# 1NC V. Clarion PD

## 1NC Politics

#### Debt celing will pass- there is politican commitment

Murray, 9/19 (Patty, Senate Budget Committee Chairman, Murray Sees Republican Yielding on Debt-Limit Cap (Transcript) <http://www.bloomberg.com/news/2013-09-19/murray-sees-republican-yielding-on-debt-limit-cap-transcript-.html>)

Senate Budget Committee Chairman Patty Murray said in an interview on Bloomberg Television’s “Political Capital with Al Hunt,” airing this weekend, that she expects Republicans seeking to curb President Barack Obama’s health-care law probably will give in to demands by her fellow Democrats to enact a “clean” bill raising the nation’s debt ceiling. (This is not a legal transcript. Bloomberg LP cannot guarantee its accuracy.) AL HUNT: We begin the show with the chairman of the Senate Budget committee, Senator Patty Murray of Washington. Thank you for being with us, Madam Chairman. PATTY MURRAY: It’s great to be with you, Al. HUNT: Do you agree now with the potential showdown 10 days away that the real big fight is not likely to be over the continuing resolution, the budget, but you’ll probably do something short-term on that? MURRAY: Well, I’ve been surprised at the ballyhoo about a short-term budget agreement, to just keep government running while we deal with the bigger issue of where we’re going to go in the future. And I’m hopeful that those people who feel they have to have a temper tantrum before they do it will get over that very quickly and we can move on, because it is important that we address our budget challenges in the coming year and years as quickly as possible. HUNT: But you don’t think you’re going to do that in the next 10 days? I mean, there will be some sort of short-term resolution, and then you come back to that? MURRAY: I think it’s critically important that we have a short-term resolution and keep government running. However, we’re not going to take hostages in this. The Republicans have gone to their temper tantrum - HUNT: Right, there’s not going to be Obamacare on this. MURRAY: - on Obamacare. No. There’s not going to be a repeal of a law that many, many people are having the advantage to be able to participate within. HUNT: You know, on both the deficit commission and as the chairman of the Budget Committee, you’ve probably dealt with more House Republicans than almost any other Senate Democrat. What do you think is their endgame here? MURRAY: Well, it’s changing. I think there are those Republicans in the House and Senate who very much want to work with us to find a solution to our budget challenges, both the budget deficit and debt that we carry, but also our debt and deficit that we carry in transportation and education and policy and how we can make sure our country is strong in the future.

**Fighting to defend his war power will sap Obama’s capital, trading off with rest of agenda**

**Kriner, 10** --- assistant professor of political science at Boston University

(Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

**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.59 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. 60

**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** 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 proprieties, such as Social Security and immigration reform, failed perhaps 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.**61

**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.

#### Obama’s pressure is key to break rank and file opposition

Michael O’Brien 9/16, Political Reporter, NBC News, “Obama targets GOP divisions on budget,” http://firstread.nbcnews.com/\_news/2013/09/16/20525744-obama-targets-gop-divisions-on-budget?lite

President Barack Obama appealed to more moderate Republicans on Monday, pleading with them to break with the party’s conservative flank and help avoid a government shutdown at the end of this month.¶ With two weeks to go until the government runs out of funding for many of its day-to-day operations, the president turned up the pressure on Republicans in Congress to produce legislation he could sign to avoid a partial shutdown. In doing so, Obama sought to take advantage of internal Republican divisions who have threatened to force a shutdown unless the president’s signature health care reform law is repealed, or at least delayed.¶ “I cannot remember a time when one faction of one party promises economic chaos when it doesn’t get everything it wants,” Obama said at an event meant to mark the five-year anniversary of the onset of the financial crisis in late 2008. (Obama’s remarks about pending fiscal battles also took a back seat to his comments about a shooting at Washington’s Navy Yard on Monday.)¶ “It was an issue in last year's election, and the candidate who called for repeal lost,” the president said of GOP opposition to his health care law, referencing his tussles in 2012 with Republican presidential nominee Mitt Romney.¶ But the president’s remarks on Monday are mindful of the fact that Republicans, who control the House of Representatives, are at a loss for how to proceed with legislation addressing government operations. The federal government runs out of funding at the end of Sept. 30, and non-essential operations would cease until spending can be restored.¶ A group of hard-lined conservatives have argued for a strategy in which no Republican should vote to extend government spending unless funding for the Affordable Care Act, or Obamacare, is withdrawn. But Democrats have rejected the proposal out-of-hand, and the president is sure to refuse legislation that would gut his most significant domestic achievement as president.¶ Republican leaders are mindful of this political calculus, but are forced to balance legislative strategy against the ideological demands of conservatives who wish to force a renewed fight over Obamacare. (Some of these lawmakers also fear primary challenges in 2014 if they refuse to go along with the defund Obamacare strategy.)¶ Because of those pressures, Republican leaders pulled legislation to extend government spending through mid-December after conservatives balked and Democrats were unwilling to offer up their votes as help.¶ “There are a million options being discussed by a lot of people. When we have something to discuss, I'll let you know,” a somewhat exasperated House Speaker John Boehner, R-Ohio, told reporters late last week.¶ In the short-term, Obama issued an appeal to Republicans who have sided against the defund Obamacare strategy; many of these GOP lawmakers have vocally criticized the strategy favored by conservatives as politically destructive.

#### Failure collapses the economy – goes global and past events don’t disprove

Davidson 9/10

Adam, co-founder of NPR’s “Planet Money,” Our Debt to Society, New York Times, 9/10/13, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.¶ Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

**Nuclear war**

**Friedberg and Schoenfeld 8**

[Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America”, 10-28, <http://online.wsj.com/article/SB122455074012352571.html>]

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

## 1NC T

**A. Interpretation: the aff must provide a specific proposal of action in their plan text.**

**Intepretation – restriction is to ban – it gets rid of all action**

**Oxford** Advanced Learner’s **Dictionary** – **2013**, <http://oald8.oxfordlearnersdictionaries.com/dictionary/restriction>

**restriction** NOUN 1 [countable] **a rule or law that limits what you can do or what can happen import/speed/travel, etc**. **restrictions** restriction on something to impose/place a restriction on something The government has agreed to lift restrictions on press freedom. There are no restrictions on the amount of money you can withdraw. 2 [uncountable] the act of limiting or controlling somebody/something sports clothes that prevent any restriction of movement A diet to lose weight relies on calorie restriction in order to obtain results. 3 [countable] a thing that limits the amount of freedom you have the restrictions of a prison

**There is no meaning to the term “war powers authority” – you need a precise definition – the current 1AC advocacy statement is vague**

