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#### War powers authority means the warrant to exercise those powers, not simply the ability to do so.

Zimmerman 09 Fellow, Center for the Study of the Presidency and Congress

Adam, "The Politics Economics Make." March 22, 2009, http://www.thepresidency.org/storage/documents/Fellows2009/Colgate\_Zimmerman.pdf

**Skowronek distinguishes between presidential power and authority. Power is the formal and informal resources of the presidency. Authority is the warrant to exercise the powers of the presidency**. Skowronek asserts that presidential authority is a function of a recurrent pattern that he refers to as political time. Political time is the “historical medium through which authority structures have recurred,” whereas secular time is “the medium through which power structures have evolved.”1 Political time describes the ability of the president to exercise authority over the formal powers of the office, whereas secular time is the emergent pattern that describes how those formal powers have developed and evolved. **Skowronek employs these conceptions of secular and political** **time to understand how “contingent structures of authority have affected the reorganization of presidential power, and how changes in the organization of the presidential power have affected the political range of different claims to authority**.”2 In short, Skowronek attempts to employ these two patterns – secular and political – to describe the president’s ability to exercise authority over the formal powers of the office changed. **Skowronek concludes that as the formal powers of the presidency expands; the** **ability of the president to exercise those powers has narrowed**.

#### Violation -

#### (CONGRESS) They create more Congressional oversight. That may deter some use but does not change the President’s authority in any way.

#### Vote neg-- They underlimit by allowing ANY barrier to the use of presidential power. There’s an infinite number of functional restrictions that have no lit base and kill clash.

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#### CIR will pass SOON Obama’s continued push is key

Matthews 10/16

Laura Matthews, MA Columbia, International Business Times “2013 Immigration Reform Bill: 'I'm Going To Push To Call A Vote,' Says Obama” October 16 2013 http://www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220

When Congress finally passes a bipartisan bill that kicks the fiscal battles over to early next year, the spotlight could return to comprehensive immigration reform before 2013 ends.¶ At least that’s the hope of President Barack Obama and his fellow Chicagoan Rep. Luis Gutierrez, D-Ill., chairman of the Immigration Task Force of the Congressional Hispanic Caucus and one of the most vocal advocates for immigration reform in the House of Representatives.¶ “When we emerge from this crazy partisan eruption from the Republicans, there will be a huge incentive for sensible Republicans who want to repair some of the damage they have done to themselves,” Gutierrez said in a statement. “Immigration reform remains the one issue popular with both Democratic and Republican voters on which the two parties can work together to deliver real, substantive solutions in the Congress this year.”¶ Reforming the status quo has consistently been favored by a majority of Americans. Earlier this year, at least two-thirds of Americans supported several major steps to make the system work better, according to a Gallup poll. Those steps include implementing an E-verify system for employers to check electronically the immigration status of would-be employees (85 percent), a path to citizenship for undocumented immigrants, (72 percent), an entry-exit check system to make sure people who enter the country then leave it (71 percent), more high-skilled visas (71 percent) and increased border security (68 percent).¶ The Senate passed its version of a 2013 immigration reform bill in June that includes, but is not limited to, a pathway to citizenship for immigrants without documentation and doubling security on the southern border. But that measure has stalled in the House, where Republicans are adamant they will take a piecemeal approach.¶ The momentum that lawmakers showed for reform has been sapped by the stalemate that that has shut down the government for 16 days and brought the U.S. to the brink of default. The Senate has agreed on Wednesday to a bipartisan solution to break the gridlock.¶ When the shutdown and default threat is resolved (for a time), that’s when Obama will renew his push to get Congress to move on immigration reform. On Tuesday the president said reform will become his top priority.¶ “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform,” Obama told Univision affiliate KMEX-TV in Los Angeles. “And if I have to join with other advocates and continue to speak out on that, and keep pushing, I’m going to do so because I think it’s really important for the country. And now is the time to do it.”¶ The president pointed the finger at House Speaker John Boehner, R-Ohio, for not allowing the bill to be brought to the floor for a vote. Boehner had promised that the Senate’s bill would not be voted on unless a majority of the majority in the House supports it -- the same principle he was holding out for on the government shutdown before he gave in.¶ “We had a very strong Democratic and Republican vote in the Senate,” Obama said. “The only thing right now that’s holding it back is, again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives. So we’re going to have to get through this crisis that was unnecessary, that was created because of the obsession of a small faction of the Republican Party on the Affordable Care Act.”¶ Republicans are opposing the Democratic view of immigration reform because of its inclusion of a 13-year path to citizenship for undocumented immigrants. They said this amounted to “amnesty.” Some Republicans prefer to give them legal resident status instead.¶ Immigration advocates have also been urging Obama to use his executive authority to halt the more than 1,000 deportations taking place daily. Like the activists, Gutierrez said the government shutdown didn’t do anything to slow the number of daily deportations.¶ Some Republicans who welcomed Sen. Ted Cruz’s filibuster over Obamacare because it shifted the focus from immigration.¶ “If Ted [didn’t] spin the filibuster, if we don’t make this the focus, we had already heard what was coming,” Rep. Louie Gohmert, R-Texas, told Fox News on Tuesday. “As soon as we got beyond this summer, we were going to have an amnesty bill come to the floor. That’s what we would have been talking about. And that’s where the pivot would have been if we had not focused America on Obamacare.”¶ Still, pro-immigration advocates are hopeful they can attain their goal soon. “With more prodding from the president and the American people,” Gutierrez said, “we can get immigration reform legislation passed in the House and signed into law.”

#### Plan tanks capital and derails the agenda – empirics prove

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.

