### 1

#### The votes for immigration reform have been secured - it’s Obama’s top priority

Epstein 10-17

(Reid Epstein, writer for POLITICO, “Obama’s latest push features a familiar strategy” 10/17/13, <http://www.politico.com/story/2013/10/barack-obama-latest-push-features-familiar-strategy-98512_Page2.html>, KB)

President Barack Obama made his plans for his newly won political capital official — he’s going to hammer House Republicans on immigration.¶ And it’s evident from his public and private statements that Obama’s latest immigration push is, in at least one respect, similar to his fiscal showdown strategy: yet again, the goal is to boost public pressure on House Republican leadership to call a vote on a Senate-passed measure.¶ “The majority of Americans think this is the right thing to do,” Obama said Thursday at the White House. “And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”¶ And yet Obama spent the bulk of his 20-minute address taking whack after whack at the same House Republicans he’ll need to pass that agenda, culminating in a jab at the GOP over the results of the 2012 election — and a dare to do better next time.¶ “You don’t like a particular policy or a particular president? Then argue for your position,” Obama said. “Go out there and win an election. Push to change it. But don’t break it. Don’t break what our predecessors spent over two centuries building. That’s not being faithful to what this country’s about.”¶ Before the shutdown, the White House had planned a major immigration push for the first week in October. But with the shutdown and looming debt default dominating the discussion during the last month, immigration reform received little attention on the Hill.¶ Immigration reform allies, including Obama’s political arm, Organizing for Action, conducted a series of events for the weekend of Oct. 5, most of which received little attention in Washington due to the the shutdown drama. But activists remained engaged, with Dream Act supporters staging a march up Constitution Avenue, past the Capitol to the Supreme Court Tuesday, to little notice of the Congress inside.¶ Obama first personally signaled his intention to re-emerge in the immigration debate during an interview Tuesday with the Los Angeles Univision affiliate, conducted four hours before his meeting that day with House Democrats.¶ Speaking of the week’s fiscal landmines, Obama said: “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform.”¶ When he met that afternoon in the Oval Office with the House Democratic leadership, Obama said that he planned to be personally engaged in selling the reform package he first introduced in a Las Vegas speech in January.¶ Still, during that meeting, Obama knew so little about immigration reform’s status in the House that he had to ask Rep. Xavier Becerra (D-Calif.) how many members of his own party would back a comprehensive reform bill, according to a senior Democrat who attended.¶ The White House doesn’t have plans yet for Obama to participate in any new immigration reform events or rallies — that sort of advance work has been hamstrung by the 16-day government shutdown.¶ But the president emerged on Thursday to tout a “broad coalition across America” that supports immigration reform. He also invited House Republicans to add their input specifically to the Senate bill — an approach diametrically different than the House GOP’s announced strategy of breaking the reform into several smaller bills.¶ White House press secretary Jay Carney echoed Obama’s remarks Thursday, again using for the same language on immigration the White House used to press Republicans on the budget during the shutdown standoff: the claim that there are enough votes in the House to pass the Senate’s bill now, if only it could come to a vote.¶ “When it comes to immigration reform … we’re confident that if that bill that passed the Senate were put on the floor of the House today, it would win a majority of the House,” Carney said. “And I think that it would win significant Republican votes.”¶ Before the resolution of the shutdown and default standoff, Carney was more circumspect about the prospect of immigration reform passing the House. Earlier in the week, Carney wouldn’t venture a guess about whether the White House believes a new immigration push from the president would actually work.¶ “Congress is a difficult institution to make predictions about,” Carney said Wednesday. “Our view is simply that it’s the right thing to do, and we’re going to push for it.”

#### The plan causes an inter-branch fight that derails Obama’s agenda

Kriner 10

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea." While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6° In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failedperhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq. When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena

#### PC is key – the window is closing

Wilson and Eilperin 10-17

(Scott and Juliet, Washington Post, 10-17-13, “Obama to refocus on key aspects of agenda,” Lexis, accessed 10-18-13, BS)

New York University public service professor Paul C. Light is pessimistic that Obama can accomplish much in coming months. He said Obama is running out of time to get things done in the face of GOP resistance and the decline of influence that comes with a second term. "I don't think that he'll get anything. His agenda is finished," Light said. "It's a political tragedy, because he's got more knowledge about the job and less juice to get it done." Keith Hennessey, who served as President George W. Bush's top economic adviser, said people shouldn't overstate the significance of Wednesday's political accord. "Substantively, the net result is they've pressed 'pause.' And that's it," said Hennessey, adding that while Obama "played defense successfully," that does not mean he will now be able to go on offense. Hennessey said it will be hard for the president and congressional Republicans to reconcile their competing fiscal goals - Obama wants to ease across-the-board budget cuts, known as the sequester, while the GOP wants broad entitlement reforms. In addition, he said, the way the White House will likely campaign for its priorities could deepen the partisan divide. "If the president portrays this as this battle between light and dark, it's hard for people to be simultaneously cooperating across party lines on other issues," he said. Obama sounded a conciliatory tone Wednesday night. "We could get all these things done even this year if everybody comes together in a spirit of how are we going to move this country forward and put the last three weeks behind us," he said. But the president's greatest opportunities in coming months are likely to come in areas where he can act on his own, both domestically and in foreign affairs. "His path to success is going to come through every single place that you can squeeze some authority which he has," said John Podesta, who chairs the liberal think tank Center for American Progress. "That is where you've got to focus your attention and where you could spend your political capital."

#### Immigration reform key to biotech innovation

Scullion ’13

(Christine, “Manufacturers Take the Lead In STEM Education”, January 8, <http://www.shopfloor.org/2013/01/manufacturers-take-the-lead-in-stem-education/27254>)

The U.S. the leading producer of cutting-edge products such as those on display at the Consumer Electronics Show. Whether it’s in IT, biotech, aerospace, medical devices or heavy machinery, US companies will be the ones to constantly and consistently create new and better things. This future promises to be bright, but only if we have the workforce capable of pushing that leading-edge. And right now, that doesn’t look like a very good bet. The lack of a skilled workforce is a constant threat to manufacturing growth. In fact in a recent survey 82% of manufacturers reported a moderate-to-serious shortage in skilled production labor. Worker shortages abound not only among machinists and welders but also in occupations requiring expertise in the fields of science, technology, engineering and math (STEM), where the unemployment rate today lies well below 4%.¶ The US needs to refocus our workforce training resources and reform our immigration system to continue to grow and innovate. Immigration reform is a serious issue for Manufacturers not only in the High-tech arena but across manufacturing sectors. Without a skilled workforce – from the PhDs to production labor, the nation’s economy will suffer and jobs will be moved overseas. Access to the right individual with the right skills at the right time will ensure that the US remains a global innovation leader.

#### The impact is bioterror

Chyba 4

Co-Director of the Center for International Security and Cooperation (CISAC), Stanford Institute for International Studies, and an Associate Professor at Stanford University

[Christopher & Alex Greninger, “Biotechnology and Bioterrorism: An Unprecedented World” Survival, 46:2, Summer 2004]

In the absence of a comprehensive and effective system of global review of potential high-consequence research, we are instead trapped in a kind of offence–defence arms race. Even as legitimate biomedical researchers develop defences against biological pathogens, bad actors could in turn engineer countermeasures in a kind of directed version of the way natural pathogens evolve resistance to anti-microbial drugs. The mousepox case provides a harbinger of what is to come: just as the United States was stockpiling 300m doses of smallpox vaccine as a defence against a terrorist smallpox attack, experimental modification of the mousepox virus showed how the vaccine could possibly be circumvented. The United States is now funding research on antiviral drugs and other ways of combating smallpox that might be effective against the engineered organism. Yet there are indications that smallpox can be made resistant to one of the few known antiviral drugs. **The future has the appearance of an** eternal arms race of measures and countermeasures. The ‘arms race’ metaphor should be used with caution; it too is in danger of calling up misleading analogies to the nuclear arms race of the Cold War. First, the biological arms race is an offence–defence race, rather than a competition between offensive means. Under the BWC, only defensive research is legitimate. But more fundamentally, the driver of de facto offensive capabilities in this arms race is not primarily a particular adversary, but rather the ongoing global advance of microbiological and biomedical research. Defensive measures **are in** a race with nefarious applications of basic research, much of which is itself undertaken for protection against natural disease. In a sense, we are in an arms race with ourselves. It is hard to see how this arms race is stable – an offence granted comparable resources would seem to be necessarily favoured. As with ballistic missile defence, particular defensive measures may be defeated by offensive countermeasures. **In the biological case, implementing defensive measures will** require not only research but drug development and distribution plans. Offensive measures need not exercise this care, although fortunately they will likely face comparative resource constraints (especially if not associated with a state programme), and may find that some approaches (for example, to confer antibiotic resistance) have the simultaneous effect of inadvertently reducing a pathogen’s virulence. The defence must always guard against committing the fallacy of the last move, whereas the offence may embrace the view of the Irish Republican Army after it failed to assassinate the British cabinet in the 1984 Brighton bombing: ‘Today we were unlucky, but remember we have only to be lucky once – you will have to be lucky always’.40 At the very least, the defence will have to be vigilant and collectively smarter than the offence. **The only way for the defence to win** convincingly in the biological arms race **would** seem to **be to succeed in discovering and implementing** certain de facto last-move defences, at least on an organism-by-organism basis. Perhaps there are defences, or a web of defences, that will prove too difficult for any plausible non-state actor to engineer around. Whether **such defences** exist is unclear at this time, but their exploration **should be a long-term research goal of US biodefence** efforts. Progress might also have an important impact on international public health. One of the ‘Grand Challenges’ identified by the Bill and Melinda Gates Foundation in its $200m initiative to improve global health calls for the discovery of drugs that minimise the emergence of drug resistance – a kind of ‘last move’ defence against the evolutionary countermeasures of natural microbes.41 **Should** a collection of such **defensive moves prove possible**, **bioterrorism might ultimately succumb to** a kind of globalised dissuasion by denial:42 non-state groups would calculate that they could not hope to achieve dramatic results through biological programmes and would choose to direct their efforts elsewhere.

#### Extinction

Steinbruner 97

John D. Steinbruner, Brookings senior fellow and chair in international security, vice chair of the committee on international security and arms control of the National Academy of Sciences, Winter 1997, Foreign Policy, “Biological weapons: a plague upon all houses,” n109 p85(12), infotrac

Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit.

### 2

#### Obama’s Syria maneuver has maximized presidential war powers because it’s on his terms

Posner 9/3

(Eric, Law Prof at University of Chicago, Obama Is Only Making His War Powers Mightier, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html)

President **Obama’s** surprise **announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making**, even by critics. **But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever**. It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.” Thus, **the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him**. The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.) **People who celebrate the president for humbly begging Congress for approval** also apparently **don’t realize that his understanding of the law—that it gives him the option to go to Congress**—**maximizes executive power vis-à-vis Congress**. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. **If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.**

#### Plan destroys executive commander-in-chief supremacy—cyber capabilities are the key

Lorber ’13

Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, “Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?,” 15 U. Pa. J. Const. L. 961

Yet a surprising amount of uncertainty exists as to which - if any - domestic laws constrain the use of OCOs and how they fit into the congressional-executive balance. As policymakers, scholars, and journalists have lamented, a coherent policy framework governing the use of OCOs does not exist and many questions remain unanswered. n8 Would an attack [\*963] using cyber weapons trigger the requirements of the War Powers Resolution? n9 Would OCOs be subject to reporting requirements under the Intelligence Authorization Act? n10 Conversely, do cyber operations grant the executive branch another tool with which it can prosecute attacks but avoid reporting and responding to congressional inquiries? These questions are largely unanswered both because the rise of OCOs is a relatively recent phenomenon and because much of the information about U.S. technical capability in this field is highly classified. n11 Yet addressing these questions is increasingly important for two reasons. First, as states such as China, Israel, Russia, and the United States use these weapons now and likely will do so more in future conflicts, determining the domestic legal strictures governing their use would provide policymakers and military planners a better sense of how to operate in cyberspace. n12 Second, the possible employment of these tools adds yet another wrinkle to the battle between the executive and legislative branches over war-making authority. n13 In particular, if neither the War Powers Resolution nor the Intelligence Authorization Act governs OCOs, the executive may be allowed to employ U.S. military power in a manner largely unchecked by congressional authority. n14 As a result, the employment of these tools [\*964] implicates - and perhaps problematically shifts - the balance between the executive's commander-in-chief power n15 and Congress's war-making authority. n16 This Comment provides an initial answer to the question of whether current U.S. law can effectively govern the Executive's use of OCOs. n17 It explores the interaction between this new tool and the current statutory limits on presidential war-making authority, with a particular focus on whether the two current federal laws meant to restrict executive power in this field - the War Powers Resolution n18 and the Intelligence Authorization Act n19 - apply to a wide range of potential offensive cyber operations undertaken by the executive branch. Beyond suggesting that neither the War Powers Resolution nor the Intelligence Authorization Act can effectively regulate most types of offensive cyber operations, this Comment suggests that while marginally problematic for a proper balance of war-making power between the executive and legislative branches, this lack of oversight does not fundamentally shift the current alignment. It does argue, however, that - given this lack of regulatory oversight - **the President now has another powerful war-making tool to use at his discretion**. Finally, the Comment suggests that this lack of limitation may be positive in some ways, as laying down clear legal markers before having a developed understanding of these capabilities may problematically limit their effective use.

#### The plan destroys causes countries to doubt the credibility of our threats – collapses security guarantees and deterrence – causes nuclear war

Zeisberg 4

(MARIAH ZEISBERG, Research Fellow, The Political Theory Project, Department of Political Science, "INTERBRANCH CONFLICT AND CONSTITUTIONAL MAINTENANCE: THE CASE OF WAR POWERS" SEPTEMBER 22, 2004, KB)

