



INTERNATIONAL POLICY REPORT

DRONES OVER THE HOMELAND

HOW POLITICS, MONEY AND LACK OF OVERSIGHT HAVE SPARKED DRONE
PROLIFERATION, AND WHAT WE CAN DO

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INTRODUCTION

Drones are proliferating at home and abroad. A new high-tech realm is emerging, where remotely controlled and autonomous unmanned systems do our bidding. Unmanned Aerial Vehicles (UAVs) and Unmanned Aerial Systems (UAS) – commonly known as drones – are already working for us in many ways.

This new CIP International Policy Report reveals how the military-industrial complex and the emergence of the homeland security apparatus have put border drones at the forefront of the intensifying public debate about the proper role of drones domestically.

Drones Over the Homeland focuses on the deployment of drones by the Department of Homeland Security (DHS), which is developing a drone fleet that it projects will be capable of quickly responding to homeland security threats, national security threats and national emergencies across the entire

Source: Wikimedia Commons



MQ-9 Reaper used by the CBP to patrol the border.

nation. In addition, DHS says that its drone fleet is available to assist local law-enforcement agencies.

Due to a surge in U.S. military contracting since 2001, the United States is the world leader in drone production and deployment. Other nations, especially China, are also rapidly gaining a larger market share of the international drone market. The United States, however, will remain the dominant driver in drone manufacturing and deployment for at least another decade.

The central U.S. role in drone proliferation is the direct result of the Pentagon's rapidly increasing expenditures for UAVs. Also fueling drone proliferation is UAV procurement by the Department of Homeland Security, by other federal agencies such as NASA, and by local police, as well as by individuals and corporations. Drones are also proliferating among state-level Air National Guard units.

Despite its lead role in the proliferation of drones, the U.S. government has failed to take the lead in establishing appropriate regulatory frameworks and oversight processes. Without this necessary regulatory infrastructure – at both the national and international levels – drone proliferation threatens to undermine constitutional guarantees, civil liberties and international law.

This policy report begins with a brief overview of the development and deployment of UAVs, including a summary of the DHS drone program. The second section details and critically examines the role of Congress and industry in promoting drone proliferation. In the third part, we explore the expanding scope of the DHS drone program, extending to public safety and national security. The report's fourth section focuses on the stated objectives of the homeland security drone program. It debunks the dubious assertions and myths that DHS wields in presentations to the public and Congress to justify this poorly conceived, grossly ineffective and entirely non-strategic border program. The report's final section summarizes our conclusions, and then sets forward our recommendations.

I. UAV OVERVIEW AND ORIGIN OF HOMELAND SECURITY DRONES

UAVs are ideal instruments for what the military calls ISR (intelligence, surveillance and reconnaissance) missions. Yet, with no need for an onboard crew and with the capacity to hover unseen at high altitudes for long periods, drones also have many nonmilitary uses. Whether deployed in the air, on the ground or in the water, unmanned drones are ideally suited for a broad range of scientific, business, public-safety and even humanitarian tasks. That is due to what are known as the “three Ds” capabilities – Dull (they can work long hours, conducting repetitive tasks), Dirty (drones are impervious to toxicity) and Dangerous (no lives lost if a drone is destroyed).

Indicative of the many possibilities for UAV use, some human rights advocates are now suggesting drones can be used to defend human rights, noting their ISR capabilities could be used to monitor human rights violations by repressive regimes and non-state actors in such countries as Syria.¹

Manufacturers, led by the largest military contractors, are rapidly producing drones for a boom market, whose customers include governments (with the U.S. commanding dominant market share), law enforcement agencies, corporations, individual consumers and rogue forces.

Drones are proliferating so rapidly that a consensus about their formal name has not yet formed. The most common designation is Unmanned Aerial Vehicles (UAVs), although Unmanned Aerial Systems (UAS) is also frequently used. Other less common terms include Unmanned Systems (US) and Remotely Piloted Aircraft (RPA).

The more inclusive “Unmanned Systems” term covers ground and marine drones, while highlighting the elaborate control and communications systems used to launch, operate and recover drones. However, because most drones require staffed command-and-control centers, Remotely Piloted Aircraft may be the best descriptive term.

DRONES TAKE OFF

Although the U.S. military and intelligence sectors had been promoting drone development since the early 1960s,² it was the Israeli Air Force in the late 1970s that led the way in drone technology and manufacture. However, after the Persian Gulf War in 1991, the U.S. intelligence apparatus and the U.S. Air Force became the major drivers in drone development and proliferation.³

Because the intelligence budget is classified, there are no hard figures publicly available that quantify the intelligence community's contributions to drone development in the United States. It has been credibly estimated that prior to 2000, such contributions made up about 40% of total drone research and development (R&D) expenditures, with the U.S. Air Force being the other major source of development funds for drone research by U.S. military contractors.⁴

In the early 1990s, as part of a classified weapons project, the U.S. Air Force and the CIA underwrote and guided the development and production of what became the Predator UAV, the first war-fighting drones that were initially deployed in ISR missions during the Balkan wars in 1995.

General Atomics Aeronautical Systems (GA-SI), an affiliate of privately held, San Diego-based company General Atomics, produced the first Predator UAVs – now known as Predator A – with research and development funding from Pentagon, the Air Force and a highly secret intelligence organization called the National Reconnaissance Organization.⁵

The 1995 deployment of the unarmed Predator A by the CIA and Air Force sparked new interest within the U.S. military and intelligence apparatus, resulting in at least \$600 million in new R&D contracting for drones with General Atomics. According to a U.S. Air Force study, “The CIA’s UAV program that existed in the early 1990’s and that still exists today gave Predator and GA-ASI an important opportunity that laid the foundation for Predator’s success.” The study goes on to document what is known of the collaboration between the intelligence community and General Atomics.⁶

General Atomics is a privately held firm, owned by brothers Neal and Linden Blue. The Blue brothers bought the firm (which was originally a start-up division of General Dynamics) in 1986 for \$50 million and the next year hired Ret. Rear Admiral Thomas J. Cassidy to run GA-SI. The Blue brothers are well connected nationally and internationally with arch-conservative, anti-communist networks. These links stem in part from their past associations with right-wing leaders; one such example being the 100,000-acre banana and cocoa farm Neal Blue co-owned with the Somoza family in Nicaragua, another being Linden Blue’s 1961 imprisonment in Cuba shortly before the Bay of Pigs for flying into Cuban airspace, and especially their record of providing substantial campaign support for congressional hawks.⁷

In 1997, the U.S. Air Force’s high-tech development and procurement divisions took the first steps toward weaponizing the Predator. This push led to the Air Force’s “Big Safari” rapid high-tech acquisitions program, which proved instrumental in having an armed Predator ready for deployment in 2000. The newly weaponized MQ Predator-B was in action from the first day of the invasion of Afghanistan on October 21, 2001, when a Hellfire missile was fired from a remote operator sitting in an improvised command and control center situated in the parking lot of the CIA headquarters in Langley, Virginia.⁸

The post-9/11 launch of the “global war on terrorism” opened the floodgates for drone R&D funding and procurement by the CIA and all branches of the U.S. military, led by the Air Force. Starting in Afghanistan, and later in Iraq, the Predator transitioned from an unmanned surveillance aircraft to what General Atomics proudly called a “Hunter-Killer.”

Since 2004, the CIA and the Joint Special Operations Command, a covert unit of the U.S. military, have routinely made clandestine strikes in Pakistan and more recently in Yemen and Somalia. These clandestine strikes increased during the first Obama Administration and continued into the second amid growing criticism that drone strikes were unconstitutional and counterproductive.⁹

The rise of the Predators along with later drone models produced by General Atomics – the Reaper, Guardian and Avenger drones – can be attributed to aggressive marketing, influence-peddling and lobbying initiatives by General Atomics and General Atomics Aeronautical Systems (GA-SI). The selling of the Predator could also count on the close personal ties forged over decades in the military-industrial complex, which resulted in key R&D grants from the military and intelligence sectors.

Another important factor in the Predator's increasing popularity has been General Atomics' willingness to adapt models to meet varying demands from DOD, DHS and the intelligence community for different armed and unarmed variants. Also working in General Atomics favor is its ongoing commitment to curry favor in Congress with substantial campaign contributions and special favors.

Speaking at the Citadel on December 11, 2001, President George W. Bush underscored the Predators' central role in U.S. global counterterrorism missions: "Before the war, the Predator had skeptics because it did not fit the old ways. Now it is clear the military does not have enough unmanned vehicles."¹⁰

At the time, there was widespread public, media and congressional enthusiasm for UAVs where suspected terrorists were purportedly killed with surgical precision while UAV pilots sat in front of video screens out of harm's way drinking coffee. Little was known then about the high-accident rates for the UAVs or the shocking collateral damage from their targeted strikes. Nor was it well known that the Predators were being piloted from command and control centers at the CIA and at Creech Air Force Base in Nevada.

PREDATORS ALIGHT ON THE BORDER

In the late-1990s, about the same time that the U.S. Border Patrol started contracting for ground-based electronic surveillance, the agency also began planning to integrate drone surveillance into ground-based electronic surveillance

systems. It is also when it began the practice of entering into sole-source contracts with high-tech firms.¹¹ The Border Patrol's grand high-tech plan was to integrate drone ISR operations with its planned Integrated Surveillance Intelligence System (ISIS).¹² The plan, albeit never detailed in the project proposal, was to integrate geospatial images from yet-to-be acquired Border Patrol UAVs into an elaborate command, control and communications systems managed by the Border Patrol – an agency not known for its high-level technical or management skills.¹³

Soon after the CIA and the U.S. Air Force began flooding General Atomics with procurement contracts for armed Predators in 2001, disarmed Predator UAVs were summoned for border security duty.

In 2003, the Border Patrol – with funding not from the Customs and Border Protection (CBP) budget but rather from the Homeland Security's newly created Science and Technology Directorate – began testing small, relatively inexpensive UAVs for border surveillance.

In 2005, CBP took full control over the DHS drone program, with the launch of its own Predator drone program under the supervision of the newly created Office of Air and Marine (OAM). OAM was a CBP division that united all the aerial and marine assets of the Office of the Border Patrol and Immigration and Customs Enforcement (ICE). According to the CBP, "The UAV program focuses operations on the CBP priority mission of anti-terrorism by helping to identify and intercept potential terrorists and illegal cross-border activity." Tens of billions of dollars began to flow into the Department of Homeland Security for *border security* – the term that superseded *border control* in the aftermath of 9/11 – and the DHS drone program was propelled forward.

To direct OAM, DHS appointed Michael C. Kostelnik, a retired Air Force major general. During his tenure in the Air Force, Kostelnik supervised weapons acquisitions and was one of the leading players in encouraging General Atomics to quickly equip the Predator with bombs or mis-

HOMELAND SECURITY DRONES

Chronology, 2003-2012

- The Border Patrol initiated the border drone program in 2003 under the auspices of the newly created Science & Technology Directorate (S&T) in DHS.
- According to the high-tech surveillance plan developed by the USBP, the agency's drones would be integrated into its ground-based Integrated Surveillance Intelligence System (ISIS – although it lacked any associated plans or technology to meet this objective).
- ISIS was shut down in 2004 after contractor abuses, nonperformance and systemic mismanagement.
- The first USBP drone deployment occurred in Arizona as part of Arizona Border Control Initiative – the first of many succeeding USBP and CBP high-tech and other border security operations targeting Arizona.
- From October 29 – November 13, 2003, General Atomics conducted flight demonstrations of its unarmed Predators at Ft. Huachuca and other Arizona desert sites.
- Border Patrol flew Israeli-made Hermes drones from June 2004 through September 2004, with \$4 million from S&T.
- The Hermes drone didn't patrol the border (as is the commonly portrayed mission of DHS drones), but rather was deployed to provide surveillance over illegal border crossers first spotted by other means (agent identification or sensor alerts).
- At the same time that USBP and S&T were proceeding with their initiatives with small UAVs, CBP, through its new air and marine division (officially designated the Office of Air and Marine in early 2005), initiated a parallel process that led to contracts with General Atomics in late 2004.
- In October 2004, largely in response to congressional pressure, DHS directed that UAVs become a major operational asset of its expanding border security operations, estimating the preliminary cost to fund the border drone program would be \$2.5 billion.
- DHS designated the Predator as the one model of UAV that would be used in Operation Safe-guard, a newly launched USBP "experimental law enforcement program" along the Arizona border in 2005.
- The first Predator purchased by CBP crashed and was destroyed because of an error by a General Atomics contract pilot in April 2006.
- By 2012, CBP had acquired ten General Atomics UAVs – along with a wide range of UAV infrastructure, contract pilots, maintenance and systems management teams – as part of its plan to create a fleet of 24 high-altitude, military-grade drones by 2016.
- DHS Office of Inspector General says CBP UAVs remain grounded because of lack of operating budget, maintenance, weather and inadequate staffing – resulting in UAV flight time dramatically lower (37%) than projected minimum threshold of operations.
- The pattern of sole-source contracts with General Atomics has continued with an October 2012 \$443 million contract for General Atomics UAVs and services.

