nathan A. Sales, Former Ambassador-At-Large and Coordinator for Counterterrorism).

15. Sales, *supra* note 14.

16. “Decapitating” leadership is a metaphor for removing the top leaders of a terrorist organization. For current U.S. counterterrorism strategy, see TRUMP WHITE HOUSE, *supra* note 1, at 13–16, 21–24.

17. KATHERINE ZIMMERMAN, BEYOND COUNTERTERRORISM: DEFEATING THE SALAFI-JIHADI MOVEMENT 8 (Am. Enterprise Inst., Oct. 8, 2019).

Killing or capturing leaders to decapitate al Qaeda and the Islamic State remains central to the U.S. counterterrorism strategy.¹⁸ The United States initially pursued al Qaeda's leaders to hold them accountable for their role in killing Americans after 9/11. Decapitation to defeat al Qaeda surfaced early in Bush administration counterterrorism planning discussions, when officials began referencing cutting off the head of the snake with respect to al Qaeda.¹⁹ Targeting terrorist leaders is a priority that has carried through under the Obama and Trump administrations, and seemingly under the Biden administration.²⁰ Still, no consensus exists among scholars as to whether decapitation ultimately hinders or helps a mature terrorist organization, and both al Qaeda and the Islamic State have adapted.²¹ Nevertheless, eliminating top leaders creates challenges regardless of whether it ultimately leads to the group's collapse since groups must focus inward and adopt additional operational security practices that restrict communications and movement.²²

Drone strikes became a favored means to decapitate terrorist organizations whose leaders hid in remote and often near-inaccessible terrain under the Obama administration.²³ In part, killing leaders became a solution to a problem—if they were not detained, the United States did not need to navigate the legal and logistical minefield of what to do with captured leaders.²⁴ But more importantly, drones

18. TRUMP WHITE HOUSE, *supra* note 1, at 13–14.

19. ERIC SCHMITT & THOM SHANKER, COUNTERSTRIKE: THE UNTOLD STORY OF AMERICA'S SECRET CAMPAIGN AGAINST AL QAEDA 29 (Macmillan 2011).

20. The focus on decapitation became encapsulated in the 2003 National Strategy for Combating Terrorism: “terrorist leadership provides the overall direction and strategy that links all these factors and thereby breathes life into a terror campaign. The leadership becomes the catalyst for terrorist action. The loss of the leadership can cause many organizations to collapse.” BUSH WHITE HOUSE, *supra* note 1, at 6. The examples that President Biden listed of “effective counterterrorism operations in Afghanistan and beyond” are all kill-or-capture missions against leadership. A cursory review by the author of recent targeting missions indicates a shift toward counterterrorism raids to try to capture leaders, reducing reliance on drone strikes. Joseph R. Biden, Remarks by President Biden on a Successful Counterterrorism Operation in Afghanistan, (Aug. 1, 2022); *see also* BUSH WHITE HOUSE, *supra* note 1; OBAMA WHITE HOUSE, *supra* note 1; TRUMP WHITE HOUSE, *supra* note 1.

21. Decapitation strategies assume that removing leadership weakens a group. However, the deaths of some leaders has led to a more effective successor in some cases. Decapitation may also over-emphasize the role that leaders play in inspiring and planning terrorist attacks. Al Qaeda decentralized authority and decision-making to limit the impact of losing a specific leader on the organization, and the Islamic State routinized its succession practices. Katherine Zimmerman, *Al Qaeda Renewed: It Is Decentralized and Dangerous*, NAT'L REV (Dec. 31, 2014, 4:00 AM), <https://perma.cc/3AYZ-DAAY>; Haroro J. Ingram & Craig Whiteside, *Generation Killed: The Challenges of Routinizing Global Jihad, WAR ON THE ROCKS* (Aug. 18, 2022), <https://perma.cc/S5T3-QJGT>; Jenna Jordan, *When Heads Roll: Assessing the Effectiveness of Leadership Decapitation*, 18 SEC. STUD. 719-755 (2009).

22. Jenna Jordan, *Attacking the Leader, Missing the Mark: Why Terrorist Groups Survive Decapitation Strikes*, 38:4 INT'L SEC. 7, 8 (Spring 2014).

23. Peter Bergen, *Drone is Obama's Weapon of Choice*, CNN (Sept. 19, 2012, 10:37 AM), <https://perma.cc/Z6XT-2ZSN>.

24. Captured individuals were deemed to be enemy combatants rather than prisoners of war under the Bush administration. This designation was lifted in March 2009, but detainees remained outside of the U.S. criminal justice system. A key issue that began under the Obama administration was where to take captured terrorist leaders given the administration's policy not to send detainees to the Guantanamo Bay prison. A solution, employed in the case of Ahmed Abdulkadir Warsame and subsequent captured

have made targeting leaders in hard-to-reach areas cleaner and easier. Because of the missiles they carry, drone strikes are more precise than their alternatives, such as cruise missile strikes, reducing the risk of civilian casualties if the targeting information is reliable.²⁵ Longer-range drones can carry these missiles to reach remote targets. Take the new R9X “ninja missile,” which is inert but deploys slicing blades just before impact to eliminate a target and has been in use since at least 2017.²⁶ This missile killed al Qaeda’s late leader Ayman al Zawahiri in August 2022 on his balcony in downtown Kabul, Afghanistan, without any bystander casualties.²⁷ The location of Zawahiri’s safe house made any raid incredibly dangerous for U.S. Special Operations Forces—a nonexistent problem for drones.²⁸

The United States has also sought to degrade the capabilities of terrorist organizations by targeting their skilled planners or operatives and training camps.²⁹ These individuals—the organization’s human capital—include explosives experts, logisticians, field commanders, and other inspirational figures.³⁰ Steady pressure hampers the ability to rebuild their human capital by training new

individuals, was to interrogate the individual for intelligence before transferring him to law enforcement agents for criminal charges. Such a solution remains imperfect given individuals must be afforded their constitutional rights once on U.S. soil. Notably, reporting surrounding the raid (not a drone strike) to capture or kill Osama bin Laden indicates an understanding that the planning assumption was that bin Laden would be killed, not taken alive, even though contingency planning was in place should bin Laden surrender without fighting. Mark Hosenball, *U.S. Commandos Knew Bin Laden Would Likely Die*, REUTERS (May 2, 2011), <https://perma.cc/7BNJ-6X2E>; Mike Allen, *Exclusive: Raid Yields Trove of Data*, POLITICO (May 2, 2011, 7:51 PM), <https://perma.cc/J7P4-GVJN>; Charlie Savage, *How 4 Federal Lawyers Paved the Way to Kill Osama bin Laden*, N.Y. TIMES (Oct. 28, 2015), <https://perma.cc/7S4P-ARX8>; Press Release, Dep’t of Justice, Department of Justice Withdraws “Enemy Combatant” Definition for Guantanamo Detainees (March 13, 2009), <https://perma.cc/Y3P9-REKF>; Press Release, U.S. Attorney’s Office Southern District of New York, Manhattan U.S. Attorney Announces Guilty Plea Of Ahmed Warsame, A Senior Terrorist Leader And Liaison Between Al Shabaab And Al Qaeda In The Arabian Peninsula For Providing Material Support To Both Terrorist Organizations (Mar. 24, 2013), <https://perma.cc/WU48-H5VL>.

