

LUKE HARTIG

# THE DRONE PLAYBOOK

An Essay on the Obama Legacy and Policy  
Recommendations for the Next President

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## About the Author



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# INTRODUCTION

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In May 2013, just weeks before the Snowden leaks and two years after the death of Osama bin Laden, President Obama delivered an [ambitious policy speech](#) in which he laid out a new era for U.S. lethal drone operations. Obama’s speech explained his recently issued Presidential Policy Guidance (PPG), with the cumbersome title, “Procedures for Approving Direct Action Against Terrorist Targets Outside the United States and Areas of Active Hostilities.” The President articulated the high standards he expected for the use of force against terrorists, as well as the greater transparency he sought for those operations. In the three years since, as reports have emerged on controversial drone strikes, the Administration has consistently referred to the PPG and its standards, particularly its focus on preventing civilian casualties. But the document itself has remained concealed from the public, classified at the highest levels, and available only to the officials dealing with these operations. Late on a Friday in August two weeks ago, in

**The Administration had an obligation to set a governing framework for operations in places like Yemen and Somalia, where the United States is engaged in a new paradigm of standoff warfare.**

the face of litigation, the Administration finally [released the document](#), with minimal redactions, providing the first public glimpse of the drone playbook. The release comes just one month after the [official disclosure of statistics on U.S. drone strikes outside active war zones](#). It will surely drive vigorous debate over how the next President ought to employ drones against terrorists.

I joined the National Security Council staff two weeks before President Obama approved the PPG, after contributing to its development from the Pentagon, and I coordinated the implementation of the policy in Yemen and then globally, during my three years at the White House. It is difficult to overstate the importance of the PPG, both for the high standards it sets for the use of force—some of the highest in the history of warfare—and the rigorous review that proposed operations undergo prior to approval. It was the right thing to do. The Administration had an obligation to set a governing framework for operations in places like Yemen and Somalia, where the United States is engaged in a new paradigm of standoff warfare against terrorist targets with minimal or no U.S. forces on the ground. And President Obama, who had aggressively targeted al-Qa’ida but also brings a strong sense of moral integrity and view of the long game to his foreign policy, was perhaps the ideal President to lead this effort. But more than three years since the approval of the PPG, in the face of an

expanding set of terrorist threats, and approaching a Presidential election, we are at a natural inflection point, where the next President should rightly think about how we want to wage these operations going forward.

Whoever the next President is, I believe it will be important for his or her national security team to understand the purpose of the PPG; review the successes and challenges of implementation; and take appropriate steps to improve the program's

effectiveness and legitimacy. These steps include continuing a strong commitment to transparency, streamlining the approval process for using force against terrorists, and furthering a constructive dialogue with critics of U.S. counterterrorism policy. By undertaking these actions, the next Administration could carry forward the Obama legacy of effective and discriminate use of force while also beginning to establish a set of norms that could guide the use of force against terrorist groups around the world.

## THE PPG'S ORIGINS AND PURPOSE

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The PPG evolved out of the Obama Administration's experience in using force—particularly drone strikes (the term “direct action” refers to lethal and capture operations, though this essay primarily addresses lethal force)—during the President's first term. It was intended to standardize and institutionalize both the rigorous standards as well as the “interagency” review by intelligence and civilian government agencies of capture and lethal operations. It was released at a somewhat triumphal period in our counterterrorism campaign, two years after the death of Bin Laden, with al-Qa'ida and its affiliates having suffered major setbacks, and before the rise of ISIS.

The document itself is a dry foray into the gears of government, law, and operational procedures, but it is worth doing a quick overview to set the stage. The PPG runs 18 pages and contains eight sections that lay out in meticulous detail the standards

for the use of force, as well as the bureaucratic processes for approving direct action. The document only covers the use of force “outside areas of active hostilities,” a phrase that was not defined in the document but was understood as shorthand for places like Yemen and Somalia, rather than traditional war zones with U.S. combat forces on the ground, like Afghanistan. The PPG covers three types of direct action: capture operations, lethal action against high-value terrorists (HVTs), and lethal action against terrorist targets other than HVTs (the PPG presents two exemplars for this latter category, “manned or unmanned Vehicle Borne Improvised Explosive Devices or infrastructure, including explosives storage facilities.”) However, prior to the conduct of any of these operations, the PPG requires the establishment of an operational plan that provides the legal and policy basis for action. The key elevated standards in the document stipulate that lethal force can only be