#### Immigration reform solves multiple internals to the economy

Beadle 12,

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The nation needs a comprehensive immigration plan, and it is clear from a recent poll that most Americans support reforming the U.S.’s immigration system. In a new poll, nearly two-thirds of people surveyed are in favor of a measure that allows undocumented immigrants to earn citizenship over several years, while only 35 percent oppose such a plan. And President Obama is expected to “begin an all-out drive for comprehensive immigration reform, including seeking a path to citizenship” in January.¶ Several top Republicans have softened their views on immigration reform following November’s election, but in the first push for reform, House Republicans advanced a bill last month that would add visas for highly skilled workers while reducing legal immigration overall. Providing a road map to citizenship for the millions of undocumented immigrants living in the U.S. would have sweeping benefits for the nation, especially the economy.¶ Here are the top 10 reasons why the U.S. needs comprehensive immigration reform:¶ 1. Legalizing the 11 million undocumented immigrants in the United States would boost the nation’s economy. It would add a cumulative $1.5 trillion to the U.S. gross domestic product—the largest measure of economic growth—over 10 years. That’s because immigration reform that puts all workers on a level playing field would create a virtuous cycle in which legal status and labor rights exert upward pressure on the wages of both American and immigrant workers. Higher wages and even better jobs would translate into increased consumer purchasing power, which would benefit the U.S. economy as a whole.¶ 2. Tax revenues would increase. The federal government would accrue $4.5 billion to $5.4 billion in additional net tax revenue over just three years if the 11 million undocumented immigrants were legalized. And states would benefit. Texas, for example, would see a $4.1 billion gain in tax revenue and the creation of 193,000 new jobs if its approximately 1.6 million undocumented immigrants were legalized.¶ 3. Harmful state immigration laws are damaging state economies. States that have passed stringent immigration measures in an effort to curb the number of undocumented immigrants living in the state have hurt some of their key industries, which are held back due to inadequate access to qualified workers. A farmer in Alabama, where the state legislature passed the anti-immigration law HB 56 in 2011, for example, estimated that he lost up to $300,000 in produce in 2011 because the undocumented farmworkers who had skillfully picked tomatoes from his vines in years prior had been forced to flee the state.¶ 4. A path to citizenship would help families access health care. About a quarter of families where at least one parent is an undocumented immigrant are uninsured, but undocumented immigrants do not qualify for coverage under the Affordable Care Act, leaving them dependent on so-called safety net hospitals that will see their funding reduced as health care reforms are implemented. Without being able to apply for legal status and gain health care coverage, the health care options for undocumented immigrants and their families will shrink.¶ 5. U.S. employers need a legalized workforce. Nearly half of agricultural workers, 17 percent of construction workers, and 12 percent of food preparation workers nationwide lacking legal immigration status. But business owners—from farmers to hotel chain owners—benefit from reliable and skilled laborers, and a legalization program would ensure that they have them.¶ 6. In 2011, immigrant entrepreneurs were responsible for more than one in four new U.S. businesses. Additionally, immigrant businesses employ one in every 10 people working for private companies. Immigrants and their children founded 40 percent of Fortune 500 companies, which collectively generated $4.2 trillion in revenue in 2010—more than the GDP of every country in the world except the United States, China, and Japan. Reforms that enhance legal immigration channels for high-skilled immigrants and entrepreneurs while protecting American workers and placing all high-skilled workers on a level playing field will promote economic growth, innovation, and workforce stability in the United States.¶ 7. Letting undocumented immigrants gain legal status would keep families together. More than 5,100 children whose parents are undocumented immigrants are in the U.S. foster care system, according to a 2011 report, because their parents have either been detained by immigration officials or deported and unable to reunite with their children. If undocumented immigrants continue to be deported without a path to citizenship enabling them to remain in the U.S. with their families, up to 15,000 children could be in the foster care system by 2016 because their parents were deported, and most child welfare departments do not have the resources to handle this increase.¶ 8. Young undocumented immigrants would add billions to the economy if they gained legal status. Passing the DREAM Act—legislation that proposes to create a roadmap to citizenship for immigrants who came to the United States as children—would put 2.1 million young people on a pathway to legal status, adding $329 billion to the American economy over the next two decades.¶ 9. And DREAMers would boost employment and wages. Legal status and the pursuit of higher education would create an aggregate 19 percent increase in earnings for young undocumented immigrants who would benefit from the DREAM Act by 2030. The ripple effects of these increased wages would create $181 billion in induced economic impact, 1.4 million new jobs, and $10 billion in increased federal revenue.¶ 10. Significant reform of the high-skilled immigration system would benefit certain industries that require high-skilled workers. Immigrants make up 23 percent of the labor force in high-tech manufacturing and information technology industries, and immigrants more highly educated, on average, than the native-born Americans working in these industries. For every immigrant who earns an advanced degree in one of these fields at a U.S. university, 2.62 American jobs are created.

#### Economic collapse causes nuclear conflicts

Burrows and Harris 9 Mathew J. Burrows counselor in the National Intelligence Council and Jennifer Harris a member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” The Washington Quarterly 32:2 https://csis.org/files/publication/twq09aprilburrowsharris.pdf

Increased Potential for Global Conflict¶ Of course, the report encompasses more than economics and indeed believes the¶ future is likely to be the result of a number of intersecting and interlocking¶ forces. With so many possible permutations of outcomes, each with ample opportunity for unintended consequences, there is a growing sense of insecurity.¶ Even so, history may be more instructive than ever. While we continue to¶ believe that the Great Depression is not likely to be repeated, the lessons to be¶ drawn from that period include the harmful effects on fledgling democracies and¶ multiethnic societies (think Central Europe in 1920s and 1930s) and on¶ the sustainability of multilateral institutions (think League of Nations in the¶ same period). There is no reason to think that this would not be true in the¶ twenty-first as much as in the twentieth century. For that reason, the ways in¶ which the potential for greater conflict could grow would seem to be even more¶ apt in a constantly volatile economic environment as they would be if change¶ would be steadier.¶ In surveying those risks, the report stressed the likelihood that terrorism and¶ nonproliferation will remain priorities even as resource issues move up on the¶ international agenda. Terrorism’s appeal will decline if economic growth¶ continues in the Middle East and youth unemployment is reduced. For those¶ terrorist groups that remain active in 2025, however, the diffusion of¶ technologies and scientific knowledge will place some of the world’s most¶ dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a¶ combination of descendants of long established groupsinheriting¶ organizational structures, command and control processes, and training¶ procedures necessary to conduct sophisticated attacksand newly emergent¶ collections of the angry and disenfranchised that become self-radicalized,¶ particularly in the absence of economic outlets that would become narrower¶ in an economic downturn.¶ The most dangerous casualty of any economically-induced drawdown of U.S.¶ military presence would almost certainly be the Middle East. Although Iran’s¶ acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed¶ Iran could lead states in the region to develop new security arrangements with¶ external powers, acquire additional weapons, and consider pursuing their own¶ nuclear ambitions. It is not clear that the type of stable deterrent relationship¶ that existed between the great powers for most of the Cold War would emerge¶ naturally in the Middle East with a nuclear Iran. Episodes of low intensity¶ conflict and terrorism taking place under a nuclear umbrella could lead to an¶ unintended escalation and broader conflict if clear red lines between those states¶ involved are not well established. The close proximity of potential nuclear rivals¶ combined with underdeveloped surveillance capabilities and mobile¶ dual-capable Iranian missile systems also will produce inherent difficulties in¶ achieving reliable indications and warning of an impending nuclear attack. The¶ lack of strategic depth in neighboring states like Israel, short warning and missile¶ flight times, and uncertainty of Iranian intentions may place more focus on¶ preemption rather than defense, potentially leading to escalating crises.Types of conflict that the world continues¶ to experience, such as over resources, could¶ reemerge, particularly if protectionism grows and¶ there is a resort to neo-mercantilist practices.¶ Perceptions of renewed energy scarcity will drive¶ countries to take actions to assure their future¶ access to energy supplies. In the worst case, this¶ could result in interstate conflicts if government¶ leaders deem assured access to energy resources,¶ for example, to be essential for maintaining domestic stability and the survival of¶ their regime. Even actions short of war, however, will have important geopolitical¶ implications. Maritime security concerns are providing a rationale for naval¶ buildups and modernization efforts, such as China’s and India’s development of¶ blue water naval capabilities. If the fiscal stimulus focus for these countries indeed¶ turns inward, one of the most obvious funding targets may be military. Buildup of¶ regional naval capabilities could lead to increased tensions, rivalries, and¶ counterbalancing moves, but it also will create opportunities for multinational¶ cooperation in protecting critical sea lanes. With water also becoming scarcer in¶ Asia and the Middle East, cooperation to manage changing water resources is¶ likely to be increasingly difficult both within and between states in a more¶ dog-eat-dog world.¶

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#### The United States federal government should require the Executive to report its use of covert activities to the heads of Senate and House intelligence committees. The Executive Branch of the United States should create “executive v. executive” divisions as per our Katyal evidence to promote internal separation of powers via separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts.

