# Open Source Round 7

# 1NC

## 1NC

#### **Their security reps are inaccurate and cause action-reaction cycles. Such cycles are the root of violence and make extinction inevitable.**

Der Derian 98 (James, Professor of Political Science – University of Massachusetts, On Security, Ed. Lipschutz, p. 24-25)

No other concept in international relations packs the metaphysical punch, nor commands the disciplinary power of "security." In its name, peoples have alienated their fears, rights and powers to gods, emperors, and most recently, sovereign states, all to protect themselves from the vicissitudes of nature--as well as from other gods, emperors, and sovereign states. In its name, weapons of mass destruction have been developed which have transfigured national interest into a security dilemma based on a suicide pact. And, less often noted in international relations, in its name billions have been made and millions killed while scientific knowledge has been furthered and intellectual dissent muted. We have inherited an ontotheology of security, that is, an a priori  argument that proves the existence and necessity of only one form of security because there currently happens to be a widespread, metaphysical belief in it. Indeed, within the concept of security lurks the entire history of western metaphysics, which was best described by Derrida "as a series of substitutions of center for center" in a perpetual search for the "transcendental signified." Continues... [7](http://libcat1.cc.emory.edu:32888/20050307122932441313c0%3Dwww.ciaonet.org%3A80/book/lipschutz/lipschutz12.html#note7) In this case, Walt cites IR scholar Robert Keohane on the hazards of "reflectivism," to warn off anyone who by inclination or error might wander into the foreign camp: "As Robert Keohane has noted, until these writers `have delineated . . . a research program and shown . . . that it can illuminate important issues in world politics, they will remain on the margins of the field.' " [8](http://libcat1.cc.emory.edu:32888/20050307122932441313c0%3Dwww.ciaonet.org%3A80/book/lipschutz/lipschutz12.html#note8) By the end of the essay, one is left with the suspicion that the rapid changes in world politics have triggered a "security crisis" in security studies that requires extensive theoretical damage control. What if we leave the desire for mastery to the insecure and instead imagine a new dialogue of security, not in the pursuit of a utopian end but in recognition of the world as it is, other than us ? What might such a dialogue sound like? Any attempt at an answer requires a genealogy: to understand the discursive power of the concept, to remember its forgotten meanings, to assess its economy of use in the present, to reinterpret--and possibly construct through the reinterpretation--a late modern security comfortable with a plurality of centers, multiple meanings, and fluid identities. The steps I take here in this direction are tentative and preliminary. I first undertake a brief history of the concept itself. Second, I present the "originary" form of security that has so dominated our conception of international relations, the Hobbesian episteme of realism. Third, I consider the impact of two major challenges to the Hobbesian episteme, that of Marx and Nietzsche. And finally, I suggest that Baudrillard provides the best, if most nullifying, analysis of security in late modernity. In short, I retell the story of realism as an historic encounter of fear and danger with power and order that produced four realist forms of security: epistemic, social, interpretive, and hyperreal. To preempt a predictable criticism, I wish to make it clear that I am not in search of an "alternative security." An easy defense is to invoke Heidegger, who declared that "questioning is the piety of thought." Foucault, however, gives the more powerful reason for a genealogy of security: I am not looking for an alternative; you can't find the solution of a problem in the solution of another problem raised at another moment by other people. You see, what I want to do is not the history of solutions, and that's the reason why I don't accept the word alternative. My point is not that everything is bad, but that everything is dangerous, then we always have something to do. The hope is that in the interpretation of the most pressing dangers of late modernity we might be able to construct a form of security based on the appreciation and articulation rather than the normalization or extirpation of difference. Nietzsche transvalues both Hobbes's and Marx's interpretations of security through a genealogy of modes of being. His method is not to uncover some deep meaning or value for security, but to destabilize the intolerable fictional identities of the past which have been created out of fear, and to affirm the creative differences which might yield new values for the future. Originating in the paradoxical relationship of a contingent life and a certain death, the history of security reads for Nietzsche as an abnegation, a resentment and, finally, a transcendence of this paradox. In brief, the history is one of individuals seeking an impossible security from the most radical "other" of life, the terror of death which, once generalized and nationalized, triggers a futile cycle of collective identities seeking security from alien others--who are seeking similarly impossible guarantees. It is a story of differences taking on the otherness of death, and identities calcifying into a fearful sameness.

#### Reject the Aff’s security discourse – abandoning the attempt to eradicate insecurity is a prerequisite to meaningful political engagement.

Neocleous 8 [Mark, Professor of the Critique of Political Economy at Brunel University, Critique of Security, p. 185-186]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether – to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain ‘this is an insecure world’ and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security.¶ This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debates and discussions that animate political life. The constant prioritising of a mythical security as a political end – as the political end – constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible – that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it removes it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve ‘security’, despite the fact that we are never quite told – never could be told – what might count as having achieved it. Security politics is, in this sense, an anti-politics,141 dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more ‘sectors’ to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives.¶ Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that’s left behind? But I’m inclined to agree with Dalby: maybe there is no hole.142 The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up re-affirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That’s the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths.¶ For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding ‘more security’ (while meekly hoping that this increased security doesn’t damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that ‘security’ helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and ‘insecurities’ that come with being human; it requires accepting that ‘securitizing’ an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift.143

## 1NC

#### Obama’s pressuring the GOP with a strong display of Presidential strength and staying on message – the GOP will cave

**Dovere, 10/1/13** (Edward, Politico, “Government shutdown: President Obama holds the line”

<http://www.politico.com/story/2013/10/government-shutdown-president-obama-holds-the-line-97646.html?hp=f3>)

President Barack Obama started September in an agonizing, extended display of how little sway he had in Congress. He ended the month with a display of resolve and strength that could redefine his presidency. All it took was a government shutdown. This was less a White House strategy than simply staying in the corner the House GOP had painted them into — to the White House’s surprise, Obama was forced to do what he so rarely has as president: he said no, and he didn’t stop saying no. For two weeks ahead of Monday night’s deadline, Obama and aides rebuffed the efforts to kill Obamacare with the kind of firm, narrow sales pitch they struggled with in three years of trying to convince people the law should exist in the first place. There was no litany of doomsday scenarios that didn’t quite come true, like in the run-up to the fiscal cliff and the sequester. No leaked plans or musings in front of the cameras about Democratic priorities he might sacrifice to score a deal. After five years of what’s often seen as Obama’s desperation to negotiate — to the fury of his liberal base and the frustration of party leaders who argue that he negotiates against himself. Even his signature health care law came with significant compromises in Congress. Instead, over and over and over again, Obama delivered the simple line: Republicans want to repeal a law that was passed and upheld by the Supreme Court — to give people health insurance — or they’ll do something that everyone outside the GOP caucus meetings, including Wall Street bankers, seems to agree would be a ridiculous risk. “If we lock these Americans out of affordable health care for one more year,” Obama said Monday afternoon as he listed examples of people who would enjoy better treatment under Obamacare, “if we sacrifice the health care of millions of Americans — then they’ll fund the government for a couple more months. Does anybody truly believe that we won’t have this fight again in a couple more months? Even at Christmas?” The president and his advisers weren’t expecting this level of Republican melee, a White House official said. Only during Sen. Ted Cruz’s (R-Texas) 21-hour floor speech last week did the realization roll through the West Wing that they wouldn’t be negotiating because they couldn’t figure out anymore whom to negotiate with. And even then, they didn’t believe the shutdown was really going to happen until Saturday night, when the House voted again to strip Obamacare funding. This wasn’t a credible position, Obama said again Monday afternoon, but rather, bowing to “extraneous and controversial demands” which are “all to save face after making some impossible promises to the extreme right wing of their political party.” Obama and aides have said repeatedly that they’re not thinking about the shutdown in terms of political gain, but the situation’s is taking shape for them. Congress’s approval on dealing with the shutdown was at 10 percent even before the shutters started coming down on Monday according to a new CNN/ORC poll, with 69 percent of people saying the House Republicans are acting like “spoiled children.” “The Republicans are making themselves so radioactive that the president and Democrats can win this debate in the court of public opinion” by waiting them out, said Jim Manley, a Democratic strategist and former aide to Senate Majority Leader Harry Reid who has previously been critical of Obama’s tactics. Democratic pollster Stan Greenberg said the Obama White House learned from the 2011 debt ceiling standoff, when it demoralized fellow Democrats, deflated Obama’s approval ratings and got nothing substantive from the negotiations. “They didn’t gain anything from that approach,” Greenberg said. “I think that there’s a lot they learned from what happened the last time they ran up against the debt ceiling.” While the Republicans have been at war with each other, the White House has proceeded calmly — a breakthrough phone call with Iranian President Hassan Rouhani Friday that showed him getting things done (with the conveniently implied juxtaposition that Tehran is easier to negotiate with than the GOP conference), his regular golf game Saturday and a cordial meeting Monday with his old sparring partner Israeli Prime Minister Benjamin Netanyahu. White House press secretary Jay Carney said Monday that the shutdown wasn’t really affecting much of anything. “It’s busy, but it’s always busy here,” Carney said. “It’s busy for most of you covering this White House, any White House. We’re very much focused on making sure that the implementation of the Affordable Care Act continues.” Obama called all four congressional leaders Monday evening — including Boehner, whose staff spent Friday needling reporters to point out that the president hadn’t called for a week. According to both the White House and Boehner’s office, the call was an exchange of well-worn talking points, and changed nothing. Manley advised Obama to make sure people continue to see Boehner and the House Republicans as the problem and not rush into any more negotiations until public outrage forces them to bend. “He may want to do a little outreach, but not until the House drives the country over the cliff,” Manley said Monday, before the shutdown. “Once the House has driven the country over the cliff and failed to fund the government, then it might be time to make a move.” The White House believes Obama will take less than half the blame for a shutdown – with the rest heaped on congressional Republicans. The divide is clear in a Gallup poll also out Monday: over 70 percent of self-identifying Republicans and Democrats each say their guys are the ones acting responsibly, while just 9 percent for both say the other side is. If Obama is able to turn public opinion against Republicans, the GOP won’t be able to turn the blame back on Obama, Greenberg said. “Things only get worse once things begin to move in a particular direction,” he said. “They don’t suddenly start going the other way as people rethink this.”

#### Having to defend authority derails the current agenda

Kriner 10 Douglas L. Kriner (assistant professor of political science at Boston University) “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.

#### That takes Obama off-message – it undermines his constant pressure on the GOP

**Milbank, 9/27/13** – Washington Post Opinion Writer (Dana, “Obama should pivot to Dubya’s playbook” Washington Post, <http://www.washingtonpost.com/opinions/dana-milbank-obama-should-try-pivoting-to-george-bushs-playbook/2013/09/27/c72469f0-278a-11e3-ad0d-b7c8d2a594b9_story.html>)

If President Obama can stick to his guns, he will win his October standoff with Republicans. That’s an awfully big “if.” This president has been consistently inconsistent, predictably unpredictable and reliably erratic. Consider the events of Thursday morning: Obama gave a rousing speech in suburban Washington, in defense of Obamacare, on the eve of its implementation. “We’re now only five days away from finishing the job,” he told the crowd. But before he had even left the room, his administration let slip that it was delaying by a month the sign-up for the health-care exchanges for small businesses. It wasn’t a huge deal, but it was enough to trample on the message the president had just delivered. Throughout his presidency, Obama has had great difficulty delivering a consistent message. Supporters plead for him to take a position — any position — and stick with it. His shifting policy on confronting Syria was the most prominent of his vacillations, but his allies have seen a similar approach to the Guantanamo Bay prison, counterterrorism and climate change. Even on issues such as gun control and immigration where his views have been consistent, Obama has been inconsistent in promoting his message. Allies are reluctant to take risky stands, because they fear that Obama will change his mind and leave them standing alone. Now come the budget showdowns, which could define the rest of his presidency. Republican leaders are trying to shift the party’s emphasis from the fight over a government shutdown to the fight over the debt-limit increase, where they have more support. A new Bloomberg poll found that Americans, by a 2-to-1 margin, disagree with Obama’s view that Congress should raise the debt limit without any conditions. But Obama has a path to victory. That poll also found that Americans think lawmakers should stop trying to repeal Obamacare. And that was before House Republicans dramatically overplayed their hand by suggesting that they’ll allow the nation to default if Obama doesn’t agree to their laundry list of demands, including suspending Obamacare, repealing banking reforms, building a new oil pipeline, easing environmental regulations, limiting malpractice lawsuits and restricting access to Medicare. To beat the Republicans, Obama might follow the example of a Republican, George W. Bush. Whatever you think of what he did, he knew how to get it done: by simplifying his message and repeating it, ad nauseam, until he got the result he was after. Obama instead tends to give a speech and move along to the next topic. This is why he is forever making “pivots” back to the economy, or to health care. But the way to pressure Congress is to be President One Note. In the debt-limit fight, Obama already has his note: He will not negotiate over the full faith and credit of the United States. That’s as good a theme as any; it matters less what the message is than that he delivers it consistently. The idea, White House officials explained to me, is to avoid getting into a back-and-forth over taxes, spending and entitlement programs. “We’re right on the merits, but I don’t think we want to argue on the merits,” one said. “Our argument is not that our argument is better than theirs; it’s that theirs is stupid.” This is a clean message: Republicans are threatening to tank the economy — through a shutdown or, more likely, through a default on the debt — and Obama isn’t going to negotiate with these hostage-takers. Happily for Obama, Republicans are helping him to make the case by being publicly belligerent. After this week’s 21-hour speech on the Senate floor by Sen. Ted Cruz (R-Tex.), the publicity-seeking Texan and Sen. Mike Lee (R-Utah) objected to a bipartisan request to move a vote from Friday to Thursday to give House Republicans more time to craft legislation avoiding a shutdown. On the Senate floor, Sen. Bob Corker (R-Tenn.) accused them of objecting because they had sent out e-mails encouraging their supporters to tune in to the vote on Friday. The Post’s Ed O’Keefe caught Cruz “appearing to snicker” as his colleague spoke — more smug teenager than legislator. Even if his opponents are making things easier for him, Obama still needs to stick to his message. As in Syria, the president has drawn a “red line” by saying he won’t negotiate with those who would put the United States into default. If he retreats, he will embolden his opponents and demoralize his supporters.

#### All of his political capital key to dem unity and debt ceiling

**Lillis, 9/7/13** (Mike, The Hill, “Fears of wounding Obama weigh heavily on Democrats ahead of vote”

Read more: http://thehill.com/homenews/house/320829-fears-of-wounding-obama-weigh-heavily-on-democrats#ixzz2gWiT9H8u

The prospect of wounding President Obama is weighing heavily on Democratic lawmakers as they decide their votes on Syria. Obama needs all the political capital he can muster heading into bruising battles with the GOP over fiscal spending and the debt ceiling. Democrats want Obama to use his popularity to reverse automatic spending cuts already in effect and pay for new economic stimulus measures through higher taxes on the wealthy and on multinational companies. But if the request for authorization for Syria military strikes is rebuffed, some fear it could limit Obama's power in those high-stakes fights. That has left Democrats with an agonizing decision: vote "no" on Syria and possibly encourage more chemical attacks while weakening their president, or vote "yes" and risk another war in the Middle East. “I’m sure a lot of people are focused on the political ramifications,” a House Democratic aide said. Rep. Jim Moran (D-Va.), a veteran appropriator, said the failure of the Syria resolution would diminish Obama's leverage in the fiscal battles. "It doesn't help him," Moran said Friday by phone. "We need a maximally strong president to get us through this fiscal thicket. These are going to be very difficult votes."

#### Failure to quickly raise the debt ceiling ensures collapse of the global economy, U.S. economic leadership, and free trade

Davidson 9/10

Adam, co-founder of NPR’s “Planet Money,” a podcast and blog, “Our Debt to Society”, <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&_r=0>, MCR

**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 U**nited **S**tates, 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**.