Sources: DHS, Office of the Inspector General, *A Review of Remote Surveillance Technology Along U.S. Land Borders*, December 2005; DHS, "Fact Sheet: Arizona Border Control Initiative," March 16, 2004; Jason Blazakis, *Border Security and Unmanned Aerial Vehicles*, Congressional Research Service, January 2, 2004; Christopher Bolkom, *Unmanned Aerial Vehicles and Border Surveillance*, Congressional Research Service, June 28, 2004; DHS, Office of Inspector General, *CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security*, May 2012.

siles.¹⁴ The more expensive, armed Predator drones and their variants became the preferred border drone as a result of widespread enthusiasm for the surge in Predator operations in Iraq and Afghanistan and the close collaborative relationship that developed between General Atomics Aeronautical Systems and CBP.

CBP began using its first Predator for operations in October 2005, but the drone crashed in April 2006 in the Arizona desert near Nogales due an error made by General Atomics' contracted pilot. Crash investigators from the National Transportation Safety Board found the pilot had shut off the drone's engine when he thought he was redirecting the drone's camera. As Kostelnik explained to the Border and Marine Subcommittee of the House Homeland Security Committee, "There was a momentary loss link that switched to the second control" – and the Predator fell out of the sky.¹⁵

The Fleet

By early 2013, CBP had a fleet of seven Predator drones and three Guardians drones, all stationed at military bases. Two Guardians – Predators modified for marine surveillance – are based at the Naval Air Station in Corpus Christi, Texas, while another patrols the Caribbean as part of a drug war mission from its base at the Cape Canaveral Air Force Station in Florida. Four of the seven Predators are stationed at Libby Army Airfield, part of Fort Huachuca near the Mexican border in southeastern Arizona, while two have homes at the Grand Forks Air Force Base in North Dakota. The tenth Predator drone will also be based at Cape Canaveral.

According to the CBP Strategic Air and Marine Plan of 2010, OAM intends to deploy a fleet of 24 Guardians and Predators. In 2008, as part of its acquisition strategy, CBP planned to have the 24-drone fleet ready by 2016, boasting that OAM would then be capable of deploying drones anywhere in national airspace in three hours or less.¹⁶ In late 2012, CBP signed a major new five-drone contract with General Atomics. The \$443.1 million five-year contract includes \$237.7

Source: CBP



OAM Chief Michael Kostelnik and General Atomics executive Thomas Cassidy to his left.

million for the prospective purchase of up to 14 additional Predators and Predator variations, and \$205.4 million for operational costs and maintenance by General Atomics crews.¹⁷

This new contract was signed, despite increasing budget restrictions, a series of critical reports by the Congressional Research Service (CRS), Government Accountability Office and the DHS Office of Inspector General, and continuing technical failures and poor results.

Only One Source

CBP insists that General Atomics Aeronautical Systems is the only "responsible source" for its drone needs and that no other suppliers or servicers can satisfy agency requirements for these \$18-20 million drones. According to CBP's justification for sole-source contracting, U.S. national security would be put at risk if DHS switched drone contractors.

In a November 1, 2012 statement titled "Justification for Other than Full and Open Competition," DHS contends that "The Predator-B/Guardian UAS combination is unmatched by any other UAS available. To procure an alternative system...or support services...would detrimentally impact national security," most notably due to "decreased interdictions of contraband (e.g., illegal narcotics, undocumented immigrants)."

Furthermore, CBP claimed, "The GA-ASI MQ-9 UAS provides the best value to OAM's document-

ed and approved operational requirements and programmatic constraints. With 38% of planned systems on-online, MQ-9 operations are mature, well-understood, and a critical component of DHS's daily Homeland Security campaign."

When asked by this author for information documenting specific data, comparative studies, cost-benefit evaluations, record of the achievements of the drone program, or threat assessment to support such conclusions, CBP simply responded:

CBP deploys and operates the UAS only after careful examination where the UAS can most responsibly aid in countering threats of our Nation's security. As threats change, CBP adjusts its enforcement posture accordingly and may consider moving the location of assets.¹⁸

II. MORE DRONE BOOSTERISM THAN OVERSIGHT IN CONGRESS

The Pentagon, military, intelligence agencies and military contractors are longtime proponents of UAVs for intelligence, surveillance and reconnaissance (ISR) missions. Following President Bush's declaration of a "global war on terrorism," the White House became directly involved in expanding drone deployment in foreign wars – especially in directing drone strikes.

The most unabashed advocates of drone proliferation, however, are in Congress. They claim drones can solve many of America's most pressing problems – from eliminating terrorists to keeping the homeland safe from unwanted immigrants. However, there has been little congressional oversight of drone deployments, both at home and abroad. Since the post-9/11 congressional interest in drone issues – budgets, role in national airspace, overseas sales, border deployment and UAVs by law enforcement agencies – drone boosterism in Congress has been devoid of any incipient oversight or governance role. Drones made an appearance in the Senate in the first foray to implement immigration reform, when on January 28, 2013 a bipartisan group of senators

argued their proposal legislation would "increase the number of unmanned aerial vehicles and surveillance equipment...."¹⁹

Drone promotion by U.S. representatives and senators in Congress pops up in what at first may seem the unlikeliest of places. Annually, House members join with UAS manufacturers to fill the foyer and front rooms of the Rayburn House Office Building with displays of the latest drones – an industry show introduced in glowing speeches by highly influential House leaders, notably Buck McKeon, the Southern California Republican who chairs the House Armed Service Committee and co-chairs the Congressional Unmanned Systems Caucus (CUSC).

Advances in communications, aviation and surveillance technology have all accelerated the coming of UAVs to the home front. Yet drones are not solely about technological advances. Money flows and political influence also factor in.

Congressional Caucus on Unmanned Systems

At the forefront of the money/politics nexus is the Congressional Caucus on Unmanned Systems (CCUS). Four years ago, the CCUS (then known as the House Unmanned Aerial Vehicle Caucus) was formed by a small group of congressional representatives – mainly Republicans and mostly hailing from districts with drone industries or bases.

By late 2012, the House caucus had 60 members and had changed its name to encompass all unmanned systems – whether aerial, marine or ground-based.²⁰ This bipartisan caucus, together with its allies in the drone industry, has been promoting UAV use at home and abroad through drone fairs on Capitol Hill, new legislation and drone-favored budgets.

CCUS aims to "educate members of Congress and the public on the strategic, tactical, and scientific value of unmanned systems; actively support further development and acquisition of more systems, and to more effectively engage the civilian aviation community on unmanned system use and safety."²¹

In late 2012, the caucus comprised a collection of border hawks, immigration hardliners and leading congressional voices for the military contracting industry. The two caucus co-chairs, Howard “Buck” McKeon, R-California, and Henry Cuellar, D-Texas, are well positioned to accelerate drone proliferation. McKeon, whose southern California district includes major drone production facilities, notably General Atomics, is the caucus founder and chair of the House Armed Services Committee. Cuellar, who represents the Texas border district of Laredo, is the ranking member (and former chairman) of the House Subcommittee on Border and Maritime Security.

Other caucus members include Brian Bilbray (R-Calif.), who heads the House Immigration Reform Caucus; Candice Miller (R-Minn.), who heads the Homeland Security subcommittee that reviews the air and marine operations of DHS; Joe Wilson (R-SC); Jerry Lewis (R-Calif.); Dana Rohrabacher (R-Calif.); Loretta Sanchez (D-Calif.); and Duncan Hunter (R-Calif.). Eight caucus members were also members of the powerful House Appropriations Committee in the 112th Congress.

The caucus and its leading members (along with drone proponents in the Senate) have played key roles in drone proliferation at home and abroad through channeling earmarks to Predator manufacturer General Atomics, prodding the Department of Homeland Security to establish a major drone program, adding amendments to authorization bills for the Federal Aviation Administration and Department of Defense to ensure the more rapid integration of UAVs into the national airspace, and increasing annual DOD and DHS budgets for drone R&D and procurements. To accelerate drone acquisitions and deployment at home, Congress has an illustrative track record of legislative measures (*see accompanying box*).

Congressional support for the development and procurement of Predators dates back to 1996, and is reflected in the defense and intelligence authorization acts. An Air Force-sponsored study of the Predator’s rise charted the increases mandated by the House Armed Service and the House Intelligence committees over the Preda-

tor budget requests made by the Air Force in its budgets requests. Between 1996 and 2006 (ending date of study), “Congress has recommended an increase, over and above USAF requests, in the Predator budget for nearly 10 years in a row. This has resulted in a sum total increase of over a half a billion dollars over the years.”²²

Association of Unmanned Vehicle Systems

CCUS cosponsors the annual drone fete with the Association of Unmanned Vehicle Systems International (AUVSI), an industry group that brings together the leading drone manufacturers and universities with UAV research projects. AUVSI represents the interests in the expansion of unmanned systems expressed by many of the estimated 100 U.S. companies and academic institutions involved in developing and deploying the some 300 of the currently existing UAV models.²³

The drone association has a \$7.5-million annual operating budget, including \$2 million a year for conferences and trade shows to encourage government agencies and companies to use unmanned aircraft.²⁴

AUVSI also has its own congressional advocacy committee that is closely linked to the caucus. The keynote speaker at the drone association’s annual conference in early 2012 was Representative McKeon. The congressman was also the featured speaker at AUVSI’s AIR Day 2011, in recognition, says AUVSI’s president, that Congressman McKeon “has been one of the biggest supporters of the unmanned systems community.”

The close relationship between the congressional drone caucus and AUVSI was reflected in a similar relationship between CBP/OAM and AUVSI. Tom Faller, the CBP official who directed the UAV program at OAM, joined the AUVSI 23-member board-of-directors in August 2011, a month before the association hosted a technology fair in the foyer of the Rayburn House Office Building. OAM participated in the fair. Faller resigned from the unpaid position on Nov. 23, 2011 after the *Los Angeles Times* queried DHS about Faller’s

FIGURE 1**Buck McKeon, Campaign Contributions (2012 cycle)****Top Contributors**

Lockheed Martin	\$65,750
General Dynamics	\$60,000
Northrup Grumman	\$50,500
General Atomics	\$38,800
Boeing	\$31,750

Source: OpenSecrets.org (includes corporate PACs and company officers, employees, and family members)

FIGURE 2**Frank W. Pace, President of General Atomics Aeronautical Systems Campaign Contributions (2012 cycle)****Top Individual Recipients**

Buck McKeon (R)	\$4,000
Jerry Lewis (R)	\$1,000

Source: OpenSecrets.org

U.S. government drone purchases – not counting contracts for an array of related UAV services and “payloads” – rose from \$588 million to \$1.3 billion over the past five years.²⁷ The FY2013 DOD budget includes \$5.8 billion for UAVs, which does not include drone spending by the intelligence community, DHS or other federal entities. The Pentagon says that its “high-priority” commitment to expenditures for drone defense and warfare has resulted in “strong funding for unmanned aerial vehicles that enhance intelligence, surveillance, and reconnaissance capabilities.”²⁹

While the relationship between increasing drone contracts and the increasing campaign contributions received by drone caucus members can only be speculated, caucus members are favored recipients of contributions by AUVSI members. In the 2010 and 2012 election cycles, political action committees associated with companies that produce drones donated more than \$2.4 million to members of the congressional drone caucus.³⁰

unpaid position in the industry association. Fallor is currently subject of a DHS internal ethics-violation investigation.²⁵

Contracts, contributions, earmarks and favors

Once a relatively insignificant part of the military-industrial complex, the UAV development and manufacturing sector is currently expanding faster than any other component of military contracting. Drone orders from various federal departments and agencies are rolling in to AUVSI corporate members, including such leading military contractors as General Atomics, Lockheed Martin and Northrup Grumman.²⁶ (Unlike most major military contractors, General Atomics is not a corporation but a privately held firm, whose two major figures are Linden and Neal Blue, both of whom have high security clearances)

The leading recipient was McKeon, with Representative Silvestre Reyes, the influential Democrat from El Paso (who lost his seat in the 2012 election), coming in a close second.³¹ General Atomics counted among McKeon’s top five contributors in the last election. (See *Figure 1*) Frank W. Pace, the director of General Atomics Aeronautical Systems, contributed to two candidates – Buck McKeon and Jerry Lewis – during the 2012 electoral campaign. (See *Figure 2*)

Who were the top recipients of the General Atomics campaign contributions in the 2012 cycle? Four of the top five recipients were not surprising – Buck McKeon, Jerry Lewis, Duncan Hunter and Brian Bilbray – given their record of support for UAVs, and their position among the most influential drone caucus members. (See *Figure 3*)

The relationship that has been consolidating between General Atom-ics and the U.S. Air Force since the early 1990s has been mediated and facilitated in Congress by influential congressional representatives, led by southern Californian Republican Rep. Jerry Lewis, a member of the House Appropriations Defense Committee and vice-chairman of the House Per-manent Select Committee on Intel-ligence.

