

MIDDLE SCHOOL CASEBOOK MASTER INDEX
Extraordinary Renditions and Data Mining

Extraordinary renditions Affirmative Index	3
Extraordinary Renditions 1AC	4
Inherency	
Inherency: Anti-Torture Legislation Won't Pass Now	11
Inherency: Supreme Court Rulings Increase Renditions	12
Harms	
Harms: Extraordinary Renditions cause Torture	13
Harms: Torture Ineffective	15
Harms: Torture immoral.....	16
Harms: Torture outweighs terrorism	17
Harms: Detention / Secret Prisons.....	18
Harms: Democracy Promotion	20
Harms: Democracy promotion solves war	23
Harms: Democide	24
Harms: Terrorism	25
Solvency	
Solvency: Markey Bill.....	26
Solvency: Congress	27
AT: Diplomatic Assurances Solve	28
AT: Public Oversight solves rendition	30
AT: Radical Islamic Takeovers	31
2AC Frontlines	
2AC Frontline to Terrorism Disadvantage	33
Extension 1: Terrorist Recruitment	35
Extension 2: Can't Prosecute Terrorists	36
2AC Frontline to China Disadvantage	38
Xt: #4 No War with china	40
2AC Answers to Uzbekistan Coup Disadvantage	41
Extension 3: Democracy Promotion solves Uzbekistan	43
Extraordinary Renditions Negative Index	44
1NC Frontline to Torture Advantage	45
Extension 1: Their Evidence is Exaggerated.....	47
Extension 2: Oversight solves now	48
1NC Frontline to Democracy Promotion Advantage	49
Extension 1: Guantanamo and Abu Ghraib kill Demo Promo.....	52
Extension 3: Demo Promo increases terrorism.....	53
Extension 4: Distrust of America kills Demo Promo	54
Extension 6: Radical Islamic Takeover Turn	55
Extension 7: U.S. Not Key	56

EXTRAORDINARY RENDITIONS AND DATA MINING MASTER INDEX

Extraordinary Rendition Disadvantages and Links

Uzbekistan Coup Disadvantage.....57
Brink Extensions60
Link Extensions to Uzbek Coup DA61
Impact Extensions: Terrorism63
Extension: Long-term Engagement Solves Torture.....64

Terrorism Disadvantage Links: Rendition66
China Links: Rendition.....68

DATA MINING

Data Mining Affirmative Index.....69

Data Mining 1AC.....70

Inherency: Data mining used now78
Inherency: Data mining inevitable80
AT: TIA funding was cut82

Harms: Civil Liberties84
Harms: Privacy86
Harms: Police State88
Harms: Underground Data mining bad / Regulation key91

Solvency: Anonymity / Selective Revelation93
Solvency: Now Key / Design Process key96
Solvency: 4th Amendment Protection97
Solvency: Judicial Oversight99
Solvency: Congress key100
AT: Can't solve MATRIX.....102
AT: No solvency / Tech doesn't exist yet103
AT: False arrests.....104
AT: ALL data mining is bad.....105
AT: Topicality: Data mining isn't a search106

2AC Answers to Terrorism disadvantage.....107
2AC Frontline to China Disadvantage.....110
Xt: #4 No War with china112

Data Mining Negative

Data Mining Negative Index.....113
1NC Frontline to Civil Liberties Advantage (Data Mining)114
Extension 1: Oversight checks abuse117
Extension 4: No "Digital Dossiers"118

1NC Frontline to Authoritarianism Advantage.....119

1NC Frontline to Solvency.....122
Extension 3: False hits.....125

Disadvantage Links

Terrorism Disad Links: Data Mining.....126

EXTRAORDINARY RENDITIONS AFFIRMATIVE INDEX

<u>Extraordinary Renditions 1AC</u>	4
<u>Inherency</u>	
<u>Inherency: Anti-Torture Legislation Won't Pass Now</u>	11
<u>Inherency: Supreme Court Rulings Increase Renditions</u>	12
<u>Harms</u>	
<u>Harms: Extraordinary Renditions cause Torture</u>	13
<u>Harms: Torture Ineffective</u>	15
<u>Harms: Torture immoral</u>	16
<u>Harms: Torture outweighs terrorism</u>	17
<u>Harms: Detention / Secret Prisons</u>	18
<u>Harms: Democracy Promotion</u>	20
<u>Harms: Democracy promotion solves war</u>	23
<u>Harms: Democide</u>	24
<u>Harms: Terrorism</u>	25
<u>Solvency</u>	
<u>Solvency: Markey Bill</u>	26
<u>Solvency: Congress</u>	27
<u>AT: Diplomatic Assurances Solve</u>	28
<u>AT: Public Oversight solves rendition</u>	30
<u>AT: Radical Islamic Takeovers</u>	31
<u>2AC Frontline to Terrorism Disadvantage</u>	33
<u>Extension 1: Terrorist Recruitment</u>	35
<u>Extension 2: Can't Prosecute Terrorists</u>	36
<u>2AC Frontline to China Disadvantage</u>	38
<u>Xt: #4 No War with china</u>	40
<u>2AC Answers to Uzbekistan Coup Disadvantage</u>	41
<u>Extension 3: Democracy Promotion solves Uzbekistan</u>	43

EXTRAORDINARY RENDITIONS 1AC

OBSERVATION 1 IS INHERENCY:

IN SPITE OF ITS QUESTIONABLE LEGALITY, THE BUSH ADMINISTRATION HAS GIVEN THE CIA THE AUTHORITY TO USE EXTRAORDINARY RENDITION, WHICH IS THE PRACTICE OF KIDNAPPING SUSPECTED TERRORISTS AND SENDING THEM WITHOUT TRIAL TO FOREIGN PRISONS WHERE THEY WILL BE TORTURED.

The Washington Times, March 21, **2005** (“Torture Doublespeak,” p.L/N)

“The war against terrorism,” Mr. Markey continued, “is a war against those who engage in torture. If we fight our enemy using the same inhumane and morally bankrupt techniques that we are trying to stop, we will simply become what we have beheld. I call on President Bush to stop the outsourcing of torture immediately, in deed as well as word.” On ABC-TV’s “World News Tonight,” Mr. Markey said hopefully: “Like Abu Ghraib, it took a while for the outrage to build. The more the American people find out we are allowing other countries to torture in our name, there is going to be an outcry in this country.” I am listening hard, but I don’t hear that outcry yet, certainly not among the Republican leadership in Congress, which refuses to authorize an independent investigation of the CIA’s “renditions.” One of the CIA’s jets transporting suspected terrorists made 10 trips to Uzbekistan. Craig Murray, the former British ambassador to that country, told Mr. Pelley about the techniques of Uzbek interrogators: “drowning and suffocation, rape was used... also **the insertion of limbs in boiling liquid**... it’s quite common.” Mr. Murray also told Brian Ross of ABC News that he received photos of one prisoner who was actually **boiled to death**. That corpse may not have been a person the CIA kidnapped, but how do we know? In a March 6 New York Times story on these horrifying renditions, a CIA official “would not discuss any legal directive under which the agency operated, but said that the CIA has existing authorities to **lawfully conduct these operations**.” The authority came directly from the president in a Sept. 17, 2001 “memorandum of notification.” Then why doesn’t the president let us and Congress see this directive? Meanwhile, Fox News reports that Attorney General Alberto Gonzales says “the United States would never send terrorism suspects to countries where they would be tortured.” But he did admit that once they had been sent, “the U.S. government didn’t have control over how they were tortured.” Isn’t this manipulation of words what George Orwell chillingly called “**doublespeak**”?

EXTRAORDINARY RENDITIONS 1AC

OBSERVATION 2 IS HARMS:

ADVANTAGE 1 IS TORTURE:

EXTRAORDINARY RENDITION MAKES THE U.S. COMPLICIT WITH TORTURE—WE KNOW WHAT GOES ON IN TORTURE CELLS IN SYRIA, EGYPT, AND UZBEKISTAN WHERE WE COVERTLY SEND TERRORISM SUSPECTS.

Tom **Malinowski**, Washington Advocacy Director, Human Rights Watch, **2005** (“Global Review of Human Rights,” March 17, FDCH Congressional Testimony, p.L/N)

Mr. Chairman, a second troubling issue raised by the human rights reports is the one I alluded to at the start – the reports call into question practices in which the United States itself has engaged since September 11th. One of those practices is the so called “extraordinary rendition” of terror suspects to countries that routinely torture prisoners. Consider what the State Department reports say about some of the countries to which the United States renders terror suspects. They say that torture is used “frequently” by security services in Syria, including methods such as electrical shocks, pulling out fingernails, forcing objects into the rectum, beating, hyperextending the spine, and using a backwards bending chair to asphyxiate the victim or fracture the victim’s spine. They say that in Egypt, “a systematic pattern of torture by security services exists,” including beating victims with fists, whips and metal rods, electrical shocks, and sexual assaults. They say that authorities in Uzbekistan “routinely tortured, beat, and otherwise mistreated detainees to obtain confessions” using suffocation, electric shock, rape, and beating. These reports make clear that **the Bush administration knows perfectly well what goes on in the prisons of countries to which it sends terror suspects.** It knows perfectly well that torture is standard operating procedure in these places and that anyone delivered to the custody of their security services is likely to be tortured. So how does the administration defend this practice? It says that it doesn’t send anyone to a place like Syria or Egypt unless Syria or Egypt promises not to torture that person. If anyone here today thinks we should believe such unenforceable promises from countries that systematically torture people, please let me know. As it is, we have strong evidence that several of these countries, including Syria and Egypt, have already violated the assurances they have given the United States in these cases. And those involved in the process privately acknowledge the assurances are worthless. As one Arab diplomat quoted in the Washington Post today said: “It would be stupid to keep track of [rendered prisoners] because then you would know what’s going on. It’s really more like don’t ask, don’t tell.” An American official quoted in the same story said: “They say they are not abusing [rendered prisoners], and that satisfied the legal requirement, but we all know they do.”

EXTRAORDINARY RENDITIONS 1AC

US ACTION LEGITIMIZING TORTURE IN THE WAR ON TERROR IS MODELED BY GOVERNMENTS ALL OVER THE WORLD.

Amnesty International, July 8, **2005**. (“Stop Torture and ill-treatment in the ‘War on Terror,’” <http://web.amnesty.org/pages/stoptorture-index-eng>, p.internet)

Human rights are under threat. From attacks such as those, condemned in the strongest terms by Amnesty International, that rocked London on 7 July, but also from the way in which governments respond to such attacks. The ban on torture and other cruel, inhuman and degrading treatment – the most universally accepted of human rights – is being undermined. In the “war on terror”, governments are not only using torture and ill-treatment, they are making the case that this is justifiable and necessary.

Those who claim to set their human rights standards high are at the forefront of this assault. The USA is one such government. **Their conduct influences governments everywhere, giving comfort to those who commit torture routinely and undermining the very values the “war on terror” is supposed to defend.**

They speak of “coercive interrogation” but when the door to torture is opened, the pressure is always upward. If one slap doesn’t work, then a beating will follow. If a beating doesn’t work, what comes next? We see the photographs, hear the testimonies. It is cruel, inhuman; it **degrades us all.**

FAILING TO ACT IN THE FACE OF TORTURE MAKES US ALL COLLABORATORS. WE EACH HAVE A MORAL OBLIGATION TO ACT.

Bob Herbert, Op-Ed Columnist for the New York Times and winner of the Meyer Berger award, **2005** (February 11, *The New York Times*, “Torture, American-Style,” p.L/N)

Any government that commits, condones, promotes or fosters torture is a malignant force in the world. And those who refuse to raise their voices against something **as clearly evil as torture are enablers**, if not **collaborators**. There is a widespread but mistaken notion in the U.S. that everybody seized by the government in its so-called war on terror is in fact somehow connected to terrorist activity. That is just wildly wrong. Tony Blair knows a little about that sort of thing. Just two days ago the British prime minister formally apologized to 11 people who were wrongfully convicted and imprisoned for bombings in England by the [IRA] Irish Republican Army three decades ago. Jettisoning the rule of law to permit such acts of evil as kidnapping and torture is not a defensible policy for a civilized nation. It’s wrong. And nothing good can come from it.

EXTRAORDINARY RENDITIONS 1AC

ADVANTAGE 2 IS DEMOCRACY PROMOTION

ENDING EXTRAORDINARY RENDITIONS IS CRITICAL TO THE CLARITY AND STRENGTH OF U.S. DEMOCRACY PROMOTION AND THE LONG-TERM SUCCESS OF DEMOCRACY INOF THE MIDDLE EAST.

Tom Malinowski, Advocacy Director for Human Rights Watch, 2005 (June 16, Federal News Service, "America's Mission: Debating Strategies for the Promotion of Democracy and Human Rights," p.L/N)

We've had -- my organization, Human Rights Watch -- the Egyptian prime minister say to us, when we've complained about torture in his country, quote, "Well, you know, we do what we have to, just like the United States." And that's an impossible situation for this country and for those of us based in this country who are promoting human rights and democracy in the Middle East.

We just can't win the war -- we cannot win this struggle that the president, to his great credit, has begun, if we are seen as a country that doesn't practice what it preaches. And that goes for the need for fixing the situation in Guantanamo, ending this practice of extraordinary rendition, where again, on Monday, diplomats go into a country like Uzbekistan and Egypt and say, "Stop torturing people in your prisons," and then on Tuesday, the Central Intelligence Agency lands a plane and says, "Here are three detainees we'd like you to take to your prisons." That's just not a situation in which we can be an effective champion of human rights and democracy, and a situation that I think is fairly easy to fix, consistent with our need to both deal with security and human rights at the same time.

So again, the stakes are extraordinarily high. If we get this right, we can marry American idealism to an effective strategy that really does transform the Middle East in a way that liberates people in that region and makes us more secure. If we get it wrong, we're going to be worse off because we'll have given democracy itself a bad name around the world because it's associated with aspects of American policy more broadly that people profoundly don't like. We need the moral clarity that the president has provided, again to his great credit, but we also need to restore our moral authority as a champion of liberty.

EXTRAORDINARY RENDITIONS 1AC

EFFECTIVE DEMOCRACY PROMOTION IS CRITICAL TO WINNING THE WAR ON TERROR.

Tom **Malinowski**, Advocacy Director for Human Rights Watch, **2005** (June 16, Federal News Service, "America's Mission: Debating Strategies for the Promotion of Democracy and Human Rights," p.L/N)

Instead, President Bush did exactly the opposite; he embraced the notion and fact that promoting democracy and human rights, particularly in the Muslim world, is in fact **key to winning a long-term struggle against terrorism.**

He understood -- and I think the administration has come to understand -- that you're not going to defeat terrorism in the Middle East, so long as most countries in the region are societies in which people have no peaceful way of expressing legitimate grievances. Nor are we going to win the struggle for hearts and minds in the region if the United States is associated in the minds of people there with regimes that brutally repress them. He set a national goal of getting us out of those kinds of relationships, and I think he's very sincere about it.

DEMOCRACY PROMOTION IS CRITICAL TO PREVENTING WAR AND STOPPING THE SPREAD AND USE OF WEAPONS OF MASS DESTRUCTION.

Larry **Diamond**, senior research fellow at the Hoover Institution at Stanford University, **1992** ("Promoting Democracy," Foreign policy, no.87, Summer, p.31-2)

The impact on democracies demonstrates the fallacy in thinking that "real" interests can be distinguished from the U.S. interest in fostering democracy. A more democratic world would be a safer, saner, and more prosperous world for the United States. The experience of this century bears important lessons. Democratic countries do not go to war with one another or sponsor terrorism against other democracies. They do not build weapons of mass destruction to threaten one another. Democratic countries are more reliable, open, and enduring trading partners, and offer more stable climates for investment. Because they answer to their own citizens, democracies are more environmentally responsible. They are more likely to honor international treaties and value legal obligations since their openness makes it much more difficult to breach them in secret. Precisely because they respect civil liberties, rights of property, and the rule of law within their own borders, democracies are the only reliable foundation on which to build a new world order of security and prosperity.

A truly new world order means a qualitatively different world, not just the temporary leashing of dictatorships or incremental progress on arms control, terrorism, and trade. Promoting democracy must therefore be at the heart of America's global vision. Democracy should be the central focus—the defining feature—of U.S. foreign policy.

EXTRAORDINARY RENDITIONS 1AC

THUS WE OFFER THE FOLLOWING PLAN:

THE UNITED STATES CONGRESS SHOULD BAN THE DETENTION WITHOUT CHARGE OF INDIVIDUALS WHO ARE SENT TO STATES THAT ENGAGE IN TORTURE, AS PER THE MARKEY BILL. WE RESERVE THE RIGHT TO CLARIFY INTENT.

OBSERVATION 3 IS SOLVENCY:

PASSING THE MARKEY BILL ENDS EXTRAORDINARY RENDITIONS, PREVENTING THE U.S. FROM OUTSOURCING TORTURE.

Hall, Counsel and senior researcher in the Europe and Central Asia division of Human Rights Watch, April **2005** (Julia, “Still at Risk: Diplomatic Assurances No Safeguard Against Torture,” Human Rights Watch, Vol. 17, http://hrw.org/reports/2005/eca0405/5.htm#_Toc100558838)

Torture Outsourcing Prevention Act: Markey Bill

Representative Edward J. **Markey**, a member of the U.S. House of Representatives from the Democratic Party, has been a leading opponent of the practice of renditions in the U.S. Congress and has also argued that diplomatic assurances from abusive regimes are inherently unreliable. In February 2005, Markey introduced a bill entitled the “Torture Outsourcing Prevention Act (H.R. 952)”.¹²¹ The bill reaffirms the absolute prohibition against torture and refoulement and states that “it is critically important for that all transfers of individuals to other countries occur with full due process of law and in conformity with the obligations of the United States under article 3 of the Convention against Torture.”¹²² The bill specifically addresses the ineffectiveness of diplomatic assurances against torture: The reliance on diplomatic assurances from a government that it will not torture or ill-treat a person returned to that government is an ineffective safeguard for protecting persons from torture or ill-treatment. Assurances from a government known to engage in systematic torture are inherently unreliable. There is strong evidence that governments such as Egypt, Syria, and Uzbekistan have violated such assurances they have provided.¹²³ The bill would supplement the existing legal prohibition on returning individuals to countries where they are likely to be tortured by requiring the State Department to establish a list of countries that commonly use torture in detention and interrogation. It would prohibit U.S. officials or contractors from transferring any person in their custody to a country on the list, unless those transfers occur as part of an immigration or extradition proceeding where the individual has an opportunity to raise a Convention against Torture claim in a judicial forum, including the opportunity to challenge the reliability and sufficiency of any diplomatic assurances. Under the bill, the Secretary of State could waive the prohibition if she could certify that a country on the list had “ended” the acts of torture and ill-treatment that were the basis for the inclusion of the country on the list and that there was a verifiable mechanism in place to ensure that any person transferred to said country would not be tortured or ill-treated. Written or oral assurances against torture from a government would not be sufficient to constitute such a verifiable mechanism. In all cases, the bill would prevent reliance on diplomatic assurances as the basis for determining that an individual is not at risk of torture.

To ensure compliance with these provisions, the bill would require the Secretary of Homeland Security to revise the immigration regulations implementing article 3 of the Convention against Torture:

...to ensure that written or verbal assurances made by a country that a person in immigration proceedings in the United States (including asylum proceedings) will not be tortured or subjected to cruel, inhuman or degrading if the person is removed by the United States to the country are not, standing alone, a sufficient basis for believing that the person would not be tortured or subjected to such treatment if the alien were removed to the country.¹²⁴

EXTRAORDINARY RENDITIONS 1AC

THE TORTURE OUTSOURCING PREVENTION ACT PREVENTS THE TRANSFER OF PRISONERS FROM GUANTANAMO BAY TO COUNTRIES THAT PRACTICE TORTURE.

The White House Bulletin, March 16, **2005** (“Markey’s Rendition Bill would outlaw GTMO transfers,” p.L/N)

Representative Ed Markey (D-MA), member of the Select Committee on Homeland Security, says his legislative proposal outlawing "extraordinary rendition" of terror suspects would apply to the Pentagon's new push to transfer detainees from Guantanamo Bay to prisons in Saudi Arabia, Afghanistan and Yemen. "If the persons involved were going to be sent to countries where they would likely face torture," such transfers would be covered under the Torture Outsourcing Prevention Act, Markey told U.S. News and the White House Bulletin.

AND THE MARKEY BILL CAN BE ENFORCED: IT PROVIDES FOR JUDICIAL OVERSIGHT OF RENDITION ACTIONS.

Hall, Counsel and senior researcher in the Europe and Central Asia division of Human Rights Watch, April **2005** (Julia, “Still at Risk: Diplomatic Assurances No Safeguard Against Torture,” Human Rights Watch, Vol. 17, http://hrw.org/reports/2005/eca0405/5.htm#_Toc100558838)

It would also require the other government agencies to issue regulations regarding the responsibilities of U.S. government officials and contractors to comply with article 3 of the Convention against Torture both within and outside the U.S.

Significantly, the bill would require the U.S. to allow a person subject to return based on assurances an opportunity to challenge the reliability of assurances in an independent judicial forum. **125 The bill would thus address the glaring absence of procedural guarantees to effectively challenge diplomatic assurances secured by the U.S. in its efforts to effect returns based on them.**

INHERENCY: ANTI-TORTURE LEGISLATION WON'T PASS NOW

RECENT LEGISLATION AGAINST TORTURE HAS IGNORED EXTRAORDINARY RENDITIONS.

US News and World Report, 5/23/2005 ("Outsourcing a real nasty job," www.usnews.com/usnews/news/articles/050523/23rend_2.htm, p.internet)

The bill that passed last week was to authorize another \$82 billion in military spending, mainly for operations in Iraq and Afghanistan. But lawmakers slipped in language that had nothing to do with money. Tucked away on Page 26 of the legislation, the members of Congress stated explicitly that no one in U.S. custody--American or foreigner--may be tortured or subjected to "cruel, inhuman, or degrading treatment." Human-rights groups applauded, but even now, no one can say for sure whether the legislation outlaws one of Washington's most secretive--and controversial--intelligence programs. It goes by a deliberately bland bureaucratic euphemism called "extraordinary rendition." What it means is that the CIA or other government agencies can send, or "render," terrorism subjects for interrogation to other countries, even those with records of human-rights violations and abuse of prisoners.

THE MARKEY BILL WON'T PASS NOW.

Bob **Herbert**, Op-Ed Columnist for the New York Times and winner of the Meyer Berger award, **2005** (February 28, The New York Times, "It's Called Torture," p.L/N)

A Massachusetts congressman, Edward Markey, has taken the eminently sensible step of introducing legislation that would ban this utterly reprehensible practice. In a speech on the floor of the House, Mr. Markey, a Democrat, said: "Torture is morally repugnant whether we do it or whether we ask another country to do it for us. It is morally wrong whether it is captured on film or whether it goes on behind closed doors unannounced to the American people."

Unfortunately, the outlook for this legislation is not good. I asked Pete Jeffries, the communications director for House Speaker Dennis Hastert, if the speaker supported Mr. Markey's bill. After checking with the policy experts in his office, Mr. Jeffries called back and said: "The speaker does not support the Markey proposal. He believes that suspected terrorists should be sent back to their home countries."

Surprised, I asked why suspected terrorists should be sent anywhere. Why shouldn't they be held by the United States and prosecuted?

"Because," said Mr. Jeffries, "U.S. taxpayers should not necessarily be on the hook for their judicial and incarceration costs."

It was, perhaps, the most preposterous response to any question I've ever asked as a journalist. It was not by any means an accurate reflection of Bush administration policy. All it indicated was that the speaker's office does not understand this issue, and has not even bothered to take it seriously.

More important, it means that torture by proxy, close kin to contract murder, remains all right. Congressman Markey's bill is going nowhere. Extraordinary rendition lives.

INHERENCY: SUPREME COURT RULINGS INCREASE RENDITIONS

RECENT SUPREME COURT RULINGS WILL SCALE BACK US DETENTION PRACTICES, LEADING TO AN INCREASE IN RENDITION TO TORTURE COUNTRIES CAUSING WORSE HUMAN RIGHTS VIOLATIONS.

Andrew Cohen, Attorney and legal analyst for CBS News, 2/18/**2005** (“Extraordinary Rendition,” <http://www.cbsnews.com/stories/2005/02/18/opinion/courtwatch/main674973.shtml>)

Then, just a few days ago, the Times reported more movement on this story. Now, apparently, the CIA itself is "seeking to scale back its role as interrogator and custodian of terrorist leaders who are being held without charges in secret sites around the world." In part, the Times' article reports, the CIA's change of tack is motivated by increasingly shaky legal support for the detentions, especially in the wake of the two terror-case rulings last June by the United States Supreme Court which recognized certain due process rights for detainees. Those landmark rulings – in which the justices famously told the president that "a state of war is not a blank check" – have spawned several lower court rulings that slowly but surely are stemming executive branch control over terror suspects.

(continues...)

So instead of releasing the men or holding them indefinitely, the CIA is looking for ways to ditch them, preferably, the Times reports, to the FBI or even to other countries (which, in turn, could heat up new extraordinary rendition problems for the government). It's the ultimate game of Hot Potato. Now that the government has these men, has used them up as best it can, and has argued that there is no law that can protect them, it doesn't know what to do with them. If it keeps them, it has to spend the time and money guarding them. And, of course, keeping prisoners like this in these circumstances always can lead to a repeat of the shameful Abu Ghraib episode. On the other hand, if it sends the detainees elsewhere, it runs the risk that they will either be tortured or released – if the U.S. cannot afford to keep the men, why would anyone think that Syria or Egypt would? And if it sends them elsewhere and they are tortured, surely if they survive and ultimately are released they will come back, like Arar, and file a big lawsuit against the government. The government has always said that the war on terror would require a new way of thinking and acting toward this new breed of foes – part criminal defendant, part terror suspect, part political prisoner. Now that new thinking and acting requires a new solution to this growing problem.

EXTRAORDINARY RENDITIONS WILL BE USED TO MOVE SUSPECTS IN GUANTANAMO BAY ABROAD TO BE TORTURED.

Facts on File World News Digest, March 10, **2005** (“CIA Suspect ‘Rendition’ Rules Eased, Torture Alleged; Bush Order Widened CIA Powers,” p.L/N)

Begun in the early 1990s as an additional means of moving prisoners to the U.S. or foreign countries to face criminal charges, **rendition** under the new authority reportedly was seen in government as one of several ways to detain and interrogate terrorism suspects. The CIA reportedly was holding high-ranking members of the Al Qaeda terrorist network at undisclosed foreign sites for interrogation. In addition, the Defense Department had publicly acknowledged sending 62 prisoners to foreign countries, including Pakistan, Morocco, Saudi Arabia and Kuwait, from a detention center at a military base at Guantanamo Bay, Cuba. The State Department report had criticized all of those countries for torturing prisoners.

HARMS: EXTRAORDINARY RENDITIONS CAUSE TORTURE

EXTRAORDINARY RENDITION IS THE DARK SIDE OF THE U.S. WAR ON TERROR—IT UNDERMINES DUE PROCESS AND BRUTALLY TORTURES SUSPECTS.

Jane **Mayer**, Journalist with the New Yorker, **2005** (February 2005, The New Yorker, “Outsourcing Torture,” http://www.newyorker.com/fact/content/articles/050214fa_fact6)

The Bush Administration, however, has argued that the threat posed by stateless terrorists who draw no distinction between military and civilian targets is so dire that it requires tough new rules of engagement. This shift in perspective, labelled the New Paradigm in a memo written by Alberto Gonzales, then the White House counsel, “places a high premium on . . . the ability to quickly obtain information from captured terrorists and their sponsors in order to avoid further atrocities against American civilians,” giving less weight to the rights of suspects. It also questions many international laws of war. Five days after Al Qaeda’s attacks on the World Trade Center and the Pentagon, Vice-President Dick **Cheney**, reflecting the new outlook, argued, on “Meet the Press,” that the government needed to “work through, sort of, **the dark side**.” Cheney went on, “A lot of what needs to be done here will have to be done quietly, without any discussion, using sources and methods that are available to our intelligence agencies, if we’re going to be successful. That’s the world these folks operate in. And so it’s going to be vital for us to use any means at our disposal, basically, to achieve our objective.” The extraordinary-rendition program bears little relation to the system of due process afforded suspects in crimes in America. Terrorism suspects in Europe, Africa, Asia, and the Middle East have often been abducted by hooded or masked American agents, then forced onto a Gulfstream V jet, like the one described by Arar. This jet, which has been registered to a series of dummy American corporations, such as Bayard Foreign Marketing, of Portland, Oregon, has clearance to land at U.S. military bases. Upon arriving in foreign countries, rendered suspects often vanish. Detainees are not provided with lawyers, and many families are not informed of their whereabouts. The most common destinations for rendered suspects are Egypt, Morocco, Syria, and Jordan, all of which have been cited for human-rights violations by the State Department, and are known to torture suspects. To justify sending detainees to these countries, the Administration appears to be relying on a very fine reading of an imprecise clause in the United Nations Convention Against Torture (which the U.S. ratified in 1994), requiring “substantial grounds for believing” that a detainee will be tortured abroad. Martin Lederman, a lawyer who left the Justice Department’s Office of Legal Counsel in 2002, after eight years, says, “The Convention only applies when you know a suspect is more likely than not to be tortured, but what if you kind of know? That’s not enough. So there are ways to get around it.”

WE STILL RENDER TO COUNTRIES THAT ENGAGE IN TORTURE.

Newsweek, 2/28/**2005** (www.msnbc.com/id/69999272/site/newsweek/page/2/), “Aboard Air CIA,” p. internet)

U.S. officials insist the CIA has stopped rendering suspects to countries where they believe torture occurs. NEWSWEEK has learned that shortly after a Canadian jihadi suspect of Syrian origin, Maher Arar, was shipped back to Syria in September 2002, officials began having grave second thoughts about rendering suspects to that nation. As a result, the administration made a secret decision to stop sending suspects to Syria. But officials acknowledge that **such scruples are being ignored** when it comes to rendering suspects to allies like Egypt and Jordan, even though some officials do not believe “assurances” from these nations that they were not mistreating prisoners. Now the CIA may have to supply many more assurances—and Khaled el-Masri, among others, is waiting for them.

HARMS: EXTRAORDINARY RENDITIONS CAUSE TORTURE

INTELLIGENCE OFFICIALS CONCEDE THAT EXTRAORDINARY RENDITION EXISTS AND IS TORTURE.

The Committee on International Human Rights at NYU Law School, **2005** ("Torture by Proxy," The Association of the Bar of the City of New York, 60 The Record 13, p.L/N)

According to an unnamed senior U.S. intelligence official there have been "a lot of rendition activities" since September 11, 2001: "We are doing a number of them, and they have been very productive." n49 Similarly, in an interview with the *Washington Post*, an unnamed U.S. diplomat acknowledged that "after September 11, [renditions] have been occurring all the time....It allows us to get information from terrorists in a way we can't do on U.S. soil." n50 According to another unnamed official, "the temptation is to have these folks in other hands because they have different standards." n51 "Someone might be able to get information we [*36] can't from detainees," said another. n52 Another unnamed official who has been involved in rendering captives into foreign hands explained his understanding of the purpose of **Extraordinary Renditions**: "We don't kick the [expletive] out of them. We send them to other countries so they can kick the [expletive] out of them." n53 *Newsweek* reported that at a classified briefing for senators not long after September 11, 2001, then CIA Director George Tenet was asked whether Washington was planning to seek the transfer of suspected Al Qaeda detainees from governments known for their brutality. "Congressional sources" told *Newsweek* "that Tenet suggested it might be better sometimes for such suspects to remain in the hands of foreign authorities, who might be able to use more aggressive interrogation methods." n54 Most recently, on October 13, 2004, the Israeli newspaper *HaAretz* reported that the CIA runs a top-secret interrogation facility in Jordan, where at least 11 detainees who are considered Al Qaeda's most senior cadre are being held. n55 *HaAretz* relied on "international intelligence sources" who, according to the newspaper, "are considered experts in surveillance and analysis of Al-Qaida and are involved in interrogating the detainees." n56 *HaAretz* reported that detention of Al Qaeda suspects outside the United States "enables CIA interrogators to apply interrogation methods that are banned by U.S. law, and to do so in a country where cooperation with the United States is particularly close, thereby reducing the danger of leaks." n57

HARMS: TORTURE INEFFECTIVE

TORTURE IS AN INEFFECTIVE INTERROGATION METHOD—IT PROVIDES CORRUPTED INFORMATION.