#### Econ collapse = extinction (green)

Kemp 10 Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

## 1NC

#### By executive order, the President of the United States should commit the Solicitor General & White House Counsel’s Office to advance consultation with the Office of Legal Counsel and require written publication of Office of Legal Counsel opinions over current law regarding removing the authority to authorize the preemptive use of large-scale cyber-attacks, except in direct support of authorized United States military operations. The President should publicly pledge to act consistent with these opinions.

#### The Office of Legal Counsel should opine that the best interpretation of current law requires removing the authority to authorize the preemptive use of large-scale cyber-attacks, except in direct support of authorized United States military operations

#### CP competes on ‘authority’ but solves – OLC rulings are binding as settled law, but crafting reduces links to net benefits

Trevor W. Morrison, October 2010 Columbia Law Professor

“STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448.

On the other hand, an OLC that says "yes" too often is not in the client's long-run interest. n49 Virtually all of OLC's clients have their own legal staffs, including the White House Counsel's Office in the White House and the general counsel's offices in other departments and agencies. Those offices are capable of answering many of the day-to-day issues that arise in those components. They typically turn to OLC when the issue is sufficiently controversial or complex (especially on constitutional questions) that some external validation holds special value. n50 For example, when a department confronts a difficult or delicate constitutional question in the course of preparing to embark upon a new program or course of action that raises difficult or politically sensitive legal questions, it has an interest in being able to point to a credible source affirming the [\*1462] legality of its actions. n51 The in-house legal advice of the agency's general counsel is unlikely to carry the same weight. n52 Thus, even though those offices might possess the expertise necessary to answer at least many of the questions they currently send to OLC, in some contexts they will not take that course because a "yes" from the in-house legal staff is not as valuable as a "yes" from OLC. But that value depends on OLC maintaining its reputation for serious, evenhanded analysis, not mere advocacy. n53 The risk, however, is that OLC's clients will not internalize the long-run costs of taxing OLC's integrity. This is in part because the full measure of those costs will be spread across all of OLC's clients, not just the client agency now before it. The program whose legality the client wants OLC to review, in contrast, is likely to be something in which the client has an immediate and palpable stake. Moreover, the very fact that the agency has come to OLC for legal advice will often mean it thinks there is [\*1463] at least a plausible argument that the program is lawful. In that circumstance, the agency is unlikely to see any problem in a "yes" from OLC. Still, it would be an overstatement to say that OLC risks losing its client base every time it contemplates saying "no." One reason is custom. In some areas, there is a longstanding tradition - rising to the level of an expectation - that certain executive actions or decisions will not be taken without seeking OLC's advice. One example is OLC's bill comment practice, in which it reviews legislation pending in Congress for potential constitutional concerns. If it finds any serious problems, it writes them up and forwards them to the Office of Management and Budget, which combines OLC's comments with other offices' policy reactions to the legislation and generates a coordinated administration position on the legislation. n54 That position is then typically communicated to Congress, either formally or informally. While no statute or regulation mandates OLC's part in this process, it is a deeply entrenched, broadly accepted practice. Thus, although some within the Executive Branch might find it frustrating when OLC raises constitutional concerns in bills the administration wants to support as a policy matter, and although the precise terms in which OLC's constitutional concerns are passed along to Congress are not entirely in OLC's control, there is no realistic prospect that OLC would ever be cut out of the bill comment process entirely. Entrenched practice, then, provides OLC with some measure of protection from the pressure to please its clients. But there are limits to that protection. Most formal OLC opinions do not arise out of its bill comment practice, which means most are the product of a more truly voluntary choice by the client to seek OLC's advice. And as suggested above, although the Executive Branch at large has an interest in OLC's credibility and integrity, the preservation of those virtues generally falls to OLC itself. OLC's nonlitigating function makes this all the more true. Whereas, for example, the Solicitor General's aim of prevailing before the Supreme Court limits the extent to which she can profitably pursue an extreme agenda inconsistent with current doctrine, OLC faces no such immediate constraint. Whether OLC honors its oft-asserted commitment to legal advice based on its best view of the law depends largely on its own self-restraint. 2. Formal Requests, Binding Answers, and Lawful Alternatives. - Over time, OLC has developed practices and policies that help maintain its independence and credibility. First, before it provides a written opinion, n55 OLC typically requires that the request be in writing from the head or general counsel of the requesting agency, that the request be as specific and concrete as possible, and that the agency provide its own written [\*1464] views on the issue as part of its request. n56 These requirements help constrain the requesting agency. Asking a high-ranking member of the agency to commit the agency's views to writing, and to present legal arguments in favor of those views, makes it more difficult for the agency to press extreme positions. Second, as noted in the Introduction, n57 OLC's legal advice is treated as binding within the Executive Branch until withdrawn or overruled. n58 As a formal matter, the bindingness of the Attorney General's (or, in the modern era, OLC's) legal advice has long been uncertain. n59 The issue has never required formal resolution, however, because by longstanding tradition the advice is treated as binding. n60 OLC protects that tradition today by generally refusing to provide advice if there is any doubt about whether the requesting entity will follow it. n61 This guards against "advice-shopping by entities willing to abide only by advice they like." n62 More broadly, it helps ensure that OLC's answers matter. An agency displeased with OLC's advice cannot simply ignore the advice. The agency might [\*1465] construe any ambiguity in OLC's advice to its liking, and in some cases might even ask OLC to reconsider its advice. n63 But the settled practice of treating OLC's advice as binding ensures it is not simply ignored. In theory, the very bindingness of OLC's opinions creates a risk that agencies will avoid going to OLC in the first place, relying either on their general counsels or even other executive branch offices to the extent they are perceived as more likely to provide welcome answers. This is only a modest risk in practice, however. As noted above, legal advice obtained from an office other than OLC - especially an agency's own general counsel - is unlikely to command the same respect as OLC advice. n64 Indeed, because OLC is widely viewed as "the executive branch's chief legal advisor," n65 an agency's decision not to seek OLC's advice is likely to be viewed by outside observers with skepticism, especially if the in-house advice approves a program or initiative of doubtful legality. OLC has also developed certain practices to soften the blow of legal advice not to a client's liking. Most significantly, after concluding that a client's proposed course of action is unlawful, OLC frequently works with the client to find a lawful way to pursue its desired ends. n66 As the OLC Guidelines put it, "when OLC concludes that an administration proposal is impermissible, it is appropriate for OLC to go on to suggest modifications that would cure the defect, and OLC should stand ready to work with the administration to craft lawful alternatives." n67 This is a critical component of OLC's work, and distinguishes it sharply from the courts. In addition to "providing a means by which the executive branch lawyer can contribute to the ability of the popularly-elected President and his administration to achieve important policy goals," n68 in more instrumental terms the practice can also reduce the risk of gaming by OLC's clients. And that, in turn, helps preserve the bindingness of OLC's opinions. n69 [\*1466] To be sure, OLC's opinions are treated as binding only to the extent they are not displaced by a higher authority. A subsequent judicial decision directly on point will generally be taken to supersede OLC's work, and always if it is from the Supreme Court. OLC's opinions are also subject to "reversal" by the President or the Attorney General. n70 Such reversals are rare, however. As a formal matter, Dawn Johnsen has argued that "the President or attorney general could lawfully override OLC only pursuant to a good faith determination that OLC erred in its legal analysis. The President would violate his constitutional obligation if he were to reject OLC's advice solely on policy grounds." n71 Solely is a key word here, especially for the President. Although his oath of office obliges him to uphold the Constitution, n72 it is not obvious he would violate that oath by pursuing policies that he thinks are plausibly constitutional even if he has not concluded they fit his best view of the law. It is not clear, in other words, that the President's oath commits him to seeking and adhering to a single best view of the law, as opposed to any reasonable or plausible view held in good faith. Yet even assuming the President has some space here, it is hard to see how his oath permits him to reject OLC's advice solely on policy grounds if he concludes that doing so is indefensible as a legal matter. n73 So the President needs at least a plausible legal basis for [\*1467] disagreeing with OLC's advice, which itself would likely require some other source of legal advice for him to rely upon. The White House Counsel's Office might seem like an obvious candidate. But despite recent speculation that the size of that office during the Obama Administration might reflect an intention to use it in this fashion, n74 it continues to be virtually unheard of for the White House to reverse OLC's legal analysis. For one thing, even a deeply staffed White House Counsel's Office typically does not have the time to perform the kind of research and analysis necessary to produce a credible basis for reversing an OLC opinion. n75 For another, as with attempts to rely in the first place on in-house advice in lieu of OLC, any reversal of OLC by the White House Counsel is likely to be viewed with great skepticism by outside observers. If, for example, a congressional committee demands to know why the Executive Branch thinks a particular program is lawful, a response that relies on the conclusions of the White House Counsel is unlikely to suffice if the committee knows that OLC had earlier concluded otherwise. Rightly or wrongly, the White House Counsel's analysis is likely to be treated as an exercise of political will, not dispassionate legal analysis. Put another way, the same reasons that lead the White House to seek OLC's legal advice in the first place - its reputation for [\*1468] providing candid, independent legal advice based on its best view of the law - make an outright reversal highly unlikely. n76 Of course, the White House Counsel's Office may well be in frequent contact with OLC on an issue OLC has been asked to analyze, and in many cases is likely to make it abundantly clear what outcome the White House prefers. n77 But that is a matter of presenting arguments to OLC in support of a particular position, not discarding OLC's conclusion when it comes out the other way. n78The White House is not just any other client, and so the nature of - and risks posed by - communications between it and OLC on issues OLC is analyzing deserve special attention. I take that up in Part III. n79 My point at this stage is simply that the prospect of literal reversal by the White House is remote and does not meaningfully threaten the effective bindingness of OLC's decisions.

#### OLC can resolve WPA questions quickly and effectively

Cornelia Pillard Feb 2005 Supreme Court Inst, G-town U Law, former DOJ Deputy Asst Att Gen

<http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1190&context=facpub>

Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758

Just as the SG is the federal government's chief litigator, the head of the Office of Legal Counsel is the executive branch's chief legal advisor. The Attorney General has formally delegated the legal-advice-giving part of his statutory responsibility to OLC.104 OLC has no enforcement or litigation responsibilities, and is devoted exclusively to giving legal advice. OLC's role within the executive branch has evolved over the years, with tasks calling for legal and, especially, constitutional judgment migrating to OLC, while more politicized tasks, like OLC's short involvement in vetting potential judicial nominees, being reassigned elsewhere.105 OLC's core work is to provide written and oral legal opinions to others within the executive branch, including the president, the Attorney General, and heads of other departments. In practice, the White House and the Attorney General are by far the most frequent requesters, often asking complex, momentous questions, frequently on short notice. OLC clients may seek opinions on matters such as the sustainability of a claim of executive privilege, or the lawfulness in a particular circumstance of a quarantine, detention, or use of military force. OLC has been consulted when troops have been sent abroad and when international criminals were arrested overseas.106 Much of OLC's work is more quotidian, including topics such as the constitutionality under the Appointments Clause of various boards and commissions, or the scope of an agency's statutory authority to alter a regulation or settle a case in a particular way. Its opinions "involve domestic problems, international issues, pet plans of bureaucrats, the application of the Constitution and the laws to administrative policies and procedures, the powers and jurisdictions of departments and agencies, the advisability of contemplated actions, [and various mundane and] momentous matters." 107 OLC traditionally requires that requests for advice come from the head or general counsel of the requesting agency, that advice-seekers submit their own view of the question to OLC, and that independent agencies (not already presumptively bound) agree in advance to abide by the advice - even oral advice - that OLC delivers.108 The agreement to be bound forestalls opportunistic advice-shopping by entities willing to abide only by advice they like, and it preserves the resources and authority of OLC against being treated merely as an extra source of legal research on issues that other lawyers or officials will ultimately resolve for themselves.109

## 1NC

#### 4GW is the most accurate description of modern war- escalation is likely if uncontained- executive authority is key to counter these threats

Li 2009 [Zheyoa Li Winter, 2009 The Georgetown Journal of Law Public Policy 7 Geo. J.L. & Pub. Pol'y 373 “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare” lexis]

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons. 122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945. 123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends. 124¶ It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare.

The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modern trend toward a new phase of warfighting, the authors argued that:¶ [\*395] In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new theory of war powers. As evidenced by Part III, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise.

#### Speed of decisionmaking is key to 4GW- executive power is essential

Li 2009 [Zheyoa Li Winter, 2009 The Georgetown Journal of Law Public Policy 7 Geo. J.L. & Pub. Pol'y 373 “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare” lexis]

By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme.¶ As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should [\*399] consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 144 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police." 146 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision-making. [\*400] In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute.¶ In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourth-generational opponents.

#### Nuclear war – most probable escalation

Richards 2005 (Dr. Chet Richards, J. Addams & Partners July 12, 2005, “Dear Mr. & Ms. 1RP: Welcome to the 21st Century” http://www.zmetro.com/pdf/2005/07/welcome\_21st\_century\_v4.pdf)