The first significant argument of pro-Presidency insularists is that flexibility is a prime value in the conduct of foreign affairs, and especially war. Implicit in this argument is the recognition that the executive is functionally superior to Congress in achieving flexibility and swiftness in war operations, a recognition I share. The Constitution cannot be meant to curtail the very flexibility that may be necessary to preserve the nation; and yet, according to the insularists, any general norm which would include Congress in decision-making about going to war could only undermine that flexibility. Writing on the War Powers Act, Eugene Rostow predicts that it would, “put the Presidency in a straightjacket of a rigid code, and prevent new categories of action from emerging, in response to the necessities of a tense and unstable world.” In fact, Rostow believes, “[t]he centralization of authority in the president is particularly crucial in matters of national defense, war, and foreign policy, where a unitary executive can evaluate threats, consider policy choices, and mobilize national resources with a speed and energy that is far superior to any other branch.” Pro-presidency insularists are fond of quoting Hamilton, who argued that “[o]f all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand.” ¶ This need for flexibility, some insularists argue, is especially acute given modern conditions, where devastating wars can develop quickly. Today, “many foreign states have the power to attack U.S. forces - and some even the U.S. mainland - almost instantly,” and in such a world it is impracticable to require the President to seek advance authorization for hostilities. Such a requirement would simply be too risky to U.S. security. We furthermore face a nuclear age, and the system of deterrence that operates to contain that threat requires that a single person be capable of responding to nuclear attack with nuclear weapons immediately. Rostow writes, “the requirement for advance authorization would collapse the system of deterrence, making preemptive strikes by our enemies more likely.” Hence, “modern conditions” require the President to “act quickly, and often alone.” ¶ While this does not mean that Congress has no role to play in moments of crisis, it does mean that Congress should understand its role largely in terms of cooperating with the President to support his negotiations and decisions regarding relationships with foreign powers. Rostow writes,¶ “Congress should be able to act effectively both before and after moments of crisis or potential crisis. It may join the President in seeking to deter crisis by publicly defining national policy in advance, through the sanctioning of treaties or other legislative declarations. Equally, Congress may participate formally in policymaking after the event through legislative authorization of sustained combat, either by means of a declaration of war, or through legislative action having more limited legal and political consequences. Either of these devices, or both in combination, should be available in situations where cooperation between the two branches is indicated at many points along an arc ranging from pure diplomacy at one end to a declaration of war at the other.” ¶ In other words, for Congress to understand itself as having any justifiable role in challenging executive security determinations, especially at moments of crisis, would be to undermine the strength that the executive requires in order to protect the nation. Conflict in this domain represents political degradation.¶ Flexibility is also a key value to support the stability of the global security order, some pro-Presidency insularists argue. International security systems require guarantees that an attack on an ally will be retaliated as quickly as possible. Given such a system, the requirement of congressional consultation “vitiates the security guarantee.” It is important to note that the US does not simply play a role in international collective security systems: it is a central player in those systems, and hence “it is necessary for the system that U.S. participation be assured and credible. But this means that in order to support collective security, the fundamental function for Congress is to support the executive in ways that send a clear message of national resolve, so unequivocal and unmistakable that international pillagers and those who advise them can have no doubts.” ¶ This value of flexibility is sometimes applied to the mechanisms for foreign policy themselves. John Yoo, for example, argues that there must be a diversity of mechanisms for going to war, including unilateral action by the President. On Yoo’s account, Congress is granted authority in foreign affairs in times of peace, the President for times of danger. Yoo interprets the understructured nature of war powers to indicate that “the Framers did not intend the Constitution to establish a single, correct method for going to war. . . [d]uring times of relative peace, Congress can use its authority over funding and the raising of the military to play a leading role in foreign policy. In times of emergency or national danger, however, the President can seize the initiative in warmaking.” ¶ A second insularist argument is that the “nature of foreign affairs” is such that this domain cannot be guided by law. Jefferson’s oft-cited quote, that “[t]he transaction of business with foreign nations is Executive altogether,” is sometimes used in support of this argument, although I do not believe Jefferson understood himself to be making this point. Robert Bork is instead the most prominent insularist arguing this position. Far from believing that the President’s use of force can be bound by law, Bork denies that law governing foreign affairs—whether domestic or international—even exists. In Bork’s own words,¶ “[T]here are areas of life, and the international use of armed force seems to be one of them, in which the entire notion of law—law conceived as a body of legal principles declared in advance to control decisions to be made in the future—where that conception of law is out of place. The pretense that there is such a law and that it has been constantly violated, has debilitating effects upon our foreign policy . . . [t]wo examples come to mind: one is international law about the use of force, and the other is domestic law, that is, the War Powers Act. These two bodies of ‘law’ arise from different sources, but they are alike in that they are not law in any recognizable sense. They are not enforceable.” ¶ Since law in this domain simply cannot exist, the idea of a legislative body playing any role in guiding decisions here is simply senseless. Bork points us to the simple fact of the matter—that “Presidential use or support of force abroad will succeed when the public approves and fail when it disapproves. Law has little to do with the outcome.” ¶ The third important argument on behalf of insularity is that Congress already possesses all the power it needs to contain a wayward executive. This power is wielded mainly through Congress’ “power of the purse,” but also through Congress’ power to raise the military and commission (or de-commission) troops. It is in the course of approving Presidential requests for funding measures that Congress discusses the merits of his actions, and Congress retains the simple power to block the president’s actions simply by refusing him funds or military resources. Yoo argues,¶ “One might respond that it is unreasonable to expect Congress to use its appropriations powers to cut off troops in the field. Surely members of Congress will not take actions that might be interpreted as undermining the safety and effectiveness of the military, once committed and in the midst of hostilities. We should not mistake a failure of political will, however, for a violation of the Constitution. Congress undoubtedly possessed the power to end the Kosovo war, it simply chose not to. Affirmatively providing funding for a war, or at the very least refusing to cut off previous appropriations, represents a political determination by Congress that it will provide minimal support for a war, but that ultimately it will leave it to the President to receive the credit either for success or failure.” ¶ Furthermore, it is simply a fact that the President relies upon Congress to wage the wars he wishes to pursue. As Bobbit points out, unless Congress “by statute, provides an army, transport, weapons, and materials . . . there is nothing for the President to command.” Bobbit insists, though, that this does not mean that Congress can appropriately “interfere in the operation of that power” once handed over. Just as Congress, once it has established and vested the judiciary, has no authority to interfere in the operation of the judicial power, so too Congress, once it vests the President with command of a military, has no authority to interfere in how that command is used. Hence Bobbit believes that the only constitutionally legitimate way for Congress to engage in decisionmaking on the use of the sovereign war power is to remove forces from the command of the President. Bobbit continues, “[a]s a structural matter, Congress has the first and last word. It must provide forces before the President can commence hostilities, and it can remove those forces, by decommissioning them or by forbidding their use in pursuit of a particular policy at any time.” Bobbit is quite explicit about the implications of his position:¶ “Does this mean that presidents can simply ransack the current Defense Appropriations Act for available forces and that Congress then has no way to stop a president from unilaterally making war so long as one-third plus one of the members of one House sustains his veto - for the balance of the biennium? It may well mean that.” ¶ The fourth argument is that the kind of challenging characteristic of interbranch deliberation would endanger the well-being of troops in the field, as foreign nations interpret Congressional challenging to mean that we lack the will to support our soldiers. This argument is not about the comparative advantages of the presidency as an institution, or about the meaning of law: rather, it directly challenges the value of conflict itself. In fact, as we saw in chapter two, settlement theorists and realists seem to believe that the conditions of war and insecurity are the most congenial territory for their claims about the importance of deference and settlement, precisely because peace, stability, and the very possibility of rights-protection are all at stake in this issue. Rostow cites Dean Acheson’s comments on the Korean War:¶ “An incredulous country and world held its breath and read the mounting casualties suffered by these gallant troops, most of them without combat experience. In the confusion of the retreat even their divisional commander, Major General William F. Dean, was captured. Congressional hearings on a resolution of approval at such a time, opening the possibility of endless criticism, would hardly be calculated to support the shaken morale of the troops or the unity that, for the moment, prevailed at home. The harm it could do seemed to me to outweigh the little good that might ultimately accrue.”

### 3

#### Plan: The President of the United States should issue an executive order to adopt the presumption that cyberattacks will be carried out under the covert action statute. The President of the United States should issue a declaratory policy stating that the United States will not deploy offensive cyber operations first.

#### Making the covert action regime the presumptive framework for cyberattacks restricts presidential authority, facilitates agency cooperation and oversight, and ensures constitutional legitimacy of future attacks

Brecher 12 – J.D. candidate @ University of Michigan

Aaron, Law Clerk, U.S. District Court for the Central District of California, “Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations” 111 Mich. L. Rev. 423 (December)

III. Enacting the Covert Action Regime as Presumptive via Executive Order¶ Cyberattacks present a challenge for U.S. policymakers: they are difficult to locate within a clear legal category and there is a significant risk of uncontrollable consequences associated with their use. As a result, policymakers must choose a paradigm to govern their use that will ensure that the executive branch is held accountable and shares information with legislators.¶ This Part argues that the federal government should adopt the presumption that cyberattacks will be carried out under the covert action statute, and that the best way forward is for the president to issue an executive order making the covert action regime the presumptive framework for cyberattacks. It includes a brief discussion of why a president might willingly constrain her discretion by issuing the proposed executive order. It also shows that while the internal executive processes associated with both military and intelligence legal frameworks help mitigate the risk of cyberattacks' misuse by the executive, only the covert action regime provides an adequate role for Congress. Finally, this Part argues that the executive order option is preferable to one alternative proposed by scholars - enacting legislation - because of the practical difficulties of passing new legislation.¶ The covert action regime is the best approach for committing cyberattacks under the current law, as it would facilitate cooperation among executive agencies. The debate over which agency and set of legal authorities govern cyberattacks has caused no small amount of confusion. n145 Apparently, an Office of Legal Counsel ("OLC") memorandum declined to decide which legal regime should govern the use of cyberattacks, and the uncertainty has led to interagency squabbles, as well as confusion over how cyberattacks are to be regulated. n146 Establishing a presumptive answer would go far toward resolving this dispute.¶ Most importantly, adopting the covert action framework as the presumptive legal regime would be a principled way to help ensure constitutional legitimacy when the president orders a cyberattack. n147 There is also reason to believe that presidential power is intimately bound up in credibility, which in turn is largely dependent on the perception of presidential compliance with applicable domestic law. n148 A practice of complying with the covert action [\*448] regime for cyberattacks, both when they do not constitute a use of force and when it is unclear whether they do, is most likely to be in compliance with the law. Compliance with the covert action regime would also encourage covert action procedures in close cases without unduly restricting the executive's choice to use military authorities in appropriate circumstances.

#### Declaratory policy solves

Singer and Wright 13

Director of the 21st Century Defense Initiative @ Brookings and fellow @ Managing Global Order project. Peter W. and Thomas, “Obama, own your secret wars” [http://www.nydailynews.com/opinion/obama-secret-wars-article-1.1265620] February 17

Irony pervades President Obama’s place in foreign policy today. He won the Nobel Peace Prize for his efforts to roll back the nuclear bomb, the signature weapon of the 20th century, but he has also broken new ground in the use of revolutionary military technologies — from the armed drone to cyber weaponry — that may well become the signature weapons of the 21st century.¶ As the controversy continues about secret drone strikes and leaked legal documents, Obama promised in his State of the Union address last week to work with Congress to make the drone program, now shrouded in secret, more transparent.¶ But the problem is that a tipping point has already been reached, and it’s not just a matter of playing nice with Congress. A veil of official semi-silence surrounds these new technologies, the policy that guides them and their growing use in what can only be described as not-so-covert operations. When crucial information does come out, it’s most often through leaks to the press.¶ It is time for a new approach. And all that is required of the President is to do the thing that he does perhaps best of all: to speak.¶ Obama has a unique opportunity — in fact, an urgent obligation — to create a new doctrine, unveiled in a major presidential speech, for the use and deployment of these new tools of war.¶ While the Republicans tried to paint the President as weak on security issues in the 2012 elections, history will record instead that his administration pushed into new frontiers of war, most especially in the new class of technologies that move the human role both geographically and chronologically further from the point of action on the battlefield.¶ The U.S. military’s unmanned systems, popularly known as “drones,” now number more than 8,000 in the air and 12,000 on the ground. And in a parallel development, the U.S. Cyber Command, which became operational in 2010, has added an array of new (and controversial) responsibilities — and is set to quintuple in size.¶ This is not just a military matter. American intelligence agencies are increasingly using these technologies as the tips of the spear in a series of so-called “shadow wars.” These include not only the more than 400 drone strikes that have taken place from Pakistan to Yemen, but also the deployment of the Stuxnet computer virus to sabotage Iranian nuclear development, the world’s first known use of a specially designed cyber weapon.¶ Throughout this period, the administration has tried to have it both ways — leaking out success stories of our growing use of these new technologies but not tying its hands with official statements and set policies.¶ This made great sense at first, when much of what was happening was ad hoc and being fleshed out as it went along.¶ But that position has become unsustainable. The less the U.S. government now says about our policies, the more that vacuum is becoming filled by others, in harmful ways.¶ By acting but barely explaining our actions, we’re creating precedents for other states to exploit. More than 75 countries now have military robotics programs, while another 20 have advanced cyber war capacities. Rest assured that nations like Iran, Russia and China will use these technologies in far more crude and indiscriminate ways — yet will do so while claiming to be merely following U.S. footsteps.¶ In turn, international organizations — the UN among them — are pushing ahead with special investigations into potential war crimes and proposing new treaties.¶ Our leaders, meanwhile, stay mum, which isolates the U.S. and drains its soft power.¶ The current policy also makes it harder to respond to growing concerns over civilian casualties. Indeed, Pew polling found 96% levels of opposition to U.S. drones in the key battleground state of Pakistan, a bellwether of the entire region. It is indisputable than many civilians have been harmed over the course of hundreds of strikes. And yet it is also indisputable that various groups have incentives to magnify such claims.¶ Yet so far, U.S. officials have painted themselves into a corner — either denying that any collateral losses have occurred, which no one believes, or reverting to the argument that we cannot confirm or deny our involvement, which no one believes, either.¶ Finally, the domestic support and legitimacy needed for the use of these weapons is in transition. Polling has found general public support for drone strikes, but only to a point, with growing numbers in the “not sure” category and growing worries around cases of targeting U.S. citizens abroad who are suspected of being terrorists.¶ The administration is so boxed in that, even when it recently won a court case to maintain the veil of semi-silence that surrounds the drone strike program, the judge described the current policy as having an “Alice in Wonderland” feel.¶ The White House seems to be finally starting to realize the problems caused by this disconnect of action but no explanation. After years of silence, occasional statements by senior aides are acknowledging the use of drones, while lesser-noticed working level documents have been created to formalize strike policies and even to explore what to do about the next, far more autonomous generation of weapons.¶ These efforts have been good starts, but they have been disjointed and partial. Most important, they are missing the much-needed stamp of the President’s voice and authority, which is essential to turn tentative first steps into established policy.¶ Much remains to be done — and said — out in the open.¶ This is why it’s time for Obama’s voice to ring loud and clear. Much as Presidents Harry Truman and Dwight Eisenhower were able keep secret aspects of the development of nuclear weapons, even as they articulated how and when we would use them, Obama should publicly lay out criteria by which the United States will develop, deploy and use these new weapons.¶ The President has a strong case to make — if only he would finally make it. After all, the new weapons have worked. They have offered new options for military action that are more accurate and proportionate and less risky than previously available methods.¶ But they have also posed many new complications. Explaining our position is about embracing both the good and the bad. It is about acknowledging the harms that come with war regardless of what technology is being used and making clear what structures of accountability are in place to respond.¶ It’s also about finally defining where America truly stands on some of the most controversial questions. These include the tactics of “signature” strikes, where the identity is not firmly identified, and “double tap” strikes, where rescuers aiding victims of a first attack are also brought under fire. These have been reported as occurring and yet seem to run counter to the principles under which the programs have been defended so far.¶ The role of the President is not to conduct some kind of retrospective of what we have done and why, but to lay out a course of the future. What are the key strategic goals and ethical guidelines that should drive the development and use of these new technologies? Is current U.S. and international law sufficient to cover them?¶ There are also crucial executive management questions, like where to draw the dividing line between military and civilian intelligence agency use of such technologies, and how to keep a growing range of covert actions from morphing into undeclared and undebated wars.¶ And, finally, the President must help resolve growing tensions between the executive branch and an increasingly restive Congress, including how to handle situations where we create the effect of war but no U.S. personnel are ever sent in harm’s way.¶ Given the sprawling complexity of these matters, only the President can deliver an official statement on where we stand. If only we somehow had a commander in chief who was simultaneously a law professor and Nobel Peace Prize winner!¶ The President’s voice on these issues won’t be a cure-all. But it will lay down a powerful marker, shaping not just the next four years but the actions of future administrations.

### 4

#### Fiat double bind – Either the harms to the 1AC are true and they cannot solve for extinction before they control the levers of power OR their harms are constructed for the purpose of alarmism which makes them symbolic terrorists.

#### Apocalyptic predictions make serial policy failure inevitable

Kurasawa 4 – Professor of Sociology, York University of Toronto, Fuyuki, “Cautionary Tales: The Global Culture of Prevention and the Work of Foresight”, Constellations Volume 11, No 4, http://www.yorku.ca/kurasawa/Kurasawa%20Articles/Constellations%20Article.pdf

Up to this point, I have tried to demonstrate that transnational socio-political relations are nurturing a thriving culture and infrastructure of prevention from below, which challenges presumptions about the inscrutability of the future (II) and a stance of indifference toward it (III). Nonetheless, unless and until it is substantively ‘filled in,’ the argument is vulnerable to misappropriation since farsightedness does not in and of itself ensure emancipatory outcomes. Therefore, this section proposes to specify normative criteria and participatory procedures through which citizens can determine the ‘reasonableness,’ legitimacy, and effectiveness of competing dystopian visions in order to arrive at a socially self-instituting future. Foremost among thepossible distortions of farsightedness is alarmism, the manufacturing ofunwarranted and unfounded doomsday scenarios. State and market institutionsmay seek to produce a culture of fear by deliberately stretching interpretations of realitybeyond the limits of the plausible so as to exaggerate the prospects of impending catastrophes, or yet again, by intentionally promoting certain prognoses over others for instrumental purposes. Accordingly, regressive dystopiascan operate as Trojan horses advancing political agendasor commercial interests that would otherwise be susceptible to public scrutiny and opposition. Instances of this kind of manipulation of the dystopian imaginary are plentiful: the invasion of Iraq in the name of fighting terrorism and an imminent threat of use of ‘weapons of mass destruction’; the severe curtailing of American civil liberties amidst fears of a collapse of ‘homeland security’; the neoliberal dismantling of the welfare state as the only remedy for an ideologically constructed fiscal crisis; the conservative expansion of policing and incarceration due to supposedly spiraling crime waves; and so forth. Alarmism constructs and codes the future in particular ways, producing or reinforcing certain crisis narratives, belief structures, and rhetorical conventions. As much as alarmist ideas beget a culture of fear, the reverse is no less true. If fear-mongering is a misappropriation of preventive foresight, resignation about the future represents a problematic outgrowth of the popular acknowledgment of global perils. Some believe that the world to come is so uncertain and dangerous that we should not attempt to modify the course of history; the future will look after itself for better or worse, regardless of what we do or wish. One version of this argument consists in a complacent optimism perceiving the future as fated to be better than either the past or the present. Frequently accompanying it is a self-deluding denial of what is plausible (‘the world will not be so bad after all’), or a naively Panglossian pragmatism (‘things will work themselves out in spite of everything, because humankind always finds ways to survive’).37 Much more common, however, isthe opposite reaction, a fatalistic pessimism reconciled to the idea that the future will be necessarily worse than what preceded it. This is sustained by a tragic chronological framework according to which humanity is doomed to decay, or a cyclical one of the endless repetition of the mistakes of the past. On top of their dubious assessments of what is to come, alarmismand resignation would, if widely accepted, undermine a viable practice of farsightedness. Indeed, both of them encourage public disengagement from deliberation about scenarios for the future, a process that appears to be dangerous, pointless, or unnecessary. The resulting ‘depublicization’ of debate leaves dominant groups and institutions(the state, the market, techno-science) in charge of sorting out the future for the rest of us, thus effectively producing a heteronomous social order. How, then, can we support a democratic process of prevention from below? The answer, I think, lies in cultivating the public capacity for critical judgment and deliberation, so that participants in global civil society subject all claims about potential catastrophes to examination, evaluation, and contestation. Two normative concepts are particularly well suited to grounding these tasks: the precautionary principle and global justice.