#### Presidential veto power and executive deference mean external restraints fail – internal separation of powers constrains the president and leads to better decision making

Katyal ’6 Neal Katyal, Professor of Law @ Georgetown, The Yale Law Journal, “Internal Separation of Powers: Checking Today’s Most Dangerous Branch from Within” 115 Yale L.J. 2314, 2006

After all, Publius's view of separation of powers presumes three branches with equivalent ambitions of maximizing their powers, yet legislative abdication is the reigning modus operandi. It is often remarked that "9/11 changed everything"; 2 particularly so in the war on terror, in which Congress has been absent or content to pass vague, open-ended statutes. The result is an executive that subsumes much of the tripartite structure of government. Many commentators have bemoaned this state of affairs. This Essay will not pile on to those complaints. Rather, it begins where others have left off. If major decisions are going to be made by the President, then how might separation of powers be reflected within the executive branch? The first-best concept of "legislature v. executive" checks and balances must be updated to contemplate second-best "executive v. executive" divisions. And this Essay proposes doing so in perhaps the most controversial area: foreign policy. It is widely thought that the President's power is at its apogee in this arena. By explaining the virtues of internal divisions in the realm of foreign policy, this Essay sparks conversation on whether checks are necessary in other, domestic realms. That conversation desperately needs to center on how best to structure the ever-expanding modern executive branch. From 608,915 employees working in agencies in 1930, 3 to 2,649,319 individuals in 2004, 4 the growth of the executive has not generated a systematic focus on internal checks. We are all fond of analyzing checks on judicial activism in the post-Brown, post-Roe era. So too we think of checks on legislatures, from the filibuster to judicial review. But [\*2317] there is a paucity of thought regarding checks on the President beyond banal wishful thinking about congressional and judicial activity. This Essay aims to fill that gap. A critical mechanism to promote internal separation of powers is bureaucracy. Much maligned by both the political left and right, bureaucracy creates a civil service not beholden to any particular administration and a cadre of experts with a long-term institutional worldview. These benefits have been obscured by the now-dominant, caricatured view of agencies as simple anti-change agents. This Essay celebrates the potential of bureaucracy and explains how legal institutions can better tap its powers. A well-functioning bureaucracy contains agencies with differing missions and objectives that intentionally overlap to create friction. Just as the standard separation-of-powers paradigms (legislature v. courts, executive v. courts, legislature v. executive) overlap to produce friction, so too do their internal variants. When the State and Defense Departments have to convince each other of why their view is right, for example, better decision-making results. And when there is no neutral decision-maker within the government in cases of disagreement, the system risks breaking down. In short, the executive is the home of two different sorts of legitimacy: political (democratic will) and bureaucratic (expertise). A chief aim of this Essay's proposal is to allow each to function without undermining the other. This goal can be met without agency competition - overlapping jurisdiction is simply one catalyzing agent. Other ideas deserve consideration, alongside or independent of such competition, such as developing career protections for the civil service modeled more on the Foreign Service. Executives of all stripes offer the same rationale for forgoing bureaucracy-executive energy and dispatch. 5 Yet the Founders assumed that massive changes to the status quo required legislative enactments, not executive decrees. As that concept has broken down, the risks of unchecked executive power have grown to the point where dispatch has become a worn-out excuse for capricious activity. Such claims of executive power are not limited to the current administration, nor are they limited to politicians. Take, for example, Dean Elena Kagan's rich celebration of presidential administration. 6 Kagan, herself a former political appointee, lauded the President's ability to trump bureaucracy. Anticipating the claims of the current administration, Kagan argued that the [\*2318] President's ability to overrule bureaucrats "energizes regulatory policy" because only "the President has the ability to effect comprehensive, coherent change in administrative policymaking." 7 Yet it becomes clear that the Kagan thesis depends crucially on oversight by the coordinate legislative branch (typically controlled by a party in opposition to the President). Without that checking function, presidential administration can become an engine of concentrated power. This Essay therefore outlines a set of mechanisms that create checks and balances within the executive branch. The apparatuses are familiar - separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts. But these restraints have been informally laid down and inconsistently applied, and in the wake of September 11 they have been decimated. 8 A general framework statute is needed to codify a set of practices. In many ways, the status quo is the worst of all worlds because it creates the facade of external and internal checks when both have withered. I. THE NEED FOR INTERNAL SEPARATION OF POWERS The treacherous attacks of September 11 gave Congress and the President a unique opportunity to work together. Within a week, both houses of Congress passed an Authorization for Use of Military Force (AUMF); 10 two months later they enacted the USA PATRIOT Act to further expand intelligence and law enforcement powers. 11 But Congress did no more. It passed no laws authorizing or regulating detentions for U.S. citizens. It did not affirm or regulate President Bush's decision to use military commissions to try unlawful belligerents. 12 It stood silent when President Bush accepted thinly reasoned legal views of the Geneva Conventions. 13 The administration was content to rely on vague legislation, and Congress was content to enact little else. 14 There is much to be said about the violation of separation of powers engendered by these executive decisions, but for purposes of this Essay, I want [\*2320] to concede the executive's claim - that the AUMF gave the President the raw authority to make these decisions. A democratic deficit still exists; the values of divided government and popular accountability are not being preserved. Even if the President did have the power to carry out the above acts, it would surely have been wiser if Congress had specifically authorized them. Congress's imprimatur would have ensured that the people's representatives concurred, would have aided the government's defense of these actions in courts, and would have signaled to the world a broader American commitment to these decisions than one man's pen stroke. Of course, Congress has not passed legislation to denounce these presidential actions either. And here we come to a subtle change in the legal landscape with broad ramifications: the demise of the congressional checking function. The story begins with the collapse of the nondelegation doctrine in the 1930s, which enabled broad areas of policymaking authority to be given to the President and to agencies under his control. That collapse, however, was tempered by the legislative veto; in practical terms, when Congress did not approve of a particular agency action, it could correct the problem. But after INS v. Chadha, 15 which declared the legislative veto unconstitutional, that checking function, too, disappeared. In most instances today, the only way for Congress to disapprove of a presidential decree, even one chock full of rampant lawmaking, is to pass a bill with a solid enough majority to override a presidential veto. The veto power thus becomes a tool to entrench presidential decrees, rather than one that blocks congressional misadventures. And because Congress ex ante appreciates the supermajority-override rule, its members do not even bother to try to check the President, knowing that a small cadre of loyalists in either House can block a bill. 16 For example, when some of the Senate's most powerful Republicans (John McCain, Lindsay Graham, and John Warner) tried to regulate detentions and trials at Guantanamo Bay, they were told that the President would veto any attempt to modify the AUMF. 17 The result is that once a court [\*2321] interprets a congressional act, such as the AUMF, to give the President broad powers, Congress often cannot reverse the interpretation, even if Congress never intended to give the President those powers in the first place. Senator McCain might persuade every one of the other ninety-nine Senators to vote for his bill, but that is of no moment without a supermajority in the House of Representatives as well. 18 At the same time, the executive branch has gained power from deference doctrines that induce courts to leave much conduct untouched - particularly in foreign affairs. 19 The combination of deference and the veto is especially insidious - it means that a President can interpret a vague statute to give himself additional powers, receive deference in that interpretation from courts, and then lock that decision into place by brandishing the veto. This ratchet-and-lock scheme makes it almost impossible to rein in executive power. All legislative action is therefore dangerous. Any bill, like Senator McCain's torture bill, can be derailed through compromise. A rational legislator, fearing this cascading cycle, is likely to do nothing at all. This expansion of presidential power is reinforced by the party system. When the political branches are controlled by the same party, loyalty, discipline, and self-interest generally preclude interbranch checking. That reluctance is exacerbated by a paucity of weapons that check the President. Post-Chadha, Congress only has weapons that cause extensive collateral damage. The fear of that damage becomes yet another reason why Congress is plagued with inertia. And the filibuster, the last big check in periods of single-party government, is useless against the host of problems caused by Presidents who take expansive views of their powers under existing laws (such as the AUMF). Instead of preserving bicameralism, Chadha has led to its subversion and "no-cameralism." A Congress that conducts little oversight provides a veneer of legitimacy to an adventurist President. The President can appeal to the historic sense of checks and balances, even if those checks are entirely compromised by modern political dynamics. With this system in place, it is no surprise that recent calls [\*2322] for legislative revitalization have failed. No successful action-forcing mechanisms have been developed; instead we are still in John Hart Ely's world of giving a "halftime pep-talk imploring that body to pull up its socks and reclaim its rightful authority." 20 It is time to consider second-best solutions to bring separation of powers into the executive. Bureaucracy can be reformed and celebrated (instead of purged and maligned), and neutral conflict-decision mechanisms can be introduced. Design choices such as these can help bring our government back in line with the principles envisioned by our Founders. 21