Beginning with Mao Tse-Tung, and continuing to the present day, insurgency and other forms of non-state warfare have become more potent and much more dangerous in at least two ways: Groups other than states – that is, multinational organizations ranging from alQa’ida to the narcotrafficking cartels – are beginning to acquire high levels of sophistication in organization and in the information technologies that allow them to plan and conduct operations while widely dispersed.4 These same groups increasingly have the financial wherewithal to acquire virtually any type of weapon, from small arms to chemical and biological to nuclear, that they need to carry out operations. The only exceptions are conventional weapons such as tanks, combat aircraft, and fighting ships that require large facilities to support them, but are primarily of use only against other military forces armed with the same types of weapons. They are using their new capabilities not only to fight local governments, as was the case with traditional insurgencies, but to attack distant superpowers as well. Because they can’t field sizable amounts of conventional military hardware, fourth generation (4GW) forces will never try to achieve victory by defeating the military forces of a state in stand-up battles. Instead, they will try to convince their state opponent that it is simply not worth it to continue the fight. Successful 4GWcampaigns in modern times would include those against the French in Algeria, the US in Vietnam and the Soviet Union in Afghanistan, where the insurgents never defeated the foreign armies in any major battle, but eventually persuaded the governments back home to withdraw them. In a well run 4GW campaign, everything the 4GW forces do – including fighting and usually losing the occasional major battle – will support this goal. Persuading governments to withdraw forces, rather than defeating them on the battlefield, is an “information age” goal.6 To achieve the necessary level of persuasion, practitioners of 4GWwill use every information tool they can find to spread their messages to the enemy population and decision makers: Our cause is just and no threat to you There’s nothing here worth your effort and sacrifice Your troops are becoming brutal and your tactics ineffective If you keep it up, you’re going to bleed for a very long time So why not just leave now? As we enter the 21st Century, 4GWorganizations are becoming adept at spreading such messages through new channels, such as global news services (CNN, Al Jazeerah) and of course, web sites, blogs, and mass e-mailings. What you may not be aware of is that 4GWorganizations are also using the latest information tools to communicate with each other and to share information, particularly about what is and is not working (what the military calls “lessons learned.”)7Messages may be encrypted, or sent using code phrases, or even hidden in web site images, a practice called steganography. As with so many information age techniques, instructions for encryption and steganography are floating all over the Internet. Information age techniques are ideal for loose networks of highly motivated individuals, which is a typical form of organization for 4GW groups. Modern information warfare places a higher premium on creativity and innovation than it does on things 4GW organizations typically don’t have, like massive forces, volumes of regulations, and expensive hardware.8 By emphasizing speed and innovation, 4GWgroups can often invent new techniques faster than more structured and bureaucratic organizations such as the Pentagon.9 First responder organizations themselves may be targets of information warfare operations. The information systems of 1RP organizations, including operational systems as well as payroll and administrative, might make attractive targets in coordination with a physical attack. This is a real threat: Many members of al-Qa’ida and affiliated groups are from the educated classes in their countries, were technically trained (Osama bin Laden is a civil engineer), studied and lived in the West, and are capable of conceiving and managing such attacks. There are other advantages to the non-state player from operating in a loose social network. Obviously a social network is harder to find than an organization that requires a fixed infrastructure and wears uniforms. But perhaps most significant in wars of the weak against the strong, networks are highly resilient, so killing their leaders and destroying portions of the network can leave the rest to regenerate under new leadership in different locations.1112 So long as enough of the network survives to pass along the ideology and culture, along with lessons learned, the new network will likely be more dangerous and more resilient than its predecessor, much like the more resistant forms of bacteria that can emerge as a result of mis-use of antibiotics. In fact, the European resistance movements during World War II exhibited just this kind of toughness and survivability. In addition to its networked structure, there are other attributes of 4GW that should concern the 1RP (editor’s note: First Responder) community. The first is its transnational nature. An operation can be approved in Afghanistan, planned in Germany, funded in the Middle East, and carried out in the United States, as was the 9/11 attack. There is no one state we can retaliate against, nor one nationality we can profile against. Further, because it is transnational, it can involve networks of networks, such as alQa’ida attempting to cooperate with narco-trafficking organizations in Latin America to trade access to potential base areas and help in infiltrating the US for assistance in distributing narcotics.13 The upshot is that the lack of identifiable 4GW activity may not be an indication that an attack is not in the works, if the su4rveillance is being conducted by someone else. One of the more unpleasant aspects of insurgencies that will likely carry over to 4GWis their use of disguise, camouflage, and the other tools of deception. Because they are militarily weak, 4GW groups survive not by confronting superior firepower but by staying out of its sights. Those that have survived have become masters of concealment and deception, making it even more difficult to pick up early warning signals. This is why simple ethnic or national profiling will not work – 4GWteams will go to great lengths not to be identified as members of the groups in question. Skin color, eye color, and hair color are trivially easy to change, and the criminal infrastructure that already exists in most developed countries makes it simple to get drivers licenses or other means of identification (as any victim of identity theft can attest.) In a pinch, one can always recruit a member of a non-targeted group, such as the “shoe bomber,” Richard Reid, and it would be a mistake to assume the next batch will be as poorly trained. If we’re going to let Icelanders (or grandmothers or parents with toddlers, or whoever) through with less security screening than Saudis or Pakistanis or Jordanians, see if you can guess what the next aircraft hijacker will look like. Another unpleasant fact of 4GW is that like insurgency from whence it sprang, 4GW will be a protracted struggle.14 As Henry Kissinger once noted, if the guerillas don’t lose, they win, so they have all the motivation they need to keep going for as long as they think it will take.15 First responders should not draw comfort from what seems like a pause in attacks – operational cycles can stretch over several years, and a fourth generation war can span decades.16 But the most unpleasant fact of 4GW is that in it, we have finally reached the level of total war.17 In the eyes of the 4GW attacker, there are no civilians and no noncombatants. A concern for public relations offers the only reason for limiting the scope or violence of the attacks. What seems like “terrorism” to us, or senseless, random violence, may appear to the 4GW network as a legitimate way to persuade the foreign state government to withdraw, that is to stop the war. Such a strategy is nothing new. It was what Sherman had in mind during his marches through the South after the fall of Vicksburg (July 1863).18 In its local areas, the 4GW organization will spread the message that the foreign state has killed many civilians, which in a war of an advanced state versus a Third World country will often be true and will always be believed. What this means is that when a 4GW group decides to directly attack the United States or another state involved in “their” struggle, no level of violence, even nuclear, is ruled out. They may calculate that the message they are sending to the state government, to the state’s population, to undecided elements in other parts of the world, and to their own members is worth any backlash from the scenes of horror and brutality that ensue.

## Case-arms race

#### International norms won’t solve- definitions, verification, and attribution fail

Rid ’12 [Think Again: Cyberwar](http://www.foreignpolicy.com/articles/2012/02/27/cyberwar)¶ Don't fear the digital bogeyman. Virtual conflict is still more hype than reality.¶ BY THOMAS RID | [MARCH/APRIL 2012](http://www.foreignpolicy.com/issues/192/contents/) Thomas Rid, reader in war studies at King's College London, is author of "[Cyber War Will Not Take Place](http://www.tandfonline.com/doi/pdf/10.1080/01402390.2011.608939)" and co-author of "[Cyber-Weapons](http://www.tandfonline.com/doi/pdf/10.1080/03071847.2012.664354)

We Need a Cyberarms Control Agreement."¶ We don't. Cyberwar alarmists want the United States to see cybersecurity as a new challenge on a geopolitical scale. They see cyberspace becoming a new area for military competition with rivals such as Russia and China, and they believe new cyberarms limitation agreements are needed to prevent this. There are some rumblings to establish international norms on this topic: The British government convened a conference in London in late 2011, originally intended to make the Internet more secure by agreeing on new rules of the road, and Russia and China proposed at the U.N. General Assembly last September the establishment of an "[international code of conduct for information security](http://blog.internetgovernance.org/pdf/UN-infosec-code.pdf)." Now, diplomats are debating whether the United Nations should try to forge the equivalent of nuclear arms control in cyberspace.¶ So, should it? The answer is no. Attempts to limit cyberweapons through international agreements have three principal problems. The first difficulty is drawing the line between cybercrime and potentially political activity in cyberspace. In January, for instance, a Saudi hacker stole about 20,000 Israeli credit card numbers from a shopping website and leaked the information to the public. In retaliation, a group of Israeli hackers broke into Saudi shopping sites and threatened to release private credit card information.¶ Where is the dividing line? Even if it were possible to distinguish criminal from state-sponsored political activity, they often use the same means. A second hitch is practical: Verification would be impossible. Accurately counting the size of nuclear arsenals and monitoring enrichment activities is already a huge challenge; installing cameras to film programmers and "verify" they don't design malicious software is a pipe dream.¶ The third problem is political, and even more fundamental: Cyberaggressors may act politically, but in sharp contrast with warfare, they are likely to have a strong interest in avoiding attribution. Subversion has always thrived in cyberspace because preserving one's anonymity is easier to achieve than ironclad attribution. That's the root of the political problem: Having a few states agree on cyberarms limitation is about as realistic as a treaty to outlaw espionage and about as practical as outlawing the general subversion of established order.

#### **Arms race doesn’t cause attacks—strategically useless**

Gartzke ’12 The Myth of Cyberwar¶ Bringing War on the Internet Back Down to Earth\_¶ Erik Gartzke http://dss.ucsd.edu/~egartzke/papers/cyberwar\_12062012.pdf¶ 7 December 2012Erik Gartzke is an associate professor of political science at UC San Diego. Gartzke's primary area of study involves the impact of information and institutions on war and peace. He applies bargaining theory, rational choice institutional theory, concepts of power and social identity, and statistical analysis to four substantive areas of interest: 1) The liberal peace, 2) international institutions, 3) diplomacy, and 4) the system overall. Gartzke's recent publications include "A Strategic Approach to Nuclear Proliferation," with Matthew Kroenig (Journal of Conflict Resolution, 2009); "Bargaining, Nuclear Proliferation, and Interstate Disputes," with Dong-Joon Jo (Journal of Conflict Resolution, 2009);"International Organizations Count: What Statistics Tells Us About IOs," with Emilie M. Hafner-Burton and Jana von Stein (Journal of Conflict Resolution, 2008); and "The Capitalist Peace" (American Journal of Political Science, 2007), which received the "Best Article" in AJPS award that year. He holds a Ph.D. in Political Science from the University of Iowa

This essay assesses the salience of the internet for carrying out functions commonly identified with terrestrial political violence. War is fundamentally a political process, as Clausewitz¶ (1976[1832]) famously explained. States, groups and individuals threaten harm to deter or compel,¶ generating influence through the prospect of damage or loss. Military violence can also be exercised¶ to alter or maintain the balance of power and to resist or impose disputed outcomes. The internet¶ is generally an inferior substitute to terrestrial force in performing the functions of coercion or conquest.¶ Cyber \war" is not likely to serve as the final arbiter of competition in an anarchical world¶ and so should not be considered in isolation from more traditional forms of political violence.2 In¶ fact, the capacity for internet coercion is limited by the same factors that make cyberwar appear¶ at first to be so intimidating. For threats or demands to prove effective, targets must believe both¶ that an attack is likely to follow from noncompliance, and that the attack is destined to inflict¶ unacceptable harm. Yet, as I detail here, the need to apprise targets of internet vulnerabilities in¶ order to make cyber threats credible contrasts with the secrecy needed to ensure an effective attack.¶ Since it is difficult to share operational details of planned attacks without compromising military¶ effectiveness, cyberwar must be practiced more often than threatened. Here too, however, there are¶ critical limitations to what can be achieved via the internet. It is one thing for an opponent to idle¶ a country's infrastructure, communications or military capabilities. It is quite another to ensure¶ that the damage inflicted translates into a lasting shift in the balance of national capabilities or¶ resolve. Cyber attacks are unlikely to prove particularly potent in grand strategic terms unless they¶ are accompanied by terrestrial military force or other actions designed to capitalize on temporary¶ weakness effected over the internet. Perpetrators must therefore be prepared to exploit windows of¶ opportunity generated by internet attacks through other modes of combat. Otherwise, there are few¶ compelling reasons to initiate cyberwar in the first place. The chief beneficiaries of cyberwar are thus¶ less likely to be weak or rising powers than those states that already possess important terrestrial¶ military advantages. Conceived of in this way, the internet is less a revolution in military aff-airs¶ than it is yet another set of technologies that extend existing disparities in power and influence.

#### No cyber warfare-empirics

Rid ’12 Rid, T (2012) "Cyber War Will Not Take Place" Journal of Strategic Studies, vol 35, no 1, 5–32, February Thomas Rid, reader in war studies at King's College London, is author of "[Cyber War Will Not Take Place](http://www.tandfonline.com/doi/pdf/10.1080/01402390.2011.608939)" and co-author of "[Cyber-Weapons](http://www.tandfonline.com/doi/pdf/10.1080/03071847.2012.664354)."

For almost two decades, experts and defense establishments the world over have been predicting that cyber war is coming. But is it? This article argues in three steps that cyber war has never happened in the past, that cyber war does not take place in the present, and that it is unlikely that cyber war will occur in the future. It first outlines what would constitute cyber war: a potentially lethal, instrumental, and political act of force conducted through malicious code. The second part shows what cyber war is not, case-by-case. Not one single cyber offense on record constitutes an act of war on its own. The final part offers a more nuanced terminology to come to terms with cyber attacks. All politically motivated cyber attacks are merely sophisticated versions of three activities that are as old as warfare itself: sabotage, espionage, and subversion.

#### **And it’s infeasible**

Clark, MA candidate – Intelligence Studies @ American Military University, senior analyst – Chenega Federal Systems, 4/28/’12 (Paul, “The Risk of Disruption or Destruction of Critical U.S. Infrastructure by an Offensive Cyber Attack,” American Military University)

An attack against the electrical grid is a reasonable threat scenario since power systems are "a high priority target for military and insurgents" and there has been a trend towards utilizing commercial software and integrating utilities into the public Internet that has "increased vulnerability across the board" (Lewis 2010). Yet the increased vulnerabilities are mitigated by an increased detection and deterrent capability that has been "honed over many years of practical application" now that power systems are using standard, rather than proprietary and specialized, applications and components (Leita and Dacier 2012). The security of the electrical grid is also enhanced by increased awareness after a smart-grid hacking demonstration in 2009 and the identification of the Stuxnet malware in 2010: as a result the public and private sector are working together in an "unprecedented effort" to establish robust security guidelines and cyber security measures (Gohn and Wheelock 2010).

#### **Multiple checks empirically check escalation – their evidence is alarmist**

Birch ‘12 (Douglas is a former foreign correspondent for the Associated Press and the Baltimore Sun who has written extensively on technology and public policy, Forget Revolution, 10/1/12, http://www.foreignpolicy.com/articles/2012/10/01/forget\_revolution?page=0,3)

First, the freak "derecho" storm that barreled across a heavily-populated swath of the eastern United States on the afternoon of June 29 knocked down trees that crushed cars, bashed holes in roofs, blocked roads, and sliced through power lines. According to an August report by the U.S. Department of Energy, 4.2 million homes and businesses lost power as a result of the storm, with the blackout stretching across 11 states and the District of Columbia. More than 1 million customers were still without power five days later, and in some areas power wasn't restored for 10 days. Reuters put the death toll at 23 people as of July 5, all killed by storms or heat stroke. The second incident occurred in late July, when 670 million people in northern India, or about 10 percent of the world's population, lost power in the largest blackout in history. The failure of this huge chunk of India's electric grid was attributed to higher-than-normal demand due to late monsoon rains, which led farmers to use more electricity in order to draw water from wells. Indian officials told the media there were no reports of deaths directly linked to the blackouts. But this cataclysmic event didn't cause widespread chaos in India -- indeed, for some, it didn't even interrupt their daily routine. "[M]any people in major cities barely noticed the disruption because localized blackouts are so common that many businesses, hospitals, offices and middle-class homes have backup diesel generators," the New York Times reported. The most important thing about both events is what didn't happen. Planes didn't fall out of the sky. Governments didn't collapse. Thousands of people weren't killed. Despite disruption and delay, harried public officials, emergency workers, and beleaguered publics mostly muddled through. The summer's blackouts strongly suggest that a cyber weapon that took down an electric grid even for several days could turn out to be little more than a weapon of mass inconvenience. "Reasonable people would have expected a lot of bad things to happen" in the storm's aftermath, said Neal A. Pollard, a terrorism expert who teaches at Georgetown University and has served on the United Nation's Expert Working Group on the use of the Internet for terrorist purposes. However, he said, emergency services, hospitals, and air traffic control towers have backup systems to handle short-term disruptions in power supplies. After the derecho, Pollard noted, a generator truck even showed up in the parking lot of his supermarket. The response wasn't perfect, judging by the heat-related deaths and lengthy delays in the United States in restoring power. But nor were the people without power as helpless or clueless as is sometimes assumed.

## Case-alliances

#### Existing I-Law solves

Lawson’12 [Sean Lawson:](http://www.usnews.com/topics/author/sean_lawson)¶ Sean Lawson is assistant professor in the Department of Communication at the University of UtahJune 8, 2012http://www.usnews.com/debate-club/should-there-be-an-international-treaty-on-cyberwarfare/cyberwarfare-treaty-would-be-premature-unnecessary-and-ineffective

Third, if and when we do see such cyberattacks, existing international law is sufficient to determine when they rise to the level of an "armed attack" that justifies a military response. Law of Armed Conflict Principles of necessity, distinction, and proportionality will still apply and provide a basis for evaluating the legitimacy of cyberwarfare techniques deployed during times of conflict

#### NO china offense capability- only focused on preventing domestic hackers

Rid ’12 [Think Again: Cyberwar](http://www.foreignpolicy.com/articles/2012/02/27/cyberwar)¶ Don't fear the digital bogeyman. Virtual conflict is still more hype than reality.¶ BY THOMAS RID | [MARCH/APRIL 2012](http://www.foreignpolicy.com/issues/192/contents/) Thomas Rid, reader in war studies at King's College London, is author of "[Cyber War Will Not Take Place](http://www.tandfonline.com/doi/pdf/10.1080/01402390.2011.608939)" and co-author of "[Cyber-Weapons](http://www.tandfonline.com/doi/pdf/10.1080/03071847.2012.664354)."