Zeisberg 13 assistant professor of political science, University of Michigan

(Mariah, *War Powers: The Politics of Constitutional Authority*, 2013, pp. 33-34)

I also translate this strength in a way that some will find controversial: namely, that the **branches actually link their arguments about constitutional authority to their substantive agendas for security policy**. In other words, as the Obama administration's OLC did in its reasoning on Libya, **the branches should justify their own, and challenge one another's, constitutional positions through reference to the security consequences at stake in one allocation of constitutional war authority versus another. This**, after all**, is one of their strengths: a capacity to think about the link between security processes and security outcomes. If such expertise is a reason for judicial deference on the war power, then it is also a resource that the president and legislature should use in developing their positions. This standard directly opposes the common idea that arguments about constitutional meaning should not hinge on policy consequences.** There is something questionable about interpreting the Constitution's guarantee of a qualified executive veto into an absolute veto to support a desired policy outcome. The settled, framework dimensions of the Constitution would not do a very good job of enabling secure decision-making if they were manipulable in this way. Policy-based constitutional reasoning for judges is also professionally suspect because and to the extent that judges are professionally insulated from the policy implications of the decisions they make. However, **the war powers controversy occurs within a zone of textual vagueness. It is difficult to read the war powers text of the Constitution only through the lens of a framework when the text seems to settle so little**. Also, the national Congress and presidency have strengths not in policy neutrality but in policy development

#### A general subject isn’t enough—debate requires a specific point of difference

**Steinberg & Freeley 8** \*Austin J. Freeley is a Boston based attorney who focuses on criminal, personal injury and civil rights law, AND \*\*David L. Steinberg , Lecturer of Communication Studies @ U Miami, Argumentation and Debate: Critical Thinking for Reasoned Decision Making pp45-

Debate is a means of settling differences, so there must be a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a tact or value or policy, there is no need for debate: the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four," because there is simply no controversy about this statement. (Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions on issues, there is no debate. In addition, debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants are in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity- to gain citizenship? Docs illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? I low are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification can!, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this "debate" is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies must be stated clearly. Vague understanding results in unfocused deliberation and poor decisions, frustration, and emotional distress, as evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007. Someone disturbed by the problem of the growing underclass of poorly educated, socially disenfranchised youths might observe, "Public schools are doing a terrible job! They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do something about this" or. worse. "It's too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as "What can be done to improve public education?"—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies. The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities" and "Resolved: That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about "homelessness" or "abortion" or "crime'\* or "global warming" we are likely to have an interesting discussion but not to establish profitable basis for argument. For example, the statement "Resolved: That the pen is mightier than the sword" is debatable, yet fails to provide much basis for clear argumentation. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument. What sort of writing are we concerned with—poems, novels, government documents, website development, advertising, or what? What does "effectiveness" mean in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be. "Would a mutual defense treaty or a visit by our fleet be more effective in assuring Liurania of our support in a certain crisis?" The basis for argument could be phrased in a debate proposition such as "Resolved: That the United States should enter into a mutual defense treatv with Laurania." Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advocates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

**B. The aff violates they do not set a specific restriction on the war powers authority of the president.**

**C. Reasons to prefer:**

**Infinite regression—disregarding resolutional syntax produces an endless regression to small, trivial plans. For example, an aff that says the “topic is good” allows them to defend anything.**

**Limits—resolutional limits encourage aff innovation, predictive research on a designated topic, and clash—a precursor to productive education..**

**The act is extra topical –**

**If our interpretation is net-beneficial it means there’s no reason to vote affirmative. If the case is true then it de-justifies the resolution. Teams are still signified by ‘aff’ and ‘neg’, so the resolution is a required measurement for ‘affirmation.’**

## 1NC CP 1

**We stand in affirmation of The Executive branch of the United States federal government should substantially increase statutory and/or judicial restrictions on the war powers authority of the President of the United States in one or more of the following areas: targeted killing; indefinite detention; offensive cyber operations; or introducing United States Armed Forces into hostilities,” as a response to Yoo and the OLC. and implement this through self-binding mechanisms including, but not limited to independent commissions to review and ensure compliance with the order and transparency measures that gives journalists access to White House decisionmaking.**