National Public Radio, 4/7/**2005** (Talk of the Nation, p.L/N)

Mr. HIRSH: Right, right. And, you know, there has been an enormous debate ongoing in the intelligence community about the best methods of interrogations. Do aggressive, even abusive interrogations, actually work? Many intelligence--many professionals who are involved in interrogation, both on the FBI and the CIA and the Defense side, will say that, in fact, these kinds of interrogations often don't work because you get corrupted information from the individual questioned. You get--you know, he'll say anything...

TORTURE DOESN'T WORK—IT ONLY LEADS TO FALSE CONFESSIONS.

Jane **Mayer**, Journalist with the New Yorker, **2005** (February 2005, The New Yorker, "Outsourcing Torture," http://www.newyorker.com/fact/content/articles/050214fa_fact6, p.internet)

Most authorities on interrogation, in and out of government, agree that torture and lesser forms of physical coercion succeed in producing confessions. The problem is that these confessions aren't necessarily true. Three of the Guantánamo detainees released by the U.S. to Great Britain last year, for example, had confessed that they had appeared in a blurry video, obtained by American investigators, that documented a group of acolytes meeting with bin Laden in Afghanistan. As reported in the London *Observer*, British intelligence officials arrived at Guantánamo with evidence that the accused men had been living in England at the time the video was made. The detainees told British authorities that they had **been coerced into making false confessions.**

TORTURE IS AN INEFFECTIVE TOOL IN THE FIGHT AGAINST TERRORISM.

Bob **Herbert**, Op-Ed Columnist for the New York Times and winner of the Meyer Berger award, **2005** (February 11, *The New York Times*, "Torture, American-Style," p.L/N)

Mr. Arar was seized because his name had turned up on a watch list of terror suspects. He was reported to have been a co-worker of a man in Canada whose brother was a suspected terrorist. "Although he initially tried to assert his innocence, he eventually confessed to anything his tormentors wanted him to say," Ms. Mayer wrote. The confession under torture was worthless. Syrian officials reported back to the United States that they could find no links between Mr. Arar and terrorism. He was released in October 2003 without ever being charged and is now back in Canada.

HARMS: TORTURE IMMORAL

TORTURE IS DEHUMANIZING AND MUST BE REJECTED.

Amnesty International, June, **2003** ("Torture, an affront to humanity,"
<http://web.amnesty.org/wire/June2003/Torture>)

Torture dehumanizes both the victim and the perpetrator. The pain and terror deliberately inflicted by one human being upon another leave permanent scars: shattered bones, twisted limbs, recurring nightmares that keep the victims in constant fear. The damage goes beyond the trauma and suffering of the person who is tortured and those around them: each case of torture weakens the values and solidarity that hold a society together.

Prohibition of torture is one of the most basic rules of international human rights law. Yet despite all the efforts to stop it, torture remains widespread. The Amnesty International Report 2003, AI's annual survey of human rights around the world, contains reports from 106 countries of torture or ill-treatment by state agents. In some countries torture is practised systematically, in others it is relatively common, even though it is not used as an official method of repression. Fifty-five years after it was proclaimed, the words of the Universal Declaration of Human Rights remain as relevant as ever - "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". However, our understanding of what constitutes torture has grown. AI's worldwide campaigns against torture in the 1970s and 1980s focused on stopping the torture of political prisoners by the state. Today it is recognized that torture and ill-treatment can also be inflicted in many other settings. Abuses such as "disappearances", harsh prison conditions and excessive use of force in law enforcement can constitute torture or ill-treatment. Violence in the community and the home, such as racist attacks and domestic violence, can also violate the prohibition of torture, when states fail to address these acts effectively through protection, prosecution and redress. Despite their many forms, acts of torture share common features. Torture is cruel and inhuman; it is contrary to international standards of acceptable behaviour; it causes terrible suffering. It is prohibited at all times. **It can never be justified.**

HARMS: TORTURE OUTWEIGHS TERRORISM

TORTURE OUTWEIGHS TERRORISM.

The Committee on International Human Rights at NYU Law School, **2005** ("Torture by Proxy," The Association of the Bar of the City of New York, 60 The Record 13, p.L/N)

The European Court of Human Rights has also addressed the principle [*137] of non-refoulement [the non-transfer of individuals to countries that practice torture] to the danger of torture in the context of terrorism and national security, and determined that the prohibition against refoulement is based on "one of the most fundamental values of democratic society," n463 **and may not be violated even on national security grounds.** n464 In *Chahal v. United Kingdom*, n465 The government of the United Kingdom claimed that the petitioner was a threat to the United Kingdom's national security, refused his claim for asylum and issued a deportation order. The Court found that Chahal would be in danger of ill-treatment if sent to India, and stated that the absolute nature of Article 3 applied to expulsion cases. With respect to the United Kingdom's claim that the petitioner posed a threat to its national security, the Court stated that: The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct. . . . The prohibition provided by Article 3 against ill-treatment is equally absolute in expulsion cases. Thus, whenever substantial grounds have been shown for believing that an individual would face a real risk of being subjected to treatment contrary to Article 3 if removed to another State, the responsibility of the Contracting State to safeguard him or her against such treatment is engaged in the event of expulsion. . . . In these circumstances, the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration. n466 The Inter-American Court of Human Rights has similarly held that the prohibition against torture is a *jus cogens* norm, which prohibits an [*138] individual from return to a country where that person is likely to be tortured, even if the individual is suspected of terrorist activities. n467 These cases provide guidance to the United States in its necessary task of striking a balance between the need to address the threat of terrorism and the "fundamental values of democratic society." International law uniformly provides that regardless of whether the transfer of a person occurs as part of an extradition request and regardless of any exceptional circumstances such as efforts to combat terrorism or another threat against national security, the anti-torture and non-refoulement principles would be violated if, as a result of such transfer, the person could be subjected to torture or other ill-treatment.

HARMS: DETENTION / SECRET PRISONS

EXTRAORDINARY RENDITIONS ARE JUST THE FIRST STEP IN A SYSTEMATIC POLICY TO ESTABLISH GUANTANAMO-STYLE INTERNMENT FACILITIES THROUGHOUT THE MIDDLE EAST.

University Wire, February 15 **2005** ("Torture and the American Way," p.L/N)

Besides the obvious, one major problem with the runaway policy is that it leaves the government with the question of what to do with the "rendered" suspects once they have outlived their intelligence value. They can't release them, or try them in court, because the revelations of systematic abuse would be too much of an embarrassment. They can't simply kill them, either. You torture it, you bought it. Perhaps that's why, as the Washington Post reported back in January, the Pentagon is set to construct a global network of Guantanamo-style camps, to be situated in the homes of "friendly" human rights violators strewn across the Middle East, and where the exhausted prisoners will be housed until the Global War on Terrorism has been terminated.

EXTRAORDINARY RENDITIONS ARE PART OF A SYSTEMATIC POLICY IN SUPPORT OF TORTURE— WE ALSO SEND PRISONERS TO SECRET CIA PRISONS THROUGHOUT THE WORLD.

Salon.com, February 11, **2005** ("America's extraordinary tolerance for torture," http://www.salon.com/politics/war_room/index.html?blog=/politics/war_room/2005/02/11/torture/index.html, p.internet)

Now we have some more disturbing revelations, and of a grander scale: The Bush administration's vastly expanded use of a highly secretive program known as "extraordinary rendition." First conceived under the Clinton administration in the 1990s, it entails the U.S. shipping terrorist suspects off to foreign countries for interrogation and prosecution, where they are almost sure to be brutally tortured, if not killed. The program has been documented before, but not to the degree that Jane Mayer offers in the latest issue of the New Yorker. "Critics contend that the unstated purpose of such renditions is to subject the suspects to aggressive methods of persuasion that are illegal in America -- including torture," she writes. All the chilling details in Mayer's report about what allegedly happened to detainees whom the U.S. government sent to places like Syria, Egypt and Jordan after 9/11 are painfully familiar by now. But the secrecy and scope of the program are not limited to U.S. "allies." We are also carrying it out ourselves. As Mayer adds: "Reports have suggested that C.I.A. prisons are being operated in Thailand, Qatar, and Afghanistan, among other countries. At the request of the C.I.A., Secretary of Defense Donald Rumsfeld personally ordered that a prisoner in Iraq be hidden from Red Cross officials for several months, and Army General Paul Kern told Congress that the C.I.A. may have hidden up to a hundred detainees." (For what happens after that, see Cheney above.) So at what point do Americans -- regardless of political stripe -- say enough is enough? By now shouldn't we all, liberal and conservative alike, be aghast at what is undeniably the Bush administration's **systematic policy for prosecuting the global war against terrorism so perversely in the name of democracy, freedom and human rights? Anyone who wants to believe that torture is an effective method of gathering intelligence suffers from a denial** no less flimsy than the administration's own "few bad apples" explanation for Guantánamo and Abu Ghraib.

HARMS: DETENTION/SECRET PRISONS

EXTRAORDINARY RENDITIONS ARE USED TO MOVE SUSPECTED TERRORISTS ABOUT A SECRET GLOBAL PRISON SYSTEM OPERATED BY THE U.S. TO AVOID ACCOUNTABILITY.

Newsweek, 2/28/2005 (www.msnbc.com/id/69999272/site/newsweek/page/2/), "Aboard Air CIA," p. internet)

The evidence backing up Masri's account of being "snatched" by American operatives is only the latest blow to the CIA in the ongoing detention-abuse scandal. Together with previously disclosed flight plans of a smaller Gulfstream V jet, the Boeing 737's travels are further evidence that a global "ghost" prison system, where terror suspects are secretly interrogated, is being operated by the CIA. Several of the Gulfstream flights allegedly correlate with other "renditions," the controversial practice of secretly spiriting suspects to other countries **without due process**. "The more evidence that comes out, the clearer it is that there's been a stunning failure of accountability," says lawyer John Sifton of Human Rights Watch. CIA officials are increasingly fretful about being saddled with this secret prison network at a time of intense pressure from lawyers and human-rights activists. The CIA's anxiety only deepened last week when President Bush named John Negroponte, his ambassador to Iraq, as the country's first director of national intelligence. Negroponte, a demanding career diplomat, will take over the coveted president's daily brief, or PDB, from Goss. Bush sought to reassure the CIA that it would still be welcome in the Oval Office. But Bush also signaled that Negroponte would preside over a major shift in power in intelligence gathering. "John and I will work to determine how much exposure the CIA will have to the Oval Office," the president told reporters.

EXTRAORDINARY RENDITION IS THE MOTOR BEHIND THE GHOST PRISONER SYSTEM

Isabel Hilton, columnist for the Guardian (London), 2004 ("The 800lb gorilla in American foreign policy," <http://www.guardian.co.uk/Columnists/Column/0,5673,1270541,00.html>, p.internet)

Nobody knows how many ghost prisoners there are. The US, as the Latin American dictatorships did, strains to ensure that we do not find out. In Iraq, of the roughly 12,000 detained after the US invasion, some appeared on lists, others vanished because of chaos and incompetence. Others died under interrogation. Beyond the Iraqi jails, others - including, but not limited to, the dozen or so high-profile al-Qaida detainees captured since the war in Afghanistan - have disappeared into the international ghost prison system, detained in one country and secretly transferred to another in what the official euphemism describes as "extraordinary rendition".

THIS IS NOT AN ISOLATED IMPACT: THE GLOBAL PRISON SYSTEM EXTENDS ALL OVER THE WORLD.

Isabel Hilton, columnist for the Guardian (London), 2004 ("The 800lb gorilla in American foreign policy," <http://www.guardian.co.uk/Columnists/Column/0,5673,1270541,00.html>, p.internet)

Some indication of the scale of the network of detention centres can be gleaned from a recent report by Human Rights First, formerly the Lawyers' Committee for Human Rights. In Afghanistan, they say, in addition to the Bagram and Kandahar bases, the US acknowledges 20 other centres. In Iraq, there are three official centres, including Abu Ghraib, and an additional nine US military facilities. In Pakistan, a prison at Kohat, near the Afghan border, is under US control. In Jordan, the al-Jafr prison in the southern desert is used as a CIA detention centre. Human Rights First suspects that prisoners are held on US military ships and in bases such as Diego Garcia. Other prisoners have been "rendered" to Egypt and, as in the Arar case, to Syria, both countries in which torture is well established.

HARMS: DEMOCRACY PROMOTION

EXTRAORDINARY RENDITION UNDERMINES U.S. LEGITIMACY IN THE WAR ON TERROR—WE CANNOT FIGHT FOR DEMOCRACY AND HUMAN RIGHTS IF OUR PRACTICES UNDERMINE THESE FUNDAMENTAL VALUES.

San-Antonio Express-News, 4/10/2005 (“Complicity in torture blow to U.S. Integrity,” p.L/N)

BODY: Extraordinary rendition is a legal term that sounds as though it comes from the margins of some obscure and insignificant case. Instead, it is a frequently used practice that puts our fundamental national values in jeopardy. It is the process in which individuals suspected of involvement with terrorism have been sent to other countries for interrogation -- and worse. Based on statements from anonymous former intelligence officials, the New York Times reported that the practice has been widely used since the 1990s. Since Sept. 11, 2001, the United States has utilized extraordinary rendition with increasing frequency, perhaps in more than 100 cases. On the face of it, there's nothing unusual about returning a terrorism suspect to his home nation for questioning. Except that's not how the United States is practicing extraordinary rendition. By sending suspects to such notorious human rights abusers as Syria and Saudi Arabia, extraordinary rendition has essentially become a means to outsource torture. A government official who visited several foreign prisons where the CIA had rendered suspects told the Washington Post, "It's widely understood that interrogation practices that would be illegal in the U.S. are being used." An uncomfortable reality of the war on terror is that psychological and physical stress are sometimes necessary to make suspects cooperative. When that is the case with suspects in U.S. custody, Americans should carry out the interrogations under careful scrutiny with clear guidelines in an accountable chain of command. Torture, however, is notoriously unreliable as a means of obtaining information and places the United States on a slippery and dangerous moral slope. Handing over suspects to foreign governments with a wink to use barbarous methods is no better than doing it ourselves. At a White House press conference last month, President Bush answered a question about extraordinary rendition by saying, "This country does not believe in torture. We do believe in protecting ourselves." Bush seeks the spread of democracy and human rights in the Middle East as the best antidote to the menace of terrorism. His administration should not use extraordinary rendition to collude with the most anti-democratic and inhumane regimes in the region in a misguided effort to advance national security.

EXTRAORDINARY RENDITIONS UNDERMINES US DEMOCRACY PROMOTION.

University Wire, March 10, 2005 (“Rendition Policy Abhorrent, Ineffective,” p.L/N)

Arar is among hundreds of suspects who have been deemed worth of extraordinary rendition since the Sept. 11 terrorist attacks. This outsourcing of torture has certainly damaged our reputation in the Middle East, although one has to wonder how much lower that can go after Abu Ghraib and the revelation of even more widespread torture. This tactic also has the potential of further unraveling the Geneva Conventions. Why does this matter? It matters because those conventions protect our soldiers too. Our many different tortured interpretations of convention rules will hurt our soldiers in the long run. That's not supporting our troops. Beyond this, our reliance on state sponsors of torture is disturbing in a geo-strategic sense. With the new foreign policy of using force to encourage democracy, any reliance on foes of freedom hurts our credibility in this arena. Arar's Syria is a prime example of this -- its continued oppression of Lebanon has been an impediment to another potentially free state in the region.

HARMS: DEMOCRACY PROMOTION

EXTRAORDINARY RENDITION UNDERMINES US REPUTATION ABROAD, UNDERMINING DEMOCRACY PROMOTION.

University Wire, March 7, **2005** (“Extraordinarily Wrong,” p.L/N)

One of the policies revised a few days after the planes hit, while Ground Zero was still smoldering, was that of **rendition** -- the policy of sending those suspected of crimes, usually terror-related, to other countries for interrogation. Although many in the Bush administration publicly contend that **rendition** has prevented attacks, it seems much more likely that it has given America's reputation a black eye and wasted resources on policy that is morally inconsistent with the stated goals of this country. It is foolish to expect democracy to reign supreme around the world when the United States pays scant heed to the details of due process at home. Unfortunately, the Bush administration has spent an **extraordinary** amount of time and money trying to justify the selective denial of rights to prisoners in the War on Terror. With the policy of "extraordinary rendition," foreign citizens suspected of terror-related crimes are transported around the world **without charges** or trial as part of America's efforts to bring "justice" to terrorists.

DEMOCRACY PROMOTION IN THE MIDDLE EAST REQUIRES A CLEAR, CONSISTENT MESSAGE: WE MUST SUPPORT THE RIGHTS OF THOSE OPPRESSED IN FOREIGN PRISONS AS WELL AS PROTECTING THE RIGHTS OF PEOPLE TARGETTED UNDER THE WAR ON TERROR.

Tom **Malinowski**, Advocacy Director for Human Rights Watch, **2005** (June 16, Federal News Service, “America’s Mission: Debating Strategies for the Promotion of Democracy and Human Rights,” p.L/N)

First of all, the administration, when it speaks out for dissidents in the region needs to speak out for all of them, not just the ones who are friendly to the United States. In Egypt, we're pretty comfortable talking to the Egyptian government about, you know, not persecuting secular, moderate democratic dissidents. We're not so good about telling them not to persecute non-violent Islamists, like the Muslim Brotherhood, who may not like the United States; we don't like their views, but they're being arrested, beaten, tortured simply for the peaceful expression of their views. When the United States speaks out on behalf of one group and not the other, it looks to people in the region as if **we're not really out for democracy, but we're out for our friends.** We need to make the tough decision of supporting the rights and aspirations of everybody who is speaking out peacefully for change, so long as they're not using violence. Second of all, we've got to set a better example in terms of our own conduct. The most important tool the United States has had in its history for the promotion of democracy abroad is our own example as a successful democratic society that practices what it preaches. And unfortunately, that reputation has been tarnished in the last few years because of some of our own policies in the war on terror. Lots of people in the Arab world, when they hear about President Bush and his democracy strategy, they think about Guantanamo, they think about Abu Ghraib, they think about administration arguments that heads of state can authorize torture. They quote these arguments back to us.

HARMS: DEMOCRACY PROMOTION SOLVES WAR

DEMOCRACY PROMOTION SOLVES WAR, FAMINE, AND TERRORISM.

Paula **Dobriansky**, Undersecretary of State for Global Affairs, **2005** (June 16, Federal News Service, "America's Mission: Debating Strategies for the Promotion of Democracy and Human Rights," p.L/N)

Democracy is the cornerstone of the Bush administration's foreign policy and is the key to a peaceful and prosperous future. In his second inaugural address, President Bush stated that, quote, "It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture with the ultimate goal of ending tyranny in our world," unquote. Well, he predicated this on the belief that the survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world. Well, functioning representative governments with rule of law, economic opportunity, and other tenets of a free society do not make fertile recruiting grounds for terrorists; do not produce massive outflows of refugees; do not cause famine; and do not war with other democracies. President Bush's historic statements have delineated a new chapter in American history. Advancing freedom requires comprehensive and tailored strategies to ensure that we are analyzing each unique situation, learning from successful and unsuccessful transitions to democracy, and using all of the tools in our arsenal to address the many facets of democratization.

DEMOCRACY PROMOTION IS CRITICAL TO PREVENT AUTHORITARIAN REGIMES FROM SLAUGHTERING MILLIONS AND DEMOCRACIES ARE PEACEFUL.

RJ **Rummel**, Political Scientist, University of Hawaii, DEATH BY GOVERNMENT, **2001**, <http://www.hawaii.edu/powerkills/DBG.CHAP1.HTM>

Power kills, absolute Power kills absolutely. This new Power Principle is the message emerging from my previous work on the causes of war and this book on genocide and government mass murder--what I call *democide*--in this century. The more power a government has, the more it can act arbitrarily according to the whims and desires of the elite, the more it will make war on others and murder its foreign and domestic subjects. The more constrained the power of governments, the more it is diffused, checked and balanced, the less it will aggress on others and commit democide. At the extremes of Power², totalitarian communist governments slaughter their people by the tens of millions, while many democracies can barely bring themselves to execute even serial murderers. These assertions are extreme and categorical, but so is the evidence accumulated in this book, *Death By Government*, and its complement *Statistics of Democide*. Consider first war. Table 1.1 shows the occurrence of war between nations since 1816. In no case has there been a war involving violent military action between stable democracies³, although they have fought, as everyone knows, non-democracies. Most wars are between nondemocracies. Indeed, we have here a general principle that is gaining acceptance among students of international relations and war. That is that democracies don't make war on each other. To this I would add that the less democratic two states the more likely that they will fight each other. This belligerence of unrestrained Power is not an artifact of either a small number of democracies nor of our era. For one thing the number of democratic states in 1993 number around seventy-five, or also taking into account forty-eight related territories, about one-fourth of the world's population. Yet we have had no war--none--among them. Nor is there any threat of war. They create an oasis of peace

HARMS: DEMOCIDE

TOTALITARIAN REGIMES HAVE KILLED HUNDREDS OF MILLIONS OF PEOPLE THROUGHOUT HISTORY—THIS IS THE BIGGEST IMPACT IN THE DEBATE.

RJ Rummel, Political Scientist, University of Hawaii, DEATH BY GOVERNMENT, 2001, <http://www.hawaii.edu/powerkills/DBG.CHAP1.HTM>

Power also massacres in cold blood those helpless people it controls. Several times more of them. Consider table 1.2 and figure 1.1, the list and its graph of this century's megamurderers--those states killing in cold blood, aside from warfare, 1,000,000 or more men, women, and children. These fifteen megamurderers have wiped out over 151,000,000 people, almost four times the almost 38,500,000 battle-dead for all this century's international and civil wars up to 1987. The most absolute Power, that is the communist U.S.S.R., China and preceding Mao guerrillas, Khmer Rouge Cambodia, Vietnam, and Yugoslavia, as well fascist Nazi Germany, account for near 128,000,000 of them, or 84 percent. Table 1.2 also shows the annual percentage democide rate (the percent of its population that a regime murders per year) for each megamurderer and figure 1.1 graphically overlays the plot of this on the total murdered. However, such massive megamurderers as the Soviet Union and communist China had huge populations with a resulting small annual democide rate. For their populations as a whole some less than megamurderers were far more lethal. Table 1.3 lists the fifteen most lethal regimes and figure 1.2 bar graphs them. As can be seen, no other megamurderer comes even close to the lethality of the communist Khmer Rouge in Cambodia during 1975 through 1978. As described in Chapter 9 of *Death By Government*, in less than four years of governing they exterminated over 31 percent of their men, women, and children; the odds of any Cambodian surviving these four long years was only about 2.2 to 1. Then there are the kilomurderers, or those states that have killed innocents by the tens or hundreds of thousands, such as the top five listed in table 1.2: China Warlords (1917-1949), Atatürk's Turkey (1919-1923), the United Kingdom (primarily due to the 1914-1919 food blockade of the Central Powers in and after World War I, and the 1940-45 indiscriminate bombing of German cities), Portugal (1926-1982), and Indonesia (1965-87). Some lesser kilomurderers were communist Afghanistan, Angola, Albania, Rumania, and Ethiopia, as well as authoritarian Hungary, Burundi, Croatia (1941-44), Czechoslovakia (1945-46), Indonesia, Iraq, Russia, and Uganda. For its indiscriminate bombing of German and Japanese civilians, the United States must also be added to this list (see *Statistics of Democide*). These and other kilomurderers add almost 15,000,000 people killed to the democide for this century, as shown in table 1.2. Of course, saying that a state or regime is a murderer is a convenient personification of an abstraction. Regimes are in reality people with the power to command a whole society. It is these people that have committed the kilo and megamurders of our century and we must not lose their identity under the abstraction of "state," "regime," "government," or "communist." Table 1.4 lists those men most notorious and singularly responsible for the megamurders of this century. Stalin, by far, leads the list. He ordered the death of millions, knowingly set in train events leading to the death of millions of others, and as the ultimate dictator, was responsible for the death of still millions more killed by his henchman. It may come as a surprise to find Mao Tse-tung is next in line as this century's greatest murderers, but this would only be because the full extent of communist killing in China under his leadership has not been widely known in the West. Hitler and Pol Pot are of course among these bloody tyrants and as for the others whose names may appear strange, their megamurders are described in detail in *Death By Governments*. The monstrous bloodletting of at least these nine men should be entered into a Hall of Infamy. Their names should forever warn us of the deadly potential of Power. The major and better known episodes and institutions for which these and other murderers were responsible are listed in table 1.5. Far above all is gulag--the Soviet slave--labor system created by Lenin and built up under Stalin. In some 70 years it likely chewed up almost 40,000,000 lives, over twice as many as probably died in some 400 years of the African slave trade, from capture to sale in an Arab, Oriental, or New World market. In total, during the first eighty-eight years of this century, almost 170,000,000 men, women, and children have been shot, beaten, tortured, knifed, burned, starved, frozen, crushed, or worked to death; or buried alive, drowned, hung, bombed, or killed in any other of the myriad ways governments have inflicted death on unarmed, helpless citizens or foreigners. The dead even could conceivably be near 360,000,000 people. This is as though our species has been devastated by a modern Black Plague. And indeed it has, but a plague of Power and not germs. The souls of this monstrous pile of dead have created a new land, a new nation, among us. Let in Shakespeare's word's "This Land be calle'd The field of Golgotha, and dead men's Skulls"¹² As clear from the megamurderers listed in table 1.2 alone, this land is multicultural and multiethnic, its inhabitants believed in all the world's religions and spoke all its languages. Its demography has yet to be precisely measured and only two rough censuses, the most recent constituting *Death By Government*, have so far been taken.¹¹

HARMS: TERRORISM

EXTRAORDINARY RENDITIONS HURT US-EU COOPERATION IN THE WAR ON TERROR.

Los Angeles Times, June 25, **2005** ("Italy Orders Arrest of 13 CIA Operatives," p.L/N)

Abu Omar's disappearance angered several officials who thought they had always cooperated fully with U.S. anti-terrorism efforts, only to be trampled on in this operation.
"Kidnapping Abu Omar was not only a crime against the state of Italy, but also **it did great damage to the war on terrorism.**" said Spataro, the prosecutor. "We could have continued the investigation and found evidence on other people. He would be on trial by now instead of missing." As part of the investigation into the abduction, Italian law enforcement officials put together an extensive dossier on the team of men and women who they said spent several days tracking Abu Omar and then intercepted him as he walked to Milan's Viale Jenner mosque on Feb. 17, 2003. The operatives surrounded and subdued him, then shoved him into a minivan and sped away, witnesses have told investigators.

EXTRAORDINARY RENDITIONS UNDERMINE US-EU RELATIONS AND TERROR COOPERATION.

Associated Press, January 19, **2005** ("US Allies resisting CIA's secretive role in deporting terror suspects," p.L/N)

Germano Dottori, a political analyst at the Center for Strategic Studies in Rome, said the **rendition** operations are part of the American strategy of fighting terrorism through preventive action, but that if revealed can **cause some damage to relationships between allied countries.** "No country appreciates intrusions into its sphere of national sovereignty and this is a very delicate sphere of sovereignty," he said.

EXTRAORDINARY RENDITION HURTS US-EU COUNTER-TERRORISM EFFORTS BY UNDERCUTTING LOCAL EFFORTS.

Timothy Naftali, director of the Presidential Recordings Program at the University of Virginia's Miller Center of Public Affairs, **2005** (June 30, "Milan Snatch," <http://slate.msn.com/id/2121801>, p.internet)

The court proceedings in Milan involve a CIA team that allegedly participated in the kidnapping of a Muslim cleric, Hassan Mustafa Osama Nasr. In February 2003, Nasr was drugged while walking to a Milan mosque and spirited away to Cairo via a U.S. base in Northern Italy. Since the Reagan-era renditions began, the CIA agents are the first American operatives to be charged by a foreign court with kidnapping. Usually, as a matter of smart tradecraft and diplomacy, the CIA and the FBI involve a country's local intelligence services in a rendition operation, especially if the country is an ally. The CIA operates through a web of relationships with foreign intelligence services, some decades old. A snatch that is not cleared with a friendly local service **threatens that web.**

SOLVENCY: MARKEY BILL

MARKEY'S BILL WOULD BAN EXTRAORDINARY RENDITIONS

National Public Radio, 4/7/**2005** (Talk of the Nation, p.L/N)

CONAN: What would your bill ban exactly?

Rep. MARKEY: It would ban the practice of **extraordinary rendition**, ban the practice of outsourcing of torture, ban the practice of the United States of America sending prisoners which we have captured to countries that do not, in fact, abide by the convention against torture with the assurance from that country that they would not torture a person as the only guarantee that there would not be a violation of everything that America believes in in terms of the treatment of prisoners.

SOLVENCY: CONGRESS

CONGRESSIONAL ACTION BANNING EXTRAORDINARY RENDITIONS IS CRITICAL TO CHECKING COVERT AGENCY ACTION.

The Committee on International Human Rights at NYU Law School, **2005** (“Torture by Proxy,” The Association of the Bar of the City of New York, 60 The Record 13, p.L/N)

*Review and reform legislation and regulations relevant to **Extraordinary Renditions**.*

- Congress should review and supplement the implementing legislation and accompanying regulations concerning the Convention against **Torture** to ensure that there are no gaps allowing for **Extraordinary Rendition**. Specifically, regulations should be promulgated by the relevant agencies to ensure that the obligation of *non-refoulement* set out in the Convention against **Torture** and the International Covenant on Civil and Political Rights, and implemented by the Foreign Affairs Reform and Restructuring Act of 1998, is enforced with respect to all detainees in the control or custody of U.S. actors, regardless of whether the person is physically present in the United States, as required by statute. The current failure to pass implementing legislation to this effect places relevant agencies at odds with their statutory duties.

- Congress should pass legislation modeled on H.R. 4674, drafted by Representative Markey, aimed at prohibiting **Extraordinary Renditions**.

- Congress should ensure that liability for complicity or conspiracy in **torture** is extended to civilian contractors working with U.S. armed forces, security personnel, or intelligence services.

AT: DIPLOMATIC ASSURANCES SOLVE

NON-TORTURE PROMISES FROM COUNTRIES WHERE WE PRACTICE EXTRAORDINARY RENDITIONS DON'T SOLVE TORTURE.

National Public Radio, 4/7/2005 (Talk of the Nation, p.L/N)

Since the pictures of abuse at Abu Ghraib prison became public, a great deal of information has come to light about the treatment and mistreatment of detainees in Iraq, Afghanistan and at Guantanamo Bay in Cuba. That includes a practice called extraordinary rendition. In brief, the CIA whisks terror suspects caught around the world back to their home countries for interrogation, countries that are often alleged to use torture. The policy requires a non-torture promise from the home country. But critics say that in practice, such promises are worthless.

ANTI-TORTURE PROMISES FROM RENDITION COUNTRIES ARE DISINGENUOUS.