Or so the alarmists tell us. Reality looks quite different. Stuxnet, by far the most sophisticated cyberattack on record, was most likely a U.S.-Israeli operation. Yes, Russia and China have demonstrated significant skills in cyberespionage, but the fierceness of Eastern cyberwarriors and their coded weaponry is almost certainly overrated. When it comes to military-grade offensive attacks, America and Israel seem to be well ahead of the curve.¶ Ironically, it's a different kind of cybersecurity that Russia and China may be more worried about. Why is it that those countries, along with such beacons of liberal democracy as Uzbekistan, have suggested that the United Nations establish an "international code of conduct" for cybersecurity? Cyberespionage was elegantly ignored in the suggested wording for the convention, as virtual break-ins at the Pentagon and Google remain a favorite official and corporate pastime of both countries. But what Western democracies see as constitutionally protected free speech in cyberspace, Moscow and Beijing regard as a new threat to their ability to control their citizens. Cybersecurity has a broader meaning in non-democracies: For them, the worst-case scenario is not collapsing power plants, but collapsing political power.¶ The social media-fueled Arab Spring has provided dictators with a case study in the need to patrol cyberspace not only for subversive code, but also for subversive ideas. The fall of Egypt's Hosni Mubarak and Libya's Muammar al-Qaddafi surely sent shivers down the spines of officials in Russia and China. No wonder the two countries asked for a code of conduct that helps combat activities that use communications technologies -- "including networks" (read: social networks) -- to undermine "political, economic and social stability."¶ So Russia and China are ahead of the United States, but mostly in defining cybersecurity as the fight against subversive behavior. This is the true cyberwar they are fighting

#### **Congressional oversight fails cyber operations are labeled as covert.**

Dycus’10 Congress’s Role in Cyber Warfare¶ Stephen Dycus\* Professor, Vermont Law School <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf> 2010

Under the 1991 law, “covert actions,” those with respect to which “it is¶ intended that the role of the United States Government will not be apparent¶ or acknowledged publicly,”33 need only be reported to a small group of¶ legislators known as the “Gang of Eight,”34 and then only in a “timely¶ fashion,” a term not defined by statute.35 Characterization of U.S. planning¶ and execution of electronic warfare as “covert” could enable reporting to¶ the smaller group, making it more difficult for Congress to play a¶ significant role.36 Moreover, any reporting might be delayed indefinitely Another potential obstacle to congressional involvement is the¶ reportedly common but statutorily unauthorized practice of informal¶ reporting to an even smaller “Gang of Four” – the leaders of the¶ intelligence committees – generally for sensitive non-covert intelligence¶ activities.38

#### **China and Russia won’t ally**

Segal and Waxman ’11 Why a Cybersecurity Treaty Is a Pipe DreamAuthors: [Adam Segal](http://www.cfr.org/experts/china-innovation-cybersecurity/adam-segal/b8863), Maurice R. Greenberg Senior Fellow for China Studies, and [Matthew C. Waxman](http://www.cfr.org/experts/cybersecurity-courts-and-tribunals-international-law/matthew-c-waxman/b8695), Adjunct Senior Fellow for Law and Foreign Policy October 27, 2011 Adam Segal is the Ira A. Lipman Senior Fellow for Counterterrorism and National Security Studies at the [Council on Foreign Relations](http://www.cfr.org/). Matthew Waxman, also a fellow at the Council on Foreign Relations, is Associate Professor at Columbia Law School and member of the Hoover Institution Task Force on National Security and Law <http://www.cfr.org/cybersecurity/why-cybersecurity-treaty-pipe-dream/p26325>

As a step in that direction, the British government is convening next week the London Conference on Cyberspace to promote new norms of cybersecurity and the free flow of information via digital networks. International diplomacy like this among states and private stakeholders is important and will bring needed attention to these issues. But the London summit is also likely to expose major fault lines, not consensus, on the hardest and most significant problems. The idea of ultimately negotiating a worldwide, comprehensive cybersecurity treaty is a pipe dream.¶ Different interests among powerful states – stemming from different strategic priorities, internal politics, public-private relationships and vulnerabilities – will continue to pull them apart on how cyberspace should be used, regulated, and secured. With the United States and European democracies at one end and China and Russia at another, states disagree sharply over such issues as whether international laws of war and self-defense should apply to cyber attacks, the right to block information from citizens, and the roles that private or quasi-private actors should play in Internet governance. Many emerging Internet powers and developing states lie between these poles, while others are choosing sides.

#### China modernization isn’t threatening- they still know they are behind us

Kallmyer 2010 [Kevin Kallmyer CSIS September 23, 2010 “START and China: Really?” http://csis.org/blog/start-and-china-really]

Further, the fears of Chinese nuclear modernization have been exaggerated. While China is modernizing its nuclear forces, it is necessary to evaluate both the pace and the rationale of this build-up to determine if it represents a threat to U.S. security.¶ First, Chinese nuclear modernization is not as effective as START opponents claim. China lacks the necessary fissile resources to substantially expand its nuclear arsenal. Gregory Kulacki, a Senior Analyst and Manager of the Union of Concerned Scientists’ China Project, explained that estimates of Chinese nuclear build-up are exaggerated,¶ The idea that China could build hundreds of warheads every year runs counter to U.S. estimates, which indicate that China does not have enough fissile material for such increases and is not producing more.¶ It is important to note, however, that China does have sufficient fissile material for more modest warhead increases, and that nothing prevents China from resuming fissile material production if necessary. Regardless, this observation does seem indicate that China is not planning on the massive increase in nuclear warheads that some allude to.¶ Further, Kulacki argued that if China were to develop new capabilities, such as making their missiles capable of carrying multiple warheads (MIRVing), then China would need to engage in missile and warhead tests that would tip the United States off.¶ Before China's missiles could carry multiple warheads, they would need to be flight-tested in this way, and U.S. early-warning satellites would give a clear indication of such tests. Moreover, China's existing nuclear warheads are believed to be too heavy for its missiles to carry multiple warheads. Developing lighter warheads would require a series of nuclear tests, which the international monitoring system would detect with high confidence.¶ Thus, if China does modernize its arsenal in an attempt to compete with the United States, they will have to engage in a series of provocative measures that would give the United States full knowledge of their intentions. Given that China is too far behind the United States for these capabilities to threaten the United States any time soon, the United States will have plenty of time to adapt and respond to such developments if they occur.

#### No impact - Other nations will still cooperate with the U.S. even if it’s unpopular

Kagan 2006 (Robert, The Washington Post, 1/15, http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=17894&prog=zgp&proj=zusr

The striking thing about the present international situation is the degree to which America remains what Bill Clinton once called "the indispensable nation." Despite global opinion polls registering broad hostility to George W. Bush's United States, the behavior of governments and political leaders suggests America's position in the world is not all that different from what it was before Sept. 11 and the Iraq war. The much-anticipated global effort to balance against American hegemony -- which the realists have been anticipating for more than 15 years now -- has simply not occurred. On the contrary, in Europe the idea has all but vanished. European Union defense budgets continue their steady decline, and even the project of creating a common foreign and defense policy has slowed if not stalled. Both trends are primarily the result of internal European politics. But if they really feared American power, Europeans would be taking more urgent steps to strengthen the European Union's hand to check it. Nor are Europeans refusing to cooperate, even with an administration they allegedly despise. Western Europe will not be a strategic partner as it was during the Cold War, because Western Europeans no longer feel threatened and therefore do not seek American protection. Nevertheless, the current trend is toward closer cooperation. Germany's new government, while still dissenting from U.S. policy in Iraq, is working hard and ostentatiously to improve relations

#### No US/China war—It’s in neither country’s best interest

Ackerman 2011 (Robert Ackerman, May 10, 2011, “War Between China, U.S. Not Likely,” http://www.afcea.org/signal/signalscape/index.php/2011/05/10/11510/)

The United States and China are not likely to go to war with each other because neither country wants it and it would run counter to both nations’ best interests. That was the conclusion of a plenary panel session hosted by former Good Morning America host David Hartman at the 2011 Joint Warfighting Conference in Virginia Beach. Adm. Timothy J. Keating, USN (Ret.), former head of the U.S. Pacific Command, noted that China actually wants the United States to remain active in the Asia-Pacific region as a hedge against any other country’s adventurism. And, most of the other countries in that region want the United States to remain active as a hedge against China. Among areas of concern for China is North Korea. Wallace “Chip” Gregson, former assistant secretary of Defense for Asian and Pacific Security Affairs, said that above all China fears instability, and a North Korean collapse or war could send millions of refugees streaming into Manchuria, which has economic problems of its own.

#### No China/Taiwan war—Both sides will work to avoid war

Jisi 2005 (Wang Jisi, Dean of the School of International Studies at Peking University, China's Serch for Stability With America. Foreign Affairs. Sep/Oct 2005. http://www.foreignaffairs.org/20050901faessay84504/wang-jisi/china-s-search-for-stability-with-america.html)

Meanwhile, at a time when political relations between China and the United States are basically stable and economic and trade links are expanding, Taiwan remains a major source of unease. War between China and the United States over Taiwan would be a nightmare, and both sides will try hard to avoid it. Despite their differences, there is no reason the two sides should have to resort to force to resolve the matter. Yet some people in Taiwan, looking out for their own interests and supported by outsiders -- notably parts of the U.S. defense establishment and certain members of the U.S. Congress -- continue stubbornly to push for independence, ignoring the will of most Taiwanese. It is a mistake for Americans to support such separatists. If a clash occurs, these parties will be responsible.China views the status of Taiwan as an internal matter. But only by coordinating its U.S. policy with its policy toward Taiwan can Beijing curb the separatist forces on the island. Despite U.S. displeasure at China's passage of an antisecession law in March 2005, policymakers in Washington have reiterated their opposition to Taiwan's independence and viewed favorably the spring 2005 visits by Taiwanese opposition leaders to the mainland, which eased cross-strait relations. Nonetheless, Washington has now asked Beijing to talk directly to Taipei's ruling party and its leader, Chen Shui-bian. To improve matters, Chinese and U.S. government agencies and their foreign policy think tanks should launch a sustained and thorough dialogue on the issue and explore ways to prevent separatist forces from making a rash move, dragging both countries toward a confrontation neither wants.

#### No SCS conflict—economics and deterrence

Creehan 12 – Senior Editor of the SAIS (school of advanced international studies, johns Hopkins) Review of International Affairs (Sean, “Assessing the Risks of Conflict in the South China Sea,” Winter/Spring, SAIS Review, Vol. 32, No. 1)

Regarding Secretary Clinton’s first requirement, the risk of actual closure of the South China Sea remains remote, as instability in the region would affect the entire global economy, raising the price of various goods and commodities. According to some estimates, for example, as much as 50 percent of global oil tanker shipments pass through the South China Sea— that represents more than three times the tanker traffic through the Suez Canal and over five times the tanker traffic through the Panama Canal.4 It is in no country’s interest to see instability there, least of all China’s, given the central economic importance of Chinese exports originating from the country’s major southern ports and energy imports coming through the South China Sea (annual U.S. trade passing through the Sea amounts to $1.2 trillion).5 Invoking the language of nuclear deterrence theory, disruption in these sea lanes implies mutually assured economic destruction, and that possibility should moderate the behavior of all participants. Furthermore, with the United States continuing to operate from a position of naval strength (or at least managing a broader alliance that collectively balances China’s naval presence in the future), the sea lanes will remain open. While small military disputes within such a balance of power are, of course, possible, the economic risks of extended conflict are so great that significant changes to the status quo are unlikely.

## Solvency

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#### **Your internal links aren’t unique--Congress already ceded power to the executive--precedent has been set**

FAS’11 [Congressional Record Volume 157, Number 190 (Monday, December 12, 2011)]¶ [House]¶ [Pages H8356-H8726]¶ CONFERENCE REPORT ON H.R. 1540, NATIONAL DEFENSE AUTHORIZATION ACT FOR ¶ FISCAL YEAR 2012 http://www.fas.org/irp/congress/2011\_cr/cyberwar.html

Congress affirms that the Department of Defense has the ¶ capability, and upon direction by the President may conduct ¶ offensive operations in cyberspace to defend our Nation, ¶ Allies and interests, subject to--¶ (1) the policy principles and legal regimes that the ¶ Department follows for kinetic capabilities, including the ¶ law of armed conflict; and¶ (2) the War Powers Resolution (50 U.S.C. 1541 et seq.).

# 2NC

## Theory

### 2NC Condo

#### We should get 2 conditional advocacies

#### A) They destroy cost benefit analysis ---Limiting the neg to 2 advocacies artificially insulates the aff from defending against multiple competitive options when constructing policies.

#### B) Key to tactical choices---forces the 2ac to recognize and respond to strategic interactions---critical skill for practical advocacy defense because of the inevitability of strategic opponents---solves time and strat skew

#### C) Advocacy construction---makes the aff consider all opportunity-costs to a proposal-- inability to simultaneously defend against a variety of proposals props up bad affs that should lose in the free market of ideas

#### D) Err neg---2ar persuasion, aff picks the focus of the debate, the topic is huge, and the 2nr has to answer theory and substance while the 2ar can pick

#### E) Don’t vote on theory---causes substance crowd-out and incentivizes cheap-shot theory args based on marginal differentials---just because debate could be better doesn’t mean we should lose.

#### Dispositionality doesn’t solve---the neg can add uncompetitive planks to force permutation. It also doesn’t solve any of our standards.

## CP

### Solvency

Counterplan solves 100% the aff and avoids the link to politics – it creates a unique model for decision making – all their generic self-restraint cards assume a different CP – punish them for reading the wrong 2AC

#### It files a binding, public XO that requires the President to consult the OLC for decisions about the aff. We fiat that the Office of Legal Counsel issue written opinions mandating the aff. The XO requires sharing OLC opinions with Congress when the President claims authority. This pre-commitment galvanizes OLC restraint and creates a deterrent cost to circumvention – Syria proves Obama will respect the decision – framing issue – the aff has congress impose restrictions – the CP has Obama take accountability for his own actions

#### Respecting the OLC solves signaling and credibility

Morrison 2011 – Professor of Law, Columbia University (Trevor W., Harvard Law Review, ““Hostilities,” the Office of Legal Counsel, and the Process of Executive Branch Legal Interpretation”, 124 HARV. L. REV.F. 62, http://web.law.columbia.edu/sites/default/files/microsites/constitutional-governance/files/Libya-Hostilities-Office-of-Legal-Counsel.pdf)

In a recent book, Professors Eric Posner and Adrian Vermeule call this sort of thing “executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors.”7 Admittedly, Posner and Vermeule do not appear to recognize that treating OLC’s advice as presumptively binding is a form of executive self-binding. Indeed, as described below, they do not think OLC advice warrants any such treatment. Yet signaling and maintaining a willingness to treat OLC’s legal advice as presumptively binding enhances the credibility of a president’s claims of good faith and respect for the law, which in turn can help generate public support for his actions. That is precisely the point of executive self-binding: to foster credibility in circumstances where, “[f]or presidents, credibility is power.” 8

#### Disclosure checks the advantages

Peter Marguiles 5-15-12 Roger Williams U Law Prof

<http://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1370&context=plr> Pepperdine Law Review, Volume 39, Issue 4, Article 1, “Reforming Lawyers into Irrelevance?: Reconciling Crisis and Constraint at the Office of Legal Counsel”,)

1. Disclosure Disclosure is an important deliberative safeguard. From an ex ante perspective, disclosure protects against fringe views, since the author of an opinion knows that outside audiences will “kick the tires” and quickly discover and critique views that distort the relevant law.242 Disclosure also helps ex post, by allowing Congress, professional peers, and the public to see distortions as they emerge and campaign to correct them.243 Disclosure also works hand in hand with efforts by the President to secure ratification of an unorthodox view that responds to exigent circumstances; disclosure, at least to Congress, is a necessary incident of ratification.244 Certain opinions may contain sensitive information that makes immediate disclosure inappropriate.245 However, Congress could well require as part of its oversight that OLC engage in a deliberative process, including making express findings that become part of an opinion, when such circumstances prevail.