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#### The aff is a liberal knee jerk reaction to excess of power--Legal constraints misunderstand the how and where the formulation of executive power occurs. Battling the executive on its own terms is a dangerous game that merely swells executive power.

Kinniburgh 13 Colin, writer for Dissent magazine, Dissent, 5-27, http://www.dissentmagazine.org/blog/partial-readings-the-rule-of-law

The shamelessness of the endeavor is impressive—a far cry, in many ways, from the CIA’s secretive Cold War–era assassination plots. Obama has succeeded in anchoring a legal infrastructure for state-sponsored assassinations on foreign soil while trumpeting it, in broad daylight, as a framework for accountability. Peppered with allusions to the Constitution and to “the law” more generally, the call for transparency instead appears to provide an Orwellian foil for a remarkable expansion of executive powers. Existing laws, domestic or international, are proving a hopelessly inadequate framework with which to hold the Obama administration accountable for arbitrary assassinations abroad. No doubt it is tempting to turn to the Constitution, the Universal Declaration of Human Rights, and other relevant legal documents as a litmus test for the validity of government actions. Many progressive media outlets have a tendency to seize on international law, especially, as a straightforward barometer of injustice: this is particularly true in the case of the Israel-Palestine conflict, as an editorial in the current issue of Jacobin points out. Both domestic and international legal systems often do afford a certain clarity in diagnosing excesses of state power, as well as a certain amount of leverage with which to pressure the states committing the injustices. To hope, however, that legal systems alone can redress gross injustices is naive. Many leftists—and not just “bloodless liberals”—feel obliged to retain faith in laws and courts as a lifeline against oppression, rather than as mere instruments of that same oppression. Even Marx, when he was subjected, along with fellow Communist League exiles, to a mass show trial in Prussian courts in the 1850s, was convinced that providing sufficient evidence of his innocence would turn the case against his accuser, Wilhelm Stieber, a Prussian secret agent who reportedly forged his evidence against the communists. In his writings, Marx expressed his disillusionment with all bourgeois institutions, including the courts; in practice, he hoped that the law would serve him justice. Richard Evans highlights this tension in his insightful review of Jonathan Sperber’s Karl Marx: A Nineteenth-Century Life, published in the most recent London Review of Books. “Naively forgetting,” writes Evans, “what they had said in the Manifesto – that the law was just an instrument of class interests – Marx and Engels expected [their evidence against Stieber] to lead to an acquittal, but the jury found several of the defendants guilty, and Stieber went unpunished.” Marx’s disappointment is all too familiar. It is familiar from situations of international conflict, illustrated by Obama’s drone strikes justifications; it is evident, too, when a police officer shoots dead an unarmed Bronx teenager in his own bathroom, and the charge of manslaugher—not murder—brought against the officer is dropped for procedural reasons by the presiding judge. This is hardly the first such callous ruling by a New York court in police violence cases; the last time charges were brought against an NYPD officer relating to a fatal shooting on duty, in 2007, they were also dropped. Dozens of New Yorkers have died at the hands of the police since then, and Ramarley Graham’s case was the first that even came close to a criminal conviction—only to be dropped for ludicrous reasons. Yet New York’s stop-and-frisk opponents are still fighting their battle out in the courts. In recent months, many activists have invested their hopes for fairer policing in a civil class action suit, Floyd, et. al. vs. City of New York, which may just convict the NYPD of discrimination despite the odds. District court judge Shira Scheindlin, profiled in this week’s New Yorker, has gained a reputation for ruling against the NYPD in stop-and-frisk cases, even when it has meant letting apparently dangerous criminals off the hook. In coming weeks, she is likely to do the same for the landmark Floyd case, in what may be a rare affirmation of constitutional law as a bulwark against state violence and for civil liberties. Even if the city wins the case, the spotlight that stop-and-frisk opponents have shined on the NYPD has already led to a 51 percent drop in police stops in the first quarter of this year. Still, when the powerful choose the battlefield and write the laws of war, meeting them on their terms is a dangerous game.