National Public Radio, 4/7/2005 (Talk of the Nation, p.L/N)

CONAN: Is there anything to back the suspicion that this is all done with a wink and a nod, and everybody knows that that person is going to be tortured? Mr. HIRSH: Well, sources have told us and I think other publications that that's pretty much, you know, what happens. When you send someone to Syria or to Jordan or to Egypt, you're pretty well aware--'you' being the US government--of the kinds of interrogation practices that are used there, which are not in conformity certainly with US law or with, you know, Geneva protections, which often involve physical abuse. And so the idea that, you know, a Syrian official is going to say to you, 'Oh, don't worry, we'll treat him well,' and then you're going to leave it at that, I think strikes critics of the administration's policies as very disingenuous.

ASSURANCES AGAINST TORTURE ARE INEFFECTIVE—COUNTRIES THAT ARE LIKELY TO TORTURE SUSPECTED CRIMINALS WILL DO SO ANYWAY.

US News and World Report, 5/23/2005 (“Outsourcing a real nasty job,” www.usnews.com/usnews/news/articles/050523/23rend_2.htm, p.internet)

Promises, promises. The administration says it is in compliance with the convention because of its practice of seeking diplomatic promises that suspects sent abroad won't be tortured. "We seek assurances," said President Bush, who has declared that torture is never acceptable, "that nobody will be tortured when we render a person back to their home country." Assurances may have value, but even Attorney General Alberto Gonzales has acknowledged that Washington "can't fully control" what happens to detainees transferred abroad for interrogation. CIA Director Porter Goss agreed, testifying earlier this year that once a terror suspect is out of American control, "there's only so much we can do." That may be true for some of the countries to which terrorism suspects have been rendered since 9/11, including Uzbekistan, Syria, and Egypt. The State Department has reported patterns of torture and abuse of prisoners in all three places. "Governments that engage in torture," said Kenneth Roth, executive director of Human Rights Watch, "always try to hide what they're doing, so their 'assurances' on torture can never be trusted."

AT: DIPLOMATIC ASSURANCES SOLVE

DIPLOMATIC ASSURANCES AREN'T DONE IN GOOD FAITH NOW.

The Committee on International Human Rights at NYU Law School, **2005** ("Torture by Proxy," The Association of the Bar of the City of New York, 60 The Record 13, p.L/N)

The Arar case and media reports raise concern that even if the United States is obtaining diplomatic assurances, it may not be doing so in good faith. Arar alleges that U.S. authorities provided Syrian authorities with suggested topics to be covered during interrogation, and that Syrian authorities provided the United States with information coerced from him. n493 Similarly, at least one media report indicates that U.S. intelligence and law enforcement officials have seized and rendered purported terror subjects from one foreign state to another state that the United States knows to employ torture as an interrogation technique. The United States has [*144] reportedly provided to these intelligence forces lists of questions that it wants answered. n494 In the context of such alleged practices, diplomatic assurances from countries that the United States knows to practice torture do not appear to be a good faith compliance by the Executive Branch with U.S. obligations under international and domestic law.

MONITORING OF DIPLOMATIC ASSURANCES ARE INEFFECTIVE NOW LEADING TO TORTURE.

The Committee on International Human Rights at NYU Law School, **2005** ("Torture by Proxy," The Association of the Bar of the City of New York, 60 The Record 13, p.L/N)

Second, monitoring mechanisms have been shown to be inadequate. In large part, this is because torture is conducted in secret and regimes that use torture have become adept at hiding it. As the Human Rights Watch report on diplomatic assurances notes, in countries where torture is widespread and systematic, it is practiced within the walls of prisons and detention facilities rarely open to scrutiny by independent, well-trained monitors. n508 Prison guards and other prison personnel are trained in torture methods that leave few external marks and are also trained to intimidate prisoners into silence. n509 In addition, prison medical personnel are often complicit in covering up torture. n510 Moreover, the HRW Diplomatic Assurances report notes, in such countries governments routinely deny access to independent monitors or experts in detecting signs of torture, and in many instances state authorities may not have effective control over the forces perpetrating acts of torture. n511 Indeed, governmental authorities in countries where torture is systematic routinely deny the existence of torture at all. n512 In those circumstances, the dangers of relying on diplomatic assurances as a safeguard against torture are apparent. As the Human Rights Watch report notes, "where governments routinely deny that torture is practiced, despite the fact that it is systematic or widespread, official assurances cannot be considered reliable." n513

AT: PUBLIC OVERSIGHT SOLVES RENDITION

THE PUBLIC CAN'T CHECK EXTRAORDINARY RENDITIONS: THE GOVERNMENT WILL SIMPLY CONTINUE THE PRACTICE AFTER ITS FADED FROM THE HEADLINES.

The American Prospect, 10/20/2004 (“Torturous passage,”
<http://www.prospect.org/web/page.ww?section=root&name=ViewWeb&articleId=8794>)

The Abu Ghraib prison scandal may have briefly halted the practice -- but only until it faded from the headlines. Fredrik Laurin, a Swedish journalist who has tracked a Gulfstream jet that the United States uses for extraordinary renditions, shared some of his research with Seymour Hersh. Hersh reported in Chain of Command that the Gulfstream did not make any overseas trips for two months after the prison-abuse story broke -- but restarted in July.

AT: RADICAL ISLAMIC TAKEOVERS

NO RISK OF ISLAMIC TAKEOVERS DUE TO DEMOCRACY PROMOTION—RADICAL ISLAMIC PARTIES WILL PLAY BY THE RULES AND BE CHECKED BY OPPOSITION PARTIES.

Trudy **Rubin**, columnist for the Philadelphia Inquirer, **2005** (April 19, The Baltimore Sun, "Pothole Theory may be tested in Middle East," p.L/N)

"Maybe some will run for office and say, 'Vote for me, I look forward to blowing up America,'" Mr. Bush said. "But I don't think so. I think people who generally run for office say, 'Vote for me, I'm looking forward to fixing your potholes.'" Let's call this the pothole theory of Middle Eastern politics - get the Islamists into the game and they will learn to play by democratic rules, lay down arms and focus on pleasing their voters. Is it safe to apply the pothole theory to the region as a rule of thumb? One compelling test is going on in Iraq. In January elections, a list endorsed by the leading Shiite cleric, Ayatollah Ali al-Sistani, was the winner. The list included the two major Shiite Muslim political parties, Dawa and SCIRI (Supreme Council for the Islamic Revolution in Iraq). Both at one time called for a state governed by religious law. The man who is set to become Iraq's prime minister, Ibrahim al-Jaafari, the leader of Dawa, insisted in a January interview that his list had no desire to create an Islamic government like that in Iran. "Our society doesn't want this," he said. Iraq's religious parties are not jihadi parties that pursue armed struggle against impure Muslim regimes or the West. They want to play a role in Iraq's national system, not to reconstruct an Islamic empire. SCIRI and Dawa have signed on to a set of democratic precepts agreed to by all political parties. U.S. and Iraqi lawyers drew up the transitional administrative law that will govern Iraq until Iraqis hammer out a new constitution. Iraq has other political parties and organizations that can offset religious parties - notably the secular Kurdish parties. If religious groups push too hard to roll back women's rights, these parties will push back. Some of these factors are unique to Iraq and can't be copied elsewhere. None guarantees that Iraq won't experience secular-religious tensions. But they offset the danger that religious parties will use democracy to install a theocracy. The lesson from Iraq is that religious parties must be bound up within a political structure that keeps them democratic. Otherwise, the pothole theory could lead to a wreck.

RADICALS WON'T BE ABLE TO SECURE THE VOTE—MODERATE VOICES WILL WIN THE DAY.

Ray **Takeyh**, a senior fellow in Middle East studies at the Council on Foreign Relations, **2005** (March 21, The Baltimore Sun, "Let democracy derail radicalism," p.L/N)

Many radical groups find that once they are part of the governing order, the imperative of getting re-elected leads many to actually abandon their disruptive and costly utopian schemes in search of more-practical solutions. This is certainly what happened to the leftist forces in Latin America and may happen in the Arab world. It is time to test the premise of "moderate Islam" and not continuously evoke anti-terrorism campaigns as a justification for limiting the political process to only reliable secularists and liberals. The success of the moderate Islamists has diminished the power of the radicals. Given the militants' inability to craft viable solutions to problems such as economic inequality and the lack of political representation, they are proving a poor alternative to either the state or their more tempered brethren.

AT: RADICAL ISLAMIC TAKEOVERS

NO RISK OF RADICAL ISLAMIC TAKEOVERS DUE TO DEMOCRACY PROMOTION—DEMOCRACY EMPIRICALLY MODERATES THE VIEWS OF RADICAL GROUPS LIKE HAMAS.

Ray **Takeyh**, a senior fellow in Middle East studies at the Council on Foreign Relations, **2005** (March 21, The Baltimore Sun, “Let democracy derail radicalism,” p.L/N)

The mass demonstrations by Hezbollah and the continued vibrancy of radical Islamist groups such as Hamas have led many pundits and analysts to perceive that the rise of pluralism in the Middle East implies the ascendance of militant Islamist forces with their anti-American agenda and ideology of wrath.

America's hesitation notwithstanding, a democratic Middle East must include all voices, including the Islamists.

A careful look reveals not only that Islamist movements are beginning to moderate their views but that the radical remnants increasingly have a limited standing in the region. In the end, the best way to extinguish ideological radicalism is with a persistent dose of democracy.

As with most ideological tendencies, the complexion of Islamism is changing as more temperate forces assume leadership of this movement. In states as varied as Turkey, Morocco and Bahrain, moderates are coming to the forefront, calling for participation in the political process as opposed to waging violent campaigns against the state.

When allowed to run for office, as they have been in Jordan, the Muslim Brotherhood and other Islamists have accepted the rules of the game and participated constructively in the process.

DEMOCRACY PROMOTION IN THE MIDDLE EAST UNDERCUTS THE POWER OF RADICAL ISLAMIC PARTIES.

Ray **Takeyh**, a senior fellow in Middle East studies at the Council on Foreign Relations, **2005** (March 21, The Baltimore Sun, “Let democracy derail radicalism,” p.L/N)

The best way to further diminish the influence of the likes of Hamas and Hezbollah is to continuously expand the marketplace of ideas and enhance competitive politics. Radical Islamism has succeeded only because it has managed to survive in an authoritarian landscape and thus assumes the mantle of opposition.

The reality remains that over the past three decades, the Arab populace has gradually grown weary of radical ideologies and their self-proclaimed verities. From pan-Arabism and its promise of Arab renaissance to radical Islam and its quest for salvation, a beleaguered populace has come to appreciate that the primary effect of such ideologies is **repression and stagnation**. After much experimentation, the Arab masses may finally be ready for democracy and all its burdens and rewards.

The Bush administration's policy of transformation of the Middle East correctly appreciates that the best manner of ensuring stability is to implant democratic regimes in the region. But despite the administration's inclination to countenance Shiite ascendancy in Iraq, it is unwilling to engage the Islamists and press for their inclusion in the region as a whole.

2AC FRONTLINE TO TERRORISM DISADVANTAGE

1.) TURN: EXTEND OUR MALINOWSKI EVIDENCE—THE WAR ON TERROR IS A WAR OF IDEAS, AND IT CAN'T BE WON IF WE UNDERMINE DEMOCRATIC IDEALS IN THE PROCESS. OTHERWISE, WE LOOK LIKE HYPOCRITES AND THERE WILL BE NO END TO TERRORIST RECRUITMENT.

2.) TURN: TORTURE MAKES IT IMPOSSIBLE TO PROSECUTE TERRORISM SUSPECTS, AS EVIDENCE RECEIVED THROUGH TORTURE IS UNACCEPTABLE IN FEDERAL COURTS.

Andrew **Cohen**, Attorney and legal analyst for CBS News, 2/18/**2005** (“Extraordinary Rendition,” <http://www.cbsnews.com/stories/2005/02/18/opinion/courtwatch/main674973.shtml>)

Moreover, the scandal last year at Abu Ghraib prison hardly helped the agency's political or legal position in favor of harsh and in many ways unprecedented treatment of certain prisoners. And the government's policy of detention and interrogation already has complicated, indeed stalled, the federal prosecution of Zacarias Moussaoui, the Al Qaeda operative who was captured before the terror attacks on America.

Moussaoui's trial has been on hold now for more than three years in part because prosecutors, defense attorneys, Moussaoui and the judge cannot agree on whether and how Moussaoui should be allowed to use at trial the "testimony" of two Al Qaeda leaders, detainees **who perhaps were tortured** after perhaps being subjected to extraordinary rendition.

But it isn't just the genuine (and warranted) fear of bad results in court that has intelligence officials and lawmakers looking to change its dynamic when it comes to detention, interrogation, and rendition. The CIA's newfound interest in washing its hands of these men also stems from practical considerations as well, the Times and others have reported. Many of the terror suspects they are holding now no longer have much intelligence value, yet they are still unlikely ever to be turned over to any prosecutor for trial. It's unclear whether they ever have committed any domestic crimes and, even if they did, the interrogation methods they purportedly endured surely would generate heartburn for federal judges. Now that they may have been tortured, in other words, **they very likely cannot be successfully prosecuted.**

3.) NO LINK: THE GOVERNMENT HAS LOTS OF OTHER TOOLS AT ITS DISPOSAL IN THE WAR ON TERROR—WE DON'T BAN THE PATRIOT ACT OR GUANTANAMO BAY, JUST THE EXTRAORDINARY RENDITION OF 150 PEOPLE.

4.) NO IMPACT: TERRORISTS WON'T USE WEAPONS OF MASS DESTRUCTION.

George **Harris**, Professor of Law at the University of Utah College of Law, **2003** (Spring, Cornell International Law Journal, 36 Cornell Int'l L.J. 135, p.L/N)

There are a number of reasons to be skeptical about the claim that terrorists or their weapons have changed qualitatively in ways that justify a curtailment of civil liberties. First, there is reason to question the claim that terrorists today "know no bounds." Hamas, Hizbollah, and Islamic Jihad, for example, have been engaged for many years in terrorism motivated in part by concepts of religious martyrdom, yet they have strategically targeted and [*142] timed their attacks to further their political agenda, and have **not sought mass destruction.** n31

2AC FRONTLINE TO TERRORISM DISADVANTAGE

5.) NO LINK: MARKEY'S BILL ALLOWS US TO PROSECUTE TERRORISTS WITHIN THE UNITED STATES.

National Public Radio, 4/7/2005 (Talk of the Nation, p.L/N)

CONAN: I'm not sure you were here to hear on the phone when Mike Scheuer was talking, but he did ask those who were sponsoring such legislation to answer the question: If you've got an al-Qaeda biggie, Ramzi Binalshibh, what do you do with him?

Rep. MARKEY: He's saying the United States has captured the man? CONAN: Yeah. Rep. MARKEY: And he's saying we've got him in our possession and we've got him behind bars, he wants to know what we'd do with him after we've got him behind bars? We'd do the same thing that we'd do with Saddam Hussein when we got him behind bars. We keep him behind bars. We definitely do not send him to Syria, a country that we don't trust on many levels, and Lebanon we don't trust them. But he, this gentleman you're talking to, he would say, 'Well, you could send them back to Syria if you wanted to,' with assurances, of course, that the person would not be tortured. But my feeling is, if we've captured him, if he's a threat to the United States, we have him behind bars, we have our own interrogators, we should keep him where he is and try to get information out of him.

CONAN: If you don't have chain of custody, if you don't have a legal charge to bring against him, where do you do that? Rep. MARKEY: Well, if we believe that we have evidence that someone is plotting against the United States, and as a result we have arrested him, then we should present the evidence which we have against him. CONAN: In court? Rep. MARKEY: In court. CONAN: And if the evidence is no good, you let him go? Rep. MARKEY: If there is no evidence--that's what happened, as you probably know, with Maher Arar. That was somebody who was... CONAN: The Syrian-born Canadian citizen we talked about earlier. Yes, go ahead. Rep. MARKEY: That's correct. And the United States kind of bundled him up, put him on a plane--he was a Canadian citizen--sent him to Syria. He was tortured in Syria. No information was forthcoming, and then the man was released. So I guess my answer would be, if you don't have any proof against somebody, you just can't be locking up hundreds of people because of their ethnic nationality because you believe they may be suspects. You have to have some proof.

6.) FORCED INTERROGATIONS AND TORTURE INCREASE THE RISK OF TERRORISM—IRELAND PROVES.

Jane **Mayer**, Journalist with the New Yorker, **2005** (February 2005, The New Yorker, "Outsourcing Torture," http://www.newyorker.com/fact/content/articles/050214fa_fact6, p.internet)

Scientific research on the efficacy of torture and rough interrogation is limited, because of the moral and legal impediments to experimentation. Tom **Parker**, a former officer for M.I.5, the British intelligence agency, who teaches at Yale, argued that, whether or not forceful interrogations yield accurate information from terrorist suspects, a larger problem is that many detainees "have nothing to tell." For many years, he said, British authorities subjected members of the [IRA] Irish Republican Army to forceful interrogations, but, in the end, the government concluded that "detainees aren't valuable." A more effective strategy, Parker said, was "being creative" about human intelligence gathering, such as infiltration and eavesdropping. "The U.S. is doing what the British did in the nineteen-seventies, detaining people and violating their civil liberties," he said. "It did nothing but exacerbate the situation. Most of those interned went back to terrorism. You'll end up radicalizing the entire population."

EXTENSION 1: TERRORIST RECRUITMENT

TORTURE HINDERS THE WAR ON TERRORISM BY CREATING NEW ENEMIES AND UNDERMINING OUR MORAL AUTHORITY.

Anne Applebaum, commentator for the Washington Post, 2005 (January 12, "The Torture Myth," <http://www.washingtonpost.com/wp-dyn/articles/A2302-2005Jan11.html>, p.internet)

Or listen to Army Col. Stuart Herrington, a military intelligence specialist who conducted interrogations in Vietnam, Panama and Iraq during Desert Storm, and who was sent by the Pentagon in 2003 -- long before Abu Ghraib -- to assess interrogations in Iraq. Aside from its immorality and its illegality, says Herrington, torture is simply "not a good way to get information." In his experience, nine out of 10 people can be persuaded to talk with no "stress methods" at all, let alone cruel and unusual ones. Asked whether that would be true of religiously motivated fanatics, he says that the "batting average" might be lower: "perhaps six out of ten." And if you beat up the remaining four? "They'll just tell you anything to get you to stop." Worse, you'll have the other side effects of torture. It "endangers our soldiers on the battlefield by encouraging reciprocity." It does "damage to our country's image" and undermines our credibility in Iraq. That, in the long run, **outweighs any theoretical benefit**. Herrington's confidential Pentagon report, which he won't discuss but which was leaked to The Post a month ago, goes farther. In that document, he warned that members of an elite military and CIA task force were abusing detainees in Iraq, that their activities could be "making gratuitous enemies" and that prisoner abuse "is counterproductive to the Coalition's efforts to win the cooperation of the Iraqi citizenry." Far from rescuing Americans, in other words, **the use of "special methods" might help explain why the war is going so badly.**

EXTRAORDINARY RENDITION INCREASES TERRORIST RECRUITMENT ABROAD.

University Wire, March 7, 2005 ("Extraordinarily Wrong," p.L/N)

Some justify our policy towards terror by stating that the ends justify the means. Don't believe it. We cannot fight a war for world freedom while indefinitely imprisoning certain "suspects" around the world. Every person who claims he was tortured at the hands of Americans in captivity will proclaim his story, true or not, from the mount as an inspiration for those disgruntled to rise up against America. Even worse, every suspect that is "rendered" to another country undermines our own moral standing as we ask others to take steps towards freedom. While we may need to use the sword to reach the olive bough, we must not use that same sword to stab lady justice in the heart.

EXTENSION 2: CAN'T PROSECUTE TERRORISTS

TORTURE LEADS TO BAD INFORMATION AND PROVIDING DUE PROCESS RIGHTS ACTUALLY INCREASES SUCCESS IN THE PROSECUTION OF TERRORISM.

Jane **Mayer**, Journalist with the New Yorker, **2005** (February 2005, The New Yorker, "Outsourcing Torture," http://www.newyorker.com/fact/content/articles/050214fa_fact6, p.internet)

Coleman was angry that lawyers in Washington were redefining the parameters of counter-terrorism interrogations. "Have any of these guys ever tried to talk to someone who's been deprived of his clothes?" he asked. "He's going to be ashamed, and humiliated, and cold. He'll tell you anything you want to hear to get his clothes back. There's no value in it." Coleman said that he had learned to treat even the most despicable suspects as if there were "a personal relationship, even if you can't stand them." He said that many of the suspects he had interrogated expected to be tortured, and were stunned to learn that they had rights under the American system. Due process made detainees more compliant, not less, Coleman said. He had also found that a defendant's right to legal counsel was beneficial not only to suspects but also to law-enforcement officers. Defense lawyers frequently persuaded detainees to cooperate with prosecutors, in exchange for plea agreements. "The lawyers show these guys there's a way out," Coleman said. "It's human nature. People don't cooperate with you unless they have some reason to." He added, "Brutalization doesn't work. We know that. Besides, you lose your soul."

TORTURE RESULTS IN FORCED CONFESSIONS AND PREVENTS TERRORISTS FROM BEING USED AS WITNESSES IN COURTS ALL AROUND THE WORLD.

Jane **Mayer**, Journalist with the New Yorker, **2005** (February 2005, The New Yorker, "Outsourcing Torture," http://www.newyorker.com/fact/content/articles/050214fa_fact6, p.internet)

The Bush Administration's departure from international norms has been justified in intellectual terms by elite lawyers like Gonzales, who is a graduate of Harvard Law School. Gonzales, the new Attorney General, argued during his confirmation proceedings that the U.N. Convention Against Torture's ban on "cruel, inhuman, and degrading treatment" of terrorist suspects does not apply to American interrogations of foreigners overseas. Perhaps surprisingly, the fiercest internal resistance to this thinking has come from people who have been directly involved in interrogation, including veteran F.B.I. and C.I.A. agents. Their concerns are as much practical as ideological. Years of experience in interrogation have led them to doubt the effectiveness of physical coercion as a means of extracting reliable information. They also warn that the Bush Administration, having taken so many prisoners outside the realm of the law, may not be able to bring them back in. By holding detainees indefinitely, without counsel, without charges of wrongdoing, and under circumstances that could, in legal parlance, "shock the conscience" of a court, the Administration has jeopardized its chances of convicting hundreds of suspected terrorists, or even of using them as witnesses in almost any court in the world. "It's a big problem," Jamie Gorelick, a former deputy attorney general and a member of the 9/11 Commission, says. "In criminal justice, you either prosecute the suspects or let them go. But if you've treated them in ways that won't allow you to prosecute them you're in this no man's land. What do you do with these people?"

EXTENSION 3: CAN'T PROSECUTE TERRORISTS

EVIDENCE OBTAINED THROUGH TORTURE CAN'T BE USED TO PROSECUTE TERRORISTS—ITS INNEFFECTIVE.

Jane **Mayer**, Journalist with the New Yorker, **2005** (February 2005, The New Yorker, "Outsourcing Torture," http://www.newyorker.com/fact/content/articles/050214fa_fact6, p.internet)

Even if Habib is a terrorist aligned with Al Qaeda, as Pentagon officials have claimed, it seems unlikely that prosecutors would ever be able to build a strong case against him, given the treatment that he allegedly received in Egypt. John Radsan, a law professor at William Mitchell College of Law, in St. Paul, Minnesota, who worked in the general counsel's office of the C.I.A. until last year, said, "I don't think anyone's thought through what we do with these people."

Similar problems complicate the case of Khalid Sheikh Mohammed, who was captured in Pakistan in March, 2003. Mohammed has reportedly been "water-boarded" during interrogations. If so, Radsan said, "it would be almost impossible to take him into a criminal trial. Any evidence derived from his interrogation could be seen as fruit from the poisonous tree. I think the government is considering some sort of military tribunal somewhere down the line. But, even there, there are still constitutional requirements that you can't bring in involuntary confessions."

US FEDERAL COURTS REFUSE TO ACCEPT JURISDICTION FOR INDIVIDUALS TORTURED UNDER EXTRAORDINARY RENDITION.

The Committee on International Human Rights at NYU Law School, **2005** ("Torture by Proxy," The Association of the Bar of the City of New York, 60 The Record 13, p.L/N)

Although U.S. courts have not addressed **Extraordinary Renditions**, they have dealt with *rendition* n108 --that is, extrajudicial transfers of individuals *from* third countries *to* the United States--generally holding that such transfers (usually taking the form of abductions) do not preclude U.S. courts from exercising jurisdiction over the transferred individuals (the *Ker-Frisbie* doctrine). n109 U.S. courts, however, have been more reluctant to accept jurisdiction where extrajudicial transfers were accompanied by **torture** by or with the acquiescence of the United States. Thus, in *United States v. Toscanino*, n110 the Court of Appeals for the Second Circuit refused to exercise jurisdiction over an individual charged with conspiracy to import narcotics who was kidnapped by the U.S. government from Montevideo, bound, blindfolded, held incommunicado for eleven hours, deprived of food and water, and subsequently transferred to Brasilia where he was tortured for 17 days in the presence and with the participation of a member of the U.S. Bureau of Narcotics.

2AC FRONTLINE TO CHINA DISADVANTAGE

1. CASE OUTWEIGHS:

A.) THE PLAN BANS TORTURE—WE HAVE A MORAL OBLIGATION TO NOT BE COMPLICIT WITH EVIL. OUR HERBERT EVIDENCE SAYS THAT FAILURE TO ACT MAKES US ALL COLLABORATORS WITH EVIL. THIS IS WRONG, WE SHOULDN'T SUPPORT EVIL COUNTRIES THAT BOIL PEOPLE ALIVE.

B.) DEMOCRACY PROMOTION IS CRITICAL TO PREVENTING GLOBAL WARS—DEMOCRACIES WON'T GO TO WAR WITH EACH OTHER. THAT'S OUR DIAMOND EVIDENCE. IF WE CAN PROMOTE DEMOCRACY IN CHINA, THAT WOULD SOLVE THE U.S.-CHINA CONFLICT

2. NOT UNIQUE: THE U.S. IS CURRENTLY PRESSURING CHINA ON HUMAN RIGHTS.

Financial Times 2005 (3-23)

Condoleezza Rice, who has just returned from her first visit to Asia as US secretary of state, has been giving voice to the renewed enthusiasm of George W. Bush, president, for spreading democracy and religious freedom abroad. As she rightly pointed out in Tokyo in the keynote speech of her trip, even China must eventually embrace open and representative government. She repeated the message to China's Communist leaders in Beijing on Monday.

3. Turn: Chinese Rights

(A) Pressuring China is critical to stopping its rights abuses.

South China Morning Post 2004 (2-27)

Mainland activists have called on the United States to keep up the pressure on the government to improve its human rights record.

"On the surface it may seem that China's human rights situation has improved, but it has worsened," said Guan Zhenli, who is campaigning for the rights of residents forced to relocate to make way for massive construction projects in Beijing.

"In the past, police would beat you up in public. Today they just haul you away and beat you up behind walls."

Mr Guan said the fourth-generation leaders had not relaxed their stance on political suppression.

"Only tactics have changed," he said.

Next month Mr Guan and other well-known activists have to report to police detention centres every day or they risk being arrested. "We've been told to keep quiet," he said. "Authorities are afraid that we'll create trouble during the upcoming National People's Congress meetings. They don't want protests on the streets, or representatives to hear the voice of people who have legitimate grievances.

"I believe the US should continue to put pressure on the government to improve human rights. This is the only way the government will improve."

(B) Extend our 1AC Herbert evidence—human rights violations are immoral and should be rejected.

2AC FRONTLINE TO CHINA DISADVANTAGE

4. **China's military is not advanced enough for battle – they will not go to war with the U.S.**

Holt, Senior Fellow specializing in East Asia relations at the World Policy Institute, **2000**

<James H, April, Foreign Policy In Focus, Volume 5, Number 11

www.u.arizona.edu/~volgy/taiwan1.doc >

China's armed forces are the world's largest, but smaller per capita than those of many countries, including the United States. The Chinese military's size is actually a hindrance to modernization, because it cannot afford adequate pay, training, or modern weapons for most of its forces.

China will not be able to develop modern military forces unless it either greatly increases military spending (which seems unlikely) or drastically cuts the size of its forces. China can defend its territory, but its capacity for external aggression is minimal.

Although China has disputes with most of its neighbors, it has not resorted to force to resolve them since its defeat in the 1979 war with Vietnam

(except for a brief 1988 clash with Vietnam over the Paracel Islands). China and Russia have demilitarized their common border, and China has

extensive trading relations with all of its neighbors, including Taiwan and both North and South Korea. Even where there is tension, as in China's

relations with Taiwan, India, and Vietnam, relations have improved considerably since the armed clashes of decades ago.

5. **No Threshold: We argue with China all the time – there is no evidence that a small increase in human rights pressure will cause them to break off all relations with us.**

XT: #4 NO WAR WITH CHINA

CHINA IS NOT A THREAT TO THE U.S. – THEY DON'T HAVE THE MILITARY POWER AND THEY ARE COOPERATIVE.

Holt, Senior Fellow specializing in East Asia relations at the World Policy Institute, **2000**
<James H, April, Foreign Policy In Focus, Volume 5, Number 11
www.u.arizona.edu/~volgy/taiwan1.doc >

Despite frequent alarms about the supposed China threat, China is not an emerging superpower. Although it has experienced rapid economic growth, militarily China has been in relative decline since the 1970s. China's high economic growth rate is now slowing, and its pattern of growth has actually undermined its ability to become an autonomous military power able to manufacture its own weapons systems and sustain a war effort without support from abroad. China does not, and will not in the foreseeable future, pose the kind of military threat to the U.S. that the Soviet Bloc did (exaggerated though that threat often was). Nor is China an irritating "rogue state": it has cooperative commercial and diplomatic relations with most of its neighbors and with the United States.

THE NEGATIVE'S EVIDENCE IS ALL HYPE – THE MEDIA EXAGGERATES THE CHINESE THREAT FOR RATINGS.

Holt, Senior Fellow specializing in East Asia relations at the World Policy Institute, **2000**
<James H, April, Foreign Policy In Focus, Volume 5, Number 11
www.u.arizona.edu/~volgy/taiwan1.doc >

U.S. public media and some politicians have often tended to exaggerate the threat from China. The U.S. should relate to China with confidence, not with fear. In the two decades since relations were normalized, China has gradually liberalized its economy, becoming an outward-looking, commercial society sharing many interests with the United States. During this period, China has demilitarized to a much greater extent than has the United States. If China is to be a superpower, it seems destined to be an economic one more akin to Japan than a military superpower like the former Soviet Union. Although the U.S. might be strong enough to bully China, it should resist that temptation, because in the long run—like the pressure against Weimar Germany in the 1920s—bullying could divert China from its current hopeful path toward a more suspicious and antagonistic relationship with the outside world.

2AC ANSWERS TO UZBEKISTAN COUP DISADVANTAGE

1.) NON-UNIQUE: WASHINGTON NO LONGER SUPPORTS COOPERATION WITH THE PRESIDENT OF UZBEKISTAN.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2005** (April 4, “Bush Administration welcomes the Kyrgyz Revolution,”
<http://www.heritage.org/Press/Commentary/ed040405b.cfm>)

The revolutionary turn of events in Kyrgyzstan has prompted some Bush administration officials to wonder whether more "democratic dominos" could fall in Central Asia in the near future. Frustration in Washington is running high with President Islam Karimov in Uzbekistan. Like Akayev, Karimov forged a close strategic relationship with the United States during the early stages of the global anti-terrorist campaign. However, Washington's has grown increasingly annoyed with Karimov's hard-line domestic political policies, as well as his intransigent resistance to implementing long-promised economic reforms. Many policy makers also see the erratic behavior of Turkmenistan's leader, Saparmurat Niyazov, as a regional security liability.

A high-level US National Security Council official suggests that Karimov, Niyazov and other authoritarian leaders may be digging their own political graves with their absolute refusal to ease up on repression and to encourage reforms in their respective nations. A major source of concern in Washington is that hard-line governmental practices in Central Asia are helping to swell the ranks of Islamic extremist groups, including Hizb-ut-Tahrir.