#### Executive legal clarification solves for cyberoperations

Brecher 2012 – JD 2013, University of Michigan Law School (December, Aaron P., Michigan Law Review, “NOTE: Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations”, 111 Mich. L. Rev. 423, Lexis)

Finally, while urging Congress to clarify the law governing cyberattacks may be advisable, one should consider the reality that such legislation is very difficult to pass. Congress is notoriously slow to act and legislation is difficult to push through the arduous process to enactment. There are numerous stages in the process at which a bill, even on an issue of significant importance, can be stalled or killed. n170 For example, a bill may not be considered by its corresponding committee in either House, may be bogged down with amendments that cause it to lose support, or be subject to the Senate filibuster, among other "vetogates." n171 In the case of clarifying the appropriate procedures for conducting a cyberattack, there may be concern that such legislation, either by imposing substantive constraints or reporting requirements, will improperly burden the president on a national security issue of increasing importance. Congress as an institution tends to acquiesce to presidential prerogative in national security matters. n172 Further, given that Congress has recently addressed cyberattacks in legislation, albeit in an unhelpfully vague provision, n173 the possibility of expansive legislative clarification in the near future seems even more remote. An executive order making the covert action regime presumptive for cyberattacks gives the executive branch considerable flexibility while also ensuring notification to Congress. A presumptive regime helps remove current confusion within the executive branch, as well as allows cyberattack policy to develop with members of Congress gaining access to information that may be helpful in crafting later statutory controls on the use of cyberattacks. Moreover, some proposals for immediate legislative intervention overestimate congressional will to legislate in this field and underestimate the protections for interbranch collaboration offered by the covert action regime.

### A2 Perm

Link to politics & pres powers disads

#### CP alone supercharges OLC legitimacy – the perm’s outside influence undermines the signal

Harvard Law Review 2012 (Unsigned)

Presidential Power and the Office of Legal Counsel, 125 Harv. L. Rev. 2090

OLC's endorsement of a White House policy also increases the perceived legitimacy of that policy by coordinate branches. OLC opinions derive much of their value from the perception that OLC's legal advice is "independent of the policy and political pressures associated with a particular question." 50 The White House relies on OLC opinions to ensure that at least some of the President's views are respected by other government actors, like Congress or the courts. 51 It is therefore in the White House's long-term interest, as well as OLC's, that OLC manage to strike a balance between the short-term desire of the White House to "win" on any given legal issue and the long-term need to maintain OLC's reputation. If OLC were to become a rubber stamp for the White House, its reputation would be lost, eliminating both OLC's ability to do its job effectively and its capacity to provide executive branch actors a credible ally in interbranch disputes. 52 Finally, OLC's approval could increase the public's perception of a policy's legitimacy. Historically, the public has known little of OLC's existence or activities; 53 in the future, however, the White House could publicize OLC's role as an independent check on presidential authority. If OLC were able to establish a solid reputation among ordinary citizens for engaging in unbiased, accurate legal analysis, it would serve to further legitimize the President's claimed authority. The only way for OLC to acquire such a reputation is for it to be independent of the White House, resisting outside influence and ensuring that its legal opinions are based solely on the best view of the law.

### A2 Links to Politics

#### Mandatory disclosure doesn’t link either --- changes in agency design are not as controversial as specific policies because of a lack of interest groups and constituency effect.

Neal Kumar Katyal, 2006. Professor of Law @ Georgetown University. “Internal Separation of Powers: Checking Today's Most Dangerous Branch from Within,” Yale Law Journal 115.9, The Most Dangerous Branch? Mayors, Governors, Presidents, and the Rule of Law: A Symposium on Executive Power (2006), pp. 2314-2349.

Before getting into the substance of the proposals, it is worth taking up a criticism that might be present off the bat. Aren't all proposals for bureaucratic reform bedeviled by the very forces that promote legislative inertia? If Congress can't be motivated to regulate any particular aspect of the legal war on terror, then how can it be expected to regulate anything more far-reaching? The answer lies in the fact that sometimes broad design choices are easier to impose by fiat than are specific policies.23 ¶ Any given policy proposal can get mired in a competition of special interests; indeed, that danger leads many to prefer executive action. Institutional design changes differ from these specific policy proposals because they cut across a plethora of interest groups and because the effects on constituencies are harder to assess due to the multiplicity of changes. The benefits of faction that Madison discussed in The Federalist No. 51 therefore arise; multitudes of interest groups find things to embrace in the system change. It is therefore not surprising that at the same time that Congress dropped the ball overseeing the legal war on terror it enacted the most sweeping set of changes to the executive branch in a half-century in the form of the Homeland Security Act of 2002.4 Indeed, as we shall see, that Act provides an object lesson: Design matters. And by altering bureaucratic arrangements, stronger internal checks can emerge.

solves executive cred

#### C/A Posner from signaling answers

### A2 Rollback

#### No risk of rollback-Fiat is durable and means that the plan is implemented and can’t be rolled back –That’s Reciprocal – aff gets durable fiat means the neg should too. Also critical to education – avoids should/would debates and focuses on the merits of the plan.

1NC Morrison – president respects OLC – part of executive – won’t overturn his own lawyers after asking for their help

#### Presidential pledge assures compliance

Harvard Law Review 2012 (Unsigned)

Presidential Power and the Office of Legal Counsel, 125 Harv. L. Rev. 2090

As Professor Richard Pildes points out in his critique of their book, though, "willingness to follow OLC interpretations would seem to be the quintessential kind of executive self-binding constraint that Posner and Vermeule otherwise advocate as critical to presidential credibility." n61 Indeed, the President could self-interestedly announce that, because an independent OLC would provide him with a relatively unbiased view of the law, he is pledging to follow its advice in the vast majority of cases. Legally, the President would remain free to weigh OLC's opinion against the advice provided by the White House Counsel or cabinet officials, and he would retain the power to reject any OLC opinion with which he disagreed or which he believed would [\*2100] harm national security or other vital interests if followed. Informally, however, he would face political and reputational costs if he decided to go back on his pledge and substitute his own judgment for that of OLC, n62 costs made even more substantial as a result of the White House's reliance on OLC's reputation to legitimate some of its key legal positions. The stigma attached to disregarding OLC's advice n63 would thus constitute a meaningful limit on the President, particularly if public opinion plays a role in constraining the President, n64 because he would be discouraged from deviating from OLC's view unless he were willing to spend a significant amount of political capital. Thus, if OLC's internal safeguards work correctly, the President will have a strong incentive to follow a (relatively) impartial view of the law while nevertheless retaining the flexibility, in times of need, to determine the meaning of the law for himself.

### A2 Can’t Solve Modelling

Fiat solves – announce the CP

#### Their ev on coalition building doesn’t say congress

#### Social science proves no modeling- US signals are dismissed – the master himself concedes

Zenko ‘13 [Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise,]

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. **A bit of digging**, however, **exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between** two **humans. Why would this be any different between** two **states**, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' **claims about signaling** are merely made in a peacetime vacuum. These signals **are never articulated with a precision that could be** tested or **falsified**, and thus policymakers cannot be judged misleading or wrong. **Paired with the faith in signaling is the assumption that policymakers can read the minds of** potential or actual **friends and adversaries**. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "**people overestimate** others' ability to know them, and...also overestimate **their ability to know others**." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, **since** **U.S. officials correctly downplay the** attention-seeking **actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone** or missile -- **wouldn't it be safer to assume that the majority of U.S. signals are** similarly **dismissed?** **During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.**

## Politics

### Impact Cases

#### Econ decline collapses diplomatic credibility and soft power

Steven Myers, 10-4-2012, “Budget crisis forcing cuts in foreign aid,” NYT, google

The U.S. budget crisis at home is forcing the first significant cuts in overseas aid in nearly two decades, a retrenchment that officials and advocates say reflects the country's diminishing ability to influence the world. As lawmakers scramble to trim the swelling national debt, both the Republican-controlled House and the Democrat-controlled Senate have proposed slashing financing for the State Department and its related aid agencies at a time of desperate humanitarian crises and uncertain political developments. The proposals have raised the specter of deep cuts in food and medicine for Africa, in relief for disaster-affected places such as Pakistan and Japan, in political and economic assistance for new democracies in the Middle East and even for the Peace Corps. The financial crunch threatens to undermine a foreign policy described as "smart power" by President Barack Obama and Secretary of State Hillary Rodham Clinton, one that emphasizes diplomacy and development as a complement to U.S. military power. It also would begin to reverse the foreign aid increase President George W. Bush supported after the attacks of Sept. 11, 2001, as part of an effort to combat the roots of extremism and anti-American sentiment, especially in the most troubled countries. Given the relatively small foreign aid budget -- it accounts for 1 percent of federal spending overall -- the effect of the cuts could be disproportional. The State Department already has scaled back plans to open more consulates in Iraq, for example.

#### Global economic collapse leads to terrorism including cyberterror and war

Halal and Marien 11 (William E. Halal, Professor Emeritus of Management, PhD and MBA, University of California, Berkeley AND Michael Marien, Ph.D. in social science and national planning studies from the Maxwell School of Citizenship and Public Affairs at Syracuse University; “Global MegaCrisis: Four Scenarios, Two Perspectives,” The Futurist 45.3, ProQuest, May/Jun 2011)

The MegaCrisis, simply defined, is a global environmental and economic collapse or near collapse, along with attendant problems of rising prices, mass protests, widespread psychic stress, and lawlessness. We present the following tentative outline to better paint a picture of what MegaCrisis might look like.¶ Some Trends Driving the MegaCrisis¶ \* Climate Change, No Matter What. The year 2010 marked the hottest year (and decade) on record. The world has already seen a 1°F temperature rise, and an additional 4°-6° rise is likely even if all proposed actions are taken. Expect possibly 10°F in the next few decades if greenhouse gases keep growing. In addition, the projected sea-level rise in the 2007 Intergovernmental Panel on Climate Change (IPCC) report was 16 inches by 2100; now it is about three to six feet by 2100.¶ Complicating this first point is the fact that reducing CO2 is costly. The science indicates that greenhouse gases must be reduced by 60% from 1980 levels to avoid severe climate change. This would cost roughly $20 trillion, or about 1% to 3% of global GDP, if done soon, but would be far more costly if done later. The problem is even more daunting because most developing nations are likely to industrialize, and most industrialized nations are likely to grow, increasing all these threats over the long term.¶ \* Political Will to Reduce CO2 Is Lacking. There are as yet no global agreements that would decrease carbon emissions significantly. Meanwhile, China, India, and the United States are planning to build a total of 850 coal-fired plants, adding five times as much CO2 to the atmosphere as present treaties intend to reduce.¶ \* Methane May Be Worse Than CO2. Keep your eye on methane, a potent greenhouse gas that is 23 times worse than CO2, although it doesn't stay in the atmosphere as long. Large quantities of methane are being released from thawing tundra in the Arctic region, and still larger quantities may be released from icelike methane clathrates on the ocean floor in coastal areas.¶ \* Freshwater Is Becoming More Scarce. Nearly a billion people lack clean water, and 2.6 billion lack good sanitation. Water tables are falling on all continents, and the World Bank estimates that, by 2025, half of the world population could face water scarcity due to climate change, population growth, and increasing demand for water. Unless major changes occur, global water shortages are likely to cause mass migrations, higher food prices, malnutrition, and major conflicts.¶ \* Recession Likely to Last for Years. The Great Recession that began in 2008 is often compared to the Great Depression of 1930, which lasted until 1940. The International Monetary Fund forecasts growth for the next two years at slightly above 2% in developed nations, although it should remain at 8% in the developing world. Some economists think unemployment rates between 8% and 9% are quite likely for several years, much like Japan's "lost decade" in the 1990s.¶ \* Severe Institutional Failures. The near collapse of the world's financial system in 2008 highlighted structural failures in the financial industry, government, and other institutions. A study of 1,500 CEOs noted: "The world's leaders think their enterprises are not equipped to cope with complexity in the global environment." Nobel Prize-winning economist Joseph Stiglitz wrote, "The financial collapse may be to markets what the Berlin Wall was to Communism."¶ \* Cyberwarfare/Cyberterrorism. Computer hacking is growing, commensurate with the boom in global e-commerce. U.S. military networks, nuclear facilities, banks, air-trafficcontrol systems, and electrical grids are under constant attack. The U.S. Naval War College was shut down by hackers for more than two weeks in 2006. The threat is so great that one expert suggested installing "cyberwar hotlines" similar to the special phones that the United States and Soviet Union used to avoid nuclear Armageddon.¶ \* Weapons of Mass Destruction. The old status quo of MAD (mutually assured destruction) may have kept two superpowers locked in a stalemate, but it is no longer viable with nine contending nuclear powers (and more likely to emerge, including terrorist groups). Between 1993 and the end of 2009, the Illicit Trafficking Database recorded 1,784 nuclear trafficking incidents.¶ Suddenly, many of the concerns we were forewarned of over recent decades are at hand. The future is arriving- and with a vengeance. There is a palpable and widespread fear that the present world is unsustainable and that events could easily spin out of control. Scientists are convinced that a 60% reduction in carbon-dioxide emissions is needed to stave off ruinous climate change, but achieving that goal looks so unrealistic that many are girding to withstand a significant rise in sea levels, scorching heat, withering droughts, and more extreme weather patterns. Policy makers in major world capitals, including Washington, are seriously considering geoengineering the planet as a last-ditch effort to stave off disaster. The Mega- Crisis represents what could occur if the human species fails to transform its economies, technologies, politics, and lifestyles into something more sustainable within the next two decades.

### Uniqueness

#### Obama will be able to hold firm on debt ceiling stance now.

CAROL E. LEE And PETER NICHOLAS October 3, 2013, 8:36 p.m. ET

White House's Hard Line on Shutdown, Debt Ceiling Has Risks Attached <http://online.wsj.com/article/SB10001424052702303492504579113781436540284.html>

President Barack Obama is sticking to his stance that he won't negotiate with Republicans over the government shutdown or the higher-stakes fight over the federal debt ceiling. The question, for Republicans and White House allies alike: How long will that resolve last? Mr. Obama spoke Thursday at a construction company just outside Washington and held fast to his view that Republicans must not attach conditions to bills that underpin the functioning of government. "There is one way out," he said: Republicans must relent and reopen the government. White House officials believe they have the upper hand, citing evidence that some Republicans are buckling under public pressure. Mr. Obama invited the four congressional leaders to the Oval Office Wednesday, and despite the show of engagement made no concessions, according to people familiar with the meeting. House Speaker John Boehner (R., Ohio) left the White House and said Mr. Obama "reiterated one more time tonight that he will not negotiate." Terry Holt, a longtime Republican strategist, said Mr. Obama's strategy rests on a cold-eyed calculation that Republicans are the ones with the most to lose. "As long as the president thinks his poll numbers are going to be good, I don't expect the government to reopen," he said.