#### Legality is what feeds a new form of liberalism where these illusions cannot see how much they sustain it which legitimizes wars for democracies and doctrines of pre-emption

Motha 8 Stewart, Senior Lecturer, Kent Law School, University of Kent, Canterbury, Kent, Journal of Law, Culture, and Humanities Forthcoming 2008, Liberal Cults, Suicide Bombers, and other Theological Dilemmas

A universalist liberal ideology has been re-asserted. It is not only neo-con hawks or Blairite opportunists that now legitimise wars for democracy. Alarmingly, it is a generation of political thinkers who opposed the Nixonian logic of war (wars to show that a country can ‘credibly’ fight a war to protect its interests1), and those humbled by the anticolonial struggles of liberation from previous incarnations of European superiority that are renewing spurious civilizational discourses. This ‘muscular liberalism’ has found its voice at the moment of a global political debate about the legality and effectiveness of ‘just wars’ – so called ‘wars for democracy’ or ‘humanitarian war’. The new political alignment of the liberal left emerged in the context of discussions about the ‘use of force’ irrespective of UN Security Council endorsement or the sovereign state’s territorial integrity, such as in Kosovo – but gained rapid momentum in response to attacks in New York City and Washington on September 11, 2001. Parts of the liberal left have now aligned themselves with neoconservative foreign policies, and have joined what they believe is a new anti-totalitarian global struggle – the ‘war on terror’ or the battle against Islamist fundamentalism. One task of this essay, then, is to identify this new formation of the liberal left. Much horror and suffering has been unleashed on the world in the name of the liberal society which must endure. However, when suicide bombing and state-terror are compared, the retort is that there is no moral equivalence between the two. Talal Asad in his evocative book, On Suicide Bombing, has probed the horror that is felt about suicide bombing in contrast to state violence and terror.2 What affective associations are formed in the reaction to suicide bombing? What does horror about suicide bombing tell us about the constitution of inter-subjective relations? In this essay I begin to probe these questions about the relation between death, subjectivity, and politics. I want to excavate below the surface oppositions of good deaths and bad, justifiable killing and barbarism, which have been so central to left liberal arguments. As so much is riding on the difference between ‘our good war’ and ‘their cult of death’, it seems apt to examine and undo the opposition. The muscular liberal left projects itself as embodying the values of the ‘West’, a geo-political convergence that is regularly opposed to the ‘East’, ‘Muslims’, or the ‘Islamic World’. I undo this opposition, arguing that thanatopolitics, a convergence of death, sacrifice, martyrdom and politics, is common to left liberal and Islamist political formations. How does death become political for left liberals and Islamist suicide bombers? In the case of the latter, what is most immediately apparent is how little is known about the politics and politicization of suicide bombers. Suicide bombers are represented as a near perfect contrast to the free, autonomous, self-legislating liberal subject – a person overdetermined by her backward culture, oppressive setting, and yet also empty of content, and whose death can have no temporal political purchase. The ‘suicide bomber’ tends to be treated by the liberal left as a trans-historical ‘figure’, usually represented as the ‘Islamo-fascist’ or the ‘irrational’ Muslim.3 The causes of suicide bombing are often implicitly placed on Islam itself – a religion that is represented as devoid of ‘scepticism, doubt, or rebellion’ and thus seen as a favourable setting for totalitarianism.4 The account of the suicide bomber as neo-fascist assassin supplements a lack – that is, that the association of suicide bombing with Islam explains very little. The suicide bomber is thus made completely familiar as totalitarian fascist, or wholly other as “[a] completely new kind of enemy, one for whom death is not death”.5 So much that is written about the suicide bomber glosses over the unknown with political subjectivities, figures, and paradigms (such as fascism) which are familiar enough to be vociferously opposed. By drawing the suicide bomber into a familiar moral register of ‘evil’, political and historical relations between victim and perpetrator are erased.6 In the place of ethnographically informed research the ‘theorist’ or ‘public intellectual’ erases the contingency of the suicide bomber and reduces her death to pure annihilation, or nothingness. The discussion concludes by undoing the notion of the ‘West’, the very ground that the liberal left assert they stand for. The ‘West’ is no longer a viable representation of a geo-political convergence, if it ever was. Liberal discourse has regarded itself as the projection of the ‘West’ and its enlightenment. But this ignores important continuities between Islam, Christianity, and contemporary secular formations. The current ‘clash of monotheisms’, I argue after J-L Nancy, reveals a crisis of sense, authority, and meaning which is inherent to the monotheistic form. An increasingly globalised world is made up of political communities and juridical orders that have been ‘emptied’ of authority and certainty. This crisis of sense conditions the horror felt by the supposedly rational liberal in the face of Islamist terrorism. Horror at terrorism is then the affective bond that sustains a grouping that otherwise suffers the loss of a political project with a definite end. The general objective of this essay is to challenge the unexamined assumptions about politics and death that circulate in liberal left denunciations of Islamic fascism. The horror and fascination with the figure of the suicide bomber reveals an unacknowledged affective bond that constitutes the muscular liberal left as a political formation. This relies on disavowing the sacrificial and theological underpinnings of political liberalism itself – and ignores the continuities between what is called the ‘West’ and the theologico-political enterprise of monotheism. Monotheism is not the preserve of something called the ‘West’, but rather an enterprise that is common to all three Religions of the Book. The article concludes by describing how the writings of Jean-Luc Nancy on monotheism offer liberal left thinkers insights for rethinking the crisis of value that resulted from the collapse of grand emancipatory enterprises as well as the fragmentation of politics resulting from a focus on political identification through difference. I opened with a reference to the ‘liberal left’. Of course the ‘liberal left’ signifies a vast and varied range of political thinking and activism – so I must clarify how I am deploying this term. In this essay the terms ‘liberal left’ or ‘muscular liberal’ are used interchangeably. Paul Berman and Nick Cohen, whose writing I will shortly refer to, are exemplars of the new political alignment who self-identify as ‘democrats and progressives’, but whose writings feature bellicose assertions about the superiority of western models of democracy, and universal human rights.7 Among this liberal left, democracy and freedom become hemispheric and come to stand for the West. More generally, now, the ‘liberal left’ can be distinguished from political movements and thinkers who draw inspiration from a Marxist tradition of thought with a socialist horizon. The liberal left I am referring to would view the Marxist tradition as undervaluing democratic freedoms and human rights. Left liberals also tend to dismiss the so called post-Marxist turn in European continental philosophy as ‘postmodern relativism’.8 PostMarxists confronted the problem of the ‘collective’ – addressing the problem of masses and classes as the universal category or agent of historical transformation. This was a necessary correction to all the disasters visited on the masses in the name of a universal working class. The liberal state exploited these divisions on the left. It is true that a left fragmented through identity politics or the politics of difference were reduced to group based claims on the state. However, liberal multiculturalism was critiqued by anti-racist and feminist thinkers as early as the 1970s for ignoring the structural problems of class or as yet another nation-building device. The new formation of the muscular liberal left have only just discovered the defects of multiculturalism. The dismissal of liberal multiculturalism is now code for ‘too much tolerance’ of ‘all that difference’. The liberal left, or muscular liberal, as I use these terms, should not be conflated with the way ‘liberal’ is generally used in North America to denote ‘progressive’, ‘pro-choice’, open to a multiplicity of forms of sexual expression, generally ‘tolerant’, or ‘left wing’ (meaning socialist). It might be objected that it is not the liberal left, but ‘right wing crazies’ driven by Christian evangelical zeal combined with neo-liberal economic strategies that have usurped a post-9/11 crime and security agenda to mount a global hegemonic enterprise in the name of a ‘war on terror’. It might also be said that this is nothing new – global expansionist enterprises such as 18th and 19th century colonialism mobilised religion, science, and theories of economic development to secure resources and justify extreme violence where necessary. Global domination, it might be argued, has always been a thanatopolitical enterprise. So what’s different now? What is crucial, now, is that the entire spectrum of liberalism, including the ‘rational centre’, is engaged in the kind of mindset whereby a destructive and deadly war is justified in the name of protecting or establishing democracy, the rule of law, and human rights. It might then be retorted that this ‘rational centre’ of liberalism have ‘always’ been oriented in this way. That is partly true, but it is worth recalling that the liberal left I have in mind is the generation that came of age with opposition to the war in Vietnam, other Indo-Chinese conflagrations, and the undoing of empire. This is a left that observed the Cold War conducted through various ‘hot wars’ in Africa, Central and Latin America, and South East Asia and thus at least hoped to build a ‘new world order’ of international law and multilateralism. This is a left that was resolved, by the 1970s, not to repeat the error of blindly following a scientific discourse that promised to produce a utopia – whether this was ‘actually existing socialism’ or the purity of ‘blood and soil’. But now, a deadly politics, a thanatopolitics, is drawn out of a liberal horror and struggle against a monolithically drawn enemy called Islamic fundamentalism. What is new is that Islam has replaced communism/fascism as the new ‘peril’ against which the full spectrum of liberalism is mobilized. Islamist terrorism and suicide bombers, a clash between an apparently Islamic ‘cult of death’ versus modern secular rationality has come to be a central preoccupation of the liberal left. In the process, as Talal Asad has eloquently pointed out, horror about terrorism has come to be revealed as one way in which liberal subjectivity and its relation to political community can be interrogated and understood.9 Moreover, the potential for liberal principles to be deployed in the service of legitimating a doctrine of pre-emption as the ‘new internationalism’ is significant. The first and second Gulf Wars, according to the liberal left, are then not wars to secure control over the supply of oil, or regional and global hegemony, as others on the left might argue, but anti-fascist, anti-totalitarian wars of liberation fought in the name of ‘democracy’. Backing ‘progressive wars’ for ‘freedom and democracy’, those who self-identify as a left which is reasserting liberal democratic principles start by asking questions such as: “Are western freedoms only for westerners?”.10 In the process, freedom becomes ‘western’, and its enemy an amorphous legion behind an unidentifiable line between ‘west’ and the rest (the ‘Muslim world’). The ‘war for democracy’ waged against ‘Islamist terrorism’ and Muslim fundamentalism is the crucible on which the new alignment of the liberal left is forged.