#### The PARADOX OF RISK makes this issue NOT resolvable by weighing the plan. If impact is calculated by multiplying probability and magnitude, any probability of an infinite impact irrationally registers as infinite

Kessler 2008 (Oliver Kessler, Sociology at University of Bielefeld, “From Insecurity to Uncertainty: Risk and the Paradox of Security Politics” *Alternatives*  33 (2008), 211-232)

The problem of the second method is that it is very difficult to  "calculate" politically unacceptable losses. If the risk of terrorism is  defined in traditional terms by probability and potential loss, then  the focus on dramatic terror attacks leads to the marginalization of  probabilities. The reason is that even the highest degree of improbability becomes irrelevant as the measure of loss goes to infinity.^o  The mathematical calculation of the risk of terrorism thus tends to  overestimate and to dramatize the danger. This has consequences  beyond the actual risk assessment for the formulation and execution  of "risk policies": If one factor of the risk calculation approaches  infinity (e.g., if a case of nuclear terrorism is envisaged), then there  is no balanced measure for antiterrorist efforts, and risk management as a rational endeavor breaks down. Under the historical con-  dition of bipolarity, the "ultimate" threat with nuclear weapons could  be balanced by a similar counterthreat, and new equilibria could be  achieved, albeit on higher levels of nuclear overkill. Under the new  condition of uncertainty, no such rational balancing is possible since  knowledge about actors, their motives and capabilities, is largely  absent.  The second form of security policy that emerges when the deter-  rence model collapses mirrors the "social probability" approach. It  represents a logic of catastrophe. In contrast to risk management  framed in line with logical probability theory, the logic of catastro- phe does not attempt to provide means of absorbing uncertainty.  Rather, it takes uncertainty as constitutive for the logic itself; uncertainty is a crucial precondition for catastrophies. In particular, cata-  strophes happen at once, without a warning, but with major impli-  cations for the world polity. In this category, we find the impact of  meteorites. Mars attacks, the tsunami in South East Asia, and 9/11.  To conceive of terrorism as catastrophe has consequences for the  formulation of an adequate security policy. Since catastrophes hap-  pen irrespectively of human activity or inactivity, no political action  could possibly prevent them. Of course, there are precautions that  can be taken, but the framing of terrorist attack as a catastrophe  points to spatial and temporal characteristics that are beyond "ratio-  nality." Thus, political decision makers are exempted from the  responsibility to provide security—as long as they at least try to pre-  empt an attack. Interestingly enough, 9/11 was framed as catastro-  phe in various commissions dealing with the question of who was  responsible and whether it could have been prevented.  This makes clear that under the condition of uncertainty, there  are no objective criteria that could serve as an anchor for measur-  ing dangers and assessing the quality of political responses. For ex-  ample, as much as one might object to certain measures by the US  administration, it is almost impossible to "measure" the success of  countermeasures. Of course, there might be a subjective assessment  of specific shortcomings or failures, but there is no "common" cur-  rency to evaluate them. As a consequence, the framework of the  security dilemma fails to capture the basic uncertainties.  Pushing the door open for the security paradox, the main prob-  lem of security analysis then becomes the question how to integrate  dangers in risk assessments and security policies about which simply  nothing is known. In the mid 1990s, a Rand study entitled "New  Challenges for Defense Planning" addressed this issue arguing that  "most striking is the fact that we do not even know who or what will  constitute the most serious future threat, "^i In order to cope with  this challenge it would be essential, another Rand researcher wrote,  to break free from the "tyranny" of plausible scenario planning. The  decisive step would be to create "discontinuous scenarios ... in  which there is no plausible audit trail or storyline from current  events"52 These nonstandard scenarios were later called "wild cards"  and became important in the current US strategic discourse. They  justified the transformation from a threat-based toward a capability-  based defense planning strategy.53  The problem with this kind of risk assessment is, however, that  even the most absurd scenarios can gain plausibility. By construct-  ing a chain of potentialities, improbable events are linked and brought into the realm of the possible, if not even the probable.  "Although the likelihood of the scenario dwindles with each step,  the residual impression is one of plausibility. "54 This so-called Oth-  ello effect has been effective in the dawn of the recent war in Iraq.   The connection between Saddam Hussein and Al Qaeda that the  US government tried to prove was disputed from the very begin-  ning. False evidence was again and again presented and refuted,  but this did not prevent the administration from presenting as the  main rationale for war the improbable yet possible connection  between Iraq and the terrorist network and the improbable yet  possible proliferation of an improbable yet possible nuclear  weapon into the hands of Bin Laden. As Donald Rumsfeld  famously said: "Absence of evidence is not evidence of absence."  This sentence indicates that under the condition of genuine uncer-  tainty, different evidence criteria prevail than in situations where  security problems can be assessed with relative certainty.

#### The alternative is to reject the apocalyptic frames of the 1AC

#### Even if the rational arguments in favor of the plan are logical, the representations of apocalypse colonize the debate towards pressure for fast invasion and warmongering

Goodnight 2010 (G. Thomas Goodnight is Professor and Director of Doctoral Studies at the Annenberg School for Communication, the University of Southern California in Los Angeles; "The Metapolitics of the 2002 Iraq Debate: Public Policy and the Network Imaginary", Rhetoric & Public Affairs Volume 13, Number 1, Spring 2010)

Opponents of the Democratic Party argued the risks of war, but their pragmatic policy challenges did not grab sufficient traction to slow the unreeling web of justification. Of course, there was little denial that the war would create more terrorists, generate a lower threshold for intervention, receive weak international support, and in the end leave the dangerous business of Afghanistan unfinished. But the Democrats became entangled in reflexive posturing about the effects of the debate itself—the importance of "message sending" to the United Nations and "consensus" backing for the president as negotiator-in-chief. With 9/11 not far behind, "tough" messages appeared to provide a much desired supplement to boost confidence, while pragmatism, caution, and planning took a back seat. Presidential hopefuls cut loose from this morass and took advantage of Republican-offered political cover. Republicans did appear to benefit from tough war rhetoric in the immediate election aftermath, enabling Bush to run successfully in 2004 as a wartime president. As WMD continued not to turn up, the intervention dragged on, costs mounted, political fortunes reversed—although the entanglements remained and remain. [End Page 87] The debate of 2002 found that a systematic presidential campaign—when bolstered by cherry-picked evidence—can be particularly powerful, especially when administration supporters in Congress veer shamelessly from long-held positions on policy and the leadership of the opposing party takes shelter in offered political cover. Further, the debate illustrates how the events that should prompt policy debate become colonized, in this case making common sense difficult to muster because the network imaginary laces a web of associative fears with compensatory toughness. On the whole, the debates were not the nation's finest hour. The debate of 2002 strove to convert a traumatic national event into a conservative-articulated, Republican-captured, presidentially initiated rise in power, and ended by setting the stage for congressional investigation, the rise of the Democrats, reassertion of congressional power, and a new presidency committed to public diplomacy. WMD were at the heart of the six-year-long controversy. It was hardly remembered that [WMD] weapons of mass destruction were not deployed by terrorists on September 11th. Rather, fast, anonymous, networked, modern systems of circulation were turned, through ingenuity, into first-strike weapons. Seen with fresh militancy, 9/11 suggests that the modern world remains vulnerable to mutating events that change, shock, and command attention, actions that attain expanding scope and influence by virtue of a network imaginary, where such moments self-organize and multiply in varied directions. The development of policy studies as rhetoric, then, calls attention to the disruptive events as these become situated in the restricted focus of national debate and recovered, through critique, as an unfinished metapolitics, which demands rethinking of the taken-for-granted grounds and alliances upon which post-event consensus became fabricated. In its time, the "War on Terror" was framed as a "clash of civilizations" and a new Munich. In retrospect, 9/11 should be understood as signaling a much closer, changing, entangled, future world where the complications of security spread and interlock to haunt twenty-first-century network imaginaries.

### Sats

They didn’t read a solvency card

#### Squo solves --- new USFG cyber guidelines

Tim Stevens 12, Associate for the Centre for Science and Security Studies and an Associate Fellow of the International Centre for the Study of Radicalisation and Political Violence, PhD candidate @ King’s College London, MA in War Studies, “A Cyberwar of Ideas? Deterrence and Norms in Cyberspace,” Contemporary Security Policy, Vol. 33, Iss. 1, Apr. 13, Taylor and Francis Online

In May 2011, the US International Strategy for Cyberspace answered the President's call and was the first US policy document to provide, in Secretary Clinton's introductory words, ‘an approach that unifies our engagement with international partners on the full range of cyber issues’.82 Norms are promoted in the context of ‘applying the broad expectations of peaceful and just interstate conduct to cyberspace’ in order to effect ‘stability’, as obtains in ‘other spheres of international relations’.83 The document stresses the collaborative and cooperative aspects of global normative change whilst reiterating states' rights to self-defence consistent with the UN Charter. Norms extended not only to technical issues of network functionality but also to ‘upholding fundamental freedoms’ consistent with several high-profile speeches by Secretary Clinton on this topic,84 and a range of other responsibilities of states to the privacy of their citizens and so on. Importantly, the document stated, ‘[a]dherence to such norms brings predictability to state conduct, helping prevent the misunderstandings that could lead to conflict’.85 Norms are therefore principally, although not exclusively, to be understood as regulative norms concerned with preventing inter-state conflict, and can be framed as a form of norms-based deterrence.

#### Banning offensive cyber-attacks fails – nobody would follow suit and it guarantees attacks on the US

Baker 11

(STEWART BAKER, Assistant Secretary of Homeland Security for Policy, “Denial of Service” SEPTEMBER 30, 2011, <http://www.foreignpolicy.com/articles/2011/09/30/denial_of_service>

The result is predictable, and depressing. Top Defense Department officials recently adopted a cyberwar strategy that simply omitted any plan for conducting offensive operations, even as Marine Gen. James Cartwright, then vice chairman of the Joint Chiefs of Staff, complained publicly that a strategy dominated by defense would fail: "If it's OK to attack me and I'm not going to do anything other than improve my defenses every time you attack me, it's very difficult to come up with a deterrent strategy."¶ Today, just a few months later, Cartwright is gone, but the lawyers endure. And apparently the other half of the U.S. cyberwar strategy will just have to wait until the lawyers can agree on what kind of offensive operations the military is allowed to mount.¶ \*\*\*¶ We've been in this spot before. In the first half of the 20th century, the new technology of air power transformed war at least as dramatically as information technology has in the last quarter-century. Then, as now, our leaders tried to use the laws of war to stave off the worst civilian harms that this new form of war made possible.¶ Tried and failed.¶ By the 1930s, everyone saw that aerial bombing would have the capacity to reduce cities to rubble in the next war. Just a few years earlier, the hellish slaughter in the trenches of World War I had destroyed the Victorian world; now air power promised to bring the same carnage to soldiers' homes, wives, and children.¶ In Britain, some leaders expressed hardheaded realism about this grim possibility. Former Prime Minister Stanley Baldwin, summing up his country's strategic position in 1932, showed a candor no recent American leader has dared to match. "There is no power on Earth that can protect [British citizens] from being bombed," he said. "The bomber will always get through.... The only defense is in offense, which means that you have got to kill more women and children more quickly than the enemy if you want to save yourselves."¶ The Americans, however, still hoped to head off the nightmare. Their tool of choice was international law. (Some things never change.) When war broke out in Europe on Sept. 1, 1939, President Franklin D. Roosevelt sent a cable to all the combatants seeking express limits on the use of air power. Citing the potential horrors of aerial bombardment, he called on all combatants to publicly affirm that their armed forces "shall in no event, and under no circumstances, undertake the bombardment from the air of civilian populations or of unfortified cities."¶ Roosevelt had a pretty good legal case. The 1899 Hague conventions on the laws of war, adopted as the Wright brothers were tinkering their way toward Kitty Hawk, declared that in bombardments, "all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes." The League of Nations had also declared that in air war, "the intentional bombing of civilian populations is illegal."¶ But FDR didn't rely just on law. He asked for a public pledge that would bind all sides in the new war -- and, remarkably, he got it. The horror at aerial bombardment of civilians ran so deep in that era that Britain, France, Germany, and Poland all agreed to FDR's bargain, before nightfall on Sept. 1, 1939.¶ Nearly a year later, with the Battle of Britain raging in the air, the Luftwaffe was still threatening to discipline any pilot who bombed civilian targets. The deal had held. FDR's accomplishment began to look like a great victory for the international law of war -- exactly what the lawyers and diplomats now dealing with cyberwar hope to achieve.¶ But that's not how this story ends.¶ On the night of Aug. 24, 1940, a Luftwaffe air group made a fateful navigational error. Aiming for oil terminals along the Thames River, they miscalculated, instead dropping their bombs in the civilian heart of London.¶ Even if all sides were genuinely committed to limiting cyberwar, as they were in 1939, history shows that it only takes a single error to break the legal limits forever. And error is inevitable. Bombs dropped by desperate pilots under fire go astray -- and so do cyberweapons. Stuxnet infected thousands of networks as it searched blindly for Iran's uranium-enrichment centrifuges. The infections lasted far longer than intended. Should we expect fewer errors from code drafted in the heat of battle and flung at hazard toward the enemy?¶ It was a mistake. But that's not how British Prime Minister Winston Churchill saw it. He insisted on immediate retaliation. The next night, British bombers hit (arguably military) targets in Berlin for the first time. The military effect was negligible, but the political impact was profound. German Luftwaffe commander Hermann Göring had promised that the Luftwaffe would never allow a successful attack on Berlin. The Nazi regime was humiliated, the German people enraged. Ten days later, Adolf Hitler told a wildly cheering crowd that he had ordered the bombing of London: "Since they attack our cities, we will extirpate theirs."¶ The Blitz was on.¶ In the end, London survived. But the extirpation of enemy cities became a permanent part of both sides' strategy. No longer an illegal horror to be avoided at all costs, the destruction of enemy cities became deliberate policy. Later in the war, British strategists would launch aerial attacks with the avowed aim of causing "the destruction of German cities, the killing of German workers, and the disruption of civilized life throughout Germany." So much for the Hague conventions, the League of Nations resolution, and even the explicit pledges given to Roosevelt. All these "norms" for the use of air power were swept away by the logic of the technology and the predictable psychology of war.¶ \*\*\*¶ American lawyers' attempts to limit the scope of cyberwar are just as certain to fail as FDR's limits on air war -- and perhaps more so.¶ It's true that half a century of limited war has taught U.S. soldiers to operate under strict restraints, in part because winning hearts and minds has been a higher priority than destroying the enemy's infrastructure. But it's unwise to put too much faith in the notion that this change is permanent. Those wars were limited because the stakes were limited, at least for the United States. Observing limits had a cost, but one the country could afford. In a way, that was true for the Luftwaffe, too, at least at the start. They were on offense, and winning, after all. But when the British struck Berlin, the cost was suddenly too high. Germans didn't want law and diplomatic restraint; they wanted retribution -- an eye for an eye. When cyberwar comes to America and citizens start to die for lack of power, gas, and money, it's likely that they'll want the same.¶ More likely, really, because Roosevelt's bargain was far stronger than any legal restraints we're likely to see on cyberwar. Roosevelt could count on a shared European horror at the aerial destruction of cities. The modern world has no such understanding -- indeed, no such shared horror -- regarding cyberwar. Quite the contrary. For some of America's potential adversaries, the idea that both sides in a conflict could lose their networked infrastructure holds no horror. For some, a conflict that reduces both countries to eating grass sounds like a contest they might be able to win.¶ What's more, cheating is easy and strategically profitable. America's compliance will be enforced by all those lawyers. Its adversaries' compliance will be enforced by, well, by no one. It will be difficult, if not impossible, to find a return address on their cyberattacks. They can ignore the rules and say -- hell, they are saying -- "We're not carrying out cyberattacks. We're victims too. Maybe you're the attacker. Or maybe it's Anonymous. Where's your proof?"¶ Even if all sides were genuinely committed to limiting cyberwar, as they were in 1939, history shows that it only takes a single error to break the legal limits forever. And error is inevitable. Bombs dropped by desperate pilots under fire go astray -- and so do cyberweapons. Stuxnet infected thousands of networks as it searched blindly for Iran's uranium-enrichment centrifuges. The infections lasted far longer than intended. Should we expect fewer errors from code drafted in the heat of battle and flung at hazard toward the enemy?¶ Of course not. But the lesson of all this for the lawyers and the diplomats is stark: Their effort to impose limits on cyberwar is almost certainly doomed.¶ No one can welcome this conclusion, at least not in the United States. The country has advantages in traditional war that it lacks in cyberwar. Americans are not used to the idea that launching even small wars on distant continents may cause death and suffering at home. That is what drives the lawyers -- they hope to maintain the old world. But they're being driven down a dead end.¶ If America wants to defend against the horrors of cyberwar, it needs first to face them, with the candor of a Stanley Baldwin. Then the country needs to charge its military strategists, not its lawyers, with constructing a cyberwar strategy for the world we live in, not the world we'd like to live in.¶ That strategy needs both an offense and a defense. The offense must be powerful enough to deter every adversary with something to lose in cyberspace, so it must include a way to identify attackers with certainty. The defense, too, must be realistic, making successful cyberattacks more difficult and less effective because resilience and redundancy has been built into U.S. infrastructure.¶ Once the United States has a strategy for winning a cyberwar, it can ask the lawyers for their thoughts. But it can't be done the other way around.¶ In 1941, the British sent their most modern battleship, the Prince of Wales, to Southeast Asia to deter a Japanese attack on Singapore. For 150 years, having the largest and most modern navy was all that was needed to project British power around the globe. Like the American lawyers who now oversee defense and intelligence, British admirals preferred to believe that the world had not changed. It took Japanese bombers 10 minutes to put an end to their fantasy, to the Prince of Wales, and to hundreds of brave sailors' lives.¶ We should not wait for our own Prince of Wales moment in cyberspace.