Lewis, a favored recipient of General Atomics campaign contributions, used his appropriations influence to ensure that the Air Force gained full control of the UAV program by 1998. Lewis, a prominent member of the “Drone Cau-cus,” has received at least \$10,000 every two years in campaign contribu-tions from General Atomics’ political action committee – \$80,000 since 1998, according to OpenSecrets.org. During the 2012 campaign cycle, Gen-eral Atomics was the congressman’s top campaign donor.³²

The top ranking recipient of General Atomics’ campaign contributions is not a CUSC member. Senator Diane Feinstein’s (D-Calif.) contributions from General Atomics easily placed her at the top of the list. Feinstein, who chairs the powerful Senate Intelligence Committee, was also favored in campaign contributions by Linden Blue, the president of General Atomics. (See *Figure 4*)

Senator Feinstein has been a highly consistent supporter of the intelligence community and military budgets. Her failure to oppose the clan-destine drone strikes ordered by the White House and CIA have sparked widespread criticism by those who argue the strikes are unconstitutional, illegal under international law and counterproduc-tive as a counterterrorism tactic.³³

In 2012, General Atomics was Feinstein’s third largest campaign contributor, while other lead-

FIGURE 3
General Atomics, Campaign Contributions (2012 cycle)

<u>Top Individual Recipients</u>	
Diane Feinstein (D)	\$54,750
Buck McKeon (R)	\$38,800
Jerry Lewis (R)	\$22,400
Duncan Hunter (R)	\$16,450
Brian Bilbray (R)	\$13,250

Source: OpenSecrets.org

FIGURE 4
Linden Blue, President of General Atomics Campaign Contributions (2012 cycle)

<u>Top Individual Recipients</u>	
Buck, McKeon	\$7,100
Duncan Hunter	\$3,950
Diane Feinstein	\$3,500
Mitt Romney	\$2,450
Jerry Lewis	\$1,000

Source: OpenSecrets.org

ing contributors were the military contractors General Dynamics (from which General Atomics emerged), BAE Systems and Northrup Grum-man.³⁴ Feinstein’s connections to General Atom-ics extend beyond being top recipient of their campaign contributions. Rachel Miller, a former (2003-2007) legislative assistant for Feinstein, has served as a paid lobbyist for General Atom-ics, both working directly for the firm (in 2011) and as a General Atomics lobbyist employed by Capitol Solutions (2009 - present), one of the leading lobbying firms contracted by General Atomics.³⁵

And did you know that Linden Blue plans to marry Retired Rear Adm. Ronne Froman? Few others knew about the engagement of this high-society San Diego couple until Senator Feinstein

announced the planned marriage at a mid-November 2012 meeting of the downtown San Diego business community – news that quickly appeared in the Society pages of the *San Diego Union-Tribune*. There has been no explanation offered why Feinstein broke this high-society news, but the announcement certainly did point to the senator's likely personal connections to Blue and Froman (who was hired by General Atomics as senior vice-president in December 2007 and has since left the firm).³⁶

Campaign contributions and personal connections create goodwill and facilitate contracts. General Atomics also counts on the results produced by a steady stream of lobbying dollars – which have risen dramatically since 2003, and been averaging \$2.5 million annually since 2005. In 2012, General Atomics spent \$2,470,000 lobbying Congress.³⁷

Congressional earmarks were critical to the rise of the Predator, both its earlier unarmed version as well as the later “Hunter-Killer.” The late senator Daniel K. Inouye, the Hawaii Democrat who chaired the Senate Appropriations Committee, told the *New York Times* that if the House ban on commercial earmarks that was introduced in 2010 had been in effect earlier, “we would not have the Predator today.” Tens of millions of dollars in congressional earmarks in the 1990s went to General Atomics and other military contractors for the early development of what became the Predator program, reported the *New York Times*.³⁸ Inouye was a source of a number of these multimillion earmarks for General Atomics, whose large campaign contributions to the influential Hawaii senator from 1998 to 2012 (\$5000 in this last campaign) could be regarded as thank-you notes since Inouye faced insignificant political opposition.

Besides campaign contributions, General Atomics routinely hands out favors to congressional representatives thought likely to support drone proliferation. A 2006 report by the Center for Public Integrity identified Jerry Lewis as one of two congressional members and more than five dozen congressional staffers who traveled over-

seas courtesy of General Atomics. The center's report, *The ‘Top Gun’ of Travel*, observed this “little-known California defense contractor [has] far outspent its industry competitors on travel for more than five years — and in 2005 landed promises of billions of dollars in federal business.” Most of this business was in the form of drone development and procurement by the Pentagon and DHS.

Questioned about this pattern of corporate-sponsored trips, Thomas Cassidy, founder of General Atomics Aeronautical Systems, said, “[It's] useful and very helpful, in fact, when you go down and talk to the government officials to have congressional people go along and discuss the capabilities of [the plane] with them,” A follow-up investigation by the *San Diego Union-Tribune* reported, “Most of that was spent on overseas travel related to the unmanned Predator spy plane made by General Atomics Aeronautical Systems, an affiliated company.”³⁹

Looking desperately for oversight

In practice, there's more boosterism than effective oversight in the House Homeland Security Committee and its Subcommittee on Border and Maritime Security, which oversees DHS's rush to deploy drones to keep the homeland secure. The same holds true for most of the more than one hundred other congressional committees that purportedly oversee the DHS and its budget.⁴⁰ Since DHS's creation, Congress has routinely approved annual and supplementary budgets for border security that have been higher than those requested by the president and DHS.

CCUS member and chair of the House Border and Maritime Security subcommittee, Representative Candice Miller, R-Michigan, is effusive and unconditional in her support of drones. Miller described her personal conviction that drones are the answer to border insecurity at the July 15, 2010 subcommittee hearing on UAVs.⁴¹

“You know, my husband was a fighter pilot in Vietnam theater, so—from another generation, but I told him, I said, ‘Dear, the glory days of the fighter jocks are over.’”

LEGISLATIVE MANDATES FOR DRONE PROLIFERATION

Another crucial part in the congressional role in loosely regulated drone proliferation is the policy framework created by Congress in budget bills, authorizations and special legislation. Looking back to 2003, such legislative boosters for drone proliferation engineered by congressional representatives close to the drone industry include these examples:

- A congressional amendment to the FY2003 DOD Authorization Act required the president to issue a report “on the use of unmanned aerial vehicles for the support of homeland security missions.”
- The Intelligence Reform and Terrorism Prevention Act of 2004 mandated that the homeland security secretary “shall design the pilot program” that would examine the “use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.”
- House and Senate members in northern border states included language in the Intelligence Reform and Terrorism Prevention Act of 2004 requesting DHS test the feasibility of using unmanned aircraft to patrol the northern border of the United States.
- The conference report for the FY2007 DHS Appropriations Act urged DHS to work with the FAA to implement a pilot program for the use of UAVs for northern border surveillance.
- The FY2008 Consolidated Appropriations Act directed DHS to explore the use of UAVs for surveillance missions over water in addition to the border, appropriating \$15 million for the Guardian that General Atomics was developing for CBP.
- The joint DHS conference report to the FY2008 Act directed DHS to work with other federal agencies, including the FAA, to “evaluate the appropriateness of an FAA exemption for small scale” UAV technology
- Duncan Hunter, a prominent Republican member of the CUSI, sponsored an amendment to the National Department of Defense Authorization Act of 2009 that authorized the creation of an interagency UAS Executive Committee under Pentagon sponsorship to increase drone access to national airspace.
- At the insistence of the drone caucus, the House held up the approval of the FAA Reauthorization Act of 2012 until the FAA agreed to the inclusion of an amendment that required it to open national airspace to private sector and nonmilitary UAVs by September 2015.

Sources: Drawn from Chad C. Haddal and Jeremiah Gertler, Homeland Security: *Unmanned Aerial Vehicles and Border Surveillance*, Congressional Research Service, July 8, 2010; According to the DOD, the Hunter amendment “recommended that the DOD and the FAA form an Executive Committee to act as a focal point for resolution of issues on matters of policy and procedures relating to UAS access to the National Airspace System (NAS). The sense of Congress was that progress has been lagging in the integration of UAS into the NAS for operational training, operational support to the Combatant Commanders, and support to domestic authorities in emergencies and natural disasters.” *Final Report to Congress on Access to National Airspace by Unmanned Aerial Systems*, Undersecretary of Defense (Technology, Acquisition and Logistics), October 2010, at: <http://www.acq.osd.mil/psa/docs/report-to-congress-ana-for-uas.pdf>

“The UAVs, the Unmanned Aerial Vehicles are coming,” continued Miller, “and now you see our military sitting in a cubicle sometimes in Nevada, drinking a Starbucks, running these things in theater and being incredibly, incredibly successful.”

The uncritical drone boosterism in Congress was underscored in a *Washington Post* article on the use of drones for border security. In his trips to testify on Capitol Hill, Kostelnik said he had never been challenged in Congress about the appropriate use of homeland security drones. “Instead, the question is: ‘Why can’t we have more of them in my district?’” remarked the OAM chief.⁴²

Since 2004, the DHS’s UAV program has drawn mounting concern and criticism from the government’s own oversight and research agencies, including the Congressional Research Service, the Government Accountability Office and the DHS’s own Office of Inspector General.⁴³ These government entities have repeatedly raised questions about the cost-efficiency, strategic focus and performance of the homeland security drones. Yet, rather than subjecting DHS officials to sharp questioning, the congressional committees overseeing homeland security and border security operations have, for the most part, readily and often enthusiastically accepted the validity of undocumented assertions by testifying CBP officials. The House Subcommittee on Border and Maritime Security has been especially notorious for its lack of critical oversight.

As part of the budgetary and oversight process, the House and Senate committees that oversee DHS have not insisted that CBP undertake cost-benefit evaluations, institute performance measures, implement comparative evaluations of its high-tech border security initiatives, or document how its UAV program responds to realistic threat assessments. Instead of providing proper oversight and ensuring that CBP/OAM’s drone program is accountable and transparent, congressional members from both parties seem more intent on boosting drone purchases and drone deployment.

As CBP was about to begin its first drone deployments in 2005 as part of the Operation Safeguard pilot project, the Congressional Research Service observed: “Congress will likely conduct oversight of Operation Safeguard before considering wider implementation of this technology.” Unfortunately, Congress never reviewed the results of Operation Safeguard pilot project, and CBP declined requests by this writer to release the report of this UAV pilot project.⁴⁴

Congress has been delinquent in its oversight duties. In addition to the governmental research and monitoring institutions, it has been mainly the nongovernmental sector – including the American Civil Liberties Union, Electronic Frontier Foundation, Center for Constitutional Rights, and the Center for International Policy – that has alerted the public about the lack of transparency and accountability in the DHS drone program and the absence of responsible governance over the domestic and international proliferation of UAVs.

