"The Dark Knight and the National Security State"

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In the mid-1960s, Aaron Wildavsky made a now well-known claim that the U.S. has one President, but two presidencies. On defense and foreign policy, in contrast to the domestic policy arena, the President has great success controlling the course of policy.[1] Indeed, scholars critical of the American "national security state" have for decades emphasized the dangers to democracy posed by an alleged "imperial presidency."[2] The executive branch's security policy apparatus features a "behemoth institutional complex," which includes the enormous resources of the Pentagon, a very large array of intelligence agencies, and significant elements of national and transnational law enforcement.[3] Some scholars worry that not even the democratically elected President controls national security decision-making. Legal scholar Michael J. Glennon, in his lengthy explanation of why "national security policy has scarcely changed from the Bush to Obama Administration," focuses attention on what he calls a "double government." While the United States' constitutionally-established institutions are well-known, Glennon argues that real power in this issue area resides with "the network of executive officials who manage the departments and agencies responsible for protecting U.S. national security." These officials "operate largely removed from public view and constitutional constraints….Judicial review is negligible; congressional oversight is dysfunctional; and presidential control is nominal."[4]

Critics of the national security state commonly lament the fact that during the decades of the cold war American security policy-makers at all levels of government established, embraced, and have maintained a culture of secrecy. In turn, such secrecy strictly limits the potential for relatively open debate about national security affairs, meaningful public or congressional participation in decision-making, or executive branch accountability.[5] Moreover, secrecy may not be the greatest threat the national security state poses to democratic governance and public accountability. In the face of greatly heightened perceived threats, security policymakers can act relatively openly without too much concern about political dissent. A so-called "state of emergency" (or, alternatively, a state of "exception" or "necessity") can provide the justification for executive branch officials to wield and use excessive discretionary power, despite the ongoing threat to the rule of law.[6]

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[1] See Aaron Wildavsky, "The Two Presidencies," 4 *Trans-Action*, December 1966, 7–14.

[2] See Garry Wills, *Bomb Power; The Modern Presidency and the National Security State* (New York: Penguin, 2010); and Arthur M. Schlesinger, *The Imperial Presidency* (Boston: Houghton Mifflin, 1973).

[3] M. Kent Bolton, *US National Security and Foreign Policymaking After 9/11: Present at the Re-creation* (Rowman and Littlefield, 2007).

[4] Michael J. Glennon, "National Security and Double Government," 4 *Harvard National Security Journal*, 2014: 109, 1.

[5] Athan G. Theoharis, ed, *A culture of secrecy: the government versus the people's right to know* (Lawrence: University Press of Kansas, 1998).

[6] Kim Lane Scheppele, "Law in a Time of Emergency: States of Exception and the Temptation of 9/11," 6 *University of Pennsylvania Journal of Constitutional Law*, 2004: 1001-1083; William Scheuerman, "Survey Article: Emergency Powers and the Rule of Law After 9/11," 14 *Journal of Political Philosophy*, 2006, 61-84; and Mark Danner, "After September 11: Our State of Exception," New York Review of Books, October 13, 2011. Available at http://www.nybooks.com/articles/archives/2011/oct/13/after-september-11-our-state-exception/.

On September 11, 2001, during President George W. Bush's first year in office, the United States suffered the worst terrorist attack in its history and much of the remainder of Bush's eight year presidency centered around fighting a "global war on terrorism." In the aftermath of the attacks on the Pentagon and World Trade Center, the GWOT led the U.S. to undertake new and relatively conventional wars in Afghanistan and Iraq, involving the deployment of nearly two hundred thousand U.S. military personnel, as well as to initiate a wide array of domestic and international policy measures designed to reduce the threat of transnational terrorism. These beefed up security practices included new diplomatic endeavors, crackdowns on terror-linked financial transactions, immigration controls, more cooperative global law enforcement efforts, and a variety of intelligence programs.

Many of the anti-terror measures the U.S. adopted during the Bush era were said by critics to be antithetical to the liberal democratic principles embraced by the U.S. in its constitutional documents and international treaty commitments. These include extensive government spying on citizens, the alleged use of torture (or "enhanced interrogation techniques"), and the "extraordinary rendition" of foreign nationals. The practices were likewise in apparent conflict with pro-democratic foreign policy rhetoric, which American officials employed frequently to justify much of the U.S. global agenda. As Glennon documents in his recent work, Barack Obama's presidential administration has not truly backed away from most of these Bush-era practices.

This paper reflects upon the prospect that these practices of the U.S. national security state could have been effectively challenged despite the culture of secrecy and state of emergency that mitigated against open debate, dissent, and public accountability. The paper is organized into three sections. The first section briefly describes several of the most problematic and now notorious counter-terror tactics employed by the U.S. during the first decade of the GWOT. Much of what is currently known about these practices was revealed by the disgruntled National Security Agency contract employee Edward Snowden, who allegedly stole 1.7 million documents from the NSA and released thousands of them to multiple media outlets. These outlets published numerous embarrassing and troubling excerpts from these documents beginning in late spring and summer 2013.

However, not all of the most troubling counter-terror practices were secret. Government officials openly argued over the years that many of these tactics were essential for assuring national security, particularly under the condition of national emergency. Thus, the second major section explains how anti-terrorism efforts were "securitized" after 9/11 and that the "marketplace of ideas" was very much constrained thanks to the political context. The section also explores how public deliberation and elite dissent might provide effective challenges to dominant security discourses, despite the political and rhetorical advantages at the disposal of the national security state.

The third section examines how a very popular fictional film, *The Dark Knight* (2008), reflects upon and critiques some of the most troubling elements of the global war on terror. In the film, Batman works with Gotham City's police/security forces to diminish a threat posed by crime syndicates and a terrorist-like figure known as the Joker. Characters within the film

employed security measures nearly identical to those that U.S. national security state did during the war on terror. The paper argues that the film is arguably a forceful critical reflection on the war on terror. Additionally, a number of elite reviewers and commenters leveraged its popularity to make important public arguments critical of the high profile counter-terror tactics.

Counter-TerrorismTactics after 9/11

Many of the national-level policies and practices employed in the war on terror seem directly antithetical to democratic ideals. In a domestic context, the USA PATRIOT Act alone has been criticized for authorizing indefinite detention of immigrants, secret "sneak and peek" home and business searches by law enforcement officers, expanded FBI scrutiny of email and financial records without a court order, and increased access of law enforcement agencies to personal library and financial records.[7] Various government bodies have even covertly monitored domestic peace groups in the name of the "war on terror." In all, as the editors of *The Nation* pointed out just prior to the last year of the Bush administration, the United States "lowered the bar" for human rights by "creating secret prisons or 'black sites,' erecting Guantánamo, rationalizing torture and curtailing civil liberties at home."[8]

The list of questionable U.S. practices is actually quite long, but brief additional scrutiny of several examples should suffice to make the general point. As has now been widely reported and documented, the United States engaged in suspect domestic electronic spying operations without explicit legal authorization, used harsh interrogation methods on detainees that arguably include acts of torture forbidden by national and international laws, and employed extraordinary rendition against foreign nationals.[9] In this paper, the balance of attention will be directed at the extensive domestic spying operation. Thanks to very recent revelations, it is now known that the spying operation was far more extensive than had been previously disclosed.

Domestic Spying

Mere weeks after the 9/11 attacks, Congress passed the so-called USA PATRIOT Act, which among other provisions allowed the Federal Bureau of Investigation to expand its search and surveillance capabilities. U.S. investigators gained better access to email, voice mail, and other confidential information (such as library records) and were authorized to conduct "roving" surveillance (via wiretaps on multiple devices, for example) and "sneak and peak" search warrants, which are essentially delayed notice search warrants. Critics note that most of the provisions of the PATRIOT Act had been proposed prior to the 9/11 attacks, but had not been politically palatable until the horrific acts of terrorism changed the political climate. In any case, these broadened search and surveillance powers proved to be merely a small part of a much larger government surveillance enterprise operated primarily by the National Security Agency.

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[7] John W. Whitehead and Steven H. Aden, "Forfeiting 'Enduring Freedom' for 'Homeland Security': A Constitutional Analysis of the USA Patriot Act and the Justice Department's Anti-Terrorism Initiatives, 51 *American University Law Review*, August 2002, 1081-1134.

[8] The Editors, "What GWOT Has Wrought," *The Nation*, December 31, 2007, p. 18.

[9] See, for example, Jordan J. Paust, *Beyond the Law: The Bush Administration's Unlawful Responses in the "War" on Terror* (New York: Cambridge University Press, 2007).

After holding off publication for about one year, in mid-December 2005, *The New York Times* reported that President Bush had in 2002 "secretly authorized the National Security Agency to eavesdrop on Americans and others inside the United States to search for evidence of terrorist activity without the court-approved warrants ordinarily required for domestic spying, according to government officials."[10] According to official sources referenced anonymously in the article, the eavesdropping program monitored up to 500 individuals inside the U.S. at one time, plus 5000 to 7000 people abroad. Civil libertarians were outraged to learn of these activities.

