# 1AC Cyber Ops

## Advantage 1: International Law

#### Cyber tensions between the US and China are escalating rapidly. The brink is now.

Yi 13 [Xiaoxiong Yi is the director of Marietta College's China Program.] June 22, 2013 “The coming of China-U.S. cyber war” http://www.mariettatimes.com/page/content.detail/id/552547.html

The cyber warfare between Washington and Beijing is becoming more intense, as Edward Snowden

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Wickham of USA Today, "could well dominate this planet for decades."

#### Even innocent data collection can be misinterpreted as an attack, only a matter of time

Williams 11 (Robert D. Williams, J.D. Harvard Law School… “(Spy) Game Change: Cyber Networks, Intelligence Collection, and Covert Action”… June 2011… *The George Washington Law Review*… LexisNexis… 8/1/13… RTV)

A cyber intrusion may be characterized as "going after the crown jewels" when

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the United States may have more to lose than any other nation. n129

#### **Oversight solves escalation**

Lin 10 “Offensive Cyber Operations and the Use of Force”; 4 J. Nat'l Sec. L. & Pol'y pg63 (2010) Lin, Herbert S. (chief scientist at the Computer Science and Telecommunications Board, National

Research Council of the National Academies)

If the United States launches an offensive cyber operation, it cannot assume that the

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have to take place under conditions of great uncertainty and intense time pressure.

#### Cyber espionage would be misread as an attack – US or China would respond with nukes

Clarke 13(Richard Clarke, the chairman of Good Harbor Security Risk Management, was special adviser to the president for cybersecurity in the George W. Bush administration. Steve Andreasen, a consultant to the Nuclear Threat Initiative, was the National Security Council's staff director for defense policy and arms control from 1993 to 2001…. “The perils of linking cyberwar to nuclear war”… 6/16/2013 … *The Washington Post*… LexisNexis Academic… 8/13/13… RTV)

"We will reduce the role of nuclear weapons in our national security strategy and

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risk of an accidental or unauthorized nuclear launch, would also probably stall.

#### **Title 50 framework clarifies Cyber ops and forces compliance with the LOAC**

Williams 11

(Robert D. Williams, J.D. Harvard Law School… “(Spy) Game Change: Cyber Networks, Intelligence Collection, and Covert Action”… June 2011… *The George Washington Law Review*… LexisNexis… 8/1/13. AJM

Many of the same concerns set forth above translate to the context of international law

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all such means of influencing political, economic, or military conditions abroad.

#### LOAC doesn’t cover cyber ops in the squo

Kodar 12 (Erki Kodar is a professor of law at the University of Tartu, and also the Director of the Legal Department of the Estonian Ministry… “APPLYING THE LAW OF ARMEDCONFLICT TO CYBER ATTACKS:FROM THE MARTENS CLAUSE TOADDITIONAL PROTOCOL I”… <http://www.ksk.edu.ee/wp-content/uploads/2012/12/KVUOA_Toimetised_15_5_Kodar.pdf> ... 9/1/13… RTV)

Applying LOAC norms to cyber attacks is only possible in the event of anarmed conflict

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attacker but the hard-drive would still exist unharmed in itsphysical state.

#### LOAC has worked, and is key to stop collapse of society

IOLD 12

(The International and Operational Law Department is part of the Library of Congress’s graduate studies program, specializing in the Law of Armed Conflict… 2012… “Law or Armed Conflict Deskbook”… *The Judge Advocate General’s Legal Center & School*… <http://www.loc.gov/rr/frd/Military_Law/pdf/LOAC-Deskbook-2012.pdf> ... 9/15/13… RTV)

Validity. Although critics of the regulation of warfare cite examples of violations of evolving

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observance of the LOAC denies the enemy a rallying cry against difficult odds.