used in the following circumstances: (1) against a lawful terrorist target that poses a “continuing, imminent threat to U.S. persons;” (2) when capture is not feasible; (3) when the relevant commander assesses with “near certainty” that an approved target is present; and (4) when that commander also assesses with near certainty that civilians will not be harmed in the operation. It also presents an option for the President to approve lawful uses of direct action that deviate from the PPG’s policy standards. The document delves into extensive detail on the composition of various committees of senior government officials that must review proposals for direct action, guidance on specific factors those committees are to consider, and a list of specific information that must be included in a proposal for direct action (though the details of this latter requirement are largely redacted in the public document). The PPG also specifies requirements for post-strikes reports to the White House and Congress. In other words, the document covers in minute detail virtually every aspect of the bureaucratic process for capturing or killing terrorists.

As with so many of President Obama’s policies, critics emerged on multiple sides. Commentators on the left, including some [human rights groups](#), cautiously welcomed the increased oversight under the PPG. But they were quick to note the vagueness of key concepts, criticize the continued lack of transparency, and raise longstanding concerns about due process and the legal basis for these operations. On the other side, some [congressional overseers](#) and [conservative commentators](#) criticized the Obama Administration for tying the hands of operators with standards and processes that would make it harder for counterterrorism professionals to fulfill their mission of capturing and killing those who would harm the United States.

That’s what the PPG was intended to do, but more work is needed to ensure that our direct action is as effective and legitimate as possible. The experience of implementing the PPG over the last three years—both the notable accomplishments and the challenges—should help inform the way forward.

## LESSONS FROM THREE YEARS OF IMPLEMENTING THE PPG

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The good news is that our counterterrorism professionals have internalized the PPG’s high standards, as the Administration sought. Our counterterrorism forces have continually increased precision and reduced civilian casualties over the

course of the past 15 years of operations but have improved even further since the release of the PPG. Our intelligence professionals analyze targets with great rigor before making an assessment that a particular target poses a “continuing, imminent

threat to U.S. persons.” Advancements in weapons systems and targeting methodology have allowed our operators to take shots without harming civilians that would have been impossible just a few years ago.

The recent [release of aggregate statistics on U.S. drone strikes](#) outside areas of active hostilities illustrates this precision: only 2.5-5 percent of those killed between 2009-2015 were assessed to be civilians. New America assesses a higher proportion of civilian casualties, approximately 5-8.5 percent of total casualties during that period, but assesses that civilian casualty rates have fallen to about 3 percent since 2013, the year the PPG was issued. Perhaps even more remarkable is the extent of damage caused to al-Qa’ida and its associated forces in places like Yemen and Somalia with only 473 strikes from 2009-2015. Although detailed accounting of the senior terrorist leaders removed in U.S. strikes remains classified, there is no other counterterrorism tool that has been so effective in dismantling the top ranks of the groups that pose the greatest threat to the United States. Further, listening to our operational commanders at every level talk about their work, discrimination and precision have become a critical part of their culture, and they would rather miss a shot than inadvertently kill a civilian in taking one.

Yet the past three years have also produced a number of challenges for the next administration to consider:

First, the PPG creates tension with our strategy of partnering with other nations by its focus on only using force to save U.S. lives. One year after the speech at the National Defense University, President Obama articulated a partnership-focused counterterrorism strategy in a speech at West Point. Included in that strategy is a broad concept of partnerships that includes not only training and equipping friendly forces but also providing them with the operational enablers—embedded advisers, overhead surveillance, logistics, and airlift—needed for a competent assault force to prosecute complex terrorist targets. However, even with this level of

support, we know from experience that the U.S. military must often go one step further and provide lethal support to its partners. Yet, the PPG states that, absent extraordinary circumstances and explicit Presidential approval, U.S. forces may only strike terrorists that pose a continuing, imminent threat to U.S. persons. This creates both ethical and operational challenges: What kind of a partner is the United States if it cannot conduct strikes on terrorists who pose a continuing, imminent threat to the government of key counterterrorism partner? And why shouldn’t the U.S. military conduct air strikes in support of a partner nation’s ground campaign against a terrorist group that threatens the United States, particularly if such action helps prevent the need to deploy U.S. forces to combat that foe?