### SOP

#### 1. Multiple alt causes to destruction of separation of powers

Stone 12 (Kyle Stone is a practicing attorney in Chicago, “The Amazing Presidential Power-Grab”, <http://www.americanthinker.com/2012/07/the_amazing_presidential_power-grab.html>, AB)

With little consternation or lasting opposition, the Obama administration has dramatically usurped congressional power at the expense of popular will and the rule of law. Numerous dastardly bureaucratic coups -- motivated by the president's progressive and political agenda -- have amazingly failed to engender a serious response. What began as a trickle of presidential power-grabs has turned into a cascade of executive roguery. A list of them is worth some review and reflection: In June 2012, President Obama circumvented Congress's refusal to pass the DREAM Act by instituting a portion of it on his own. Through executive order, the administration has directed federal officers to no longer deport large swathes of younger illegal immigrants, with an inclusive net that could impact over a million. Conservative sage Charles Krauthammer summed it up pithily: "This is out-and-out lawlessness. You had a clip of the president himself say[ing] months ago, 'I cannot do this on my own because there are laws on the books.' Well, I have news for the president -- the laws remain on the books. They haven't changed." Earlier this month, the Obama administration quietly stripped away a central component of the 1996 bipartisan welfare reform act -- the lynchpin work requirements -- passed by a Republican Congress and signed into law by President Clinton. The regulations allow states to substitute education programs as "work" for their residents to enjoy welfare benefits. Self-described "neo-liberal" pundit Mickey Kaus reacted to the "surprising (and possibly illegal) attempt to grant waivers of the work requirements" as follows: A great deal of effort was put into defining what qualified as work, and making sure that work actually meant work and not the various BS activities (including BS training activities) the welfare bureaucracies often preferred to substitute for work[.] ... To the extent the administration's action erodes the actual and perceived toughness of the work requirements, which it does, it sends the opposite and wrong signal. In effect, the administration is taking the teeth out of the reform. So long as states believe that new methods might achieve employment goals in the long run, the feds can approve the changes, and those not working can enjoy sustained welfare benefits. All this without consulting those charged with actually making law.The so-called Affordable Care Act (ACA) is one mammoth legislative concession to executive-branch lawmaking. The Act is hardly a law at all, but rather a series of directives and mandates, providing the secretary of HHS (i.e., the Obama administration) immeasurable power in implementing the Act's policy aims. One example from earlier this year is the HHS religious mandate, requiring employers to include abortion-inducing drugs, sterilization, and contraception in their employee health insurance. The regulation applies to religious institutions like Catholic hospitals, schools, and charities -- regardless of whether these institutions object to such services on moral grounds. Want to find the portion of the 2,700-page bill that deals with this issue? Good luck. It's not there. Less publicized examples are numerous. The Wall Street Journal's Kimberly Strassel, in a recent superb column, outlined a laundry list a few weeks ago:

o The president opposes a federal law criminalizing medical marijuana. No problem -- he merely instructed his Justice Department not to prosecute violators.

o He disapproves of the federal Defense of Marriage Act. No need to work with Congress on repealing it -- he merely stopped defending it in court.

o With no love for the federal No Child Left Behind Act, he ordered his Education Department to issue waivers "that are patently inconsistent with the statute."

o Congress falls short of passing cap-and-trade? The administration had the Environmental Protection Agency enforce something similar though unilateral regulations.

o Congress demurred in taking up "net neutrality" internet regulations, so the president's Federal Communications Commission did it instead.

This list could go on.

#### 2. Lack of OCO oversight doesn’t disrupt SOP

Lorber ‘13

[Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University

Department of Political Science. Journal Of Constitutional Law 15.3 <https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013>. ETB]

This Comment provides an initial answer to the question of whether ¶ current U.S. law can effectively govern the Executive’s use of OCOs.17 It ¶ explores the interaction between this new tool and the current statutory ¶ limits on presidential war-making authority, with a particular focus on ¶ whether the two current federal laws meant to restrict executive power in ¶ this field—the War Powers Resolution18 and the Intelligence Authorization ¶ Act19—apply to a wide range of potential offensive cyber operations ¶ undertaken by the executive branch. Beyond suggesting that neither the ¶ War Powers Resolution nor the Intelligence Authorization Act can effectively ¶ regulate most types of offensive cyber operations, this Comment suggests ¶ that while marginally problematic for a proper balance of war-making power ¶ between the executive and legislative branches, this lack of oversight does ¶ not fundamentally shift the current alignment. It does argue, however, ¶ that—given this lack of regulatory oversight—the President now has another ¶ powerful war-making tool to use at his discretion. Finally, the Comment ¶ suggests that this lack of limitation may be positive in some ways, as laying ¶ down clear legal markers before having a developed understanding of these ¶ capabilities may problematically limit their effective use.

3. You messed up, didn’t read the Taylor evidence, you don’t have an internal link to your IBC impact.

**US Soft Power is not effective**

**Feffer 13**

(John, John Feffer is co-director of Foreign Policy In Focus ([www.fpif.org](http://www.fpif.org/)) at the Institute for Policy Studies, “When Soft Power Fails,” 1/21/2013, <http://www.huffingtonpost.com/john-feffer/china-soft-power_b_2519954.html>) RC

In 1990, Harvard professor Joseph Nye developed the concept of soft power as a way to preserve U.S. power in a changing world. He never imagined that the United States would abandon hard power. Rather, he urged the United States to increasingly rely on diplomacy, economic relations, and cultural exchanges at a time when it seemed that military force was yielding diminishing returns with the end of the Cold War.¶ Thomas Friedman formalized this dual approach with his corollary to Nye's theory: that the soft power of McDonald's needs the hard power of McDonnell Douglas to be successful. The United States should strive to preserve its unipolar position in the world, Friedman argued, with a hidden fist to complement the hidden hand of the market. China's approach to the South China Sea is simply an Asian version of this U.S. strategy.¶ Over the last decade, the U.S. approach -- redubbed "smart power" by the likes of Hillary Clinton -- has produced some very prominent failures -- in Iraq under the leadership of advertising executive Charlotte Beers, in Africa under the dubious leadership of AFRICOM, in the Muslim world in the wake of Barack Obama's famous speech in Cairo. In each of these cases, U.S. hard power undercut its soft power aims. Iraqis were unenthusiastic about U.S.-financed magazines as long as U.S. soldiers were an occupying force. Africans receiving humanitarian aid from NGO workers accompanied by U.S. soldiers worried about the ultimate purpose of an assistance program carried out under the Pentagon's direction. And although Muslims cheered President Obama's words in Cairo, they watched as drone attacks continued to claim the "collateral damage" of civilian lives, the vast majority being Muslims.¶ Washington has been reluctant to reevaluate "soft power" when it seems so obviously a fig leaf for the assertion of military dominance. But perhaps by looking at the palpable failures of Chinese efforts in Asia, U.S. policymakers could learn some lessons about strategy. Other countries in Asia that aspire to cultivate both hard power and soft power -- Japan, South Korea -- should also take note: you rarely can have it both ways.

#### 4. Don’t evaluate Petro – tautological tyranny bad is not an argument and it’s terminally non-unique

#### 5. No soft power—too diffuse, causes xenophobia, opinions are sedimented

Gray ’11

 Colin S. Gray, “Hard Power and Soft Power: The Utility of Military Force as an Instrument of Policy in the 21st Century,” Strategic Studies Institute, April 2011, <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1059.pdf>

Moreover, no contemporary U.S. government owns all of America’s soft power—a considerable understatement. Nor do contemporary Americans and their institutions own all of their country’s soft power. America today is the product of America’s many yesterdays, and the worldwide target audiences for American soft power respond to the whole of the America that they have perceived, including facts, legends, and myths. 41 Obviously, what they understand about America may well be substantially untrue, certainly it will be incomplete. At a minimum, foreigners must react to an American soft power that is filtered by their local cultural interpretation. America is a future-oriented country, ever remaking itself and believing that, with the grace of God, history moves forward progressively toward an ever-better tomorrow. This optimistic American futurism both contrasts with foreigners’ cultural pessimism—their golden ages may lie in the past, not the future—which prevails in much of the world and is liable to mislead Americans as to the reception our soft power story will have. 42 Many people indeed, probably most people, in the world beyond the United States have a fairly settled view of America, American purposes, and Americans. This locally held view derives from their whole experience of exposure to things American as well as from the features of their own “cultural thoughtways” and history that shape their interpretation of American-authored words and deeds, past and present. 43

#### 6. No risk of IBC or SOP - 4 reasons

Shane ‘9

[Peter M. Shane is the Jacob E. Davis and Jacob E. Davis II Chair in Law at the Ohio State University's Moritz College of Law, where he regularly teaches administrative law, constitutional law, law and the presidency, and courses at the intersection of law, democracy, and new media. Madison’s Nightmare: How Executive Power Threatens American Democracy. <http://press.uchicago.edu/Misc/Chicago/749396.html> ETB]

Ordinarily, at least four factors in the American system coincide to produce the culture of self-restraint that averts any serious breakdown of government. One is the internalization within each institution of norms of deference for the core capacities of the other two branches. The history of federal court jurisdiction provides a powerful case in point. The past two centuries are replete with examples of the federal judiciary rendering decisions antagonistic to the views and interests of the elected branches of government. The judicial invalidation of President Truman’s seizure of the steel mills and the overturning of anti-flag-burning laws are two well-known historical illustrations. Yet, the elected branches have rarely retaliated in any significant way. The President has rarely—and never in modern history—refused to enforce or recognize judicial orders. Congress, despite numerous proposals to do so, has never ousted the courts from all jurisdiction to decide a category of cases in which Congress, for a political standpoint, would probably prefer judicial silence. It seems impossible to explain the forbearance of the elected branches from substantially curtailing federal jurisdiction in such controversial areas as abortion, school prayer, or desegregation unless we regard that self-restraint as a sign of our elected officials’ allegiance to the near inviolability of the judicial function as conveyed by Article III of the Constitution. This is what I mean by a habit or a norm of deference.¶ A second factor is a common belief in the legitimacy and necessity of active, problem-solving government. Frequently, even amid deep policy disagreement between the executive and legislative branches, public policy compromises emerge in the solution of public problems because both elected branches are committed to demonstrating their capacity to respond in some constructive way to public challenges. Powerful examples from the 1990s include tax and budget reform under President George H. W. Bush and welfare reform under President Clinton. In each case, an ideologically reluctant President went along with congressional initiative out of a felt imperative to respond to a widely perceived public problem and to share in the credit for its solution.¶ Third, each branch—but each of the elected branches especially—has historically been motivated to represent a broad range of public opinion on critical issues. Even when the elected branches disagree significantly on public policy, each has usually been motivated to seek the approval of a wide spectrum of American voters. This impulse was significantly evident in President Clinton’s judicial nominating strategy, in which he worked with a Republican-controlled Senate to confirm potential judges who were notably centrist in their views, and in the Republican Congress’s 1996 enactment of line-item veto authority, which threatened to empower a Democratic President, but which was perceived to be widely popular among the national electorate.¶ Finally, each branch of the government is structured internally so as to promote deliberation, thus increasing the likelihood that multiple points of view will be heard and given time to help shape long-term policy outcomes. Congress, for example, is divided into two houses, which must concur in a legislative proposal in order that it be enacted. The length of terms and the geographical basis of representation is different in the two houses, which, originally, were also selected by different methods. The judiciary consists of a Supreme Court and lower courts through which legal interpretation evolves in a highly formal, multivocal way. Article III of the Constitution gives those judges who officiate over the courts authorized by that article lifetime tenure, insuring that, at any given moment, the judiciary is populated by judges whose prejudicial careers exhibit a variety of ideological and political predispositions. Even the constitutional text describing the executive branch, the most unitary of the three branches, contemplates that the President may seek advice from the heads of “departments.” Deliberation was an intended feature of the new government through and through.¶ Government lawyers, if they perform their jobs well, play a central role in maintaining the ethos of deliberation that was the Framers’ hope. Decision making is most effectively deliberative if it involves a wide variety of perspectives, each shedding light on whatever issue is under discussion. In formal deliberative settings, such as an argument before the Supreme Court or debates on the floor of Congress, contending perspectives are literally embodied in different human beings, all physically present and asserting their various points of view. Decisions within the executive branch, however, are most frequently made in a potentially more insulated environment. The only voices literally present in a particular policy conversation may be those of a high-level presidential appointee, some lower-level presidential appointees, and civil servants who are most directly accountable to these presidential appointees. In such settings, it would require some form of special self-discipline for those immediately involved in the decision to actually concern themselves with perspectives and interests other than the partisan agenda they likely all share. This is especially so for the vast majority of decisions that will never be reviewed in Congress because they are too low-visibility and that will never be reviewed in court because they do not affect the specific interests of identifiable individuals in a way that would ordinarily entitle them to call those decisions into question through litigation.¶ Seen in this light, a critical function of the law in operation—the law as embodied for the executive branch in judicial opinions rendered by the courts and statutes enacted by Congress—is to make manifest the range of interests and concerns that would not otherwise be vigorously articulated when key decisions are made. It is precisely in this way that the rule of law is a fundamental day-to-day check on the spirit of faction in government affairs. Executive branch lawyers, residing in every agency of government, make this check real because they advise on virtually every important administrative decision and focus decision makers’ attention on whatever law is relevant. When the executive branch in 2009 attends, for example, to the Voting Rights Act of 1965 or the 1969 National Environmental Policy Act or the Supreme Court’s 1974 decision in United States v. Nixon, the Administration can, in a sense, hear the multiple voices of earlier times that themselves had to reach consensus in order to create binding public policy. These voices are virtually, even if not physically present, and their recognition can serve as a buffer against the more immediate passions of partisanship or the undisciplined pursuit of self-interest. Conscientious lawyering insures that contending perspectives are brought to bear whenever current decision makers act, and is thus a critical element in preserving the democratic legitimacy of American government.