25. The U.S. military fields precision munitions accurate to less than 3 meters. Hellfire missiles and Tomahawk cruise missiles are both precision munitions. However, they have smaller warheads, resulting in a smaller blast radius. CONG. RSCH. SERV., DEFENSE PRIMER: U.S. PRECISION-GUIDED MUNITIONS (Nov. 15, 2022), *Hellfire*, CTR. FOR STRATEGIC INT’L STUD. (July 30, 2021), <https://perma.cc/V29C-UWDX>; *Tomahawk*, CTR. FOR STRATEGIC INT’L STUD. (July 30, 2021), <https://perma.cc/2PTT-HXHA>; *Questions for the Record from Senator Charles E. Grassley Hearing on “‘Targeted Killing’ and the Rule of Law: The Legal and Human Costs of 20 Years of U.S. Drone Strikes*, 117th Cong. (Feb. 9, 2022) (statement of John P. Jumper, General (retired) and Chief of Staff, U.S. Air Force).

26. Gordon Lubold & Warren P. Strobel, *Secret U.S. Missile Aims to Kill Only Terrorists, Not Nearby Civilians*, WALL ST. J. (May 9, 2019, 3:55 PM), <https://perma.cc/7CF5-D73X>.

27. Mike Stone & Idrees Ali, *Little-known Modified Hellfire Missiles Likely Killed al Qaeda’s Zawahiri*, REUTERS, Aug. 2, 2022, <https://perma.cc/LW6S-THWP>.

28. Julian E. Barnes & Eric Schmitt, *How the C.I.A. Tracked the Leader of Al Qaeda*, N.Y. TIMES (Aug. 2, 2022), <https://perma.cc/9DM9-ZX52>.

29. TRUMP WHITE HOUSE, *supra* note 1, at 13; Lolita C. Baldor, *Terror Training Camps Smaller, Harder to Target*, ASSOCIATED PRESS (Nov. 9, 2009, 11:59 AM), <https://perma.cc/4QEC-9X3J>; Helene Cooper, *U.S. Strikes in Somalia Kill 150 Shabab Fighters*, N.Y. TIMES (Mar. 7, 2016), <https://perma.cc/6MA6-4ED8>.

30. MITT REGAN, DRONE STRIKE—ANALYZING THE IMPACTS OF TARGETED KILLING 106 (2022); Bryce Loidolt, *Were Drone Strikes Effective? Evaluating the Drone Campaign in Pakistan through Captured al-Qaeda Documents*, 5 TEX. NAT’L SEC. REV. 53, 65–70 (2022).

personnel to the level required to maintain operations, which slowly degrades the quality of skilled individuals within the organization.³¹ Targeting training camps further strains the organization's ability to replenish its ranks via degrading the fighting cadre by killing trainers and depleting numbers.

Again, the U.S. military has used drones to conduct this type of targeting, especially outside Afghanistan and Iraq. The first signature strikes were in 2008 in Pakistan, where the United States sought to increase pressure on the Tehrik-e-Taliban Pakistan and reduce sanctuaries in the Federally Administered Tribal Area.³² They were then used in Yemen in 2012 to degrade al Qaeda, which had expanded rapidly the year prior.³³ Drone strikes also killed key members of al Qaeda in Yemen—its inspirational cleric, Awlaki, in 2011 and its innovative bombmaker, Ibrahim al Asiri, in 2017—to weaken the organization and its ability to conduct or inspire terrorist attacks.³⁴ Similarly, a U.S. drone strike took out a dangerous Islamic State weapons expert in Iraq who was actively developing the group's arsenal of chemical and possibly biological weapons for future attacks.³⁵ Additionally, drones have targeted training camps or military positions to attrite forces, including an Islamic State camp in Yemen that decimated the group and al Shabaab positions in Somalia in defense of Somali National Army forces.³⁶

Finally, disrupting activities makes it more difficult for terrorists to move finances, recruit, and operate globally. These include efforts to restrict terrorists' access to funding and financial services and ability to spread recruiting propaganda. Preventing attacks on the U.S. homeland and American interests is part

31. See, e.g., Loidolt, *supra* note 30, at 70.

32. Sarah Childress & Pryanka Boghani, *Why the U.S. Doesn't Always Know Who It's Killing in Drone Strikes*, PBS (Apr. 23, 2015), <https://perma.cc/7G78-X3EN>; Jeremy Scahill, *The (Not So) Secret U.S. War in Pakistan*, CBS (Dec. 3, 2010, 2:46 AM), <https://perma.cc/EFH8-RB5J>.

33. Greg Miller, *CIA Seeks New Authority to Expand Yemen Drone Campaign*, WASH. POST (Apr. 18, 2012), <https://perma.cc/BSSC-RMUV>.

34. Awlaki's works and ideas, including the launch of AQAP's English-language magazine, inspired many, and continue to do so from beyond the grave, including would-be Islamic State recruits. Asiri was the mastermind behind hiding bombs in body cavities, underwear, printer cartridges, and laptops and had actively trained others in his craft, such as Anders Cameroon Ostensvig Dale, joined al Qaeda in the Arabian Peninsula and received explosives training. Dale was at-large until early 2022. Anne Speckhard, *Recruiting from Beyond the Grave: A European Follows Anwar al-Awlaki into ISIS*, MOD. DIPL. (May 2, 2020), <https://perma.cc/5C5P-UKUX>; *Report: Wanted Norwegian al-Qaida Member Held in Yemen*, ASSOCIATED PRESS (Mar. 7, 2022), <https://perma.cc/U2CH-9DW6>; Press Release, U.S. Dep't of State, Terrorist Designation of Anders Cameroon Ostensvig Dale (July 15, 2014) (available online at <https://perma.cc/B9TJ-RYB4>); Michael Crowley, *Trump Confirms 2017 Killing of Feared Bomb Maker for al Qaeda*, N.Y. TIMES (Oct. 10, 2019), <https://perma.cc/BXD6-S78J>.