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Second, the PPG has created a rigorous process for reviewing operations but has also, in some cases, lengthened the timeline for gaining approval to disrupt terrorist threats. Detailed review processes are entirely appropriate for capture operations, which inherently involve more danger to U.S. personnel and entail complex questions regarding the authority under which detainees will be held. For lethal operations, detailed processes were originally put in place to ensure that all nominations for action meet the PPG’s policy standards. To be sure, nearly every official involved in the review of lethal action proposals takes this responsibility extremely seriously and understands the need to review proposals expeditiously so as not to miss operational opportunities. But by requiring top officials from the Departments of State, Defense, Justice, and Homeland Security, as well as the Director of National Intelligence, Central

Intelligence Agency, National Counterterrorism Center, and Joint Chiefs of Staff to review proposals, the PPG inherently increases the number of people, layers of bureaucracy, and overall time required in order to approve lethal action.

Third, while transparency has improved, we still have a long way to go. The release of the PPG, albeit under pressure from litigation, is a big step. And the release of aggregate statistics, along with the Administration's recent release of information on specific strikes in Yemen, Somalia, and Libya is significant. But it is worth remembering how painful it was to get here. The U.S. Government didn't acknowledge any countries where it was conducting strikes until 2011. Nor did it disclose its role in the death of the U.S. citizen Anwar al-Aulaqi for nearly two years following the first press reports on his death. And while the government is acknowledging basic information about some strikes, it has only discussed one lethal operation in detail, the 2015 action that inadvertently killed U.S. hostage Warren Weinstein and Italian hostage Giovanni Lo Porto. Finally, as many commentators have noted, it is difficult to discern much from the aggregate statistics, which were not broken out by year or geographic location (though future disclosures will be made on an annual basis). If we really want to further public dialogue on our operations, we need to go much further, providing some of the information that would allow researchers and journalists to at least understand where official assessments differ from their own.

Finally, the government's relationship with the media and human rights groups remains fraught. Every time there is a major disclosure regarding U.S. counterterrorism operations, the media and human rights groups are quick to point out the flaws in U.S.

policy. When there are reports of civilian casualties, critics sometimes suggest that the Obama Administration fails to abide by its own policies whenever they're inconvenient for achieving the Administration's objectives. Some revive inaccurate claims that the U.S. government considers all adult males to be combatants, which therefore suppresses the true number of civilian casualties. Robust critiques of the Administration's policy and legal framework play out on leading blogs and the pages of major foreign policy publications. Human rights advocacy organizations, in addition to producing impressive investigations of particular drone strikes, also offer robust recommendations on the appropriate legal and policy frameworks for drone strikes but remain frustrated at the lack of transparency. Two United Nations Special Rapporteurs have offered [pointed critiques](#) of the [U.S. drone program](#).

In some ways, the criticism from outside groups is no surprise. [Senior Administration officials](#), as well as [congressional supporters](#), have made bold claims about the precision of the drone program but failed to provide detailed accounting of controversial strikes or respond to specific reports of civilian casualties. Even the laudable requirement for a near-certain assessment that civilians will not be harmed in operations sets the government up for criticism when those casualties inevitably occur. Many military and intelligence professionals, on the other hand, are wary of scrutiny from outside critics—the vast majority of whom have never worked on the drone program. These professionals believe critics don't understand the detailed nature of these operations, are quick to cite shortcomings but rarely laud success, and may call for punitive action for honest operational mistakes.



# NEXT STEPS FOR THE NEW ADMINISTRATION

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Three years on, the Government has finally released a minimally redacted version of the document that captures the substantial improvements to our direct action program, yet it is clear that there is much more that can be done. There are several specific initiatives the next administration can undertake to further increase both the effectiveness and legitimacy of counterterrorism direct action.

## I. Streamline the approval process

Perhaps the most important thing the next Administration can do is conduct a review of the PPG with an eye toward streamlining the process for approving lethal action and delegating full approval authority to the Secretary of Defense (with appropriate review by in-country civilian officials). This streamlining is possible because the heightened standards set forth in the PPG have been so well institutionalized. It is necessary because of the heightened threat environment we see today compared to three years ago.