#### 7. Nye is wrong, many things go unaccounted for especially non-state terrorist actors like the Hezbollah

Khatib and Dods 09

(Lina Khatib and Klaus Dods, Royal Holloways at the University of London, Middle East Journal of Culture & Communication, Vol. 2 no. 2, 2009)

While Joseph Nye’s focus on soft power has proven popular with academic and policy audiences alike, we should avoid thinking that it is something unique to the portfolios of state-based actors. Non-state organizations also engage in activities that can fall under this rubric, and in the Middle East, Hezbollah has been the leading paramilitary group in this respect. It has had a media bureau since its inception in the 1980s, and in recent years, it has expanded its communication activities to include different kinds of media messages to reach out to audiences across the Middle East and Islamic world and even beyond. But Hezbollah’s media messages are also targeted at the Israeli state and Israeli audiences. During the days of the Israeli occupation of South Lebanon, Hezbollah utilized its television station Al-Manar to directly disseminate messages to Israel as well as to frame its own anti-occupation resistance activities in heroic terms for audiences in Lebanon and outside. As such, Zahera Harb’s article in this special issue examines Al-Manar’s performance in the last two years of the Israeli occupation of South Lebanon as a media campaign with specific anti-occupation goals. We might conceive of Al-Manar as an ‘anti-geopolitical’ actor (Agnew 2003), which actively contests what it perceives to be dominant geopolitical representations of Hezbollah as a terrorist organization hell-bent on the destruction of the state of Israel. Al-Manar’s coverage, while clearly not disinterested, is also intended to represent the realities of Israeli occupation and violence. Al-Manar’s accosting of Arab audiences is not unique. In the age of the war on terror, there has been a significant growth in the use of broadcasting as a public diplomacy tool. This growth is led by the United States, which established Al-Hurra television (shortly after launching Radio Sawa) in the early days of the war on Iraq in order to present the American point of view to audiences in the Arab world and to contest Al-Jazeera’s dominance of the Arab airwaves. However, Al-Hurra has not been able to shake the position of Al-Jazeera or its main competitor Al-Arabiya. Scholars have contested Al-Hurra’s ability to attract Arab audiences because of its association with the American government. Al-Hurra was seen as lacking credibility and as presenting views favorable to the US administration, rather than being the ‘objective’ news channel it claims to be. In this context, William Lafi Youmans examines the use of humor by both Al-Hurra employees and audiences as a response to the channel’s workings. Youmans uses Joseph Nye’s model of ‘willing interpreters and receivers’ as necessary components

### Solvency

#### Congress will CHOOSE to ignore the statutory limit – other obligations

Miller 13 -Vice President for New Initiatives and Distinguished Scholar at the Wilson Center

Aaron, Interviewing Marvin Kalb – Emeritus Professor @ Harvard, “They’re the Deciders,” http://www.foreignpolicy.com/articles/2013/05/31/president\_congress\_war\_power\_marvin\_kalb\_interview?utm\_source=feedly

FP: If Congress had to approve America's wars, would it make any difference?¶ MK: Not really -- not unless Congress set certain conditions for prosecuting the war, such as a time frame or a cost ceiling. Congress has approved of wars in the form of an approving resolution -- the invasion of Iraq in 2003, for example; but the president has the ultimate responsibility for setting policy for the war, conducting the war, and finding a way out of the war.¶ FP: Why has Congress acquiesced so much of the time?¶ MK: Because Congress does not want the responsibility for the costs of a war, measured in bodybags and budget shortfalls. Politicians are so encumbered these days by fundraising obligations, by party pressures and challenges, by the everyday responsibilities of the job that they are relieved to play a subordinate role to the executive in questions of war and peace.

#### Impossible to overcome executive information monopoly

Berman 10 – assistant professor @ Brooklyn Law School

Emily, “Executive Privilege Disputes between Congress and the President: A Legislative Proposal” *Albany Government Law Review*, Vol. 3, No. 741, 2010 [http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2112154] //mtc

2. Congress’s Inability to Overcome the Executive’s Monopoly on Information Creates Bias in Favor of Under-Disclosure¶ The second problem with the current system is that Congress’s tools are insufficient to overcome the Executive’s information monopoly. The fact that the Executive has exclusive control over information, which includes the related power to leak information selectively, provides the Executive with a structural advantage in information disputes that Congress’s tools are inadequate to overcome.¶ Consider first the central importance of the executive branch’s monopoly on information.75 With minor exceptions, Congress relies on the Executive for its information lifeblood. By definition, executive privilege conflicts can arise only when Congress has requested information from the Executive.76 As a consequence, inaction is response to an information request – i.e., when congress is unable to compel disclosure – necessarily confers victory on the Executive. The default result is nondisclosure. ¶ Next consider the related problem of selective disclosure by the Executive. As a consequence, inaction in response to an information request—i.e., when Congress is unable to compel disclosure—necessarily confers victory on the Executive. The default result is nondisclosure. 77 Selective release of information designed to cast the President or his policies in a favorable light while simultaneously withholding any damaging information or counterarguments manipulates public opinion, spinning any dispute over further disclosure in the Executive’s favor. A recent stark example is President Bush’s decision to declassify select portions of the National Intelligence Estimate on Iraq to provide support for going to war in 2003.78 This selective disclosure was designed to alter public perception and to bolster support for President Bush’s preferred policy. Though evidence later revealed that the Bush Administration had failed to disclose the full story, Congress could not contemporaneously rebut these selective disclosures. The Executive’s control over information thus provides a tool to perpetuate its monopoly by use of partial information to manipulate public opinion and stave off effective congressional inquiry.¶ Proponents of the current system assume that Congress can overcome these structural biases in favor of executive secrecy. To be sure, Congress does possess several political tools theoretically useful for obtaining information from the Executive: the power to investigate by committee; to appropriate (or withhold) funds; to withhold confirmation of appointed officials; to bring law suits; and, in extreme cases, to impeach.79 While all of these tools may be applied to attempt to compel the Executive to disclose information,80¶ First, all extract a significant toll in political capital, sometimes more than Congress possesses. each is problematic, either because it is ineffective or counterproductive.¶ First, all extract a significant toll in political capital, sometimes more than Congress possesses. Second, to exercise its powers, Congress must overcome the significant challenges to collective action that plague all legislative decision making. Given the drastic nature of some of Congress’s tools, those challenges prove insurmountable in all but the most extreme cases. ¶ Third, the disclosure or nondisclosure of some information can dramatically change the very political environment upon which the current system relies to resolve disputes. When Congress most needs information—because it possesses only hints of wrongdoing, error, or waste within the executive branch—is precisely when it lacks both political capital and incentive to compel disclosure. Yet if additional information reveals malfeasance, public support for Congress’s active pursuit of an investigation becomes considerably more intense. Until that information becomes public, Congress may lack sufficient support to maintain the political will necessary to pursue the issue. 84\\

####  Obama will use article 2 to sidestep cyber operations restrictions

Currier 13 (Cora, Former editor of the New Yorker, “Drone strikes test legal grounds for ‘war on terror’”, 2/6/13, <http://www.pbs.org/wnet/need-to-know/security/drone-strikes-test-legal-grounds-for-war-on-terror/16252/>)

Presidents have used force without Congressional authorization by invoking presidential powers under Article II of the Constitution. Obama ordered airstrikes over Libya in the spring of 2011 citing international cooperation and “national interest” as justification. (Several lawmakers subsequently sued the administration for bypassing them, but the case was dismissed.) He has also claimed authority to launch pre-emptive cyberattacks, the New York Times reported this weekend. President Bill Clinton cited the nation’s right to self-defense when he bombed Afghanistan and Sudan in 1998 in retaliation for the bombing of U.S. embassies in East Africa.

#### Article 2 provides a separate justification for OCOs

Chesney 11 (Robert, Charles I. Francis Professor in Law at the University of Texas School of Law, Non-resident Senior Fellow of the Brookings Institution, “Offensive Cyberspace Operations, the NDAA, and the Title 10-Title 50 Debate”, 12/14/11, <http://www.lawfareblog.com/2011/12/cyberoperations/>)

First, section 954 makes clear that DOD can conduct offensive cyberspace operations (OCOs) under certain conditions, defined very, very loosely as the defense of the nation, of allies, and of our “interests.” That’s not much of a limitation, of course; the reference to interests would seem to encompass just about any scenario in which one might like to be able to conduct an offensive operation. And I suppose some might look at this language and draw the conclusion that section 954 is some kind of free-standing cyber-AUMF, usable at presidential discretion. But I really do not think this is what the “affirmation” language means to signify. On the contrary, with respect to separation of war powers I think the whole section is premised on the notion that there already is some separate underlying legal foundation for the action, such as the 9/18/01 AUMF in the case of an OCO directed at an al Qaeda website or Article II national self-defense for fact patterns that might fall under that heading. Put another way, I don’t think the purpose of section 954 is to grant new authority, but rather to clarify a variety of procedural and substantive questions OCOs raise. So on to the first such issue, which concerns the decision-making process.

## CP

#### political pressure to revise any bad practices

### AT Perm Do Both

#### The perm links and the CP doesn’t – Congress wants to avoid any responsibility

Zelizer ‘11

Julian E. Zelizer, professor of history and public affairs at Princeton University, “War powers belong to Congress and the president”, June 27, 2011, http://www.cnn.com/2011/opinion/06/27/zelizer.war.powers/index.html

Since President Harry Truman sent troops into Korea in 1950, legislators have let presidents make the initial decision as to whether military force should be used. There are many reasons for why presidents usurped so much power. In most areas of government, the legislative branch of government lost some of its power in the 20th century. As government expanded, and as the U.S. gained more of a stake in other parts of the world and with the advent of nuclear weapons, there was a need for quicker decision-making. A greater number of politicians in both parties supported the centralization of power in the White House. Very often Congress was also eager to avoid having to decide whether to declare war so it could force presidents to shoulder the blame when things went wrong. At other times, the party in control of Congress agreed with the president's military agenda so that legislators were happy to delegate their authority, as was the case in 1950 (Korea) and Iraq (2003). The first problem is that the U.S. now tends to go to war without having a substantive debate about the human and financial costs that the operation could entail. Asking for a declaration of war, and thus making Congress take responsibility for the decision, had required presidents to enter into a heated debate about the rationale behind the mission, the potential for large-scale casualties and how much money would be spent. When presidents send troops into conflict without asking Congress for approval, it has been much easier for presidents to elude these realities. President Lyndon Johnson famously increased the troop levels in Vietnam without the public fully realizing what was happening until after it was too late. The result of the decision-making process that has been used in recent decades is that as a nation too many citizens lose their connection to the war. Indeed, most Americans don't even think twice when troops are sent abroad. The shift of power toward the president has compounded the effects of not having a draft, which Congress dismantled in 1973. Wars sometimes resemble just another administrative decision made by the White House rather than a democratic decision.

## Satellites

#### 1. Massive expansion in cyber defense spending now

Japan Times 2/5/13

<http://www.japantimes.co.jp/news/2013/02/05/world/u-s-oks-pre-emptive-cyber-attacks/#.UiIvqzafjRU> ETB

The review came as the U.S. Department of Defense approved a five-fold expansion of its cybersecurity force over the coming years in a bid to increase its ability to defend critical computer networks.

#### 2. Defense spending on the rise – solve DoD disruptions

Rashid 7/16

(Fahmida Y. Rashid is a contributing writer for SecurityWeek, “Nations Boost Cyber Defense Spending to Protect Critical Infrastructure” July 15, 2013, <http://www.securityweek.com/nations-boost-cyber-defense-spending-protect-critical-infrastructure>, KB)

President Barack Obama signed the executive order in February requiring the National Institute of Standards and Technology (NIST) to create a framework for "reducing cyber-risks to critical infrastructure." NIST, in collaboration with the General Services Administration, Department of Defense, and Department of Homeland Security, has been holding a series of workshops to identify priority elements and released an initial draft on July 1. The draft will be expanded and refined over the next few weeks to identify the "voluntary" guidelines organizations will have to meet in order to protect their critical networks from cyber-attacks.¶ Cyber Attacks¶ The increased focus on cyber-security is translating directly to increased spending.¶ Just last month, a cyber-security budget from the DoD called for spending almost $23 billion through fiscal year 2018. The budget included initiatives to protect computer networks and to develop offensive capabilities. The budget requested $4.72 billion in fiscal 2015, $4.61 billion in 2016, $4.45 billion in 2017, and $4.53 billion in 2018, according to Bloomberg News, who obtained a copy of the budget document.¶ In comparison, the White House asked for $4.65 billion for the 2014 fiscal year in the budget proposal sent to Congress back in April. The 2014 figure is an 18 percent increase over this year's budget.¶ The Pentagon plans to spend $9.3 billion through 2018 for information-assurance systems that would block attackers and prevent disruptions on DoD's networks. Another $8.9 billion will be spent on cyber-operations, which would include both defensive and offensive capabilities. The U.S. Cyber Command’s headquarters is projected to receive as much as $1.28 billion through 2018.

#### 3. Patriotic hackers trigger their impacts

Owens et al 9

(William A. Owens, as an Admiral in the United States Navy and later Vice Chairman of the Joint Chiefs of Staff, \*\*Kenneth W. Dam, served as Deputy Secretary of the Treasury from 2001 to 2003, where he specialized in international economic development, \*\*Herbert S. Lin, Senior Scientist and Study, “Technology, Policy, Law, and Ethics Regarding U.S. Acquisition and Use of Cyberattack Capabilities” 4/27/2009, <http://www.lawfareblog.com/wp-content/uploads/2013/01/NRC-Report.pdf>, KB)

Past experience strongly indicates that conflict or increased tension ¶ between two nations will result in the “patriotic hackers” of both nations ¶ (and perhaps their allies) taking action intended to harass or damage the ¶ other side. Such activities are not under the direct control of the national ¶ government, and as discussed in Section 7.2.3.3 may well interfere with ¶ the efforts of that government to manage the crisis vis-à-vis the other ¶ side.4¶ Indeed, the government of a targeted nation is likely to believe ¶ that a cyberattack conducted on it is the result of deliberate adversarial ¶ action rather than the actions of “unauthorized” parties. Thus, unauthorized activities of the patriotic hackers of Zendia against the United States ¶ may lead the United States to believe that the Zendian government has ¶ launched a cyberattack against it. A U.S. cyberattack against Zendia may ¶ be seen by the Zendian government as a cyber first strike against it.¶ Yet another complication involving patriotic hackers is the possibility ¶ that they might be directed by, inspired by, or tolerated by their government (or a rogue section within it), but in ways in which the government’s ¶ hand is not easily visible. Under such circumstances, hostile acts with ¶ damaging consequences could continue to occur (with corresponding ¶ benefits to the nation responsible) despite official denials. At the very ¶ least, the possibility that patriotic hackers may be operating could act as ¶ a plausible cover for government-sponsored cyberattacks, even if there ¶ were in fact no patriotic hackers doing anything.