#### The aff serves to normalize the war on terror--pinpointing individual problems serves to distort, provide cover for and dress up the current legal system and executive practices.

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How might one critique this massive network of violence that has become so enmeshed in our contemporary geo-socio-political reality? Is there any hope for reversing the expansion of executive violence in the current political climate, in which the President enjoys minimal resistance to his most egregious uses of violence? How does exceptional violence become routine? Answers to these broad and difficult questions, derived as they are from the disorientingly vast and hyper-accelerated retrenchment of our current political situation, are best won through the broad strokes of what Slavoj Žižek calls "systemic" critique. For Žižek, looking squarely at interpersonal or subjective violences (e.g., torture, drone strikes), drawn as we may be by their gruesome and immediate appeal, distorts the critic's broader field of vision. For a fuller picture, one must pull one's critical focus back several steps to reveal the deep, objective structures that undergird the spectacular manifestations of everyday, subjective violence (Žižek 2008, 1-2). Immediately, however, one confronts the limit question of Žižek's mandate: how does one productively draw the boundaries of a system without too severely dampening the force of objective critique? For practical purposes, this essay leaves off discussion of neoliberal economic domination, vital as it may be to a full accounting for the U.S.' latest and most desperate expressions of state solvency. Offered instead is a critique of the organizational violence of the U.S.' executive bureaucratic apparatus, an apparatus called into being by charismatic decree, made banal through quasi-legal codification, and guaranteed by popular disinterest. Considered also will be the peculiar, if also somewhat inevitable, continuity of the apparatus's growth under the Obama administration. Candidate Obama's pledge to transparency may now seem an example of truly "mere" [End Page 66] campaign rhetoric, but the extent to which his presidency has exceeded that of George W. Bush in terms of exceptional violence bears some attention. The central difference between the presidencies of Bush and Obama, I suggest, has been the discursive means by which their respective administrations have cultivated an image of charismatic rule. This essay proceeds in three steps. I begin by outlining a recent case of subjective violence, the assassination of Anwar al-Awlaki by drone strike, and then pull back to reveal the structural support for that strike. In the second section, taking Max Weber as my guide, I argue that bureaucratic domination is both the derivative speech act of, and the logic that underwrites, the violence of the modern liberal-democratic state. Under stable conditions, the state bureaucracy facilitates the hegemony of abstract, depersonalized, and mechanical Enlightenment legal-rationalism—what Foucault called liberal "governmentality"—by maintaining relative equilibrium between liberal autonomy and distributive justice among the citizenry. In other words, modern bureaucracy effectively mediates the two poles, "liberty" and "equality," that comprise what political theorists have called the liberal-democratic paradox (Mouffe 2009). When an event is framed as threatening to strip the state of its rhetorical power, however, the bureaucratic apparatus becomes the crucible for what I identify in the third section, with additional help from Carl Schmitt and Giorgio Agamben, as charismatic domination, or the rhetorical exploitation of a vulnerable population by a sovereign decider. Under these conditions, the state bureaucracy becomes a kind of "vanishing mediator" (Jameson 1988, 25-27), its energies redirected for exclusive and singular usage by the exceptional-charismatic sovereign. In the perpetual state of exception, the democratic paradox becomes subordinate to sovereign claims to total and indivisible control over the legitimate use of force. I conclude by outlining what I perceive as the best chances for stemming the growth of the national security bureaucracy, namely, relentless publicity.

#### The alternative is to reject the 1ac in favor of reconceptualizing where authority emanates from---we need to take a step outside the legal realm and build a culture of resilience against executive power

Connolly 13(William E, Pf – John Hopkins U, The Contemporary Condition, 5-20)