**Including self-binding mechanisms ensures effective constraints and executive credibility**

**Posner & Vermeule, 6** --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

IV. Executive Signaling: Law and Mechanisms¶ We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involve executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.¶ This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations.71 Whether or not this picture is coherent,72 it is not the question we examine here, although some of the relevant considerations are similar.73 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government.¶ Furthermore, our question is subconstitutional; it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling to generate public trust. Accordingly we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations; in general, the solution is to engage in actions that are less costly for good types than for bad types.¶ We begin with some relevant law; then examine a set of possible mechanisms, emphasizing both the conditions under which they might succeed and the conditions under which they might not; and then examine the costs of credibility.¶ A. A Preliminary Note on Law and Self-Binding¶ Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.74 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.75 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.¶ More schematically, we may speak of formal and informal means of self-binding:¶ (1) The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.¶ (2) The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.76 However, there may be large political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.¶ In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.¶ B. Mechanisms¶ What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators and judges that his policies rest on judgments about the public interest, rather than on power-maximization, partisanship or other nefarious motives? Intrabranch separation of powers. In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels “internal separation of powers” within the executive branch.77 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger civil-service protections and internal adjudication of executive controversies by insulated “executive” decisionmakers who resemble judges in many ways.78Katyal’s argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed, on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy;79 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large-scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard). Overall, Katyal’s view has a kind of fractal quality – each branch should reproduce within itself the very same separation of powers structure that also describes the whole system – but it is not explained why the constitutional order should be fractal.¶ Second, Katyal’s proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends.80 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices.81 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an illmotivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal’s premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their costs.¶ The contrast here must not be drawn too simply. A well-motivated executive, in our sense, might well attempt to increase his power. The very point of demonstrating credibility is to encourage voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully-informed voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor.¶ Independent commissions. We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal’s idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan.82¶ We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. The president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it.¶ Consider whether George W. Bush’s credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush shared that knowledge, the public could have inferred that Bush’s professed motive – elimination of weapons of mass destruction – was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one.¶ The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction.83 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event—by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future – merely a plausible inference that the president’s future behavior will track his past behavior.¶ Bipartisan appointments. In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office.84 A number of statutes require partisan balance on multimember commissions; although these statutes are outside the scope of our discussion, we note that presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place.85 For similar reasons, presidents may consent to restrictions on the removal of agency officials, because the restriction enables the president to commit to giving the agency some autonomy from the president’s preferences.86¶ Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades and groupthink;87 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president’s privileged access to information, (2) ensuring that policy is partly controlled by officials with preferences that differ from the president’s, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress.¶ A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president’s own party, leaders whose preferences are known to diverge from the president’s on the subject; one point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences.¶ The Independent Counsel Statute institutionalized the special prosecutor and strengthened it. But the statute proved unpopular and was allowed to lapse in 1999.88 This experience raises two interesting questions. First, why have presidents confined themselves to appointing lawyers to investigate allegations of wrongdoing; why have they not appointed, say, independent policy experts to investigate allegations of policy failure? Second, why did the Independent Counsel Statute fail? Briefly, the statute failed because it was too difficult to control the behavior of the prosecutor, who was not given any incentive to keep his investigation within reasonable bounds.89 Not surprisingly, policy investigators would be even less constrained since they would not be confined by the law, and at the same time, without legal powers they would probably be ignored on partisan grounds. A commission composed of members with diverse viewpoints is harder to ignore, if the members agree with each other.¶ More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic coalitions of the willing. Presidents can informally bargain around the formal separation of powers90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenbergh but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee – including Democrats – on the administration’s secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public.¶ Counter-partisanship. Related to bipartisanship is what might be called counterpartisanship: presidents have greater credibility when they choose policies that cut against the grain of their party’s platform or their own presumed preferences.91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty.92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat.93 By the same logic, George W. Bush is widely suspected of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit.¶ Counter-partisanship can powerfully enhance the president’s credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky.¶ Transparency. The well-motivated executive might commit to transparency, as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.¶ Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking, and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency – no one expects meetings of the National Security Council to appear on CSPAN – but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.¶ There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong.96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts—especially journalists who might reward presidents who give them access by portraying their decisionmaking in a favorable light.97¶ We will take up the costs of credibility shortly.98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well-motivated, precisely because the existence of costs would have given an ill-motivated executive an excuse not to use those mechanisms.¶ Multilateralism. Another credibility-generating mechanism for the executive is to enter into alliances or international institutions that subject foreign policy decisions to multilateral oversight. Because the information gap between voters and legislators, on the one hand, and the executive on the other is especially wide in foreign affairs, there is also wide scope for suspicion and conspiracy theories. If the president undertakes a unilateral foreign policy, some sectors of the domestic public will be suspicious of his motives. All recent presidents have faced this problem. In the case of George W. Bush, as we suggested, many have questioned whether the invasion of Iraq was undertaken to eliminate weapons of mass destruction, or to protect human rights, or instead to safeguard the oil supply, or because the president has (it is alleged) always wanted to invade Iraq because Saddam Hussein ordered the assassination of his father. In the case of Bill Clinton, some said that the cruise missile attack on Osama bin Laden’s training camp in Afghanistan was a “wag the dog” tactic intended to distract attention from Clinton’s impeachment.¶ A public commitment to multilateralism can close or narrow the credibility gap.¶ Suppose that a group of nations have common interests on one dimension – say, security from terrorism or from proliferation of nuclear weapons – but disparate interests on other dimensions – say, conflicting commercial or political interests. Multilateralism can be understood as a policy that in effect requires a supermajority vote, or even unanimity, among the group to license intervention. The supermajority requirement ensures that only interventions promoting the security interest common to the group will be approved, while interventions that promote some political agenda not shared by the requisite supermajority will be rejected. Knowing this, domestic audiences can infer that interventions that gain multilateral approval do not rest on disreputable motives.¶ It follows that multilateralism can be either formal or informal. Action by the United Nations Security Council can be taken only under formal voting rules that require unanimity. Informally, in the face of increasing tensions with Iran, George W. Bush’s policy has been extensive multilateral consultations and a quasi-commitment not to intervene unilaterally. Knowing that his credibility is thin after Iraq, Bush has presumably adopted this course in part to reassure domestic audiences that there is no nefarious motive behind an intervention, should one occur.¶ It also follows that multilateralism and bipartisan congressional authorization may be substitutes, in terms of generating credibility. In both cases the public knows that the cooperators – partisan opponents or other nations, as the case may be – are unlikely to share any secret agenda the president may have. The substitution is only partial, however; as we suggested in Part III, the Madisonian emphasis on bipartisan authorization has proven insufficient. The interests of parties within Congress diverge less than do the interests of different nations, which makes the credibility gain greater under multilateralism. In eras of unified government, the ability of the president’s party to put a policy through Congress without the co-operation of the other party (ignoring the threat of a Senate filibuster, a weapon that the minority party often hesitates to wield) often undermines the policy’s credibility even if members of the minority go along; after all, the minority members may be going along precisely because they anticipate that opposition is fruitless, in which case no inference about the policy’s merits should be drawn from their approval. Moreover, even a well-motivated president may prefer, all else equal, to generate credibility through mechanisms that do not involve Congress, if concerned about delay, leaks, or obstruction by small legislative minorities. Thus Truman relied on a resolution of the United Nations Security Council rather than congressional authorization to prosecute the Korean War.99¶ The costs of multilateralism are straightforward. Multilateralism increases the costs of reaching decisions, because a larger group must coordinate its actions, and increases the risks of false negatives – failure to undertake justified interventions. A president who declines to bind himself through multilateralism may thus be either illmotivated and desirous of pursuing an agenda not based on genuine security goals, or well-motivated and worried about the genuine costs of multilateralism. As usual, however, the credibility-generating inference holds asymmetrically: precisely because an ill-motivated president may use the costs of multilateralism as a plausible pretext, a president who does pursue multilateralism is more likely to be well-motivated. ¶ Strict liability. For completeness, we mention that the well-motivated executive might in principle subject himself to strict liability for actions or outcomes that only an ill-motivated executive would undertake. Consider the controversy surrounding George W. Bush’s telecommunications surveillance program, which the president has claimed covers only communications in which one of the parties is overseas; domestic-to-domestic calls are excluded.100 There is widespread suspicion that this claim is false.101 In a recent poll, 26% of respondents believed that the National Security Agency listens to their calls.102 The credibility gap arises because it is difficult in the extreme to know what exactly the Agency is doing, and what the costs and benefits of the alternatives are.¶ Here the credibility gap might be narrowed by creating a cause of action, for damages, on behalf of anyone who can show that domestic-to-domestic calls were examined.103 Liability would be strict, because a negligence rule – did the Agency exert reasonable efforts to avoid examining the communication? – requires too much information for judges, jurors, and voters to evaluate, and would just reproduce the monitoring problems that gave rise to the credibility gap in the first place. Strict liability, by contrast, would require a much narrower factual inquiry. Crucially, a commitment to strict liability would only be made by an executive who intended to minimize the incidence of (even unintentional and non-negligent) surveillance of purely domestic communications.¶ However, there are legal and practical problems here, perhaps insuperable ones. Legally, it is hardly clear that the president could, on his own authority, create a cause of action against himself or his agents to be brought in federal court. It is well within presidential authority to create executive commissions for hearing claims against the United States, for disbursing funds under benefit programs, and so on; but the problem here is that there might be no pot of money from which to fund damages. The so-called Judgment Fund, out of which damages against the executive are usually paid, is restricted to statutorily-specified lawsuits. If so, statutory authorization for the president to create the strict liability cause of action would be necessary, as we discuss shortly.104 Practically, it is unclear whether government agents can be forced to “internalize costs” through money damages in the way that private parties can, at least if the treasury is paying those damages.105 And if it is, voters may not perceive the connection between governmental action and subsequent payouts in any event.¶ The news conference. Presidents use news conferences to demonstrate their mastery of the details of policy. Many successful presidents, like FDR, conducted numerous such conferences.106 Ill-motivated presidents will not care about policy if their interest is just holding power for its own sake; thus, they would regard news conferences as burdensome and risky chores. The problem is that a well-motivated president does not necessarily care about details of policy, as opposed to its broad direction, and journalists might benefit by tripping up a president in order to score points. Reagan, for example, did not care about policy details, but is generally regarded as a successful president.107 To make Reagan look good, his handlers devoted considerable resources trying to prepare him for news conferences, resources that might have been better used in other ways.108¶ “Precommitment politics.”109 We have been surveying mechanisms that the wellmotivated executive can employ once in office. However, in every case the analysis can be driven back one stage to the electoral campaign for executive office. During electoral campaigns, candidates for the presidency take public positions that partially commit them to subsequent policies, by raising the reputational costs of subsequent policy changes. Under current law, campaign promises are very difficult to enforce in the courts.110 But even without legal enforcement, position-taking helps to separate the well-motivated from the ill-motivated candidate, because the costs to the former of making promises of this sort are higher. To be sure, many such promises are vacuous, meaning that voters will not sanction a president who violates them, but some turn out to have real force, as George H.W. Bush discovered when he broke his clear pledge not to raise taxes.