#### The development of international law is based on modeling – comes before treaties and conventions

Brown and Poellet 12 (Colonel Gary Brown, JD Senior Legal Counsel for U.S. Cyber Command, Fort Meade, Maryland and Keira Pollet, JD and LLM Judge Advocate General and former Operations Law Attorney at US CYBERCOM, Strategic Studies Quarterly, Fall 2012, The Customary International Law of Cyberspace, Accessed 8/30/13) (www.au.af.mil/au/ssq/2012/fall/brown-poellet.pdf‎) /ejc\

The first thing to know about international law is that it bears only a passing

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for the International Court of Justice decision in which it was established.4

#### The US has the authority to establish precedent as a member of the U.N. Security Council

Melnitzky 12 (Alexander B. Melnitzky, Associate at The Serbagi Law Firm, P.C. Former Associate Editor of Cardozo Journal of International and Comparative Law. He earned his J.D. from Benjamin N. Cardozo School of Law at Yeshiva University and a B.A. in History from NYU.) /ejc\ (https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=20+Cardozo+J.+Int%27l+%26+Comp.+L.+537&srctype=smi&srcid=3B15&key=e30e49aa22650c3c135d44854f)

A strict textualist may not be persuaded by the above argument. Article 51 of

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be a policy that uses active defenses to prevent and deter cyber espionage.

#### De-militarizing cyber ops key to soft power

**Belk and Noyes ‘12**

(Robert (Naval aviator and Politico-Military Fellow, studying international and global affairs at the Harvard Kennedy School) and Matthew (studies international security policy and is a senior associate with the cybersecurity practice at Good Harbor Consulting), “On the Use of Offensive Cyber Capabilities: A Policy Analysis on Offensive US Cyber Policy”, 3-20-12, Office of Naval Research, RSR)

Revised by JM

Over the past decade, hard power has dominated U.S. foreign policy

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perceived abroad and hence the way such an operation affects American soft power.

#### Soft power prevents extinction, disease, climate change, terrorism and great power war

Joseph **Nye 8** is professor of international relations at Harvard University, “American Power After the Financial Crises,” <http://www.foresightproject.net/publications/articles/article.asp?p=3533>, Date Accessed: 9-15-13 Revised by JM

Power always depends on context, and in today's world, it is distributed in

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even the largest country cannot achieve its aims without the help of others.

#### Most comprehensive study of over 11,000 years proves warming is real and anthropogenic

Romm 13 (Romm, Ph.D. from MIT, served as Acting Assistant Secretary of the U.S. Department of Energy. He is now a Senior Fellow with the Center for American Progress Joe. Bombshell: Recent Warming Is ‘Amazing And Atypical’ And Poised To Destroy Stable Climate That Enabled Civilization<http://thinkprogress.org/climate/2013/03/08/1691411/bombshell-recent-warming-is-amazing-and-atypical-and-poised-to-destroy-stable-climate-that-made-civilization-possible/?mobile=nc> //kjl)

A stable climate enabled the development of modern civilization, global agriculture, and a

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and aim for a setting of “Dangerous, But Probably Not Fatal.”

#### Even if we save 1%, it’s infinitely better than extinction

**Matheny 7** (Jason, Ph.D. Candidate in the Department of Health Policy and Management at the Bloomberg School of Public Health at Johns Hopkins University, *Reducing the Risk of Human Extinction*, Risk Analysis, Volume 27, Number 5, Available Online at http://www.upmc-biosecurity.org/website/resources/publications/2007\_orig-articles/2007-10-15-reducingrisk.html)

We may be poorly equipped to recognize or plan for extinction risks (Yudkowsky,

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on the extinction risks we face and the costs of mitigating them.20

## Advantage 2: Turf War

#### Interagency turf wars have blocked reorganization of cyber policies

Biggs 12

(Zachary Fryer-Biggs is a Washington Staff Writer for *DefenseSystems*, a news source focusing on national security matters… 5/7/12… <http://www.defensenews.com/article/20120507/DEFREG02/305070004> “Debate Slows New U.S. Cyber Rules” … 9/17/13)

Despite the ongoing concern about the escalating pace of cyber attacks, a new set

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. There’s no hard line between what is military and what is civilian.”