In September 2012, the Senate formed its own bipartisan drone caucus, the Senate Unmanned Aerial Systems Caucus, co-chaired by Jim Inhofe (R-Okla.) and Joe Manchin (D-W.Va.). “This caucus will help develop and direct responsible policy to best serve the interests of U.S. national defense and emergency response, and work to address any concerns from senators, staff and their constituents,” said Inhofe.⁴⁵

It is still too early to ascertain if the Senate’s drone caucus will follow its counterpart in the House in almost exclusively focusing on promoting drone proliferation at home and abroad. It is expected, however, that caucus members will experience increased flows of campaign contributions from the UAS industry. While Senator Manchin just won his first full-term in the 2012 election, Senator Inhofe has been favored by campaign contributions from military contractors, including General Atomics (\$14,000 in 2012), since he took office in 2007. His top campaign contributor was Koch Industries.

For its part, AUVSI, the drone industry association, gushed in its quickly offered commendation. “I would like to commend Senators Inhofe and Manchin for their leadership and commitment in establishing the caucus, which will enable AUVSI to work with the Senate and stakeholders on the important issues that face the unmanned systems community as the expanded use of the technology transitions to the civil and commercial markets,” said AUVSI President and CEO Michael Toscano. “It is our hope to establish the same open dialogue with the Senate caucus as we have for the past three years with the House Unmanned Systems Caucus,” the AUVSI executive added.⁴⁶

There is rising citizen concern about drones and privacy and civil rights violations. The prospective opening of national airspace to UAVs has sparked a surge of concern among many communities and states – eleven of which are considering legislation in 2013 that would restrict how police and other agencies would deploy drones. But paralleling new concern about the threats posed by drone proliferation is local and state interest in attracting new UAV testing facilities and airbases for the FAA and other federal entities.

FAA and industry projections about the number of UAVs (15,000 by 2020, 30,000 by 2030) that may be using national airspace – the same space used by all commercial and private aircraft – have sparked a surge of new congressional activism, with several new bills introduced by non-drone caucus members in the new Congress that respond to the new fears about drone proliferation. Yet there is no one committee in the House or the Senate that has assumed the responsibility for UAV oversight to lead the way toward creating a foundation of laws and regulations establishing a political framework for UAV use going forward.

At this point, there is no federal agency or congressional committee that is providing oversight over drone proliferation – whether in regard to U.S. drone exports, the expanding drone program of DHS, drone-related privacy concerns, or UAV use by private or public firms and agencies. Gerald Dillingham, top official of the Government

Accountability Office, testified in Congress about this oversight conundrum. When asked which part of the federal government was responsible for regulating drone proliferation in the interest of public safety and civil rights, the GAO director said, “At best, we can say it’s unknown at this point.”⁴⁷

III. CROSSOVER DRONES

Homeland security drones are expanding their range beyond the border, crossing over to local law enforcement agencies, other federal civilian operations, and into national security missions.

BORDER SECURITY TO LOCAL SURVEILLANCE

The rapid advance of drone technology has sparked interest by police and sheriff offices in acquiring drones. The federal government has closely nurtured this new eagerness.

Through grants, training programs and “centers of excellence,” the Departments of Justice and Homeland Security have been collaborating with the drone industry and local law enforcement agencies to introduce unmanned aerial vehicles to the homeland.

One example is DHS’s Urban Areas Security Initiative (UASI), a Federal Emergency Management Agency (FEMA) program established to assist communities with counterterrorism projects that provides grants to enable police and sheriffs departments to launch their own drone programs.

In 2011, a DHS UASI grant of \$258,000 enabled the Montgomery County Sheriffs Office in Texas to purchase a ShadowHawk drone from Vanguard Defense Industries. DHS UASI grants also allowed the city of Arlington, Texas to buy two small drones.⁴⁸ Miami also counted on DHS funding to purchase its UAV.

According to DHS, UASI “provides funding to address the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas, and assists them in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover

from acts of terrorism.”⁴⁹ However, in the UASI project proposals there is little or no mention of terrorism or counterterrorism. Instead, local police forces want drones to bolster their surveillance capabilities and as an adjunct to their SWAT teams and narc squads.

DHS is not the only federal department promoting drone deployment in the homeland. Over the past four decades, the Department of Justice’s criminal-justice assistance grants have played a central role in shaping the priorities and operations of state and local law enforcement.⁵⁰

Through its National Institute of Justice, the Department of Justice (DOJ) has been working closely with industry and local law enforcement to “develop and evaluate low-cost unmanned aircraft systems.”⁵¹ In 2011, National Institute of Justice grants went to such large military contractors and drone manufacturers as Lockheed Martin, ManTech and L-3 Systems to operate DOJ-sponsored “centers of excellence” devoted to the use of technology by local law enforcement for surveillance, communications, biometrics and sensors.⁵³

In an October 4, 2012 presentation to the National Defense Industrial Association, OAM chief Kostelnik explained that the CBP drones were not limited to border control duties. The OAM was, he said, the “leading edge of deployment of UAS in the national airspace.” This deployment wasn’t limited to what are commonly understood homeland security missions but extended to “rapid contingency supports” for “Federal/State/Local missions.” According to CBP:

OAM provides investigative air and marine support to Immigration and Customs Enforcement, as well as other federal, state, local, and international law enforcement agencies.⁵³

Incidents involving CBP drones in local law enforcement operations have surfaced in media reports, but CBP has thus far not released a record of its support for local and state police, despite repeated requests by media and research organizations.

DHS and CBP/OAM in particular have failed to define the legal and constitutional limits of its drone operations. Rather than following strict guidelines about the scope of its mission and the range of homeland security drones, Kostelnik argued before the association of military contractors that “CBP operations [are] shaping the UAS policy debate” in the United States. According to Kostelnik, the CBP’s drones are “on the leading edge in homeland security.” This cutting edge role of the CBP/OAM drones not only extends to local and state operations, including support for local law enforcement, but also to national security. “[The] CBP UAS deployment vision strengthens the National Security Response Capability.”

BORDER SECURITY TO NATIONAL SECURITY

Most of the concern about the domestic deployment of drones by DHS has focused on the crossover to law-enforcement missions that threaten privacy and civil rights – and without more regulations in place will accelerate the transition to what critics call a “surveillance society.” Also worth public attention and congressional review is the increasing interface between border drones and national security and military missions.

The prevalence of military jargon used by CBP officials – such as “defense in depth” and “situational awareness” – points to at least a rhetorical overlapping of border control and military strategy. Another sign of the increasing coincidence between CBP/OAM drone program and the military is that the commanders and deputies of OAM are retired military officers. Both Major General Michael Kostelnik and his successor Major General Randolph Alles, retired from U.S. Marines, were highly placed military commanders involved in drone development and procurement. Kostelnik was involved in the development of the Predator by General Atomics since the mid-1990s and was an early proponent of providing Air Force funding to weaponize the Predator. As commander of the Marine Corps Warfighting Laboratory, Alles was a leading proponent of having each military branch work with military contractors to develop their own drone breeds, including near replicas of the

PREDATORS JOIN AIR NATIONAL GUARD IN MANY STATES

This expansive vision for DHS drones – linking of border security, homeland security, public safety and national security – is paralleled by the rapid integration of Predator drones into the state-level Air National Guard units. Testifying in Congress in 2006, Thomas Cassidy, founder and executive director of General Atomics Aeronautical Systems, briefed senators on the range of Predator deployments – from overseas warfighting missions (involving 70 General Atomics contract pilots and crew) to border security missions to the rapid integration of Predators into the state-based Air National Guard units.

According to Cassidy, “The U.S. Air Force is standing up 15 new Air National Guard Predator and Predator B squadrons throughout the United States. These aircraft must fly where they are needed, which may include border protection missions. But they will be operating in probably 12 different states.”⁵⁴

The procurement of Predators by National Guard units since 2005 occurred with no public debate or congressional discussion – and no media coverage. Unlike the Air Force reserve units, the Air Force guard units are operational mostly within the United States in response to orders by state governors and occasionally with direct Pentagon support for domestic missions. This integration of Predator drones into Air National Guard units across the country has not been accompanied by the issuance of enforceable guidelines and restrictions to protect the privacy and civil rights of U.S. residents whose activities are recorded in Predator video streams.

According to the National Guard Bureau, the Air Guard currently includes seven states with UAV units, including California, North Dakota, Ohio, Texas, Nevada and Arizona, with an eighth state in the process of including a drone unit. Budget cuts at DOD and by state governments have resulted in the closure and shrinking of many state-based Air Guard units. However, an increasing number of the Air National Guard units (as distinct from Air Force reserves) that remain active are downsizing their fighter planes and adding UAV units, mainly Predator drones. As manned aircraft age and retire, the Air Guard units with UAVs could soon double to 15 or 16, according to National Guard officials, especially as Predators and other UAVs are increasingly brought home from warfighting missions abroad.⁵⁵

Predator manufactured for the Army by General Atomics.⁵⁷

In promoting – and justifying – the DHS drone program, Kostelnik routinely alluded to the national security potential of drones slated for border security duty. On several occasions Kostelnik pointed to the seamless interoperability with DOD UAV forces. At a moment’s notice, Kostelnik said that OAM could be “CHOP’ed” – meaning a Change in Operational Command from DHS to DOD.⁵⁸

DHS has not released operational data about CBP/OAM drone operations. Therefore, the extent of the participation of DHS drones in domes-

tic and international operations is unknown. But statements by CBP officials and media reports from the Caribbean point to a rapidly expanding participation of DHS Guardian UAVs in drug-interdiction and other unspecified operations as far south as Panama. CBP states that OAM “routinely provides air and marine support to other federal, state, and local law enforcement agencies” and “works with the U.S. military in joint international anti-smuggling operations and in support of National Security Special Events [such as the Olympics].”

According to Kostelnik, CBP planned a “Spring 2011 deployment of the Guardian to a Central

American country in association with Joint Inter-agency Task Force South (JIATF-South) based at the naval station in Key West, Florida.⁵⁹ JIATF-South is a subordinate command to the United States Southern Command (USSOUTHCOM), whose geographical purview includes the Caribbean, Central America and South America. In mid-2012, CBP/OAM participated in a JIATF-South collaborative venture called “Operation Caribbean Focus” that involved flight over the Caribbean Sea and nations in the region – with the Dominican Republic acting as the regional host for the Guardian operations, which CBP/OAM considers a “prototype for future transit zone UAS deployments.”

CBP says that OAM drones have not been deployed within Mexico, but notes that “OAM works in collaboration with the Government of Mexico in addressing border security issues,” without specifying the form and objectives of this collaboration.⁶⁰ As part of the U.S. global drug war and as an extension of border security, unarmed drones are also crossing the border into Mexico. The U.S. Northern Command has acknowledged that the U.S. military does fly a \$38-million Global Hawk drone into Mexico to assist the Mexico’s war against the drug cartels.⁶¹

Communities, state legislatures and even some congressional members are proceeding to enact legislation and revise ordinances to decriminalize or legalize the consumption of drugs, especially marijuana, targeted by the federal government’s drug war of more than four decades. At the same time, DHS has been escalating its contributions to the domestic and international drug war – in the name of both homeland security and national security. Drug seizures on the border and drug interdiction over coastal and neighboring waters are certainly the top operative priorities of OAM. Enlisting its Guardian drones in SOUTHCOM’s drug interdiction efforts underscores the increasing emphasis within the entire CBP on counter-narcotic operations.

CBP is a DHS agency that is almost exclusively focused on tactics. While CBP as the umbrella agency and the Office of the Border Patrol and

OAM all have strategic plans, these plans are marked by their rigid military frameworks, their startling absence of serious strategic thinking, and the diffuse distinctions between strategic goals and tactics. As a result of the border security buildup, south-north drug flows (particularly cocaine and more high-value drugs) have shifted back to marine smuggling, mainly through the Caribbean, but also through the Gulf of Mexico and the Pacific.⁶²

Rather than reevaluating drug prohibition and drug control frameworks for border policy, CBP/OAM has rationalized the procurement of more UAVs on the shifts in the geographical arenas of the drug war – albeit couching the tactical changes in the new drug war language of “transnational criminal organizations” and “narcoterrorism.” The overriding framework for CBP/OAM operations is evolving from border security and homeland security to national security, as recent CBP presentations about its Guardian deployments illustrates.