This snooping was controversial for two reasons. First, the NSA has historically not been authorized to conduct domestic spying. The Federal Bureau of Investigation has long been the primary federal agency charged with investigating domestic crime and terrorism. Though the FBI has skeletons in its closet, its agents are likely much more concerned with the civil liberties of suspects. Most of its investigations involve citizens with clearly delineated constitutional rights. Such matters are typically of much less concern in international affairs. Second, the justification for spying now bypassed the Foreign Intelligence Surveillance Act, which included a "probable" standard for granting warrants to target the electronic communications of a specific individual. The Bush White House claimed that the president was empowered to allow such eavesdropping because of powers inherent in the U.S. constitution and by the post-9/11 Authorization to Use Military Force, passed by Congress on September 14, 2001. Critics dismissed this argument as it undermined the rationale for the FISA process and granted a president too much authority.

Other subsequently disclosed details of NSA spying activities reveal even more intrusive programs. For example, a journalist for *USA Today* reported in 2006 that "the National Security Agency has been secretly collecting the phone call records of tens of millions of Americans, using data provided by AT&T, Verizon and BellSouth." These were the nation's three largest telecommunications carriers providing service to 200 million people. Even at the time, this was described by an unidentified source as "'the largest database ever assembled in the world'…The agency's goal is 'to create a database of every call ever made' within the nation's borders." Again civil libertarians were up in arms, but even this spying proved to be merely the tip of the iceberg.

Many aspects of an even larger and more disturbing NSA spying program were not known until Edward Snowden's leaks were publicized. Under a program code-named PRISM, "The National Security Agency and the FBI are tapping directly into the central servers of nine leading U.S. Internet companies, extracting audio and video chats, photographs, e-mails, documents, and connection logs that enable analysts to track foreign targets."[11] The list of monitored companies included virtually all of the major internet firms – Microsoft, Yahoo, Google, Facebook, AOL, Skype, YouTube, and Apple. Indeed, the volume of information the

[10] James Risen and Eric Lichtblau, "Bush Lets U.S. Spy on Callers Without Courts," *The New York Times*, December 16, 2005. Available at
http://www.nytimes.com/2005/12/16/politics/16program.html?pagewanted=all&_r=0
[11] Barton Gellman and Laura Poitras, "U.S., British intelligence mining data from nine U.S. Internet companies in broad secret program," *The Washington Post*, June 6, 2013. Available at
http://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497_story.html.

U.S. government is accumulating is truly mind-boggling. The NSA's so-called "Boundless Informant" data-mining tool, which was also disclosed in June 2013, collected "almost 3 billion pieces of intelligence from US computer networks over a 30-day period ending in March 2013" and "97bn pieces of intelligence from computer networks worldwide."[12] In October 2013, news stories based on material from the Snowden documents revealed that the NSA had been spying on American allies in Europe and may have successfully tapped Chancellor Angela Merkel's personal mobile phone and monitored phone calls involving dozens of world leaders.[13] Weeks later, additional reports revealed "more than 1,000 targets of American and British surveillance in recent years, including the office of an Israeli prime minister, heads of international aid organizations, foreign energy companies and a European Union official."[14] European citizens were livid and many politicians talked about "fractures" in trans-Atlantic relations.[15] Frankly, the NSA disclosures are almost too extensive to be highlighted even in summary form.

The roots of these programs can be traced directly to the beginning of the Bush administration's war on terrorism. Early in 2002, the Department of Defense disclosed a program ominously called Total Information Awareness, a data-mining idea which reportedly dated to the 1960s. "In addition to analyzing [individual] financial, educational, travel and medical records, as well as criminal and other governmental records, the T.I.A. program could include the development of technologies to create risk profiles for millions of visitors and American citizens in its quest for suspicious patterns of behavior."[16] TIA set out to identify potential terrorists prior to their committing acts of terror. Publicly, the TIA program was shuttered by Congress in late 2003 in the wake of the negative outcry about it. Given its mass surveillance objectives, critics like the American Civil Liberties Union described the program as an Orwellian Big Brother initiative.[17]

Ultimately, TIA chief Admiral John Poindexter was forced to resign because of his prior role in the Iran-contra scandal during his time as National Security Advisor in the Reagan administration.[18] However, Shane Harris reported in the *National Journal*, February 2006, that TIA was "stopped in name only," as the program was essentially moved from the Pentagon's

[12] Glenn Greenwald and Ewen MacAskill, "Boundless Informant: the NSA's secret tool to track global surveillance data," *The Guardian*, June 11, 2013. Available at http://www.theguardian.com/world/2013/jun/08/nsa-boundless-informant-global-datamining#zoomed-picture.

[13] Philip Oltermann, "Germany summons US ambassador over claim NSA bugged Merkel's phone," *The Guardian*, October 24, 2013. Available at http://www.theguardian.com/world/2013/oct/24/germany-summons-us-ambassador-nsa-merkel-phone. James Ball, "NSA monitored calls of 35 world leaders after US official handed over contacts," *The Guardian*, October 24, 2013. Available at http://www.theguardian.com/world/2013/oct/24/nsa-surveillance-world-leaders-calls.

[14] James Glanz and Andrew W. Lehren, "N.S.A. Spied on Allied, Aid Groups and Businesses," *The New York Times*, December 20, 2013. Available at http://www.nytimes.com/2013/12/21/world/nsa-dragnet-included-allies-aid-groups-and-business-elite.html?pagewanted=all&_r=0.

[15] Annette Heuser, "Spy Games: Trans-Atlantic Relations Should Not Be Jeopardized," Spiegel Online International, November 2, 2013. Available at http://www.spiegel.de/international/germany/us-and-eu-should-not-let-nsa-scandal-endanger-transatlantic-relations-a-931337.html.

[16] Jeffrey Rosen, "Total Information Awareness," *The New York Times Magazine*, December 15, 2002. Available at http://www.nytimes.com/2002/12/15/magazine/15TOTA.html.

[17] American Civil Liberties Union, "Q&A on the Pentagon's 'Total Information Awareness' Program," April 20, 2003. Available at https://www.aclu.org/technology-and-liberty/qa-pentagons-total-information-awareness-program.

[18] Mark Williams, "The Total Information Awareness Project Lives On," MIT Technology Review, April 26, 2006. Available at http://www.technologyreview.com/news/405707/the-total-information-awareness-project-lives-on/.

Defense Advanced Research Projects Agency to the National Security Agency.[19] According to journalist James Bamford, the National Security Agency had established listening posts across the United States and thus had a dire need to sift through billions of email messages and telephone calls. Those numbers were later corroborated by the revelations about Boundless Information. Bamford revealed in March 2012 that NSA was constructing the "blandly named" Utah Data Center designed

> "…to intercept, decipher, analyze, and store vast swaths of the world's communications as they zap down from satellites and zip through the underground and undersea cables of international, foreign, and domestic networks….Flowing through its servers and routers and stored in near-bottomless databases will be all forms of communication, including the complete contents of private emails, cell phone calls, and Google searches, as well as all sorts of personal data trails—parking receipts, travel itineraries, bookstore purchases, and other digital 'pocket litter.' It is, in some measure, the realization of the 'total information awareness' program."[20]

A program that was abandoned because of the public furor lived on in secret.

Enhanced Interrogation

The Bush administration quite openly declared not long after the 9/11 attacks that captured Taliban and Al Qaeda fighters were unlawful "enemy combatants" rather than "prisoners of war" and thus did not merit protections provided by various Geneva Conventions.[21] In turn, the administration authorized the Central Intelligence Agency and other government agents to employ "enhanced interrogation techniques" on these captives, which domestic and international critics viewed simply as torture. These techniques included so-called "waterboarding" of prisoners, as well as other physical and mental stresses. For example, it has been known for years that suspected al Qaeda operative Abu Zubaydah (83 times) and alleged 9/11 mastermind Khalid Sheikh Mohammehd (183 times) were waterboarded by CIA interrogators at least 266 times. Historian Alfred McCoy has documented that the CIA has employed various forms of psychological torture for more than fifty years.[22]

Embarrassing and unsettling evidence of some of these tactics were revealed during the first year of Iraq War as American personnel photographically documented and shared their dubious practices at the Abu Ghraib prison. These disclosures created a public furor that attracted attention on Capitol Hill as well. According to *The New York Times*, even White House advisor Karl Rove believed "that it will take a generation for the United States to live this

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[19] Shane Harris, "TIA Lives On," *The National Journal*, February 23, 2006. Available at http://shaneharris.com/magazinestories/tia-lives-on/.

[20] James Bamford, "The NSA is Building the Country's Biggest Spy Center (Watch What You Say)," *Wired*, March 15, 2012. Available at http://www.wired.com/2012/03/ff_nsadatacenter/all/1.

[21] "A Guide to the Memos on Torture," *The New York Times*, 2005. Available at http://www.nytimes.com/ref/international/24MEMO-GUIDE.html.

