### 2NC Solvency O/V

#### Here’s an advocate—1AC Kesan and Haye’s evidence—permitting strikes is sufficient

**Kesan & Hayes 12** [Jay P. & Carol M., \*Professor, H. Ross & Helen Workman Research Scholar, and Director of the Program in Intellectual Property & Technology Law, University of Illinois College of Law, \*\* Research Fellow, University of Illinois College of Law, Mitigative Counterstriking: Self-defense and deterrence in cyberspace, Spring, 2012, Harvard Journal of Law & Technology, 25 Harv. J. Law & Tec 415]

The weaknesses of the current reliance on employing passive defense methods and seeking help from the authorities -- who are both technologically and legally ill-equipped to seek justice for victims -- present a difficult situation. Considering how modern society relies on the Internet and networked services, there is an urgent need for proactive policy to help insulate critical services from damage as well as mitigate harm from potential attacks. For a number of reasons explored below, we argue that, in some circumstances, permitting mitigative counterstrikes in response to cyberattacks would be more optimal. There is an urgent need for dialog on this topic as the development of technology has outpaced the law in this area. n15 While progress has been made in the form of executive orders addressing cybersecurity, n16 the proposed Cyber Intelligence Sharing and Protection Act ("CISPA"), n17 and cybersecurity provisions of the National Defense Authorization Act ("NDAA"), n18 these measures do not go far enough. New discussions and analyses are needed to ensure that responsive actions can be grounded in sound policy.

#### Clarifying the legal situation surrounding stuff is sufficient to solve offensive cyberconflict—another advocate

**Goldsmith 12** [Jack, Henry L. Shattuck Professor @ Harvard Law School, where he teaches and writes about national security law, presidential power, cybersecurity, international law, internet law, foreign relations law, and conflict of laws, served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003, member of the Hoover Institution Task Force on National Security and Law, 10/15, “The Significance of Panetta’s Cyber Speech and the Persistent Difficulty of Deterring Cyberattacks,” Lawfare, <http://www.lawfareblog.com/2012/10/the-significance-of-panettas-cyber-speech-and-the-persistent-difficulty-of-deterring-cyberattacks/>]

The effectiveness of deterrence also depends, crucially, on the credibility of our threat to attack in the face of actual or imminent attacks. Several obstacles prevent our threats from being entirely credible. Panetta’s speech and other DOD pronouncements, as well as news reports, indicate that DOD does not think it has adequate legal authorities to engage in offensive operations related to defense, and that USG lawyers are currently putting up affirmative obstacles to such operations. To the extent that the USG is and appears to be legally constrained from acting as it says it needs to, its threats to act are not credible.

### 2NC O/V

#### Empirics prove weakness invites global aggression—resolve actively prevents conflict and solves their escalation scenarios.

Bolton 9 [John R. Bolton 9, Senior fellow at the American Enterprise Institute & Former U.S. ambassador to the United Nations, “The danger of Obama's dithering,” Los Angeles Times, October 18, http://articles.latimes.com/2009/oct/18/opinion/oe-bolton18]

Weakness in American foreign policy in one region often invites challenges elsewhere, because our adversaries carefully follow diminished American resolve. Similarly, presidential indecisiveness, whether because of uncertainty or internal political struggles, signals that the United States may not respond to international challenges in clear and coherent ways. Taken together, weakness and indecisiveness have proved historically to be a toxic combination for America's global interests. That is exactly the combination we now see under President Obama. If anything, his receiving the Nobel Peace Prize only underlines the problem. All of Obama's campaign and inaugural talk about "extending an open hand" and "engagement," especially the multilateral variety, isn't exactly unfolding according to plan. Entirely predictably, we see more clearly every day that diplomacy is not a policy but only a technique. Absent presidential leadership, which at a minimum means clear policy direction and persistence in the face of criticism and adversity, engagement simply embodies weakness and indecision.