Shortly before retiring after seven years as OAM first chief, Major General Kostelnik told a gathering of military contractors: “CPB’s UAS Deployment Vision strengthens the National Security Response Capability.”⁶³ He may well be right, but the U.S. public and Congress need to know if DHS plans to institute guidelines and limits that regulate the extent of DHS operational collaboration with DOD and the CIA.

IV. NO TRANSPARENCY, NO ACCOUNTABILITY, NO DEFINED LIMITS TO HOMELAND SECURITY DRONE MISSIONS

The UAV program of CBP’s Office of Air and Marine is not top secret – there are no secret ops, no targeted killings, no “signature” strikes against suspected terrorists, no clandestine bases – like the CIA and U.S. military UAV operations overseas.

While the UAV program under DHS isn’t classified, information about the program is scarce – shielded by evasive program officials, the classification of key documents, and the failure of CBP/

OAM to share information about the number, objectives and performance of its UAV operations. DHS has also not been forthcoming about its partnerships and shared missions with local law enforcement, foreign governments and the U.S. military and intelligence sectors.

CBP has kept a tight lid on its drone program. Over the past nine years, CBP has steadily expanded its UAV program without providing any detailed information about the program's strategic plan, performance and total costs. Information about the homeland security drones has been limited, for the most part, to a handful of CBP announcements about new drone purchases and a series of unverifiable CBP statistics about drone-related drug seizures and immigrant arrests.

Testimony in House and Senate hearings about the role of drones in border security by CBP has been restricted, with few exceptions, to undocumented assertions and anecdotes about the achievements of the border drones. CBP has declined to share documents about its drone program with the Center for International Policy and other public-education organizations, asserting, among other reasons, that they are "law-enforcement sensitive" or not in their possession.

These requested documents include the OAM strategic plan (which calls for two dozen drones), the report of the "pilot study" of Predators organized with General Atomics in 2004 that CBP claims proved their value as border security instruments, and a 2010 report to Congress in reference to its UAV program. The three reports cited above were all referenced by DHS's Office of Inspector General in a report published in May 2012.⁶⁴ DHS has also failed to respond favorably to public-records requests by the Electronic Frontier Foundation for "records and logs of CBP drone flights conducted in conjunction with other agencies."⁶⁵

It is unlikely that the CBP/OAM program is involved in the type of drone strikes that have sparked rage, indignation over civil rights violations, and counterattacks by nonstate terrorists. Despite the lack of transparency, it is highly

unlikely that CBP Predators and Guardians have been the tools of "hunter-killer" missions of CIA and military Predators, Hunters and Reapers.

Still, the lack of transparency and accountability that characterizes the homeland security drone program is worrisome – not least because of the commitments of hundreds of millions of dollars to these operations. At least several hundreds of millions of dollars have been spent – based on procurement records – but we don't even know the entire financial commitment to homeland drones because DHS has never provided an accounting of all procurement, maintenance, staffing, data-processing and service contract expenses.

Clearly, CBP needs to be more transparent and accountable. Of the 14 DHS agencies, it receives the largest portion – 21 percent – of the \$59 billion annual DHS budget.⁶⁶ Although other DHS agencies – such as the Federal Emergency Management Agency (FEMA) and U.S. Citizenship and Immigration Services (which process visas and naturalization petitions) – are experiencing budget cuts (8 percent decrease for FEMA), CBP is receiving a 2 percent increase, even as illegal immigration flows have plummeted to historic lows.

Yet, it is more than a budget concern. Shortly before retiring at the end of 2012, Major General Kostelnik asserted that the "Air and Marine UAS Operations Remain on the Leading Edge" – the title of his October presentation of a military contractors association. It's not that the DHS itself has become the leading edge of drone technology. Kostelnik was referring more to the way CBP/OAM is pushing the border security envelope.

Under the new OAM office established under Kostelnik's leadership, these UAS operations have, in Kostelnik's words, done much more than complement other manifestations of the low-tech and high-tech border security buildup. Among other things, the unmanned systems, according to CBP, are:

- "Shaping the UAS policy debate;"

- “Strengthen[ing] the National Security Response Capability;”
- Providing “rapid contingency responses” to federal, state, and local agencies;
- Functioning as the “leading edge deployment of UAS in the national airspace;” and
- Increasing involvement in “Caribbean and foreign deployments.”

With the UAV program, as with other border-security operations (in particular its many high-tech initiatives), CBP has acted as if exempt from the transparency, accountability and performance evaluations that apply to other federal agencies. Much like the military and the CIA, CBP shields itself behind its post-9/11 “security” mission.

Myths and Assertions

In the absence of detailed strategies, planning and performance records, CBP resorts to relying on a series of oft-repeated myths and assertions to justify the drone program. Assertions, anecdotes and military-laced jargon substitute for facts and verifiable statistics.

There are four prevailing myths about homeland security drones:

1. UAVs are “force-multipliers;
2. UAVs protect the homeland from “dangerous people and dangerous goods;”
3. UAVs are effective tools for “securing the border;” and
4. UAVs are cost-efficient.

1. Force Multiplier Myth

CBP repeatedly asserts that drones are “force multipliers” – a claim that is a common denominator in its justifications for its splurge on high-tech programs for border security.

Like most of CBP’s post-9/11 rhetoric to describe border security mission and operations, the term *force-multiplier* is drawn from the military. In this case, it is a DOD phrase signifying a “capability

that, when added to and employed by a combat force, significantly increases the combat potential of that force and thus enhances the probability of successful mission accomplishment.”⁶⁷

Within the CBP lexicon, “force-multipliers” include an array of new border control technologies, including ground-based remote surveillance systems (notably the “virtual fence”), sensors, computerized database systems and UAVs. The so-called “force multipliers,” according to CBP, enable the Border Patrol to deploy fewer agents while maintaining high-levels of border security.

Year after year, DHS argues that increased budgets for high-tech tools to secure the border are cost-efficient because they are force multipliers. Never, however, has Congress or DHS mandated that CBP actually document these force-multiplier claims. The culture of non-transparency and unaccountability may explain this lack of due diligence. Yet, there is some other insidious factor at work. With its multi-billion dollar spending for defective, ineffective and wasteful virtual walls, sensor systems, radiation monitoring portals and UAVs, CBP’s “force-multiplier” assertions have been largely unquestioned because of the common belief – among the public, media and Congress – that high-tech solutions (particularly those drawn from the military and intelligence sectors) increase productivity, decrease manpower needs and perform as stated.

In 2004, the DHS Office of Inspector General took the Border Patrol to task for its failure to back up its repeated claim that its Integrated Surveillance Intelligence System (ISIS) – the first iteration of the “virtual fence” of the Secure Border Initiative Net (SBInet) – did indeed multiply the capability of its existing forces.

According to the Border Patrol, ISIS (launched in 1997 and cancelled after being revealed as being a corporate technological scam in 2003) would integrate the intelligence and images gathered by UAVs. The DHS inspector general indignantly reported that Border Patrol officials repeatedly assured DHS investigators of the validity of the force-multiplying attributes of the remote elec-

tronic surveillance system. But this highly critical report on the scandalous Border Patrol and the contractor manipulations concluded: “[The Office of the Border Patrol] could not provide any quantifiable data to support this claim.”⁶⁸

The 2004 report was alarming in its findings and in its implications about Border Patrol incompetence and agency oversight of contractors and high-tech projects. Ideally, this damning report about the failure of one of the first high-tech border security projects would have served as a precautionary note for congressional oversight committees and DHS monitors.

DHS, together with CBP, Border Patrol and OAM officials, continues to spout the force-multiplier claim for all its high-tech initiatives, especially for the UAV program. However, DHS has irresponsibly allowed CBP to repeat this dubious assertion. It is a myth that persisted through three presidential administrations, with no indicators that the second Obama administration (eager to boost its border security credentials as part of its immigration reform initiative) will insist CBP provide the evidence to back its litany of assertions.

In communication with the author, CBP offered its force-multiplier rationale for the drone program:

The UAS can stay in the air for up to 20 hours at a time – something no other aircraft in the federal inventory can do. In this manner *it is a force multiplier*, providing aerial surveillance support for border agents by investigating sensor activity in remote areas to distinguish between real or perceived threats, allowing the boots on the ground force to best allocate their resources and efforts.

[Furthermore,] *CBP OAM leverages the Predator B and Guardian UAS as a force multiplier* during National Special Security Events and emergency and disaster response efforts, including those of the U.S. Secret Service, Federal Emergency Management Agency, USCG, and other Department of Homeland Security partners. (author’s italicization)⁶⁹

Never has CBP provided even the scantiest of data to support its force-multiplier claim. Quite the opposite, in congressional testimony, OAM’s Kostelnik has undermined the assertion, calling UAVs “manpower-intensive.”

“We are all here talking about unmanned,” OAM chief Kostelnik told the House Border Security Subcommittee on March 15, 2011. “The real issues have nothing to do with the unmanned part. The real issues are all about the manned piece, and this is a manpower-intensive system.”

Based on statements by Kostelnik at congressional hearings, the number of persons needed to carry out a typical UAV surveillance flight ranges from 20 to 50, including, but not limited to, launch and recovery teams, remote pilots, database analysts and sensor readers.

CBP also fails to mention the additional costs of UAVs when boasting about how inexpensive UAV are compared to other aerial assets, such as the P-3 patrol planes. To read and interpret the stream of data from its Predators and Guardians, there are staffing requirements and the costs of communications and intelligence-analysis infrastructure. According to Kostelnik, these include *PED cells* – an acronym for Processing, Exploitation and Dissemination based on geospatial imagery. CPB has established two PED cells – one at the Grand Forks Air Force base in North Dakota and the other at the CBP’s little-known Air and Marine Operations Center (AMOC) in Riverside, California.

At AMOC, CBP personnel and contractors operate what they call the Multi-Intelligence and Archive System or MAAS. When in the air – less than half the time that CBP/OAM projected in procurement proposals – the UAVs flood a stream of data – mostly of vast stretches of desert – into these PED cells and the MAAS system. CBP has provided no information that would help the public and congressional oversight committees evaluate the capacity of CBP/OAM to review, interpret and act on this gush of video and sensor data from the homeland security drones. Nor has Congress ever asked CBP for such an assessment.

Other “manpower” requirements not considered in the CBP’s force-multiplier myth are the costs and military personnel involved at the U.S. military bases that host the Predators and Guardians. But the most obvious flaw in the force-multiplier myth is that the drones cannot, acting solely with the UAV teams, seize the “dangerous people and dangerous goods” that CBP says the drones are hunting.

If indeed UAV surveillance does yield data (and this data is indeed professionally reviewed), then OAM contacts the nearest Border Patrol sector headquarters, which then may or may not send out a collection of air assets (usually helicopters) and ground vehicles to investigate what may or may not be dangerous people and goods. More often, these follow-up investigations find that there have been no illegal border crossings – mostly just movement of area residents, animals, and wind-blown vegetation.

2. “Dangerous People and Goods” Myth

CBP/OAM has been hard put to justify the hundreds of millions of dollars in General Atomics contracts. The drone program, like other CBP border security initiatives, lacks performance standards or a methodology to measure putative improvements in border security.

It is not surprising then that CBP/OAM has resorted to traditional practices – what border scholar Peter Andreas aptly calls “the numbers game.”⁷⁰ For decades, the Border Patrol has used the number of immigrants apprehended and the number of drug seizures (and the weight of these drugs) as evidence of the success of its operations. DHS arrest numbers and drug seizure numbers, writes Andreas, “provides a mechanism to manipulate and distort the evaluation process, obscure and gloss over failure, and rationalize more funding and a continued escalation of drug enforcement.”⁷¹

In order to justify the “success” of the program, the Office of the Border Patrol has, year after year, decade after decade, reported impressively high numbers of drug seizures and apprehensions of illegal border-crossers.