[22] Alfred W. McCoy, *A Question of Torture: CIA Interrogation, from the Cold War to the War on Terror* (New York: Holt, 2006).

scandal down in the Arab world."[23] Nonetheless, the Bush administration tried to minimize the reputational damage by arguing that the crimes were isolated incidents perpetrated by a few bad apples inside the prison. Ultimately, however, evidence revealed that the tactics employed at Abu Ghraib reflected a pattern of abuse that was also apparent at U.S. detention facilities in Afghanistan and Guantanamo Bay. Abuses had often been authorized by individuals higher up in the chain of command.[24]

The former chief prosecutor for the military commissions at the U.S. military base at Guantanamo Bay, Cuba, viewed dubious U.S. techniques as torture – as did 2008 Republican presidential nominee Senator John McCain.[25] Indeed, McCain has often spoken out passionately against American interrogation techniques that he and other critics labeled as torture.[26]

Extraordinary Rendition

The U.S. developed and operated a network of "black sites" around the world that served as interrogation locations for individuals captured during the war on terror. In some cases, the U.S. employed "extraordinary rendition," which amounted to the transfer of captured individuals to third countries so that they could be harshly interrogated or tortured. Apparently, the U.S. transferred custody of prisoners to countries known to use dubious tactics with prisoners in order to obtain information they might not otherwise obtain through ordinary means. The U.S. partnered with brutal dictatorships or countries with very poor human rights records, such as Pakistan, Somalia, and Uzbekistan. In Uzbekistan, authorities have been known to boil their political opponents alive.[27] Others partners included states long viewed as U.S. enemies rather than allies, including Iran, Libya, and Syria. Many Europeans governments said they were shocked to learn that their airfields had been used in the rendition program. Years later, however, reports reveal that most European states were directly and indirectly involved in rendition.[28]

Securitization and the Marketplace of Ideas

[23] Elisabeth Bumiller and Richard W. Stevenson, "Rumsfeld Chastised By President for His Handling of Iraq Scandal," *The New York Times*, May 6, 2004.

[24] Phillip Carter, "The Road to Abu Ghraib," *The Washington Monthly*, November 2004. Available at http://www.washingtonmonthly.com/features/2004/0411.carter.html.

[25] Morris D. Davis, "Consign Bush's 'torture memos' to history," *Los Angeles Times*, July 30, 2012. Available at http://articles.latimes.com/2012/jul/30/opinion/la-oe-davis-torture-memos-bybee-20120730. John McCain, "Bin Laden's death and the debate over torture," The Washington Post, May 11, 2011. Available at http://www.washingtonpost.com/opinions/bin-ladens-death-and-the-debate-over-torture/2011/05/11/AFd1mdsG_story.html.

[26] Marc Santora, "McCain's Stance on Torture Becomes Riveting Issue in Campaign," The New York Times, November 16, 2007. Available at http://www.nytimes.com/2007/11/16/us/politics/16mccain.html?pagewanted=all&_r=0.

[27] Nick Paton Walsh, "US looks away as new ally tortures Islamists," The Guardian, May 25, 2003. Available at http://www.theguardian.com/world/2003/may/26/nickpatonwalsh.

[28] BBC, "Powell raps Europe on CIA flights," December 17, 2005. Available at http://news.bbc.co.uk/2/hi/americas/4538788.stm. Tom McCarthy, "Report on CIA rendition reveals massive scale of European assistance," *The Guardian*, February 5, 2013. Available at http://www.theguardian.com/world/2013/feb/05/cia-rendition-help-european-leaders.

It is widely taken for granted in democracies like the U.S. that the most important security decision – whether or not a state should go to war – should be scrutinized and publicly debated. The Bush administration, for example, frequently called for public debate about the decision to attack Iraq.[29] Yet, the war on terror almost surely undermined the prospects for meaningful deliberation in the public sphere. Even a large and relatively open democracy like the U.S. can suffer the effects of anti-democratic forces that significantly constrict public deliberation about policy. In the next paragraphs, I consider the serious problem related to framing anti-terror actions as a war. Then, I discuss the alleged broader breakdown in the so-called "marketplace of ideas." In particular, many scholars argue that the Iraq war, often dubbed the "central front in the war on terror" by the Bush administration, was promoted in the absence of an effective public sphere that might otherwise have prevented the war.[30]

Essentially, the "war on terror" is a powerful security "frame," which has been employed by policy advocates to trump other arguments and limit dissent. A number of empirical studies additionally find that the mass media did not serve effectively as an independent watchdog against suspect government policies and practices.

Generally, frames are rhetorical devises employed by political and/or social actors to define and guide perceptions of reality. They provide strong cues about political and social context, serving both to identify interests and to suggest solutions to ongoing problems.[31] The most effective frames suggest singular interpretations and solutions. As international relations scholars from the Copenhagen School have demonstrated, security frames are particularly powerful social tools since public audiences regard security as a very high political priority – perhaps even the top priority. Ole Wæver, however, explains the unique and distorting political consequences of what he calls "securitization." This frame reorients all discussion and stifles critique: "To enter a war is a political decision, but once in, one has to play according to the grammar of war, not politics… By uttering 'security,' a state-representative moves a particular development into a specific area, and thereby claims a special right to use whatever means are necessary to block it."[32]

During its tenure, the Bush administration and its domestic and foreign political allies repeatedly invoked the memory and apparent lessons of the 9/11 attacks in their public statements justifying a sweeping array of decisions, from counter-terror tactics to specific policy proposals.[33] From the beginning, in fact, U.S. public officials clearly framed the 9/11 terrorism in

[29] See Rodger A. Payne, "Deliberate Before Striking First?" in *Hitting First; Preventive Force in U.S. Security Strategy* Ed. by William W. Keller and Gordon R. Mitchell (University of Pittsburgh, 2006), 115-136.

[30] Some variant of this phrase has been used many times by President Bush, his top advisors and various administration spokespersons. See, for example, Bush, "Remarks by the President on Iraq and the War on Terror," United States Army War College, Carlisle, Pennsylvania, May 24, 2004. Available at http://www.whitehouse.gov/news/releases/2004/05/20040524-10.html.

[31] See Rodger A. Payne, "Persuasion, Frames and Norm Construction," 7 *European Journal of International Relations* (March 2001), pp. 37-61.

[32] See Ole Wæver, "Securitization and Desecuritization," in *On Security*. Ed by. Ronnie D. Lipschutz (New York: Columbia University Press, 1995), 53, 55.

[33] For a general discussion of this framework, see Samantha Power, "Our War On Terror," *The New York Times*, July 29, 2007. Available at http://www.nytimes.com/2007/07/29/books/review/Power-t.html.

terms of war and security politics.[34] In his September 20, 2001, nationally televised address, President Bush declared that "enemies of freedom committed an act of war." In response to these attacks, he concluded, "I will not yield; I will not rest; I will not relent in waging this struggle for freedom and security for the American people."[35] Political communication scholars generally agree that the Bush administration's framing of the war on terror worked effectively to mobilize policy and minimize dissent. Robert Entman, for instance, finds that the Bush administration's strategy conveyed "an unambiguous and emotionally compelling frame to the public… President Bush's initial frame for September 11 overwhelmingly dominated the news"[36] Likewise, framing expert George Lakoff predicted that the war would dominate the agenda over the long haul:

> "…by using this frame, we get a commander in chief, as the Republicans keep referring to Bush — a 'war president' with 'war powers,' which imply that ordinary protections don't have to be observed. A 'war president' has extraordinary powers. And the 'war on terror,' of course, never ends. There's no peace treaty with terror. It's a prescription for keeping conservatives in power indefinitely. In three words — 'war on terror' — they've enacted vast political changes."[37]

The security frame was particularly powerful in the first year or two after the attacks, when a surprisingly diverse set of policy issues were evaluated by their consequences for that war. Even when politicians discussed concerns not traditionally associated with security politics, those issues were often linked explicitly to the 9/11 attacks. For example, the *New York Times* reported in December 2001 that political lobbyists in Washington were using the "war on terrorism" to justify their demands for increased spending on highway signs and for new drilling for oil in Alaska.[38] While some claims were at least directly related to the attacks – bailing out commercial airlines, for example – many were only tenuously connected. The administration itself pointed to the "war on terror" to sell the anti-democratic policies and practices mentioned above – the USA PATRIOT Act, harsh interrogation tactics, rendition, domestic spying, etc. It also employed this frame to justify ongoing wars in Afghanistan and Iraq, as well as to explain a smaller U.S. military operation in the Philippines, the creation of the Proliferation Security Initiative, imposition of new UN sanctions against Iran, and numerous other foreign policy initiatives.

Frames that distort and truncate debate do not yield policies that reflect anything like "legitimate social purpose" or "communicative rationality." Rather, the policies that result from

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[34] Robert M. Entman, "Cascading Activation: Contesting the White House's Frame After 9/11**,"** 20 *Political Communication*, October 2003, 415-32.

[35] George W. Bush, "Address to a Joint Session of Congress and the American People," September 20, 2001. Available at http://www.whitehouse.gov/news/releases/2001/09/20010920-8.html.

[36] Entman, 2003, 416.