### KRAMER

**Kramer 12** [Franklin D. Kramer is a distinguished research fellow in the Center for Technology and National Security Policy at the National Defense University. He served as the assistant secretary of defense for international security affairs from 1996 to 2001. Stuart H. Starr is also a distinguished research fellow in the Center for Technology and National Security Policy at the National Defense University. He concurrently serves as the president of the Barcroft Research Institute. Larry Wentz is a senior research fellow in the Center for Technology and National Security Policy at the National Defense University., “Cyberpower and National Security”, p. 318]

How would a cyber deterrence strategy operate, and how can its potential effectiveness be judged? Deterrence depends on the capacity of the United States to project an image of resolve, willpower, and capability in sufficient strength to convince a potential adversary to refrain from activities that threaten U.S. and allied interests

### Link

#### The plan creates a formal legacy chain that causes further restraint—no risk of a link turn.

**Paul, 8 -** PhD in Sociology (University of California, Los Angeles, 2001); Social Scientist, RAND (Christopher, “US Presidential War Powers: Legacy Chains in Military Intervention Decisionmaking” Journal of Peace Research, Vol. 45, No. 5 (Sep., 2008), pp. 665-679, JSTOR)

Legacy Chains

Finegold & Skocpol (1995: 222) describe policy legacies:

Past and present policies are connected in at least three different ways. First, past policies give rise to analogies that affect how public officials think about contemporary policy issues. Second, past policies suggest lessons that help us to understand the processes by which contemporary policies are formulated and implemented and by which the consequences of contemporary policies will be determined. Third, past policies impose limitations that reduce the range of policy choices available as responses to contemporary problems.

All three of the ways in which they connect past policy to present policy can be viewed as changes in the institutional context in which policy is made. These legacies are institutionalized in two different ways: first, through changes in formal rules or procedures, and second, in the 'taken for granteds', 'schemas', and accepted wisdom of policy makers and ordinary citizens alike (Sewell, 1992: 1-29).

While a policy or event can leave multiple legacies, it often leaves a single major legacy. For example, the War Powers Resolution formally changed the relationship between the president and the congress with regard to war-making and the deployment of troops. Subsequent military interventions were influenced by this change and have, in turn, left their own legacy (legal scholars might call it precedent) as a link in that chain.

Legacy chains can be modified, transformed, or reinforced as they step through each 'link' in the chain. As another example, US involvement in Vietnam left a legacy in the sphere of press/military relations which affected the intervention in Grenada in 1983 (the press was completely excluded for the first 48 hours of the operation). The press legacy chain begun in Vietnam also affected the Panama invasion of 1989 (a press pool was activated, in country, but excluded from the action), but the legacy had been trans formed slightly by the Grenada invasion (the press pool system itself grew out of complaint regarding press exclusion in Grenada) (Paul & Kim, 2004).

Because of the different ways in which policy legacies are institutionalized, some legacies have unintended institutional consequences. The War Powers Resolution was intended to curtail presidential war-making powers and return some authority to the congress. In practice, the joint resolution failed to force presidents to include congressional participation in their intervention decision making, but it had the unintended consequence of forcing them to change the way they planned interventions to comply with the letter of the law (see the extended example presented later in the article).

#### Spills over to all military action

Howell 7

William, professor of political science at U-Chicago, and Jon C. Pevehouse, professor of Political Science UW-Madison, “While Dangers Gather : Congressional Checks on Presidential War Powers,” 2007 ed.

Immersed in all of the uncertainty that precedes war, presidents struggle mightily to assess the possibility that the military's plans will fail, and to evaluate whether Congress in due course either will publicly condemn him and actively work to dismantle the engagement or will affirm its allegiance to him and give him the money and delegated authority he needs to proceed. If Congress will come to the president's aid and ptovide him with political cover, then he may have the assurances he needs to incur the risks involved. On the other hand, if the president looks up at Capitol Hill and sees a swarm of representatives poised to pounce at the first misstep taken, he may instead choose to abandon military options altogether. In chapter 2 of this book, we discuss in some detail how presidents make this calculation.

#### The debates over the plan alone weaken the President – kills resolve, collapses the economy, spurs aggression

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 60)

In this way, measures urged by the executive to cope with a crisis of unclear magnitude acquired a kind of self-created momentum. Rejection of those measures would themselves create a political crisis that might, in turn, reduce confidence and thus trigger or exacerbate the underlying financial crisis. A similar process occurred in the debates over the AUMF and the Patriot Act, where proponents of the bills urged that their rejection would send terrorist groups a devastating signal about American political willpower and unity, thereby encouraging more attacks. These political dynamics, in short, create a self-fulfilling crisis of authority that puts legislative institutions under tremendous pressure to accede to executive demands, at least where a crisis is even plausibly alleged.