2.) NO LINK: THEIR EVIDENCE DOESN'T JUST TALK ABOUT EXTRAORDINARY RENDITIONS—IT IS TALKING ABOUT ALL MILITARY COOPERATION. THE PLAN JUST ENDS ONE ASPECT OF U.S. INVOLVEMENT.

3.) DEMOCRACY PROMOTION IN UZBEKISTAN IS CRITICAL TO UNDERCUTTING TERRORIST RECRUITMENT.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2001** (July 18, “U.S. Foreign Policy Interests and Human Rights in Central Asia.”
<http://www.heritage.org/Research/RussiaandEurasia/Test071801.cfm>)

It is also important to emphasize that without developed political channels for redressing grievances, ensuring freedom of worship, facilitating political change and the rule of law, striving for manageable levels of corruption, and protecting freedom of the media and freedom of association, thousands of Central Asians: Uzbeks, Turkmen, Kazakhs and others, will swell the ranks of radical organizations, such as the Islamic Front of Uzbekistan, the Moslem Brotherhood, and others.

2AC ANSWERS TO UZBEKISTAN COUP DISADVANTAGE

4.) CASE OUTWEIGHS—

A.) MILITARY COOPERATION WITH UZBEKISTAN IS EVIL. OUR WASHINGTON POST EVIDENCE INDICATES THAT UZBEKISTAN BOILS PEOPLE ALIVE AS A TORTURE METHOD. THIS IS IMMORAL AND MUST BE REJECTED.

B.) TORTURE OUTWEIGHS TERRORISM:

The Committee on International Human Rights at NYU Law School, **2005** (“Torture by Proxy,” *The Association of the Bar of the City of New York*, 60 *The Record* 13, p.L/N)

The European Court of Human Rights has also addressed the principle [*137] of non-refoulement [the non-transfer of individuals to countries that practice torture] to the danger of torture in the context of terrorism and national security, and determined that the prohibition against refoulement is based on "one of the most fundamental values of democratic society,"

n463 and may not be violated even on national security grounds. n464 In *Chahal v. United Kingdom*, n465 The government of the United Kingdom claimed that the petitioner was a threat to the United Kingdom's national security, refused his claim for asylum and issued a deportation order. The Court found that Chahal would be in danger of ill-treatment if sent to India, and stated that the absolute nature of Article 3 applied to expulsion cases. With respect to the United Kingdom's claim that the petitioner posed a threat to its national security, the Court stated that:

The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct. . . . The prohibition provided by Article 3 against ill-treatment is equally absolute in expulsion cases. Thus, whenever substantial grounds have been shown for believing that an individual would face a real risk of being subjected to treatment contrary to Article 3 if removed to another State, the responsibility of the Contracting State to safeguard him or her against such treatment is engaged in the event of expulsion. . . . In these circumstances, the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration. n466 The Inter-American Court of Human Rights has similarly held that the prohibition against torture is a *jus cogens* norm, which prohibits an [*138] individual from return to a country where that person is likely to be tortured, even if the individual is suspected of terrorist activities. n467 These cases provide guidance to the United States in its necessary task of striking a balance between the need to address the threat of terrorism and the "fundamental values of democratic society." International law uniformly provides that regardless of whether the transfer of a person occurs as part of an extradition request and regardless of any exceptional circumstances such as efforts to combat terrorism or another threat against national security, the anti-torture and non-refoulement principles would be violated if, as a result of such transfer, the person could be subjected to torture or other ill-treatment.

5.) NO LINK: THEIR COHEN LINK EVIDENCE TALKS ABOUT A FOREIGN AID PACKAGE TO UZBEKISTAN, NOT EXTRAORDINARY RENDITIONS.

[READ OR CROSS-APPLY ANSWERS TO THE TERRORISM DISAD HERE]

EXTENSION 3: DEMOCRACY PROMOTION SOLVES UZBEKISTAN

SPREADING DEMOCRACY TO CENTRAL ASIA IS CRITICAL TO FIGHTING TERRORISM.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2001** (July 18, “U.S. Foreign Policy Interests and Human Rights in Central Asia.” <http://www.heritage.org/Research/RussiaandEurasia/Test071801.cfm>)

The failure of local elites to embrace participatory frameworks of governance and transparent market reform, oppose corruption, and recognize basic individual rights, has led to the current rise in political instability. The threats of Islamic insurrections and internal political opposition are forcing the governing regimes to appeal to regional powers for support. The United States should fully recognize the threat of Islamic extremism in the region and elsewhere, as this extremism is aimed against American interests and American citizens, as the World Trade Center, Khobar Towers and the Cole attacks have demonstrated. However, unfortunately, regime insecurity is also a cause for brutality, a motivation to silence the voices of political opposition and criticism. While this may work in the short term, **it can make things worse in the long run, including in Central Asia.**

EXTRAORDINARY RENDITIONS NEGATIVE INDEX

<u>INC Frontline to Torture Advantage</u>	45
<u>Extension 1: Their Evidence is Exaggerated</u>	47
<u>Extension 2: Oversight solves now</u>	48
<u>INC Frontline to Democracy Promotion Advantage</u>	49
<u>Extension 1: Guantanamo and Abu Ghraib kill Demo Promo</u>	52
<u>Extension 3: Demo Promo increases terrorism</u>	53
<u>Extension 4: Distrust of America kills Demo Promo</u>	54
<u>Extension 6: Radical Islamic Takeover Turn</u>	55
<u>Extension 7: U.S. Not Key</u>	56
Extraordinary Rendition Disadvantages and Links	
<u>Uzbekistan Coup Disadvantage</u>	57
<u>Brink Extensions</u>	60
<u>Link Extensions to Uzbek Coup DA</u>	61
<u>Impact Extensions: Terrorism</u>	63
<u>Extension: Long-term Engagement Solves Torture</u>	64
Terrorism Disadvantage Links: Rendition	66
China Links: Rendition	68

1NC FRONTLINE TO TORTURE ADVANTAGE

1.) THE SCOPE OF THE PROBLEM IS SMALL—ONLY 100 PEOPLE HAVE BEEN RENDERED.

National Public Radio, 4/7/2005 (Talk of the Nation, p.L/N)

CONAN: How widespread is this practice? Do we know how many people have been extraordinarily rendered?

Mr. HIRSH: No. We really don't. There was some testimony before Congress last year. General Paul Kern at one point told a congressional committee that he thought that it might be as many as 100. It has not, you know, come to light where they're held in most cases, and there was one report in the Israeli paper, Ha'Aretz, suggesting that a major detention facility was in Jordan. We in the media have focused on the one thing that we do know, which we did find out about, which is the sort of charter airline that the CIA has employed...

2.) JUDICIAL OVERSIGHT SOLVES EXTRAORDINARY RENDITIONS NOW.

International Enforcement Law Reporter, May 2005 (“US Extraordinary Renditions Subject to Foreign and US Investigations and Oversight,” p.L/N)

U.S. courts are starting to become involved. Notwithstanding guarantees of humane treatment by Yemen, on March 16, 2005, a U.S. court in D.C. prohibited the transfer of 13 Yemeni prisoners from Guantanamo to Yemen until a hearing is held on their attorneys assertions that they could be tortured if returned there. n11 In addition, on December 16, 2004, U.S. District Judge Bates ruled that U.S. courts had jurisdiction in the case of Ahmed Abu Ali, a U.S. citizen jailed in Saudi Arabia as a terrorism suspect. He was arrested shortly after U.S. law enforcement conducted a search on his home in Virginia and charged that the U.S. government directed his arrest and detention in Saudi Arabia. n12

3.) THE PLAN CAN'T SOLVE TORTURE—ABU GHRAIB PRISON AND GUANTANAMO BAY, AS WELL AS SECRET CIA PRISONS STILL EXIST ALL OVER THE WORLD. EVEN IF WE DON'T OUTSOURCE TORTURE ABROAD, WE CAN STILL TORTURE AT HOME.

1NC FRONTLINE TO TORTURE ADVANTAGE

4.) THE SUPREME COURT WILL MAKE EXTRAORDINARY RENDITIONS ILLEGAL IN THE STATUS QUO.

US News and World Report, 5/23/2005 ("Outsourcing a real nasty job," www.usnews.com/usnews/news/articles/050523/23rend_2.htm, p.internet)

Senate Democrats have called for a formal review of the rendition program. But Republicans on the intelligence committee say that's unnecessary because the CIA's inspector general is investigating the matter.

With so many thorny issues, many legal experts believe the issue will wind up before the Supreme Court. "This will be a long-term struggle," says Kim Lane Scheppele, who teaches constitutional and national security law at the University of Pennsylvania. "And these issues will be the big issues of our time."

Those who practice before the high court make a habit of never predicting how it will rule. Still, there are some clues. Last June, the court rejected the Bush administration's core legal argument of executive authority, saying that Americans detained as "enemy combatants" can challenge their detentions before a neutral judge while granting non-Americans held at the Pentagon's prison camp at Guantanamo Bay, Cuba, the right to contest their incarceration in U.S. courts. "A state of war," wrote Justice Sandra Day O'Connor, "is not a blank check for the president. . . ."

5.) ANTI-TORTURE ASSURANCES SOLVE IN THE STATUS QUO.

The New York Times, 3-6-2005 ("Rule Change Lets C.I.A. Freely Send Suspects Abroad to Jails," <http://www.nytimes.com/2005/03/06/politics/06intel.html?pagewanted=2&ei=5090&en=7020075f670ebf72&ex=1267765200&partner=rssuserland>, p.internet)

"We get assurances, we check on those assurances, and we double-check on these assurances to make sure that people are being handled properly in respect to human rights," the official said. The official said that compliance had been "very high" but added, "Nothing is 100 percent unless we're sitting there staring at them 24 hours a day

EXTENSION 1: THEIR EVIDENCE IS EXAGGERATED

CLAIMS OF TORTURE ARE ISOLATED INSTANCES THAT THE MEDIA EXAGGERATES—THE U.S. RESPECTS HUMAN RIGHTS IN DETENTION FACILITIES.

Deutsche Presse-Agentur, June 1, **2005** (p.L/N)

U.S. Secretary of Defence Donald Rumsfeld strongly criticized the media Wednesday for what he called uneven coverage of whether U.S. forces abuse terror suspects and defended the military against such charges.

Rumsfeld said that while major media outlets were quick to criticize the U.S. for alleged abuses, there were far fewer reports on the military's efforts to allow detainees to worship.

The outspoken U.S. defence chief cited a few examples of how the military accommodates the detainees, such as providing meals according to their religious beliefs and adjusting schedules to "be respectful of prayer".

"This lack of media attention to U.S. policy guidance to treat detainees humanely creates misperceptions," the Pentagon chief said.

THERE ARE VERY FEW EXAMPLES OF ABUSE—THE IMPACT IS SMALL.

Deutsche Presse-Agentur, June 1, **2005** (p.L/N)

The Pentagon chief said while there have been instances of detainee abuses, including some that were grievous, he said these cases were being investigated.

Rumsfeld said there have been 68,000 detainees in U.S. custody since the September 11, 2001, terrorist attacks and there have been "approximately 370 criminal investigations into the charges of misconduct..."

He added that less than 0.1 per cent of the 525,000 U.S. service members in Iraq, Afghanistan and the prison camp in Guantanamo, Cuba, "have been found to have committed illegal acts against detainees".

Rumsfeld also noted that many of the suspected terrorists held at Guantanamo "have been systematically trained to lie and to claim torture".

EXTENSION 2: OVERSIGHT SOLVES NOW

DEPARTMENT OF DEFENSE OVERSIGHT IS WORKING TO SOLVE ABUSE AT DETENTION FACILITIES NOW.

The Department of Defense, Sept. 10, **2004** (U.S. Department of Defense Press Release, <http://www.defenselink.mil/releases/2004/nr20040910-1240.html>)

Detainee operations in Afghanistan, Iraq, and elsewhere have been examined extensively – both within the Department of Defense and by an independent panel led by former Secretary of Defense Jim Schlesinger. The U.S. military itself -- not Mr. Hersh or any other reporter – first publicized the facts of the abuses at Abu Ghraib in January 2004, four months before Mr. Hersh “broke” the story.

To date the Department has conducted 11 investigations, of which eight reports have been completed and released, additionally:

- * Over 13,000 pages of reports have been compiled thus far.
- * Investigators have completed 950 interviews.
- * 43 Congressional briefings and hearings have been conducted (not to mention 39 additional briefings for Congressional staff).

Those responsible for criminal activities at Abu Ghraib or other detention facilities are being held accountable.

- * 45 individuals have been referred for courts-martial
- * 12 for General Officer Letters of Reprimand
- * 23 Soldiers have been administratively separated

INC FRONTLINE TO DEMOCRACY PROMOTION ADVANTAGE

1.) GUANTANAMO BAY AND ABU GHRAIB UNDERMINE US DEMOCRACY PROMOTION NOW.

Patrick Leahy (D-Vt.), June 15, 2005 (“Detainees,” FDCH Congressional Testimony, p.L/N)

Guantanamo Bay - along with Abu Ghraib - is an international embarrassment to our nation and to our ideals, and it remains a festering threat to our security. America was once viewed as a leader in human rights and the rule of law, but Guantanamo has undermined our leadership, damaged our credibility and drained the world's goodwill for America at alarming rates. Even our closest allies cannot condone the policies embraced by this government, not to mention the significant damage that has been caused by allegations and proven incidents of detainee abuse in Iraq, Afghanistan, and Guantanamo. These are not the policies of a great and just nation like ours, and this is not the American system of justice.

2.) NO IMPACT: DEMOCRACY PROMOTION HAS A LONG TIME-FRAME FOR SUCCESS.

Marc Plattner, Vice President at the National Endowment for Democracy, 2005 (June 16, Federal News Service, “America’s Mission: Debating Strategies for the Promotion of Democracy and Human Rights,” p.L/N)

And I would say another problematic aspect of this is that U.S. policy is not always going to make the decisive difference. I mean, we have a huge influence in the world, but in many ways it's a limited influence. And, you know, we try to take credit for places where change comes about. And one can say: Ukraine, yes, and Egypt, no. But it's also: Ukraine, yes, and Belarus that hasn't happened, although we've made a very substantial effort in Belarus -- we being, you know, the United States and all the various tools that -- at the disposal of the U.S. government. Not to say that it couldn't be done better, it always can be done better. But there are many places where, despite the U.S.'s best efforts, democracy is not likely to succeed right away.

3.) BUSH’S DEMOCRACY PROMOTION ATTEMPTS WILL BE COUNTERPRODUCTIVE, INCREASING TERRORISM.

The New York Times, February 6, 2005 (“No Returns,” p.L/N)

President Bush's democracy-promotion policy will be appropriate and laudable at the right time in the right nations, but it is not the cure for terrorism and may divert us from efforts needed to rout Al Qaeda and reduce our vulnerabilities at home. The president is right that resentment is growing and that it is breeding terrorism, but it is chiefly resentment of us, not of the absence of democracy. The 9/11 Commission had a proposal similar to the president's, but more on point: a battle of ideas to persuade more Muslims that jihadist terrorism is a perversion of Islam. Most Middle East experts agree, however, that **any American hand in the battle of ideas will, for now, be counterproductive.** For many in the Islamic world, the United States is still associated with such acts as having made the 250,000 person city of Falluja uninhabitable. Because of the enormous resentment of the United States government in the Islamic world, documented in numerous opinion polls, we will have to look to nongovernmental organizations and other nations to lead the battle of ideas.

INC FRONTLINE TO DEMOCRACY PROMOTION ADVANTAGE

4.) DISTRUST OF AMERICANS ABROAD UNDERMINES U.S. DEMOCRACY PROMOTION

Juan **Mendez** and Javier **Mariezcurrana**, Professor of Law and Director for Civil and Human Rights at Notre Dame Law school; attorney, **2004** (Summer, "Prospects for Human Rights Advocacy in the Wake of September 11, 2001," 22 Law & Ineq. J. 223, p.L/N)

Nonetheless, it seems unthinkable that these principles can be attained today or in the near future. There is great distrust of the United States abroad, where few believe that the war on terrorism has the objective of promoting "enduring freedom." It is not the Taliban or an Iraqi soldier who points out that "to be sure, in defending its interests a great nation may end up promoting freedom. Such was the situation with the concentration camps. It will not be the case for the \$ 15 barrel of crude." n173 Nor is it enemy propaganda that points out the problems of the current administration:

5.) THE SPREAD OF DEMOCRACY DOESN'T PREVENT WAR.

Thomas **Caruthers**, senior associate at the Carnegie Endowment for International Peace, **1997** (Summer, "Think Again Democracy," Foreign Policy, p.JSTOR)

Democracies don't go to war with one another.

Sounds terrific. This new truth, delivered to Washington in the early 1990s from the immaculate laboratories of academe, quickly became a favorite of Clinton speechwriters and peace-studies gurus. It may be appealing, but its validity as a political science rule exceeds its utility as a tool for policymakers. Nasty little exceptions like the recent fighting between Peru and Ecuador spoil part of the fun and have to be explained away (it wasn't really a war, it's just some bloodshed over a border, and hey, Peru's not all that democratic). Moreover, recent research by political scientists Edward Mansfield and Jack Snyder shows that while well-established democracies are indeed relatively peaceful, countries attempting to become democratic are **more rather than less prone to go to war.** Given the current proliferation of countries wandering uncertainly through that transitional state—and the large number of countries still ruled by autocrats—don't expect Immanuel Kant's *Perpetual Peace* to kick in anytime soon.

INC FRONTLINE TO DEMOCRACY PROMOTION ADVANTAGE

6.) TURN: DEMOCRACY PROMOTION IN THE MIDDLE EAST AND CENTRAL ASIA WILL RESULT IN THEOCRATIC GOVERNMENTS WHICH ARE THE BREEDING GROUNDS FOR TERRORISM.

The New York Times, February 6, 2005 (“No Returns,” p.L/N)

Given these statements by Zarqawi and Bush, Americans might well conclude that Al Qaeda's primary aim is preventing democracy. Following the president's theory, they might assume terrorism cannot grow in democracies and that the best way to deal with it is to create more democracies. Unfortunately, both beliefs may be mistaken. Zarqawi and his followers do oppose democracy in Iraq, but they do so partly because they believe that the continuing electoral process (a constitutional referendum is planned for October of this year and a national election for December) is an American imposition. In this they are joined by the many Iraqis who simply want an occupying army to leave. In addition, Zarqawi's group seeks support from the Sunni Arab minority, which in any democratic process will lose power as compared with what it had in the decades of Baath Party rule. Beyond Iraq, in the greater Muslim world, opposing democracy is not uppermost in the mind of Al Qaeda or the larger jihadist network. (In Saudi Arabia, for example, Al Qaeda wants the monarchy replaced by a more democratic government.) Radical Islamists are ultimately seeking to create something orthogonal to our model of democracy. They are fighting to create a **theocracy** or, in their vernacular, a caliphate (a divinely inspired government administered by a caliph as Allah's viceroy on earth). They are also seeking to evict American influence from nations with a Muslim majority (or even, as in Iraq, a Muslim minority, given their view that Shiites are, as Zarqawi put it, part of a "wicked sect" and not true Muslims). In pursuing these goals, today's loosely affiliated Islamic terrorist groups are part of a trend dating back to at least 1928, when the Muslim Brotherhood was founded to promote Islam and fight colonialism. This trend hasn't abated with the spread of democracy. In Indonesia, which just achieved its third democratic transfer of power since Suharto's rule ended in 1998, the jihadist movement is growing stronger, as it is in other Asian democracies. In Algeria, free elections in 1990 and 1991 resulted in victories for those who advocated a jihadist theocracy. Throughout Western Europe, the jihadists are becoming deeply rooted among disaffected Muslim youth. Free elections, in short, **have not dimmed the desire of jihadists to create a caliphate.**

7.) U.S. NOT KEY TO DEMOCRACY PROMOTION

Michael **Ignatieff**, Carr professor of Human Rights at the Kennedy School of Government at Harvard, 2005 (June 26, The New York Times, “Who Are Americans to Think that Freedom is theirs to Spread?,” p.L/N)

These achievements have left Americans claiming credit for everything good that has happened since, especially the fact that there are more democracies in the world than at any time in history. Jefferson's vaunting language makes appropriate historical modesty particularly hard, yet modesty is called for. Freedom's global dispersion owes less to America and more to a contagion of local civic courage, beginning with the people of Portugal and Spain who threw off dictatorship in the 1970's, the Eastern Europeans who threw off Communism in the 90's and the Georgians, Serbs, Kyrgyz and Ukrainians who have thrown off post-Soviet autocratic governments since. The direct American role in these revolutions was often slight, but American officials, spies and activists were there, too, giving a benign green light to regime change from the streets.

EXTENSION 1: GUANTANAMO AND ABU GHRAIB KILL DEMO PROMO

GUANTANAMO BAY UNDERMINES DEMOCRACY PROMOTION.

Patrick Leahy (D-Vt.), June 15, 2005 (“Detainees,” FDCH Congressional Testimony, p.L/N)

But we also know that some of the detainees have been wrongly detained. And I suspect there are others who have not yet been released, against whom the evidence is weak at best. It is one thing if they are being detained in accordance with the Geneva Conventions. But if not, they do not belong there.

This week the Administration and its defenders have been trying to change the subject from the legal morass that Guantanamo has become, by producing props of chicken dinners and such, seeming to argue that it is more Club Med than prison. Let's get real. People have been kept in cages for three years, with no end in sight and no workable process to lead us there.

Guantanamo Bay is causing immeasurable damage to our reputation as a defender of democracy and a beacon of human rights around the world. The Administration has yet to articulate a coherent plan to repair the damage. The Congress has abdicated its oversight responsibilities for far too long. The Administration has placed this nation in an untenable situation, and it is time for Congress to demand a way out.

PRISONER ABUSE AND TORTURE IN THE WAR ON TERROR UNDERMINES U.S. DEMOCRACY PROMOTION ABROAD.

Michael Ignatieff, Carr professor of Human Rights at the Kennedy School of Government at Harvard, 2005 (June 26, The New York Times, “Who Are Americans to Think that Freedom is theirs to Spread?,” p.L/N)

And then there are the prisoners, the hooded man with the wires hanging from his body, the universal icon of the gap between the ideals of American freedom and the sordid -- and criminal -- realities of American detention and interrogation practice. The fetid example of these abuses makes American talk of democracy sound hollow. It will not be possible to encourage the rule of law in Egypt if America is sending Hosni Mubarak shackled prisoners to torture. It will be impossible to secure democratic change in Morocco or Afghanistan or anywhere else if Muslims believe that American guards desecrated the Koran. The failure to convict anybody higher than a sergeant for these crimes leaves many Americans and a lot of the world wondering whether Jefferson's vision of America hasn't degenerated into an ideology of self-congratulation, whose function is no longer to inspire but to lie.

EXTENSION 3: DEMO PROMO INCREASES TERRORISM

DEMOCRACY PROMOTION INCREASES THE RISK OF TERRORISM—NORTH IRELAND PROVES.

The New York Times, February 6, **2005** (“No Returns,” p.L/N)

Even without jihadists, Western democracies have hardly been immune to terrorism. The [IRA] Irish Republican Army, the Baader-Meinhof gang of Germany and the Red Brigades of Italy all developed in democracies. Indeed, in the United States, the largest terrorist attack before Sept. 11 was conducted in Oklahoma by fully enfranchised American citizens.

Thus, it is not the lack of democracy that produced jihadist movements, nor will the creation of democracies quell them. To the extent that President Bush's new policy is turned into action, the jihadists may well take it as **further provocative American meddling**, similar to the reaction to the president's earlier attempt at reform in the region, the Greater Middle East Initiative, which was dead on arrival.

EXTENSION 4: DISTRUST OF AMERICA KILLS DEMO PROMO

THE PLAN CAN'T SOLVE DEMOCRACY PROMOTION—THE WAR IN IRAQ AND THE ISRAELI-PALESTINIAN CONFLICT OVERSHADOW U.S. EFFORTS.

Tom **Malinowski**, Advocacy Director for Human Rights Watch, **2005** (June 16, Federal News Service, "America's Mission: Debating Strategies for the Promotion of Democracy and Human Rights," p.L/N)

Now how do you turn that around? Well, one problem in the region, of course, is that the democracy promotion strategy, because it's so central to the president's overall foreign policy vision, has become associated in people's eyes with other things they don't like, like Iraq and the Israeli-Palestinian conflict. Now, there's not much that can be done about that, apart from succeeding in Iraq, and I'm not sure I know how to do that; and succeeding in building peace among Israelis and Palestinians, and I'm not sure how to do that either.

DEMOCRACY PROMOTION IN THE MIDDLE EAST IS INEFFECTIVE—DISTRUST OF AMERICA IS TOO HIGH.

Michael **Ignatieff**, Carr professor of Human Rights at the Kennedy School of Government at Harvard, **2005** (June 26, The New York Times, "Who Are Americans to Think that Freedom is theirs to Spread?," p.L/N)

The consequences are more likely to be positive if the president begins to show some concern about the gap between his words and his administration's performance. For he runs an administration with **the least care for consistency** between what it says and does of any administration in modern times. The real money committed to the promotion of democracy in the **Middle East** is trifling. The president may have doubled the National Endowment for Democracy's budget, but it is still only \$80 million a year. But even if there were more money, there is such doubt in the **Middle East** that the president actually means what he says -- in the wake of 60 years of American presidents cozying up to tyrants in the region -- that every dollar spent on democracy in the **Middle East** runs the risk of undermining the cause it supports. Actual Arab democrats recoil from the embrace of American good intentions. Just ask a community-affairs officer trying to give American dollars away for the promotion of democracy in Mosul, in northern Iraq, how easy it is to get anyone to even take the money, let alone spend it honestly.

EXTENSION 6: RADICAL ISLAMIC TAKEOVER TURN

DEMOCRACY PROMOTION IN THE MIDDLE EAST DOESN'T SOLVE TERRORISM AND MAY ACTUALLY PROMOTE IT.

Michael **Ignatieff**, Carr professor of Human Rights at the Kennedy School of Government at Harvard, **2005** (June 26, The New York Times, "Who Are Americans to Think that Freedom is theirs to Spread?," p.L/N)

It is terrorism that has joined together the freedom of strangers and the national interest of the United States. But not everyone believes that democracy in the Middle East will actually make America safer, even in the medium term. Thomas Carothers of the Carnegie Endowment for International Peace, for one, has questioned the "facile assumption that a straight line exists between progress on democratization and the elimination of the roots of Islamic terrorism." In the short term, democratization in Egypt, for example, might only bring the radical Muslim Brotherhood to power. Even in the medium term, becoming a democracy does not immunize a society from terrorism. Just look at democratic Spain, menaced by Basque terrorism. Moreover, proclaiming freedom to be God's plan for mankind, as the president has done, does not make it so. There is, as yet, no evidence of a sweeping tide of freedom and democracy through the Middle East. Lebanon could pitch from Syrian occupation into civil strife; Egypt might well re-elect Mubarak after a fraudulent exercise in pseudodemocracy; little Jordan hopes nobody will notice that government remains the family monopoly of the Hashemite dynasty; Tunisia remains a good place for tourists but a lousy place for democrats; democratic hopes are most alive in Palestine, but here the bullet is still competing with the ballot box. Over it all hangs Iraq, poised between democratic transition and anarchy.

EXTENSION 7: U.S. NOT KEY

U.S. DEMOCRACY PROMOTION ISN'T RESPONSIBLE FOR THE SPREAD OF DEMOCRACY IN THE MIDDLE EAST.

Michael **Ignatieff**, Carr professor of Human Rights at the Kennedy School of Government at Harvard, **2005** (June 26, The New York Times, “Who Are Americans to Think that Freedom is theirs to Spread?,” p.L/N)

This democratic turn in American foreign policy has been recent. Latin Americans remember when the American presence meant backing death squads and military juntas. Now in the Middle East and elsewhere, when the crowds wave Lebanese flags in Beirut and clamor for the Syrians to go, when Iraqi housewives proudly hold up their purple fingers on exiting the polling stations, when Afghans quietly line up to vote in their villages, when Egyptians chant "Enough!" and demand that Mubarak leave power, few Islamic democrats believe they owe their free voice to America. But many know that they have not been silenced, at least not yet, because the United States actually seems, for the first time, to be betting on them and not on the autocrats.

AMERICAN DEMOCRACY PROMOTION IS INEFFECTIVE—AMERICAN VALUES NO LONGER INSPIRE AS THEY USED TO.

Michael **Ignatieff**, Carr professor of Human Rights at the Kennedy School of Government at Harvard, **2005** (June 26, The New York Times, “Who Are Americans to Think that Freedom is theirs to Spread?,” p.L/N)

This is not how it used to be. From the era of F.D.R. to the era of John Kennedy, liberal and progressive foreigners used to look to America for inspiration. For conservatives like Margaret Thatcher, Ronald Reagan was a lodestar. The grand boulevards in foreign capitals were once named after these large figures of American legend. For a complex set of reasons, American democracy has ceased to be the inspiration it was. This is partly because of the religious turn in American conservatism, which awakens incomprehension in the largely secular politics of America's democratic allies. It is partly because of the chaos of the contested presidential election in 2000, which left the impression, worldwide, that closure had been achieved at the expense of justice. And partly because of the phenomenal influence of money on American elections.

UZBEKISTAN COUP DISADVANTAGE

A.) BRINK: UZBEKISTAN IS ON THE BRINK OF A RADICAL ISLAMIC COUP.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2005**(May 13, Heritage Foundation WebMemo #744, “The Uzbekistan Dilemma,”
<http://www.heritage.org/Research/RussiaandEurasia/wm744.cfm>)

With over 500 dead in Andijian, a hotbed of Islamic extremism in the impoverished and overpopulated Fergana Valley in Uzbekistan, the face of Central Asia is changed. Akramia, an allegedly radical Islamic group, appears to be behind the uprising against President Islam Karimov's government. The government's heavy-handed tactics and deliberate provocation by Akramia appear to be at fault for the massacre. According to the sketchy media reports, hundreds have been killed and many others wounded. Thousands have fled to neighboring Kyrgyzstan. Western observers should be careful not to mistake this for one of these peaceful “multi-color” revolutions that have occurred from Belgrade to Bishkek over the last three years. The violence, even if now quelled, could reignite at any time. The main challenge now for the Uzbeks and the U.S. is to find a way out of this crisis—and fast.

B.) LINK:

1.) PRESSURING UZBEKISTAN ON HUMAN RIGHTS WOULD EMPOWER RADICAL ISLAMIC OPPONENTS, CAUSING A COUP.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2004** (May 4, “After the Uzbekistan Terror Attacks: Don't Sanction, but Press for Democracy,”
<http://www.heritage.org/Research/RussiaandEurasia/wm496.cfm>)

The deadlines by which Washington must certify Uzbekistan's progress in human rights and religious freedom fall in July. At stake are military and civilian assistance worth over \$200 million. An abrupt interruption of aid could **send the wrong signal and empower Karimov's radical enemies.** Uzbekistan's poor progress calls for diplomatic pressure and a measured and continuous response, including ongoing military and security cooperation as envisaged by the U.S.-Uzbek 2002 Joint Declaration on the Strategic Partnership and Cooperation.