In its Dec. 27, 2011 media release, CBP’s Office of Air and Marine tried its hand at playing the numbers game. However, in doing so, OAM has raised new questions about the integrity of the numbers it cites. Its release asserts:

Since the inception of the UAS program, CBP has flown more than 12,000 UAS hours in support of border security operations and CBP partners in disaster relief and emergency response, including various state governments and the Federal Emergency Management Agency. The efforts of this program has led to the total seizure of approximately 46,600 pounds of illicit drugs and the detention of approximately 7,500 individuals suspected in engaging in illegal activity along the Southwest border.

In a news report generated by the release, the numbers may appear high and as hard evidence that the drones are indeed protecting the homeland. But three problems are inherent in OAM assertions about arrests and seizures precipitated by drone surveillance.

1. UAVs produce unimpressive results when compared with overall Border Patrol apprehensions and drug seizures.
2. The dubious veracity of the UAV data, and the failure of CBP to explain how it produced the numbers and how they can be disaggregated from numbers attributed to other border security operations.
3. The questionable designation of the immigrants apprehended and the drugs seized as being dangerous or threats to the homeland.

The 7,500 number of suspected criminal aliens detained are small potatoes when compared to the Border Patrol’s (not counting ICE or CBP field offices) overall number of detentions between 2005-2011 – 4.1 million immigrants – less than .01 percent.⁷²

To provide some additional perspective to the drug haul attributed to UAV surveillance over sev-

en years – 46,600 pounds of marijuana – CBP on average seizes 3,500 pounds of marijuana every day in Arizona alone – making a marijuana seizure every 1.7 hours.⁷³ The Border Patrol in FY2012 seized 2.3 million pounds of marijuana – again reflecting the comparatively insignificant contribution of purported UAV-related narcotics seizures, which CBP officials acknowledge is virtually all marijuana.⁷⁴

In its 2013 budget summary, DHS attributes UAV operations to the seizure of 7,600 pounds of illegal drugs (largely marijuana) and the apprehension of 467 individuals – the product of 4,400 hours in drone flight time. This constitutes, according to DHS, “the most [annual UAV flight hours] in the program’s history, and 75% more than in 2010.”⁷⁵

Yet another concern with OAM is that CBP is careless in providing its numbers of arrests, seizures and flight hours – often providing contractor numbers and the same numbers for different periods – raising questions about the veracity of the numbers.⁷⁶ It is also unclear whether the number of apprehensions and seizures CBP/OAM does disseminate are entirely attributable to UAV surveillance. CBP and OAM officials have been ambiguous about this.

For example, most agency media releases say that Predator surveillance “has led” to the reported drug seizures and immigrant apprehensions – meaning that they assist in some way in these apprehensions but their surveillance may not have even precipitated the apprehensions. Yet other media releases and CBP statements to congressional oversight committees fudge the role of the drones, saying only that drones “contributed to” or were “involved” in the actions that led to the seizures and arrests.

A December 27, 2011 media release refers to the seizures and arrests during so many drone flight hours – 12,000 hours of drone flight-time since 2005. Yet CBP/OAM has over the past year given the media, Congress and this writer the same arrest and seizure numbers (46,600 pounds of narcotics and 7,500 apprehensions) for varying numbers of reported hours flight-time – for

10,000, 11,500 and mostly recently 12,000 hours of drone air time.⁷⁷

In response to a request by the author to clarify the confusing and ostensibly errant numbers, CBP warned “it would be unfair” to judge the fundamental value of unmanned systems “by only using drug interdiction or border crossing metrics.”

Whether one accepts or rejects the inclusion of marijuana backpackers or immigrants crossing the border illegally as threats to the homeland, the statistics provided by CBP on apprehensions, drug seizures and even drone flight hour must be regarded with a shadow of doubt. For any close observer of the CBP and the Border Patrol, skepticism is the only reasonable reaction to CBP pronouncements about its numbers.

Especially doubtful are CBP drug stats, as a 2011 report by the DHS Inspector General made abundantly clear.⁷⁸ In 1990 GAO placed CBP (formerly U.S. Customs) on its “high-risk” list for its lack of accountability in recording drug seizures. CBP instituted new procedures concerning drug seizures in 2003, but never evaluated the effectiveness of those new processes. When the Inspector General’s Office did investigate the efficacy of the new procedures, it found a shocking lack of compliance by the CBP in following the “controls for receipting and recording, transporting, storing, and disposing of drug seizures.”

Standard CBP rhetoric includes assertions that its border security operations are “risk-based,” meaning they are focused on the gravest risks and threats to border security. Yet, as even the DHS’s own inspector general indicates, CBP has remained a “high-risk,” at least with respect to its counternarcotic operations.

What about the dangerous people and goods that are the targets of UAV surveillance or the stated counterterrorism priority of the CBP/OAM program? CBP routinely asserts that those arrested by its patrols and surveillance are part of “transnational criminal networks.” Yet CBP has not pointed to any minor or major members of the transnational criminal organizations in Mexico or

elsewhere. Nor has DHS reported that the drone operations or any other part of the border security buildup on the southwestern border have resulted in the arrests of foreign terrorists attempting to enter the U.S. illegally.

3. Border Drone Effectiveness Myth

Over the past few years, various governmental agencies, including the Congressional Research Service, Government Accountability Office and DHS's own Office of Inspector General, have started to piece together a picture of utter inefficiency, absolute lack of budgetary and strategic planning, a pattern of technical failures, and CBP resistance to undertaking cost-benefit evaluations and comparative studies.

The most salient issues regarding UAV effectiveness are outlined below, relying largely on the observations and conclusions from GAO, CRS and OIG reports since 2004, in addition to statements from congressional hearings.

Weather as a UAV Risk Factor

- The CRS in 2004 noted the lack of functionality of drones in "inclement weather," such as during periods of cloudy conditions and high humidity.
- The drone program has been a victim of nature. The Predators are most often deployed to investigate alarms from ground sensors that signal movement. But as OAM's Kostelnik explained at the July 15, 2010 Border and Marine Security subcommittee hearing: "At a standard 15 sensor activations, 12 of them might just be the wind. Two might be animals. One might be a group of migrants, and one might be a big group carrying drugs." Kostelnik has acknowledged "the sensitivity of the Predator B to convective activity [bad weather]." ⁷⁹

Dubious Prioritization of UAV Deployments

- Although CBP is not short on UAVs, it lacks the budget to cover the wide range (albeit not included in CBP cost estimates of the UAV program) of operational, staffing and main-

tenance costs of these drones, forcing the agency to dip into other division budgets to cover UAV expenses – even though these drones are grounded more than half of the projected flight hours. To keep the drones flying even at a minimal level, the GAO in March 2012 alluded to rising tensions within OAM, noting, as one example of prioritization conflicts, that directors of the southwest branch of air operations "were constantly providing personnel for unmanned aircraft systems ... to the point where they could not perform some manned missions due to shortages of personnel." ⁸⁰

- The GAO took a close look at OAM inefficiency, lack of planning and inability to respond to support requests in a March 2012 report, which observed: "OAM could benefit from re-assessing the mix and placement of its assets and personnel, using performance results to inform these decisions. Such a reassessment could help provide OAM with reasonable assurance that it is most effectively allocating scarce resources and aligning them to fulfill mission needs and related threats," the GAO report recommended. It called for the DHS to exercise more oversight over CBP/OAM to ensure that it coordinates its operations better. ⁸¹

Strategic Focus

One of the mysteries of the program over the past eight years is how CBP has been able to reconcile its assertions that the UAV program is strategically focused on counterterrorism and securing the border with its seemingly haphazard deployment of drones.

- In 2007 OAM stated its plan for a fleet of 24 UAVs by FY2016, yet CBP/OAM has failed to articulate either in its various strategic plans or in its statements to Congress how exactly UAVs fit into a border security strategy in ways that can't be performed more efficiently and effectively by other tactical deployments of agents and manned aircraft. This was underscored in a GAO report in which "DOD officials expressed concern about the absence

of a comprehensive strategy [for UAV deployments] for southwest border security and about the resulting challenges to identify and plan a DOD role.”⁸²

- “The benefit of increased coverage [by UAVs] may not be so significant when terrorists, like the September 11 hijackers, can and have entered through more easily accessible official ports of entry,” observed the CRS in 2004.
- In congressional testimony, CBP and OAM officials appear more apt and eager to boast of the non-border missions of its Predators. They boast about taking Predators and Guardians to national and international air shows, taking them away from border duty for monitoring natural emergencies, making them available for “foreign deployment,” assisting localities and states in “rapid contingency” operations,” deploying them in drug-interdiction missions in the Caribbean and Gulf of Mexico, and for environmental monitoring with the U.S. Air Force and other entities.
- On the one hand, CBP routinely insists that UAVs perform a critical role in securing the border against an array of threats. On the other hand, however, CBP has increasingly described the value of its drones in terms of their use by other federal agencies such as the Federal Emergency Management Agency, NASA, BLM, Texas Rangers, DOD and the National Forest Service, as well as assisting local law enforcement agencies.
- The unfocused and ostensibly aimless character of the CBP/OAM drone program was underscored by OAM’s chief Kostelnik’s concluding statements before the March 15,

FIGURE 5

How Border Drones Have Secured the Homeland, & What It Has Cost Us

Drug Seizures and Apprehensions (2005-2011)

- 46,600 pounds of marijuana.
- 4,500 immigrants and other illegal border-crossers.
- CBP UAV Operations.
- 12,000 flight hours (2005-2011).
- 7 Predator and 3 Guardian UAVs (currently operating).
- 24 UAVs Planned for CBP Fleet.

Costs of Homeland Security Drones

- \$332 million in procurement and operational costs (conservatively estimated).
- \$3500 per UAV flight hour – \$4.2 million for 12,000 hours.
- Not included are costs to Border Patrol and U.S. military (which hosts CBP drones at its bases).
- Costs Measured per Apprehension and per Marijuana Bust (2005-2011).
- \$44,800 per immigrant apprehension.
- \$7,214 per pound of marijuana seized.

Terrorists and Top Crime Figures Arrested

- No terrorists.
- No members of the middle or top echelons of Transnational Criminal Organizations or drug cartels.

Transnational Criminal Organizations or drug cartels.

- No weapons of mass destruction seized.

2011 hearing of the homeland security subcommittee: “So not only are they ongoing force multipliers for the agents and troops on the ground, but they are unique capabilities in unique circumstances.”⁸³

CBP Capacity to Direct and Manage UAVs

- The CRS in 2004 presciently raised several questions about CBP capacity to use UAVs effectively: “How well [can] CBP respond to UAV imagery? Are there enough Border Patrol resources to investigate all UAV-identified targets? Would the lack of human resources

render high technology like UAVs less effective?” Most importantly: “If implemented, would UAVs simply be used to monitor the border for illicit activity, or would they be utilized in a more sophisticated manner?” (CBP and OAM have failed to satisfactorily answer these questions.)

High Accident Rates and High Maintenance Expenditures

- In July 2010, CRS noted, “There are concerns regarding the high accident rates of UAVs, which have historically been multiple times higher than that of manned aircraft.” Also, according to the CBP Inspector General, the costs of operating a UAV are more than double the costs of operating a manned aircraft.⁸⁴

DHS Inspector General Takes UAV Program to Task

Although the drone program started in 2004, the first hard data provided by DHS itself about its drone program came in May 2012 in the form of a brief report by the DHS Office of Inspector General.⁸⁵ The OIG report did not examine the accomplishments or the worth of the UAV program. The limited focus of the report was even more basic, namely, CBP’s failure to have a budgetary plan for its UAVs. According to the OIG report, CBP has kept acquiring new drones even though it doesn’t have the staff or infrastructure to support its expanding fleet of Predator and Guardian drones.

The OIG report’s conclusions point to an utter lack of strategic, operational and financial planning by CBP. According to the DHS report, “CBP had not adequately planned resources needed to support its current unmanned aircraft inventory.” Specifically, the OIG found that CBP had not initiated the planning processes to ensure “resources needed to support its current aircraft inventory.”

Although CBP’s annual budget and the supplementary authorizations for border security did cover the basic purchase price of new UAVs, the agency kept purchasing Predator and later Guardian drones even though OAM did not have the personnel, budget or infrastructure to operate

the UAVs. According to the department’s inspector general, CBP lacked even the most elementary plan to “ensure that required equipment, such as ground control stations and ground support equipment, is provided.”