While direct action under the PPG has been effective at degrading the operational leadership of key groups threatening the United States, top al-Qa'ida-associated groups are far from defeated, and ISIL

has arisen as the foremost terrorist threat facing the United States. ISIL has established 8 provinces worldwide—effectively recruiting operational branches from simmering Islamist militant groups in places like Libya and Egypt—and has staged or inspired a string of attacks in the West. Further, top national security officials have noted the increasing difficulty in collecting intelligence on terrorist groups [following the Snowden disclosures](#) and in an era of end-to-end encrypted communications technologies.

These circumstances argue for taking a more proactive approach to combating terrorist groups as they emerge rather than hoping we can detect and disrupt attacks before they reach their final stages. Perhaps the central insight from 15 years of targeting terrorist and insurgent groups is that effective direct action requires aggressive network approaches, focused on rapidly removing terrorist leaders and their successors. Such a network-based approach is made much more complicated if the framework for direct action strongly favors targeting specific HVTs, rather than networks that threaten the United States, or if operational proposals have to be submitted to the White House and reviewed by a range of senior officials from across the government before they can be approved.

As a first step, the next President should delegate full approval authority for all lethal targeting proposals to the Secretary of Defense. The Secretary, in turn, should ensure that processes are in place to promptly review all proposals for lethal action. Continued civilian oversight of these operations is essential, and the Secretary is supported by a Senate-confirmed, four-star equivalent Assistant Secretary for Special Operations and Low-Intensity Conflict, who has statutory responsibilities for overseeing the military's Special Operations Forces. This Assistant Secretary could capably advise the Secretary as to whether proposals for lethal action meet the policy standards set forth in the PPG.

By reducing the interagency review process, the next Administration can free up more time on the National Security Council's calendar to consider other aspects of counterterrorism—such as how to design and implement partnership-based approaches or navigate the thorny legal and policy questions related to countering terrorist use of the internet.

To be sure, senior officials at the White House and across the government need to track direct action operations, but not on a day-to-day basis and not prior to the execution of specific operations. Senior officials should instead focus deliberations on defining the strategic goals of our counterterrorism campaigns and articulating the specific objectives direct action should accomplish as compared to other counterterrorism efforts. This discussion should also consider whether it is appropriate to provide close air support or other air strikes in support of on-the-ground counterterrorism partners, outside of the PPG framework. Detailed post-strike notifications should be made to appropriate senior military, intelligence, and civilian agency officials—thereby allowing these officials to elevate any concerns over particular operations—and a periodic interagency review of operations should suffice to ensure full consideration of other national security and foreign policy implications not covered by the Secretary's team. And perhaps most importantly, the President should hold the Secretary accountable for the execution of his or

her policy. The Secretary, in turn, should hold his or her commanders accountable, while trusting in the great professionalism already ingrained in our counterterrorism forces.

None of this is to criticize the framework that has been in place for the past three years. When launching ambitious initiatives, Presidents and other chief executives have often found it necessary to be closely involved until such time as implementation could be further delegated. Given the success of the PPG and the threat environment, we have likely reached that time.

## **II. Double down on transparency as a presidential priority**

Increased transparency regarding counterterrorism operations only happens when the President and his or her top advisers make it a priority. Operations are driven by special operators and intelligence professionals, who have it seared into them from the beginning of their careers to always err on the side of secrecy so as to protect sources and methods, ongoing or future operations, and sensitive tradecraft issues. Many of these professionals have real concerns that even disclosing basic information about our operations could inadvertently compromise our ability to wage future operations. Of course, we have managed to disclose information regarding sensitive operations without compromising our security, but the operators need top cover from the senior-most people in the Administration.

Beyond these cultural issues, the process of increasing transparency—whether declassifying sensitive documents or disclosing operations—is always difficult and involves a range of policy and legal considerations. Much of this derives from the simple and important fact that security classification cannot be arbitrary. In deciding whether to disclose any specific piece of information, senior decision-makers must consider the effect on other information that it would not like to make public. If two pieces of information are

classified for the same reason, for example, and one is released, it can be more difficult to argue that the other should remain classified. Working through these tradeoffs and risks requires persistent senior-level engagement.

To be sure, these decisions need to be made very carefully, with the utmost consideration given to protecting classified information, now and in the future, but the Obama Administration has shown that increased transparency is possible. As President Obama's top counterterrorism adviser Lisa Monaco has made clear, this is not about transparency for transparency's sake, but about furthering the legitimacy of these operations. We can best do this by making public the information that will allow for scrutiny of operations, further dialogue on the appropriate norms for direct action, and undermine false terrorist narratives that emerge following operations.