UZBEKISTAN COUP DISADVANTAGE

2.) AN ISLAMIC TAKEOVER WOULD LEAD TO A DOMINO EFFECT THROUGHOUT CENTRAL ASIA, LEADING TO MULTIPLE ISLAMIC ANTI-U.S. GOVERNMENTS.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2004** (May 4, “After the Uzbekistan Terror Attacks: Don’t Sanction, but Press for Democracy,” <http://www.heritage.org/Research/RussiaandEurasia/wm496.cfm>)

The United States has much at stake in Uzbekistan. Since 9/11, President Islam Karimov, a Soviet-era secular authoritarian leader, has provided access to military bases and air space that were crucial in launching the war against the Taliban and supporting the Northern Alliance. However, the U.S. State Department and human rights organizations have harshly criticized the Karimov regime for human rights abuses and lack of economic reform. Karimov has promised repeatedly, to Presidents Clinton and Bush, to liberalize the economic and political life. Little, though, has been accomplished so far. The 2003 State Department Human Rights Report notes that while some non-governmental organizations and political parties were allowed to register, Uzbekistan is behind its neighbors, such as Kazakhstan and Kyrgyzstan, in democratic reform. The regime harasses secular, nationalist, and moderate Islamic opposition groups and media and has, oddly, undertaken a campaign of arbitrary restriction, for example, banning billiards. The Report also notes some progress, including the release of thousands of prisoners, registration of a few NGOs, and new efforts to combat human trafficking.

The Bush Administration is aware that Karimov’s domestic policies are ill conceived and likely leading the country to a dead end. Senior Russian officials share this assessment. **But Washington also knows it must exercise care moving forward, lest the country be destabilized.** A militant Islamic takeover of Uzbekistan would provide radicals with a state base larger and militarily and technologically more sophisticated than Afghanistan. Moreover, **the demise of Uzbekistan’s secular government could have tumultuous consequences for the whole of Central Asia.** If Islamists overrun Uzbekistan, weak Central Asian states, such as Kyrgyzstan, Tajikistan and even the totalitarian Turkmenistan, may follow.

C.) IMPACT:

1.) THE EMERGENCE OF A MILITARIZED MUSLIM STATE IN UZBEKISTAN WILL BECOME A HOTBED OF GLOBAL TERRORISM.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2005**(May 13, Heritage Foundation WebMemo #744, “The Uzbekistan Dilemma,” <http://www.heritage.org/Research/RussiaandEurasia/wm744.cfm>)

Russia and possibly Western powers and international organizations will think twice before aiding Karimov to quell the revolt. Meanwhile, China and Kazakhstan, with its oil riches, are nervously watching developments in Andijan. All should keep a close watch, at the least. Uzbekistan’s falling into the hands of the Islamists will cause a geopolitical shift in Central Asia and endanger both U.S. and Russian interests there. In the long run, radical Islamist strategists believe that Central Asia, with its Soviet-educated technical personnel and ample natural resources—including gold, oil and gas, **uranium**, and globally competitive cotton production—will emerge as a **militarized Muslim state.** They foresee it as a **territorial base of jihad** against the West.

UZBEKISTAN COUP DISADVANTAGE

2.) NO TURNS! SHORT TERM COOPERATION IN THE WAR ON TERROR WITH AUTHORITARIAN STATES LIKE UZBEKISTAN PAVES THE WAY FOR LONG TERM REFORM AND DEMOCRACY PROMOTION.

Lynn **Pascoe**, U.S. Ambassador to Malaysia, **2002** (August 30, Heritage Foundation WebMemo #140, "U.S. Policy in Central Asia and the War on Terrorism," <http://www.heritage.org/Research/AsiaandthePacific/wm140.cfm>)

It is extremely difficult to convince Central Asian leaders that long-term economic and democratic reforms are necessary to eliminate the roots of terrorism **if we are not willing to help them counter terrorism in the short term and prove that we will be engaged for the long term.** Our assistance in the areas of military infrastructure, training, military exchanges, and development of interoperability with U.S. and international forces help to establish their short-term capability to cooperate in the global war on terrorism, instill confidence in our partnership, and give them reason to believe that political and economic reforms will lead to greater cooperation, sustained assistance, and concrete enhancements to their security and sovereignty

BRINK EXTENSIONS

UZBEKISTAN IS ON THE BRINK OF CIVIL WAR AND COLLAPSE

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2005**(May 13, Heritage Foundation WebMemo #744, “The Uzbekistan Dilemma,” <http://www.heritage.org/Research/RussiaandEurasia/wm744.cfm>)

Uzbekistan is now on the brink. It is strategically located in an area that has known much bloodshed and little, if any, democracy. In 1992, ethnic Uzbeks and Kyrgyz were at each other's throats in Osh, with the death toll reaching 2,000. And a civil war that resulted from a split between northern and southern clans in Tajikistan took over 100,000 lives after the Soviet collapse.

The United States has strategic interests in Uzbekistan and should follow the situation closely. The country was a key ally in the 2001 Operation Enduring Freedom that liberated Afghanistan. A U.S. air force base in Khanabad is just one of the American sites in the country. Islamists use the U.S. presence to agitate against America and the West. They also attack Karimov for maintaining diplomatic relations with Israel.

LINK EXTENSIONS TO UZBEK COUP DA

PULLING OUT OF UZBEKISTAN BECAUSE OF HUMAN RIGHTS ABUSES WOULD DRAMATICALLY INCREASE TERRORISM.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2004** (May 4, “After the Uzbekistan Terror Attacks: Don't Sanction, but Press for Democracy,” <http://www.heritage.org/Research/RussiaandEurasia/wm496.cfm>)

As there is no clear democratic alternative to Karimov now, carping criticism may be counter-productive, while greater engagement may bear fruit. The harsh anti-Uzbek line that international human rights organizations and some U.S. media have taken in response to terror in Uzbekistan and the sanctions that they call for **would be a mistake in the global war on terror**, especially given instability in Afghanistan.

The liberal-left human rights community and many in the media do not follow, understand, or accept the global extremist sources of the Islamist terror threat. These activists mistake local conditions for root causes of terrorism and exaggerate human rights violations by U.S. allies, while neglecting much greater abuses by U.S. foes and critics, such as Iran, Sudan, and Saudi Arabia. In the Ferghana Valley (a particularly volatile part of Uzbekistan and Kyrgyzstan) and elsewhere, Salafi and Wahhabi Saudi-funded propaganda and militancy are abundant. These—not poverty, despair, and police brutality—are the root causes of suicide bombings.

FURTHER TERRORISM IN UZBEKISTAN WILL CAUSE A COUP AND COLLAPSE THE GOVERNMENT, CAUSING TERRORISM.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2004** (May 4, “After the Uzbekistan Terror Attacks: Don't Sanction, but Press for Democracy,” <http://www.heritage.org/Research/RussiaandEurasia/wm496.cfm>)

Islamic Jihad, a group previously unknown in Uzbekistan, has announced that it was responsible for March's suicide bombings and other attacks, which claimed the lives of 45 people, primarily in Tashkent and Boukhara. **Further attacks may well destabilize Uzbekistan's secular government, which would be a disaster for the U.S.-led war on terror.** Despite claims to the contrary from the human rights community, Washington should understand that poverty and repression are **not** the root causes of terrorism, though democratic and economic reforms are vital for the long-term survival of Uzbekistan's secular state. The United States should work with Uzbekistan to promote such reforms.

LINK EXTENSIONS TO UZBEK COUP DA

MILITARY COOPERATION WITH UZBEKISTAN IS CRITICAL TO PREVENTING IT FROM BECOMING A HOTBED OF GLOBAL TERRORISM.

Lynn Pascoe, U.S. Ambassador to Malaysia, 2002 (August 30, Heritage Foundation WebMemo #140, "U.S. Policy in Central Asia and the War on Terrorism," <http://www.heritage.org/Research/AsiaandthePacific/wm140.cfm>)

The attacks of September 11 made it clear that our policies in the region had not gone far enough. We needed the assistance of the states of the region (through bases, overflight rights, supplies, etc.) to prosecute Operation Enduring Freedom; even more critically, the attacks brought home the danger that fragile countries like Afghanistan and potentially some of the states of Central Asia could become the breeding ground for International terrorist groups aimed at the United States. It was critical to the national interests of the United States that we greatly enhance our relations with the five Central Asian countries and help them find ways to take the political and economic reform measures necessary for long-term prosperity and stability.

The Presidents of Uzbekistan and Kazakhstan were invited to the United States, numerous Congressional delegations and cabinet secretaries have visited the region, and government ministers from these countries now regularly visit Washington. Our assistance budgets for most of the countries have increased significantly. The states of Central Asia have been excellent partners in the war against terrorism and they have welcomed our contribution to their security.

IMPACT EXTENSIONS: TERRORISM

THE IMPACT IS THE SPREAD OF RADICAL ISLAM THROUGHOUT CENTRAL ASIA.

Ariel **Cohen**, Senior Research Fellow at the Heritage Foundation, **2005**(May 13, Heritage Foundation WebMemo #744, “The Uzbekistan Dilemma,”
<http://www.heritage.org/Research/RussiaandEurasia/wm744.cfm>)

Akramia is named after its founder, Akram Yuldashev, who has been in and out of jail on various charges (fabricated, the group claims). It is not clear exactly how extremist the organization really is—reports vary. Public evidence of its terrorist activities is sparse. However, the recent operation in Andijan, which included seizing a military base and disarming a contingent of government troops, seems to have been well-planned and executed without regard to civilian casualties. The threat of radical Islam in Central Asia—and especially in impoverished and radicalized Fergana Valley, which straddles Uzbekistan and Kyrgyzstan—is significant and growing. The Islamic Movement of Uzbekistan (IMU) has links to Al Qaeda and directed terror attacks in the 1990s. It suffered setbacks fighting alongside Usama bin Laden in Afghanistan and its leader, Juma Namangani, was killed. Another leader, Tahir Yuldashev, survived and is now hiding in Pakistan. Another key player may be the global, clandestine radical Islamist party Hizb ut-Tahrir al Islami (Party of Islamic Liberation), which is recruiting supporters by the thousand. Hizb’s goal: creation of a worldwide Caliphate, a military dictatorship based on Shari’a law, and Holy War (jihad) against Land of the Sword—that is, the West. Central Asia, according to Hizb, is ripe for an Islamist revolution because of its corrupt “infidel” regimes and U.S. presence due to the war in Afghanistan. The region, with its natural resources such as uranium mines, is as good of a bridgehead in global jihad as any. Hizb has declared that democracy is un-Islamic but is likely to take part in any popular uprising.

EXTENSION: LONG-TERM ENGAGEMENT SOLVES TORTURE

**DEMOCRACY PROMOTION WON'T WORK OVERNIGHT IN COUNTRIES LIKE UZBEKISTAN—
MAINTAINING CLOSE RELATIONS SOLVES IN THE LONG TERM.**

Lynn Pascoe, U.S. Ambassador to Malaysia, 2002 (August 30, Heritage Foundation WebMemo #140, "U.S. Policy in Central Asia and the War on Terrorism," <http://www.heritage.org/Research/AsiaandthePacific/wm140.cfm>)

We have a vision for this region -- that it become stable, peaceful, and prosperous -- and that this is achieved through political and economic reform. These reforms are the only way to bring these states into competitive global economy. Without it, they cannot survive as modern states. When the Soviet Union collapsed, many hoped that the new countries that emerged would quickly embrace pluralistic democracy and a market economy. We now know that those expectations of the pace and scale of democratic and economic change in the early 1990s were unrealistic. Not because democracy isn't right for Central Asia. Not because the citizens of these countries wouldn't prefer to exercise the everyday political freedoms democracy affords. Indeed, it would be folly to assume that the universal human desire for freedom and dignity that has swept the whole world somehow comes to an abrupt stop at the borders of the Central Asian region, skirts them briefly, and rushes on elsewhere. It is not their "Central Asianness" that has held back the growth of democracy in that region, but the leadership and socio-economic structures of these countries which have so far kept them frozen in a Soviet past. We understand that major transitions in the basic nature of these regimes may require generational change and we are invested in political and economic reform in this region for the long term.

**CLOSE COOPERATION WITH CENTRAL ASIAN COUNTRIES IN THE WAR ON TERROR IS TIED TO
INCREASING HUMAN RIGHTS AND POLITICAL REFORMS IN THE REGION.**

Lynn Pascoe, U.S. Ambassador to Malaysia, 2002 (August 30, Heritage Foundation WebMemo #140, "U.S. Policy in Central Asia and the War on Terrorism," <http://www.heritage.org/Research/AsiaandthePacific/wm140.cfm>)

The steps we have taken to greatly enhance our ties with the countries of Central Asia have been taken because they are in the U.S. national interest. We need to work closely with these countries to prosecute the war against terrorism, but we also need to do what we can to ensure that this becomes a stable, prosperous region, not a threat to international society. To this end, we are seeking to use our influence to promote the political and economic reform necessary for them to prosper. What we want is for these governments to exercise power wisely, responsibly, and humanely so that these nations can attain stability, security, and prosperity. This is our vision for Central Asia. We believe we are on the right track.

EXTENSION: LONG-TERM ENGAGEMENT SOLVES TORTURE

UZBEKISTAN IS MOVING FORWARD ON HUMAN RIGHTS PROTECTIONS NOW—LONG TERM ENGAGEMENT IN THE WAR ON TERROR IS KEY.

Lynn **Pascoe**, U.S. Ambassador to Malaysia, **2002** (August 30, Heritage Foundation WebMemo #140, “U.S. Policy in Central Asia and the War on Terrorism,” <http://www.heritage.org/Research/AsiaandthePacific/wm140.cfm>)

While we recognize that serious problems continue in Central Asia, we believe that our policy of enhanced and long-term engagement has already begun to show some results.

Uzbekistan is the most intriguing test case of our policy of enhanced engagement. As a result of our intense economic dialogue and a renewed calculation of Uzbekistan's interests, the country has reestablished its relations with the International Financial Institutions and is moving slowly toward economic reform that it had previously rejected.

Uzbekistan has also taken steps to improve its human rights record. In March, for the first time ever, Uzbekistan registered an indigenous human rights organization; the government also has stated its willingness to register more of them. Also, for the first time the government successfully prosecuted and convicted four police officers charged with beating to death a man suspected of Islamic extremist activities, and another such trial of three National Security Service officers yielded convictions and sentences of five to 15 years. The government has released about 860 political prisoners, and local human rights activists report that new arrests have dropped to the single digits in most cities. Furthermore, after Assistant Secretary Craner's last visit, the Uzbek government has extended an invitation for the UN Special Rapporteur on Torture to come to Uzbekistan. Independent international organizations are working with the Interior Ministry on prison reforms and have visited prisons, including pretrial detention centers. The parliament is moving on a number of fronts to develop a more humane criminal code, to address abuse of power at the local level, to make prosecutors more accountable, and to create a more independent judiciary. The long-banned political opposition part, Birlik, is openly holding congresses around the country and moving toward re-registration.

Taken together, these individual achievements are adding up to an impressive beginning on reform, but they have not been broadly reported in the United States. As our engagement with the Uzbek authorities on human rights and religious freedom issues intensifies, the government of Uzbekistan has taken several notable steps.

TERRORISM DISADVANTAGE LINKS: RENDITION

EXTRAORDINARY RENDITIONS ARE CRITICAL TO US COUNTER-TERRORISM EFFORTS—AND THE POINT ISN'T TO INTERROGATE AND TORTURE, BUT TO DETAIN AND FIND SENSITIVE DOCUMENTS.

National Public Radio, 4/7/**2005** (Talk of the Nation, p.L/N)

Mr. SCHEUER: Chain of evidence questions, sir. And really, I think on the long run, it's going to prove that we were too clever by half. The detention--the detainee program, the rendition program has been the single-most successful American counterterrorism program since 1995 till today. And we wouldn't be arguing about any part of it had Mr. Berger and Mr. Clinton and their successors now in the White House and the National Security Council worked with the Congress to find a way to bring these people to America.

I might add one more thing. I think the media has covered this very widely, but they haven't covered it very thoughtfully. The goal of arresting these people was never to interrogate them. The goal was to identify people who are either going to participate in a terrorist attack on the United States or its allies or someone who is involved in planning one. The first goal of the program was to incarcerate those people. The second goal was to get from them whatever paper documents they had and electronic documents, where they were writing things that they didn't expect the enemy to read. Interrogation was always the least important aspect of the program.

EXTRAORDINARY RENDITIONS WERE CRITICAL IN THE ARRESTS OF SIX TOP-RANKING AL-QAEDA TERRORISTS.

National Public Radio, 4/7/**2005** (Talk of the Nation, p.L/N)

Mr. SCHEUER: Well, sir, let me run down a quick list of the people who have been taken off the street: Khalid Sheik Mohammed, the man who planned 9/11; his deputy, Tawfiq Bin Attash, who helped plan 9/11 and who planned the attack on the Cole in Yemen; Abu Zubaydah, who ran all of al-Qaeda's training camps in Afghanistan; Ramzi Ahmed Yousef, the first World Trade Center bomber; Ramzi Binalshibh, who was another sidekick of Khalid Sheik Mohammed and the al-Qaeda chief in the Far East, the man named Hambali. All of these people were targets and are now off the street.

Now if you don't want them taken to a third country, then you release them, and would you...

TERRORISM DISADVANTAGE LINKS: RENDITION

EXTRAORDINARY RENDITIONS ARE CRITICAL TO STOPPING TERRORISM—OTHERWISE, THERE IS NO WAY TO GET KNOWN AL-QAEDA OPERATIVES TO TALK.

National Public Radio, 4/7/**2005** (Talk of the Nation, p.L/N)

However, what I wanted to comment on was the extraordinary rendition process, and this is the first time I actually heard it called by that term, but I just wanted to say that I support it fully, from being on the ground and trying to ascertain information from personnel that have planted road side bombs or are in terrorist cells that are in action throughout Iraq, and them knowing that there is absolutely nothing we can do to them to get them to talk, because they know our policies. They know what our limitations are.

CONAN: So you feel your hands are tied.

RON: Our hands were tied, absolutely. And that would just put--it makes it much more difficult to defend a country when the people that are involved in attacking it know that there's nothing that you can do to them if they just keep their mouth shut.

EXTRAORDINARY RENDITIONS ARE CRITICAL TO STOPPING TERRORISM.

The New York Times, 3-6-**2005** ("Rule Change Lets C.I.A. Freely Send Suspects Abroad to Jails,"<http://www.nytimes.com/2005/03/06/politics/06intel.html?pagewanted=2&ei=5090&en=7020075f670ebf72&ex=1267765200&partner=rssuserland, p.internet>)

The Pentagon has also transferred some prisoners to foreign custody, handing over 62 prisoners to Pakistan, Morocco, Saudi Arabia and Kuwait, among other countries, from the American prison in Guantánamo Bay, in actions that it has publicly acknowledged. In some of those cases, a senior Defense Department official said in an interview on Friday, the transfers were for the purpose of prosecution and trials, but others were intended solely for the purpose of detention. Those four countries, as well Egypt, Jordan and Syria, were among those identified in a State Department human rights report released last week as practicing torture in their prisons. In an interview, the senior official defended renditions as one among several important tools in counterterrorism efforts. "The intelligence obtained by those rendered, detained and interrogated have disrupted terrorist operations," the official said. "It has saved lives in the United States and abroad, and it has resulted in the capture of other terrorists."

CHINA LINKS: RENDITION

EXTRAORDINARY RENDITION UNDERMINES US HUMAN RIGHTS PROMOTION.

The Boston Globe, March 6, **2005** (“Torture Principles,” p.L/N)

But a politics rooted in human rights must accept the principle that those rights have little meaning if they are not universal. If it is wrong for the Syrian secret police to torture someone apprehended in Syria, then it is no less wrong for US authorities to send a terrorist suspect to Syria to be tortured by interrogators posing questions suggested by US intelligence officers.

Just as the logic of the Geneva Conventions protecting soldiers and civilians captured in wartime rests upon the self-interest implicit in obeying reciprocal rules of war, the State Department's right to chastise foreign regimes for practicing torture evaporates when the White House, the Justice Department, or the Defense Department issues guidelines, authorizations, and justifications for torturing people who are held incommunicado as terrorist suspects uncharged but categorized as unlawful enemy combatants.

The United States should be able to criticize the barbarity of regimes in Sudan or Burma not merely so that we Americans may feel good but to alleviate suffering and save lives. If Bush would reflect on his tolerance of torture, he might see that what he called the success of liberty in other lands depends on the survival of liberty here in America.

DATA MINING AFFIRMATIVE INDEX

<u>Data Mining 1AC</u>	70
<u>Inherency</u>	
<u>Inherency: Data mining used now</u>	78
<u>Inherency: Data mining inevitable</u>	80
<u>AT: TIA funding was cut</u>	82
<u>Harms</u>	
<u>Harms: Civil Liberties</u>	84
<u>Harms: Privacy</u>	86
<u>Harms: Police State</u>	88
<u>Harms: Underground Data mining bad / Regulation key</u>	91
<u>Solvency</u>	
<u>Solvency: Anonymity / Selective Revelation</u>	93
<u>Solvency: Now Key / Design Process key</u>	96
<u>Solvency: 4th Amendment Protection</u>	97
<u>Solvency: Judicial Oversight</u>	99
<u>Solvency: Congress key</u>	100
<u>AT: Can't solve MATRIX</u>	102
<u>AT: No solvency / Tech doesn't exist yet</u>	103
<u>AT: False arrests</u>	104
<u>AT: ALL data mining is bad</u>	105
<u>AT: Topicality: Data mining isn't a search</u>	106
<u>2AC Frontlines</u>	
<u>2AC Answers to Terrorism disadvantage</u>	107
<u>2AC Frontline to China Disadvantage</u>	110
<u>Xt: #4 No War with china</u>	112

DATA MINING 1AC

OBSERVATION 1 IS INHERENCY:

IN SPITE OF CONGRESSIONAL ACTION SLASHING FUNDING FOR THE TOTAL INFORMATION AWARENESS PROGRAM, THE GOVERNMENT IS MOVING FORWARD WITH AGGRESSIVE DATA MINING EFFORTS FOR COUNTER-TERRORISM.

WIRED News, Feb 23, **2004** (<http://www.wired.com/news/conflict/0,2100,62390,00.html>)

WASHINGTON -- The government is still financing research to create powerful tools that could mine millions of public and private records for information about terrorists despite an uproar last year over fears it might ensnare innocent Americans. Congress prevented the Pentagon from developing the terrorist tracking technology because of the outcry over privacy implications. But some of those projects from retired Adm. John Poindexter's Total Information Awareness effort were transferred to U.S. intelligence offices, according to congressional, federal and research officials. In addition, Congress left undisturbed a separate but similar \$64 million research program run by a little-known office called the Advanced Research and Development Activity, or ARDA, that has used some of the same researchers as Poindexter's program. "The whole congressional action looks like a **shell game**," said Steve Aftergood of the Federation of American Scientists, which tracks work by U.S. intelligence agencies. "There may be enough of a difference for them to claim TIA was terminated while **for all practical purposes the identical work is continuing**."

DATA MINING 1AC

OBSERVATION 2 IS HARMS:

ADVANTAGE 1 IS CIVIL LIBERTIES:

HUNDREDS OF COMPANIES, FEDERAL AGENCIES, AND PRIVATE ORGANIZATIONS COLLECT AN UNPRECEDENTED AMOUNT OF INFORMATION IN PRIVATE DATABASES. GOVERNMENT DATA MINING OF THESE DATABASES IS A SERIOUS THREAT TO CIVIL LIBERTIES.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

The government holds enormous amounts of information about people's transactions and activities. n1 "[F]ederal agencies and departments maintain almost 2000 databases, including records pertaining to immigration, bankruptcy, Social Security, military personnel, as well as countless other matters." n2 The National Directory of New Hires contains information about all people who obtain a new job anywhere in the nation, including Social Security numbers, addresses, and wages. n3 State governments keep "records of arrests, births, criminal proceedings, marriages, divorces, property ownership, voter registration, and workers compensation," as well as records on [*390] numerous professionals like "doctors, lawyers, engineers, insurance agents, nurses, police, accountants, and teachers." n4 Private companies also hold tremendous amounts of personal information, some of which comes from government records. n5 Experian maintains a database of credit information on about 215 million people and demographic information on about 215 million consumers in 110 million U.S. households. n6 ChoicePoint has 14 billion records on individuals and businesses that can be used for tasks like pre-employment screening of job candidates. n7 MIB, Inc., has profiles of medical information on about 15 million individuals collected from its association of 600 insurance companies. n8 In 1996, Catalina Marketing, Inc. began to collect shopping data on an estimated 143 million shoppers per week from more than 11,000 supermarkets nationwide. By 1998, Catalina had reportedly amassed a 2-terabyte database with 18 billion rows of data. n9 **It's clear that the government wants to use data-mining technologies to analyze this data for law enforcement and anti-terrorism purposes.** n10 The ill- [*391] fated Total or Terrorism Information Awareness (TIA) program was only the tip of the iceberg. n11 It's equally clear that government data mining n12 **poses serious threats to civil liberties like privacy, freedom of association, and freedom of speech.** n13 The question I address in this article is whether the Fourth Amendment constrains government data mining in any meaningful way. Suppose a law enforcement agent decides to analyze these myriad databases for patterns or clues to potential criminal or terrorist activity. She might begin with an identified suspect and look for evidence of links with other suspects, crimes or suspicious activities. She might hypothesize a pattern that seems to suggest wrongdoing and look for persons whose activity fit that pattern. She might have no suspect or pattern but use the database to look for possible patterns. n14

DATA MINING 1AC

THE ELIMINATION OF TIA HAS MADE THE DEVELOPMENT OF DATA MINING SHIFT TO LESS ACCOUNTABLE GOVERNMENT AGENCIES AND COVERT MILITARY OPERATIONS, MAKING PRIVACY LOSS INEVITABLE.

K.A. Taipale, Executive Director of the Center for Advanced Studies in Science and Technology Policy, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

As previously noted, the Department of Defense Appropriations Bill signed into law by President Bush on October 1, 2003 contained provisions prohibiting the use of funds for TIA or any "successor program," thus effectively eliminating the IAO at DARPA. n191 At first hailed as a "victory" for civil liberties, n192 it has become increasingly apparent that the defunding is likely to be a pyrrhic victory. As argued earlier, not proceeding with a focused government research and development project (in which Congressional oversight and a public debate could determine appropriate rules and procedures for use of these technologies and, importantly, ensure the development of privacy protecting technical features to support such policies) is likely to result in little security and, ultimately, brittle privacy protection. Indeed, following the demise of IAO and TIA, it has become clear that similar data aggregation and automated analysis projects exist throughout various agencies and departments not subject to easy review. n193 Further, many of the projects formerly under the IAO have been moved directly to intelligence agencies and other classified programs, including the Army Intelligence and Security Command ("INSCOM"). n194 The very legislation that eliminated IAO funding itself contains a classified annex purportedly detailing how such technologies can be developed and used in foreign intelligence. Yet, President Bush has stated in a Signing Statement n195 that such classified annex would not be considered part of the signed act, "which means that anything mentioned in the annex is not subject to the data mining restriction." n196

THESE VIOLATIONS OF CIVIL LIBERTIES OUTWEIGH ALL OTHER IMPACTS IN THE DEBATE ROUND.

Petro, Professor of Law @ Wake Forest, 1974 (Toledo LR)

It is seldom that liberty of any kind is lost all at once. Thus it is in acceptable to say that the invasion of one aspect of freedom is of no import because there have been invasions of so many other aspects. That roads leads to chaos, tyranny, despotism and the end of all human aspiration. **Every invasion of freedom must be empathetically identified and resisted with undying spirit.**

DATA MINING 1AC

ADVANTAGE 2 IS AUTHORITARIANISM:

DATA MINING TURNS SOCIETY INTO AN AUTHORITARIAN NIGHTMARE, WHEREIN THE GOVERNMENT SURVEILS EVERY ACTION MADE BY EVERY INDIVIDUAL.

Duke Law and Technology Review, Winter, **2003** ("Big Brother is Watching You," 2003 Duke L. & Tech. Rev. 7, p.L/N)

Preceding the Presidential signing and the enabling Senate vote (90-9) n4 was a storm of controversy regarding the privacy-endangering aspects of the Homeland Security Act. Leading the charge against the Homeland Security Act and its implications is noted *New York Times* columnist William Safire. n5 Safire predicts that every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every Web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend . . . every piece of information that government has about you, [your] passport application, driver's license and bridge toll records, judicial and divorce records, complaints from nosy neighbors to the F.B.I., your lifetime paper trail plus the latest hidden camera surveillance . . . [will all] go into what the Defense Department describes as 'a virtual, centralized grand database.' n6

Joseph Farah, noted journalist and founder of the Western Journalism Center, says that the passage of the Homeland Security Act "is nothing short of a prescription for a full-scale police state in the USA." n7 Shrill voices echo "that we're being spied on, Stalinized and slowly robbed of everything that's worth defending." n8 This iBrief will examine the warnings of Safire, Farah, and others, to see if they accurately reflect the enacted Homeland Security Act.

The majority of criticism levied against the Homeland Security Act is based on a fusion of the provisions of Title II of the Act with the already existing Information Awareness Office. n9 A Department of Defense creation in the aftermath of the terrorist attacks of September 11, 2001, the Information Awareness Office's efforts have been focused on its **Total Information Awareness** project. The **Total Information Awareness** project "aims to enable federal investigators to engage in a kind of super 'data mining' -- inventing software to trawl through commercial and government computer databases in search of suspicious patterns that might indicate terror plans." n10 **The Total Information Awareness** project is the realization of George Orwell's nightmarish prophecy--twenty years behind schedule. It will allow the government to "sift through the personal information of millions of innocent people--without their knowledge or consent . . . [and] keep track of what you buy, whom you call, [and] where you travel." n11 Put the database technology together with biometric identification of humans through face-mapping technology, which could be applied to all computer surveillance cameras, and "constant surveillance of society becomes possible." n12

DATA MINING 1AC

THE SLIPPERY SLOPE TO A COMPLETE SURVEILLANCE SOCIETY IS POSSIBLE.

Kim **Taipale**, executive director of the Center for Advanced Studies in Science and Technology, **2005** (Winer, "Technology, Security, and Privacy," 9 Int'l J. Comm. L. & Pol'y 8, p.L/N)

The slippery slope argument n98 is that measures that might be adopted now for perfectly legitimate national security concerns might eventually be used in the ordinary course of law enforcement to investigate and apprehend lesser law breakers resulting in extraordinary procedures developed to counter a specific threat becoming the norm -- in this case leading to a **permanent and complete surveillance society** (a world in which Michael Froomkin notes "it should be possible to achieve perfect law enforcement" n99).

This fear is particularly relevant when one recognizes that there will always be an insatiable need for more security n100 and there will always exist a bureaucratic imperative for additional control. n101 There is also the practical consequence of making tools available -- they will be used. For the law enforcement professional seeking to accomplish their mission we could expect no less than that they try to take advantage of every tool or opportunity that is available for each and every task that they are responsible for. n102 When these three factors -- the need for more security, the imperial bureaucratic drive, and the practical availability of tools -- are combined, the threat of the slippery slope is **real and potentially significant**.

DATA MINING 1AC

AUTHORITARIAN REGIMES HAVE KILLED HUNDREDS OF MILLIONS OF PEOPLE THROUGHOUT HISTORY—THIS IS THE BIGGEST IMPACT IN THE DEBATE.