#### Interagency convergence disrupts the decision making process and kills response time to cyber attacks

Chesney 2012. “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate” (Charles I. Francis Professor in Law, University of Texas School of Law) [http://jnslp.com/wp- content/uploads/2012/01/Military-Intelligence-Convergence-and-the-Law-of-the-Title-10Title-50-Debate.pdf](http://jnslp.com/wp-content/uploads/2012/01/Military-Intelligence-Convergence-and-the-Law-of-the-Title-10Title-50-Debate.pdf)

The first way in which cyberspace is especially prone to convergence has to do with

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in institutional competition as well as cooperation between the CIA and the military.

#### Non-state actors are targeting the US now – these attacks risk nuclear meltdowns and stock market crashes

Sharp 2010. “National Leadership, Individual Responsibility: The Past, Present, and Future of Cybersecurity” (Walter Gary Sharp Sr. Senior Associate Deputy General Counsel for Intelligence, Office of the General Counsel, U.S. Department of Defense; Adjunct Professor of Law, Georgetown University Law Center) 4 J. Nat'l Security L. & Pol'y 13. AMon

The cyber threat to U.S. national security, economic security, and

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to cause acts of terrorism - like those already described in popular media.

#### Cyber attack shuts down the grid – Syria makes timeframe KEY

Dykes and Melton 13

(Aaron Dykes is a co-founder of TruthstreamMedia.com. As a writer, researcher and video producer who has worked on numerous documentaries and investigative reports, he uses history as a guide to decode current events, uncover obscure agendas and contrast them with the dignity afforded individuals as recognized in documents like the Bill of Rights” Big Sis Says Cyber Attack WILL Bring Down Power Grid: ‘When Not If’” – Quoting Homeland Security Chief Janet Napolitanbo. <http://truthstreammedia.com/big-sis-says-cyber-attack-will-bring-down-power-grid-when-not-if/> 9/5 //kjl)

Outgoing Homeland Security chief Janet Napolitano issued an ‘open letter’ to her successor warning

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the Counter-electronics High-powered Microwave Advanced Missile Project (CHAMP).

#### DoD bases are vulnerable to grid disruptions

Robitaille 12

(George, Department of Army Civilian, United States Army War College, “Small Modular Reactors: The Army’s Secure Source of Energy?” 21-03-2012, Strategy Research Project)

In recent years, the U.S Department of Defense (DoD) has

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associated with building coal or natural gas fired power plants on the environment.

#### Grid failure shuts down US military operations

Paul Stockton 11, assistant secretary of defense for Homeland Defense and Americas’ Security Affairs, “Ten Years After 9/11: Challenges for the Decade to Come”, <http://www.hsaj.org/?fullarticle=7.2.11>

The cyber threat to the DIB is only part of a much larger challenge to

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system over which it does not – and never will – exercise control.

#### Global War

Frederick Kagan and Michael O’Hanlon 7, Fred’s a resident scholar at AEI, Michael is a senior fellow in foreign policy at Brookings, “The Case for Larger Ground Forces”, April, <http://www.aei.org/files/2007/04/24/20070424_Kagan20070424.pdf>

We live at a time when wars not only rage in nearly every region but

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Such a measure is not only prudent, it is also badly overdue.

#### Response time is key – a cyber attack could shut down the US economy

AAP 13 AAP (Australian Associated Press) 06/12/13, Cyber wars would cripple economies: experts, http://www.businessspectator.com.au/news/2013/6/12/global-news/cyber-wars-would-cripple-economies-experts, (08/13/13)#HBK

Cyber attackers have the power to shut down economies and a global cyber war could

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- die."For any other part of the world it's similar destruction."