#### Debt ceiling will be raised now-shutdown increase pressure on the GOP

**Klein, Washington Post, 9-28-13**

(Ezra, “The House GOP’s shutdown plan is great news”, <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/09/28/the-house-gops-shutdown-plan-is-great-news/>, ldg)

House Republicans plan to attach a one-year delay of Obamacare to the continuing resolution. That sharply increases the chances of a government shutdown beginning Monday night. Good. Speaker Boehner's original plan was to pass a clean bill to fund the government and then attach the one-year delay of Obamacare to the debt-ceiling bill. It was a strategy that would minimize the chances of a shutdown but maximize the chances of a default. Boehner wanted that strategy because he thought Republicans had more leverage on the debt limit than they do on the shutdown. A shutdown, after all, is just bad for the economy. A default is catastrophic for it. You'd have to be insanely reckless to permit the federal government to default on its debts. And Boehner believes that House Republicans are insanely reckless and that President Obama isn't. But that strategy failed. Boehner's members refused to wait for the debt ceiling. They want their showdown now. And that's all for the better. Moving the one-year delay of Obamacare to the CR maximizes the chances of a shutdown but makes a default at least somewhat less likely. If a shutdown begins Monday night, Republicans and Democrats will have more than two weeks to resolve it before hitting the debt ceiling. As Alec Phillips put it in a research note for Goldman Sachs, "If a shutdown is avoided, it is likely to be because congressional Republicans have opted to wait and push for policy concessions on the debt limit instead. By contrast, if a shutdown occurs, we would be surprised if congressional Republicans would want to risk another difficult situation only a couple of weeks later. The upshot is that while a shutdown would be unnecessarily disruptive, it might actually ease passage of a debt limit increase." One way a shutdown makes the passage of a debt limit increase easier is that it can persuade outside actors to come off the sidelines and begin pressuring the Republican Party to cut a deal. One problem in the politics of the fiscal fight so far is that business leaders, Wall Street, voters and even many pundits have been assuming that Republicans and Democrats will argue and carp and complain but work all this out before the government closes down or defaults. A shutdown will prove that comforting notion wrong, and those groups will begin exerting real political pressure to force a resolution before a default happens.

#### None of their warrants assumes Obama has PC and is pushing – he’s not giving an inch now – that’s key the budget.

Parnes, The Hill, 9-30-13 Amie, “Not giving an inch is seen as best strategy for win at White House,” http://thehill.com/homenews/administration/325663-not-giving-an-inch-is-seen-as-best-strategy-for-win-at-white-house

There was no shadow of doubt at the White House as the clocked ticked down to midnight Monday. Officials suggested that a refusal to negotiate over funding the government was the winning strategy. White House officials expressed confidence they wouldn’t have to back down in the slightest, while aides close to Obama, former administration officials and top Democratic strategists who confer with the White House say the chances of them negotiating with Republicans are slim to none. Sources said the White House believes GOP divisions, and polls showing more people would blame Republicans in Congress for a shutdown, mean Obama — who has been blamed for giving in too much in previous bargaining sessions — won’t have to give an inch. White House officials were even more emboldened by support from Senate Republicans, including Sen. Susan Collins of Maine, who said publicly that she disagreed with the House Republican strategy of linking the Affordable Care Act with “the continuing functioning of government.” Some Republicans in the House on Monday also expressed public support for moving a clean funding measure, something the White House will see as giving it more leverage. Those close to the White House say Republicans have backed themselves into a corner with few options remaining. “This is truly [Speaker] John Boehner’s [R-Ohio] worst nightmare,” one former senior administration official said. “This is Republican on Republican violence right now. This has absolutely nothing to do with Democrats or the president. So all Obama has to do now is sit back.” The battle isn’t about “lack of engagement,” the former official added. “The president could go to the Capitol and give the speech of his life on why we shouldn’t shut down the government. But you have this Tea Party base that will never be placated, and they’re itching for a fight. But I have news for them: They won’t win it,” the official said. Another former administration official added, “The question isn’t, should he negotiate. It’s who does he negotiate with. Who up there is actually empowered to cut a deal. It’s not clear. They can’t make up their minds amongst themselves, so who can he negotiate with to reach a deal that sticks?” White House senior adviser Dan Pfeiffer backed that sentiment in an interview on CNN. “What the Republicans want is to extract some ideological concession in order to save face for the Tea Party that funds the government for two months,” Pfeiffer said. “What happens two months from now? What are they going to want then? Full repeal of ObamaCare? Overturn of Roe v. Wade? An installment of [Mitt] Romney as president? At some point, we have to bring this cycle of hostage taking and brinksmanship to an end.” In the lead-up to the shutdown, Obama sent strong signals that he felt he was on the right side of the fight. On Saturday, with the House in session and voting on legislation to avoid the shutdown, the president played a round of golf. Likewise, Senate Majority Leader Harry Reid (D-Nev.) — who has been coordinating closely with the White House — was in no rush to convene the upper chamber on Sunday. The first former senior administration official credited Reid with stepping up his role in the fight. “Harry Reid is basically saying, ‘No way, not again,’ ” the former official said. Some Republicans accused the White House of over-confidence Monday and said Obama risked getting plenty of blame for a shutdown by not negotiating with Republicans. “If we’re unable to avoid a crisis in the next few weeks, the president will have to explain why he sat at home and did nothing to help find a solution,” said Brendan Buck, a spokesman for Boehner. “Obama is the president, and his job is to lead,” said Kirsten Kukowski, a spokeswoman at the Republican National Committee. “The longer he refuses to come to the table, the more Americans will realize he’s the typical politician he promised he wouldn’t be.” With cable news networks displaying countdown clocks until the deadline Monday, Obama did telegraph a willingness to at least talk to congressional leaders. “I suspect I will be speaking to the leaders today, tomorrow and the next day,” Obama told reporters earlier in the day. Later in the day, however, he signaled a tougher line, stating that “one faction of one party in one house of Congress in one branch of government doesn’t get to shut down the entire government just to refight an election.” “You don’t get to extract a ransom for doing your job,” Obama said. Those close to the White House predicted that a deal would eventually be reached, even after the deadline. But they reaffirmed the confidence that it would be Republicans who would suffer the consequences. In the meantime, as the debt-ceiling fight heats up, they said Obama would ramp up the rhetoric and use the bully pulpit to drive home that point. In addition, one former senior official said Obama has to get the business community and Wall Street to say, “What the f--- is happening here?” “As people realize what this will do to the stock market, they’ll ask Boehner and the Tea Party, ‘Is this what you really want?’” the official added. “The more he can remain a bit above the fray and say, ‘I’m not going to get on your level’, the better. ”

### 2nc Link Wall

#### This isn't a just a political capital DA—the 1nc read several link arguments that establish a unique window for the debt ceiling—

#### First—Obama has to be “President One Note” to bludgeon the GOP into submission, that's Milbank—his strategy is working, but introducing new policy fights would derail his focus.

#### And, (Specific link args - Kriner) prove the plan would incite backlash and become a political football.

#### Next —challenging authority on these issues weakens his position independent of polcap. It’s a losers lose argument unique to his position on a core counter-terror mission - Lillis.

#### Obama’s backlash to the plan turns case

Epps 13 (Feb 16, “Why a Secret Court Won't Solve the Drone-Strike Problem,” The Atlantic, Garrett, <http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/>)

Professor Stephen I. Vladeck of American University has offered a remedy to this problem. He proposes a statute in which Congress assigns jurisdiction to a specific judicial district, probably the District Court for the District of Columbia. Congress in the statute would strip the executive of such defenses as "state secrets" and "political question." Survivors of someone killed in a drone attack could bring a wrongful-death suit. The secret evidence would be reviewed by the judge, government lawyers, and the lawyers for the plaintiff. Those lawyers would have to have security clearance; the evidence would not be shown to the plaintiffs themselves, or to the public. After review of the evidence, the court would rule. If the plaintiffs won, they would receive only symbolic damages--but they'd also get a judgment that the dead person had been killed illegally.

It's an elegant plan, and the only one I've seen that would permit us to involve the Article III courts in adjudicating drone attacks. Executive-power hawks would object that courts have no business looking into the president's use of the war power. But Vladeck points out that such after-the-fact review has taken place since at least the Adams administration. "I don't think there's any case that says that how the president uses military force--especially against a U.S. citizen--is not subject to judicial review," he said in an interview. "He may be entitled to some deference and discretion, but not complete immunity."

The real problem with Vladeck's court might be political. I expect that any president would resist such a statute as a dilution of his commander in chief power, and enactment seems unlikely. Without such a statute, then, systematic review of secret drone killings must come inside the executive branch.

#### That costs political capital and trades off with domestic priorities

O’Neil 7 (David, Adjunct Associate Professor of Law – Fordham Law School, “The Political Safeguards of Executive Privilege”, Vanderbilt Law Review, 60 Vand. L. Rev. 1079, Lexis)

The first such assumption is belied both by first-hand accounts of information battles and by the conclusions of experts who study them. Participants in such battles report that short-term political calculations consistently trump the constitutional interests at stake. One veteran of the first Bush White House, for example, has explained that rational-choice theory predicts what he in fact experienced: The rewards for a consistent and forceful defense of the legal interests of the office of the presidency would be largely abstract, since they would consist primarily of fidelity to a certain theory of the Constitution... . The costs of pursuing a serious defense of the presidency, however, would tend to be immediate and tangible. These costs would include the expenditure of political capital that might have been used for more pressing purposes, [and] the unpleasantness of increased friction with congressional barons and their allies. n182 Louis Fisher, one of the leading defenders of the political branches' competence and authority to interpret the Constitution independently of the courts, n183 acknowledges that politics and "practical considerations" typically override the legal and constitutional principles implicated in information disputes. n184 In his view, although debate about congressional access and executive privilege "usually proceeds in terms of constitutional doctrine, it is the messy political realities of the moment that usually decide the issue." n185 Indeed, Professor Peter Shane, who has extensively studied such conflicts, concludes that their successful resolution in fact depends upon the parties focusing only on short-term political [\*1123] considerations. n186 When the participants "get institutional," Shane observes, non-judicial resolution "becomes vastly more difficult." n187

#### Disagreements over authority trigger constitutional showdowns – even if the executive wants the plan – it’s about who decides, not the decision itself

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 75-77)

Showdowns occur when the location of constitutional authority for making an important policy decision is ambiguous, and multiple political agents (branches, parties, sections, governments) have a strong interest in establishing that the authority lies with them. Although agents often have an interest in negotiating a settlement, asymmetric information about the interests and bargaining power of opposing parties will sometimes prevent such a settlement from being achieved. That is when a showdown occurs. Ultimately, however, someone must yield; this yielding to or acquiescence in the claimed authority of another agent helps clarify constitutional lines of authority, so that next time the issue arises, a constitutional impasse can be avoided. From a normative standpoint, constitutional showdowns thus have an important benefit, but they are certainly not costless. As long as the showdown lasts, the government may be paralyzed, unable to make important policy decisions, at least with respect to the issue under dispute. We begin by examining a simplified version of our problem, one involving just two agents—Congress and the executive. We assume for now that each agent is a unitary actor with a specific set of interests and capacities. We also assume that each agent has a slightly different utility function, reflecting their distinct constituencies. If we take the median voter as a baseline, we might assume that Congress is a bit to the left (or right) of the median voter, while the president is a bit to the right (or left). We will assume that the two agents are at an equal distance from the median, and that the preferences of the population are symmetrically distributed, so that the median voter will be indifferent between whether the president or Congress makes a particular decision, assuming that they have equal information.39 But we also will assume that the president has better information about some types of problems, and Congress has better information about other types of problems, so that, from the median voter’s standpoint, it is best for the president to make decisions about the first type of problem and for Congress to make decisions about the second type ofproblem.40 Suppose, for example, that the nation is at war and the government must decide whether to terminate it soon or allow it to continue. Congress and the president may agree about what to do, of course. But if they disagree, their disagreement may arise from one or both of two sources. First, Congress and the president have different information. For example, the executive may have better information about the foreign policy ramifications of a premature withdrawal, while Congress has better information about home-front morale. These different sources of information lead the executive to believe that the war should continue, while Congress believes the war should be ended soon. Second, Congress and the president have different preferences because of electoral pressures of their different constituents. Suppose, for example, that the president depends heavily on the continued support of arms suppliers, while crucial members of Congress come from districts dominated by war protestors. Thus, although the median voter might want the war to continue for a moderate time, the president prefers an indefinite extension, while Congress prefers an immediate termination. So far, we have explained why the president and Congress might disagree about when to terminate the war, but mere policy disagreement does not result in a showdown. Showdowns arise only when there is a disagreement about authority. If Congress believes that the president has the sole authority to terminate the war, then his view will prevail. Congress may try to pressure him or influence him by offering support for other programs desired by the president, or by trying to rile up the public, but these activities are part of normal politics, and do not provoke a constitutional showdown. Similarly, if the president believes that Congress has the sole authority to terminate the war, then Congress’s view will prevail. This outcome is shown in cell 3 in table 2.1. Similarly, no showdown occurs when the two branches agree both about authority and policy—for example, that the president decides, and Congress agrees with his decision (cell 1). The first column represents the domain of normal politics. Showdowns can arise only when Congress and the president disagree about who decides. Here, there are two further possibilities. First, Congress and the president disagree about who decides but agree about the correct policy outcome (cell 2). In these situations, which arise with some frequency, the two branches are often tempted to paper over their differences because an immediate policy choice is not at stake. But sometimes a showdown will occur. We will discuss this special case later. Second, Congress and the president disagree about the policy outcome and about authority (cell 4). In this case, showdowns are likely, because a policy decision must be made, and if the parties cannot agree about what it should be, then they cannot avoid resolving the question of authority. We focus on this case for now.

## A2 Intrinsicness

#### Anti-topical—the bill IS an opportunity cost since they make it politically impossible, fiat-ing or assuming passage of an extra-topical item crushes makes them a moving target.

#### Neg ground—any line they draw is self-serving and hoses generic strategies that we need even if not perfectly specific.

#### No logic DA—you’re a citizen evaluating consequences of topical plans, their claim assumes you control the whole government. We test their internal links with counterplans because we aren’t bound by the rez and it’s reciprocal with their infinite topical actions—giving them an extra measure of control isn’t valid and whatever residual logic argument they have is outweighed by debate practicality.

#### Hoses ground—all core generics are based on some facet of implementation, politics, spending, tradeoff are key.

#### No it doesn’t—the immediate post-implementation setting doesn’t shield blame, people would backlash for not debating the plan or the debates over the plan would also be immediate

### 2NC Boehner

#### Boehner and Dems fight over the plan empirically proven- Kucinich Resolution proves

Hendrickson ’13 Ryan C. Hendrickson is professor of Political Science at Eastern Illinois University. 03 Apr 2013. Global Change, Peace & Security:¶ formerly Pacifica Review: Peace,¶ Security & Global Change http://www.tandfonline.com/doi/pdf/10.1080/14781158.2013.765397

In the House of Representatives, from the onset of the operation, Boehner made few efforts to¶ insert the House into a debate over the constitutionality of Obama’s military conduct. While¶ Boehner expressed concern over the operation by calling for more operational and strategic¶ details of the mission, he did not raise qualms over the constitutionality of Obama’s action.¶ Over a month into the strikes, the House leadership remained unwilling to permit the House¶ floor to openly debate the merits or constitutionality of the operation, which continued into¶ late May 2011.40 With the 60-day War Powers Resolution timeline having passed with limited¶ concern expressed from House leaders, and with pressure building for Congressman Dennis Kucinich’s¶ (D-OH) efforts to cut funding for the operation, Boehner personally injected himself into¶ the House debate. In contrast to Kucinich’s resolution, Boehner offered his own resolution on¶ Libya, which was critical of the president, but still avoided any constitutional responsibility for¶ the operation. His resolution chastised the president for not having more dialogue with Congress,¶ and called for additional information to be provided to Congress within 14 days regarding the cost¶ and objectives of the operation. In doing so, Boehner was able to dampen the enthusiasm for¶ Kucinich’s resolution, and, in this sense, the speaker successfully co-opted Kucinich’s more¶ assertive resolution.41

#### Boehner must walk a fine line to reach a compromise with the Dems- Republican unity is key to get the votes.

Kilgore ’13 September 13, 2013 9:34 AM¶ Throw Him an Anvil, Not A Life Preserver¶ By Ed Kilgore http://www.washingtonmonthly.com/political-animal-a/2013\_09/throw\_him\_an\_anvil\_not\_a\_life046872.php

So Boehner expects Democrats to help him out by supplying votes or other support for a “compromise” that could hold the vast majority of House Republicans, which means lower non-defense discretionary spending (offset perhaps by higher spending on defense) and some sort of substantive and/or symbolic concessions on Obamacare. All of this, of course, would be described as necessary to achieve the short-term deficit reduction goals that Boehner is virtually alone in Washington in considering central—even though Pentagon spending increases and delays in Obamacare implementation would cut in exactly the opposite direction.¶ Boehner cannot, on the other hand, ask for too much Democratic help—because he can’t abandon the Hastert Rule and pass crucial spending or debt limit bills with primarily Democratic votes. That would probably lose him his gavel. So he needs a “split” in the Democratic ranks, preferably one that he can describe as a revolt of terrified red-state Democrats fearing 2014. And he’s apparently convinced many of his fellow Republicans they can help engineer that split by being slightly less out of touch with reality:

### 2NC IL

#### Default collapses international status of the dollar – fiscal security is the ONLY reason surplus countries still invest

Masters 13 Jonathan Masters, has a graduate degree in social theory from The New School University where he focused on media and international relations. He also holds a B.A. in political science from Emory University, writes on issues related to national security and civil liberties, and contributes to CFR's Renewing America initiative that focuses on the economic underpinnings of U.S. foreign policy, “U.S. Debt Ceiling: Costs and Consequences”, Council on Foreign Relations, January 2nd, 2013, http://www.cfr.org/international-finance/us-debt-ceiling-costs-consequences/p24751#p8

Historically, the U.S. Treasury market has been driven by huge investments from surplus countries like Japan and China, which view the United States as the safest place to store their savings. A 2011 Congressional Research Service report suggests that a loss of confidence in the debt market could prompt foreign creditors to unload large portions of their holdings, thus inducing others to do so, and causing a run on the dollar in international markets. However, others claim that a sudden sell-off would run counter to foreign economic interests, as far as those interests run parallel to a robust U.S. economy.¶ While many U.S. exporters would benefit from dollar depreciation because it would increase foreign demand for their goods (effectively making them cheaper), the same firms would also bear higher borrowing costs from rising interest rates.¶ A potential long-term concern of some U.S. officials is that persistent volatility of the dollar will add force to recent calls by the international community for an end to its status as the world's reserve currency. A 2010 survey performed by the McKinsey Global Institute found fewer than 20 percent of business executives surveyed expected the dollar to be the dominant global reserve currency by 2025.