[37] Quoted in Bonnie Azab Powell, "Linguistics professor George Lakoff dissects the 'war on terror' and other conservative catchphrases," University of California, Berkeley, NewsCenter Web Feature, 26 August 2004. Available at http://www.berkeley.edu/news/media/releases/2004/08/25_lakoff.shtml. See also George Lakoff, "War on Terror, Rest in Peace," AlterNet, August 1, 2005. Available at http://www.alternet.org/story/23810/.

[38] David E. Rosenbaum, "A Nation Challenged: The Interests; Since Sept. 11, Lobbyists Put Old Pleas in New Packages," *The New York Times*, December 3, 2001. Available at http://query.nytimes.com/gst/fullpage.html?res=9803E5D91E3DF930A35751C1A9679C8B63

this kind of strategic manipulation are far more likely to reflect the arbitrary application of political power.

Stifling democratic debate

According to recent scholarship, the "war on terrorism" has proved to be a significant threat to meaningful debate in the "marketplace of ideas," a public space where "governmental and non-governmental elites advance arguments about the benefits of policies and commit themselves to these policies in order to gain political support."[39] Much of this research has specifically explained the failure of informed dissenters to stop the Iraq war, despite their arguably having had the evidentiary base needed to challenge the security analysis for the war.[40] More generally, scholars also find that important elements of the public sphere break down during periods of international security crisis. In such circumstances, discussion is simply too limited and is distorted by fear.

Political scientists Ron Krebs and Jennifer Lobasz link the Iraq debate to the powerful 9/11 security frame. They argue that Democrats and other political opponents could not effectively challenge the proposed Iraq war during 2002 and 2003 because the Bush administration had effectively fixed the meaning of 9/11 in the public debate – and was able to tightly bind the proposed Iraq war to that meaning.[41] In this analysis, political opponents were rhetorically coerced, "unable to advance a politically sustainable set of arguments with which to oppose the war."[42] Somewhat similarly, Jane Kellett Cramer argues that the "marketplace of ideas" failed because of "strong silencing effect of militarized patriotism," which effectively served to limit open debate in the lead up to the Iraq war. [43] Cramer argues that a "militarized political culture" took root in the U.S. during the cold war era, receded somewhat during the Vietnam period, and largely continued during the post-cold war 1990s. This resulted in two important "norms of militarized patriotism" – support for "'strong' national security policies" and deference "to the executive branch on war powers in times of perceived crisis." The implications of her argument are truly troubling. By this analysis, virtually all foreign policy debate in the US has been artificially limited for decades -- whether during crisis periods or not. As she notes, "norms of patriotism that silence free and open debate should not be considered ordinary in a democracy."[44] Democratic deliberation was stifled.

Another potentially significant limit on public debate is the reality that mass media outlets rely upon official government sources for information and fail to challenge those sources

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[39] Jack Snyder and Karen Ballentine, "Nationalism and the Marketplace of Ideas," 21 *International Security*, Fall 1996, 12.
[40] Chaim.Kaufmann, **"**Threat Inflation and the Failure of the Marketplace of Ideas: The Selling of the Iraq War," 29 *International Security*, Summer 2004, 5-48.
[41] Ronald R. Krebs and Jennifer K. Lobasz, "Fixing the Meaning of 9/11: Hegemony, Coercion, and the Road to War in Iraq**,"** 16 *Security Studies*, July 2007, 409-51. Krebs and Lobasz focus on domestic politics and do not discuss the extensive debate about the Iraq war outside the U.S. This point is discussed in the following section.
[42] Krebs and Lobasz, 2007, 409. For a more extensive discussion and application of "rhetorical coercion," see Ronald R. Krebs and Patrick Thaddeus Jackson, "Twisting Tongues and Twisting Arms: The Power of Political Rhetoric," 13 *European Journal of International Relations*, 2007, 35-66.
[43] Jane Kellett Cramer, "Militarized Patriotism; Why the U .S. Marketplace of Ideas Failed Before the Iraq War," 16 *Security Studies*, July-September 2007, pp. 489-524. Quoted at 491-2.
[44] Cramer, 2007, 491 fn. 10.

even when they possess the evidence and/or opportunity to do so. Obviously, either of these concerns is significant as a self-limiting press is almost completely vulnerable to official government framing. In 1990, scholar Lance Bennett theorized that journalists "index" their news coverage to the range of opinion within the government.[45] Put differently, indexing is said to occur when the range of views shown in news content is determined by the degree of institutional conflict. The implication of indexing is clear – when internal dissent is lacking, particularly within the executive branch, press reports will reflect one-sided coverage of a foreign policy topic and the government's favored narrative will dominate discussion. An empirical study of press coverage of dozens of foreign policy crises from 1945 through the end of the cold war found "strong evidence" of an indexing effect."[46] In a more recent study, Bennett et al identify the effects of indexing in terms of press coverage of the George W. Bush administration. Using case studies of the reporting on 9/11, the buildup to war with Iraq, and the Abu Ghraib prison scandal, these scholars find that the press accepted a "self-imposed dependence on officially sanctioned information," which resulted in their tendency "to record rather than critically examine the official pronouncements of government." Moreover, "the absence of credible and potentially decisive opposition from inside government itself leaves the mainstream press generally unable to build and sustain counter-stories." In the case of the Iraq war, this meant that the press essentially ignored sources and "evidence outside official Washington" that might have effectively challenged the administration's preferred narratives about weapons of mass destruction and an alleged Iraqi link to al Qaeda in the buildup to the Iraq war.[47]

Additional interesting research on the self-limiting behavior of mass media was recently published by sociologist Steven Clayman and colleagues. This work, which examined presidential press conference questioning from the Eisenhower through Clinton administrations, found that the press is far more deferential in asking questions about foreign policy than about other issues. For at least 50 years, they conclude, "White House journalists have been more cautious and deferential in the foreign news arena, and their relative cautiousness has remained substantially unchanged through periods of war and peace, recession and prosperity."[48] The authors speculate that the reluctance to challenge the President might result from the media's limited access to independent information on foreign affairs, or their patriotism may induce self-restraint.

All of these findings highlight the apparent fact that the communicative response to the war on terrorism has significantly limited the functioning of the public sphere. Political leaders

[45] W. Lance Bennett, "Toward a Theory of Press-State Relations in the United States,"
40 *Journal of Communication*, Spring 1990, 103–27.
[46] John Zaller and Dennis Chiu, "Government's Little Helper; U.S. Press Coverage of Foreign Policy Crises, 1946-1999," in *Decisionmaking in a Glass House; Mass Media, Public Opinion, and American and European Foreign Policy in the 21st Century,* Ed. by Brigitte L. Nacos, Robert Y. Shapiro and Pierangelo Isernia (NY: Rowman and Littlefield, 2000), 61-84. Quoted at 61.
[47] W. Lance Bennett, Regina G. Lawrence and Steven Livingston, *When the Press Fails: Political Power and the News Media from Iraq to Katrina* (University of Chicago Press, 2007). Quoted at 9, 36 and 16, respectively.
[48] Steven E. Clayman, Marc N. Elliott, John Heritage, and Laurie L. McDonald, "When Does the Watchdog Bark? Conditions of Aggressive Questioning in Presidential News Conferences," 72 *American Sociological Review*, February 2007, 23-41. Quoted at p. 37. The scholars studied more than 4600 press conference questions from 1953-2000. The scholars have been updating their data to account for the post-2000 era.

can readily justify preferred policy choices by employing a security frame, which tends to dominate discussion and quash dissent. The marketplace of ideas fails to provide a meaningful check on even the most egregious policy choices – including the use of force – because the mass media virtually abandons its traditional watchdog function and public audiences have very little capacity to challenge the dominant narrative. The procedural breakdown leads to national-level policy choices that are also anti-democratic in substance. Obviously, these arguments do not full account for the kind of secrecy known to have distorted the public understanding of the domestic spying policy. How can elites or the public argue against a secret program? The war on terror obviously made it tempting for the U.S. government to act secretly.

The Value of Dissent: A Role for Film?

Recently, some interesting social science researchers have demonstrates that public deliberation, aided perhaps by messages cues from elite policy dissent, can help overcome the kinds of distortions described above in this section. Moreover, research on media content indicate that independent sources of information can and do dramatically diminish the problems associated with news indexing.

First, in an impressive body of scholarship, political scientist James Druckman, working sometimes with various colleagues, has examined the potential limits of framing effects, which are thought to manipulate and determine outcomes because of their decisive influence on public audiences. Druckman's research finds that the meaning of compelling frames can be limited in a number of important ways – but especially by public debate and discussion. Most importantly, he finds that "framing effects depend in critical ways on context" and "appear to be neither robust nor particularly pervasive."[49] One powerful limit is elite competition. When elites debate one another and offer counter-frames, then the influence of a singular frame is not pervasive. Moreover, Druckman finds that the influence of frames can be diminished by audience discussion of the issue under consideration. Based on laboratory experiments, Druckman and Nelson found a "conditional and potentially short-lived impact of elite framing" when study participants engaged in the kinds of "interpersonal conversations [that] permeate the political world." They find that "cross-cutting interpersonal discussions" limit framing effects.[50]

A second interesting social science finding concerns the role of mass media. Essentially, the indexing effect can be muted by independent sources of information. Zaller and Chiu, for instance, find that media indexing of foreign policy news has declined significantly in the post-cold war era. In the seven post-cold war crises cases they study as part of their larger study of press coverage of foreign policy decisions, Zaller and Chiu find that "the news is more balanced, politicians are more fractious, and the slant of the news is more independent."[51] In their 1990s cases of Somalia and Haiti, for instance, they found the media heavily reliant upon non-governmental expert sources of information – many of which were not American. Bennett et al

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[49] James N. Druckman, "Political Preference Formation: Competition, Deliberation, and the (Ir)relevance of Framing Effects," 98 *American Political Science Review*, 2004, 671-686. Quoted at 683. Another limit is the credibility of the frame's source. See James N. Druckman, "On the Limits of Framing Effects: Who Can Frame?" 63 *Journal of Politics*, November 2001, 1041-66.