#### Even the possibility of cyber-attack has the potential to shake business confidence and destroy the economy

Cornish 11 Paul Cornish(Professor of Strategic Studies at the University of Exeter. He was educated at the London School of Economics (MSc Econ, International Relations). He completed his PhD at the University of Cambridge, Lecturer in Defence Studies at the UK Defence Academy (King’s College London) and then Lecturer in International Security at the University of Cambridge, Cornish also spent several years as Director of the Centre for Defence Studies at King’s College London.) June 2011, The Velnerabilities of Developed States to Economic Cyber Warfare, http://www.chathamhouse.org/sites/default/files/0611wp\_cornish.pdf, (p. 12) (08/13/13)#HBK

In a world of interconnected and interdependent economies we could expect an element of self

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national government and the confidence and predictability upon which a national economy depends.

#### US economic decline triggers global decline, that escalates to conflict

**Tilford 2008** – PhD in history from George Washington University, served for 32 years as a military officer and analyst with the Air Force and Army (Earl, “Critical mass: economic leadership or dictatorship”, Cedartown Standard, lexis)

Could it happen again? Bourgeois democracy requires a vibrant capitalist system. Without it

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world affairs move; the world could devolve to that point very quickly.

#### Diversionary theory supports this

**Royal 10**

[Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-215]

Less intuitive is how periods of economic decline may increase the likelihood of external conflict

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such, the view presented here should be considered ancillary to those views.

#### US decline destroys global consumer confidence- destroying the Japanese economy

Roubini 2008 (Nouriel, chairman of RGE Monitor and professor of economics at New York University’s Stern School of Business, The Coming Financial Pandemic, Foreign Policy, March/April, <http://www.viet-studies.info/kinhte/coming_financial_pandemic.htm>)

Consumer confidence outside the United States—especially in Europe and Japan—was never

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financial contagion was on prime display when global equity markets plummeted in January.

#### Collapse of the Japanese economy causes nuclear war with China

The Guardian ‘02 (2-11, Lexis)

Even so, the west cannot afford to be complacent about what is happening in

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push the country into conflict with its bigger (and nuclear) neighbour.

## PLAN:

#### **United States Congress should enact legislation requiring offensive cyber operations be funded, conducted, and/or directed pursuant to Title 50 United States Code § 413b.**

## **Solvency**

#### Prefer Covert Action Statute of Title 50, agencies are more careful with ops

Brecher 12 “Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations” by Aaron P. Brecher (J.D. Candidate, May 2013, University of Michigan Law School), December 2012 – Michigan Law Review //VED

There are reasons beyond the statute's broader range of covered activities to prefer the covert

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to err on the side of reporting their activities to the congressional committees.

#### Clarifying cyber operations under covert action under a framework of congressional notification solves.

**Chesney 12** [Robert M. Chesney is an American lawyer and the Charles I. Francis Professor in Law at The University of Texas School of Law, where he serves as the Associate Dean for Academic Affairs and teaches courses relating to U.S. national security and constitutional law.[1] Chesney addresses issues involving national security and law, including matters relating to military detention, the use of force, terrorism-related prosecutions, the role of the courts in national security affairs, and the relationship between military and intelligence community activities.[2] He is a co-founder and contributor to the Lawfare Blog] **February 2012** **“Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate”** <http://jnslp.com/wp-content/uploads/2012/01/Military-Intelligence-Convergence-and-the-Law-of-the-Title-10Title-50-Debate.pdf> date accessed [8-13-2013] NNF

Operations constituting “covert action” must be reported to the House and Senate Intelligence

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upon its relationship to the emergence of cyberspace as a significant operational domain.

#### Congressional oversight is key – but congress has to take the lead (on policymaking)

Dycus 10 J. Nat'l Sec. L. & Pol'y 4 pg155 (2010)  Congress's Role in Cyber Warfare; Dycus, Stephen (Professor, Vermont Law School.)

Congress obviously cannot act alone to develop a cyber warfare policy for the United States

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branch actions that seem – as a matter of policy – particularly unwise.

#### In cyberspace, magnitude outweighs probability

Lin 12 (I/S: A Journal of Law and Policy for the

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control issues. He received his doctorate in physics from MIT.) //VED

Section I pointed to influences on analysts to draw worst-case conclusions. The

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prepared to do without those capabilities and/or to reconstitute them quickly.