#### Dollar hegemony status is key to overall US economic and military leadership

William Clark, 2003; economic consultant and journalist, January (revised March 2003), “The Real Reasons for the Upcoming War with Iraq”, <http://www.ratical.org/ratville/CAH/RRiraqWar.html>

This unique geo-political agreement with Saudi Arabia in 1974 has worked to our favor for the past 30 years, as this arrangement has eliminated our currency risk for oil, raised the entire asset value of all dollar denominated assets/properties, and allowed the Federal Reserve to create a truly massive debt and credit expansion (or `credit bubble' in the view of some economists). These structural imbalances in the U.S. economy are sustainable as long as: 1. Nations continue to demand and purchase oil for their energy/survival needs 2. the world's monopoly currency for global oil transactions remains the US dollar 3. the three internationally traded crude oil markers remain denominated in US dollars These underlying factors, along with the `safe harbor' reputation of U.S. investments afforded by the dollar's reserve currency status propelled the U.S. to economic and military hegemony in the post-World War II period. However, the introduction of the euro is a significant new factor, and appears to be the primary threat to U.S. economic hegemony. Moreover, in December 2002 ten additional countries were approved for full membership into the E.U. Barring any surprise movements, in 2004 this will result in an aggregate E.U. GDP of $9.6 trillion and 450 million people, directly competing with the U.S. economy ($10.5 trillion GDP, 280 million people).

#### Our impact is more probable- state on state war is largely obsolete

Hooker 12 [Colonel Richard D. Hooker, Jr., commands the XVIII Airborne Corps Combat ¶ Support Brigade (“Dragon Brigade”) now deployed to Iraq. He commanded an infantry battalion in the 82d Airborne Division and has served as Special Assistant to the ¶ Chairman of the Joint Chiefs, with the Office of the Chief of Staff of the Army, as Aide ¶ de Camp to the Secretary of the Army, and with the National Security Council. Colonel ¶ Hooker holds an M.S. in national security studies from the National Defense University ¶ and M.A. and Ph.D. degrees from the University of Virginia in international relations Winter 2011-12 “Beyond Vom Kriege: The Character and Conduct of Modern War” Strategic Studies Institute http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/2011winter/Hooker2.pdf]

Modern war, at least as practiced in the West, trades on American and ¶ European technology and wealth, not on manpower and ideology. Western militaries are typically small, professional organizations officered by the middle ¶ class and filled by working-class volunteers. Their wars are universally “out ¶ of area”—that is, not fought in direct defense of national borders—placing a ¶ premium on short, sharp campaigns won with relatively few casualties. Although ¶ land forces remain indispensable, whenever possible Western militaries fight ¶ at a distance using standoff precision weapons, whose accuracy and lethality make it difficult or impossible for less-sophisticated adversaries to fight ¶ conventionally with any chance of success. Increasingly, the West’s advantage ¶ in rapid data transmission on the battlefield is changing how American and ¶ European militaries wage war, as control and use of information assumes decisive importance. ¶ The qualitative gap between the armed forces of the West and their ¶ likely opponents is not likely to narrow for the foreseeable future. In this sense ¶ the West’s absolute military advantage, arguably in force since the Battle of ¶ Lepanto in 1571, is likely to persist for generations. Although challengers may ¶ pursue niche technologies like anti-ship weapons, theater ballistic or cruise ¶ missiles, or computer attack systems, their inability to match the capital expenditures and technological sophistication of the United States and its NATO ¶ allies will make military parity highly doubtful, even when they act in coalitions. Nor will nuclear weapons change this calculus. While the small nuclear ¶ arsenals of potential adversary states may yield some deterrent benefits, their ¶ offensive use as weapons of war (as distinct from their use in terrorism) is ¶ doubtful given the vastly more capable nuclear forces belonging to the United ¶ States, Britain, and France. ¶ This gap in economic and technological capacity suggests other ¶ approaches for weaker adversaries. Here there is real danger. A quick look at ¶ the protracted insurgencies of the past one hundred years is not encouraging. In ¶ China, Vietnam, and Algeria, the West or its surrogates struggled for decades ¶ and lost. Russia is experiencing the same agony in Chechnya. Even Western ¶ “successes” in Nicaragua, El Salvador, Malaysia, and Aden proved painful and ¶ debilitating.¶ 14¶ The ability of Western democracies to sustain major military ¶ ventures over time, particularly in the face of casualties suffered for less than ¶ truly vital stakes, represents a real vulnerability. The sheer cost of maintaining ¶ large fighting forces in action at great distances from the homeland is a liability ¶ that can be exploited by opponents able to tie down Western forces in extended ¶ conflicts. ¶ The costs of waging long, drawn-out conflicts will be counted in more ¶ than dollars and lives. By a curious logic, the loss of many Americans in a single ¶ event or short campaign is less harmful to our political and military institutions ¶ than the steady drain of casualties over time. By necessity, the military adapts ¶ to the narrower exigencies of the moment, focusing on the immediate fight, ¶ at some cost to the future investment, professional growth, and broader warfighting competencies which can be vital in other potential conflicts of greater ¶ import. A subsidiary effect is loss of confidence in the military as an institution ¶ when it is engaged in protracted operations involving mounting losses without ¶ apparent progress. It is too soon to tell if ongoing military operations in Iraq ¶ and Afghanistan will yield timely and fruitful results. But if they do not, the ¶ long-term effect on the health of the American military could and probably will ¶ be damaging. ¶ The experience of the Vietnam conflict, while not an exact fit, suggests ¶ that very long and enervating campaigns, fought for less than truly vital objectives, delay necessary modernization, absorb military resources earmarked for ¶ other, more dangerous contingencies, drive long-service professionals out of ¶ the force, and make it harder to recruit qualified personnel. These direct effects ¶ may then be mirrored more indirectly in declining popular support, more ¶ strident domestic political conflict, damage to alliances and mutual security ¶ arrangements, and economic dislocation. These factors will fall more heavily ¶ on ground forces, since air and naval forces typically spend less time deployed ¶ in the combat theater between rotations, suffer fewer losses, and retain career ¶ personnel in higher numbers. ¶ Viewed as a case study in the application of Clausewitzian thought, ¶ current military operations offer a vivid contrast to the wars fought in ¶ Afghanistan in 2001-02 and in Iraq in the spring of 2003. There, coalition ¶ military power could be directed against organized military forces operating ¶ under the control of regularly constituted political entities. Political objectives ¶ could be readily translated into military tasks directed against functioning ¶ state structures (“destroy the Taliban and deny al Qaeda refuge in Afghanistan; ¶ destroy the Iraqi military and topple Saddam’s regime”). ¶ In the aftermath, the focus shifted to nation-building, a more amorphous and ambiguous undertaking with fuzzier military tasks. In Iraq, for ¶ example, there is no central locus of decisionmaking power against which ¶ military force can be applied. Large-scale combat operations are rare, and military force, while a key supporting effort, is focused on stabilizing conditions ¶ so that the main effort of political reconciliation and economic reconstruction ¶ can proceed. Resistance appears to be local and fragmented, directed by a loose ¶ collection of Sunni Baathist remnants, Shia religious zealots, foreign jihadists, ¶ and, increasingly, local tribal fighters seeking revenge for the incidental deaths ¶ of family and tribal members. Access to military supplies and to new recruits is ¶ enabled both by neighboring powers like Iran and Syria and by local religious ¶ and cultural sentiment. ¶ In many ways the military problem in Iraq is harder today than it was ¶ during major combat operations. Only rarely can we expect to know in advance ¶ our enemy’s intentions, location, and methods. In this sense, seizing and maintaining the initiative, at least tactically, is a difficult challenge. ¶ Clausewitz was well aware of this environment, which he called ¶ “people’s war.” We can be confident that he would be uncomfor table with openended and hard-to-define strategic objectives. However much we may scoff ¶ at classical notions of strategy, with their “unsophisticated” and “unnuanced” ¶ focus on destroying enemy armies, seizing enemy capitals, installing more ¶ pliable regimes, and cowing hostile populations, ignoring them has led to poor ¶ historical results. A close reading of Vom Kriege shows that Clausewitz did ¶ not neglect the nature of the problem so much as he cautioned against ventures ¶ which could not be thoroughly rationalized. Put another way, he recognized ¶ there are limits to the power of any state and that those limits must be carefully ¶ calculated before, and not after, the decision to go to war. ¶ In Iraq, it may well be that American and coalition forces will destroy ¶ a critical mass of insurgents sufficient to collapse large-scale organized resistance, an outcome devoutly to be wished for. But if so, we are in a race against ¶ time. For the American Army and Marine Corps, and for our British and other ¶ coalition partners, the current level of commitment probably does not represent ¶ a sustainable steady state unless the forces available are considerably increased. ¶ If the security situation does not improve to permit major reductions in troop ¶ strength, eventually the strain will tell. At that point, the voting publics of ¶ the coalition partners and their governments may face difficult choices about ¶ whether and how to proceed.¶ 15¶ These choices will be tempered by the knowledge that the homeland ¶ itself has now become a battleground. Open societies with heterogeneous populations make Western states particularly vulnerable to terrorist attack, always ¶ an option open to hostile states or the terrorist groups they harbor. And however ¶ professional, the armies of the West are not driven by religious or ideological zeal. That too can be a weapon—as the Americans and French learned in ¶ Indochina and as we see today in the Middle East. ¶ The foregoing suggests that in future wars the United States and its ¶ Western allies will attempt to fight short, sharp campaigns with superior technology and overwhelming firepower delivered at standoff ranges, hoping to ¶ achieve a decisive military result quickly with few casualties. In contrast to the ¶ industrial or attrition-based strategies of the past, in future wars we will seek ¶ to destroy discrete targets leading to the collapse of key centers of gravity and ¶ overall system failure, rather than annihilating an opponent’s military forces in ¶ the field. Our likely opponents have two options: to inflict high losses early in ¶ a conflict (most probably with weapons of mass destruction, perhaps delivered ¶ unconventionally) in an attempt to turn public opinion against the war; or to ¶ avoid direct military confrontation and draw the conflict out over time, perhaps ¶ in conjunction with terrorist attacks delivered against the homeland, to drain ¶ away American and European resolve. ¶ In either case our enemies will not attempt to mirror our strengths and ¶ capabilities. Our airplanes and warships will not fight like systems, as in the ¶ past, but instead will serve as weapon platforms, either manned or unmanned, ¶ to deliver precision strikes against land targets. Those targets will increasingly ¶ be found under ground or in large urban areas, intermixed with civilian populations and cultural sites that hinder the use of standoff weapons.

## uq

#### Administration control over cyber-ops now

Fryer-Biggs 2013 [Zachary Fryer-Biggs June 17 2013 Defense News “US Begins To Define Military Cyber Ops” http://www.defensenews.com/article/20130617/DEFREG02/306170027/US-Begins-Define-Military-Cyber-Ops]

Beyond the definitions, the document included several major policy decisions about the use of cyberattack tools. The president maintained a requirement that any cyber operation that involves cyber effects in the US receive his approval but authorized the defense secretary to use DCEO against attackers outside of the United States without first receiving White House approval if action is immediately needed.¶ In May, Defense News reported that the Defense Department was close to completing new classified standing rules of engagement that outline how and when the military would use cyber tools against attackers without seeking presidential consent each time. Those rules will provide greater detail and specificity than the general framework provided in the presidential directive.¶ In a statement, National Security Council spokeswoman Caitlin Hayden described the document as part of the process of updating policy as cyber has evolved.¶ “This directive establishes principles and processes for the use of cyber operations, so that cyber tools are integrated with the full array of national security tools we have at our disposal,” she said. “This directive will establish principles and processes that can enable more effective planning, development and use of our capabilities. It enables us to be flexible, while also exercising restraint in dealing with the threats we face.

#### Offensive cyber ops now- executive controlled

Greenwald and MacAskill 2013 [Glenn Greenwald and Ewen MacAskill 7 June 2013 The Guardian “Obama orders US to draw up overseas target list for cyber-attacks” http://www.theguardian.com/world/2013/jun/07/obama-china-targets-cyber-overseas]

Barack Obama has ordered his senior national security and intelligence officials to draw up a list of potential overseas targets for US cyber-attacks, a top secret presidential directive obtained by the Guardian reveals.¶ The 18-page Presidential Policy Directive 20, issued in October last year but never published, states that what it calls Offensive Cyber Effects Operations (OCEO) "can offer unique and unconventional capabilities to advance US national objectives around the world with little or no warning to the adversary or target and with potential effects ranging from subtle to severely damaging".¶ It says the government will "identify potential targets of national importance where OCEO can offer a favorable balance of effectiveness and risk as compared with other instruments of national power".¶ The directive also contemplates the possible use of cyber actions inside the US, though it specifies that no such domestic operations can be conducted without the prior order of the president, except in cases of emergency. ¶ The aim of the document was "to put in place tools and a framework to enable government to make decisions" on cyber actions, a senior administration official told the Guardian.

#### 4GW coming now

Barno 2011 [Lt. Gen. (ret.) David W. Barno is a senior adviser and senior fellow at the Center for a New American Security in Washington, D.C. From 2003 to 2005, he served as overall U.S. commander in Afghanistan, leading more than 20,000 U.S. and coalition troops. A 1976 West Point graduate with an M.A. in National Security Studies from Georgetown University, Lt. Gen. Barno served for many of his early years of active duty in Army Ranger battalions, including in combat operations in the Panama and Grenada invasions. 22 Mar 2011 World Politics Review “Military Power in a Disorderly World” http://www.worldpoliticsreview.com/articles/8259/military-power-in-a-disorderly-world]

The opening acts of the 21st century have fundamentally challenged long-held notions of military power. The past decade has unveiled not only the disruptive power of terrorist groups with global reach, but also the ability of low-budget insurgent groups to directly confront the best military forces of the West -- with surprising success. Moreover, recent revolutionary events across the Arab world have demonstrated the limits of military power when facing mass popular uprisings. Disorder, chaos and violent extremism seem on course to replace state-on-state violence as the most common forms of conflict in the new century. Given this new security environment, the U.S. military must begin to play a larger role in conflict prevention in order to fully realize its value, commensurate with its cost, in this new disorderly world.