35. Joby Warrick, *ISIS Planned Chemical Attacks in Europe, New Details on Weapons Program Revealed*, WASH. POST (July 11, 2022, 4:00 PM), <https://perma.cc/K2RC-DGZF>.

36. Alex Horton, *In a First, U.S. Launches Deadly Strikes on ISIS Training Camps in Yemen*, WASH. POST (Oct. 17, 2017, 10:16 AM), <https://perma.cc/84YS-9YKY>; see, e.g., U.S. Africa Command Public Affairs, *Somali, U.S. Forces Engage Insurgents in Support of the Federal Government of Somalia*, U.S. AFR. COMMAND (Feb. 23, 2022), <https://perma.cc/8HD8-TN49>; U.S. Africa Command Public Affairs, *Somali, U.S. Forces Engage Insurgents in Support of the Federal Government of Somalia*, U.S. AFR. COMMAND (Aug. 10, 2022), <https://perma.cc/2T4W-T7KJ>.

this effort.³⁷ While robust border security, other law enforcement, and intelligence means enable U.S. agencies and other partners to identify and detain would-be attackers, drone strikes target cells involved in plotting before they lead to an active threat. Such was the case when drones struck members of what U.S. officials dubbed the “Khorasan Group” in Syria in 2014.³⁸ The cell of senior al Qaeda operatives had been providing strategic support to Jabhat al Nusra, al Qaeda’s branch in Syria at the time, when intelligence picked up “imminent attack plotting” that included a plan to target commercial US-bound flights.³⁹ In cases like the Khorasan Group, drone strikes have become a primary line of defense against terrorist cells planning attacks.

II. SEEKING SUSTAINABLE COUNTERTERRORISM

The United States has expended significant resources countering the Salafijihadi terrorism threat since 9/11.⁴⁰ By the late 2000s, questions surfaced over whether counterterrorism had played too dominant a role in U.S. foreign policy and by the early 2010s, whether U.S. troops should remain deployed to Afghanistan and Iraq.⁴¹ The counterinsurgency approach used against al Qaeda and other terrorist elements in both countries involved a heavy military footprint and significant foreign assistance expenditures—and wasted taxpayer dollars due to corruption or fraud—that associated a high price tag in the minds of U.S. policymakers with any effort aimed at improving local conditions.⁴² Yet the terrorism threat remained, and the December 2009 underwear bomb attack showed that it no longer emanated solely from al Qaeda operatives directly surrounding Osama bin Laden. Finding a sustainable approach to counterterrorism—one that right-sized resource commitments and accepted a certain level of risk of a future terrorist attack—has driven evolutions in how the United States implements its strategy.

37. See, e.g., BUSH WHITE HOUSE, NATIONAL STRATEGY FOR HOMELAND SECURITY, sec. 5 (2007) <https://perma.cc/2866-SCQ7>.

38. Katherine Zimmerman, *The Khorasan Group: Syria's al Qaeda Threat*, AMER. ENTER. INST. (Sept. 23, 2014), <https://perma.cc/FQL9-TPFQ>.

39. Lieutenant General William Mayville, director of Operations J3, & Press Secretary Rear Admiral John Kirby, Department of Defense Press Briefing on Operations in Syria by Lt. Gen. Mayville in the Pentagon Briefing Room (Sept. 23, 2014) (available online at <https://perma.cc/FN3B-2HD4>); Zimmerman, *supra* note 38.

40. In September 2021, Neta C. Crawford found that the U.S. had spent and the Biden administration requested for FY2022 about \$5.8 trillion in counterterrorism-related activities after the 9/11 attacks (at least \$6.28 trillion, adjusted for inflation through December 2022). NETA C. CRAWFORD, THE U.S. BUDGETARY COSTS OF THE POST-9/11 WARS, BROWN UNIV. (S2021).

41. Sixty-eight percent of Americans favored decreasing the number of U.S. troops in Iraq in January 2009 and fifty-six percent of Americans favored drawing down U.S. forces in Afghanistan in June 2011. PEW RSCH. CTR, *Record Number Favors Removing U.S. Troops from Afghanistan* (June 21, 2011), <https://perma.cc/8PZZ-CPTX>; see also Daniel Benjamin, *Strategic Counterterrorism*, BROOKINGS INSTITUTION 2 (Oct. 2008) (Policy Paper) (available at <https://perma.cc/4CHK-6TCR>); Tom Rosentiel, *Polling Wars: Hawks vs. Doves*, PEW RSCH. CTR. (Nov. 23, 2009), <https://perma.cc/9DFD-L74P>.

42. Spencer Ackerman, *Over \$8B of the Money You Spent Rebuilding Iraq Was Wasted Outright*, WIRED (Mar. 6, 2013 6:30 AM), <https://perma.cc/A5CD-MN5J>; ZIMMERMAN, *supra* note 17, at 23.

Today, a light-footprint model based on a persistent U.S. Special Operations Forces presence alongside partnered local forces, supported by U.S. airpower, intelligence and law enforcement cooperation, and tailored foreign assistance programming serves as the sustainable counterterrorism option.⁴³ The approach remains heavy on kinetic actions against al Qaeda and now the Islamic State but shifts responsibility further onto U.S. partners. Yet the fundamental assumptions behind it—that decapitating, degrading and disrupting terrorist activities will lead to success—remain in place. Therefore, drone strikes still play a vital role in targeting terrorist organizations when U.S. partner forces cannot or the risk to U.S. forces is deemed too great.

This model minimizes the perceived cost—in terms of dollars and American casualties—by reducing the number of U.S. troops engaged in counterterrorism operations and especially combat operations.⁴⁴ Drones and local partners, while not always as effective as U.S. forces, became an easier sell to the U.S. public as support waned for overseas counterterrorism commitments by the end of George W. Bush’s second term.⁴⁵ Fewer U.S. service members deploy to support U.S. missions and fewer come under fire, reducing deployment costs, casualties, and long-term care under this approach. Analysis of the cost of drones shows that they are generally less expensive to acquire and operate than conventional military fighter jets and certainly less expensive than sustaining large deployments at the levels of the troop surges in Afghanistan and Iraq.⁴⁶ Moreover, the U.S. military could arguably do more with less by supplementing partner-led counterterrorism operations with drone strikes on targets that partners were either unable or unwilling to pursue.⁴⁷ In addition to a lower overhead cost and associated risk,

43. See, e.g., Lisa Monaco, *Preventing the Next Attack: A Strategy for the War on Terrorism*, FOREIGN AFFS. (Nov./Dec. 2017), <https://perma.cc/Y7U5-GFHH>.