Critics of executive power contend that the executive exploits its focal role during crises in order to bully and manipulate Congress, defeating Madisonian deliberation when it is most needed. On an alternative account, the legislature rationally submits to executive leadership because a crisis can be addressed only by a leader. Enemies are emboldened by institutional conflict or a divided government; financial markets are spooked by it. A government riven by internal conflict will produce policy that varies as political coalitions rise and fall. Inconsistent policies can be exploited by enemies, and they generate uncertainty at a time that financial markets are especially sensitive to agents’ predictions of future government action. It is a peculiar feature of the 2008 financial crises that a damaged president could not fulfill the necessary leadership role, but that role quickly devolved to the Treasury secretary and Fed chair who, acting in tandem, did not once express disagreement publicly.

#### Congressional involvement creates murky lines of authority – undermines warfighting.

Wall 12 [Andru, senior official – Alston & Bird, Demystifying the Title 10-Title 50 Debate: Distinguishing Military Operations, Intelligence Activities & Covert Action, Harvard National Security Journal]

Congress’s failure to provide necessary interagency authorities and budget authorizations threatens our ability to prevent and wage warfare. Congress’s stubborn insistence that military and intelligence activities inhabit separate worlds casts a pall of illegitimacy over interagency support, as well as unconventional and cyber warfare. The U.S. military and intelligence agencies work together more closely than perhaps at any time in American history, yet Congressional oversight and statutory authorities sadly remain mired in an obsolete paradigm. After ten years of war, Congress still has not adopted critical recommendations made by the 9/11 Commission regarding congressional oversight of intelligence activities. Congress’s stovepiped oversight sows confusion over statutory authorities and causes Executive Branch attorneys to waste countless hours distinguishing distinct lines of authority and funding. Our military and intelligence operatives work tirelessly to coordinate, synchronize, and integrate their efforts; they deserve interagency authorities and Congressional oversight that encourages and supports such integration.

#### Congressional action hamstrings flexibility.

Grimmett 12 [Richard F. Grimmett Specialist in International Security September 24, 2012 The War Powers Resolution: After Thirty-Eight Years http://www.fas.org/sgp/crs/natsec/R42699.pdf]

A contrary view is that the War Powers Resolution is an inappropriate instrument that restricts the President’s effectiveness in foreign policy and should be repealed.89 Those with this perspective believe that the basic premise of the War Powers Resolution is wrong because in it, Congress attempts excessive control of the deployment of U.S. military forces, encroaching on the responsibility of the President.90 Supporters of repeal contend that the President needs more flexibility in the conduct of foreign policy and that the time limitation in the War Powers Resolution is unconstitutional and impractical. Some holding this view contend that Congress has always had the power, through appropriations and general lawmaking, to inquire into, support, limit, or prohibit specific uses of U.S. Armed Forces if there is majority support. The War Powers Resolution does not fundamentally change this equation, it is argued, but it complicates action, misleads military opponents, and diverts attention from key policy questions.

#### Congressional action revitalizes the WPR – that devastates global credibility and readiness.

Nichols 8/25 [Tom, Professor of National Security Affairs, Naval War College and Senior Associate of the Carnegie Council on Ethics and International Affairs, Repeal the War Powers Resolution Posted by Tom on Sunday, August 25, 2013 http://tomnichols.net/blog/2013/08/25/repeal-the-war-powers-resolution/]

The War Powers Resolution was a bad idea then, and it is a bad idea now. As satisfying as it might be in the short term to hobble the president, both parties would come to regret the consequences of such political combat, not least because it would shift greater responsibility for military action onto a Congress that in the long run may not want it — a point raised by then-Rep. Lee Hamilton and others during a failed 1995 effort to repeal the resolution. Worse, the War Powers Act is dangerous to our troops and to our national security. Imagine if it were ever taken seriously as an ongoing restriction on military action: A crisis arises, and the president responds by deploying U.S. forces, perhaps to support an ally or to enforce a United Nations resolution. The clock begins ticking, and after 60 days — or sooner, if Congress so directs — the president must recall U.S. troops. Thus, the resolution in effect tells any enemy that the best strategy against U.S. military force is to hunker down and wait out the 60-day period, in hopes that the resulting political fight in Washington will be messy enough to tear apart the nation and undermine Americans’ will to fight. It is folly to tell any potential enemy that he has 60 days to play one branch of the United States government off against another. Presidents answer to the American people and, in the most extreme instance, to the Senate during impeachment. These mechanisms do not need to be superseded by a contested law that invites the micromanagement of U.S. military operations by 535 additional commanders-in-chief. Legislators from both parties now have a rare opportunity to exercise statesmanship. They can declare that their differences might be deep and principled, but that our political system cannot be shaken during a military conflict. A bipartisan move to repeal the War Powers Resolution — and to protect the necessary ability of presidents to engage in military action now and in the future — would send a powerful message to dictators and terrorists who have always placed their hopes, however vainly, in a mistaken belief that democracies are too divided and too weak to stop them. The War Powers Resolution should be shelved, once and for all, as a danger not to any one president or party, but to the security of the United States.