**XO solves because it provides a speedy discussion and shields the link to politics**

**Sovacool 9** Dr. Benjamin K. Sovacool 2009 is a Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization., Kelly E. Sovacool is a Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of SingaporeArticle: Preventing National Electricity-Water Crisis Areas in the United States, Columbia Journal of Environmental Law 2009 34 Colum. J. Envtl. L. 333

¶ Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save ¶ ¶ presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails.¶ ¶ 292¶ ¶ Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September ¶ ¶ 11, 2001 attacks on the Pentagon and World Trade Center, for ¶ ¶ instance, the Bush Administration almost immediately passed ¶ ¶ Executive Orders forcing airlines to reinforce cockpit doors and ¶ ¶ freezing the U.S. based assets of individuals and organizations ¶ ¶ involved with terrorist groups.¶ ¶ 293¶ ¶ These actions took Congress ¶ ¶ nearly four months to debate and subsequently endorse with ¶ ¶ legislation. Executive Orders therefore enable presidents to ¶ ¶ rapidly change law without having to wait for congressional action ¶ ¶ or agency regulatory rulemaking.

## 1NC CP 2

**We stand in affirmation of The United States federal government should substantially increase statutory and/or judicial restrictions on the war powers authority of the President of the United States in one or more of the following areas: targeted killing; indefinite detention; or introducing United States Armed Forces into hostilities,” as a response to Yoo and the OLC.**

**Counterplan pics out of reducing cyber capabillites The US has established Cyber Deterrence**

Eric Talbot **Jensen**, **‘12** (Associate Professor, Brigham Young University Law School. , “CYBER DETERRENCE”, Emory law Journal)

Among the most worrisome of hacking incidents are those focused on critical national infrastructure.14 This infrastructure is the backbone of United States’ transportation and economic systems.15 The cost of downtime alone from major attacks on critical national infrastructure “exceeds . . . $6 million per day.”16 The attacks have caused President Barack Obama to recently state, From now on, our digital infrastructure—the networks and computers we depend on every day—will be treated as they should be: as a strategic national asset. Protecting this infrastructure will be a national security priority. We will ensure that these networks are secure, trustworthy and resilient. We will deter, prevent, detect, and defend against attacks and recover quickly from any disruptions or damage.17 President Obama’ s recognition of the role and importance of deterring malicious cyber operations, including cyber attacks, incorporates the traditional notions of deterrence to this modern risk to national security. Deterrence has been a part of Western political security doctrine since ancient Greece18 and played a particularly key role in the post-World War II nuclear world.19 It is equally important in today’s world of cyber operations 20 and will continue to play a key role in the U.S. national security strategy.21 In fact, just as cyber operations offer unique capabilities as tools to accomplish national goals,22 they also present distinctive aspects of deterrence, both in line with traditional notions of deterrence and also some innovative and progressive ways of viewing deterrence.23

**Offensive Cyber capabilities are key to an effective deterrent**

Jari **Rantapelkonen &** Mirva **Salminen**, **’13** (“THE FOG OF CYBER DEFENCE”, National Defence University Department of Leadership and Military Pedagogy Publication Series 2 Article Collection n:o 10)

Offensive Weaponry is Required for Credibility and Deterrence¶ Discussion on offensive cyber weaponry should begin. As emphasized, currently there is no credible status for the armed forces and the nation states without cyber capabilities – this includes the offensive capability. The arms race is on and accelerating, even if we would like to turn a blind eye to it. The most frantic contemporary race is about talented individuals. When it comes to the creation of cyber capabilities, the question is not about the number of people one employs but about the talent the employed have. The US, China, Russia and many other countries are actively recruiting promising hackers. So are, most likely, Al Qaeda and other organizations. The real cyber question is about the talent and about creating cyber capabilities with the help of the most talented individuals.¶ It is not very popular or even desirable to talk publicly about offensive cyber weaponry in most countries. However, it has become necessary to explain the logic of offensive cyber capabilities to the general public. Naturally, this has to be done in various ways in different countries due to cultural and national reasons. The reasons why countries are developing offensive weapons and why they need them can be summarized into the following four points.¶ First, if one wishes to be a credible actor both in the military battlefield and in world politics, one must have offensive capabilities – as one must have defensive capabilities and the ability to be resilient. One simply cannot have a credible cyber defence without offensive abilities.¶ Second, in order to achieve and raise her deterrence, one must possess offensive capabilities. The ability to act offensively includes a strong preventive message to the others – provided that they understand it and believe it. Offensive capabilities represent the key component of deterrence.¶ Third, offensive thinking and building offensive weaponry are vital in order to create a strong and credible defence. With just “defence thinking” one will not succeed. One has to have an understanding of how the attacker acts, and one should try to find all possible vulnerabilities in her own defence. It is also a matter of developing one’s defensive potentials, testing the current defence and training one’s forces. All this becomes much more efficient if one can test it with her own capabilities. Without the ability to act as an attacker, no country can build an effective and credible cyber defence.