44. Drone strikes can replace counterterrorism raids. See, e.g., Sales, *supra* note 14, at 2.

45. For example, Barack Obama made a campaign promise to end the war in Iraq. Donald Trump similarly made a promise about Afghanistan, and Joseph Biden pledged to end the “forever” wars on the campaign trail. Erol Yaybroke & Christopher Reid, *Counterterrorism from the Sky? How to Think Over the Horizon about Drones*, *Ctr. for Strategic Int’l Stud.* (May 23, 2022), <https://perma.cc/U7GG-TV3J>.

46. For example, the per-hour flight time cost of a drone is \$3250 compared to \$16,500 for an F-35. The U.S. military spent, on average, between \$1.3 million to \$2.1 million per deployed service member in Afghanistan between 2008 and 2014. An argument could also be made when examining the backend cost of drone operations since research points to a lower rate of post-traumatic stress disorder symptoms among drone operators than those deployed. There is, however, a significantly higher risk of symptoms for drone operators who participate directly in “kill” missions or bear witness to civilian casualties. Ashley Boyle, *The US and its UAVs: A Cost-Benefit Analysis*, AMER. SEC. PROJECT (Jul. 24, 2012), <https://perma.cc/42E2-DJB7>; Todd Harrison, CHAOS AND UNCERTAINTY: THE FY2014 DEFENSE BUDGET AND BEYOND, (Center for Strategic and Budgetary Assessments, Oct. 2013) (available online at <https://perma.cc/YSJ8-G8JN>); Wayne Chappelle, Tanya Goodman, Laura Reardon & Lillian Price, *Combat and Operational Risk Factors for Post-Traumatic Stress Disorder Symptom Criteria Among United States Air Force Remotely Piloted Aircraft “Drone” Warfighters*, 62 J. ANXIETY DISORDERS 86 (2019).

47. A U.S. drone strike killed an AQAP-linked individual, Adnan al Qadhi, just south of Yemen’s capital in November 2012. Qadhi had recently served as a mediator for the government and was drawing a government salary. Reports at the time questioned whether the Yemeni government could have arrested him instead, but raised his tribal connections as a thorny political problem. The Biden

drones removed the time constraints introduced by the human body and can conduct surveillance over longer periods of time than manned aircraft. They also collect more intelligence at greater ranges and can then conduct dynamic, precision strikes.⁴⁸ Drones thus became a preferred surveillance and strike platform for partnered counterterrorism operations.

Yemen became the test case for this light-footprint approach whereby U.S. security assistance supported and developed local partner forces and drone strikes targeted al Qaeda members threatening the United States.⁴⁹ A regional U.S. military foothold provided bases for drone operations, and U.S. forces leveraged specific capabilities and enablers, including drones, to support partners' ground campaigns.⁵⁰ After the 2011 Arab Spring in Yemen, the United States partnered with the Yemeni government against al Qaeda, narrowly defining U.S. objectives as preventing al Qaeda from using the country as a base for a terrorist attack against American interests.⁵¹ The U.S. military provided troop-transport capabilities (primarily helicopters), training and advisory support, and intelligence for Yemeni counterterrorism operations.⁵² The U.S. ground presence almost certainly improved the intelligence picture, better enabling targeted strikes as a stop-gap measure against the al Qaeda elements that directly threatened American interests.⁵³ Al Qaeda's repeated terrorist attack attempts from Yemen were all thwarted—a success.⁵⁴

The Yemen model rapidly became the basis for how the United States managed terrorism threats elsewhere. In Somalia, for example, U.S. Special Operations Forces work directly with U.S.-trained units against al Shabaab.⁵⁵ After the Islamic State's rise in Iraq and Syria, the Obama administration sought to ensure a partner-led approach with U.S. troops in support, initially pledging

administration opted for a drone strike rather than a raid targeting Ayman al Zawahiri because of the assessed risk. Robert F. Worth, Mark Mazzetti & Scott Shane, *Drone Strikes' Risks to Get Rare Moment in the Public Eye*, N.Y. TIMES (Feb. 5, 2013), <https://perma.cc/4V8H-YJ5L>; Barnes & Schmitt, *supra* note 28.

48. Yaybroke & Reid, *supra* note 45; Boyle, *supra* note 46.

49. U.S. GOV'T ACCOUNTABILITY OFF., GAO 13-310, U.S. ASSISTANCE TO YEMEN: ACTIONS NEEDED TO IMPROVE OVERSIGHT OF EMERGENCY FOOD AID AND ASSESS SECURITY ASSISTANCE 7, 32-34 (2013); Remarks by the President on the Situation in Iraq (June 19, 2014, 1:32 PM), <https://perma.cc/52HV-XQM4>.

50. Katherine Zimmerman, *Yemen Model Won't Work in Iraq, Syria*, WASH. POST (July 17, 2014), <https://perma.cc/JH3Q-N4S6>.

51. KATHERINE ZIMMERMAN, A NEW MODEL FOR DEFEATING AL QAEDA IN YEMEN 29 AMER. ENTER. INST. (2015), <https://perma.cc/3HJV-S6J2>.

52. Zimmerman, *supra* note 50.

53. Mark Hosenball, Phil Stewart & Matt Spetalnick, *Exclusive: U.S. Armed Drone Program in Yemen Facing Intelligence Gaps*, REUTERS (Jan. 30, 2015), <https://perma.cc/NK6V-4PZY>; Greg Miller, *CIA Didn't Know Strike Would Hit al-Qaeda Leader*, WASH. POST (June 17, 2015), <https://perma.cc/8X5B-J425>.

54. David Sterman, *America's Endless Counterterrorism War in Yemen: A Strategic Assessment*, New America Foundation (Apr. 4, 2022) at 28, <https://perma.cc/Y2SD-X79T>.

55. Harun Maruf, *Somalia Military Rebuilding Shows Signs of Improvement*, VOA (Nov. 30, 2022, 4:08 PM), <https://perma.cc/L8SL-NHFD>.

“no boots on the ground” and cohering an international military coalition.⁵⁶ The U.S. military partnered with Iraqi forces and helped build a Kurdish-led Syrian partner force, the Syrian Defense Forces, to conduct anti-Islamic State military operations as part of this coalition.⁵⁷ The partner-based effort meant that at their height, U.S. troops numbered about 5,200 in Iraq and 2,000 in Syria.⁵⁸ The U.S. military’s role was primarily to advise, assist, and enable partners, limiting U.S. troops’ participation in combat operations.⁵⁹ U.S. direct actions⁶⁰ prioritized eliminating the most dangerous elements within the Islamic State, including targeting a chemical and biological weapons cell with airstrikes.⁶¹ The partner-led fight against the Islamic State took longer, but ultimately eliminated the physical caliphate and reduced the Islamic State’s terror threat to a manageable level.⁶²

Indeed, neither al Qaeda nor the Islamic State have conducted large-scale attacks in the U.S. homeland since 9/11, nor does the U.S. intelligence community assess they have the capability to do so today.⁶³ But the recent absence of attempted attacks may have been a choice to prioritize local efforts rather than a direct measure of success for counterterrorism actions, especially since regional al Qaeda and Islamic State branches already possess many of the capabilities for transnational attacks.⁶⁴ Post-9/11 security measures also keep Americans safe: Hardened borders and better international security infrastructures make it nearly

56. President Barack Obama, Remarks by the President on the Situation in Iraq (June 19, 2014), <https://perma.cc/H8DU-PLPG>.