### Turns

#### Heres more evidence

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The recent push for a revival of nuclear energy has been based on its claimed reduction of CO2 emissions where it substitutes for coal-fired power stations. In reality, only reactor operation is CO2-free. All other stages of the nuclear fuel chain – mining, milling, fuel fabrication, enrichment, reactor construction, decommissioning and waste management – use fossil fuels and hence emit CO2. Also the transport between these parts of the fuel cycle can be very energy intensive as they can be in different countries and require shipping, trucking or rail. These emissions have been quantified by researchers who are independent of the nuclear industry. Early work was published by Nigel Mortimer, until recently Head of the Resources Research Unit at Shefield Hallam University, UK. In the 2000s a very detailed study was done by Jan Willem Storm Van Leeuwen, a senior consultant in energy systems, together with Philip Smith, a nuclear physicist, both of whom are based in Holland. These studies find that the CO2 emissions depend sensitively on the grade of uranium ore used. Following Van Leeuwen and Smith, we define high-grade uranium ores to be those with at least 0.1% uranium oxide (yellowcake U3O8). In simpler terms, for each tonne of ore mined and milled, at least 1 kg of uranium can be extracted. For high-grade ores, such as most of those currently being mined in Australia, the energy inputs from uranium mining and milling are relatively small. However, there are significant emissions from the construction and decommissioning of the nuclear power station, with the result that the station must operate for 2-3 years to generate these energy inputs. (For comparison, wind power requires only 3-7 months.)Low-grade uranium ores contain less than 0.01% yellowcake, i.e. they are at least 10 times less concentrated than the high-grade ores. To obtain 1 kg of yellowcake, at least 10 tonnes of low-grade ore has to be mined. This entails a huge increase in the fossil energy required for mining and milling. Van Leeuwen and Smith find that the fossil energy consumption for these steps in the nuclear fuel chain becomes so large that nuclear energy emits total quantities of CO2 that are comparable with those from an equivalent combined cycle gas-fired power station. Furthermore, the quantity of known uranium reserves, with ore grades richer than the critical level of 0.01%, is very limited. The vast majority of the world’s known uranium resources are low-grade. With the current contribution by nuclear energy of 16% of the world’s electricity production, the high-grade reserves would only last several decades. If nuclear energy were to be expanded to contribute (say) half of the world’s electricity, high-grade reserves would last less than a decade. No doubt more reserves of high-grade uranium ore will be discovered, perhaps even doubling current reserves, but this would be insufficient for a sustainable substitute for coal. Recently a physicist, Martin Sevior has produced a critique of Van Leeuwen and Smith’s results. Sevior’s results for high-grade uranium ore are based on the unpublished data from the Swedish electricity utility, Vattenfall. Unpublished sources have low scientific credibility. The actual results are unbelievable: for instance, based on these data, Sevior claims that the energy inputs to the construction of a nuclear power station are generated in only 1.5 months of its operation. This extraordinarily low result is contradicted by several earlier studies by independent analysts, who find that the energy payback period for the construction of both nuclear and coal fired power stations (which use similar types and quantities of construction materials) is several years. There can be no doubt that, if uranium ore grade declines by a factor of 10, then energy inputs to mining and milling must increase by at least a factor of 10. As ore grade decreases, there has to be grade at which the CO2 emissions from mining and milling become unacceptably high. However, the exact value of this critical ore grade is still subject to continuing scientific debate. Are there alternative future pathways for nuclear energy that could have lower CO2 emissions? Although there are vast quantities of uranium oxide in the Earth’s crust, almost all exist at very low concentrations, typically 4 x 10-4 %, at which 1000 tonnes of ore would have to be mined to obtain 4 kg of uranium in the form of yellowcake. In this case the energy inputs to extract uranium would be much greater than the energy outputs of the nuclear power station. Sea-water contains uranium at a concentration of about 2 x 10-7 %, meaning that 1 million tonnes of sea-water would have to be processed to extract just 2 kg of uranium.