[50] James N. Druckman and Kjersten R. Nelson, Framing and Deliberation: How Citizens' Conversations Limit Elite Influence, 46 *American Journal of Political Science*, October 2003, 729-45. Quoted at 741.

[51] Zaller and Chiu, 2000, 77.

explains the potential implication of this development: "News meets this important [democratic] responsibility when information obtained from the administration is challenged by information obtained independently from other sources and presented to the public in coherent and culturally resonant ways."[52]

Can popular films be viewed as making independent contributions to public deliberation – and potentially offering elite dissent when it is otherwise missing from debate? Some scholars argue that film can serve this role. In his work on Michael Moore's *Fahrenheit 9/11* and Mel Gibson's *Passion of the Christ*, G. Thomas Goodnight notes that

> "the virtual realm – …the virtual space of artistic form and performance – offers a creative complement to the discursive political arena. This has been the case at least since Greek dramatists staged plays about the Trojan War during the troubled times of the Athenian empire. Then, the theater offered space for public discussion of issues to painful or too dangerous to be aired as directly in the forum."

Goodnight even asserts that these films "played as vital a role as did the presidential debates in the [2004] election, providing an oblique political space that opened wider the deliberations of a democracy at war."[53] Likewise, Klaus Dodds claims that films can provide a meaningful counter to "the pervasive media culture in the post-9/11 America that has been dominated by mainstream organisations such as the *New York Times* and *Fox News*." Dodds claims that these media outlets "seemed unwilling to critically interrogate the Bush administration's response to the spectre of terrorism." Film, in contrast, "can tackle difficult and problematic issues such as the use of extraordinary rendition, rape, terrorism and torture."[54] Dodds additionally argues that online discussion boards about film, such as those provided at the Internet Movie Database (IMDb) can serve as valuable platforms for interpersonal conversations and debates:

> "…IMDb contributors…[can] engage with other users and raise questions about particular geopolitical and artistic judgements proffered in the forum. For example, it is very common for a threaded discussion, sometimes in a matter of hours if not minutes. To turn into a frank exchange of views about say the righteousness of the US-led War on Terror."[55]

Social science research has found that both elite dissent and interpersonal conversations can help weaken singular frames. Moreover, the availability of independent sources of information can undermine the effects of news indexing. Generally, each of these findings is consistent with the idea that the active participation of a wide variety of political and social actors promotes public deliberation. Conceivably, film could play all of these roles for mass audiences.

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[52] Bennett, et al, 2007, 195.
[53] G. Thomas Goodnight, "*The Passion of the Christ* Meets *Fahrenheit 9/11*; A Study in Celebrity Advocacy," *American Behavioral Scientist*, November 2005, p. 411.
[54] Klaus Dodds, "'Have You Seen Any Good Films Lately?' Geopolitics, International Relations and Film," 2 *Geography Compass*, 2008: 477.
[55] Dodds, 2008: 489.

The Dark Knight, Deliberation, and the Global War on Terrorism

This section examines the deliberative potential of Christopher Nolan's *The Dark Knight*, an immensely popular film released in mid-July 2008. The second film in the recent Batman trilogy grossed over $1 billion worldwide, which makes it one of the 20 highest grossing films of all-time (unadjusted for inflation). In the United States, nearly 75 million people purchased tickets to see *The Dark Knight*, which ranks the film among the top 30 all-time in ticket sales (calculated with adjustments for inflation). Almost 18 million people purchased copies of the DVD. At the time it was released, no superhero film or comic book adaptation had ever generated more ticket receipts, though it has since been surpassed by *Marvel's The Avengers*. The film's mass appeal did not prevent it from additionally earning high critical acclaim as well. *The Dark Knight* was nominated for eight Academy Awards and won awards from numerous film and entertainment groups. Perhaps most notably, Heath Ledger won the Best Supporting Actor Oscar posthumously for playing the central villain in the film, the Joker. It is relatively rare for any film to earn such a high level of both popular and critical success, making it a genuine pop culture phenomenon.

Batman, the main character of *The Dark Knight* trilogy, is the costumed alter-ego of billionaire industrialist and philanthropist Bruce Wayne, played by Christian Bale. Batman is often described as a superhero without a superpower, as he must rely upon his intellect, physical training, and application of various instruments of science and technology to aid his crime fighting. Batman's "wonderful toys," as Jack Nicholson's Joker described those technical gizmos in the 1989 *Batman* film, provide him with an unusual array of capabilities. In *The Dark Knight* trilogy, Wayne Enterprises' Applied Sciences division is a weapons manufacturer, which grants Batman access to a diverse array of advanced military hardware and spying technologies. Batman's suit is revealed to be specially designed body armor, both light-weight and protective, and virtually all of his vehicles are adapted from their originally intended military or paramilitary use. This includes a car that seems as strong and well-armed as a tank and an agile and very fast motorcycle equipped with missiles. Batman is arguably a key weapon in Gotham's security infrastructure. As will be explained, Batman employs the same controversial law enforcement tools that the U.S. employed in the war on terrorism.

In fact, given how Batman's central nemesis is constructed in *The Dark Knight*, the film is arguably a very public reflection on the war on terrorism. Below, I will first explain how the film's setting, plot, and characterization parallel the real-world war on terrorism. The paper will highlight the film's depiction of domestic spying, rendition, and enhanced interrogation, particularly as employed by Batman. Then, I will explain how the film itself serves as a very high profile intervention into the public debate about the war on terrorism. Additionally, I will briefly demonstrate that the film provoked elite debate inside the U.S., with numerous reviewers and other voices arguing that *The Dark Knight* served as an implicit criticism of the U.S. war on terror.

The Film's War on Terrorism

The setting for *The Dark Knight* is readily compared to the post-9/11 world. The film's action occurs primarily in Gotham City, which seems a clear parallel to New York City, the location of "Ground Zero" after the September 11 attacks. As John Ip notes, the film has a distinctly post-9/11 aesthetic, partly because of the way it highlights the "burnt-out remains of buildings swarming with rescue workers."[56] In Batman's world, Gotham has long suffered from very high levels of crime and violence. As scholar Tony Spanakos notes, "Life in Gotham is scary, tenuous, and cheap; danger lurks everywhere."[57] In this film, greedy organized criminals are at the root of this criminal violence. However, the mob bosses are worried about their livelihood thanks in large part to the ongoing crime-fighting efforts of Batman (aka the "dark knight" of the title) and new District Attorney, Harvey Dent.

Indeed, most of the storyline of *The Dark Knight* is framed around these joint crime-fighting efforts with Batman and Dent aided by James Gordon, leader of Gotham City's Major Crimes Unit. During the film, after the existing Police Commissioner is assassinated, Gordon is promoted to that position. The three characters work towards a common goal, which comes to include capturing the Joker, but their tactics vary greatly. Dent is viewed as the heroic "white knight" because of his by-the-book law-and-order campaign to prosecute mob bosses. In one early scene set in a courtroom, Dent grabs and heroically unloads a ceramic handgun from a mobster who is testifying in the witness chair. Previously, Dent had prosecuted dirty cops for the Internal Affairs division.

By contrast, Batman, the dark knight of the title, is not a public official and he essentially works outside of the law in order to bring criminals to justice. As will be documented, Batman regularly uses very questionable tactics, which largely parallel the same kinds of measures the U.S. employed during its war on terror. Officially, Batman is a criminal vigilante and anti-hero, subject to arrest on sight. Batman's internal patron, Gordon, is a police officer, indeed a leader of police officers, which means that he and his men are charged with enforcing the law and capturing criminals – theoretically including Batman. However, Gordon is clearly willing to make use of Batman as a crime-fighting asset even as he is prepared to look away from and ignore his exploits. On at least one occasion, he literally leaves the scene when Batman is about to employ interrogation methods outside of the law.