**Cyber Deterrence is ultimate deterrent- prevents Great Power War**

Jari **Rantapelkonen &** Mirva **Salminen**, **’13** (“THE FOG OF CYBER DEFENCE”, National Defence University Department of Leadership and Military Pedagogy Publication Series 2 Article Collection n:o 10)

Based on that logic, cyber deterrence should play a similar role in the digitalized world. However, anonymity, advantage of attacks, global reach and interconnectedness greatly reduce the efficiency of cyber deterrence. Simultaneously, there is a lot of suspicion and rumours travelling around: what kind of capabilities the others might have and how they are using them already?¶ In the kinetic world, it is much easier to evaluate the opponent’s capabilities. It is quite easy to make a valid estimate on how many tanks, interceptors or submarines a country possesses. Countries also openly expose their arsenal, for example, in military parades, as well as their operational skills, for example, by organizing large military exercises. In the logic of deterrence, it is even more important to manifest force than to have real capabilities – yet the others have to know it.¶ Awareness Prevents Conflicts¶ Deterrence depends upon effective communication between the state and the entity it wishes to deter. One has to convince the others that if they attack, one has the capability and the capacity to do something about it. This is also the case in the cyber domain. If a country wants to be a credible actor in this domain, it should openly declare its offensive policy and expose its offensive capabilities. The policy acts as the rules for engagement. This is the trend some countries are already moving toward. For example, for the first time since the Second World War, Germany has publicly disclosed that it is developing offensive cyber weapons.5 In addition, in the latest Cyber Strategy of the United States, offensive cyber policy is strongly emphasized, and it has been said in public that the US Defense Advanced Research Projects Agency (DARPA) is focusing its research on offensive cyber capabilities.6 It has also been announced by many countries that a response to a cyber attack is not limited to the cyber domain, which is very understandable. The world needs to start talking openly about offensive cyber capabilities and the readiness levels – just as we discuss missile arsenals, air force, submarine fleets, or doctrines. We talk about great military exercises taking place in the kinetic world, but there is very little public discussion on things happening in cyberspace. Today, countries are aware of and appreciate the kinetic capacities which the others have. This is one reason why there are so few on- going wars in the world. Awareness prevents conflicts – at least, between the nation states – and it raises the threshold for conducting an attack. The defence policy of many countries is based on this assumption – if you have and if you are able to expose strong enough military capability, the likelihood of being attacked decreases.

## 1NC Case

**The threat of terrorism is dampened now**

CNN 13 (Is terrorism still a threat to American, 7/19/2013, families?http://security.blogs.cnn.com/2013/07/19/is-terrorism-still-a-threat-to-american-families/)

After the September 11, 2001, terrorist attacks on the United States, a majority of Americans were worried about terrorism directly impacting their lives, according to a number of polls.¶ More than a decade later, is that still the case?¶ That was the primary question John Ashcroft, former attorney general under President George W. Bush, and Phillip Mudd, a former senior official at the CIA and FBI, debated at a Friday panel at the Aspen Security Forum.¶ “I think we are still at war,” Ashcroft said bluntly. “I don’t know if I will be able to be sure to say when we will be able to say we are not at war. But as long as they are continuing to hit us and allege that they are at war, I think we can.”¶ In response, Mudd directly challenged Ashcroft.¶ “I don't agree, by the way, that we are at war,” the author said.¶ Instead, Mudd argued, that we have a dynamic and ever-changing face of terrorism that may prove to be difficult to squash completely.¶ But because of two wars in Iraq and Afghanistan, he said the threat of terrorism is not nearly what it used to be.¶ “In 2001, we would have said terrorism is a potential threat to American families,” Mudd said. “And I would say today, that is not true."¶ Mudd added that he believed it was a false distinction.¶ “I have 10 nieces and nephews, I don't think I have ever talked to them about terrorism. … The gang problems in the city that I live in, Memphis, Tennessee, are outrageous. People in this country, partly because there is a racial divide in this country, don’t care. But four people die in an attack and this is a national disaster, I don’t get it,” he said.

**Maintaining a strong executive branch is essential because the executive can deploy all of the tools it has**

**Royal 2011** (John Paul Royal, Institute of World Politics, “War Powers and the Age of Terrorism,” Center for the Study of the Presidency & Congress The Fellows Review, http://www.thepresidency.org/storage/Fellows2011/Royal-\_Final\_Paper.pdf)

Alexis de Tocqueville, that prescient and inimitable observer of America, ¶ noted in his classic work Democracy in America that circumstances eventually ¶ would cause executive power to grow over time as the United States expanded in ¶ power and prestige. Observing the diminutive size and strength of the American ¶ armed forces of the period, he wrote that the “President of the United States is in ¶ the possession of almost royal prerogatives, which he has no opportunity of ¶ exercising; and those privileges which he can at present use are very circumscribed: ¶ the laws allow him to possess a degree of influence which circumstances do not ¶ permit him to employ” (de Tocqueville 1839, 119). Indeed at the time, the United ¶ States had little need for strong defenses since the country was isolated from the ¶ great powers of the day by two vast oceans; had few threats from its direct ¶ neighbors; and did not have major conflicting interests with other nations around ¶ the world. ¶ But Tocqueville stated that as the United States grew and threats to the ¶ nation increased, so too would its dependence on executive power. In foreign ¶ affairs and national security, the executive power of a nation must “exert its skill ¶ and its vigor.” As Tocqueville predicted: ¶ If the existence of the Union were perpetually threatened, and if its chief ¶ interests were in daily connection with those of other powerful nations, ¶ the executive government would assume an increased importance in ¶ proportion to the measures expected of it, and those which it would ¶ carry into effect (de Tocqueville 1839, 119). ¶ And so it has come to pass. Certainly, the Executive has grown but so have ¶ the intelligence services, armed forces, and foreign policy apparatus of the United ¶ States. Congress created, funded, trained, and organized an international U.S. ¶ national security presence throughout the world capable of quickly deployable ¶ global missions executed by the President. In an increasingly dangerous and ¶ globalized world filled with “perpetual threats,” it was prudent and judicious of the ¶ Founders to establish a flexible and fluid constitutional order to protect national ¶ interests during times of uncertainty, crisis, and war.