RJ Rummel, Political Scientist, University of Hawaii, *DEATH BY GOVERNMENT*, **2001**, <http://www.hawaii.edu/powerkills/DBG.CHAP1.HTM>

Power also massacres in cold blood those helpless people it controls. Several times more of them. Consider table 1.2 and figure 1.1, the list and its graph of this century's megamurderers--those states killing in cold blood, aside from warfare, 1,000,000 or more men, women, and children. These fifteen megamurderers have wiped out over 151,000,000 people, almost four times the almost 38,500,000 battle-dead for all this century's international and civil wars up to 1987. The most absolute Power, that is the communist U.S.S.R., China and preceding Mao guerrillas, Khmer Rouge Cambodia, Vietnam, and Yugoslavia, as well fascist Nazi Germany, account for near 128,000,000 of them, or 84 percent. Table 1.2 also shows the annual percentage democide rate (the percent of its population that a regime murders per year) for each megamurderer and figure 1.1 graphically overlays the plot of this on the total murdered. However, such massive megamurderers as the Soviet Union and communist China had huge populations with a resulting small annual democide rate. For their populations as a whole some less than megamurderers were far more lethal. Table 1.3 lists the fifteen most lethal regimes and figure 1.2 bar graphs them. As can be seen, no other megamurderer comes even close to the lethality of the communist Khmer Rouge in Cambodia during 1975 through 1978. As described in Chapter 9 of *Death By Government*, in less than four years of governing they exterminated over 31 percent of their men, women, and children; the odds of any Cambodian surviving these four long years was only about 2.2 to 1. Then there are the kilomurderers, or those states that have killed innocents by the tens or hundreds of thousands, such as the top five listed in table 1.2: China Warlords (1917-1949), Atatürk's Turkey (1919-1923), the United Kingdom (primarily due to the 1914-1919 food blockade of the Central Powers in and after World War I, and the 1940-45 indiscriminate bombing of German cities), Portugal (1926-1982), and Indonesia (1965-87). Some lesser kilomurderers were communist Afghanistan, Angola, Albania, Rumania, and Ethiopia, as well as authoritarian Hungary, Burundi, Croatia (1941-44), Czechoslovakia (1945-46), Indonesia, Iraq, Russia, and Uganda. For its indiscriminate bombing of German and Japanese civilians, the United States must also be added to this list (see *Statistics of Democide*). These and other kilomurderers add almost 15,000,000 people killed to the democide for this century, as shown in table 1.2. Of course, saying that a state or regime is a murderer is a convenient personification of an abstraction. Regimes are in reality people with the power to command a whole society. It is these people that have committed the kilo and megamurders of our century and we must not lose their identity under the abstraction of "state," "regime," "government," or "communist." Table 1.4 lists those men most notorious and singularly responsible for the megamurders of this century. Stalin, by far, leads the list. He ordered the death of millions, knowingly set in train events leading to the death of millions of others, and as the ultimate dictator, was responsible for the death of still millions more killed by his henchman. It may come as a surprise to find Mao Tse-tung is next in line as this century's greatest murderers, but this would only be because the full extent of communist killing in China under his leadership has not been widely known in the West. Hitler and Pol Pot are of course among these bloody tyrants and as for the others whose names may appear strange, their megamurders are described in detail in *Death By Governments*. The monstrous bloodletting of at least these nine men should be entered into a Hall of Infamy. Their names should forever warn us of the deadly potential of Power. The major and better known episodes and institutions for which these and other murderers were responsible are listed in table 1.5. Far above all is gulag--the Soviet slave--labor system created by Lenin and built up under Stalin. In some 70 years it likely chewed up almost 40,000,000 lives, over twice as many as probably died in some 400 years of the African slave trade, from capture to sale in an Arab, Oriental, or New World market. In total, during the first eighty-eight years of this century, almost 170,000,000 men, women, and children have been shot, beaten, tortured, knifed, burned, starved, frozen, crushed, or worked to death; or buried alive, drowned, hung, bombed, or killed in any other of the myriad ways governments have inflicted death on unarmed, helpless citizens or foreigners.

DATA MINING 1AC

THUS WE OFFER THE FOLLOWING PLAN:

THE UNITED STATES CONGRESS SHOULD SUBSTANTIALLY DECREASE ITS AUTHORITY TO SEARCH WITHOUT PROBABLE CAUSE BY REQUIRING THAT ALL FEDERAL DATA MINING USE SELECTIVE REVELATION TECHNOLOGY TO ENSURE ANONYMOUS DATA ANALYSIS RESULTS, AND OBTAIN PROBABLE CAUSE BEFORE A FEDERAL COURT PRIOR TO THE DISCLOSURE OF PERSONAL INFORMATION IN TERRORISM INVESTIGATIONS. WE'LL CLARIFY.

OBSERVATION 3 IS SOLVENCY:

SELECTIVE REVELATION TECHNOLOGIES IN DATA MINING ALLOW DATA MINING TO MEET PROBABLE CAUSE REQUIREMENTS, PROTECTING PRIVACY.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

In any case, this Article argues that the use of *selective revelation* technologies can mitigate the non-particularized suspicion concerns by permitting the imposition of judicial due process between the observed behavior and the act of revealing identity. n277 The automated analysis of potentially relevant transactional data while shielding the exposure of individual identity to a generalized search protects privacy by maintaining anonymity, which in turn preserves autonomy. n278 Rather than minimizing concerns relating to non-particularized suspicion, this Article suggests that traditional due process protection can be built into both the technology and its implementation policy by using selective revelation. Under selective revelation, pattern-matching would not lead directly to individual identity without being subjected to the appropriate legal standards. Where matching provides information that is in itself sufficient to meet investigative, reasonable suspicion, or **probable cause** standards -- where the observed match "particularizes" the suspicion n279 sufficiently (that is, reasonably under the circumstances in conformity with Fourth Amendment requirements) -- the relevant procedural protection -- subpoena, warrant, or court order -- can be applied depending on the specific context before identity is revealed or acted upon. n280 Enforcement of these protections would follow the traditional means -- pattern-matches determined to be unreasonable would be subject to the exclusionary rule, administrative proceedings, or civil redress. n281 Additionally, in cases of pattern-matching that leads to "adverse, non-punitive collateral civil consequences" (for example, watch-listing) additional administrative procedures requiring notice, time limits, and other due process protections can be devised, including an individual right to appeal adverse administrative review to federal court for *de novo* review. n282

DATA MINING 1AC

CONGRESSIONAL ACTION IS KEY TO PROVIDING JUDICIAL OVERSIGHT OF DATA MINING.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

Congress should insist on reports by executive branch agencies as to what commercial data they are already using and for what purposes. n173 Once it has basic information about how commercial data is currently being used, Congress should conduct an in-depth, non-partisan investigation into the efficacy of current and future uses, including an analysis of whether pattern-based searches can work in the national security context. If effectiveness is demonstrated, then we will need a set of privacy protections and checks on governmental power that would apply government-wide. If the president does not adopt adequate guidelines, Congress will have to legislate them. And no matter what guidelines the executive branch issues, Congress will need to legislate the role of the judiciary in approving the use of pattern-based searches and the de-anonymization of search results.

FOURTH AMMENDMENT PROTECTIONS ARE CRITICAL TO CHECKING ABUSE OF DATA MINING BY LAW ENFORCEMENT.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

There's good reason to think so. The data only exists in this quantity and quality and can only be analyzed this way because of computers. Data mining and automated data analysis cannot be done without computers. Cheap surveillance "simply makes it too easy, without the loss of a lot of shoe leather and the other costs police traditionally have had to take into account in determining the realistic limits upon their enforcement activities, to engage in random and wholesale snooping. Posnerian cost-benefit balancing is thus no longer a sufficient deterrent to such enlarged investigative strategies, and this is precisely why this activity needs to be brought within the purview of the [F]ourth [A]mendment." n132 moreover, if suspicion is not required we will lack the power to hold government accountable for automated data analysis, given its visibility problems. In the modern age of information technology, we need Fourth Amendment doctrines that address information privacy concerns beyond the mere collection of information.

INHERENCY: DATA MINING USED NOW

CURRENT FBI DATA MINING PRACTICES PERMIT THE INVESTIGATION OF GIGANTIC DATABASES WITHOUT SUSPICION OF WRONG DOING OR A WARRANT. EVEN THOUGH TIA WAS ENDED, OTHER AGENCIES ARE APPLYING TIA IN PRACTICE.

Electronic Privacy Information Center, March 21, **2005** ("Terrorism Information Awareness," <http://www.epic.org/privacy/profiling/tia/>)

In November 2002, the New York Times reported that the Defense Advanced Research Projects Agency (DARPA) was developing a tracking system called "Total Information Awareness" (TIA), which was intended to detect terrorists through analyzing troves of information. The system, developed under the direction of John Poindexter, then-director of DARPA's Information Awareness Office, was envisioned to give law enforcement access to private data without suspicion of wrongdoing or a warrantTIA purported to capture the "information signature" of people so that the government could track potential terrorists and criminals involved in "low-intensity/low-density" forms of warfare and crime. The goal was to track individuals through collecting as much information about them as possible and using computer algorithms and human analysis to detect potential activity. The project called for the development of "revolutionary technology for ultra-large all-source information repositories," which would contain information from multiple sources to create a "virtual, centralized, grand database." This database would be populated by transaction data contained in current databases such as financial records, medical records, communication records, and travel records as well as new sources of information. Also fed into the database would be intelligence data. A key component of the TIA project was to develop data-mining or knowledge discovery tools that would sort through the massive amounts of information to find patterns and associations. TIA would also develop search tools such as Project Genoa, which Admiral Poindexter's former employer Syntek Technologies assisted in developing. TIA aimed to fund the development of more such tools and data-mining technology to help analysts understand and even "preempt" future action. A further crucial component was the development of biometric technology to enable the identification and tracking of individuals. DARPA had already funded its "Human ID at a Distance" program, which aimed to positively identify people from a distance through technologies such as face recognition or gait recognition. A nationwide identification system would have been of great assistance to such a project by providing an easy means to track individuals across multiple information sources. DARPA's Broad Agency Announcement 02-08 soliciting proposals from industry stated that the initial plan was for a five year research project into these various technologies. The interim goal was to build "leave-behind prototypes with a limited number of proof-of-concept demonstrations in extremely high risk, high payoff areas." In September 2003, Congress eliminated funding for the controversial project and closed the Pentagon's Information Awareness Office, which had developed TIA. This does not, however, necessarily signal the end of other government data-mining initiatives that are similar to TIA. Projects such as the Novel Intelligence from Massive Data within the Intelligence Community Advanced Research and Development Activity (ARDA) will apparently move forward. The FBI and the Transportation Security Administration are also working on data-mining projects that will fuse commercial databases, public databases, and intelligence data and had meetings with TIA developers.

INHERENCY: DATA MINING USED NOW

THE TIA WAS SHIFTED TO FOREIGN COUNTERINTELLIGENCE—DATA MINING ABROAD WILL OCCUR.

CBSNews.com, Sept. 25, **2004** (“Pentagon Terror Spy Lab Closed,” <http://www.cbsnews.com/stories/2003/07/31/attack/main566133.shtml>)

The conferees also wrote, "The conference agreement does not restrict the National Foreign Intelligence Program from using processing, analysis and collaboration tools for counterterrorism foreign intelligence purposes." The senior Senate aide, who spoke on condition of anonymity, said that the conferees had agreed to shift some of the TIA's high-powered software tools to agencies involved in gathering foreign intelligence — information about foreign intentions, plans and capabilities gathered from foreigners or U.S. citizens abroad or from foreigners in this country. The CIA, State Department, Defense Department and other federal agencies participate in the foreign intelligence program. The Senate aide could not spell out precisely which tools were shifted, how much money was shifted or which agencies received the tools and research funds because those details of the National Foreign Intelligence Program are classified. Sen. Ted Stevens, R-Alaska, chairman of the Senate Appropriations Committee, described the conference agreement last Thursday as shifting the anti-terror surveillance program out of DARPA but not eliminating it. Stevens did not release any text of the conference report then, and the portion released Wednesday did not make clear whether the conferees agreed to move the money for some or all of the TIA research from DARPA to one or more other agencies or merely left open the possibility of doing so later.

THE U.S. DEPARTMENT OF HOMELAND SECURITY IS LEGALLY BOUND TO DEVELOP DATA MINING AS A RESPONSE TO TERRORISM.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

In fact, development of these technologies is already mandated by law as the Homeland Security bill signed by President Bush on November 25, 2002 contains provisions that specifically make it the responsibility of the Undersecretary for Information Analysis and Infrastructure Protection at the Department of Homeland Security to "establish and utilize . . . a secure communications and information technology infrastructure, including data mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section. . . ." n6

Further, the Congressional Joint Committee Inquiry into the Terrorist Attacks of September 11, 2001 specifically highlights the need for these tools and recommends their development.

INHERENCY: DATA MINING INEVITABLE

EVEN THOUGH CONGRESS RECENTLY DESTROYED THE TOTAL INFORMATION AWARENESS PROGRAM, DATA MINING IS STILL BEING DEVELOPED AT THE PRIVATE LEVEL FOR COUNTER-TERRORISM PURPOSES.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

The notion that powerful analytical tools developed for commercial and scientific application will not eventually be used for terrorism prevention (or, for that matter, general law enforcement purposes n40) seems unrealistic, particularly since these technologies are already being used in a wide variety of law enforcement contexts. First, generic data mining tools are available for (or are built into) all major commercial database applications. As government agencies upgrade their database applications, these tools are becoming widely available **regardless of** whether **government research** into domain specific (i.e., law enforcement or domestic security) applications is hindered or not. n41 Second, the private sector is developing domain specific technologies (that is, applications developed specifically for law enforcement purposes) to aggregate and mine data using both link analysis and pattern-matching n42 in criminal investigations and these technologies are already being adopted and employed in a variety of law enforcement environments. n43 Thus, another practical problem with efforts to simply block particular government research and development projects or outlaw specific technologies over privacy concerns is that **"the genie is already out of the bottle."** Resisting developments that have already occurred or will occur elsewhere regardless of whether any particular government project (for example, Terrorist Information Awareness ("TIA") n44) is shut down seems **futile and counter-productive**. n45

DATA MINING TECHNOLOGY IS INEVITABLE, WITH OR WITHOUT GOVERNMENT FUNDING.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

Even if it were desired, it is unrealistic to believe that the development or application of these technologies can be prevented easily through legislation since there is a strong commercial imperative for their continued development and use in the private sector n35 and a strong political (as well as practical) imperative for their eventual application for domestic security. n36

INHERENCY: DATA MINING INEVITABLE

DATA MINING IS INEVITABLE, EVEN THOUGH TIA FUNDING IS OVER.

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, "Proposals for Implementing the Terrorism Information Awareness System," 2 Geo. J.L. & Pub. Pol'y 169, p.L/N)

But the elimination of the DARPA research effort will not end the controversy--research on technologies derived from TIA will continue in other branches of government and in the private sector. Indeed, it is relatively safe to say that such useful a technology will inevitably be developed and deployed in some form and that, if circumstances change for the worse in our efforts to prevent terrorism from recurring in the United States, the political calculus, which now weighs against development of TIA, could rapidly reverse itself. For precisely that reason the TAPAC group has continued its review of TIA, notwithstanding a congressional decision to eliminate funding for direct development of TIA.

DATA MINING TECHNOLOGY IS INEVITABLE: CONTROLLING IT NOW IS KEY.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Policy, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

In any case, a failure to engage constructively with government research projects aimed at legitimate security needs will lead to having our civil liberties determined in the future in large part by technologies that were either developed to sell books or predict fashion, or developed through government research conducted in secret to avoid overblown criticism. n344 Only by insisting that important policy considerations relating to privacy and civil liberties be included in the development process itself at an early stage can one hope that a system subject to traditional human factor control -- through laws, norms, and market forces -- intersecting with technologically enabled intervention points will emerge. To the extent that code is law, the code must be developed with the same guiding principles as the related law and policy.

AT: TIA FUNDING WAS CUT

A NEW TOTAL INFORMATION AWARENESS PROGRAM IS INEVITABLE IN THE STATUS QUO WITHOUT GOVERNMENT REGULATION.

Timothy Edgar, Legal Counsel for the ACLU, **2004** (Federal News Service, August 4, PANEL II OF A HEARING OF THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, p.L/N)

MR. EDGAR: Well, this may be another area where we disagree again. We -- well, maybe not -- (laughter) -- but we are actually quite alarmed by the idea of just going forward with data mining without the kind of thought about what are the privacy safeguards. And the problem is, there aren't any right now, and you know, that data is available for use in a way that could put anyone whose data is held in a private database under some sort of suspicion. We were very worried about the TIA program, the Total Information Awareness program, that would have used computer algorithms to try to calculation who is a suspect based on their profile of what data transactions they have.

And so, you know, one thing we want to make sure is that we -- you know, the Congress agreed with us and decided not to fund that program and decided to say we've got to really think about this a lot more before we go forward with a program like that. And I'm concerned that we could get that through the back door if we have that kind of language in a bill that creates a national intelligence director. I think it's important that for congressional oversight to be effect, there needs to be a decision by the Congress to authorize data mining before government agencies, intelligence and law enforcement agencies think they're going to go forward with it. And I'm afraid that if we don't have that kind of clear language, that we're going to end up having another Total Information Awareness program without ever actually debating it.

REP. EDGAR: You know, the tragedy of the **Total Information Awareness** program is it also had -- they were doing data protection research as well as data exploitation research, and when we killed the program, we killed all the data protection research, and we just ported the exploitation research over into the black well where we don't know what's going on. So I'm not so sure that was the best thing we ever did.

AT: TIA FUNDING WAS CUT

IN SPITE OF CONGRESSIONAL ACTION REPEALING THE TIA, IDENTICAL DATA MINING WORK CONTINUES.

WIRED News, Feb 23, **2004** (<http://www.wired.com/news/conflict/0,2100,62390,00.html>)

But the research created a political uproar because such reviews of millions of transactions could put innocent Americans under suspicion. One of Poindexter's own researchers, David D. Jensen at the University of Massachusetts, has acknowledged that "**high numbers of false positives can result.**"

Disturbed by the privacy implications, Congress closed Poindexter's office, part of the Defense Advanced Research Projects Agency, and barred the agency from continuing nearly all research. Poindexter quit government, claiming his work was misunderstood.

But the work didn't die.

In killing Poindexter's office, Congress agreed to continue paying to develop highly specialized software to gather foreign intelligence on terrorists.

TIA WASN'T KILLED—18 FEDERAL DATA-MINING PROGRAMS TO FIND TERRORISTS WILL CONTINUE.

WIRED News, Feb 23, **2004** (<http://www.wired.com/news/conflict/0,2100,62390,00.html>)

Congressional officials declined to say which Poindexter programs were killed and which were transferred, but people with direct knowledge of contracts told AP that the surviving programs included some of 18 data-mining projects known as Evidence Extraction and Link Discovery in Poindexter's research.

HARMS: CIVIL LIBERTIES

FALSE DATA MINING HAS SERIOUS CONSEQUENCES FOR INDIVIDUAL LIBERTIES.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

Most significantly, however, the consequences of governmental antiterrorism measures are quite different than the consequences of data analysis in the commercial context. For example, if you do not buy the book Amazon.com recommended to you based on other customers' buying patterns, the negative consequences are slight. If your credit card company puts a hold on the use of your card because it noticed an odd usage pattern and suspected someone might have stolen your card, you can explain and continue to use your card. But the consequences of using data for counterterrorism purposes can be much more serious. They can include arrest, deportation, loss of a job, greater scrutiny at various screening gates, investigation or surveillance, or being added to a watch list. n35

ANONYMITY OF PERSONAL INFORMATION IS CRITICAL TO FREE SPEECH.

Gayle **Horn**, Junior Fellow in International Law at the Institute for International Law and Justice at NYU, **2005** (New York University Annual Survey of American Law, "Online Searches and Offline Challenges," 60 N.Y.U. Ann. Surv. Am. L. 735, p.L/N)

The Supreme Court has recognized the right to anonymity. There are four relevant decisions upholding such a right. In Talley, the Supreme Court invalidated a Los Angeles ordinance that required handbills to include the names and addresses of persons who prepared, distributed, or sponsored them. N169 Thirty-five years later, in McIntyre v. Ohio Elections Commission, n170 the Court revived the Talley rule, holding an Ohio statute requiring pamphlets to be signed unconstitutional. N171 In Buckley v. American Constitutional Law Foundation, n172 the Supreme Court extended this right to anonymity to the circulation of petitions n173 and in Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton, n174 to door-to-door canvassing. N175 While the Court has not explicitly adopted a standard of review n176 (although the Court suggested strict scrutiny in McIntyre n177), the Court in each of these cases has weighed the value of the anonymous speech against the interests of the government. [*768] The Court has found that anonymous speech is valuable insofar as it enables individuals to speak without fear of retaliation n178 and under the circumstances of their own design, n179 and to maintain their privacy. N180 In addition, anonymous speech encourages the proliferation of "spontaneous speech" n181 and the marketplace of ideas. N182 While the Court has found that there may be some instances in which identification is necessary and valid, n183 it has not found that the government's interest in generally preventing fraud, n184 crime n185 or "obnoxious" speech n186 is compelling. Rather, as Justice Stevens articulated in McIntyre, "the interest in having anonymous works enter the marketplace of ideas unquestionably outweighs any public interest in requiring disclosure as a condition of entry." N187

HARMS: CIVIL LIBERTIES

UNACCOUNTABLE DATA MINING IS GOING ON RIGHT NOW—“FUSION CENTERS” ARE THE NEW NAME FOR THE TOTAL INFORMATION AWARENESS PROGRAM, RESULTING IN THE SILENCING OF FREE SPEECH AND DISSENT.

Carol **Rose** and Chip **Berlet**, executive director for the Massachusetts ACLU and senior analyst with Political Research Associates, **2005** (June 14, “Romney’s Spy Center,” p.L/N)

Here's another mystery. What accountability is there when law enforcement works with private sector data mining companies, as it is doing with LocatePLUS in Beverly? LocatePLUS says it has information on 98 percent of the American population. How can we be sure that the Fusion Center is not streaming in junk information from private services?

We know that Romney thinks such private services enhance law enforcement's own spy machines. As chairman of Homeland Security's Advisory Council on Intelligence and Information Sharing, Romney last December called for a nationwide network of fusion centers fed by government agencies and big business tipsters, as well as EMS drivers and other private citizens in a position to spy on their neighbors.

He mimics the worst of former Attorney General John Ashcroft's notorious Terrorist Information and Prevention System proposal to get neighbors to spy on one another, and Admiral John Poindexter's discredited Total Information Awareness program, which promised to create a computerized dossier on every American. The Bush administration scrapped them both in the face of public opposition, but the Fusion Center brings them back to life.

Accountability and civilian oversight lies at the heart of our democracy. In the 1970s, a Senate committee led by Senator Frank Church investigated the FBI's secret "vigilante operation" against dissent called COINTELPRO. It concluded it was "aimed squarely at preventing the exercise of First Amendment rights of speech and association, on the theory that preventing the growth of dangerous groups and the propagation of dangerous ideas would protect the national security and deter violence."

Public outcry forced the government to adopt the Levy Guidelines, safeguards gradually repealed since the Reagan administration.

The Fusion Centers, with their secret partnerships with the Joint Anti-Terrorism Task Forces, are tailor-made for reviving government abuses of our vital First Amendment rights to free speech and association, and of the Fourth Amendment's protection against unreasonable search. It wastes resources and, by overwhelming the system with useless information, does not make us safer.

HARMS: PRIVACY

STATUS QUO DATA MINING EFFORTS MAKE THE LOSS OF PRIVACY INEVITABLE.

William Safire, Columnist for the Times, 2005 (April 10, The New York Times, "Goodbye to Privacy," p.L/N)

YOUR mother's maiden name is not the secret you think it is. That sort of "personal identifier" being used by banks, credit agencies, doctors, insurers and retailers -- supposedly to protect you against the theft of your identity -- can be found out in a flash from a member of the new security-industrial complex. There goes the "personal identifier" that you presume a stranger would not know, along with your Social Security number and soon your face and DNA. In the past five years, what most of us only recently thought of as "nobody's business" has become the big business of everybody's business. Perhaps you are one of the 30 million Americans who pay for what you think is an unlisted telephone number to protect your privacy. But when you order an item using an 800 number, your own number may become fair game for any retailer who subscribes to one of the booming corporate data-collection services. In turn, those services may be -- and some have been -- penetrated by identity thieves. The computer's ability to collect an infinity of data about individuals -- tracking every movement and purchase, assembling facts and traits in a personal dossier, forgetting nothing -- was in place before 9/11. But among the unremarked casualties of that day was a value that Americans once treasured: personal privacy. The first civil-liberty fire wall to fall was the one within government that separated the domestic security powers of the F.B.I. from the more intrusive foreign surveillance powers of the C.I.A. The 9/11 commission successfully mobilized public opinion to put dot-connection first and privacy protection last. But the second fire wall crumbled with far less public notice or approval: that was the separation between law enforcement recordkeeping and commercial market research. Almost overnight, the law's suspect list married the corporations' prospect list

DATA MINING UNDERMINES THE LEGAL PRINCIPLE OF PARTICULARIZED SUSPICION, LEADING TO PRIVACY VIOLATIONS.

Lee Tien, Senior Staff Attorney at the Electronic Frontier Foundation, 2004 ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

The use of patterns discovered through data mining raises similar particularity issues. Imagine a database of a million people and a hypothesis that those who meet certain criteria are highly likely to be terrorists. But you don't know whether any of these million people actually do meet these criteria; if you did, you wouldn't need to run the search. The basic problem is lack of particularized suspicion: data about these persons would be "searched" without any reason to believe either that the database contains evidence of terrorist activity or that any person "in" the database is a terrorist. Like eavesdropping, pattern-oriented data mining (or automated data analysis) by its very nature involves broad intrusions on privacy, and demands careful attention to particularity. Even when automated data analysis is subject-oriented-as when the government is investigating a particular suspect or incident-particularized suspicion remains a problem. If the government has reason to believe that "John Smith" is a terrorist, it has particularized suspicion as to him. If the government reasonably believes that someone who uses a particular phone number or email address is a terrorist, again there is some particularized suspicion.

HARMS: PRIVACY

DATA MINING IS A SERIOUS THREAT TO PRIVACY—EXISTING DATABASES POSSESS AN EXTRAORDINARY AMOUNT OF PRIVATE INFORMATION.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** (“Privacy, Technology, and Data Mining,” Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

The risk to associational privacy is obvious when one considers the kind of information in our digital dossiers. For instance, Acxiom claims that its InfoBase profiler product contains the following personal information: name; address; phone number; occupation; date of birth; latitudinal/longitudinal coordinates; gender; ethnicity; age; income; net worth; political party; height and weight; education; marital status; whether one wears corrective lenses; whether subject rents or owns dwelling; years of residence; value of home; mortgage amount and interest rate; home loan to value ratio; date home was built and date purchased; square footage of home and lot; whether home is located in a census tract where more than 50 percent of households are non-white; adult age ranges in household; number of adults in household; children's age ranges in household; number of children in household; number of generations in household; total number of occupants in household; whether there is a "working woman" in household; which credit cards subject owns; range of new credit; where subject likes to shop; model and make of automobile (including a "lifestyle indicator" designation based on the type of car); blue book value of vehicle; whether subject has a history of buying new cars; whether subject buys items through mail order and in what dollar amounts; whether subject owns a cat or a dog; whether subject donates to charities; whether subject owns real estate investments; whether subject has stock/bond investments; whether subject is a military veteran; whether subject likes to gamble, sew, garden, watch television, hunt, jog, sail, diet, play video games, drink wine, or read the Bible; and whether subject's overall "lifestyle composite" classifies him/her as a "Traditionalist," "Connoisseur," "Chiphead" (like computers and science), or member of the "Intelligentsia." n50

HARMS: POLICE STATE

THE VAST ESTABLISHMENT OF DATABASES AND GOVERNMENT INVESTIGATION OF THESE DATABASES CREATES AN ORWELLIAN WORLD OF SURVEILLANCE AND CONTROL.

Stan **Karas**, J.D. from UC Berkeley, **2002** (December, American University Law Review, "Privacy, Identity, and Databases," 52 Am. U.L. Rev. 393, p.L/N)

A frequently iterated rationale for restricting collection of consumer data is that it creates a surveillance society and panoptic effects. n101 In monitoring consumers' activities, this surveillance society encourages self-censorship and generally impedes the path to [*413] self-realization. n102 Eventually, the personal knowledge of surveillance will structure the subject's very existence; previously alien social norms will be internalized and followed mechanically. n103

A commonly invoked metaphor in the surveillance discourse is George Orwell's all-seeing Big Brother. n104 Although private sector data collection is a far cry from Orwell's vision of an omnipresent electronic eye of the state, n105 many contemporary privacy theorists apply it to collection of information by private actors. n106 For instance, Paul Schwartz argued that "free society depends upon individual self-determination, the processing of personal information can have a destructive effect on this capacity ... [Computer databases create] a potential for suppressing a capacity for free choice: the more that is known about an individual, the easier it is to force his obedience." n107 Schwartz also has argued that online "surveillance of naked thought's digital expression short-circuits the individual's own process of decision-making." n108 Taking a slightly different approach, Jerry Kang notes that because cyberspace allows one to collect and analyze more information at a lesser cost, web surfers are subject to "dataveillance." n109 Finally, no less an authority than Lawrence Lessig [*414] has used the Big Brother metaphor in summarizing the current state of affairs. n110

HARMS: POLICE STATE

THE RISE OF COMPUTERS AND MASSIVE DATABASES IS THE LARGEST THREAT TO PRIVACY IN THE U.S.: AGGRESSIVE GOVERNMENT DATA MINING RESULTS IN AUTHORITARIAN, BIG BROTHER SOCIETY.

Berkeley Technology Law Journal, 2003 ("Protecting Privacy in the Digital Age," 18 Berkeley Tech. L.J. 283, p.L/N)

The last generation has seen technological change on a scale matching or exceeding that of the industrial revolution. n64 This "digital revolution" has not left privacy untouched. n65 Jerry Berman and Deirdre Mulligan note three major digital developments that deeply affect privacy: (1) the increase in data creation and the resulting collection of vast amounts of personal data - caused by the recording of almost every modern interaction; (2) the globalization of the data market and the ability of anyone to collate and examine this data; and (3) lack of the types of control mechanisms for digital data that existed to protect analog data. n66

These three developments all concern the changes wrought by digital technology on the ability to manipulate information. First, the amount of digital information generated is breathtaking. n67 Every interaction with the Internet, every credit card transaction, every bank withdrawal, every [*292] magazine subscription is recorded digitally and linked to specific individuals. In the analog world, these transactions were either not recorded at all n68 or recorded on paper in a single location. Second, all this information, once it is collected in networked databases, can be sent instantly and cheaply around the globe. n69 In this newly-commoditized information market, buyers anywhere can collate and manipulate the data for marketing, n70 profiling, n71 or more sinister n72 purposes. Third, individuals have little ability to control this collection or manipulation. Not only does much of this happen far from the reach of regulators, but most people are not even aware what information has been collected or how it is being used. n73

But while all of these changes affect information, not only informational privacy has been affected. Autonomy, too, faces threats from digital technology. n74 When almost every activity leaves a digital trail, government and private monitoring become less about analog surveillance and more a matter of "data mining." n75
[continues...]

Digital technology has revived the most pervasive privacy metaphor of the last fifty years: n79 Orwell's infamous Big Brother. n80 As developed in Nineteen Eighty-Four, Orwell's vision of an all-seeing, ever-searching, omnipresent eye of government has dominated the metaphoric landscape [*294] of the modern privacy debate. n81 The Big Brother metaphor lives on in the digital age - **and now Big Brother actually possesses the technological and legislative tools to prevent any meaningful escape from his gaze.** Indeed, use of digital technology by the government has caused many to lament the growing irrelevancy of the Fourth Amendment and the "right to be let alone." n82

HARMS: POLICE STATE

DATA MINING LEADS TO A COMPLETE SURVEILLANCE SOCIETY.

Duke Law and Technology Review, Winter, **2003** ("Big Brother is Watching You," 2003 Duke L. & Tech. Rev. 7, p.L/N)

*The enactment of the Homeland Security Act of 2002 has led many commentators to assert that the U.S. is well on its way to becoming a police state evocative of George Orwell's Oceania in 1984. With the eerily named Information Awareness Office developing database-mining technology along with biometric face-recognition technology, **complete surveillance will soon be possible**. The most disturbing realization is that now that the Homeland Security Act has been signed into law, the development of surveillance and database technology is the only obstacle to the ubiquitous watchful eye of Big Brother.*

UNCHECKED DATA MINING WILL LEAD TO THE CREATION OF A POLICE STATE.