Despite the attention directed at various mobsters, the primary villain in this narrative is the Joker. In the film, the Joker is identified as a violent and malevolent individual who poses a threat to the mob as well as to ordinary citizens and the government. Like politically motivated terrorists, the Joker is not driven by simple greed. Indeed, he steals millions of dollars from organized crime and then sets it on fire with a very public blaze. Joker's political purpose seems to be something akin to anarchy as he aims to destroy the fiber of organized society and instill mass fear. During the film, both District Attorney Dent and Alfred Pennyworth, Bruce Wayne's butler and Batman confidante, explicitly refer to the Joker as a terrorist. The Joker makes violent threats and uses violence in pursuit of his own agenda, even though that agenda is not ideological

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[56] John Ip, "The Dark Knight's War on Terrorism," *Ohio State Journal of Criminal Law* (2011), p. 213.
[57] Tony Spanakos, "Governing Gotham," in *Batman and Philosophy: The Dark Knight of the Soul* ed by Mark D. White and Robert Arp (Hoboken, NJ: John Wiley and Sons, 2008) p. 59. Thomes Hobbes, of course, famously described the "life of man" in the anarchical "state of nature" in *The Leviathan* as "solitary, poor, nasty, brutish, and short."

per se. His actions nonetheless represent almost a textbook definition of terrorism. As with real-world terrorists, Joker hopes to provoke a level of fear that will dominate the public mood and provoke public officials to react so brutally that their own legitimacy and authority will be subject to challenge. The political change the Joker seeks requires law and order to disintegrate. One key plot point involves Joker arranging the kidnapping of Harvey Dent and Rachel Dawes in order to force Batman to make a choice that will lead to the murder of one or the other. The idea seems to be to make Batman abandon the one rule he never breaks – not to kill anyone.

At times the tactics and tools Joker employs mirror those of real-life terrorists. Just like transnational terrorists, Joker's acts of violence frequently threaten innocent civilians, though mass murder does not appear to be his central aim. He typically provides warning of his planned deeds that both magnify fear and allow time for evacuation of various high profile public places. Joker and his men commit violent crimes that are almost flamboyant by design – and like al Qaeda, Joker even has the organizational strength and capacity to commit several acts of terror at the same time. At one pivotal point in the film, Joker and his henchmen arrange the murder of the police commissioner and a judge, while the Joker personally invades the penthouse home of Bruce Wayne, who is hosting a fundraiser for Harvey Dent.

In a meeting with mob bosses, Joker protects himself by revealing that he is wearing a jacket strapped with hand grenades – a makeshift suicide vest that would kill the nearby mobsters if used. Like real terrorists, Joker does not prioritize his own survival in pursuit of his larger goals. Joker broadcasts a threatening homemade video that concludes with the execution of a man only tangentially related to the plot. This video suggests actual recordings made by militants and terrorists in Iraq and other conflict zones. Joker also turns a henchman into a walking bomb and detonates the device planted inside him remotely with a cell phone call. Later, Joker distantly triggers other conventional explosives planted in government and institutional targets. Finally, like most contemporary terrorists, the Joker employs fairly basic technologies to exploit power asymmetries. Much of the havoc Joker creates is triggered by his application of relatively mundane and readily available weapons – his favorite weapon seems to be the knife and he often looks awkward wielding automatic weapons. Indeed, towards the end of the film Joker declares explicitly that he is a man of simple and cheap tastes, favoring dynamite, gunpowder and gasoline. This contrasts starkly with the advanced military tools employed by Batman throughout the film. Joker may be mad, but Batman represents the political faction with access to the scientists who provide the more technically advanced arsenal.

The Joker's malevolent nature is perhaps best described in a monologue the character delivers well into the story in a confrontation with bed-ridden and badly burned Harvey Dent. He begins it by comparing himself to a "dog chasing cars. I wouldn't know what to do with one if I caught it. I just do things. I'm just the wrench in the plans." He concludes his speech with a call to "introduce a little anarchy. Upset the established order, and everything becomes chaos. I'm an agent of chaos." Earlier in the film, speaking to Batman, Alfred describes a similar thief he had encountered as a young man while working in Burma. That criminal had proven particularly difficult to catch. Alfred concludes his tale by declaring that "some men aren't looking for anything logical, like money... they can't be bought, bullied, reasoned or negotiated with. Some men just want to watch the world burn." While Alfred is saying these words, Joker's grotesque

physical image dominates the screen. Alfred eventually reveals that the authorities in that instance had to take a radically destructive measure to subdue their foe – they burned the forest.[58]

As noted, most of *The Dark Knight* focuses on Batman's efforts together with Dent and Gordon to capture the Joker and end his terrorist/crime spree. At various times in the movie, government officials and criminals alike acknowledge that Batman has the advantage of being able to take actions that would be illegal if undertaken by public officials. Joker, for example, predicts to the mob that their money launderer, apparently safe from Gotham officials while in Hong Kong, will be unable to evade Batman because the latter has no specific jurisdiction. Batman is often described as a vigilante, but these elements of *The Dark Knight* make Batman out to be a useful security ally of the state comparable to the authoritarian governments the U.S. partnered with during the global war on terror – or perhaps to private security firms like Blackwater operating in war zones without concern about the Uniform Code of Military Justice.

The remainder of this section of the paper compares the measures Batman employs to capture the Joker and foil his plots to the measures utilized by the United States during the GWOT. As will be explained in each case, the film itself is arguably a critical reflection on the conduct of the war on terror. The following paragraphs review the dark knight's most egregious crime-fighting methods and compares them explicitly to several of the Bush administration's most controversial measures in the war on terror. As Ip has concluded in regard to these practices, "none of the film's depictions of these actions can plausibly be read as endorsement of their Bush Administration-era equivalents."[59]

1. Domestic spying.

In order to track and find the Joker, Batman enlists Wayne Enterprises CEO Lucius Fox, played in the film by Morgan Freeman, to use a new electronic surveillance technology that he has adapted from a cell phone sonar system the two had previously employed inside a single large building. Fox is quite reluctant to employ the technology linked with computer systems as the device essentially spies on everyone in Gotham City – thirty million people, according to Fox. The film makes clear that both Batman and Fox view this surveillance technology as immoral. In their conversation, Fox specifically calls its use "unethical," "dangerous" and "wrong." Moreover, Fox declares that "this is too much power for one person." Batman seems to agree about the potential danger, explaining that, in fact, only one man – Fox himself – can access the technology thanks to "null-key" encryption he has installed.

Fox reluctantly agrees to help find Joker with the warning that he will only use the technology once and that he will resign from his executive corporate position afterwards. Desperate to find the Joker after a series of brutal crimes, including the murder of Rachel Dawes, a childhood friend and former love interest of Bruce Wayne, Batman agrees to these principled conditions. However, Batman instructs Fox to enter his name into the program after Joker is captured. In the film's closing scenes, Fox executes this command, which causes the computer

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[58] This story echoes the famous line from the Vietnam War that "It became necessary to destroy the town to save it." "Major Describes Move," *The New York Times*, February 8, 1968, p. 14.
[59] Ip, 2011, p. 214.

system to give a red self-destruct warning – and then to burn out quite visibly. Fox smiles and seems to find this outcome satisfactory. Batman clearly did not want the device to be used again.

None of the limits identified in the film, however, are applicable to the real-world surveillance developed and utilized by the U.S. in the war on terrorism. American capabilities are not merely used by one man to find one terrorist and they do not include a self-destruct setting. In fact, many of the most troubling disclosures about the ongoing program have been made after the death of notorious al Qaeda leader Osama bin Laden, the one man most likely to have been targeted in a real world version of Batman's technology. Public opinion data reveal that Americans and citizens of other countries, like Fox, find these kind of intrusive surveillance technologies unethical, dangerous, and wrong.[60]

2. Enhanced interrogation

The physical violence and coercion employed in *The Dark Knight* echo real world interrogation policies the U.S. adopted in its GWOT. Mid-film, when the Joker is temporarily captured after an exciting chase scene, Police Commissioner Gordon removes the criminal's handcuffs and departs the interrogation room. Almost immediately, Batman reveals himself and starts using violence against the prisoner. Though Batman does not directly utilize his advanced scientific gizmos in this scene, the material asymmetry in power is nonetheless evident. Joker's makeup is fading and he is not even wearing gloves. Batman, in contrast, is wearing his protective bodysuit and employs the strength and agility he was trained to use during the events of *Batman Begins* (2005), the first film in the recent trilogy.

Batman slams the Joker's head into a table and then smacks his fist into Joker's uncovered hands. Unsatisfied with the course of the interrogation, Batman throws the Joker around and punches him additional times after warning the criminal that he has only one rule – presumably that he will not kill. Batman conducts this interrogation in a violent manner that would obviously be unconstitutional if performed directly by government law enforcement officials. Since he clearly acts as a partner of the state, it is unlikely that any evidence he acquires via this beating would withstand court scrutiny. This does not really matter to Batman as he instrumentally seeks information about the location of the kidnapped Harvey Dent. However, while being tossed around, Joker warns Batman that nothing he can do will seem sufficiently threatening. Nonetheless, he tells Batman that he is willing to reveal the location of both Dent and Rachel Dawes, who Batman learns has also been taken. Joker warns Batman that only one of the victims can be saved – and he lies to Batman about which person is in what location.