**Extinction**

Toon et al 7 – Owen B. Toon, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

**Reps don’t come first**

**Campbell, 02** – John L., Department of Sociology, Dartmouth College (“Ideas, Politics, and Public Policy,” Annual Review of Sociology, vol. 28, no. 1, 2002, JSTOR)RK

However provocative these notions about the relationships between ideas and institutions may be, critics charge that they are flawed (Yee 1996, Jacobsen 1995). To begin with, the path-dependenta rguments uffers because once ideas have become institutionalized in rules, procedures, agencies, and the like, it is no longer clear whether the ideas or the institutions within which they are embedded are more important for future policy-making episodes. Similarly, the actor-centered approach fails to differentiate the effects of ideas themselves from the effects of the actors who bear them. Researchers have found that the status of the actors bearing new ideas affects the odds that policy makers will adopt their ideas (Goldstein 1993:15). In other words, the persuasiveness of ideas is assumed rather than analytically partitioned and empirically demonstrated. In turn, some of these critics suggest that if we are concerned with understanding how ideas themselves affect policy making, then a more fruitful approach is to focus on the nature of political discourse.

**No root cause of war – decades of research votes aff**

**Cashman 9** (Greg Cashman (Professor of Political Science at Salisbury State University) 2000 “What Causes war?: An introduction to theories of international conflict” pg. 9

Two warnings need to be issued at this point. First, while we have been using a single variable explanation of war merely for the sake of simplicity, multivariate explanations of war are likely to be much more powerful. Since social and political behaviors are extremely complex, they are almost never explainable through a single factor. Decades of research have led most analysts to reject monocausal explanations of war. For instance, international relations theorist J. David Singer suggests that we ought to move away from the concept of “causality” since it has become associated with the search for a single cause of war; we should instead redirect our activities toward discovering “explanations”—a term that implies multiple causes of war, but also a certain element of randomness or chance in their occurrence.

**Wholesale rejection of truth is a bad practice – we should use studies and testing to create consensus**

Yale Ferguson (Professor of International Relations at Rutgers) and Richard Mansbach (Professor of International Relations at Iowa State) 2002 *International Relations and the “Third Debate,”* ed. Jarvis

Although there may be no such thing as “absolute truth” (Hollis, 1994:240-247; Fernandez-Armesto, 1997:chap.6), there is often a sufficient amount of intersubjective consensus to make for a useful conversation. That conversation may not lead to proofs that satisfy the philosophical nit-pickers, but it can be educational and illuminating. We gain a degree of apparently useful “understanding” about the things we need (or prefer) to “know.”

**Just because our truths have contingencies does not mean you should dismiss them – our predictions should be tested**

Fuyuki Kurasawa Constellations Volume 11, No 4, 2004 Cautionary Tales: The Global Culture of Prevention and the Work of Foresight

When engaging in the labor of preventive foresight, the first obstacle that one is likely to encounter from some intellectual circles is a deep-seated skepticism about the very value of the exercise. A radically postmodern line of thinking, for instance, would lead us to believe that it is pointless, perhaps even harmful, to strive for farsightedness in light of the aforementioned crisis of conventional paradigms of historical analysis. If, contra teleological models, history has no intrinsic meaning, direction, or endpoint to be discovered through human reason, and if, contra scientistic futurism, prospective trends cannot be predicted without error, then the abyss of chronological inscrutability supposedly opens up at our feet. The future appears to be unknowable, an outcome of chance. Therefore, rather than embarking upon grandiose speculation about what may occur, we should adopt a pragmatism that abandons itself to the twists and turns of history; let us be content to formulate ad hoc responses to emergencies as they arise. While this argument has the merit of underscoring the fallibilistic nature of all predictive schemes, it conflates the necessary recognition of the contingency of history with unwarranted assertions about the latter’s total opacity and indeterminacy. Acknowledging the fact that the future cannot be known with absolute certainty does not imply abandoning the task of trying to understand what is brewing on the horizon and to prepare for crises already coming into their own. In fact, the incorporation of the principle of fallibility into the work of prevention means that we must be ever more vigilant for warning signs of disaster and for responses that provoke unintended or unexpected consequences (a point to which I will return in the final section of this paper). In addition, from a normative point of view, the acceptance of historical contingency and of the self-limiting character of farsightedness places the duty of preventing catastrophe squarely on the shoulders of present generations. The future no longer appears to be a metaphysical creature of destiny or of the cunning of reason, nor can it be sloughed off to pure randomness. It becomes, instead, a result of human action shaped by decisions in the present – including, of course, trying to anticipate and prepare for possible and avoidable sources of harm to our successors.

**Policy change is necessary to alleviate real and on-going suffering. Abstract claims of “epistemology” and “ontology” and non-impacts like “technological rationality” are ivory-tower constructions that condemn millions to death**

**Jarvis 00** (Darryl, Senior Lecturer in International Relations – University of Sydney, International Relations and the Challenge of Postmodernism, p. 128-130)