#### Everyone is going to weaponize anyways

**Redifer 11** - LtCol, USMC, paper submitted in fulfillment of a degree from the Air War College at Air University (Stephen, “TAKING THE INITIATIVE – PROTECTING US INTERESTS IN SPACE ,” 2/16,)

The execution of such tasks will undoubtedly be extraordinarily difficult given the global nature of space, the increasing commercialization of space, and the worldwide reliance on products provided by space-based platforms. The demand for ready access to such services is exceptionally diverse and touches all aspects of government as well as the commercial sector; in some cases, the consumer may not even be aware that a particular product comes from space, which may make even explaining the importance of space protection difficult.9 This demand and the corresponding need to protect space-based assets is reflected in the NSP, as the dangers to US space systems are manifold, and include threats to satellites themselves such as kinetic attack, cyber attack, and jamming, as well as attacks on ground infrastructure.10 For the purposes of this paper, the threat analysis will focus on man-made hazards (vice environmental) that may be posed by potential US competitors or adversaries. Since the 2007 test of a kinetic kill anti-satellite system by the Chinese military, the threat in space posed by the People’s Republic of China has been of growing concern to the United States. China continues to build its national power through rapid economic growth and advances in science and technology, and recent developments in the People’s Liberation Army demonstrate a corresponding desire to extend Chinese influence beyond mainland China. Not surprisingly, Chinese military leaders have expressed both their interest in space and their understanding of the US dependence on space-based assets; in fact, “China is developing a multi-dimensional program to improve its capabilities to limit or prevent the use of space-based assets by potential adversaries.”11 Additionally, the Russian Federation continues to express concern over US space and missile defense initiatives; political-strategic uncertainty in US-Russian relations will likely always be present, and it is often unclear how US actions will be perceived by Russia. In late summer of 2009, General Alexander Zelin, Commander of the Russian Air Force, stated that “Russia's armed forces it must be ready to deter potential aggressors at regional and global levels in peaceful times and to rebuff an armed aggression” and asserted that Russia was developing a new surface-to-air rocket for the purpose of air and space defense12. In 2003, the Russians provided Iraq with GPS jammers, which proved moderately successful against some precision strike weapons 13 and, regardless of success, demanded attention from military planners. Despite numerous changes and upheaval since the end of the Cold War, Russia cannot be ignored: “[s]ince 1999, the United States’ share of global GDP has declined, while that of Brazil, Russia, India, and China (BRIC) has increased. By 2014, the International Monetary Fund predicts that BRIC countries will represent more than 27 percent of global GDP, and the United States and the EU will represent less than 20 percent each.”14 Finally non-state actors as well as “rogue” states have expressed an interest and a capability to interfere with or deny the use of space systems. Indonesia has jammed a Chinese communications satellite, Iran and Turkey have jammed satellite broadcasts within their countries, and Iran jammed Voice of America broadcasts in 2003.15 Perhaps more significantly, Iran launched a 600-pound satellite into orbit in February 2009, an accomplishment that took years of preparation and indicates that Iran has developed a multi-stage rocket.Given the current US advantage and commensurate dependence on space power, a rogue state or non-state actor would have little to lose but much to gain by attacking US space systems and space infrastructure; such a state or non-state actor would also not suffer as directly as the US should it take an action that polluted the space environment. This complex and varied threat environment is compounded by the diversity of national and international agencies with a legitimate stake in space. A cursory glance at a depiction of the US National Security Space Community presented by Dr. Peter Hays of the National Security Space Office (Figure 1) 16 shows the diversity of agencies that both comprise and affect National Security Space (NSS)17; it can be seen that this community extends well beyond the NSS core members (DoD and the IC), and includes entities such as civil space agencies (e.g., NASA and NOAA) and the commercial sector. Each of these stakeholders has its own vested interests, roles, and equities in space, many of which may not align; however, the products and services that they produce are interwoven into all aspects of the US government and its citizenry. The NSS community is both a provider and a voracious user of space-based systems and the products these systems provide and, over the previous 20 years, this demand has increased dramatically, resulting in a dependence on force enhancement capabilities such as global positioning and satellite communications (SATCOM). Considering the use of precision guided munitions (which rely on GPS signals) it can be seen that 92% of the weapons employed during Desert Storm were unguided, while only 32% of the weapons employed during the air campaign portion of Operation Iraqi Freedom were unguided (Figure 2) 18. Additionally, growth and reliance in other areas, such as SATCOM and missile warning, are only expected to increase in the coming years, and the DoD is expected to continue to invest billions of dollars in major space programs well into the foreseeable future (Figure 3). In the civil sector, the NSP also directs the NASA Administrator and the Secretaries of Commerce and the Interior to undertake a number of tasks in space, to include maintaining the International Space Station through 2020 and beyond, maintaining a program for operational land remote sensing observations, and (in consonance with the Secretary of Defense) ensuring uninterrupted, operational polar-orbiting environmental satellite observations.19 These efforts will play a significant role in research and development and will aid in assessing climate change, predicting weather, and providing timely information in support of disaster relief operations, all functions that are of vital interest to US, state, and local governments as well as the population writ large. In order to carry out this ambitious directive, NASA has seen a significant budget increase, including a top line increase of $6.0 billion over 5 years (FY 2011-15) compared to the FY 2010 budget, for a total of $100 billion over five years. Given this budget increase, NASA intends to pursue new approaches to space exploration, conduct research and development on heavy-lift and propulsion technologies, seek increased utilization of the International Space Station, and accelerate the next wave of climate change research and observations spacecraft 20 – these goals are clearly linked to the NSP and the significant monetary investment in NASA programs is a clear indicator of the national importance attached to these initiatives. This growth has been matched by unprecedented investment in space systems and space products in the commercial sector, as a growing number of companies have developed both satellites and terrestrial systems that depend on space products.

#### Developing norms is impossible, especially for rogue and non-state actors – the aff is more likely to cause attacks than prevent it

Stevens 13

(Tim Stevens, a researcher in the Department of War Studies, King's College London, specialising in the relationships between society and technology. He is an associate of the Centre for Science & Security Studies, and an associate fellow of the International Centre for the Study of Radicalisation & Political Violence, “A Cyberwar of Ideas? Deterrence¶ and Norms in Cyberspace”2012, Contemporary Security Policy, 33:1 <http://www.tandfonline.com/doi/pdf/10.1080/13523260.2012.659597>, KB)

It is too early to tell quite how norms will emerge in this developing ﬁeld, although

we have tried to delineate the broad outlines of strategy, political discourse and policy

proposals. As such, we cannot tell what the consequences of these developments will be, although further moves will be made towards bilateral and multilateral technical¶ and information-sharing agreements and frameworks, even whilst the utility of these¶ actions will continue to be hotly debated. It is likely that the ability to broker global¶ agreements or treaty mechanisms will be hampered as much by cultural differences¶ between, for example, the US and Russia, as it will by the tactical and operational¶ difﬁculties in achieving technical security regimes satisfactory to all parties. The¶ central unstated purpose of these activities is to normalize the exercise of state¶ power in cyberspace. In this respect, all state parties agree; the differences emerge¶ in how this is pursued.¶ Even as states attempt to regulate the use of cyberspace for, inter alia, military¶ ﬁrst strikes, they will retain signiﬁcant military and intelligence cyber capabilities¶ to be exercised below the level of an as-yet unascertained cyber conﬂict threshold.¶ The latter may require legal deﬁnition at the global level, or it may yet fall to unilateral declarations of tolerance, or displays of force posture or operational capacity,¶ most likely in conjunction with strategic allies. It may be that the norm that¶ emerges from this situation is not of non-use but of ‘acceptable’ use, which serves¶ to demonstrate where the ‘red lines’ of cyber operations are. It is unlikely, therefore,¶ that a ‘cyber taboo’ analogous to nuclear and chemical weapons taboos will be constructed.129 In the absence of any ﬁrm notion of what, for example, a ‘cyberwar’¶ might actually look like, there may be little immediate societal pressure to avoid¶ one, and plenty of latitude afforded to states to develop capabilities that might conceivably be used in one, if such a thing even exists.130 Nevertheless, as Nina Tannenwald argues with respect to the nuclear taboo, a norm of non-use may stand a greater¶ chance of being adopted by alliances of democracies than by authoritarian states.131¶ However, given the possible US-Israeli involvement in the Stuxnet sabotage of¶ Iranian nuclear technology, we must wonder if we are already past this point.132¶ The lure of a voluntary framework banning the offensive use of cyberspace may¶ prove irresistible to many ‘like-minded nations’, even if its actual applicability is¶ strictly limited. Importantly, an international normative regime not backed with coordinated and credible force will serve no deterrent function against exactly those¶ ‘rogue’ and non-state actors most likely to conduct disruptive cyber operations.¶ Yet the question remains: how effective is a norms-based approach to cyber deterrence likely to be? How can we tell what aspects of a deterrence strategy are working,¶ or which aren’t? In truth, it is much too early to know. Even if it were possible to¶ get all parties to comply with a set of norms hammered out through diplomacy and¶ other forms of negotiation, what guarantees are there that these would be adhered¶ to? Again, there are no such guarantees. It may be that states can be persuaded to¶ comply with international normative frameworks through a mix of inducement, coercion and moral pressure. So too might industry and civil society be persuaded to do¶ their part through a gradual process of cultural learning, and all parties work together¶ to achieve the ‘global culture of cybersecurity’ currently aspired to. Even were these¶ norms to operate strongly and bind together these actors such that norms of non-use or¶ acceptable use became institutionalized, they are never likely to persuade all who¶ might have the capabilities to prosecute actions in cyberspace that constitute strategic¶ threats. For this reason alone, states and their militaries and security services will,¶ even whilst pursuing denial strategies and improving defensive cybersecurity, be¶ loath to abandon the search for effective punitive measures through which deterrence might be achieved. In turn, the norm of retaliatory punishment may prove to be a powerful deterrent in itself.

## SOP

#### OCO’s don’t undermine SOP, but plan kills presidential flexibility

**Lorber ‘13**

[Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University

Department of Political Science. Journal Of Constitutional Law 15.3 <https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013>. ETB]

This analysis suggests that, given inherent weaknesses in the underlying ¶ statutory schemes, excluding offensive cyber operations from their scope ¶ does not substantially shift the balance of war-making authority between the ¶ President and Congress. This exclusion does, however, provide the ¶ President additional, powerful means by which to conduct military action ¶ without congressional oversight. ¶ Based on analysis of the War Powers Resolution, the lack of oversight for ¶ OCOs does not radically shift the balance between the legislative and ¶ executive branches’ war-making authority. Most notably, because the War ¶ Powers Resolution itself has proven ineffective in providing Congress with a ¶ powerful tool to govern presidential use of force, bringing OCOs under the ¶ War Powers Resolution’s statutory umbrella likely would not provide the ¶ possibility of such oversight. However, insofar as the President has ¶ increasingly turned to covert action since the passage of the War Powers ¶ Resolution to avoid its reporting requirements,233 offensive cyber operations provide the President another means by which to continue this trend. ¶ OCOs therefore may give the President substantially more flexibility than he ¶ already has under the War Powers Resolution by adding what will become an ¶ increasingly frequent tool of warfare to his option-set. The lack of congressional oversight of offensive cyber operations under ¶ the Intelligence Authorization Act also likely does not seriously shift the ¶ balance between congressional and executive war-making powers. The ¶ reason is inherent in the limitations of the legislation itself: the Intelligence ¶ Authorization Act specifies reporting requirements, but does not require the ¶ non-use or withdrawal of forces.234 Further, these reports must be made in a ¶ “timely” fashion (the definition of which is undefined) and only to a small ¶ number of Congressmen (at most eight).235 Thus even if the President had ¶ to report offensive cyber operations to Congress, it is unclear he would have ¶ to do so in a way that gave Congress an effective check, as these reports ¶ would be made only to a small group of Congressmen (who would not be ¶ able to share the information, because of its classified nature, with other ¶ members of the legislature) and could be done well after the employment of ¶ these capabilities. The resulting picture is one of increased presidential ¶ flexibility; the War Powers Resolution and the Intelligence Authorization ¶ Act—while arguably ineffective in many circumstances—provide increased ¶ congressional oversight of presidential war-making actions such as troop ¶ deployments and covert actions. Yet these statutes do not cover offensive ¶ cyber operations, giving the President an increasingly powerful foreign ¶ policy tool outside congressional reach.

## Solvency

#### Multiple reasons statutory restrictions don’t solve

Dycus 10

(Stephen, Professor of National Security Law at Vermont, Congress’ Role in Cyber Warfare, <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf>, BS)

Congress’s active role in the development and implementation of cyber warfare policy is no guarantee of national security. The policy might be flawed in various ways. There is also a risk that whatever policy is adopted will not be properly executed or that its execution will have unintended results. The policy might be misunderstood or might not provide clear or appropriate guidance in the urgent circumstances facing its interpreter. The person charged with implementing the policy might make a mistake – for example, by interpreting a potential enemy’s electronic espionage as an attack. Available cyber weaponry might not work as planned. Or a purely defensive move by U.S. operators might be construed by another nation as offensive, and provoke an attack. Nor can the clearest policy, statutory or executive, guarantee compliance by an Executive determined to ignore it.71 The rules might be construed by the President in a way that reduces the importance of Congress’s role. Or they might be challenged in court.

### 2NC Overview

#### That comparatively outweighs case

Singer 1

[Clifford Singer, Director of the Program in Arms Control, Disarmament, and International Security at the University of Illinois at Urbana—Champaign. “Will Mankind Survive the Millennium?” The Bulletin of the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana-Champaign, 13.1, <http://www.acdis.uiuc.edu/> research/S&Ps/2001-Sp/S&P\_ XIII/Singer.htm Published Spring 2001]

In recent years the fear of the apocalypse (or religious hope for it) has been in part a child of the Cold War, but its seeds in Western culture go back to the Black Death and earlier. Recent polls suggest that the majority in the United States that believe man would survive into the future for substantially less than a millennium was about 10 percent higher in the Cold War than afterward. However fear of annihilation of the human species through nuclear warfare was confused with the admittedly terrifying, but much different matter of destruction of a dominant civilization. The destruction of a third or more of much of the globe’s population through the disruption from the direct consequences of nuclear blast and fire damage was certainly possible. There was, and still is, what is now known to be a rather small chance that dust raised by an all-out nuclear war would cause a so called nuclear winter, substantially reducing agricultural yields especially in temperate regions for a year or more. As noted above mankind as a whole has weathered a number of mind-boggling disasters in the past fifty thousand years even if older cultures or civilizations have sometimes eventually given way to new ones in the process. Moreover the fear that radioactive fallout would make the globe uninhabitable, publicized by widely seen works such as “On the Beach,” was a metaphor for the horror of nuclear war rather than reality. The epidemiological lethal results of well over a hundred atmospheric nuclear tests are barely statistically detectable except in immediate fallout plumes. The increase in radiation exposure far from the combatants in even a full scale nuclear exchange at the height of the Cold War would have been modest compared to the variations in natural background radiation doses that have readily been adapted to by a number of human populations. Nor is there any reason to believe that global warming or other insults to our physical environment resulting from currently used technologies will challenge the survival of mankind as a whole beyond what it has already handily survived through the past fifty thousand years. There are, however, two technologies currently under development that may pose a more serious threat to human survival. The first and most immediate is biological warfare combined with genetic engineering. Smallpox is the most fearsome of natural biological warfare agents in existence. By the end of the next decade, global immunity to smallpox will likely be at a low unprecedented since the emergence of this disease in the distant past, while the opportunity for it to spread rapidly across the globe will be at an all time high. In the absence of other complications such as nuclear war near the peak of an epidemic, developed countries may respond with quarantine and vaccination to limit the damage. Otherwise mortality there may match the rate of 30 percent or more expected in unprepared developing countries. With respect to genetic engineering using currently available knowledge and technology, the simple expedient of spreading an ample mixture of coat protein variants could render a vaccination response largely ineffective, but this would otherwise not be expected to substantially increase overall mortality rates. With development of new biological technology, however, there is a possibility that a variety of infectious agents may be engineered for combinations of greater than natural virulence and mortality, rather than just to overwhelm currently available antibiotics or vaccines. There is no a priori known upper limit to the power of this type of technology base, and thus the survival of a globally connected human family may be in question when and if this is achieved.

**Increasing green cards generates effective IT experts to combat cyber war**

**McLarty 9**

(Thomas F. III, President – McLarty Associates and Former White House Chief of Staff and Task Force Co-Chair, “U.S. Immigration Policy: Report of a CFR-Sponsored Independent Task Force”, 7-8, http://www.cfr.org/ publication/19759/us\_immigration\_policy.html)

We have seen, **when you look at the** table of the **top 20 firms that are H1-B visa requestors**, at least 15 of those **are** IT firms. And as we're seeing across industry, much of the hardware and software that's used in this country is not only manufactured now overseas, but **it's developed overseas** by scientists and engineers who were educated here in the United States.¶ **We're seeing a lot more activity around cyber-security, certainly** noteworthy **attacks** here **very recently**. It's becoming an increasingly dominant set of requirements across not only to the Department of Defense, but the Department of Homeland Security and the critical infrastructure that's held in private hands. **Was there any discussion** or any interest from DOD or DHS as you undertook this review on the security **things about what can be done to** try to **generate a more effective group of IT experts here in the U**nited **S**tates, **many of which are coming to the U.S. institutions**, academic institutions **from overseas and** often **returning back? This** potentially **puts us at a competitive disadvantage** going forward.¶ MCLARTY: Yes. And I think your question largely is the answer as well. I mean, **clearly we have less talented students here studying** -- or put another way, more **talented students** studying in other countries that are gifted, talented, really **have a tremendous ability to develop these kind of technology and scientific advances**, we're going to be put at an increasingly disadvantage. Where if they come here -- and **I** kind of **like** Dr. Land's approach of **the green card being handed to them** or carefully put in their billfold or purse as they graduate -- then, obviously, **that's** **going to strengthen**, I think, our system, **our security needs**.