This is not the only incidence of Batman using violence against a suspect in order to gain information. Earlier, when seeking the Joker, Batman tosses a mob boss off of a building and fractures his legs. The mob boss had just bragged that people were on to Batman – his rule

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[60] Mark Jaycox, "Update: Polls Continue to Show Majority of Americans Against NSA Spying," Electronic Frontier Foundation, January 22, 2014. Available at https://www.eff.org/deeplinks/2013/10/polls-continue-show-majority-americans-against-nsa-spying. See Pew Research Global Attitudes Project, "Global Opposition to U.S. Surveillance and Drones, but Limited Harm to America's Image," July 14, 2014. Available at http://www.pewglobal.org/2014/07/14/global-opposition-to-u-s-surveillance-and-drones-but-limited-harm-to-americas-image/.

against killing made them feel relatively safe. Almost immediately after this scene ends, Batman interrupts Dent while he is interrogating one of Joker's thugs. Based on the outcome of a coin flip, Dent is threatening to shoot the man with a gun he is uncharacteristically wielding, though the audience soon learns that this is an empty threat because the two-headed coin cannot come up tails. In any event, Batman is not at all pleased by the attempt at violent coercion he witnesses. He clearly thinks that District Attorney Dent cannot use the same kind of threats he himself employs: "You're the symbol of hope that I could never be. Your stand against organized crime is the first legitimate ray of light in Gotham for decades. If anyone saw this, everything would be undone -- all the criminals you got off the streets would be released." Earlier, Bruce Wayne had repeated Dent's campaign slogan, "I believe in Harvey Dent." If people could not believe in Dent, then Batman strongly suggests that there is no hope and all the accomplishments to that point would be reversed.

3. Rendition

Thanks to the successful campaign to track the mob's money, the crime bosses turn to a man named Lau, apparently the only money launderer who has not yet been put "out of business" by Harvey Dent's prosecutions. Lau proposes to the bosses that he will consolidate their money into one location and he alone will know where it is. To demonstrate his immunity from prosecution, he tells the mobsters that he will flee the country: "As the money is moved I go to Hong Kong. Far from Dent's jurisdiction. And the Chinese will not extradite one of their own." Later in the film, Dent confirms to Batman and Gordon that the Chinese will not "extradite a national under any circumstances." The conversation concludes with Batman asking Dent if the District Attorney can get Lau to talk if he is able to bring the money launderer back to Gotham City. "I'll get him to sing" replies Dent.

In the real world, the rendition of foreign nationals like Lau is a fairly ordinary occurrence – and the suspect might additionally undergo an enhanced interrogation under extraordinary circumstances thanks to the suspect's relocation to a place that employs such methods. In the film's subsequent scenes, Batman travels with Lucius Fox to Hong Kong in order to nab Lau against his will and return him to Gotham City. In dramatic and exciting fashion, with the help of the rudimentary version of the cell phone sonar technology and an advanced airplane escape system, Batman does just that. During these events, Batman drags Lau's body towards the window of a skyscraper so that both can be picked up by a plane outfitted to work like the CIA's Skyhook, which Lucius Fox had identified as a means developed to extract personnel without landing a plane.

Once Lau is back in Gotham City, the government attorneys subtly threaten him in two ways meant to provoke fear and psychological stress. First, they point out that mob bosses will assume that Lau is cooperating with the prosecutors. If he does not cooperate with the authorities, he will receive no rewards from authorities, even though he will pay the costs as he will be vulnerable to the mob's retribution. Second, if Lau does not cooperate, then the prosecutors will intensify the threat of physical by temporarily holding him in the County lockup, which will be a dangerous place for someone like Lau given the general population of criminals housed there. The mob is more likely to be able to get to someone in that facility. Lau agrees to cooperate and reveal the identities of his clients in exchange for his continued

protection in the Major Crimes Unit. However, as Ip notes, the interrogation ultimately does not yield information for a viable prosecution as the Joker manages to penetrate the MCU and kidnap Lau. He is then forced to return the mob's money and is brutally murdered.

Elite Debate about The Dark Knight

As explained above in a previous section, social science research has found that both elite dissent and interpersonal conversations can serve deliberative functions in the public sphere, helping to weaken singular frames, such as the potent "securitization" frame likely to shape views about terrorism and counter-terrorism. *The Dark Knight* proved to be a very provocative film, sparking a good deal of elite debate about various political aspects of the war on terror. This section primarily highlights elite discussion in the public sphere. Additionally, popular message boards and literally thousands of user reviews available at IMDb.com and elsewhere demonstrate the tremendous volume of online interpersonal discussion of the film. Presumably, an extremely popular film such as *The Dark Knight* also provoked an even greater volume of private and interpersonal discussions, though it would be virtually impossible to test this assumption.

The social science research also finds that the availability of independent sources of information can undermine the effects of news indexing and bolster the marketplace of ideas. As argued above, a popular film can conceivably provide this sort of independent political argument. *The Dark Knight* arguably serves as an intervention into the public discussion of the war on terror. The film's potential claims will be addressed in this section and briefly in the conclusion.

The elite debate about the film included many film reviews in major media outlets and even some opinion pieces in high profile venues. In the *Wall Street Journal*, for example, mystery writer Andrew Klavan labeled the film "a conservative movie about the war on terror." He explained that the film

> "is at some level a paean of praise to the fortitude and moral courage that has been shown by George W. Bush in this time of terror and war. Like W, Batman is vilified and despised for confronting terrorists in the only terms they understand. Like W, Batman sometimes has to push the boundaries of civil rights to deal with an emergency, certain that he will re-establish those boundaries when the emergency is past."[61]

Klavan was certainly not alone in taking this perspective. CNN's Glenn Beck notes that Batman employs rendition and eavesdropping in order to catch the Joker, techniques central to the Bush administration's anti-terror efforts. Beck finds these parallels "stunning" and concludes that the film thus reflects "conservative values on the war on terror."[62] Journalist Spencer Ackerman goes even further, claiming that "the concepts of security and danger presented in Christopher Nolan's

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[61] Andrew Klavan, "What Bush and Batman Have in Common," *The Wall Street Journal*, July 25, 2008. Available at http://online.wsj.com/news/articles/SB121694247343482821.

[62] Satyam Khanna, "Beck: Batman vindicates Bush's 'conservative values on the war on terror," Think Progress, August 6, 2008. Available at http://thinkprogress.org/politics/2008/08/06/27202/beck-batman-vindicates-bushs-conservative-values-on-the-war-on-terror/.

new Batman epic, 'The Dark Knight,' align so perfectly with those of the Office of the Vice President that David Addington, [Dick] Cheney's chief of staff and former legal counsel, might be an uncredited script doctor." Ackerman continues by arguing that the Joker is portrayed in the same way that Bush and Cheney view al Qaeda. The film, he says, "weighs in strongly on the side of the Bush administration."[63]

Many reviewers and commenters took a middle ground position, arguing that the film is a morally ambiguous reflection on the war on terror. An Editorial Board op-ed in *The New York Times* was perhaps typical of this line of argument: "This latest Batman is not exactly a hero – he is someone who fights evil while, in many ways, bearing an uncanny resemblance to it."[64] In *The Washington Times*, Sonny Bunch argued that *The Dark Knight* "is the first film to realistically confront the impact of terror on society writ large – and grapple with how that society must respond in the face of nihilistic aggression against a foe dedicated to ending its way of life."[65] Matthew Yglesias also found the film's message to be equivocal and claimed that it does not take sides in the war on terror. He wrote that the film "doesn't really have a political 'point of view.' Instead, it makes everybody think about the present political situation but we'll probably reach different conclusions about it just as we reach different conclusions about the real world."[66]

In contrast, a number of scholars and critics have argued that the film's message stand in stark opposition to the U.S. war on terror. Legal scholar John Ip pointed out the "unmistakable" parallels between "the film's depiction of counterterrorism and the war on terrorism," but found the film's portrayal of domestic spying, rendition, and torture not to be sympathetic. Ip explains in some detail how the techniques fail to achieve their desired end, or are explicitly criticized as illegitimate by Batman or his close confidantes. Thus, concludes Ip, "the film's depiction of controversial counterterrorism measures is better seen as a critique rather than an approval of the Bush Administration's war on terrorism."[67] Film critic Cosmo Landesman also viewed the film in this way: "At its heart, however, is a long and tedious discussion about how individuals and society must never abandon the rule of law in struggling against the forces of lawlessness. In fighting monsters we must be careful not to become monsters - that sort of thing. The film champions the anti-war coalition's claim that, in having a war on terror, you create the conditions for more terror."[68]

One possible way to sort through these various claims and counterclaims is by thinking about the film's concluding scenes. Critic Dana Stevens, who calls the film "a bleak post-9/11 allegory about how terror (and make no mistake, Heath Ledger's Joker is a terrorist) breaks

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[63] Spencer Ackerman, "Batman's 'Dark Knight' Reflects Cheney Policy," The Washington Independent, July 21, 2008. Reposted at http://newsgrist.typepad.com/underbelly/2008/07/the-hero-we-des.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+typepad%2Fnewsgrist%2Funderbelly+%28NEWSgrist+-+where+spin+is+art%29

[64] Editorial Board, "Batman and the War on Terror," *The New York Times*, July 21, 2008. Available at http://theboard.blogs.nytimes.com/2008/07/21/batman-and-the-war-on-terror/.