57. OPERATION INHERENT RESOLVE COMBINED JOINT TASK FORCE, *Who We Are: History*, <https://perma.cc/H75U-DMH3>.

58. The troop level in Syria rose to a reported 2,200 with a high estimate of 4,000 by the end of 2018 but dropped to about 900 in 2019. During this surge, U.S. troops were drawing down in Iraq. Jim Garamone, *Pentagon Announces Troops Levels in Iraq, Syria*, DOD NEWS (Dec. 6, 2017), <https://perma.cc/RWG3-5P9S>; Mohammed Tawfeeq, *US Will Reduce Troops Levels in Iraq, Baghdad Says*, CNN (Feb. 6, 2018, 8:41 AM), <https://perma.cc/6GA4-GDSJ>; Jeff Seldin, *US Troop Levels in Syria ‘Quite a Bit Lower’ with Help on the Way*, VOA (May 31, 2019, 12:01 PM), <https://perma.cc/MS8S-3V3C>; Eric Schmitt & Helene Cooper, *Hundreds of U.S. Troops Leaving, and Also Arriving in, Syria*, N.Y. TIMES (Oct. 30, 2019), <https://perma.cc/7TUZ-F436>; Liz Sly, *America’s Hidden War in Syria*, WASH. POST (Dec. 14, 2018), <https://perma.cc/LC4D-7FWK>.

59. Operation Inherent Resolve Combined Joint Task Force, *Our Mission*, U.S. DEP’T OF DEF., <https://perma.cc/NL6D-ZYUU>.

60. The term “direct action” is the “use of lethal force or capture operations,” as defined in the Trump administration’s partially declassified policy memo, Principles, Standards, and Procedures for U.S. Direct Action against Terrorist Targets (2017) (available at <https://perma.cc/8F6X-R6NV>).

61. Author’s assessment based on US military’s role in leading operations against high-value ISIS targets compared to its role supporting partner operations against other ISIS forces. See Joby Warrick, *ISIS Planned Chemical Attacks in Europe, New Details on Weapons Program Revealed*, WASH. POST (July 11, 2022, 4:00 PM), <https://perma.cc/Q66Y-PSJP>.

62. Author’s assessment based on conversations with U.S. military personnel involved in Operation Inherent Resolve.

63. *Annual Threat Assessment to the Homeland: Statement Before the House Comm. on Homeland Security*, 117th Cong. (Nov. 15, 2022) (statement of Christine Abizaid, Director, National Counterterrorism Center).

64. Katherine Zimmerman, *Al Qaeda & ISIS 20 Years after 9/11*, ISLAMISTS (Sept. 8, 2021), <https://perma.cc/FS8A-C7N5>; Emily Estelle Perez, *The Underestimated Insurgency, Continued: Salafi-Jihadi Capabilities and Opportunities in Africa*, AMER. ENTER. INST. (Dec. 12, 2022) at 3, <https://perma.cc/84YH-RF5B>.

impossible for known terrorists to enter the United States. Additionally, fewer opportunities exist to target Americans abroad. Shifts in U.S. diplomatic and military postures, including the closure of diplomatic posts and withdrawal from areas threatened directly by terrorists, have removed Americans from positions vulnerable to such attacks.⁶⁵

The perceived success of this partner-based counterterrorism model in reducing the transnational terrorism threat has since resulted in further cutbacks to resources and the adoption of an “over-the-horizon” posture. The new approach relies on continuous monitoring of terrorist groups to identify threats and launching counterterrorism operations from outside a country when needed.⁶⁶ It realized the recommendations of top U.S. counterterrorism officials who argued the terrorism threat was greatly diminished and advocated for continued “niche” intelligence and training support to partners while maintaining an over-the-horizon strike capability as a fallback option.⁶⁷ Capable counterterrorism partners—some trained and equipped by the U.S. military—in places like Iraq, Mali, Somalia, Syria, and Yemen have taken the lead in counterterrorism operations. U.S. forces, meanwhile, increasingly have reduced their direct involvement in combat as they operate in support of partner counterterrorism operations. Thus, President Donald Trump ordered the withdrawal of U.S. troops from Somalia in November 2020 and President Joe Biden ordered their withdrawal from Afghanistan in April 2021.⁶⁸ Both cited the absence of a direct threat and the ability of U.S. drone strikes to target anyone, anywhere, as why the United States did not need troops on the ground.⁶⁹ Essentially, the United States shifted to managing al Qaeda’s

65. The U.S. Dep’t. of State advises all Americans against travel to such countries as Afghanistan, Burkina Faso, Iraq Libya, Mali, Somalia, Syria, and Yemen and to reconsider travel to such countries as Cote d’Ivoire, Egypt, Mauritania, Nigeria, and Pakistan. Al Qaeda and the Islamic State groups in or neighboring these countries pose direct threats, for example. Concerns over the safety of U.S. personnel as well as the viability of foreign assistance programs, have shut down U.S. activities where terrorist groups operate, such as northern Mali. After the 2012 Benghazi attack on a U.S. consulate in Libya and the 2017 Tongo Tongo attack on U.S. SOF in Niger, both diplomatic and military personnel faced increased restrictions on travel in insecure environments. Zimmerman, *supra* note 18, at 39; U.S. DEP’T. OF STATE, <https://travelmaps.state.gov/TSGMap/> (color-coded travel advisory map).

66. President Joseph R. Biden, Remarks by President Biden on the Drawdown of U.S. Forces in Afghanistan (July 2, 2021), <https://perma.cc/T79L-EVFF>.

67. Christopher Miller, *This 9/11 Anniversary Arrives with the End of the War on al-Qaeda Well in Sight*, WASH. POST (Sept. 10, 2020, 9:41 AM), <https://perma.cc/G5PF-3LME>.

68. Eric Schmitt, *Pentagon Chief Visits Somalia Ahead of Expected Troop Cuts*, N.Y. TIMES, Nov. 27, 2020, <https://perma.cc/5CVR-AKPU>; President Joseph R. Biden, Remarks by President Biden on the Way Forward in Afghanistan (Apr. 14, 2021), <https://perma.cc/7D88-NYM8>.