#### That *deters* and *solves the impact* to cyberattacks

**Saydjari 8**

**(**O. Sami, Cyber Defense Agency, LLC, “Structuring for Strategic Cyber Defense: A Cyber Manhattan Project Blueprint”, 2008 Annual Computer Security Applications Conference, http://www.acsac.org/2008/program /keynotes/saydjari.pdf)

#### As a step toward a security research plan that includes such capabilities, we should identify endstates— goals in terms of how we want our systems to ideally operate. This fresh perspective includes the overall strategic picture and connects clearly with strategic actions that significantly mitigate strategic vulnerabilities. If, for example, the nation has a capability to quickly recover its critical information infrastructure, then the end-state is that strategic attack damages are mitigated and critical services are restored quickly, possibly deterring adversaries from attempting a future attack. Desired End-States. The National Cyber Defense Initiative (NCDI) Opening Moves Workshop [4] identified important end-states, the outcome of a 10- year research effort to create critical capabilities. The following end-states appear in the workshop proceedings: --Continuity of Critical Information Infrastructure Operations. Create technology that would be the basis for a resilient US cyber infrastructure that would sustain critical functions in the face of attacks, including those that could be affected by determined adversaries. --Well-Defended Critical Assets. Make it economically prohibitive for an adversary to cause strategic damage to critic Immigration reform is key to the economy

Krudy 13

(Edward, “Analysis: Immigration reform could boost U.S. economic growth” Jan 29, 2013, Reuters)

The sluggish U.S. economy could get a lift if President Barack Obama and a bipartisan group of senators succeed in what could be the biggest overhaul of the nation's immigration system since the 1980s. Relaxed immigration rules could encourage entrepreneurship, increase demand for housing, raise tax revenues and help reduce the budget deficit, economists said. By helping more immigrants enter the country legally and allowing many illegal immigrants to remain, the United States could help offset a slowing birth rate and put itself in a stronger demographic position than aging Europe, Japan and China. "Numerous industries in the United States can't find the workers they need, right now even in a bad economy, to fill their orders and expand their production as the market demands," said Alex Nowrasteh, an immigration specialist at the libertarian Cato Institute. The emerging consensus among economists is that immigration provides a net benefit. It increases demand and productivity, helps drive innovation and lowers prices, although there is little agreement on the size of the impact on economic growth. President Barack Obama plans to launch his second-term push for a U.S. immigration overhaul during a visit to Nevada on Tuesday and will make it a high priority to win congressional approval of a reform package this year, the White House said. The chances of major reforms gained momentum on Monday when a bipartisan group of senators agreed on a framework that could eventually give 11 million illegal immigrants a chance to become American citizens. Their proposals would also include means to keep and attract workers with backgrounds in science, technology, engineering and mathematics. This would be aimed both at foreign students attending American universities where they are earning advanced degrees and high-tech workers abroad. An estimated 40 percent of scientists in the United States are immigrants and studies show immigrants are twice as likely to start businesses, said Nowrasteh. Boosting legal migration and legalizing existing workers could add $1.5 trillion to the U.S. economy over the next 10 years, estimates Raul Hinojosa-Ojeda, a specialist in immigration policy at the University of California, Los Angeles. That's an annual increase of 0.8 percentage points to the economic growth rate, currently stuck at about 2 percent. REPUBLICANS' HISPANIC PUSH Other economists say the potential benefit to growth is much lower. Richard Freeman, an economist at Harvard, believes most of the benefits to the economy from illegal immigrants already in the United States has already been recorded and legalizing their status would produce only incremental benefits. While opposition to reform lingers on both sides of the political spectrum and any controversial legislation can easily meet a quick end in a divided Washington, the chances of substantial change seem to be rising. Top Republicans such as Governor Bobby Jindal of Louisiana are not mincing words about the party's need to appeal to the Hispanic community and foreign-born voters who were turned off by Republican candidate Mitt Romney's tough talk in last year's presidential campaign. A previous Obama plan, unveiled in May 2011, included the creation of a guest-worker program to meet agricultural labor needs and something similar is expected to be in his new proposal. The senators also indicated they would support a limited program that would allow companies in certain sectors to import guest workers if Americans were not available to fill some positions. An additional boost to growth could come from rising wages for newly legalized workers and higher productivity from the arrival of more highly skilled workers from abroad. Increased tax revenues would help federal and state authorities plug budget deficits although the benefit to government revenues will be at least partially offset by the payment of benefits to those who gain legal status. In 2007, the Congressional Budget Office estimated that proposed immigration reform in that year would have generated $48 billion in revenue from 2008 to 2017, while costing $23 billion in health and welfare payments. There is also unlikely to be much of a saving on enforcement from the senators' plan because they envisage tougher border security to prevent further illegal immigration and a crackdown on those overstaying visas. One way to bump up revenue, according to a report co-authored by University of California, Davis economist Giovanni Peri, would be to institute a cap-and-trade visa system. Peri estimated it could generate up to $1.2 billion annually. Under such a system, the government would auction a certain number of visas employers could trade in a secondary market. "A more efficient, more transparent and more flexible immigration system would help firms expand, contribute to more job creation in the United States, and slow the movement of operations abroad," according to a draft report, soon to be published as part of a study by the Hamilton Project, a think tank. There was no immediate sign that either the Obama or the senators' plan would include such a system. The long-term argument for immigration is a demographic one. Many developed nations are seeing their populations age, adding to the burden of pension and healthcare costs on wage-earners. Immigration in the United States would need to double to keep the working-age population stable at its current 67 percent of total population, according to George Magnus, a senior independent economic adviser at UBS in London, While Magnus says a change of that magnitude may prove too politically sensitive, the focus should be on attracting highly skilled and entrepreneurial immigrants in the way Canada and Australia do by operating a points system for immigrants rather than focusing mainly on family connections. "The trick is to shift the balance of migration towards those with education (and) skills," he added. HARD ROAD Academics at major universities such as Harvard and the Massachusetts Institute of Technology often lament that many of their top foreign graduates end up returning to their home countries because visas are hard to get. "We have so much talent that is sitting here in the universities," said William Kerr, a professor at Harvard Business School. "I find it very difficult to swallow that we then make it so hard for them to stay." The last big amnesty for illegal immigrants was in 1986 when President Ronald Reagan legalized about 3 million already in the country. Numerous studies have shown that subsequently their wages rose significantly. Research on how immigration affects overall wages is inconclusive. George Borjas at Harvard says immigration has created a small net decrease in overall wages for those born in the United States, concentrated among the low-skilled, while Giovani Peri at UC Davis found that immigration boosts native wages over the long run. Hinojosa-Ojeda stresses that any reform needs to make it easier for guest workers to enter the country to avoid a new build-up of illegal workers. "If we don't create a mechanism that can basically bring in 300,000 to 400,000 new workers a year into a variety of labor markets and needs, we could be setting ourselves up for that again," said Hinojosa-Ojeda. Nowrasteh at Cato also believes an expanded guest worker program would stem illegal immigration and allow industries to overcome labor shortages. He found that harsher regulations in recent years in Arizona were adversely affecting agricultural production, increasing financial burdens on business and even negatively impacting the state's struggling real estate market. Some large companies have fallen foul of tougher enforcement regulations. Restaurant chain Chipotle Mexican Grill Inc fired roughly 500 staff in 2010 and 2011 after undocumented workers were found on its payrolls. Putting the chill on other employers, it is now subject of an ongoing federal criminal investigation into its hiring. "The current system doesn't seem to work for anyone," Chipotle spokesman Chris Arnold said.

al US infrastructures. Currently, adversaries can attack critical systems without investing substantial resources.

### 2NC Will Pass

#### Reform will pass

#### 1) The GOP will cave – they want a popularity boost

Robinson 10/18

(Eugene Robinson “Not a Good Fight” October 18, 2013 <http://www.realclearpolitics.com/articles/2013/10/18/not_a_good_fight_120375.html>, TSW)

Even on a day full of hope and possibility, I remain skeptical that the party is ready to budge from its basic demands -- to focus on deficit reduction, not economic growth, through tax and entitlement cuts, with no new revenue. Unless Republicans are willing to compromise and accept Obama's "balanced approach" of both cuts and revenue, there will be no grand bargain or even a middle-sized one.¶ Instead, we may get a series of small, discrete fiscal deals that do little good but no real harm. That's actually progress. We may also see the sensible, non-suicidal wing of the Republican Party take Obama up on his offer to tackle immigration reform. To put it mildly, the GOP needs a popularity boost.¶ What we won't see is the old pattern of the GOP smashing the crockery and getting its way. Obama has shown that even the most irrational of tantrums can be stilled by the power of no.

#### 2) Historical trends

Taley 10-16

Margaret Taley, 10/16/2013 (staff writer, “Obama’s Debt Fight Win Won’t Secure Agenda Success,” <http://www.businessweek.com/news/2013-10-16/obama-s-win-in-debt-fight-won-t-secure-success-for-future-agenda>, Accessed 10/17/2013, rwg)

Whether Obama gets from Congress a new immigration law or changes he’s seeking in taxes and entitlement programs depends on how Republicans read the outcome of this fight, Plouffe said.¶ He recalled that following their political loss in the 1996 shutdown, House Republicans under Gingrich reached deals with Clinton on welfare reform and the minimum wage.¶ “There was a strategic necessity for them post-shutdown to show they could govern,” Plouffe said. Immigration law “would be the natural place” for Republicans to act, he said.¶ “But I don’t think we know the answer yet,” he said. “They may say, ’We don’t feel the need to do what Gingrich did.’”

#### 3) Political alignment

Blouin News, 10-17

http://blogs.blouinnews.com/blouinbeatpolitics/2013/10/17/democrats-hope-to-capitalize-on-shutdown-win-with-immigration-pivot/

But the logic behind now being the time to act is that Republicans are divided **and conservative activists won’t be able to derail an overhaul of immigration rules the same way they did under George W. Bush**. It’s worth pausing to note, however, that the inability of Washington Republicans to get their way on Obamacare does not mean they are any less secure in their districts or in touch with their constituents’ views. **Immigration** reform remains a heavy lift so long as the Republican coalition is comprised mostly of white voters who will express disapproval on talk radio and to their members of Congress; business interests within the party may want an overhaul, but that was the case in 2007 as well. **What’s different now is that the business community grew so disillusioned with GOP obstruction during the shutdown debacle that it may be willing to more directly** [**train financial muscle**](http://www.nytimes.com/2013/10/10/us/business-groups-see-loss-of-sway-over-house-gop.html) **on Tea Party lawmakers**. The implications for the tension of the atmosphere at subsequent conservative confabs notwithstanding, the stars may be aligned **for the business world, Democrats, and the handful of Republicans determined to win back some Latino support to make this happen.**

#### 4) Evangelicals will push – creates a pathway for passage

UPI, 10-17

<http://www.upi.com/Top_News/US/2013/10/17/Evangelicals-for-immigration-reform-considerable-force-in-House/7441381955719/>

**Evangelical Christians are pulling together to advocate for action on immigration reform by the end of the year -- and** their influence could be substantial.¶ The Evangelical Immigration Table's “[Pray4Reform: Gathered Together in Jesus' Name](http://evangelicalimmigrationtable.com/pray4reform/)” campaign running from Oct. 12 through Oct. 20. includes more than 300 events in 40 states where members of the faith are praying for reform. The Evangelical Immigration Table is a coalition of evangelical Christian groups including World Relief, Bread for the World, and the National Latino Evangelical Coalition.¶ While many Americans who back changes in the immigration law do so for economic or political reasons, the Evangelical Immigration Table does not support any specific legislation or political party. Rather the group favors a pathway to citizenship for undocumented workers for moral reasons.¶ “There is overwhelming evidence in scripture for hospitality and for welcoming the stranger,” said the Rev. Gabriel Salguero who leads the National Latino Evangelical Coalition, a moderate-to-progressive evangelical organization. “The word stranger appears 92 times in the Old Testament and states 'Welcome the stranger because you were once a stranger.'”¶ A Senate-approved immigration bill stalled in House of Representatives passage earlier this year. Unrest in Syria, the roll out of Obamacare and the partial government shutdown have all overshadowed immigration reform efforts.¶ But **in light of the renewed push for reform in 2013** the personal is becoming political for some Christians. Many Evangelical church members and leaders plan to come to Washington for a two-day event on Oct 28-29 to lobby lawmakers and hold a news conference.¶ Jenny Yang, vice president of World Relief, said Evangelicals have come out of the woodwork because they don't want to miss an opportunity at a time when urgent change is needed.¶ “We've never advocated to a specific bill, but there are basic principles that we support,” Yang said.¶ Those principles include offering aid to people in need, keeping families together and welcoming those who are new to the county. But both Yang and Rev. Salguero understand that merging political and personal beliefs is unusual evangelicals.¶ While not every evangelical in the United States supports immigration reform, a CBS poll conducted in July showed that **three out of four evangelicals favor reform efforts.**¶“We know it's a win-win,” Salguero said. “Ours in the moral argument, but we know there is overwhelmingly evidence that there is an economic need for it”¶ The Senate-passed bill would overhaul the immigration system, allowing some of the nearly 12 million undocumented immigrants in the United States to eventually achieve citizenship, provided they pay taxes and learn English. Many economists argue this will boost the U.S. economy and add jobs.¶ William **Galston, a senior fellow at the Brookings Institution thinks Evangelical backing for support for immigration reform is important. Galston reasoned that the mainly Republican group in the House -- those most resistant to changes benefiting** the undocumented -- might also be the most responsive to the Evangelical movement.¶ “If Evangelical leaders walked the halls of Congress and knocked on the doors of Southern Republicans, they won't be turned away,” Galston said.¶ Yang said Evangelicals held over 100 meetings with members of both parties during reform-related events this past summer. October's events in Washington will focus on meeting with even more members of Congress.¶ “For members who do take their faith very seriously, we are trying to reach out to them, and say have you considered this issue through the lens of your faith?” Yang questioned.¶ The role of faith in legislative matters is woven into the history of the United States.¶ “The separation of church and state is one thing, but the separation of religion and politics is another," Galston said. “This is nothing new.”¶ While **the push for immigration reform is intensifying,** time is dwindling to get it passed by the end of the calendar year.¶ “Every day that we don't see legislation, there is a cost to an action,” Yang said.¶ While the question of when immigration reform will pass lingers, Brookings senior fellow Galston says the **Evangelicals are showing a real sign of commitment.**¶ **“They are not going to give this up without a fight**,” he said. “These are some tough, experienced people, so stay tuned.”

#### 5) Broad amount of support

The Hill, 10-17

http://thehill.com/blogs/congress-blog/foreign-policy/329127-documentary-shows-why-immigration-movement-will-survive-congressional-dysfunction-

As this history was reviewed at New York’s Lincoln Center, the filmmakers, **key immigration reform advocates and congressional** staffers -- stars of the films -- **assessed why they are more optimistic now, given how democracy works now. First, advocates of 10 years ago are no longer fighting alone.** From the ashes of those battles emerged a powerful movement of immigration reformers led by DREAMers, those who were brought to the U.S. as children without documents and now seek citizenship. The central force of the campaign is not inside the Capitol, in Sen. Kennedy’s former hideaway on the second floor, but in communities across the U.S. where activists are determined to hold Congress accountable until members enact commonsense reform with a path to legalization and citizenship. They showed their electoral strength in 2012 when a record number of Latinos voted and created a mandate for immigration reform. **Another key change is the united front of the immigration campaign. Business and labor, including the AFL-CIO, faith-based groups, advocates of immigrant families, communities of color, agriculture workers and growers, Main Street, Wall Street and Silicon Valley all backed the bipartisan Senate bill and now eagerly await House action**. The coalition also is more strategic. Communicators are armed with polling showing strong, bipartisan support for reform; online campaigns include videos urging voters to call Congress; and rapid response teams have trounced opponents. Field organizers also are able to stage marches and rallies with thousands, or one-on-one meetings with members of Congress in their district offices. And they are smarter as they watch the dance of this legislation, ready to call out a member who seems more interested in playing partisan politics with the issue than focused on getting a bill through Congress. “The system yields when you are powerful enough to make it yield,” said Frank Sharry, executive director of America’s Voice, the communications arm of the immigration campaign. “It’s under our control. It’s not up to (Congress). It’s up to us. That’s why we can work with the dysfunction.” Camerini and Robertson, are back in Washington filming what they hope will be this story’s ending. “We will win,” **Sharry predicted** at the film festival, “sooner or later.”