Questions of Relevance, Rhetoric, Fiction, and Irrationalism While Ashley's rhetoric serves to effect a number of political moves, it also helps conceal a series of blatant weaknesses implicit in his poststructural theory. The first of these we might identify as the rhetorical invention and reification of fictitious enemies, a mechanism that not only validates Ash­ley's project but gives it meaning. Frequently, for example, what Ashley purports to be attacking turns out to be a fictitious, or at best grossly exaggerated, entity. In his adoption of the "megahistorical unit, moder­nity," for example, Ashley presupposes an homogeneous, coherent phe­nomenon able to be studied—a suggestion most would find outrageous. As Tony Porter notes, "giving coherence to such a phenomenon requires doing violence to its diversity." Enlightenment thought can no more be reduced to a symmetric intellectual tradition or historical moment than can postmodernism." Indeed, emasculating such an intellectual potpourri of ideas whose only similarity is dissonance seems peculiar considering Ashley's persistent commitment to venerate difference and discursive practices. To suppose that liberalism, Marxism, conservatism, fascism, leninism, or assorted other -isms that fall under the modernist rubric are contiguous is as preposterous as conflating Derrida with Foucault, Lyotard, and Baudrillard. Yet the hubris of Ashley's entire poststructural theory rests on such simplification and not only with the concept of modernity. Positivism, realism, or technical rationality, for instance, are all reduced to overly simplistic caricatures, assumed ubiquitous, and dis­tilled into three or four rudimentary propositions that Ashley then sets about deconstructing. Technical rationality simply becomes nonreflexive problem-solving; positivism, a system of thought that divides subject from object and fact from value; while realism is reduced to the ontolog­ical presumption of the state-as-actor. While simplicity has unquestion­able heuristic value, crude reductionism for the sake of political opportunism is plainly defamatory. Rather than parsimonious theory, what Ashley delivers is a series of fictitious straw men, theoretically fabri­cated along with crude ontological and epistemological presumptions that render them congenitally deformed and thus susceptible to Ashley's poststructural interpretivism. In reality, of course, no such caricatures exist. Positivists, realists, and modernists alike are considerably more complex, divergent, and reflexive than Ashley would have us believe. In the case of realism, for example, Ashley conflates the writings of Kenneth Waltz, Robert Keohane, Stephen Krasner, Robert W. Tucker, George Modelski, Charles Kindleberger, and Robert Gilpin, disregarding the disparate set of professional and political perspectives that makes each one distinctive and debate among them fero­cious." However, it is on the basis of these exaggerated caricatures that Ashley's raison d'être for poststructural theory and political transformation ultimately rests. Perhaps more alarming though is the outright violence Ashley recom­mends in response to what at best seem trite, if not imagined, injustices. Inculpating modernity, positivism, technical rationality, or realism with violence, racism, war, and countless other crimes not only smacks of anthropomorphism but, as demonstrated by Ashley's torturous prose and reasoning, requires a dubious logic to make such connections in the first place. Are we really to believe that ethereal entities like positivism, mod­ernism, or realism emanate a "violence" that marginalizes dissidents? Indeed, where is this violence, repression, and marginalization? As self- professed dissidents supposedly exiled from the discipline, Ashley and Walker appear remarkably well integrated into the academy—vocal, pub­lished, and at the center of the Third Debate and the forefront of theo­retical research. Likewise, is Ashley seriously suggesting that, on the basis of this largely imagined violence, global transformation (perhaps even rev­olutionary violence) is a necessary, let alone desirable, response? Has the rationale for emancipation or the fight for justice been reduced to such vacuous revolutionary slogans as "Down with positivism and rationality"? The point is surely trite. Apart from members of the academy, who has heard of positivism and who for a moment imagines that they need to be emancipated from it, or from modernity, rationality, or realism for that matter? In an era of unprecedented change and turmoil, of new political and military configurations, of war in the Balkans and ethnic cleansing, is Ashley really suggesting that some of the greatest threats facing humankind or some of the great moments of history rest on such innocu­ous and largely unknown nonrealities like positivism and realism? These are imagined and fictitious enemies, theoretical fabrications that represent arcane, self-serving debates superfluous to the lives of most people and, arguably, to most issues of importance in international relations. More is the pity that such irrational and obviously abstruse debate should so occupy us at a time of great global turmoil. That it does and continues to do so reflects our lack of judicious criteria for evaluating the­ory and, more importantly, the lack of attachment theorists have to the real world. Certainly it is right and proper that we ponder the depths of our theoretical imaginations, engage in epistemological and ontological debate, and analyze the sociology of our knowledge." But to suppose that this is the only task of international theory, let alone the most important one, smacks of intellectual elitism and displays a certain contempt for those who search for guidance in their daily struggles as actors in international politics. What does Ashley's project, his deconstructive efforts, or valiant fight against positivism say to the truly marginalized, oppressed, and des­titute? How does it help solve the plight of the poor, the displaced refugees, the casualties of war, or the emigres of death squads? Does it in any way speak to those whose actions and thoughts comprise the policy and practice of international relations? On all these questions one must answer no. This is not to say, of course, that all theory should be judged by its technical rationality and problem-solving capacity as Ashley forcefully argues. But to suppose that problem-solving technical theory is not necessary—or is in some way bad—is a contemptuous position that abrogates any hope of solving some of the nightmarish realities that millions confront daily. As Holsti argues, we need ask of these theorists and their theories the ultimate question, "So what?" To what purpose do they deconstruct, problematize, destabilize, undermine, ridicule, and belittle modernist and rationalist approaches? Does this get us any further, make the world any better, or enhance the human condition? In what sense can this "debate toward [a] bottomless pit of epistemology and metaphysics" be judged pertinent, relevant, help­ful, or cogent to anyone other than those foolish enough to be scholasti­cally excited by abstract and recondite debate." Contrary to Ashley's assertions, then, a poststructural approach fails to empower the marginalized and, in fact, abandons them. Rather than ana­lyze the political economy of power, wealth, oppression, production, or international relations and render an intelligible understanding of these processes, Ashley succeeds in ostracizing those he portends to represent by delivering an obscure and highly convoluted discourse. If Ashley wishes to chastise structural realism for its abstractness and detachment, he must be prepared also to face similar criticism, especially when he so adamantly intends his work to address the real life plight of those who struggle at marginal places. If the relevance of Ashley's project is questionable, so too is its logic and cogency. First, we might ask to what extent the postmodern "empha­sis on the textual, constructed nature of the world" represents "an unwar­ranted extension of approaches appropriate for literature to other areas of human practice that are more constrained by an objective reality."" All theory is socially constructed and realities like the nation-state, domestic and international politics, regimes, or transnational agencies are obviously social fabrications. But to what extent is this observation of any real use? Just because we acknowledge that the state is a socially fabricated entity, or that the division between domestic and international society is arbitrar­ily inscribed does not make the reality of the state disappear or render invisible international politics. Whether socially constructed or objectively given, the argument over the ontological status of the state is of no par­ticular moment. Does this change our experience of the state or somehow diminish the political-economic-juridical-military functions of the state? To recognize that states are not naturally inscribed but dynamic entities continually in the process of being made and reimposed and are therefore culturally dissimilar, economically different, and politically atypical, while perspicacious to our historical and theoretical understanding of the state, in no way detracts from its reality, practices, and consequences. Similarly, few would object to Ashley's hermeneutic interpretivist understanding of the international sphere as an artificially inscribed demarcation. But, to paraphrase Holsti again, so what? This does not make its effects any less real, diminish its importance in our lives, or excuse us from paying serious attention to it. That international politics and states would not exist with­out subjectivities is a banal tautology. The point, surely, is to move beyond this and study these processes. Thus, while intellectually interesting, con­structivist theory is not an end point as Ashley seems to think, where we all throw up our hands and announce there are no foundations and all real­ity is an arbitrary social construction. Rather, it should be a means of rec­ognizing the structurated nature of our being and the reciprocity between subjects and structures through history. Ashley, however, seems not to want to do this, but only to deconstruct the state, international politics, and international theory on the basis that none of these is objectively given but fictitious entities that arise out of modernist practices of representa­tion. While an interesting theoretical enterprise, it is of no great conse­quence to the study of international politics. Indeed, structuration theory has long taken care of these ontological dilemmas that otherwise seem to preoccupy Ashley."