69. President Biden referenced the U.S. military’s over-the-horizon strike capabilities (the ability to conduct military operations in a country originating from outside of the country’s borders) in his remarks on the war’s end. Joseph R. Biden, *Remarks by President Biden on the End of the War in Afghanistan*, BIDEN WHITE HOUSE (Aug. 31, 2021), <https://perma.cc/TP3H-TJTD>. President Trump replaced U.S. Secretary of Defense Mark Esper in mid-November 2020 with Christopher Miller, at the time the Director of the National Counterterrorism Center. He had authored an op-ed two months earlier that advocated transitioning counterterrorism to partners and maintaining a “strike capability” to address threats partners cannot. Dan Lamothe, Ellen Nakashima & Alex Horton, *Christopher Miller, Trump’s Surprise Acting Defense Secretary, Has a Thin Resume for the Job But Deep Experience in*

and the Islamic State's terrorism threat with drone strikes and counterterrorism raids while working through partners to weaken the groups.

III. PROBLEMS WITH MANAGING, NOT SOLVING, THE SALAFI-JIHADI TERRORISM THREAT

This over-the-horizon approach leveraging drones in addition to other counterterrorism tools seems to check the right boxes in effectiveness and sustainability. Unlike the initial post-9/11, heavy-handed, and resource-intensive counterterrorism response that was expansive in its objectives, the approach narrowly defines U.S. concerns to the transnational threat and draws on limited resources, freeing the U.S. military to focus on conventional state-to-state threats. It also recognizes that fully shifting resources away from counterterrorism would leave the United States vulnerable to the reconstitution of threats, as occurred in Iraq and Syria with the rise of the Islamic State. Thus, the approach ensures the United States maintains a global overwatch position on al Qaeda's and the Islamic State's terrorism threats. Yet even though the approach optimizes U.S. resources over the short and potentially medium term, over the long term it will not defeat al Qaeda or the Islamic State. The fundamentals have remained the same for the past two decades. Today's version demands more from partners but still accepts the perpetual cost of drone operations and other Special Operations Forces activities to prevent future terrorist attacks.

Certainly, drone strikes and counterterrorism raids will continue to deliver measurable tactical successes by killing or capturing the individuals behind terrorist threats. Their ability to achieve broader operational effects by weakening terrorist groups over the short- and medium-term is well documented.⁷⁰ And, at times, they are the only viable option to address an imminent attack. Moreover, the mere threat of drone strikes imposes costs on terrorist groups. Al Qaeda, which has relied on a popular base of support in multiple theaters to operate, recognized a reduction in such support in areas where drone strikes were frequent as civilians weigh the cost that they might be caught in such a strike.⁷¹ Al Qaeda leaders noted in 2010 that drones affected their own security; they had to reduce movement, stop operations, and increase resources toward counterespionage.⁷² As Osama bin Laden wrote on security, "[t]here is no room for mistakes."⁷³ The Islamic State's late leader Abu Bakr al Baghdadi was reported to have conducted high-level meetings in minibuses transporting vegetables to avoid having his

Counterterrorism, WASH. POST (Nov. 9, 2020, 9:22 PM), <https://perma.cc/YV3S-TGTN>; Miller, *supra* note 67.

70. REGAN, *supra* note 31, at 361.

71. Loidolt, *supra* note 31, at 78.

72. Letter from Atiyah Abdul Rahman to Sheikh Abu Abdullah (Osama bin Laden) (June 19, 2010) (available online at <https://perma.cc/AHU5-F2A3>); KATHERINE ZIMMERMAN, TERRORISM, TACTICS, AND TRANSFORMATION: THE WEST VS. THE SALAFI-JIHADI MOVEMENT, AMER. ENTER. INST. 18 (Nov. 15, 2018), <https://perma.cc/4F6Z-4YR6>.

73. Letter to Shaykh Mahmud (undated) (available online at <https://perma.cc/6HNZ-Q59H>).

location revealed, such was the extent of how drones shifted operating behavior.⁷⁴

Unfortunately, the threat of death has proven insufficient as a deterrent measure against al Qaeda, the Islamic State, or any other likeminded group.⁷⁵ Even the U.S. military dropping its most powerful nonnuclear bomb—a 20,000-pound “mother of all bombs” (MOAB)—on a well-fortified tunnel complex did not stop the Islamic State’s threat or eventual growth in Afghanistan.⁷⁶ Adherents to the ideology behind al Qaeda, the Islamic State, and other such groups perceive themselves to be one fighter in a long line fighting for Islam.⁷⁷ Drone strikes, like other counterterrorism tools used to target terrorists, keep emergent and imminent threats at bay, but have yet to deliver lasting effects. Like the current counterterrorism approach, which is focused on achieving military successes against terrorist groups, the impact of drone strikes will only be temporary without an effort to eliminate terrorist groups’ ability to reconstitute.

Whether the United States will be even able to sustain a tempo of targeted strikes against al Qaeda and the Islamic State to keep sufficient pressure on the groups is unclear. Already, the intelligence community’s counterterrorism resources have decreased while the scope and range of threats—from Salafi-jihadi networks to burgeoning racially and ethnically motivated violent extremist transnational networks⁷⁸—have increased demands on those resources.⁷⁹

74. Ahmed Rasheed, *Exclusive: Baghdadi’s Aide was Key to his Capture - Iraqi Intelligence Sources*, REUTERS (Oct. 27, 2019, 6:17 PM), <https://perma.cc/8XQK-XS3Z>.

75. See, e.g., ISIL (DA’ESH) & AL-QAIDA SANCTIONS COMMITTEE MONITORING TEAM, THIRTIETH REPORT OF THE ANALYTICAL SUPPORT AND SANCTIONS MONITORING TEAM SUBMITTED PURSUANT TO RESOLUTION 2610 (2021) CONCERNING ISIL (DA’ESH), AL-QAIDA AND ASSOCIATED INDIVIDUALS AND ENTITIES 5-6, UNITED NATIONS SEC. COUNCIL (July 15, 2022) (describing the evolution of al Qaeda’s and the Islamic State’s threat).

76. Five years later, the Islamic State-Khorasan’s threat is expanding into a regional one. The Islamic State-Khorasan denied taking casualties from the airstrike. While the number of its attacks decreased in the year following this strike, they continued to decrease at the same rate for the following year, indicating the MOAB’s impact to be no different than standard airstrikes and ground raids. See Amira Jadoon, Abdul Sayed & Andrew Mines, *The Islamic State Threat in Taliban Afghanistan: Tracing the Resurgence of Islamic State Khorasan*, 15:1 CTC SENTINEL 33, 34 fig.1 (2022).