## L

#### Speed of decisionmaking is key to 4GW- executive power is essential

Li 2009 [Zheyoa Li Winter, 2009 The Georgetown Journal of Law Public Policy 7 Geo. J.L. & Pub. Pol'y 373 “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare” lexis]

By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme.¶ As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should [\*399] consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 144 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police." 146 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision-making. [\*400] In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute.¶ In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourth-generational opponents.

#### Unrestricted AUMF is key to offensive cyber operations

Brennan 2012 [Lieutenant Colonel John W. Brennan 15 March 2012 US Army War College “United States Counter Terrorism Cyber Law and Policy, Enabling or Disabling?” http://nsfp.web.unc.edu/files/2012/09/Brennan\_UNITED-STATES-COUNTER-TERRORISM-CYBER-LAW-AND-POLICY.pdf]

Although identifying international terrorists in cyberspace is critical to successful ¶ counterterrorism operations, it is only half of the battle in bringing them to justice. ¶ Monitoring terrorists’ electronic communications is extremely important, but further work ¶ is required by the CT community to isolate, and eventually kill or capture the terrorists¶ overseas. Manipulation or disruption of a terrorist organization’s computer networks is a¶ potential means to this end, and it is also a possible tactic that is employed to preempt a ¶ cyber or kinetic terrorist attack.¶ 37¶ The laws that govern the actual manipulation of ¶ terrorists’ electronic accounts and devices in order to make them more targetable, are ¶ not explicit or simply do not exist. The primary document that gives the President of the ¶ United States the authority to conduct offensive CT cyber operations overseas is the ¶ 2001 Authorization of the Use of Military Force, which gives the president the authority ¶ to “use all necessary and appropriate force” to protect the country for further attacks.¶ 38¶ The extrapolation of this authority which permits the targeting of al-Qa’ida and its ¶ adherents, was employed in order to legally kill Anwar al Awlaki (an American citizen) in ¶ Yemen, and was invoked in permitting the planned (but not executed) computer ¶ network attack against his online magazine, Inspire.¶ 39

#### **Congressional oversight fails- slow moving and indecisive nature of congress guts ability to respond**

Brecher ’13 Cyberattacks and the Covert Action Statute:¶ Toward a Domestic Legal Framework for¶ Offensive Cyberoperations¶ Aaron P. Brecher\* J.D. Candidate, May 2013, University of Michigan Law School. I am grateful to all¶ of the editors of the Michigan Law Review <http://www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf>

Finally, while urging Congress to clarify the law governing cyberattacks¶ may be advisable, one should consider the reality that such legislation is¶ very difficult to pass. Congress is notoriously slow to act and legislation is¶ difficult to push through the arduous process to enactment. There are numerous¶ stages in the process at which a bill, even on an issue of significant¶ importance, can be stalled or killed.170 For example, a bill may not be considered¶ by its corresponding committee in either House, may be bogged¶ down with amendments that cause it to lose support, or be subject to the¶ Senate filibuster, among other “vetogates.”171 In the case of clarifying the¶ appropriate procedures for conducting a cyberattack, there may be concern¶ that such legislation, either by imposing substantive constraints or reporting¶ requirements, will improperly burden the president on a national security¶ issue of increasing importance. Congress as an institution tends to acquiesce¶ to presidential prerogative in national security matters.172 Further, given that¶ Congress has recently addressed cyberattacks in legislation, albeit in an unhelpfully¶ vague provision,173 the possibility of expansive legislative¶ clarification in the near future seems even more remote

#### Large scale attacks are key—China, NK, and Iran A2AD

Kazianis 12 Harry Kazianis, former editor of The Diplomat, has previously served as Deputy Editor of E-International Relations and is currently a non-resident WSD Handa fellow at CSIS:PACNET. His area of expertise is security studies with a strong regional focus on the Asia-Pacific, naval affairs and asymmetric warfare, “A Plea for an Alliance-Based ‘AirSeaCyber’ Joint Operational Concept” CSIS, July 16th, 2012, http://csis.org/files/publication/Pac1241A.pdf

The US seems to be focusing the military component of ¶ its widely discussed ‘pivot’ to Asia on China’s growing ¶ military capabilities. While neither side seeks confrontation ¶ and one hopes none will occur, China’s development of a ¶ highly capable Anti-Access/Area Denial (A2/AD) battle plan ¶ to deter, slow, or deny entry into a contested geographic area ¶ or combat zone has been detailed extensively. Cyber war is ¶ clearly part of this strategy, with Chinese planners prepared to ¶ wage ‘local wars under conditions of informatization,’ or highintensity, information-centric regional military operations of ¶ short duration. Prudent military planners must be prepared to ¶ meet this potential threat. Other nations such as North Korea ¶ and Iran are also developing A2/AD capabilities with cyber ¶ based components that could challenge US or allied interests. ¶ In this type of threat environment, the US, along with its ¶ allies, should develop its own symmetric and asymmetric ¶ counter-strategies. A joint operational concept of AirSea ¶ Battle that includes a strong cyber component would give US ¶ forces and their allies the best chance to defeat adversary ¶ A2/AD forces. Of course, the current Joint Operational Access ¶ Concept does make strong mention of cyber operations. ¶ However, an even stronger emphasis on cyber warfare is ¶ needed. In short, AirSea Battle as an operational concept ¶ might already be obsolete and it should be reconstituted as an ¶ “AirSeaCyber” concept.¶ If cyber is to become a full-fledged component of AirSea ¶ Battle, its conceptualization and integration are crucial. A ¶ simple first step must be the recognition that cyberspace is ¶ now one of the most important battlefield domains in which ¶ the US and allied militaries operate. It is not enough to ¶ exercise battlefield dominance in a physical sense with ¶ technologically advanced equipment. With vital but vulnerable ¶ computer networks, software, and operating systems a ¶ potential adversary may choose an asymmetric cyber ‘firststrike’ to damage its opponent’s networked combat ¶ capabilities. Enemy forces could attempt to ‘blind’ their ¶ opponent by crippling computer and network-centric ¶ command and control (C2), battlefield intelligence gathering, ¶ and combat capabilities by conducting advanced cyber ¶ operations. Simply put: US and allied forces must fully ¶ understand and articulate the severity of the threat they face ¶ before they can map out any national or multinational ¶ strategies. ¶

#### Syria is a unique circumstance- Obama is asking Congress because it doesn’t matter

Balkin 9-3[Jack M. Balkin Knight Professor of Constitutional Law and the First Amendment at Yale Law School, and the founder and director of Yale's Information Society Project, an interdisciplinary center that studies law and new information technologies 9-3-2013 The Atlantic “What Congressional Approval Won't Do: Trim Obama's Power or Make War Legal” http://www.theatlantic.com/politics/archive/2013/09/what-congressional-approval-wont-do-trim-obamas-power-or-make-war-legal/279298/]

One of the most misleading metaphors in the discussion of President Obama’s Syria policy is that the president has “boxed himself in” or has “painted himself into a corner.” These metaphors treat a president’s available actions as if they were physical spaces and limits on action as if they were physical walls. Such metaphors would make sense only if we also stipulated that Obama has the power to snap his fingers and create a door or window wherever he likes. The Syria crisis has not created a new precedent for limiting presidential power. To the contrary, it has offered multiple opportunities for increasing it.¶ If Congress says no to Obama, it will not significantly restrain future presidents from using military force. At best, it will preserve current understandings about presidential power. If Congress says yes, it may bestow significant new powers on future presidents -- and it will also commit the United States to violating international law. For Obama plans to violate the United Nations Charter, and he wants Congress to give him its blessing.¶ People who believe Obama has painted himself into a corner or boxed himself in might not remember that the president always has the option to ask Congress to authorize any military action he proposes, thus sharing the responsibility for decision if the enterprise goes sour. If Congress refuses, Obama can easily back away from any threats he has made against Syria, pointing to the fact that Congress would not go along. There is no corner. There is no box.¶ Wouldn’t congressional refusal make the United States look weak, as critics including Senator John McCain warn loudly? Hardly. The next dictator who acts rashly will face a different situation and a different calculus. The UN Security Council or NATO may feel differently about the need to act. There may be a new threat to American interests that lets Obama or the next president offer a different justification for acting. It just won’t matter very much what Obama said about red lines in the past. World leaders say provocative things all the time and then ignore them. Their motto is: That was then, and this is now.¶ If Congress turns him down, won’t Obama be undermined at home, as other critics claim? In what sense? It is hard to see how the Republicans could be less cooperative than they already are. And it’s not in the interest of Democrats to fault a president of their own party for acceding to what Congress wants instead of acting unilaterally.¶ Some commentators argue (or hope) that whatever happens, Obama’s request for military authorization will be an important precedent that will begin to restore the constitutional balance between the president and Congress in the area of war powers. Don’t bet on it. By asking for congressional authorization in this case, Obama has not ceded any authority that he ­or any other president ­has previously asserted in war powers.¶ Syria presents a case in which previous precedents did not apply. There is no direct threat to American security, American personnel, or American interests. There is no Security Council resolution to enforce. And there is no claim that America needs to shore up the credibility of NATO or another important security alliance. Nor does Obama have even the feeble justification that the Clinton Administration offered in Kosovo­: that congressional appropriations midway through the operation offered tacit and retroactive approval for the bombings.¶ It is naive to think that the next time a president wants to send forces abroad without congressional approval, he or she will be deterred by the fact that Barack Obama once sought congressional permission to bomb Syria. If a president can plausibly assert that any of the previous justifications apply -- ­including those offered in the Libya intervention -- the case of Syria is easily distinguishable. Perhaps more to the point, Congress still cannot go to the courts to stop the president, given existing legal precedents. Congress may respond by refusing to appropriate funds, but that is a remedy that they have always had -- and have rarely had the political will to exercise.

## Cae

#### **Multiple checks empirically check escalation – their evidence is alarmist**

Birch ‘12 (Douglas is a former foreign correspondent for the Associated Press and the Baltimore Sun who has written extensively on technology and public policy, Forget Revolution, 10/1/12, http://www.foreignpolicy.com/articles/2012/10/01/forget\_revolution?page=0,3)

First, the freak "derecho" storm that barreled across a heavily-populated swath of the eastern United States on the afternoon of June 29 knocked down trees that crushed cars, bashed holes in roofs, blocked roads, and sliced through power lines. According to an August report by the U.S. Department of Energy, 4.2 million homes and businesses lost power as a result of the storm, with the blackout stretching across 11 states and the District of Columbia. More than 1 million customers were still without power five days later, and in some areas power wasn't restored for 10 days. Reuters put the death toll at 23 people as of July 5, all killed by storms or heat stroke. The second incident occurred in late July, when 670 million people in northern India, or about 10 percent of the world's population, lost power in the largest blackout in history. The failure of this huge chunk of India's electric grid was attributed to higher-than-normal demand due to late monsoon rains, which led farmers to use more electricity in order to draw water from wells. Indian officials told the media there were no reports of deaths directly linked to the blackouts. But this cataclysmic event didn't cause widespread chaos in India -- indeed, for some, it didn't even interrupt their daily routine. "[M]any people in major cities barely noticed the disruption because localized blackouts are so common that many businesses, hospitals, offices and middle-class homes have backup diesel generators," the New York Times reported. The most important thing about both events is what didn't happen. Planes didn't fall out of the sky. Governments didn't collapse. Thousands of people weren't killed. Despite disruption and delay, harried public officials, emergency workers, and beleaguered publics mostly muddled through. The summer's blackouts strongly suggest that a cyber weapon that took down an electric grid even for several days could turn out to be little more than a weapon of mass inconvenience. "Reasonable people would have expected a lot of bad things to happen" in the storm's aftermath, said Neal A. Pollard, a terrorism expert who teaches at Georgetown University and has served on the United Nation's Expert Working Group on the use of the Internet for terrorist purposes. However, he said, emergency services, hospitals, and air traffic control towers have backup systems to handle short-term disruptions in power supplies. After the derecho, Pollard noted, a generator truck even showed up in the parking lot of his supermarket. The response wasn't perfect, judging by the heat-related deaths and lengthy delays in the United States in restoring power. But nor were the people without power as helpless or clueless as is sometimes assumed.

#### No impact - Other nations will still cooperate with the U.S. even if it’s unpopular

Kagan 2006 (Robert, The Washington Post, 1/15, http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=17894&prog=zgp&proj=zusr

The striking thing about the present international situation is the degree to which America remains what Bill Clinton once called "the indispensable nation." Despite global opinion polls registering broad hostility to George W. Bush's United States, the behavior of governments and political leaders suggests America's position in the world is not all that different from what it was before Sept. 11 and the Iraq war. The much-anticipated global effort to balance against American hegemony -- which the realists have been anticipating for more than 15 years now -- has simply not occurred. On the contrary, in Europe the idea has all but vanished. European Union defense budgets continue their steady decline, and even the project of creating a common foreign and defense policy has slowed if not stalled. Both trends are primarily the result of internal European politics. But if they really feared American power, Europeans would be taking more urgent steps to strengthen the European Union's hand to check it. Nor are Europeans refusing to cooperate, even with an administration they allegedly despise. Western Europe will not be a strategic partner as it was during the Cold War, because Western Europeans no longer feel threatened and therefore do not seek American protection. Nevertheless, the current trend is toward closer cooperation. Germany's new government, while still dissenting from U.S. policy in Iraq, is working hard and ostentatiously to improve relations

#### Extinction impossible

Gregg Easterbrook (a senior fellow at The New Republic) July 2003 “We're All Gonna Die!” http://www.wired.com/wired/archive/11.07/doomsday.html?pg=1&topic=&topic\_set=

Germ warfare!Like chemical agents, biological weapons have never lived up to their billing in popular culture. Consider the 1995 medical thriller Outbreak, in which a highly contagious virus takes out entire towns. The reality is quite different. Weaponized smallpox escaped from a Soviet laboratory in Aralsk, Kazakhstan, in 1971; three people died, no epidemic followed. In 1979, weapons-grade anthrax got out of a Soviet facility in Sverdlovsk (now called Ekaterinburg); 68 died, no epidemic. The loss of life was tragic, but no greater than could have been caused by a single conventional bomb. In 1989, workers at a US government facility near Washington were accidentally exposed to Ebola virus. They walked around the community and hung out with family and friends for several days before the mistake was discovered. No one died. The fact is, evolution has spent millions of years conditioning mammals to resist germs. Consider the Black Plague. It was the worst known pathogen in history, loose in a Middle Ages society of poor public health, awful sanitation, and no antibiotics. Yet it didn't kill off humanity. Most people who were caught in the epidemic survived. Any superbug introduced into today's Western world would encounter top-notch public health, excellent sanitation, and an array of medicines specifically engineered to kill bioagents. Perhaps one day some aspiring Dr. Evil will invent a bug that bypasses the immune system. Because it is possible some novel superdisease could be invented, or that existing pathogens like smallpox could be genetically altered to make them more virulent (two-thirds of those who contract natural smallpox survive), biological agents are a legitimate concern. They may turn increasingly troublesome as time passes and knowledge of biotechnology becomes harder to control, allowing individuals or small groups to cook up nasty germs as readily as they can buy guns today. But no superplague has ever come close to wiping out humanity before, and it seems unlikely to happen in the future.