# 2NC V. Clarion

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#### Limits turn participation – a large topic dissuades novices from staying in debate

**Burk 2005,** director of debate at ut-dallas**,** (Chris, Posting to eDebate [the college debate listserve], 4/27, http://www.ndtceda.com/pipermail/edebate/2005-April/062186.html)

First, topic coherence can benefit smaller programs, especially those programs with a novice/JV element. Why do I mean by "topic coherence"? Well, there is some obvious focus to the topic apparent to all. List topics can be coherent (sanctions) and list topics can be wildly incoherent (Europe). In other words, a few generic arguments (DAs, counterplans, basic kritiks, answers to main advantage areas) can be enough to survive in most rounds. Those coaches who had to explain the sub-sections of the Indian Country and Europe topics to novices know what I mean. It was very, very difficult to have a new debater get ready for all those possible sub-sections. A student might quickly grasp a few arguments from Alfred or master a chunk of the Tactical Nukes arguments. But that was not enough since a Gaming case or a Turkey case might come in the next round. Novice debaters (or less dedicated Junior Varsity and Open) debaters had a HUGE number of distinct issues to learn before the first tournament! I personally saw many get discouraged and quit. And, remember, this can occur even if these students are NOT CONDUCTING ORIGINAL RESEARCH of their own. They get camp files, they can be given files produced by coaches & hard-working teammates. But the basic ammount of material to learn on incoherent topics overwhelms and discourages novices and junior varsity debaters. I'd contend that programs with novices and junior varsity debaters are the ones at most risk for elimination or shift to Parli. Directors of such programs can justify their continued existance be pointing to the dozens of students who participate. Let's hear from those directors: Did the wildly diverse sub-sections of the Europe topic help you to retain your novice and junior varsity debaters? I've spoken with a few and the answers thus far are solidly "NO

**LSL, no date**

[The LA State Legislature. No Date. “Glossary of Legislative Terms” http://www.legis.state.la.us/glossary2.htm. //JVOSS]

Resolution: A legislative instrument that generally is used for making declarations, stating policies, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution uses the term "resolved". Not subject to a time limit for introduction nor to governor's veto. (Const. Art. III, §17(B) and House Rules 8.11, 13.1, 6.8, and 7.4 and Senate Rules 10.9, 13.5 and 15.1)

## XO CP

#### Turn - external checks on president empirically fail --- only the counterplan is a realistic mechanism

**Tichenor, 8** --- Department of Political Science at Rutgers University-New Brunswick (Last modified 4/30/2008, Daniel J., “The Forgotten Virtues of Executive Restraint: Liberal Democracy, Prerogative Power, and Unfettered Presidentialism,” [http://www.wcfia.harvard.edu/sites/default/files/The%20Forgotten%20Virtues%20of%20Executive%20Restraint%20Tichenor.pdf)](http://www.wcfia.harvard.edu/sites/default/files/The%20Forgotten%20Virtues%20of%20Executive%20Restraint%20Tichenor.pdf%29))

 “The Constitution has not greatly bothered any wartime president,” Roosevelt’s Attorney General Francis Biddle memorably remarked.43 The same may be said of political forces outside the government. Indeed, none of our five potential checks – the judiciary, Congress, the media, advocacy groups, or the general public – posed significant veto-points. Lincoln encountered fierce press criticism, Roger Taney was a nettlesome critic of the habeas suspension, and mass publics were hardly unified behind the war cause, but none kept him from asserting unprecedented prerogative power. Wilson faced some challenges with advocacy groups, but the most obstreperous were easily repressed. If we wanted to play blithe optimists, we could highlight the extent to which each of our potential sources of resistance to presidential actions that restrict civil liberties have grown over time. The national network of citizen groups championing civil liberties has clearly thickened; public opinion after 2002 has wavered on executive actions; media coverage has expanded dramatically in volume (but my own content analysis is in progress); Congress has not greatly bothered the administration’s prosecution of the War on Terror but its oversight of possible military tribunals and sunset provisions of the Patriot Act illustrate a level legislative reluctance even shortly after the 9/11 attacks; and the federal judiciary of late has been more assertive than earlier wartime courts (see Table 2 for a first-cut evaluation). In the final analysis, however, none of these external checks seriously encumbered Lincoln, Wilson and FDR – or George W. Bush in the immediate aftermath of September 11th – in their exercise of prerogative power. In the absence of dependable external checks on presidential prerogative, internal checks assume special importance.

#### Self-restraint is a more effective check than other branches

**Posner & Vermeule, 6** --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

As we noted earlier, legal scholars rarely note the problem of executive credibility, preferring to dwell on the problem of aggrandizement by ill-motivated presidents. Ironically, this assumption that presidents seek to maximize power has obscured one of the greatest constraints on aggrandizement, namely, the president’s own interest in maintaining his credibility. Neither a well-motivated nor ill-motivated president can accomplish his goals if the public does not trust him.33 This concern with reputation may put a far greater check on the president’s actions than do the reactions of the other branches of the government.

**President more perceived than Congress or Courts**

**Marshall, 8** --- Professor of Law at the University of North Carolina (April 2008, William P., Boston University Law Review, “THE ROLE OF THE PRESIDENT IN THE TWENTY-FIRST CENTURY: ARTICLE: ELEVEN REASONS WHY PRESIDENTIAL POWER INEVITABLY EXPANDS AND WHY IT MATTERS,” 88 B.U.L. Rev. 505))

7. The Media and the Presidency

As Justice Jackson recognized in Youngstown, the power of the Presidency has also been magnified by the nature of media coverage. This coverage, which focuses on the President as the center of national power, n66 has only increased since Jackson's day as the dominance of television has increasingly identified the image of the nation with the image of the particular President holding office. n67 The effects of this image are substantial. Because the President is seen as speaking for the nation, the Presidency is imbued with a unique credibility. The President thereby holds an immediate and substantial advantage in any political confrontation. n68 Additionally, unlike the Congress or the Court, the President is uniquely able to demand the attention of the media and, in that way, can influence the Nation's political agenda to an extent that no other individual, or institution, can even approximate.

## Case

### 2NC Terror Impact

**Extinction**

Toon et al 7 – Owen B. Toon, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.