77. Zayn al Abidin Muhammad Husayn AKA Abu Zubaydah, held in Guantanamo Bay Prison for being an associate of Osama bin Laden, told his interrogator: “I am a mujahid in a long line of mujahideen. . . . I am just a warrior who is standing in my place, and when I fall, another one will come up.” Interview with James Mitchell, Cent. Intel. Agency at Amer. Enter. Inst. (Dec. 6, 2016), at 24:45–25:03.

78. The United States designated the Russian Imperial Movement along with three of its leaders as Special Designated Global Terrorists in 2020 for providing training to like-minded Americans and Europeans. Additional members who sought to build transnational ties were sanctioned in 2022. For more on how REMVE actors are forming a transnational network, see ASHLEY A. MATTHEIS, ATOMWAFFEN DIVISION & ITS AFFILIATES ON TELEGRAM: VARIATIONS, PRACTICES, & INTERCONNECTIONS 17-20, RESOLVE NETWORK (2022); Nathan A. Sales, Coordinator for Counterterrorism, U.S. Dep’t of State, Designation of the Russian Imperial Movement (Apr. 6, 2020) (available online at <https://perma.cc/D22U-6PGW>); Press Release, U.S. Dep’t. of the Treas., U.S. Sanctions Members of Russian Violent Extremist Group (June 15, 2022) (available online at <https://perma.cc/AJT3-W575>).

79. See, e.g., statement of Christine Abizaid, Director, National Counterterrorism Center, *supra* note 63; Nomaan Merchant, *One Year after Afghanistan, Spy Agencies Pivot Toward China*, ASSOC. PRESS (Aug. 8, 2022), <https://perma.cc/6WUZ-K8WR>.

Moreover, the U.S. military's light footprint in many theaters reduces the "type, quantity, and quality of intelligence collected," intelligence that is critical for effective drone targeting and reducing the risk of civilian casualties.⁸⁰ The U.S. military has sought to strengthen intelligence networks to fill gaps in Afghanistan, though some intelligence officials still question whether it has been enough.⁸¹ Indeed, even in theaters with a small U.S. presence, intelligence gaps exist and U.S. capabilities are reduced.⁸² After the U.S. military withdrew from Somalia, U.S. troops spent much of their time on the logistics of their so-called "commute[] to work" and, while operating in country, mostly maintained security around the base.⁸³ A gap in targeting occurred after their departure: the last U.S. airstrikes targeting al Shabaab—not in support of Somali partner forces—occurred on January 19, 2021, days after the U.S. military left and the next such strike occurred on October 1, 2022.⁸⁴ About 450 U.S. troops redeployed to Somalia in May 2022, and since then, the tempo of strikes overall picked up.⁸⁵ The Somalia case study presents compelling evidence that a lack of deployed forces on the ground significantly decreases the ability to target terrorists with drone strikes.

Worse, the current counterterrorism approach rests on subcontracting or outsourcing—depending on the theater—the ground fight against terrorist groups to local partner forces. Certainly, recapturing terrain and degrading terrorist or insurgent networks' capabilities are crucial to success, but such efforts do not strike at the groups' core strength—its relationship with local communities.⁸⁶ These carefully cultivated connections, some of which formed through coercive measures, enable terrorist groups to recover from military losses because they

80. Yaybroke & Reid, *supra* note 46; Katherine Zimmerman, *Relying on 'Over-the-Horizon' Counterterrorism Increases Risk to Civilians*, THE HILL (May 9, 2022, 9:30 AM), <https://perma.cc/QC79-G8JV>.

81. Karoun Demirjian, *U.S. Works to Scale Up Intelligence Networks in Central Asia*, WASH. POST (June 21, 2022, 6:00 AM), <https://perma.cc/7RQS-ZJ82>; Katie Bo Lillis, *Despite al-Zawahiri Strike, US Officials Concerned about Tracking Terror Threats in Afghanistan*, CNN (Aug. 5, 2022), <https://perma.cc/H6Z8-GMY8>.

82. The United States disrupted an active transnational attack plot coordinated by al Shabaab after it "stumbled" on related information.

83. *Senate Armed Services Committee Hearing on the Posture of United States Central Command and United States Africa Command, Mar. 15, 2022*, 116th Cong. (2022) (transcript available online at <https://perma.cc/6NW6-94CH>).

84. U.S. Africa Command Public Affairs, *U.S. Africa Command forces conduct two strikes on al-Shabaab operatives*, UNITED STATES AFRICA COMMAND (Jan. 19, 2021), <https://perma.cc/3Y26-UF2D>; Charlie Savage & Eric Schmitt, *Biden Secretly Limits Counterterrorism Drone Strikes away from War Zones*, N.Y. TIMES (Mar. 3, 2021), <https://perma.cc/454B-HA2L>; Charlie Savage & Eric Schmitt, *Biden Approves Plan to Redeploy Several Hundred Ground Forces into Somalia*, N.Y. TIMES (May 17, 2022), <https://perma.cc/5XBS-4NDA>; Savage, *supra* note 9.

85. Bill Roggio & Caleb Weiss, *US Picks Up Pace of Airstrikes in Somalia*, LONG WAR J. (Aug. 17, 2022), <https://perma.cc/6W97-MWQK>.

86. Katherine Zimmerman, *Road to the Caliphate: The Salafi-Jihadi Movement's Strengths*, AMER. ENTER. INST. (June 6, 2019), <https://perma.cc/QJK3-EDFD>.

become points for reentry.⁸⁷ Instead of examining the underlying assumptions to the U.S. approach to countering these groups, the United States has simply shifted the burden of combating the local group onto others. U.S. troops now provide training, advising, and assistance to partner forces to win militarily in a struggle that is about more than just combat power.⁸⁸ This approach will weaken terrorist groups but will not defeat them, leaving unaddressed the very conditions that enabled them to strengthen initially. These same foundations proved inadequate elsewhere, including Somalia and Yemen, where local forces have had to retake the same territory from al Shabaab and al Qaeda in the Arabian Peninsula respectively over the years.