Nonetheless, the logic of the media-electoral-corporate system does spawn a restrictive grid of power and electoral intelligibility that makes it difficult to think, experiment, and organize outside its parameters. Think of how corporations and financial institutions initiate actions in the private sector and then use intensive lobbying to veto efforts to reverse those initiatives in Congress or the courts, just as financial elites invented derivatives and then lobbied intensively to stop their regulation; think of how media talking heads concentrate on candidates rather than fundamental issues; recall the central role of scandal in the media and electoral politics; consider the decisive electoral position of inattentive “undecided voters”; note how states under Republican rule work relentlessly to reduce the minority and poor vote; recall those billionaire super pacs; and so on. The electoral grid cannot be ignored or ceded to the right, but it also sucks experimental pursuits and bold ventures out of politics. Can we renegotiate the dilemma of electoral politics? That is the problematic within which I am working. I do not have a perfect response to it. Perfect answers are suspect. Perhaps it is wise to forge multimodal strategies that start outside the electoral grid and then return to it as one venue among others. Strategic role experimentations at multiple sites joined to the activation of new social movements provide possibilities. Indeed, these two modes are related. Consider merely a few examples of role experimentation tied to climate change and consumption available to many people in the shrinking middle class. We may support the farm-to-table movement in the restaurants we visit; we may participate in the slow food movement; we may frequent stores that offer food based on sustainable processes; we may buy hybrid cars, or, if feasible, join an urban zip-car collective, explaining to friends, family, and neighbors the effects such choices could have on late modern ecology if a majority of the populace did so; we may press our workplace to install solar panels and consider them ourselves if we can afford to do so; we may use writing and media skills to write graffiti, or produce provocative artistic installations, or write for a blog; we may shift a large portion of our retirement accounts into investments that support sustainable energy, withdrawing from aggressive investments that presuppose unsustainable growth or threaten economic collapse; we may bring new issues and visitors to our churches, temples, or mosques to support rethinking interdenominational issues and the contemporary fragility of things; we may found, join, or frequent repair clubs, at which volunteers collect and repair old appliances, furniture, and bikes to cut back on urban waste, to make them available to low income people and to increase the longevity of the items; we may probe and publicize the multimodal tactics by which twenty-four-hour news stations work on the visceral register of viewers, as we explain on blogs how to counter those techniques; we may travel to places where unconscious American assumptions about world entitlement are challenged on a regular basis; we may augment the pattern of films and artistic exhibits we visit to stretch our habitual powers of perception and to challenge some affect-imbued prejudgments embedded in them. A series of intercalated role experiments, often pursued by clusters of participants together. But don’t such activities merely make the participants “feel better”? Well, many who pursue such experiments do feel good about them, particularly those who accept a tragic image of possibility in which there is no inevitability that either large scale politics, God, or nature will come to our rescue. Also, could such role experiments ever make a sufficient difference on their own? No. These, however, may be the wrong questions to pose. What such experiments can do as they expand is to crack the ice in and around us. First, we may now find ourselves a bit less implicated in the practices and policies that are sources of the problems. Second, the shaky perceptions, feelings, and beliefs that authorized them may thus now become more entrenched as we act upon them. Third, we now find ourselves in more favorable positions to forge connections with larger constituencies pursuing similar experiments. Fourth, we may thus become more inspired to seed and join macropolitical movements that speak to these issues. Fifth, as we now participate in protests, slowdowns, work “according to rule” and more confrontational meetings with corporate managers, church leaders, union officials, university officers, and neighborhood leaders, we may become even more alert to the creeds, institutional pressures and options that propel these constituencies too. They, too, are both enmeshed in a web of roles and more than mere role bearers. Many will maintain an intransigence of viewpoint and insistence of interpretation that we may now be in a better position to counter by words and deeds with those outside or at the edge of the intransigent community. One advantage of forging links between role experimentations and social movements is that both speak to a time in which the drive to significant change must be pursued by a large, pluralist assemblage rather than by any single class or other core constituency. Such an assemblage must today be primed and loaded by several constituencies in diverse ways at numerous sites. It is necessary here to condense linkages that may unfold. But perhaps movement back and forth between role experiments, social movements, occasional shifts in the priorities of some strategic institutions, and a discernible shift in the contours of electoral politics will promote the emergence of a new, more activist pluralist assemblage. Now, say, a new, surprising event occurs. Some such event or crisis is surely bound to erupt: an urban uprising, a destructive storm, a wild executive overreach, a wide spread interruption in electrical service, a bank melt down, a crisis in oil supply, etc. Perhaps the conjunction of this new event with the preparatory actions that preceded it will prime a large constellation to resist the protofascist responses the intransigent Right will pursue at that very moment. Perhaps the event will now become an occasion to mobilize large scale, intensive support for progressive change on some of the fronts noted at the start of this piece. It is important to remember that the advent of a crisis does not alone determine the response to it. So waiting for the next one to occur is not enough. The Great Depression was followed by the intensification of fascist movements in several countries. Those with strong labor movements and progressive elected leaders proved best at resisting them. The most recent economic melt-down was met in many places by the self-defeating response of austerity, and worse. That is why the quality and depth of the political ethos preceding such events is important. The use of the “perhaps” in the above formulations suggests that there are no guarantees at any of these junctures. Uncertainties abound. These points, however, also apply to any radical perspective that counsels waiting for the revolution, as it surrounds its critiques of militant reform with an aura of certainty. Today the need is to curtail the aura of certainty of all perspectives on the Left. The examples posed here, of course, are focused on primarily one constituency. But others could be invoked. The larger idea is to draw energy from multiple sources and constituencies. The formula is to move back and forth between the proliferation of role experiments, forging social movements on several fronts, helping to shift the constituency weight of the heavy electoral machinery now in place, and participating in cross-country citizen movements that put pressure on states, corporations, churches, universities and unions from inside and outside simultaneously.

#### Only our alternative displaces the source of executive overreach. Legal restraint without conceptual change is futile.

Rana 11 Aziz Law at Cornell “Who Decides on Security?” Cornell Law Faculty Working Papers, Paper 87, http://scholarship.law.cornell.edu/clsops\_papers/87 p. 45-51