Duke Law and Technology Review, Winter, **2003** ("Big Brother is Watching You," 2003 Duke L. & Tech. Rev. 7, p.L/N)

After considering the evidence, it is clear that Safire, et al. are correct in their assessment of the relationship between the Information Awareness Office and the Homeland Security Department. The Information Awareness Office is the skunkworks of database-mining technology (as well as other intelligence technology such as biometrics). A proving ground, the Information Awareness Office will "imagine, develop, apply, integrate, demonstrate and transition information technologies" n44 on behalf of the Homeland Security Department. With the Homeland Security Act signed into law and the Information Awareness Office operating independently within the Department of Defense, it may be too late to stop Poindexter and his vision of omniscience. The Latin motto of the Information Awareness Office is *Scientia Est Potentia*, or "knowledge is power." As Safire puts it, "the government's infinite knowledge about you is its power over you." n45

Welcome to the police state; everyone is a suspect.

HARMS: UNDERGROUND DATA MINING BAD / REGULATION KEY

BANNING DATA MINING LEADS TO UNACCOUNTABLE, SECRET DEVELOPMENT WHICH HURTS PRIVACY MORE.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

Further, this Article argues that not proceeding with government funded research and development of these technologies will ultimately lead to a diminution in privacy protection as alternative technologies developed without oversight are employed in the future since those technologies may lack the technical features to protect privacy through legal and procedural mechanisms.

Even if it were possible, controlling technology through law alone, for example, by outlawing the use of certain technologies or shutting down any particular research project, is likely to provide little or no security and only brittle privacy protection.

RECENT DECISIONS TO CUT FUNDING FOR TIA HAVE ONLY SHIFTED IT UNDERGROUND, MAKING ITS REGULATION IMPOSSIBLE. WE NEED NEW LEGAL RULES TO REGULATE DATA MINING, OR CIVIL LIBERTIES VIOLATIONS WILL SNOWBALL.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

Indeed, it is an underlying assumption of this Article that not proceeding with government funded research and development of these technologies (in which political oversight can incorporate privacy protecting features into the design of the technologies) will ultimately lead to a diminution in privacy protection as alternative technologies developed without oversight (either through classified government programs or proprietary commercial development) are employed in the future, since those technologies may lack the technical features required to support legal and procedural mechanisms to protect privacy and civil liberties. n27 Thus, this Article draws a distinction between laudable legislative efforts to provide for oversight of these programs and ill-conceived efforts to kill funding for particular research programs or outlaw specific technologies. n28 Consequently, it is my view that the recent defunding of DARPA's Information Awareness Office ("IAO") and its Terrorism Information Awareness program and related projects will turn out to be a pyrrhic 'victory' for civil liberties as this program provided a focused opportunity around which to publicly debate the rules and procedures for the future use of these technologies and, importantly, to oversee the development of the appropriate technical features required to support any concurred upon implementation or oversight policies to protect privacy. n29

HARMS: UNDERGROUND DATA MINING BAD / REGULATION KEY

GOVERNMENT ADOPTION OF DATA MINING IS INEVITABLE—IT’S A QUESTION OF SHORT TERM OVERSIGHT.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Policy, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

In any case, this Article assumes that these technologies will continue to be developed and that eventually practical efficiency n48 and availability n49 **will compel adoption by government for certain domestic security or law enforcement purposes.** n50 Therefore, it seems short-sighted for those concerned about privacy and civil liberties to oppose government research and development efforts in these areas, n51 since it is only through involvement in and oversight of these government sponsored projects that privacy interests can be incorporated into the development process. To meet legitimate privacy concerns, technical features supporting privacy protection need to be built into the architecture of the technologies from the start. n52

STATUS QUO DATA MINING WILL BE UNACCOUNTABLE, LEADING TO PRIVACY VIOLATIONS OF INNOCENT PEOPLE. GOVERNMENT REGULATION IS KEY TO CIVIL LIBERTIES PROTECTION.

James **Dempsey and Lara Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, “Commercial Data and National Security,” 72 Geo. Wash. L. Rev. 1459, p.L/N)

Civil liberties advocates should take no solace in the government's inefficiency in using information technology. Inefficiency itself poses threats to civil liberties when, as now, the government has broad discretionary authority to acquire or access commercial data, but few guidelines on how to use it, thus creating **a high risk of erroneous decisions with no due process mechanisms to correct them.** Given the current emphasis on terrorism prevention through screening and other means outside the criminal justice context, rules that guide governmental use of information will also serve civil liberties by making decisions more reliable, transparent, and accountable. Governmental use of commercial data presents new challenges that the current legal structure does not adequately address. We need a new framework, but policymakers need not design it in a vacuum. The new framework can draw upon existing principles of fair information practices. It should address not only the question of access to data, but also those questions relating to the permissible uses of data and the protections individuals have against the consequences of that use

SOLVENCY: ANONYMITY / SELECTIVE REVELATION

SELECTIVE REVELATION SOLVES NON-PARTICULARIZED SUSPICION BY ENSURING THAT INDIVIDUALS TARGETTED BY DATA MINING REMAIN ANONYMOUS.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

On the other hand, pattern-matching queries, in which descriptive or predictive models (whether mined from real data relating to terrorists or derived from hypothetical scenarios) are run against new data in order to identify unknown subjects or activities for further investigation, may directly implicate the issue of the non-particularized search. n264 However, by developing technologies that use selective revelation (that is, techniques that separate transactional data from identity or otherwise reveal information incrementally) these concerns can be significantly reduced by maintaining anonymity, which in turn protects autonomy -- that is, the ability to freely act within the rules of the polity without being surveilled. n265 Pattern-matching is not inherently a surveillance technology. No individual dossier is created and no individual is scrutinized for suspicious behavior. No person or behavior is individually observed or surveilled by the automated analysis itself. n266 To the extent that valid behavioral or transactional profiles are developed, n267 a search for matching behaviors is undertaken. Once matching behaviors are identified, there may be a Fourth Amendment (and due process) issue regarding whether the suspicion is sufficiently reasonable to "particularize" the search -- that is, to connect the behavior with identity. n268

REQUIRING SELECTIVE REVELATION PROTECTS PRIVACY AND PREVENTS THE GOVERNMENT FROM ACCESSING PERSONAL INFORMATION.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, “Commercial Data and National Security,” 72 Geo. Wash. L. Rev. 1459, p.L/N)

The government will be reluctant, for security reasons, to disclose its search terms, such as the names of suspected terrorists, to the commercial holders of data. Researchers are developing anonymizing techniques that allow analysis of otherwise personally identifiable data without disclosing the identifying attributes of the individuals whose information is being searched. Using these techniques, only the identities of those few persons identified by [*1491] the query as matching a watch list entry would be disclosed to the government. The process could have two steps, such that after the analysis determined that there was information matching the search criteria, further authority (judicial or otherwise) could be sought to obtain individual identities and other personally identifiable information regarding only those individuals who matched the query. Under this concept of "selective revelation," the vast majority of data in the commercial database would never be accessible to the government in a personally identifiable format. n147

SOLVENCY: ANONYMITY / SELECTIVE REVELATION

SELECTIVE REVELATION ALLOWS DATA MINING TO FOLLOW PROBABLE CAUSE REQUIREMENTS BY INSERTING JUDICIAL OVERSIGHT.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Policy, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

The goal of *selective revelation* is to protect against the revelation of personal information, that is, personally identifying information, while supporting data analysis. n332 This approach uses an iterative, layered structure that reveals personal data partially and incrementally in order to maintain subject anonymity. Initial revelation would be based on statistical or categorical analysis as described in earlier sections. This analysis would be applied to data that was sanitized or filtered in a way so that it did not reveal personally identifying information. n333 Based on initial results, subsequent revelations may or may not be justified. At each step, legal and technical procedures can be built in to support particular privacy policies (or other policies, such as security clearances, etc.).

For example, a directed link analysis based on characteristics of several known terrorists might produce a pattern or reveal additional relationships that appear relevant. A specific query could then be run using the pattern, for example, "search for other occurrences of large quantity chemical purchases and truck rentals." The algorithm would respond by confirming or denying that such other patterns exist **without revealing personal identifying information of the transactions**. Based on additional queries or subsequent analysis, the analyst could then request permission for additional revealing information (or to access additional data or databases). Depending on the nature and circumstance of the analysis, the type of information sought and from what source, the confidence interval of the pattern-match and other relevant factors, **the appropriate legal** or administrative **procedures** would be followed to permit additional revelation or access.

Where initial data analysis provides information that is in itself sufficient to meet investigative, reasonable suspicion, or **probable cause standards**, the relevant procedural protection -- subpoena, warrant, or court order -- could be applied depending on the particular circumstances before additional information or identity is revealed or before information is acted upon. In order to satisfy Fourth Amendment concerns, "interposition of a judicial officer before the barrier of anonymity is broken" should be required. n334

SOLVENCY: ANONYMITY / SELECTIVE REVELATION

ANONYMOUS DATA ANALYSIS CHECKS POTENTIAL GOVERNMENT ABUSE OF DATA MINING.

Jack **Dempsey and** Paul **Rosenzweig**, Executive Director of the Center for Democracy and Technology and Senior Legal Research Fellow at The Heritage Foundation, **2004** (May 26, “Technologies that can protect privacy as information is shared to combat terrorism,” <http://www.heritage.org/Research/HomelandDefense/lm111.cfm>)

Benefits of Anonymous Data Analysis

The benefits of anonymous data analysis are clear: No personally identifiable information or transactional data flows anywhere; source data are held and controlled exclusively by the data owner. 25 The risk of insider threat is greatly reduced as only anonymized values are in the database and the watch-listing-party receives only notice of matches. This approach has the value of fitting within the existing legal framework. Many of the relevant databases are available to the government for purchase. If different salt values are used for different purposes, anonymized data shared for one mission could not be conjoined with anonymized data collected for another.26

REQUIRING ANONYMITY PRIOR TO SEARCHING SOLVES PRIVACY CONCERNS.

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, “Proposals for Implementing the Terrorism Information Awareness System,” 2 Geo. J.L. & Pub. Pol’y 169, p.L/N)

These later requirements provide a dual structural mechanism that will have the effect of preserving civil liberty and privacy. The successive iteration requirement (sometimes called the use of primary and secondary databases) n43 will ensure that those databases containing information that individuals consider the most private will not be examined absent a suitable showing of cause. The disaggregation requirement will have the effect of absolutely preserving anonymity at the initial stage of any pattern-based inquiry. Thus, those developing KD should be required to construct a system that initially searches non-public databases and disaggregates individual identifiers from pattern-based information. Only after the pattern is independently deemed to warrant further investigation should the individual identity be disclosed and more sensitive non-government databases examined. At the first iteration, those using KD technology will initially be made aware only of a potentially suspicious pattern, but not of the identity of the individual whose pattern has been identified. n44

SOLVENCY: NOW KEY / DESIGN PROCESS KEY

CRAFTING PRIVACY PROTECTIONS IN THE DESIGN OF DATA MINING TECHNOLOGY IS CRITICAL TO LONG TERM SOLVENCY.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

[*1461] It is beyond the scope of this article to examine the questions of effectiveness. n6 In general, however, it seems indubitable that there are uses of commercial data, and combinations of government and commercial data, that could aid in the fight against terrorism. Without presuming to answer the effectiveness issues, and without underestimating the importance of those questions as a threshold matter, this article focuses on the privacy issues posed by uses of private sector databases for national security: what are the risks to privacy, why are the current privacy laws insufficient, and what should be the rules for this new capability? While government, corporate, and academic researchers are assessing the effectiveness of specific applications, policymakers need to consider simultaneously the privacy and civil liberties issues associated with uses of private sector data for counterterrorism, before moving forward on implementation. If those developing information systems take privacy into account in the research and development phase, they can build privacy protections into the design of applications, which is [*1462] easier and more effective than trying to add on privacy protections after a project is launched.

PRIVACY PROTECTIONS CAN BE EFFECTIVELY WRITTEN INTO THE TECHNOLOGY ITSELF.

Jack **Dempsey and** Paul **Rosenzweig**, Executive Director of the Center for Democracy and Technology and Senior Legal Research Fellow at The Heritage Foundation, **2004** (May 26, "Technologies that can protect privacy as information is shared to combat terrorism," <http://www.heritage.org/Research/HomelandDefense/lm11.cfm>)

As the Markle Task Force has illustrated with its SHARE network, it is now possible to build privacy rules directly into databases and search engines. This development draws on technology developed for digital rights management and the expression of privacy preferences in Web browsing. Essentially, the English language rules for access can be translated into machine-readable form and attached to each database and each piece of information within a database. The privacy rules can differ based on the types of data or their contents. Databases can incorporate fundamental privacy principles. For example, the "purpose specification" principle states that the purposes for which information has been collected should be associated with any personal information stored in the database; the "limited use" principle states that the database will run only queries that are consistent with the purposes for which the information has been collected.[28](#)

SOLVENCY: 4TH AMENDMENT PROTECTION

THE FOURTH AMENDMENT CAN BE USED TO ENFORCE A BAN ON OVERBROAD GOVERNMENT DATA MINING AS IT IS AN UNLAWFUL SEARCH.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

Does the Fourth Amendment apply to such investigative activities? It certainly should. After all, the Fourth Amendment embodies procedural values like accountability and control of government discretion as well as substantive values like privacy and free speech precisely because of the [*392] Framers' experience with arbitrary British general warrants and writs of assistance. n15 Given that **data mining** takes place behind closed doors, it raises transparency problems akin to wiretapping: how can society govern searches that neither targeted individuals nor society at large will know about unless informed by law enforcement? For **data mining**, the question is difficult if we assume that the government analyzes lawfully acquired information such as privately compiled databases of financial, communications, and other transactions or government databases of motor vehicle registrations, tax returns, and so on. Under modern Fourth Amendment rules about records held by third parties, we have no reasonable expectation of privacy in any of these records, because we have "knowingly exposed" the information to the public n16-that I made a phone call to my wife at noon last week, or that I wrote a check to buy groceries last month. It seems to follow that government **data mining** of such databases cannot be a search. Or does it? I suggest that it does not, that government **data mining** does implicate the Fourth Amendment. As a threshold matter, even when the Supreme Court has approved of privacy-intrusive government techniques, it has left open the possibility that overbroad use of such techniques would be treated differently. n17 Equally important, despite the apparent force of the [*393] "knowing exposure" doctrine, the mere fact that things or information have been exposed to others does not automatically mean that the Fourth Amendment becomes irrelevant. One's words in a conversation are by definition exposed to the listener, but such private communications receive full Fourth Amendment protection. n18

SOLVENCY: 4TH AMENDMENT PROTECTIONS

DATA MINING PRACTICES LIKE TIA SHOULD BE REGULATED UNDER THE 4TH AMENDMENT AS UNREASONABLE SEARCHES.

Berkeley Technology Law Journal, 2003 ("Protecting Privacy in the Digital Age," 18 Berkeley Tech. L.J. 283, p.L/N)

The Fourth Amendment protects against "unreasonable searches and seizures" n176 by any state entity. This standard would seem on its face to protect against misuse of digital government surveillance and data aggregation such as Carnivore and **Total Information Awareness**. Though the process of the search involves digital bits concerning an individual rather than physical things belonging to an individual, the reasons for searching and the information sought are essentially the same.

Unfortunately for those who fear digital searches, Fourth Amendment rights have been closely circumscribed outside of the realm of physical privacy. n177 One's information, when accessed by the government, is similarly entitled to a "reasonable expectation of privacy," but State entities have not been held to the same exacting standard as applied to physical [*307] "searches and seizures." n178 Thus the constitutional protection against government misuse of government digital searching is minimal. n179

SOLVENCY: JUDICIAL OVERSIGHT

JUDICIAL OVERSIGHT OF ANONYMITY PROVISIONS SOLVES CIVIL LIBERTIES VIOLATIONS WHILE FIGHTING TERRORISM.

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, "Proposals for Implementing the Terrorism Information Awareness System," 2 Geo. J.L. & Pub. Pol'y 169, p.L/N)

The final step--and the critical one for striking a suitable balance between the use of technology to enhance the ability to predict terrorist attacks while adequately protecting liberty interests--lies in the interposition of a judicial officer before the barrier of anonymity is broken. In other words, once a pattern of potential terror activity is identified, the user of a KD pattern search ought to be obliged to present that information to a court--in effect, the equivalent of the court currently used to implement the Foreign Intelligence and Surveillance Act (FISA), if not that court itself. n46 Only after the judge determines that a basis exists for concluding that the pattern identified is, in fact, a pattern of potential terrorist activity and not merely a coincidental pattern of innocent activity ought the identity of the actor whose pattern is in question be provided to law enforcement or intelligence officials. This mechanism--sometimes called selective or progressive revelation--should be built into the KD technology from the beginning, not added as a supplement after the structure of the technology has [*189] been substantially developed. n47

It is absolutely vital to both the success of the KD technology and the protection of civil liberty that this judgment is made by a neutral third party. And because of the nature of the inquiry--determining the basis for official scrutiny and intrusion by law enforcement or intelligence officials--is one that has historically been conducted by judicial officers, it is fully appropriate to rely on that model for control of the system. It has proven quite successful in the FISA context, and there is no reason that it could not be directly adapted to the use of KD pattern technology.

SOLVENCY: CONGRESS KEY

WITHOUT CONGRESSIONAL LIMITATION, DATA MINING WILL BE ALLOWED FOR ALL PUBLIC DATABASES.

WIRED News, Feb 23, **2004** (<http://www.wired.com/news/conflict/0,2100,62390,00.html>)

Privacy advocates feared that if such powerful tools were developed without limits from Congress, government agents could use them on any database.

Sen. Ron Wyden (D-Oregon), who fought to restrict Poindexter's office, is trying to force the executive branch to tell Congress about all its data-mining projects. He recently pleaded with a Pentagon advisory panel to propose rules on reviewing data that Congress could turn into laws.

ARDA sponsors corporate and university research on information technology for U.S. intelligence agencies. It is developing computer software that can extract information from databases as well as text, voices, other audio, video, graphs, images, maps, equations and chemical formulas. It calls its effort Novel Intelligence from Massive Data

CONGRESSIONAL ACTION IS CRITICAL TO THE ESTABLISHMENT OF CONSISTENT GUIDELINES ABOUT DATA MINING.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

Where these guidelines should be developed within the governmental system and what role each branch of government should play in their implementation remain difficult questions. Certainly, we should not leave the guidelines up to individual agencies. The government **needs a set of comprehensive guidelines that would apply to the entire federal law enforcement, intelligence, and homeland security community** - both to give the American public confidence that the government will use these new technologies responsibly, and to ensure that their use does not migrate toward the agency with the most secrecy and the least restrictive rules. There is a strong argument [*1500] that the guidelines should be promulgated by the president, subject to some form of notice and comment. If the president fails to act, however, Congress will have to address the issue. Moreover, even if the president fully used the rulemaking and procurement power, the executive branch's authority can only extend so far: in order for judicial controls to become part of the process, **Congress will have to act.**

SOLVENCY: CONGRESS KEY

CONGRESSIONAL DATA MINING LEGISLATION CAN PROVIDE OVERSIGHT THROUGH ENSURING ANONYMOUS DATA COLLECTION AND JUDICIAL OVERSIGHT.

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, "Proposals for Implementing the Terrorism Information Awareness System," 2 Geo. J.L. & Pub. Pol'y 169, p.L/N)

In fact, there are a number of analogous oversight and implementation structures already in existence that can be borrowed and suitably modified to the new technology. Thus, TIA can and should be developed if the technology proves usable. It can be done in a manner that renders it effective, while posing minimal risks to civil liberties, if the system is crafted carefully with built-in safeguards to check the possibilities of error or abuse. This paper is an effort to sketch out precisely what those safeguards ought to be. In summary, they are:

. Congressional authorization should be required before **data mining** technology (also known as Knowledge Discovery (KD) technology) is deployed;

. KD technology should be used to examine individual subjects only in compliance with internal guidelines and only with a system that "builds in" existing legal limitations on access to third-party data;

. KD technology should be used to examine terrorist patterns only if each pattern query is authorized by a Senate-confirmed official using a system that: a) allows only for the initial examination of government databases, and b) disaggregates individual identifying information from the pattern analysis;

. Protection of individual anonymity by ensuring that individual identities are not disclosed without the approval of a federal judge;

. A statutory or regulatory requirement that the *only* consequence of identification by pattern analysis is additional investigation

AT: CAN'T SOLVE MATRIX

EVEN THOUGH MATRIX IS A FLORIDA PROGRAM, THE DEPARTMENT OF HOMELAND SECURITY HAS DIRECT ADMINISTRATIVE CONTROL. THIS IS FEDERAL AUTHORITY.

St. Petersburg Times (Fla.), May 31, **2004** (“Total Information Awareness II?” p.L/N)

There is another reason to be concerned that pattern analysis data-mining may at some point become a central feature of the Matrix. In July 2003, the Department of Homeland Security's Office of Domestic Preparedness granted \$8-million for the expansion and operation of the Matrix. In exchange, the office was afforded direct administrative control over the program.

AT: NO SOLVENCY / TECH DOESN'T EXIST YET

AND SELECTIVE REVELATION TECHNOLOGY ALREADY EXISTS.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

Technology that allows for secure anonymous matching -- that is, that can match data between separate databases without revealing the data itself -- has already been developed. n335 Using one-way hash functions to convert data into unique but unreadable character strings allows these technologies to compare and update data without revealing the data itself. Thus, two databases -- for example, a government watch list and a corporate database -- can be compared without exchanging actual data. Only the one-way hash functions are compared and the result is a match without revealing the data. One-way hashes cannot be unhashed "any more than 'a sausage can be turned back into a pig.'" n336 Should the investigation or match warrant, the matching data records can be isolated from the original database without examining any other records.

AT: FALSE ARRESTS

JUDICIAL OVERSIGHT AND ANONYMITY REQUIREMENTS WILL CHECK FALSE ARRESTS.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

The scheme might also require the court to consider the sensitivity of the data being searched. If the court found that the data was sensitive, the court might authorize the search only on an anonymized basis, requiring the government to make a higher showing to obtain the individual identities of those who fit the search criteria. If an agency runs a pattern analysis program against certain databases, the algorithm might turn up, hypothetically, ten people who fit the pattern. To find those individuals' identities, government officials would have to return to court to justify their need for the information based on the likelihood that the pattern demonstrates that the individuals are terrorists. Factors the court might consider include the nature of the databases searched, the intelligence that led authorities to believe a certain pattern was relevant, the quality of the data, and the likelihood of false positives.

AT: ALL DATA MINING IS BAD

EFFECTIVE DATA MINING ON BALANCE INCREASES THE PROTECTION OF CIVIL LIBERTIES BY MAKING WORSE INTRUSIONS UNNECESSARY.

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, "Proposals for Implementing the Terrorism Information Awareness System," 2 Geo. J.L. & Pub. Pol'y 169, p.L/N)

We must also realize that the use of enhanced technology does not uniformly impose costs on liberty--there are potential benefits as well. One could, conceivably, adopt a purely preventative mode in responding to terrorist threats, enhancing security at airports, government buildings, and the like and relying on increased physical intrusions and identity cards as a means of forestalling the next attack. But if we are not to condemn ourselves to the "citadelization" of America, we must also consider a different tack--the use of predictive technologies to attempt to anticipate and thwart terrorist attacks before they occur. These technologies come at some potential costs to liberty, but with **the very real prospects of gains in other forms of liberty**. Absolute protection for electronic privacy necessarily leads to even less physical privacy.

AT: TOPICALITY: DATA MINING ISN'T A SEARCH

GOVERNMENT DATA MINING COUNTS AS A SEARCH UNDER THE FOURTH AMMENDMENT.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

Part II of this article briefly describes **data-mining** operations from a non- technical perspective. Part III then examines the issues at stake in the **data mining** debate: efficacy; substantive values of privacy, free speech, and freedom of association; and the core procedural value of accountability. Finally, Part IV argues that even if the individual facts in a database are "knowingly exposed to the public," the patterns or inferences uncovered by **data mining** are not. **Data mining** is like opening a container to find out what is inside or like scientifically analyzing blood or urine to discover facts about a person, both of which are considered Fourth Amendment searches. It also suggests that we should think about a Fourth Amendment category of "cognition-enhanced" searches, as opposed to sense-enhanced searches.

DATA MINING IS A SEARCH.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

The above discussion, I hope, strongly suggests that **data mining** raises serious Fourth Amendment concerns. But under existing law the Fourth Amendment simply won't apply to **data mining** unless it can be considered a "search." I argue that **data mining** is a search, even when the government has lawfully acquired the individual facts in the database being mined, because the patterns or inferences discovered via **data mining** often deserve to be private n98 and go beyond the information that can fairly be said to be "knowingly exposed" to others. This claim may sound preposterous. Isn't all the information in the database already completely exposed? Yes and no. As noted earlier, the **data-mining** literature distinguishes between traditional "query and report tools," which describe what is in a database, and "true" **data mining**, which identifies "valid, novel, potentially useful and ultimately understandable patterns in data." n99 Because "such patterns are themselves knowledge," it is completely reasonable to say that finding such patterns or relationships exposes information that is not "in" the database. After all, since 9/11 we have been engaged in a public debate about needing to do a better job of "connecting the dots." Merely having or knowing individual facts is one thing; discerning patterns or relationships within or among facts is another. n100

2AC ANSWERS TO TERRORISM DISADVANTAGE

1.) NO LINK: EXTEND OUR TAIPALE EVIDENCE FROM ADVANTAGE 1: DATA MINING TECHNOLOGY IS INEVITABLE, ITS JUST A QUESTION OF REGULATING IT IN THE SHORT TERM. THE PLAN DOESN'T BAN DATA MINING, SO IT CAN STILL BE USED TO FIGHT TERRORISM.

2.) DATA MINING HAS NOT BEEN PROVEN EFFECTIVE IN FINDING TERRORISTS.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

Thus, a central question to be answered before actually implementing any system for data mining in the context of domestic security is whether the technology is useful in identifying potential terrorist actors. If it is (or potentially is), then the question becomes whether it can do so in a way that protects (or enhances, relative to the alternatives) privacy. Despite a long heritage rooted in statistical analysis, artificial intelligence, and related fields, data mining is not a perfected technology and its usefulness in identifying terrorists from among the general population has not been proven. However, the question of its ultimate efficacy for a particular purpose is not grounds for opposing its research, development, or testing for that very purpose. n80

3.) CASE OUTWEIGHS:

A.) MORALITY: OUR PETRO EVIDENCE INDICATES THAT IT IS IMMORAL TO VIOLATE PEOPLE'S RIGHTS TO PRIVACY AND FREE SPEECH, BECAUSE ANY VIOLATION CAN LEAD TO TYRANNY AND DESPOTISM. YOU HAVE A MORAL OBLIGATION TO REJECT UNACCOUNTABLE DATA MINING.

B.) POLICE STATE: OUR RUMMEL EVIDENCE INDICATES THAT AUTHORITARIAN NATIONS HAVE KILLED HUNDREDS OF MILLIONS OF PEOPLE THROUGHOUT THEIR HISTORY. TERRORISTS HAVE ONLY KILLED SEVERAL THOUSAND.

2AC FRONTLINE TO TERRORISM DISADVANTAGE

4.) WITHOUT RULES GOVERNING DEVELOPMENT, DATA MINING TECHNOLOGY WILL BE INEFFECTIVE IN THE WAR ON TERROR.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

To summarize, under existing law the government can ask for, purchase, or demand access to most private sector data subject to few limits. Sharing of data is broadly permitted among agencies with counterterrorism responsibilities. Constraints on how the government can use the data once accessed are fragmentary. Some constitutional limits apply to the use of the data to arrest or detain individuals, and there may be due process limitations on the use of such data to deny government employment or licenses, but otherwise there are few rules governing the use of commercial data for counterterrorism purposes. This has produced a situation of uncertainty not only for a public wary of government overreaching, but also within the government itself and the private sector. The current lack of clarity inhibits efforts to develop potentially useful applications of commercial information. Counterterrorism efforts urgently need rules to fill this gap.

5.) TERRORISTS CAN ADAPT TO DATA MINING, UNDERMINING ITS EFFECTIVENESS.

Jack **Dempsey and** Paul **Rosenzweig**, Executive Director of the Center for Democracy and Technology and Senior Legal Research Fellow at The Heritage Foundation, **2004** (May 26, "Technologies that can protect privacy as information is shared to combat terrorism," <http://www.heritage.org/Research/HomelandDefense/lm111.cfm>)

Another challenge for privacy is adaptation: Bad guys change behavior to avoid getting caught, while good guys change behavior to avoid hassle and protect their privacy. This can engender a vicious cycle leading to loss of privacy and denigration of data. Bad guys learn the rules, share information, adapt behavior, and reduce their signal-to-noise ratio. Analysts may counter these adaptations by making their rules more complex or digging deeper into private data. Doug Tygar has suggested that constructs from game theory and economics can help break that cycle. In any case, it is necessary to understand the limits of privacy policies in the face of adaptation.

2AC FRONTLINE TO TERRORISM DISADVANTAGE

6.) PROTECTING PRIVACY RIGHTS OUTWEIGHS TERRORISM.

Susan **Freiwald**, Professor at the University of San Francisco School of Law, **2004** (Fall, Alabama Law Review, "Online Surveillance," 56 Ala. L. Rev. 9, p.L/N)

It is beyond the scope of this Article to justify the need for **privacy**, one of the most cherished of the protections that the Bill of Rights affords. n466 But I will briefly take up the argument that **privacy** must yield to the dangers posed by modern terrorism. Most importantly, fear does not yield the careful thinking that should guide legal policy. For example, the fear that **privacy** must be reduced or there will be blood on our hands when another terrorist attack occurs generates **high emotion** rather than **reasoned deliberation**. n467 Short-lived emotional reactions should not guide legislation designed to last. It seems clear that the terrorist threat will plague us for the foreseeable future. Realigning our rights to contend with terrorism must work in the long-term rather than be a short-term fix. n468

2AC FRONTLINE TO CHINA DISADVANTAGE

1. CASE OUTWEIGHS:

A.) MORALITY: OUR PETRO EVIDENCE INDICATES THAT IT IS IMMORAL TO VIOLATE PEOPLE'S RIGHTS TO PRIVACY AND FREE SPEECH, BECAUSE ANY VIOLATION CAN LEAD TO TYRANNY. YOU HAVE A MORAL OBLIGATION TO REJECT UNACCOUNTABLE DATA MINING.

B.) POLICE STATE: OUR RUMMEL EVIDENCE INDICATES THAT AUTHORITARIAN NATIONS HAVE KILLED HUNDREDS OF MILLIONS OF PEOPLE THROUGHOUT THEIR HISTORY— THIS IS THE BIGGEST HISTORICAL IMPACT IN THE DEBATE.

2. NOT UNIQUE: THE U.S. IS CURRENTLY PRESSURING CHINA ON HUMAN RIGHTS.

Financial Times 2005 (3-23)

Condoleezza Rice, who has just returned from her first visit to Asia as US secretary of state, has been giving voice to the renewed enthusiasm of George W. Bush, president, for spreading democracy and religious freedom abroad. As she rightly pointed out in Tokyo in the keynote speech of her trip, even China must eventually embrace open and representative government. She repeated the message to China's Communist leaders in Beijing on Monday.

3. Turn: Chinese Rights

(A) Pressuring China is critical to stopping its rights abuses.

South China Morning Post 2004 (2-27)

Mainland activists have called on the United States to keep up the pressure on the government to improve its human rights record.

"On the surface it may seem that China's human rights situation has improved, but it has worsened," said Guan Zhenli, who is campaigning for the rights of residents forced to relocate to make way for massive construction projects in Beijing.

"In the past, police would beat you up in public. Today they just haul you away and beat you up behind walls."

Mr Guan said the fourth-generation leaders had not relaxed their stance on political suppression.

"Only tactics have changed," he said.