Even assuming such an outcome is acceptable, local partners are often unable or unwilling to act without assistance. Many cannot bring the same capabilities as the U.S. military to bear against al Qaeda and the Islamic State, creating a higher margin of error. Few militaries in the world have access to the types of intelligence collection and analysis tools, the degree of tactical and operational competency throughout the force, and the weapons and munitions to replicate what U.S. forces can do on the battlefield. Additionally, local partners often accept higher risks of civilian casualties or infrastructure damage than the U.S. military would.⁸⁹ They are also more prone to committing human rights abuses than U.S. forces, and the population may perceive them as enforcing the will of a predatory state.⁹⁰ All of these actions have the potential to strengthen, rather than weaken, the local insurgencies that give life to al Qaeda and the Islamic State. Finally, local politics can divert partner forces from counterterrorism missions, creating security vacuums for al Qaeda and the Islamic State to fill.⁹¹

Challenges to this partner-centric approach are already surfacing. Al Qaeda and the Islamic State have expanding terrorist sanctuaries across the African continent, in Afghanistan, and elsewhere, which create spaces for them to plan and develop transnational attacks.⁹² Nearly all these sanctuaries are on dangerous trajectories. Local jihadi groups do not always stay local, and the U.S. intelligence

87. Access to the community provides opportunities for forced or voluntary recruitment, re-supply, and sanctuary, for example. Zimmerman, *supra* note 86, 18-20.

88. U.S. security forces accompany partners in select theaters, such as the Sahel. The majority of U.S. counterterrorism missions do not include involvement in direct combat operations. Biden White House, *Letter to the Speaker of the House and President Pro Tempore of the Senate regarding the War Powers Report*, (Dec. 8, 2022), <https://perma.cc/X3NB-HGNH>.

89. Melissa G. Dalton, Daniel R. Mahanty, Jenny McAvoy, Hijab Shah, Julie Snyder & Kelsey Hampton, *Reducing the Human Costs of 'By, With, and Through.'* DEFENSEONE (May 9, 2018), <https://perma.cc/D5LP-KUK7>.

90. Dalton et al., *supra* note 89.

91. For example, the Danab's experience in Somalia after the U.S. withdrawal. Katharine Houreld, *U.S. Troops Are Back In Somalia And Scrambling To Help Its Special Forces*, WASH. POST (Dec. 10, 2022), <https://perma.cc/925K-D7X3>.

92. Terrorist sanctuaries are areas where terrorist organization carry out activities, including training, fundraising, financing, and recruitment. Kate Chesnutt & Katherine Zimmerman, *The State of al Qaeda and ISIS Around the World*, AMER. ENTER. INST. (Sept. 8, 2022), <https://perma.cc/7YEN-99VM>; ISIL (DA'ESH) & AL-QAIDA SANCTIONS COMMITTEE MONITORING TEAM, *supra* note 75.

community has missed local group's decisions to pursue global jihad previously.⁹³ Moreover, the global pivot away from counterterrorism activities means fewer resources, including intelligence, to identify new threats across growing geographic and digital spaces. While drone strikes can disrupt terrorist activity, that activity must first be identified and then precisely located, tasks made more difficult when the intelligence picture is less clear.

Arguments over the effectiveness of drone strikes in counterterrorism miss that they support tactics used to implement a strategic approach that is, in and of itself, not effective over the long term. Essentially, the United States has focused on the threats that al Qaeda and the Islamic State pose to Americans worldwide and relied heavily on counterterrorism actions to disrupt plots and degrade their support networks.⁹⁴ It has then sought to defeat al Qaeda and the Islamic State militarily, whether directly or through its counterterrorism partners. Related U.S. foreign assistance programming has sought to strengthen partners' counterterrorism capabilities and security infrastructure or targets specific radicalization pathways.⁹⁵ This enemy-centric approach has succeeded at weakening the Islamic State, though it took a major military intervention, but has not actually defeated the group in Iraq and Syria.⁹⁶ In fact, the United States has had to increase operations against the group in Syria in recent months and the group still seeks to conduct transnational terrorist attacks.⁹⁷ While the current approach may appear sustainable and desirable, it merely manages the problem.

WAY AHEAD

Today's counterterrorism approach will not deliver the decisive victory against groups like al Qaeda or the Islamic State that has eluded the United States for decades. Instead, to reduce costs, it compromises on U.S. objectives by shifting them from defeating terrorist groups to managing the terrorism threat.⁹⁸ The result is a "partner-led, U.S.-enabled" strategy reliant on others and augmented with U.S. direct action operations, primarily drone strikes, to target the most dangerous terrorism elements.⁹⁹ While the approach appears viable—drones' short-term efficiency masquerades for long-term effectiveness—its illusion of sustainability disappears over a longer time horizon as resources spent bolstering local security

93. Office of the Press Secretary, *White House Review Summary Regarding 12/25/2009 Attempted Terrorist Attack*, OBAMA WHITE HOUSE (Jan. 7, 2010), <https://perma.cc/8T2H-PTF5>.

94. ZIMMERMAN, *supra* note 17, at 24.

95. ZIMMERMAN, *supra* note 17, at 24.

96. ISIL (DA'ESH) & AL-QAIDA SANCTIONS COMMITTEE MONITORING TEAM, *supra* note 75, at 11–13.

97. ISIL (DA'ESH) & AL-QAIDA SANCTIONS COMMITTEE MONITORING TEAM, *supra* note 75, at 13; Gordon Lubold & Nancy A. Youssef, *U.S. Steps Up Raids Against Islamic State Militants in Syria*, WALL ST. J. (Dec. 25, 2022, 9:14 AM), <https://perma.cc/9W6Z-E4SG>.

98. Author's assessment of U.S. objectives against al Shabaab in Somalia, for example, which have shifted from neutralizing al Shabaab so that Somali partners can defeat the group to disrupting al Shabaab so that partners can neutralize it.

99. BIDEN WHITE HOUSE, NATIONAL SECURITY STRATEGY (Oct. 12, 2022) (available online at <https://perma.cc/52CM-39H4>).

forces do not lead to success on the battlefield. How the requirement to combat al Qaeda and the Islamic State ends, given the inadequacy of today's approach in preventing their geographic growth, remains unanswered.

The United States must reframe its fight against al Qaeda and the Islamic State to focus on how they generate strength. The strategy must go beyond counterterrorism and lean heavily into longer-term solutions to the local problems that allow such extremists to expand.¹⁰⁰ Taking back terrain and targeting terrorists would be a component of such a strategy, not the main effort. Investing in foreign assistance programs to compete with the pragmatic offerings al Qaeda and the Islamic State employ to gain entry into various communities—security provision and dispute resolution as examples—in complex and fragile environments will yield better future dividends for the United States.¹⁰¹ In this strategy, drones should play a supporting, not lead role. It is time for the United States to stop managing al Qaeda's and the Islamic State's threat and start ending it.

100. See Katherine Zimmerman, *Fragility and Failure: A Better Foreign Policy to Counter New Threats*, AMER. ENTER. INST. (Oct. 26, 2020), <https://perma.cc/9E37-NDYS>.

101. *Id.* at 2-3.