[65] Sonny Bunch, "Movies: Gotham City's war on terror," July 18, 2008. Available at http://www.washingtontimes.com/news/2008/jul/18/gotham-citys-war-on-terror/?page=all.

[66] Matthew Yglesias, "Dark Knight Politics," The Atlantic, July 24, 2008. Available at http://www.theatlantic.com/politics/archive/2008/07/-em-dark-knight-em-politics/49451/.

[67] Ip, 2011: 209, 229.

[68] Cosmo Landesman, "The Dark Knight," *The Sunday Times*, July 27, 2008.

down those reassuring moral categories" argued in Slate that "the movie seems to arrive at much the same conclusion about Batman as Americans have about Bush: Thanks to this guy, we're well and thoroughly screwed."[69] The film's dark ending finds Batman fleeing police dogs to evade arrest on the charge that he murdered Harvey Dent, still publicly viewed as Gotham's only hope for order and normalcy.

Indeed, at the end of *The Dark Knight*, Batman faces a dire situation. Though Batman subdued the Joker, saved Gordon's son, and was clearly committed to his concept of justice, the end of the film can be read somewhat literally as a judgment on Batman's efforts to stop the latest crime-terror wave. Batman behaved anti-heroically and even criminally throughout much of the time period covered by *The Dark Knight*. In the end, Batman flees into the night with dogs chasing him precisely because his vigilante ways, as pursued also by Dent, have been discredited by multiple murders. Earlier, Batman had been criticized by one of his few confidantes for the surveillance system he employed to find Joker. Batman himself lectured Harvey Dent against the kind of physical and mental torture he used against Joker when Dent attempted to employ the same measures. The ending of the story is especially dark and unhopeful. Batman seemingly broke his only rule and Police Commissioner Gordon destroys the bat signal. Bruce Wayne's long-time romantic interest, Rachel Dawes, is dead.

On several occasions during the film's story, Batman revealed a plan to improve Gotham City sufficiently that it would not need the Batman's help and Bruce Wayne could retire the caped crusader. In part, this fantasy scenario would allow Wayne to marry Rachel Dawes. Batman worked with Dent explicitly because he viewed him as a possible means by which to save Gotham without reliance upon his brand of vigilante justice. That plan was clearly hanging by a thread at the end of the film.[70]

Conclusions

In recent years, many scholars of international relations (IR) have exhibited a surprising interest in popular culture. Many, in fact, have been studying and writing seriously about a diverse oeuvre of words and images, though with a noticeable tilt towards works of fantasy and science fiction: *The Godfather*, *The Lord of the Rings* trilogy, *Star Trek*, *Battlestar Galactica*, *Doctor Who*, *Buffy the Vampire Slayer*, *Survivor*, and *Independence Day*.[71]

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[69] Dana Stevens, "No Joke, The Dark Knight, reviewed." Slate, July 17, 2008. Available at http://www.slate.com/articles/arts/movies/2008/07/no_joke.html.

[70] *The Dark Knight* was the second film in a trilogy and Batman seeks and finds redemption in the third work, *The Dark Knight Rises*.

[71] See John C. Hulsman and A. Wess Mitchell, *The Godfather doctrine: a foreign policy parable* (Princeton University Press, 2009); Abigail E. Ruane and Patrick James, *The International Relations of Middle-Earth: Learning from The Lord of the Rings* (University of Michigan Press, 2012); Barry Buzan, "America in space: The international relations of Star Trek and Battlestar Galactica," 39 *Millennium-journal of international studies*, No. 1, 2010, pp. 175-180; Priya Dixit, "Relating to Difference: Aliens and Alienness in Doctor Who and International Relations," 13 *International Studies Perspectives*, no. 3, 2012, pp. 289-306; Christina Rowley and Jutta Weldes, "The evolution of international security studies and the everyday: Suggestions from the Buffyverse," 43 *Security Dialogue*, no. 6, 2012, pp. 513-530; Mark B. Salter, "Teaching Prisoners' Dilemma Strategies in Survivor: Reality Television in the IR Classroom," *International Studies Perspectives*, 2012; and Julie Webber, "Independence Day as

In the introductory chapter of their edited volume on H*arry Potter and International Relations*, Neumann and Nexon argue "that there are four ways through which international-relations scholars can engage popular culture."[72] First, scholars can treat popular culture as causes and effects of familiar political processes. This might include studying the direct economic consequences of the sales and marketing of films, books, or related merchandise. Popular cultural artifacts could also inspire political action. For example, the Guy Fawkes mask worn by many characters in *V for Vendetta* (2005) is often worn by various protesters, particularly those who share some of the main character's views towards government. Alternatively, the content of popular cultural artifacts might be shaped by real world events, as is often apparent in documentary films or protest music. Second, those who teach international relations often employ works from popular culture as a mirror to reflect and illuminate various ideas from the discipline. At the same time, scholars might think about popular culture as a venue for analyzing the field's theoretical or policy assumptions. Scholars could, for instance, analyze both the positive and negative implications of globalization as reflected in *World War Z* (2013). Third, popular culture can be viewed as data. Popular works can yield evidence about collective understandings of norms, society, political movements, or national identities. Episodes of the original *Star Trek* (1966) television series might be viewed as evidence of American understandings about the cold war, or the influence of social change on American identity in the 1960s.

Finally, fourth, popular culture can be viewed as constitutive of understandings about international relations. Most powerfully, popular work might determine certain kinds of knowledge. It is quite possible, for instance, that the events depicted in the film *Zero Dark Thirty* (2012) will define how Americans understand the U.S. effort to find and kill Osama bin Laden. Additionally, popular culture might have more diffuse enabling or naturalizing effects on world politics. Many critics of the television program *24* (2001) argued that the program normalized ideas about the pervasiveness of terrorist threats and the need to employ torture and other extreme measures to deal with the ongoing national emergency. Some feared that the show helped prolong a "state of exception" through the years after the September 11, 2001, terrorist attacks on the United States.

This paper has examines a potential fifth way IR scholars might engage works of popular culture. Films, television programs, books or other artifacts of popular culture can augment the virtual public sphere centered upon one or more world political or national security issues. The participants in a public debate might argue that political concerns are reflected in popular culture. Moreover, the outcome of such a debate might provoke political action. However, this paper is primarily interested in the existence of genuine public deliberation. I consider how a popular film like *The Dark Knight* can play a meaningful role in mounting public and elite challenges to the dominant security discourses.

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a cosmopolitan moment: teaching international relations," 6 *International Studies Perspectives*, no. 3, 2005, pp. 374-392.

[72] Daniel H. Nexon and Iver B. Neumann, eds. *Harry Potter and International Relations* (Rowman and Littlefield, 2006): 9.

The Dark Knight did not feature a happy ending even though the Joker is subdued. Essentially, the film is not a traditional romantic adventure narrative featuring a hero on a quest with a villain defeated in the end.[73] Rather the story takes a tragic narrative turn and emphasizes anti-hero Batman's apparent fall as well as Harvey Dent's deadly turn towards vigilantism. Police Commissioner Gordon tells his son that Batman is "the hero Gotham deserves, but not the one it needs right now. So we'll hunt him. Because he can take it. Because he's not our hero. He's a silent guardian. A watchful protector. A Dark Knight." The presumed hero that Gotham needed, handsome by-the-book prosecutor Harvey Dent, had become a disfigured and violent vigilante known as "Two-Face," thanks in part to both physical and mental wounds he suffered during a series of crimes presented in the film. Indeed, many reviewers openly compare the origins of Two-Face to the origins of Batman.[74] Both men became vigilantes in reaction to their personal suffering. While Batman's crime fighting efforts are limited by only one rule, not to kill anyone, Two-Face does not abide even this parameter. In the film's final scene, Dent as Two-Face explains the dire situation to Batman and Gordon as he sees it: "You thought we could be decent men in an indecent world. You thought we could lead by example. You thought the rules could be bent but not break... you were wrong. The world is cruel."

After Dent falls to his death, Gordon says simply to Batman, "The Joker won." He elaborates:

> "Harvey's prosecution, everything he fought for, everything [Assistant District Attorney and Dent fiancé] Rachel [Dawes] died for. Undone. Whatever chance Gotham had of fixing itself... whatever chance you gave us of fixing our city... dies with Harvey's reputation.
> We bet it all on him. The Joker took the best of us and tore him down. People will lose all hope."

The only way Batman can prevent the terrorist Joker from winning is by committing to a noble lie and taking the blame for Dent's murders. Thus, even though Batman committed a number of serious crimes throughout the film, he ends up being chased by dogs like a common outlaw for an even more serious offense that he did not commit. It is difficult to read this conclusion as a justification for dubious U.S. counterterrorism practices.

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[73] See, for example, Erik Ringmar. "Inter-Texual Relations The Quarrel Over the Iraq War as a Conflict between Narrative Types," 41 *Cooperation and Conflict*, No. 4, 2006, pp. 403-21.

[74] Both characters could also be compared to the Joker, but little is known about the Joker's origins in *The Dark Knight*. He tells different stories to various characters and the police have no identification for him.