OIG described an absolute absence of a professional planning process at OAM that would “determine how mission requests are prioritized.” OIG was not able to find any evidence of a CBP/OAM strategy that guided drone deployments.

According to OIG, CBP has “procured unmanned aircraft before implementing adequate plans to: Achieve the desired level of operation; Acquire sufficient funding to provide necessary operations, maintenance, and equipment; and Coordinate and support stakeholder needs.”

Concerning the actual operations of the border security UAVs, OIG found that:

- Drone usage fell drastically short of OAM’s own “mission availability threshold” (minimum capability) and its mission availability objective, 37% and 29% objective.
- Because of budget shortfalls for UAV maintenance, CBP in 2010 alone had to transfer \$25 million from other CBP programs to maintain its UAV fleet even at usage level that fell far short of the planned minimum.
- CPB has run its drone program in violation of its own operational standards, which lacks the required “mobile backup ground control stations” at three of the four drone bases.

The OIG observed that despite this history of low usage and the lack of operational budget for its UAV fleet, OAM had ordered three additional drones from General Atomics.

In its understated conclusion, the OIG states that CBP is “at risk of having invested substantial resources in a program that underutilizes resources and limits its ability to achieve OAM mission goals.” Therefore, “CBP needs to improve planning of its unmanned aircraft system program to address its level of operation, program funding,



Source: CBP

One of CBP's Predator UAVs in flight over the borderlands.

and resource requirements, along with stakeholder needs." A high CBP official, who declined to be quoted by name and position, told this writer that CBP had already addressed and resolved most of the issues raised by the OIG, "although we didn't agree with some of them." He said that the UAV was "fully operational," with 5,700 UAV flight hours for nine UAVs in 2012. According to the OIG, "seven UASs should support 10,662 hours per year to meet the minimum capability." Asked about the effectiveness of UAVs, he said that Predators and Guardians "are tools like any other tools," but with the special advantage of giving CBP improved "situational awareness" and providing "defense-in-depth."⁸⁶

4. Cost-Efficient Myth

Without performance measures and without verifiable numbers relating to costs, accomplishments and operations, any attempt to ascertain the validity of CBP assertions about the cost-benefits and efficiency of its UAVs is less than systematic. Yet even a preliminary assessment of these assertions raises new concerns about the wisdom – measured by costs and purported benefits – of using UAVs for border control and drug control missions.

Reviewing the 2011 numbers of arrests and drug seizures, the border drones seem like less than a cost-efficient option for CBP (accepting the agency's contention that unauthorized immigrants and illegal drugs, especially marijuana, do constitute threats to the homeland).

CBP has not provided a public accounting of the costs of the UAV program, including the cost of each General Atomics drone, the associated

command-and-control and monitoring facilities, the firm's service contracts, GA's contract personnel, OAM maintenance costs, and the per hour flight costs.

A listing of DHS contracts shows \$242 million in procurement contracts with General Atomics from 2004 to 2010 for nine UAVs. Predators cost about \$18.5 million while Guardians cost \$20.5 million. According to the OIG, OAM spent \$55.3 million in maintenance for its UAVs from FY2006 through FY2011. Another \$10 million was appropriated for UAV maintenance during the FY2004-2006 period. In addition, CBP was required to siphon \$25 million from other border security programs to pay for UAV budget shortfalls at OAM. If these figures are correct and represent the entire cost of the UAV program, then homeland drones cost DHS \$332 million. This figure does not include the cost of the Operation Safeguard pilot project or the costs to the U.S. military bases for hosting the homeland security drones. Nor does it include the costs of the chase planes that frequently follow UAV flights to ensure "line of sight" control.

As mentioned above, the UAVs contributed to seizure of 7,600 pounds of marijuana and arrests of 467 individuals, presumably unauthorized immigrants, some of which were backpacking bundles into the U.S. market. At \$3,500 per hour for the 4,400 UAV flight hours, OAM spent \$1,540,000 to make these seizures and arrests – or about \$202 for each pound of marijuana and \$3,297 for each illegal border crosser arrested.

Another calculation of the cost-efficiency of UAV arrests and seizures could be made including the total estimated cost of the program (\$332 million) plus the cost of total UAV flight hours (12,000 hours at \$3,500 an hour, \$4.2 million), totaling \$336.2 million, and then measured against the total number of immigrant arrests (7,500) and pounds of marijuana seized (46,600).

Assuming that the UAVs were solely responsible for the seizures of the marijuana and arrests of

the immigrants, the cost per apprehension in the 2005-2011 period was \$44,800 and the cost per pound of marijuana seized was \$7,214. Unmanned aerial vehicles cannot, of course, make arrests or seizures. In most cases, the arrests and seizures attributed to drones usually involve large teams of Border Patrol agents in variety of trucks, ATVs, horses, planes, and helicopters – the costs of which are not included in these calculations.

A November 2011 report by the GAO on CBP's high-tech border-security programs in Arizona noted that UAVs have "significant infrastructure costs with the highest cost risk." As the initial claims about the potential of Predators for border control have fallen short, CBP has over the past few years increasingly asserted that its fleet of drones are also well matched for an array of other domestic duties, including environmental and weather monitoring. But those claims may also prove to be unfounded. A 2011 federal government report, "Utilization of Unmanned Aircraft Systems for Environmental Monitoring," observed: "UASs are more expensive than we originally planned and a lot more difficult to operate in the NAS [National Air Space]."⁸⁷

In 2011, the nine border drones led to the seizure of marijuana with a purported street value of \$19.6 million. Also in 2011, patrols by fourteen P-3 Orion's, which are mainly deployed over drug transit zones in the Caribbean, led to the seizure of cocaine valued by CBP at \$2.8 billion, according to a *Los Angeles Times* report.⁸⁸ Within OAM, flight hours for the P-3s have been cut to supplement the underfunded UAV operations, thereby increasing tensions within a division already suffering from low morale and inter-agency tensions. Yet, according to DHS, the P-3s surveillance flights have been immensely successful in drug interdictions.

In her FY 2013 budget summary, Secretary Napolitano highlighted the role of the P-3s, noting that they were responsible for 62 percent of JIATF-South's detections, and in 2011 had intercepted 169 smuggling events, led to the seizure of 55 vessels, three drug-carrying semi-

submersible "submarines," and the confiscation of 150,000 pounds of cocaine.

One reason is that the Guardians only have Air-to-Marine surveillance capabilities rather than the Air-to-Air and Air-to-Marine capabilities of the manned P-3s. For these reasons, the P-3s are the preferred interdiction aircraft of the JIATF-South - and, according to DHS, account for three-fifths of its drug (almost exclusively cocaine) interdictions in 2011.

In contrast, the figures attributed to CBP UAVs appear negligible, with even the OAM chief acknowledging that the UAV-associated drug seizures were "not impressive."⁸⁹

A January 2013 report by the Congressional Research Service on unmanned systems observed, "UAS have a higher attrition rate and lower reliability rate than manned aircraft, which means that operation and maintenance costs can be higher." While unmanned, stated the CRS report, "UAVs operate as part of a system, which generally consists of a ground control station, a ground crew, including remote pilots and sensor operators, communication links and often multiple air vehicles" – the last phrase referring to chase planes, which OAM routinely uses to monitor UAV flights.⁹⁰

When asked at the July 15, 2010 subcommittee hearing if the Predators were worth the expense, Kostelnik redirected the question away from actual achievements to the larger threat picture of protecting the homeland against unknown future threats. Kostelnik told the congressional oversight committee:

I think the UAVs in their current deployment are very helpful in terms of the missions we apply it for. I believe we are building a force for a threat and an experience we really haven't seen yet. It is something that is in the future.

V. CONCLUSION

With minimal congressional oversight and lacking even a comprehensive strategy of border control, DHS has unleashed drone proliferation at home, putting the nation's civil liberties, privacy and constitutional guarantees at serious risk, and wasting hundreds of millions of dollars in sole-source contracts for ineffective and inefficient UAVs.⁹¹

Drone technology and the proliferation of drones are advancing far ahead of the processes of democratic governance, of the public debate about the ethics of drone warfare and drone surveillance, and of international control regimes. Although it will take some serious catch-up work, the nation's institutions of governance – at the local, national and international levels – urgently need to begin formulating the norms, regulations and restrictions for drone operations.

To ensure that civil liberties and privacy are not violated by the increased presence of drones and to ensure that the U.S. military and intelligence apparatus do not extend their already considerable presence in domestic affairs, Congress and the executive branch need to rise above their roles as drone contractors and drone boosters. They must assume their proper roles as regulators, overseers of the common welfare, and protectors of our constitutional and civil rights.

The U.S. government, and particularly DHS, also needs to take more seriously its responsibility to not waste public revenues on ineffective programs. In the case of the UAV program and other high-tech ventures of CBP, the inflated and alarmist rhetoric on homeland security has covered up an endemic pattern of mismanagement.

Without a better match between mission and programming at DHS, its surveillance – whether by agents with binoculars, cameras of towers or aerostats, or drones – will remain unfocused. There may indeed be mission-appropriate and effective uses for nonmilitary federal UAVs. But surely it is enormously wasteful and a perversion of homeland security priorities to have Predator drones patrolling the skies on the hunt for immigrants and marijuana.

The unfocused and ostensibly aimless character of the CBP/OAM drone program was underscored by OAM's Kostelnik's concluding statements before the March 15, 2011 hearing of the homeland security subcommittee: "So not only are they ongoing force multipliers for the agents and troops on the ground, but they are unique capabilities in unique circumstances."

DHS has a responsibility to the U.S. public and to Congress to provide guarantees that these "unique capabilities" are used to secure the homeland – and to define, after all this time, what that means exactly. DHS needs a strategy, a plan of action and a set of regulations that ensure that these drone capabilities are wisely used so they do not violate our constitutional safeguards, privacy and civil liberties. The CRS highlighted the problems and concerns related to the continuing inability of DHS to provide a consistent and concise definition of the term homeland security in a January 2013 report titled *Defining Homeland Security*. The report observed:

Ten years after the September 11, 2001 terrorist attacks, the U.S. government does not have a single definition for 'homeland security.' [Instead,] different strategic documents and mission statements offer varying missions that are derived from different homeland security definitions.⁹²

The CBP UAV program is doing more than hunting down immigrants and marijuana on our borders, more than being on the "leading edge of homeland security." The homeland security drones, according to an OAM presentation, constitute:

- The “leading edge deployment of UAS in national airspace;”
- “Shaping the UAS debate” in the nation; and
- “Strengthen[ing] the National Security Response Capability.”⁹³

Repeated assurances and assertions by DHS and CBP that the homeland security drones are effective, cost-efficient, and are assigned missions too risky or impossible for other border-security tools have not met the tests of time. But rather than shutting down the Predator program, CBP has over the past several years promoted the drones’ role in national security – responding to as yet unseen and undefined threats to the homeland – rather than touting them as border security tools and drug-interdiction instruments. “It is not about things we are doing today, it’s about the things we might be able to do,” said the OAM chief, shortly after the DHS Inspector General began circulating its critical report on OAM and UAV operations.⁹⁴

Given the boundless surveillance capabilities of DHS drones and the UAV-forged ties among DHS, CIA, Pentagon and local law enforcement agencies, the expanding score of the border drones is not reassuring. Certainly, the intimation of possible future missions cannot be accepted as an excuse or justification for current waste, mismanagement and strategic disorientation.

With DHS leading the way, in close collaboration with the U.S. military, drones are over the homeland, over our neighboring nations, and over the seas and oceans that surround our country. It is time for serious citizen and congressional oversight over these DHS drone flyovers.

Research by the Center for International Policy has led us to make the following core conclusions about the role of DHS in drone proliferation:

DHS has failed to demonstrate over the past eight years that the CBP’s UAV program has improved its ability to control the southwestern border.

The evidence that CBP offers of immigrant apprehensions and marijuana seizures does not support the agency’s contention that UAVs are a necessary component of its border-control strategy, for the following reasons:

1. Numbers of apprehensions and quantities of illegal drugs seized are stunningly low, when compared with overall Border Patrol arrests and seizures.
2. Absence of any documentation to support CBP’s contention that this costly surveillance program successfully targets illegal border crossers who represent a threat to homeland security, such as the arrests of high-level organized crime figures or terrorists.
3. Small quantity of illegal drugs seized is virtually all marijuana – which, while still classified as a Schedule I substance, is widely used for medicinal purposes and recreational consumption with no adverse effect on the physical health of consumers.
4. Numbers of apprehensions and seizures provided by CBP cannot be verified and do not appear credible given the contradictions and errors in CBP’s reporting of drone-related statistics.
5. Available data from CBP about its drone operations belies the routine assertion by DHS that its border control programs are “risk-based.”