#### **7. Here’s the rest of your card**

Parnes 10/18 (Amie, October 18th, 2013, White House correspondent at The Hill, “Obama’s Hollow Debt Victory”, <http://thehill.com/homenews/administration/329219-obamas-hollow-debt-victory>)

Another former White House official saw things differently and argued Obama now has a real shot at securing a victory on the immigration bill. “The trick here is to capitalize on the moment without spiking the football,” the former official said. “On immigration, if he could tailor what he’s doing as part of functionality and not as politics, that would be key." Cal Jillson, a professor of political science at Southern Methodist University said Obama could capitalize on the victory simply by seizing on a Republican Party “in disarray.” On immigration, “it’s a question of whether he can develop the issue in such a way that that it’ll give them little choice,” Jillson said, adding that Obama “can make the argument that it is critical in a number of ways.”

#### CIR will pass – dem political strategy will force republicans in a corner akin to debt fights

Fournier 10/16/13

(Ron Fournier National Correspondent and Editorial Director “Obama Wins! Big Whoop. Can He Lead?” October 16, 2013 <http://www.nationaljournal.com/white-house/obama-wins-big-whoop-can-he-lead-20131016>, TSW)

There is already a lack of seriousness in the air. On Tuesday, the president declared immigration reform to be his top priority after the fiscal crisis. It's a curious choice, given the magnitude of the debt and the durability of the size-of-government debate. Does Obama really think immigration is a more serious problem? Or is it merely the best political issue for Democrats?¶ It is tempting to assume that Obama has abandoned any hope of governing and is obsessed instead on Democrats seizing control of the House next year, an unlikely occurrence given the GOP's structural advantages. "We can't govern," a senior White House aide told me, "without the House." Obama's immigration message is modeled suspiciously on his fiscal-crisis talking points. Blaming House Speaker John Boehner for preventing immigration from coming up for a vote in the past, Obama said Tuesday, "The only thing right now that's holding it back is, again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives."¶ It looks like Obama plans to walk Republicans into another box canyon, this one of his making.

#### CIR will pass – momentum will come back and Republican win

Matthews 10/17/13

(Laura is a U.S. politics reporter for the International Business Times. “Immigration Reform 2013: ‘Finish The Job,’ Obama Tells Congress” October 17 2013 1:43 PM <http://www.ibtimes.com/immigration-reform-2013-finish-job-obama-tells-congress-1430650>, TSW)

In addition to pursing a balanced budget and finding consensus on a farm bill, Obama urged Congress to finish the work started on comprehensive immigration reform. The momentum pro-reform advocates saw earlier this year died off with the fiscal fight that ended Wednesday night, but now the president thinks it can come back. ¶ “We should finish the job of fixing our broken immigration system,” Obama said at a White House conference on Thursday. “There is already a broad coalition across America that’s behind this effort of comprehensive immigration reform.”¶ The Senate passed its 2013 comprehensive immigration reform bill in June, which included an increase in border security and a 13-year path to citizenship for immigrants in the country without legal papers. However, House Republicans have said they will not act on that measure unless it is supported by a majority of their caucus.¶ “The majority of Americans thinks this is the right thing to do,” Obama said. “And it’s sitting there waiting for the House to pass it. Now if the House has ideas on how to improve the Senate bill, let’s hear ’em. Let’s start the negotiations.”¶ Obama encouraged lawmakers to not put off the problem for another year or longer.¶ “This can and should get done by the end of this year,” he said.¶ In response to the president's call for action on immigration reform, American’s Voice, a pro-reform group, said the principal question remains whether House Speaker John Boehner will act.¶ The group’s executive director, Frank Sharry, called Obama’s offer a “get-out-of-jail card” being presented to Boehner and “smart” House Republicans.¶ “Working with Democrats to pass reform will help the GOP rehabilitate their badly damaged brand; solve a huge political problem facing the GOP with respect to Latino, Asian and immigrant voters; and prove to the American people they can govern responsibly rather than recklessly,” Sharry said in a statement. “The window of opportunity is open now. The goal should be to move through the House in a way that leads to bicameral negotiations with the Senate this year and a bill to the president’s desk as soon as possible.”

#### CIR will pass – need a win but it will be close with compromises

Rubin 10/7/13

(JENNIFER RUBIN “Immigration reform, after all this?” October 7 at 12:15 pm <http://www.washingtonpost.com/blogs/right-turn/wp/2013/10/07/immigration-reform-after-all-this/>, TSW)

The House Republicans vowed to keep up with their piecemeal approach, with the speaker’s spokesman promising, “Once Washington Democrats allow us to reopen the federal government, House Republicans will continue to work on common-sense, step-by-step reforms to our broken immigration system.” And Rep. Cathy McMorris Rodgers, the chairwoman of the House Republican Conference, was even more emphatic according to a Politico report, telling Univision. “I believe that we have a window here between now and the end of the year and that this is a priority. . . . We must pass immigration reform. It’s a priority for Republicans, for Democrats. There’s a recognition that it’s important to America. It’s important to our economy. America has long been the land of immigrants.”¶ Well, in the short term it’s increasingly difficult to see how Congress could agree upon and pass legislation this year. But for Republicans, it is certainly possible that legislation embracing a variety of topics (high- and low-skilled workers, border security, employer verification) will pass, perhaps even one including DREAM legislation. If the continuing resolution and debt-ceiling fights go downhill fast for the GOP, leadership may be more eager to have a positive accomplishment to point to in the 2014 elections.¶ On one level, simply passing something through the House without getting to conference or final legislation doesn’t accomplish much. But at least Republican-passed legislation would have put something out and the notion that “doing nothing is fine” would be undermined. Coupled with the Senate-based bill, House legislation would then become a starting point for future legislative compromises. The shutdown and debt-ceiling fights likely will affect the timing and fate of immigration reform legislation. Many of the shutdown squad members — obviously excluding Sen. Marco Rubio (R-Fla.) who seems chastened (even disoriented) by the anti-immigration reform pushback – and House radicals are also hardliners on the CR and debt ceiling, whereas a number of Republicans who warned against the CR fiasco want something done on immigration reform (e.g. Wisconsin congressman Paul Ryan). A setback for the Republican absolutists on the CR/debt ceiling may loosen their grip on immigration reform while emboldening moderates to stake out a viable approach to immigration reform.¶ In other words, adult leadership is self-perpetuating and nihilism is contagious. If right-wingers strike pay dirt on the current batch of issues, they’ll be no getting by them on immigration reform. However, if the president doesn’t magically succumb to pressure and Obamacare isn’t delayed or defunded, Sen. Ted Cruz (R-Tex.) and his ilk will lose some sway over fellow Republicans, in fact serving to remind them that his brand of rhetoric and anti-reform politics is deadly for the GOP.¶ If I’m right, then maybe in the aftermath of a bruising and self-defeating shutdown battle, Republicans will collect themselves to formulate reasoned proposals on immigration. That would be wise, given that a great number of Americans have the impression the GOP is irresponsible and uninterested in governing well.

### 2NC Fight Back Link

#### This is true even if they win PC theory is wrong

Huq 12

Aziz Huq, Assistant Professor of Law, University of Chicago Law School, 2012, Binding the Executive (by Law or by Politics), https://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/uploads/79\_2/06%20Huq%20BKR.pdf

Consider first a simple measure of Presidents’ ability to obtain policy change: Do they obtain the policy changes they desire? Every President enters office with an agenda they wish to accomplish.53 President Obama came into office, for example, promising health care reform, a cap-and-trade solution to climate change, and major immigration reform.54 President George W. Bush came to the White House committed to educational reform, social security reform, and a new approach to energy issues.55 One way of assessing presidential influence is by examining how such presidential agendas fare, and asking whether congressional obstruction or legal impediments— which could take the form of existing laws that preclude an executive policy change or an absence of statutory authority for desired executive action—is correlated with presidential failure. Such a correlation would be prima facie evidence that institutions and laws play some meaningful role in the production of constraints on executive discretion. Both recent experience and long-term historical data suggest presidential agenda items are rarely achieved, and that legal or institutional impediments to White House aspirations are part of the reason. In both the last two presidencies, the White House obtained at least one item on its agenda—education for Bush and health care for Obama—but failed to secure others in Congress. Such limited success is not new. His famous first hundred days notwithstanding, Franklin Delano Roosevelt saw many of his “proposals for reconstruction [of government] . . . rejected outright.”56 Even in the midst of economic crisis, Congress successfully resisted New Deal initiatives from the White House. This historical evidence suggests that the diminished success of presidential agendas cannot be ascribed solely to the narrowing scope of congressional attention in recent decades; it is an older phenomenon. Nevertheless, in more recent periods, presidential agendas have shrunk even more. President George W. Bush’s legislative agenda was “half as large as Richard Nixon’s first-term agenda in 1969–72, a third smaller than Ronald Reagan’s first-term agenda in 1981–84, and a quarter smaller than his father’s first-term agenda in 1989–92.”57 The White House not only cannot always get what it wants from Congress but has substantially downsized its policy ambitions. Supplementing this evidence of presidential weakness are studies of the determinants of White House success on Capitol Hill. These find that “presidency-centered explanations” do little work.58 Presidents’ legislative agendas succeed not because of the intrinsic institutional characteristics of the executive branch, but rather as a consequence of favorable political conditions within the momentarily dominant legislative coalition.59 Again, correlational evidence suggests that institutions and the legal frameworks making up the statutory status quo ante play a role in delimiting executive discretion.

#### Cyber security regulation is partisan

Brantley 12

(Chris, Institute of Electrical and Electronics Engineers “Congress Swings, Misses on Cybersecurity” September 2012 http://www.todaysengineer.org/2012/Sep/cybersecurity.asp)

The immediate reaction to the failure of the cloture vote was “try again next year.” With an election-shortened Fall schedule that will be focused on a high-partisan debate on the budget sequester, the debt ceiling and other budget-related issues, most observers felt there would not be sufficient time to take up cyber-security legislation again this year.¶ Senator Lieberman has been notably silent on his plans regarding the Cybersecurity Act, prompting some speculation that it circumstances permit, it might reemerge in the Fall, possibly in the lame-duck session anticipated after the election.¶ Senator McCain, joined by eight Senatorial Republican colleagues, have encouraged that, recommending that “when it returns next month, the Senate should address cyber-security, but not in the ‘take it or leave it’ manner the Majority Leader pursued.” Their statement expressed disappointment that the cloture vote had been forced and noted that “before we adjourned for the August recess, several Republican and Democratic Senators had an understanding on how to best move forward on cyber-security, and a shared commitment to working through the recess toward compromise legislation that could pass with bipartisan support.”¶ Given the strong policy and partisan differences that were apparent at the time of the cloture vote, other observers predict that Congress will be unable to find common ground later this year or next. For that reason, they anticipate that the Obama Administration will attempt to move forward many of the key features of the Lieberman bill through Executive Order. Statements to that effect were made by John Brennan, the White House's chief counterterrorism adviser, shortly after the failed vote.

### 2NC Capital Up

#### **Framing issue – Obama has an advantage over the GOP**

Baltimore Sun, 10/17

(“Winners and losers of the federal shutdown,” [http://www.baltimoresun.com/news/opinion/oped/bal-some-winners-and-losers-of-the-government-shutdown-20131016,0,743181.photogallery](http://www.baltimoresun.com/news/opinion/oped/bal-some-winners-and-losers-of-the-government-shutdown-20131016%2C0%2C743181.photogallery), Accessed 10/17/2013, rwg)

President Barack Obama ended all doubt about whether his signature achievement, the Affordable Care Act, will survive, and he may have managed to break the House GOP of its habit of government by crisis. His approval ratings are down but not as much as his opponents, and it certainly helps his prospects for getting anything done in the last three years of his presidency to have shown strength and won.

#### Budget debates tanked the GOP

Tackett 10-16

Michael Tackett, 10/16/2013 (staff writer, “Tea Party Vows Future Fights as Republicans Assess Damage,” <http://www.bloomberg.com/news/2013-10-16/tea-party-vows-future-fights-as-republicans-assess-damage.html>, Accessed 10/17/2013, rwg)

Oct. 17 (Bloomberg) -- Kenneth Rogoff, a Harvard University professor known for his studies of recessions, talks about the U.S. Senate's vote to reopen the government and raise the nation’s debt limit. He speaks from Boston with Susan Li on Bloomberg Television's "First Up." (Source: Bloomberg)¶ “Republicans in the House, with a little help from Ted Cruz, got all excited with this stupid wing strategy that has now done a lot of damage to our brand,” said Murphy, in a reference to the Texas Republican senator who spurred the confrontation with the White House. “We’ve taken a big blow.”

#### PC is key – GOP missteps have given Obama the advantage but it can be disrupted

Pace 10-14

Julie Pace, 10/14/2013 (staff writer, “Budget fight is high stakes for Obama agenda,”

<http://www.azcentral.com/news/politics/free/20131014government-shutdown-obama-agenda.html>, Accessed 10/17/2013, rwg)

Questions about Obama’s political clout also deepened last month, when congressional lawmakers, including many Democrats, appeared on the brink of rejecting his request for approving military action against Syria. A last-minute diplomatic overture from Russia prevented Obama from having to hold a vote, saving him from what would have almost certainly been an embarrassing defeat.¶ But missteps by Republicans during the current budget fight have helped Obama regain his footing. Recent polls show GOP lawmakers bearing the brunt of the public’s blame for the shutdown, including a new Washington Post-ABC News survey out Monday that showed 74 percent of Americans disapprove of the way Republicans in Congress have handled the issue, compared to 53 percent who disapprove of Obama’s handling of it.¶ The tilting of responsibility toward Republicans has hardened the White House’s resolve to make no concessions in exchange for Congress lifting the debt ceiling or reopening the government. After years of trying to compromise with the House GOP leadership, many Democrats see the current debate as an opportunity to finally weaken the chamber’s far-right wing, perhaps clearing the way for progress on issues like immigration that have the support of many Republican moderates.

#### PC key to immigration – Obama’s running out of time

Wolfgang 10-11

(Ben, The Washington Times, 10-11-13, “Second-term agenda hinges on shutdown resolution; Some of president's key goals hang in balance,” Lexis, accessed 10-18-13, BS)

The eventual resolution to the government shutdown and debt-ceiling standoff carries serious consequences for the U.S. economy, but it also could make or break President Obama's second-term agenda. Expanded background checks on gun purchases, immigration reform and other key goals for the president over the next three years hang in the balance, analysts say, and threaten to be crowded out and ultimately relegated to the political graveyard if Mr. Obama is unable to make a deal with Republicans. On the flip side, the president could emerge from the current impasse with renewed political capital and a stronger hand to help shepherd his aims through Congress. "It depends on how this plays out ... He's got three years left. One spinout of the likely resolution is the possibility of creating that big deal - the grand bargain - which itself would be quite an achievement," said Bruce Buchanan, a political-science professor at the University of Texas at Austin and a specialist in the presidency and public policy. "And after that, you'll still have two years of his agenda left, but you're running out the clock and getting into lame-duck status," he added. "It's an open question whether controversial stuff like immigration reform is going to have a new shelf life, or especially gun control ... But if this explodes and there's ill will, then all bets are off."

#### A continued push is key

Matthews 10-16

Laura Matthews, 10/16/2013 (staff writer, “2013 Immigration Reform Bill: 'I'm Going To Push To Call A Vote,' Says Obama,” <http://www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220>, Accessed 10/17/2013, rwg)

Still, pro-immigration advocates are hopeful they can attain their goal soon. “With more prodding from the president and the American people,” Gutierrez said, “we can get immigration reform legislation passed in the House and signed into law.