Finally, central to our transparency efforts is Presidential leadership to fulfill Obama's commitment to military-led approaches to operations and transparency. As Obama said in April of this year, "as much as possible of this should be done through our Defense Department so that we can report, 'Here's what we did, here's why we did it, here's our assessment of what happened.'"

### **III. Broaden and formalize the dialogue on direct action**

The PPG grew, in part, out of an assessment that the current approach to targeting terrorists who are integrated into civilian populations in countries where the United States is not at war ought to be governed by a framework tailored to those dynamics. But, as noted above, outside commentators continue to lament the imperfect fit between the law of armed conflict and conventional concepts of war, on the one hand, and our current campaign against al-Qa'ida, ISIL, and associated forces. The release of the PPG helps clarify some of the Obama Administration's framework but will

leave many outside commentators unsatisfied. It is notable, for example, that the document is designed to govern "direct action" outside "areas of active hostilities," and yet these two terms are not defined in the document. Would strikes in support of a partner ground force constitute direct action (the [military's definition of the term](#) suggests that they wouldn't)? And why would Yemen, a country immersed in a civil war with external powers conducting frequent air strikes, not be considered an area of active hostilities? The PPG offers little assistance here. Nor are any criteria articulated for assessing that a target poses a "continuing, imminent threat."

Answering these questions is a bit of a Talmudic exercise in which the outside commentator must sift through a series of speeches on the legal and policy considerations for direct action as presented by former Attorney General Eric Holder (who [articulates a framework for imminence](#) in the context of constitutional due process considerations when targeting a U.S. person), State Department Legal Adviser Brian Egan (who [offers criteria for determining an "area of active hostilities"](#)) and his predecessor [Harold Koh](#), former General Counsels of the Department of Defense, [Jeh Johnson](#) and [Stephen Preston](#), and current and former White House counterterrorism advisers [Lisa Monaco](#) and [John Brennan](#). Each speech addresses a range of issues, only some of which are directly relevant to the PPG, and the outside analyst is left to wonder which of these policy and legal guidelines remain in place and which may have been rescinded or superseded.

One way to begin to bridge this divide on legal and policy frameworks would be to move beyond exclusively government-driven disclosures and establish formal mechanisms for considering outside views and codifying concepts in the PPG framework. The [Stimson Center's 2014 Task Force on U.S. Drone Policy](#)—comprising ten senior military, intelligence, legal, and policy experts—offered two recommendations that could help bridge the divide between the government and its critics on drone policy: "foster the development

of appropriate international norms for the use of lethal force outside of traditional battlefields,” and “develop more robust oversight and accountability mechanisms for targeted strikes outside of traditional battlefields.” The next Administration should implement these recommendations; below are some ideas on workable mechanisms for doing so.

A formal dialogue should be initiated between the Administration’s top lawyers and policy officials, counterparts from allied nations and the United Nations, leading outside legal and policy experts (including those who have served in previous administrations), human rights groups, and relevant congressional leaders to develop a coherent, enduring legal framework that is appropriate to campaigns against terrorist organizations, both by the United States and other countries facing similar threats. Such a dialogue is unlikely to achieve consensus on a framework, given the diversity of views involved, but it would allow the next administration to develop a concept for a viable improved legal infrastructure that could be further enhanced over time.

In addition, the new administration should establish an outside advisory board to review U.S. direct action policy and should name to that

committee a range of experts, including those with backgrounds in the human rights community, the military, the intelligence community, and legal and policy analysis. Such an advisory board would be most constructive—and likely to be accepted by U.S. national security professionals—if it is carefully scoped so as to avoid second guessing the decisions of operational commanders or duplicating the existing internal legal accountability processes. Instead, the advisory board should focus on U.S. policies and how to make them more effective and publicly accountable. The advisory board could consider specific operations to the extent that doing so would help illuminate key aspects of U.S. policy or help address discrepancies between official accounts and investigations put forward by human rights groups. Establishing such a board would increase the diversity of views provided to the President and just as importantly, create a mechanism for greater mutual understanding among the various communities involved in U.S. drone policy.

The next administration will have many national security issues to consider from its early days. Taking clear steps to improve the effectiveness, transparency, and legitimacy of direct action ought to be at the top of the list.



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