6. Repeated assertions that Predators at the routine flying elevations cannot be heard or seen, which is not the case, as CBP officials have acknowledged.

DHS has failed to demonstrate that UAVs are “force multipliers.”

CBP has not even attempted to document this claim, while anecdotal testimony by its Office of Air and Marine points to the conclusion that the UAV program is manpower-intensive and requires more staffing in the form of ground crews and data analysts than CBP has available.

CBP has not been forthright in its congressional testimony and press statements about the actual role of its UAV program in apprehensions and drug seizures – whether the drone surveillance merely participated by capturing the images of the immigrants and illegal drugs or if UAVs actually precipitated the arrests and seizures.

DHS has failed to demonstrate that its UAV program is more effective or cost-efficient than the deployment of existing OAM aircraft to respond to sensor activations (the main UAV activity) and to patrol remote stretches of the southwestern border.

DHS is proceeding with its ambitious UAV program comparing the relative impact and costs of other aviation resources or other less-expansive and more flexibly deployed UAVs. What is more, DHS has apparently ignored research by the U.S. military that points to the comparative advantages of traditional aircraft surveillance over UAV operations.

DHS should provide data showing that drone surveillance is at least as effective as surveillance by manned light aircraft or by Border Patrol officers on the ground. UAVs likely have a justifiable, although limited, role in border control. However, DHS, flush with border security funding, has opted to purchase exorbitantly expensive military-grade Predators and Guardians. These UAVs have proved of little value despite their high cost.

Not only has DHS failed to evaluate whether the results of drone surveillance are worth the expense of the program, the department has never detailed the program’s full cost. While public records do show the costs of UAV purchase contracts, DHS has never provided Congress, the public or the media with an estimate of the entire cost of the program, including DOD base expenses, data analysis expenditures, equipment repair, training costs and what it costs the Border Patrol to maintain the UAV program with liaison officers, support agents, and complementary air and ground vehicles.

DHS has consistently downplayed the many disadvantages and flaws in UAV operations, thereby misleading Congress and the U.S. public as to the capabilities and achievements of its UAV program.

Among the many deficiencies of the UAV program that merit closer examination before the program receives more funding are the following:

1. Inability or reduced capacity of drones to operate in bad weather.
2. Pattern of directing drone surveillance to areas where ground sensors are triggered by “wind events,” animals and legal human traffic.
3. Incapacity of the Border Patrol to process all the images transmitted by drone surveillance.

The DHS's failure to assess the functionality, cost and achievements of the UAV program highlights its institutional incapacity to direct and monitor its high-tech initiatives.

The waste, mismanagement and near total absence of performance evaluations mirror the monumental failures of the Secure Border Initiative Net (SBI*net*) programs that wasted nearly \$1 billion in faulty high-tech ground surveillance projects before it was mostly shut down in January 2011 (continuing with annual \$10-25 million allocations).⁹⁵ The DHS decision to continue to spend \$185-260 million annually (estimated \$1.5 billion total cost) for a new experimental ground-based electronic surveillance initiative – a reconfigured “virtual fence” – in Arizona (tentatively called Arizona Border Surveillance Technology Plan) reflects its irresponsible commitment of vast sums to high-tech solutions to ill-defined border control challenges.⁹⁶ The Government Accountability Office concluded in a November 2011 report on CBP's high-tech border-security programs that the UAVs have “significant infrastructure costs with the highest cost risk.”⁹⁷

The DHS drone program underscores a structural failing to match its border, counterdrug and immigration programs with DHS's founding mission to secure the homeland.

DHS professes that it is dedicated to protecting the homeland against “dangerous people and goods” – a phrase that when DHS was created referred primarily to terrorists and weapons of mass destruction. The UAV program is a surveillance program that is driven by images not by intelligence, and as such is manifestly unsuited to the DHS mission of protecting the homeland.

DHS has not established guidelines to ensure that its anti-terrorism mission is central to drone deployment. Nor has it established regulations to ensure that drone surveillance does not violate the civil liberties or privacy of U.S. or neighboring nation residents whose images and activities are captured by the Predators.

The UAV program's lack of sharp focus on homeland security is not limited to the Office of Air and Marine but pervades the DHS border control and immigration agencies. The failures, fallacies and misdirection of the UAV program are only partially problems of high-tech overkill and the inability of the Border Patrol to manage high-tech border control programs. To focus solely on management failures or to attempt to improve the numbers would miss the central problem. Increasing the number of immigrants detected by drones or the amount of marijuana seized would not improve homeland security. Rather, it would underscore how disconnected DHS is from its mission. Doubling down on drone surveillance would further distract the nation from instituting policy reform for its deeply failed immigration and drug policies.

DHS, collaborating closely with the military, has recklessly introduced drone surveillance into U.S. domestic affairs without considering the likely adverse impact on civil liberties and without considering the likely erosion of constitutional safeguards that protect the U.S. public from domestic interventions of the U.S. military and intelligence communities.

Availing itself of technology developed by military contractors and used in foreign wars and counter-terrorism operations, DHS has been the lead government agency introducing drones at home. Not only is the technology – the Predators, Reapers, Guardians and their communication and surveillance payloads – of military origin, the DHS drone program depends completely on the U.S. military for the basing of its drone fleet. It has also used segregated military airspace around these military bases as the foundation from which to expand into nonmilitary airspace.

RECOMMENDATIONS

Taking Charge of Drone Proliferation

The near-total lack of transparent and accountable governance over the proliferation of UAVs needs to be addressed and resolved. This absence of a well-defined legal framework for drone operations creates palpable risks to individual privacy, civil rights, and our nation's constitutionally-backed protections against military involvement in domestic affairs.

Every day the dangers of unregulated drone proliferation increase – as military and CIA drones are brought home and redistributed, as DHS continues to expand the parameters and size of the CBP/OAM program, as drone manufacturers and developers continue to advance UAV technology, and as the drone industry and its congressional boosters call for opening up the public space to drone surveillance and other unmanned operations.

These recommendations attempt to address the problems that pervade the homeland security drone program. They aim to improve the lack of transparency and accountability, the gross mismanagement, the lack of strategic focus, the sole-source relationship with General Atomics, and the abysmal performance record of this high-tech CBP border security program.

Yet it would be shortsighted to limit our recommendations to DHS's drone program. Such a limited set of program-specific recommendations would miss the obvious. The lack of strategic focus and total absence of cost-benefit evaluation pervades DHS as a whole. If OAM has trouble matching tactics and operations to strategy and mission, it is not its problem alone – but rather a failure of CBP and the Office of the Border Patrol, too, and of the DHS as a dysfunctional whole.

Our recommendations, therefore, extend in some cases beyond the CBP UAV program to DHS itself.

President Barack Obama, the U.S. Congress and the Department of Homeland Security should take the following measures to address unregulated and haphazard drone proliferation and the multiple failures of eight years of DHS drone operations:

1. **Suspend UAV Program:** DHS should suspend current drone operations and strikes from its requested budget funds to purchase additional drones. Given the determination of Congress and the White House to cut the federal deficit to make government more efficient, the monumentally expensive and nonperforming CBP drone program merits special budget-cutting attention.
2. **Terminate Sole-Source Contracts:** CBP should terminate the exclusive contracts for Predator and Guardian drones and for the servicing and staffing of these UAVs. These sole-source contracts are the result of personal relationships with CBP officials and congressional members who have benefitted from General Atomics contributions and favors. If new funding becomes available, future drone contracting should follow directly from a clear strategy detailing the special role of UAVs in border control and be based on extensive testing and cost-benefit evaluations. They should be competitively sourced based on clear specifications and performance standards set by CBP.
3. **Extensive Review:** There is little doubt that high-tech instruments should be included to some degree in U.S. border control strategy and operations. However, before proceeding further with UAV surveillance, there must be an extensive testing and review, including:

A. *Comparative Advantage:* Study and evaluation of the gaps in border control that might be best addressed by UAV surveillance. This review must be free of industry pressure to purchase large,

expensive, military-grade drones. In the interests of accountability, transparency, and cost-efficiency, CBP should detail the comparative advantages and full costs of its entire range of aerial assets, both fixed and rotary wing aircraft. It may be that a combination of the existing P-3 Orion's (whose specialty is long-range tracking and surveillance), Cessna's, Pipers and light helicopters could substitute for the Predator and Guardian drones. As part of a review of the failing UAV program, CBP may reconsider the higher value, lower costs and flexibility of smaller UAVs that can be backpacked or carried in Border Patrol vehicles.

B. Cost-Benefit Evaluation: DHS should order a cost-benefit evaluation of its drone program since 2004. Such an evaluation should include all the direct and related costs of the CBP/OAS drone program, and provide verifiable documentation of any benefits from this thus-far unevaluated and unmonitored program.

C. Risk Analysis: Congress and the executive branch should ensure that all border security and homeland security (existing and proposed) are subjected to a rigorous risk assessment and management process to ensure that public revenues are well-spent and proportionately match probable threats. In other words, Congress and the president should insist CBP's UAV program – and all other CBP programs – be “risk-based,” meaning real and present threats to homeland security.

4. **Initiate Effective Congressional Oversight:** The House and Senate oversight committees have repeatedly failed to monitor the high-tech border security initiatives of DHS, leading to high-profile failures like *SBl^{net}* and the near useless UAV program. Too often congressional members have pressured DHS to undertake border security programs that were not properly studied and evaluated. The public should insist that its representatives take their oversight responsibilities seriously. As drones begin to proliferate at home, following the lead of DHS, Congress must provide oversight, and begin to shape rules and regulations that ensure UAVs properly perform their legal missions and do not violate citizen rights and constitutional safeguards.
5. **Reevaluate U.S. Counter-Drug Strategy:** The CBP UAV drone program is largely a counter-drug program whose achievements can be measured almost exclusively in the number of pounds of marijuana seized. It illustrates the systemic failure of the federal government's drug prohibition policy and its domestic and international drug war operations. Any future CBP UAV program should focus on actual threats to security and safety and separate itself from the failed drug control strategies of the Drug Enforcement Administration, the U.S. State Department and the U.S. military.

Finally, we offer three broad recommendations:

1. **Make CBP Operations Transparent and Accountable:** The UAV program is only one example of the array of post-9/11 programs, initiatives, and bureaucratic creations of CBP that exist in the shadows, protected by congressional boosterism, institutional secrecy and bureaucratic unresponsiveness. CBP, along with its Office of Border Patrol and OAM divisions, function more like military units than civilian agencies, and routinely justify their opacity and secrecy by citing their security missions. It is time to open up the border security apparatus to the same standards of transparency and accountability to which other federal agencies are subject. With respect to OAM in particular, it should immediately produce the following documents for public review: flight times and maintenance costs for all its assets, its various strategic plans, its correspondence and records of meetings with General Atomics, and the performance records for all its Predator and Guardian missions.
2. **Dismantle DHS:** President Obama should start dismantling the Department of Homeland Security. DHS is legacy of the period of alarm, warmongering and political and private contractor opportu-

ism that followed the Sept. 11, 2001 terrorist attacks. After nearly ten years, DHS has not been able to justify its existence by any achievements – despite its annual budget of nearly \$60 billion. The nation certainly needs border control, customs and immigration agencies, but these governmental functions do not rightly belong within the nation’s security apparatus and should be returned to DOJ.

3. **Assert Responsible U.S. Leadership:** The U.S. government has been largely responsible for drone proliferation at home and overseas since 2001. U.S. global leadership is urgently needed to chart a course to promote the ethical and constructive use of drones and to establish the standards and control regimes to ensure that drone proliferation does not result in a surge of foreign interventions and wars. Without having first established these legal and ethical frameworks, the president and the U.S. security apparatus lack credibility in their defense of U.S. drone attacks and spying. The president must also demonstrate the leadership needed to begin the process of formulating the legal and ethical guidelines to regulate, shape and constrain drone proliferation at home.

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