Next month Mr Guan and other well-known activists have to report to police detention centres every day or they risk being arrested. "We've been told to keep quiet," he said. "Authorities are afraid that we'll create trouble during the upcoming National People's Congress meetings. They don't want protests on the streets, or representatives to hear the voice of people who have legitimate grievances.

"I believe the US should continue to put pressure on the government to improve human rights. This is the only way the government will improve."

(B) Extend our 1AC Petro evidence—human rights violations are immoral and should be rejected.

2AC FRONTLINE TO CHINA DISADVANTAGE

6. **China's military is not advanced enough for battle – they will not go to war with the U.S.**

Holt, Senior Fellow specializing in East Asia relations at the World Policy Institute, **2000**

<James H, April, Foreign Policy In Focus, Volume 5, Number 11

www.u.arizona.edu/~volgy/taiwan1.doc >

China's armed forces are the world's largest, but smaller per capita than those of many countries, including the United States. The Chinese military's size is actually a hindrance to modernization, because it cannot afford adequate pay, training, or modern weapons for most of its forces.

China will not be able to develop modern military forces unless it either greatly increases military spending (which seems unlikely) or drastically cuts the size of its forces. China can defend its territory, but its capacity for external aggression is minimal.

Although China has disputes with most of its neighbors, it has not resorted to force to resolve them since its defeat in the 1979 war with Vietnam

(except for a brief 1988 clash with Vietnam over the Paracel Islands). China and Russia have demilitarized their common border, and China has

extensive trading relations with all of its neighbors, including Taiwan and both North and South Korea. Even where there is tension, as in China's

relations with Taiwan, India, and Vietnam, relations have improved considerably since the armed clashes of decades ago.

7. **No Threshold:** We argue with China all the time – there is no evidence that a small increase in human rights pressure will cause them to break off all relations with us.

XT: #4 NO WAR WITH CHINA

CHINA IS NOT A THREAT TO THE U.S. – THEY DON'T HAVE THE MILITARY POWER AND THEY ARE COOPERATIVE.

Holt, Senior Fellow specializing in East Asia relations at the World Policy Institute, **2000**
<James H, April, Foreign Policy In Focus, Volume 5, Number 11
www.u.arizona.edu/~volgy/taiwan1.doc >

Despite frequent alarms about the supposed China threat, China is not an emerging superpower. Although it has experienced rapid economic growth, militarily China has been in relative decline since the 1970s. China's high economic growth rate is now slowing, and its pattern of growth has actually undermined its ability to become an autonomous military power able to manufacture its own weapons systems and sustain a war effort without support from abroad. China does not, and will not in the foreseeable future, pose the kind of military threat to the U.S. that the Soviet Bloc did (exaggerated though that threat often was). Nor is China an irritating "rogue state": it has cooperative commercial and diplomatic relations with most of its neighbors and with the United States.

THE NEGATIVE'S EVIDENCE IS ALL HYPE – THE MEDIA EXAGGERATES THE CHINESE THREAT FOR RATINGS.

Holt, Senior Fellow specializing in East Asia relations at the World Policy Institute, **2000**
<James H, April, Foreign Policy In Focus, Volume 5, Number 11
www.u.arizona.edu/~volgy/taiwan1.doc >

U.S. public media and some politicians have often tended to exaggerate the threat from China. The U.S. should relate to China with confidence, not with fear. In the two decades since relations were normalized, China has gradually liberalized its economy, becoming an outward-looking, commercial society sharing many interests with the United States. During this period, China has demilitarized to a much greater extent than has the United States. If China is to be a superpower, it seems destined to be an economic one more akin to Japan than a military superpower like the former Soviet Union. Although the U.S. might be strong enough to bully China, it should resist that temptation, because in the long run—like the pressure against Weimar Germany in the 1920s—bullying could divert China from its current hopeful path toward a more suspicious and antagonistic relationship with the outside world.

DATA MINING NEGATIVE INDEX

Frontline to Civil Liberties Advantage (Data Mining) 114
Extension 1: Oversight checks abuse 117
Extension 4: No “Digital Dossiers” 118

INC Frontline to Authoritarianism Advantage 119

INC Frontline to Solvency 122
Extension 3: False hits 125

Disadvantage Links
Terrorism Disad Links: Data Mining 126

FRONTLINE TO CIVIL LIBERTIES ADVANTAGE (DATA MINING)

1.) PUBLIC OVERSIGHT CHECKS ABUSES OF THE PRESIDENT'S POWER. NO RISK OF CIVIL LIBERTIES VIOLATIONS SPILLING OVER.

Paul **Rosenzweig**, Senior Legal Research Fellow at the Center for Legal and Judicial Studies at the Heritage Foundation; Adjunct Professor of Law at George Mason University School of Law, **2004** (Summer, Duquesne University Law Review, p.L/N)

As noted, there is little more than anecdotal evidence to support this analysis - yet it has the appeal of both common sense and consistency with contemporary experience. It appears that we have strengthened, substantially, our ability to examine, oversee, and correct, abuses of executive power. The public is in a stronger [*674] position today than it ever has been before. And that power of oversight gives us freedom - freedom to grant the government great powers when the need arises, secure in the knowledge that we can restrain their exercise appropriately. In short, one possible lesson from history is that we should not be utterly unwilling to adjust our response liberty and security in today's crisis of terrorism - for we have the capacity to manage that adjustment, and readjust it as necessary. n35

2.) STATUS QUO ACTION EFFECTIVELY PROTECTS THE PRIVACY OF DIGITAL INFORMATION.

Berkeley Technology Law Journal, 2003 ("Protecting Privacy in the Digital Age," 18 Berkeley Tech. L.J. 283, p.L/N)

Mr. McNealy also intuited correctly that the existing legal framework for privacy is failing. As digital technology renders obsolete the theories on which the laws are based, the legal protections themselves become at best incomplete and at worst perverse. Privacy law has traditionally developed in tandem with technology - reshaping itself to meet the privacy threats embodied in new technology. n4 The information revolution, however, is occurring so fast and affects so many areas of privacy law that the old, adaptive process is failing to address digital privacy problems. n5

[*284] Fortunately for those who value privacy, most people cannot "get over it" so easily. Even if attempts at theoretical and substantive adaptation in this new era are so far preliminary and halting, progress is underway. In the last few years, we have seen an explosion of new laws (both state and federal), development of new business practices, new diligence on the part of regulatory agencies, new international mandates, and more sensitive judicial decisions on privacy.

FRONTLINE TO CIVIL LIBERTIES ADVANTAGE (DATA MINING)

3.) THE END OF TIA WILL PROTECT CIVIL LIBERTIES.

CBSNews.com, Sept. 25, **2004** ("Pentagon Terror Spy Lab Closed,"
<http://www.cbsnews.com/stories/2003/07/31/attack/main566133.shtml>)

Sen. Ron Wyden, D-Ore., who has battled the program for months, hailed the result Wednesday. "Americans on American soil are not going to be targets of TIA surveillance that would have violated their privacy and civil liberties," Wyden said in an interview.

"The original Poindexter program would have been the biggest surveillance program in the history of the United States," he added. "Now the lights have gone out on the program conceived by John Poindexter." He said the agreement would allow foreign intelligence gathering on terrorism "without cannibalizing the civil liberties of Americans."

4.) CLAIMS THAT TIA SOUGHT TO BUILD DOSSIERS ON AMERICAN CITIZENS ARE MASSIVELY EXAGGERATED.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

Although TIA was attacked as an attempt to build "dossiers" on 300 million U.S. citizens n150 to track their everyday activities, n151 or to build a "supercomputer" to surveil the entire population, n152 it was actually something quite different and far less ominous, despite its unfortunate initial choice of name, logo, and motto. n153 According to the IAO documents, TIA was an experimental prototype system that consists of three parts -- language translation technologies, data search and pattern recognition technologies, and advanced collaborative and decision support tools:

Together, these three parts comprise the Total [sic] Information Awareness (TIA) project. The language translation technologies will enable the rapid translation of foreign language publications and give intelligence analysts the capability to quickly search for clues about emerging terrorist acts. The intelligence community believes it can find evidence of terrorist activities in open source foreign language publications. Rapid translation technologies will help intelligence analysts search a significant amount of material in a much shorter period than is possible today.

INC FRONTLINE TO CIVIL LIBERTIES ADVANTAGE (DATA MINING)

5.) CAMERA SURVEILLANCE MAKES PRIVACY INVASIONS INEVITABLE.

Washington Times, May 19, **2005** ("Counterterror grants fund city cameras, data mining," p.L/N)

New York City has the largest and oldest system, with more than 7,000 public and private surveillance cameras. Baltimore, Chicago and New Orleans are installing camera surveillance networks with federal homeland security dollars.

Chicago financed its 2,250 cameras with a \$5.1 million grant and is adding more cameras over the next two years with another \$48 million first-responder grant. The cameras, which cost up to \$60,000 each, are controlled remotely by police to zoom and rotate, and are equipped with night vision.

In 2004, homeland security funds bought \$193 million worth of surveillance cameras. Similar "physical security enhancement equipment" for large cities is to be used primarily for ports, said Homeland Security Department spokesman Marc Short. "I can't imagine a more logical expenditure of funds," he said.

Maryland is spending \$1.3 million in federal grants for a camera system that will expand to Anne Arundel, Carroll, Harford and Howard counties. Washington has a camera system, but it is turned on only for major events or during emergencies, said Melissa Ngo, staff counsel for the Electronic Privacy Information Center.

"The other cities will be watching everyone all the time, even when there is no emergency," she said. "One of the biggest risks that come with these homeland security cameras is that it's misused or abused."

EXTENSION 1: OVERSIGHT CHECKS ABUSE

FIVE FACTORS CHECK ABUSES OF CIVIL LIBERTIES:

1.) An activist supreme court, 2.) a partisan congress, 3.) investigative journalism, 4.) public interest groups, 5.) a more educated public.

Paul **Rosenzweig**, Senior Legal Research Fellow at the Center for Legal and Judicial Studies at the Heritage Foundation; Adjunct Professor of Law at George Mason University School of Law, **2004** (Summer, Duquesne University Law Review, p.L/N)

What accounts for this seeming change in contemporary context? Though little empirical evidence exists, a rough analysis can [*672] identify a number of factors, all of which contribute to greater oversight in the exercise of executive authority, constraining the greatest excesses. These factors would include: A more activist court that is far more willing to overturn executive branch action, acting as a limit on excessive power. Earlier times of crisis all occurred before the so-called "rights revolution" of the 1960s and the growth of judicial power. Indeed, the current Rehnquist Court has invalidated more acts of Congress than any previous court, n30 exhibiting a high degree of involvement in curtailing authority. n31

A more partisan Congress. Though sometimes seen as a bad thing, the growth of partisanship has created at least one positive benefit - a growth in the "market" for oversight of the executive branch. Since the Watergate era, we have seen an increasing use of Congressional investigative authority - sometimes for good, and sometimes for ill. But the prospect of aggressive Congressional oversight acts as a check on executive power, as even the prospect of public censure has the in terrorem effect of preventing abuse.

The growth of investigative journalism. Clearly, this is another change that has some potential adverse consequences. But few can deny that post-Watergate, the press has come to more aggressively serve an important public function, exposing activities that some might otherwise prefer to keep secret. None can imagine a return to the days when the press actively participated in concealing Roosevelt's injuries, or Kennedy's dalliances. And that means, equally, that the prospect of secret prosecutions and secret searches and seizures is minimal, at best. [*673]

The rise of the public interest groups. In no other time did Americans organize themselves into public interest groups in the way they do now. No other era saw the existence, for example, of numerous public interest litigation groups like the ACLU. These organizations, through their public information and litigation activities, act as an important check on the exercise of executive authority. They are, in effect, the "canary in the mineshaft," serving as an early warning system of abuse. n32 The increase in the public's ability to monitor government. Though technology, assuredly, offers greater opportunity for our government to monitor our activities, that same technology holds the promise of greater public accountability by enhancing the transparency of government functions. n33 And, finally, the public is far more educated about civil liberties today than, seemingly at any time in the past. With the rise of the Information Age and the internet, we are far more able to individually gather information necessary to make decisions and to organize a response to government power if one is deemed necessary. From the Ozzie and Harriet quiet of suburbia in the 1950's, we have come to a point where many Americans are vitally concerned about freedom, liberty, and government action and exercise their franchise with those concerns in mind. n34

EXTENSION 4: NO “DIGITAL DOSSIERS”

DATA MINING WON’T LEAD TO THE INVESTIGATION OF A LARGE NUMBER OF INNOCENT PEOPLE.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** (“Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,” 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

The second prong of this concern, that data mining is a statistical analysis and therefore prone to generating false positives, n292 seems a trite observation since all investigative methods begin with more suspects than perpetrators -- indeed, the point of the investigative process is to narrow the suspects down until the perpetrator is identified. n293 The question to be tested is whether these technologies can reduce the number of potential suspects sufficiently so that traditional investigative methods applied to the results can identify terrorists before they act. n294 To date, much of the public debate about potential accuracy rates for data mining in domestic security applications, particularly in news accounts, n295 is based on wildly simplistic assumptions about the statistical nature of data mining. n296

Again, the fundamental research question is to determine what *confidence interval* can be applied to data mining results in the domestic security context. n297 To be sure, their efficacy has yet to be proved, "but at this stage the significant step is to recognize the research nature of the program, and thus to avoid strangling nascent technology in its crib by imposing unreasonable and unrealistic 'proving requirement' long before the technology has had a chance to be explored." n298

FRONTLINE TO AUTHORITARIANISM ADVANTAGE

1.) FEARS OF “BIG BROTHER” ARE NOT FACTUAL—THEY ARE AN EXAGGERATION OF COMMON ANXIETIES, BUT SHOULDN’T DRIVE POLICY-MAKING.

Stan **Karas**, J.D. from UC Berkeley, **2002** (December, American University Law Review, “Privacy, Identity, and Databases,” 52 Am. U.L. Rev. 393, p.L/N)

First, a resonant metaphor cannot substitute for a well-developed philosophical rationale for data protection in a particular context. Knee-jerk references to Big Brother, needlessly complicate the already-difficult task of protecting privacy in the information age. Second, even when a literary metaphor is an expression of complex social theories, reliance on it is often unhelpful. As Judge Posner observes, "it is a mistake to try to mine works of literature for political or economic significance - even when it is political literature." n112 Use of literary metaphors is unlikely to enhance our understanding of privacy, in part because the literary meaning is inherently open-ended in the way that legal precedent or historical events are not. n113 Furthermore, mixing genres here is unwarranted because Big Brother is not, has never been and, as a literary device, cannot be a true reflection of objective reality. The Big Brother metaphor is a [*415] refraction of social anxieties, a product of our cultural imagination, not a tool for conceptualizing privacy issues.

2.) AFTER THE TIA PROJECT WAS SHUT DOWN, DATA MINING WILL NOT TARGET U.S. CITIZENS.

CBSNews.com, Sept. 25, **2004** (“Pentagon Terror Spy Lab Closed,” <http://www.cbsnews.com/stories/2003/07/31/attack/main566133.shtml>)

House and Senate negotiators have agreed to close down a controversial Pentagon office that was developing a vast computerized terrorism surveillance system. They also agreed that no money should be spent to use the high-tech spying tools under development against Americans on U.S. soil.

But some of the high-powered software will be shifted to different government offices, to be used to gather intelligence from U.S. citizens abroad and foreigners in this country and abroad.

FRONTLINE TO AUTHORITARIANISM ADVANTAGE

3.) DATA MINING PROVIDES NO ACCOUNTABILITY, MAKING ABUSE INEVITABLE.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

The very technology of **data mining** and automated data analysis arguably poses even greater challenges for transparency. Profiling algorithms used to rank persons as "threats" or discover "signals" of terrorist activity can be as invisible as wiretaps if care is not taken to maintain faithful records of the operations. And if neural networks are used to "learn" and identify behavior patterns, n94 those triggering patterns will be even more opaque. The advantage of neural networks is that "they offer a means of efficiently modeling large and complex problems in which there may be hundreds of predictor variables that have many interactions." n95 Unfortunately, because there are so many variables, "the parameters become uninterpretable and the network serves as a 'black box' predictor. . . . There is no explicit rationale given for the decisions or predictions a neural network makes." n96 The general problem can be stated as follows: Assume that automated data analysis casts suspicion on someone, causing the person harm. Suppose the person challenges the government action. Presumably, the government must establish the reasonableness of the **data mining**, as it would need to explain how a forensic laboratory concluded that a crime-scene fingerprint [*408] identified a suspect. How does the government show how the **data mining** operation works and that it reasonably cast suspicion on the person? Indeed, if the patterns, models or processes used to decide that a person is suspicious are considered secret, it may be **impossible to determine precisely how an individual has been singled out** for investigation. The MATRIX program, for instance, apparently used a "high terrorism factor" scoring system that identified 120,000 people as being statistically likely to be terrorists and led to some investigations and arrests, but administrators now say that this scoring system is no longer being used. n97 It's unclear that we'll ever know how this system actually worked.

EXTENSION 1: BIG BROTHER FEARS EXAGGERATED

CONCERNS ABOUT PRIVACY ARE EXAGGERATED—THEY ARE BASED IN PUBLIC FEAR RATHER THAN DOCUMENTED FACT.

Kim **Taipale**, executive director of the Center for Advanced Studies in Science and Technology, **2005** (Winer, “Technology, Security, and Privacy,” 9 Int'l J. Comm. L. & Pol'y 8, p.L/N)

This same phenomenon skews the public debate on technology, security and privacy. The availability of information privacy horror stories (in particular, the prevalence of identity theft, spam and hacker stories in the media), n51 and the general mistrust in government agencies to handle personal information appropriately, n52 combined with a general apprehension about technology n53 and how it works, n54 and the natural anxiety relating to disclosure of personal, particularly intimate, information -- all spurred on by the privacy lobby n55 -- has created a public anxiety about electronic privacy n56 out of proportion to the actual privacy risks and has obscured discussion of the very real threats posed by either failing to provide security or by misallocating security resources. n57

1NC FRONTLINE TO SOLVENCY

1.) POOR GOVERNMENT WATCH LISTS MAKE FALSE POSITIVES AND PRIVACY LOSS INEVITABLE.

Jack **Dempsey and Paul Rosenzweig**, Executive Director of the Center for Democracy and Technology and Senior Legal Research Fellow at The Heritage Foundation, **2004** (May 26, “Technologies that can protect privacy as information is shared to combat terrorism,” <http://www.heritage.org/Research/HomelandDefense/lm111.cfm>)

A major, unresolved issue is the underlying quality of the watch lists. As a practical matter, watch list fidelity is one of the biggest challenges faced by those attempting to identify risks. If a watch list contains inaccurate or incomplete data, it will be very difficult to compare data against that list. In particular, name-only matches are meaningless; more information is necessary to determine whether an individual is, in fact, the person listed. In terms of the government's use of data, this suggests that watch lists need to be verified to ensure they are accurate, complete, and up-to-date, and this is particularly important if watch lists become the centerpiece of a system that seeks to identify who has relationships with "known bad guys." **Anonymization will not protect innocent people if the government watch list is unreliable.** False positives will result in inconvenience or more serious injury to innocent people. And even rigorous attention to data quality must still be combined with due process and redress mechanisms to protect against erroneous adverse consequences.

2.) ANONYMOUS DATA MINING DOESN'T PREVENT THE GOVERNMENT FROM CONDUCTING ILLEGITIMATE SEARCHES.

Jack **Dempsey and Paul Rosenzweig**, Executive Director of the Center for Democracy and Technology and Senior Legal Research Fellow at The Heritage Foundation, **2004** (May 26, “Technologies that can protect privacy as information is shared to combat terrorism,” <http://www.heritage.org/Research/HomelandDefense/lm111.cfm>)

Anonymization will not prevent all abuses. For example, it is no protection against an authorized user running searches for unauthorized purposes. In order to deter such conduct, and to identify it and punish it when it occurs, audit trails must be established that log each query and its justification. As every computer criminal knows, the first (or last) place you go when you are doing something wrong is to the logs, to disable them or change them to cover your tracks. In the escalating battle for computer security, experts are developing immutable logging technologies.²⁷

1NC FRONTLINE TO SOLVENCY

3.) MAKING DATA ANONYMOUS DOESN'T SOLVE—ENCRYPTION CAN'T TELL THE DIFFERENCE BETWEEN TWO SPELLINGS OF THE SAME NAME OR ADDRESS, LEADING TO FAULTY “HITS”

Jack **Dempsey and** Paul **Rosenzweig**, Executive Director of the Center for Democracy and Technology and Senior Legal Research Fellow at The Heritage Foundation, **2004** (May 26, “Technologies that can protect privacy as information is shared to combat terrorism,” <http://www.heritage.org/Research/HomelandDefense/lm11.cfm>)

However, what if the airline reservation data used a slightly different spelling, and expressed some data elements in a different format and had different data fields:

#VX1RU9

Khaleed Al-midhar

San Francisco

DOB: 12/07/76 [21](#)

ID: 33000102334

Given even small variations, the hash value produced would be different because the input value would be different. The hash process therefore needs to take into account the fact that there could be many variant spellings of names and variations in the way dates and addresses are expressed. 123 Main Street, 123 Main St., and 123 Main each will produce completely different hashes.

Actually, it is necessary to deal with variability whether data are hashed or not. Before matching of personally identifiable data can be effective, steps must be taken to ensure that Bob Jones and Robert Jones are matched but that Robert Jones Jr. and Robert Jones Sr. are not. The problem is difficult enough in English, but when names are transliterated from Arabic or another character set, it becomes even more difficult

INC FRONTLINE TO SOLVENCY

4.) THE PLAN CAN'T STOP PROGRAMS LIKE MATRIX, WHICH ENGAGE IN DATA MINING TO FIGHT TERRORISM UNDER STATE AUTHORITY.

GAO 2004 ["Data Mining: Federal Efforts Cover Wide Range of Uses," General Accountability Office, www.gao.gov/cgi-bin/getrpt?GAO-04-548]

Since the terrorist attacks of September 11, 2001, data mining has been seen increasingly as a useful tool to help detect terrorist threats by improving the collection and analysis of public and private sector data. In a recent report on information sharing and analysis to address the challenges of homeland security, it was noted that agencies at all levels of government are now interested in collecting and mining large amounts of data from commercial sources.⁵ The report noted that agencies may use such data not only for investigations of known terrorists, but also to perform large-scale data analysis and pattern discovery in order to discern potential terrorist activity by unknown individuals. Such use of data mining by federal agencies has raised public and congressional concerns regarding privacy. One example of a large-scale development effort launched in the wake of the September 11 attacks is the Multistate Anti-terrorism Information Exchange System, known as MATRIX. MATRIX, currently used in five states,⁶ provides the capability to store, analyze, and exchange sensitive terrorism-related and other criminal intelligence data among agencies within a state, among states, and between state and federal agencies. Information in MATRIX databases includes criminal history records, driver's license data, vehicle registration records, incarceration records, and digitized photographs. Public awareness of MATRIX and of similar large-scale data mining or data mining-like projects has led to concerns about the government's use of data mining to conduct a mass "dataveillance"⁷—a surveillance of large groups of people—to sift through vast amounts of personally identifying data to find individuals who might fit a terrorist profile.

EXTENSION 3: FALSE HITS

ANONYMITY STANDARDS DON'T FULLY PROTECT CITIZENS FROM PRIVACY VIOLATIONS BECAUSE SOME PEOPLE WILL BE TARGETTED FALSELY.

James **Dempsey and** Lara **Flint**, Executive Director and Staff Counsel at the Center for Democracy and Technology, **2004** (August, "Commercial Data and National Security," 72 Geo. Wash. L. Rev. 1459, p.L/N)

Given the new emphasis on screening and prevention, criminal due process rules will often be inapplicable. The establishment of access standards for pattern-based searches, the use of anonymization techniques to shield the identity of persons in databases, and the monitoring of usage to identify unauthorized uses only partially resolve the concerns raised by the use of commercial data. Even if the guidelines include all those techniques, the questions remain of how "hits" will be used and what opportunity an individual will have to prove he is not a risk.

TERRORISM DISAD LINKS: DATA MINING

REQUIRING JUDICIAL OVERSIGHT OF DATA MINING UNDERMINES ITS EFFECTIVENESS .

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, "Proposals for Implementing the Terrorism Information Awareness System," 2 Geo. J.L. & Pub. Pol'y 169, p.L/N)

Operational constraints limit the ability for particularized oversight from outside the executive branch. Yet unfettered discretion is unacceptable. Particular pattern-based queries must be deemed effective prior to use--but requiring approval by either the legislative or judicial branch prior to their use would be cumbersome (and judges may be particularly ill-suited to the scientific judgments that will be required). Given that post-use structures (described below) can provide significant protection of individual liberty, the best analogous model would appear to be the requirement for "high-level" approval before a particular pattern-based query is deployed. As with, for example, the use of a subpoena to seek records from a press organization, n35 no action should be taken without the authorization of a Senate-confirmed officer of the Department of Justice, Homeland Security, FBI, or CIA (such as an Assistant Attorney General or the FBI Director). n36

PROVIDING COURT REDRESS UNDULY HAMPERS TERRORISM INVESTIGATIONS.

Gayle **Horn**, Junior Fellow in International Law at the Institute for International Law and Justice at NYU, **2005** (New York University Annual Survey of American Law, "Online Searches and Offline Challenges," 60 N.Y.U. Ann. Surv. Am. L. 735, p.L/N)

Court redress under either the chilling effect doctrine or the right to anonymity is likely not only unworkable, but also appears to be counterproductive. Substantively, the online capabilities granted to FBI agents under the Guidelines do not seem to be problematic. Any relief that could be granted by the courts might unduly hamper the government's ability to perform online searches to gather intelligence to thwart future terrorist attacks by changing that very substance: n207 if a facial challenge were to succeed, the court likely would require a stronger factual predicate for performing legitimate online searches (i.e., revert back to the old law under which FBI agents could perform Internet searches only once they had developed evidence that a crime was underway). However, the FBI's ability to perform exploratory Internet searches may be critical if it is going to play a more prominent proactive role in preventing future terrorist attacks. Rohan Gunaratna, an Al Qaeda expert, has described Al Qaeda as "an essentially modern organisation, one that exploits up-to-date technology for its own ends, relying on satellite phones, laptop computers, encrypted communications websites for hiding messages and the like." n208 American electronic warfare specialists have speculated that Al Qaeda used encrypted [*774] email messages and websites not only in the planning of September 11, but also in spreading jihad. n209 The Washington Post reported that the hijackers "exchanged scores of emails" and "used the Internet to learn about the aerial application of pesticides." n210 As Heather MacDonald states, "opening up the web to the FBI ... is particularly essential in fighting Islamic terrorism because the web is the most powerful means of spreading jihad... . Even if the U.S. can't shut down web pages celebrating mass destruction in the name of holy war, it should at least be able to visit them to learn what's out there." n211

TERRORISM DISADVANTAGE LINKS

REQUIRING PROBABLE CAUSE TO START A TERRORISM INVESTIGATION MAKES IT HARDER TO FIGHT TERRORISM.

FDCH Political Transcripts, October 30, **2003** (U.S. REPRESENTATIVE PORTER GOSS (R-FL) HOLDS HEARING ON CONSTITUTIONAL ISSUES OF INTELLIGENCE-GATHERING, p.L/N)

FISA, for example, establishes this notion of probable cause to believe that someone is a foreign power before you can engage in electronic surveillance against them. The probable cause standard is a standard that arose within the criminal justice process, but the ultimate standard is reasonableness. And one of the things that has to go on to reasonableness is what is the nature of the harm, you know. It's one thing to look for a marijuana joint in the back of a car. It's another to be looking for a nuclear device that could obliterate a city. And you have to look at that in terms of what is the reasonableness of the government's conduct. I would say that the probably cause standard and the law that's grown up around it is fraught with difficulty when you apply it in the national security context. The Moussaoui case is an example. They couldn't get into his computer because they could not establish, they felt probable cause to link him to a foreign power. And all the apologists are trying to say, "Oh yeah, well, they could have had this theory and that theory." The bottom line -- very problematic. They could not link Moussaoui to a foreign power

DEVELOPMENT OF NEW TECHNOLOGICAL CAPABILITIES LIKE DATA MINING IS CRITICAL TO THE WAR ON TERROR.

Paul **Rosenzweig**, Senior Legal Research Fellow in the Center for Legal and Judicial Studies at the Heritage Foundation and an Adjunct Professor of Law at George Mason University, **2004** (Winter, "Proposals for Implementing the Terrorism Information Awareness System," 2 Geo. J.L. & Pub. Pol'y 169, p.L/N)

In short, TIA can be safely implemented. Failing to make the effort poses grave risks and is an irresponsible abdication of responsibility. n3 As six former top-ranking professionals in America's security services recently observed, the United States faces two problems: a need for better analysis and, more critically, "improved espionage, to provide the essential missing intelligence." In their view, while there was "certainly a lack of dot-connecting before September 11," the more critical failure was that "there were too few useful dots." n4 TIA technology can help answer both of these needs. Indeed, resistance to new technology poses practical dangers. As the Congressional Joint Inquiry into the events of September 11 pointed out in noting systemic failures that played a role in the inability to prevent the terrorist attacks:
4. Finding: While technology remains one of this nation's greatest advantages, it has not been fully and most effectively applied in support of U.S. counterterrorism efforts. Persistent problems in this area included a lack of collaboration between Intelligence Community agencies [and] a reluctance to develop and implement new technical capabilities aggressively . . . n5

TERRORISM DISADVANTAGE LINKS

DATA MINING IS EFFECTIVE IS STOPPING TERRORISM.

K.A. **Taipale**, Executive Director of the Center for Advanced Studies in Science and Technology Police, **2004** ("Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," 5 Colu. Sci. & Tech. L. Rev. 2, p.L/N)

A major challenge to terrorist detection today is the inability to quickly search and correlate data from the many databases maintained legally by our intelligence, counterintelligence, and law enforcement agencies. The collaborative reasoning and decision-support technologies will help solve existing coordination problems by enabling analysts from one agency to effectively collaborate with analysts in other agencies. n154

GOVERNMENT DATA MINING IS CRITICAL TO FINDING TERRORISTS BEFORE THEY CAN ATTACK.

Lee **Tien**, Senior Staff Attorney at the Electronic Frontier Foundation, **2004** ("Privacy, Technology, and Data Mining," Ohio Northern University Law Review, 30 Ohio N.U.L. Rev. 389, p.L/N)

The now-defunct TIA program originally n30 included several programs involving both subject- and pattern-based **data mining** n31 of what TIA called the "transaction space." Undersecretary of Defense Pete Aldridge said that the "[t]he purpose of TIA would be to determine the feasibility of searching vast quantities of data to determine links and patterns indicative of terrorist activities." n32 As Poindexter put it: "If terrorist organizations are going to plan and execute attacks against the United States, their people must engage in [*396] transactions and they will leave signatures in this information space." n33 This transaction space included: financial, educational, travel, medical, veterinary, country entry, place/event entry, transportation, housing, critical resources, and communications. n34 Aldridge said that TIA would look for "connections between transactions" (passports, visas, work permits, driver's licenses, credit card, airline tickets, rental cars, gun purchases, chemical purchases) and "events" (arrest or "suspicious activities and so forth"). n35 TIA's Wargaming the Asymmetric Environment (WAE) project, which was aimed at developing models of terrorist behavior, appeared to exemplify "true" data mining: it assumed that different terrorist groups have distinct "styles" or "signatures" that can be identified in the transaction space, and developed indication and warning models for select terrorist groups and individuals based on "their behavior in the broader context of their political, cultural, and ideological environment." n36 Similarly, TIA's Scalable Social Network Analysis (SSNA) project was aimed at developing an "algorithm program [to] help distinguish potential terrorist cells based on their patterns of interactions from legitimate groups of people and identify when a terrorist group plans to execute an attack." n37 Both of these programs sought to develop patterns of behavior that could then be used in pattern-based automated data analysis.