The prevalence of these continuities between Frankfurter’s vision and contemporary judicial arguments raise serious concerns with today’s conceptual framework. Certainly, Frankfurter’s role during World War II in defending and promoting a number of infamous judicial decisions highlights the potential abuses embedded in a legal discourse premised on the specially-situated knowledge of executive officials and military personnel. As the example of Japanese internment dramatizes, too strong an assumption of expert understanding can easily allow elite prejudices—and with it state violence—to run rampant and unconstrained. For the present, it hints at an obvious question: How skeptical should we be of current assertions of expertise and, indeed, of the dominant security framework itself? One claim, repeated especially in the wake of September 11, has been that regardless of normative legitimacy, the prevailing security concept—with its account of unique knowledge, insulation, and hierarchy—is simply an unavoidable consequence of existing global dangers. Even if Herring and Frankfurter may have been wrong in principle about their answer to the question “who decides in matters of security?” they nevertheless were right to believe that complexity and endemic threat make it impossible to defend the old Lockean sensibility. In the final pages of the article, I explore this basic question of the degree to which objective conditions justify the conceptual shifts and offer some initial reflections on what might be required to limit the government’s expansive security powers. VI. CONCLUSION: THE OPENNESS OF THREATS The ideological transformation in the meaning of security has helped to generate a massive and largely secret infrastructure of overlapping executive agencies, all tasked with gathering information and keeping the country safe from perceived threats. In 2010, The Washington Post produced a series of articles outlining the buildings, personnel, and companies that make up this hidden national security apparatus. According to journalists Dana Priest and William Arkin, there exist “some 1271 government organizations and 1931 private companies” across 10,000 locations in the United States, all working on “counterterrorism, homeland security, and intelligence.”180 This apparatus is especially concentrated in the Washington, D.C. area, which amounts to “the capital of an alternative geography of the United States.”181 Employed by these hidden agencies and bureaucratic entities are some 854,000 people (approximately 1.5 times as many people as live in Washington itself) who hold topsecret clearances.182 As Priest and Arkin make clear, the most elite of those with such clearance are highly trained experts, ranging from scientists and economists to regional specialists. “To do what it does, the NSA relies on the largest number of mathematicians in the world. It needs linguists and technology experts, as well as cryptologists, known as ‘crippies.’”183 These professionals cluster together in neighborhoods that are among the wealthiest in the country—six of the ten richest counties in the United States according to Census Bureau data.184 As the executive of Howard County, Virginia, one such community, declared, “These are some of the most brilliant people in the world. . . . They demand good schools and a high quality of life.”185 School excellence is particularly important, as education holds the key to sustaining elevated professional and financial status across generations. In fact, some schools are even “adopting a curriculum . . . that will teach students as young as 10 what kind of lifestyle it takes to get a security clearance and what kind of behavior would disqualify them.”186 The implicit aim of this curriculum is to ensure that the children of NSA mathematicians and Defense Department linguists can one day succeed their parents on the job. In effect, what Priest and Arkin detail is a striking illustration of how security has transformed from a matter of ordinary judgment into one of elite skill. They also underscore how this transformation is bound to a related set of developments regarding social privilege and status—developments that would have been welcome to Frankfurter but deeply disillusioning to Brownson, Lincoln, and Taney. Such changes highlight how one’s professional standing increasingly drives who has a right to make key institutional choices. Lost in the process, however, is the longstanding belief that issues of war and peace are fundamentally a domain of common care, marked by democratic intelligence and shared responsibility. Despite such democratic concerns, a large part of what makes today’s dominant security concept so compelling are two purportedly objective sociological claims about the nature of modern threat. As these claims undergird the current security concept, by way of a conclusion I would like to assess them more directly and, in the process, indicate what they suggest about the prospects for any future reform. The first claim is that global interdependence means that the U.S. faces near continuous threats from abroad. Just as Pearl Harbor presented a physical attack on the homeland justifying a revised framework, the American position in the world since has been one of permanent insecurity in the face of new, equally objective dangers. Although today these threats no longer come from menacing totalitarian regimes like Nazi Germany or the Soviet Union, they nonetheless create of world of chaos and instability in which American domestic peace is imperiled by decentralized terrorists and aggressive rogue states.187 Second, and relatedly, the objective complexity of modern threats makes it impossible for ordinary citizens to comprehend fully the causes and likely consequences of existing dangers. Thus, the best response is the further entrenchment of Herring’s national security state, with the U.S. permanently mobilized militarily to gather intelligence and to combat enemies wherever they strike—at home or abroad. Accordingly, modern legal and political institutions that privilege executive authority and insulated decisionmaking are simply the necessary consequence of these externally generated crises. Regardless of these trade-offs, the security benefits of an empowered presidency (one armed with countless secret and public agencies as well as with a truly global military footprint)188 greatly outweigh the costs. Yet, although these sociological views have become commonplace, the conclusions that Americans should draw about security requirements are not nearly as clear cut as the conventional wisdom assumes. In particular, a closer examination of contemporary arguments about endemic danger suggests that such claims are not objective empirical judgments but rather are socially complex and politically infused interpretations. Indeed, the openness of existing circumstances to multiple interpretations of threat implies that the presumptive need for secrecy and centralization is not self-evident. And as underscored by high profile failures in expert assessment, claims to security expertise are themselves riddled with ideological presuppositions and subjective biases. All this indicates that the gulf between elite knowledge and lay incomprehension in matters of security may be far less extensive than is ordinarily thought. It also means that the question of who decides—and with it the issue of how democratic or insular our institutions should be—remains open as well. Clearly technological changes, from airpower to biological and chemical weapons, have shifted the nature of America’s position in the world and its potential vulnerability. As has been widely remarked for nearly a century, the oceans alone cannot guarantee our permanent safety. Yet, in truth they never fully ensured domestic tranquility. The nineteenth century was one of near continuous violence, especially with indigenous communities fighting to protect their territory from expansionist settlers.189 But even if technological shifts make doomsday scenarios more chilling than those faced by Hamilton, Jefferson, or Taney, the mere existence of these scenarios tells us little about their likelihood or how best to address them. Indeed, these latter security judgments are inevitably permeated with subjective political assessments, assessments that carry with them preexisting ideological points of view—such as regarding how much risk constitutional societies should accept or how interventionist states should be in foreign policy. In fact, from its emergence in the 1930s and 1940s, supporters of the modern security concept have—at times unwittingly—reaffirmed the political rather than purely objective nature of interpreting external threats. In particular, commentators have repeatedly noted the link between the idea of insecurity and America’s post-World War II position of global primacy, one which today has only expanded following the Cold War. In 1961, none other than Senator James William Fulbright declared, in terms reminiscent of Herring and Frankfurter, that security imperatives meant that “our basic constitutional machinery, admirably suited to the needs of a remote agrarian republic in the 18th century,” was no longer “adequate” for the “20th- century nation.”190 For Fulbright, the driving impetus behind the need to jettison antiquated constitutional practices was the importance of sustaining the country’s “preeminen[ce] in political and military power.”191 Fulbright held that greater executive action and war-making capacities were essential precisely because the United States found itself “burdened with all the enormous responsibilities that accompany such power.”192 According to Fulbright, the United States had both a right and a duty to suppress those forms of chaos and disorder that existed at the edges of American authority. Thus, rather than being purely objective, the American condition of permanent danger was itself deeply tied to political calculations about the importance of global primacy. What generated the condition of continual crisis was not only technological change, but also the belief that the United States’ own ‘national security’ rested on the successful projection of power into the internal affairs of foreign states. The key point is that regardless of whether one agrees with such an underlying project, the value of this project is ultimately an open political question. This suggests that whether distant crises should be viewed as generating insecurity at home is similarly as much an interpretative judgment as an empirically verifiable conclusion.193 To appreciate the open nature of security determinations, one need only look at the presentation of terrorism as a principal and overriding danger facing the country. According to the State Department’s Annual Country Reports on Terrorism, in 2009 “[t]here were just 25 U.S. noncombatant fatalities from terrorism worldwide” (sixteen abroad and nine at home).194 While the fear of a terrorist attack is a legitimate concern, these numbers—which have been consistent in recent years—place the gravity of the threat in perspective. Rather than a condition of endemic danger—requiring everincreasing secrecy and centralization—such facts are perfectly consistent with a reading that Americans do not face an existential crisis (one presumably comparable to Pearl Harbor) and actually enjoy relative security. Indeed, the disconnect between numbers and resources expended, especially in a time of profound economic insecurity, highlights the political choice of policymakers and citizens to persist in interpreting foreign events through a World War II and early Cold War lens of permanent threat. In fact, the continuous alteration of basic constitutional values to fit ‘national security’ aims highlights just how entrenched Herring’s old vision of security as pre-political and foundational has become, regardless of whether other interpretations of the present moment may be equally compelling. It also underscores a telling and often ignored point about the nature of modern security expertise, particularly as reproduced by the United States’ massive intelligence infrastructure. To the extent that political assumptions—like the centrality of global primacy or the view that instability abroad necessarily implicates security at home—shape the interpretative approach of executive officials, what passes as objective security expertise is itself intertwined with contested claims about how to view external actors and their motivations. This means that while modern conditions may well be complex, the conclusions of the presumed experts may not be systematically less liable to subjective bias than judgments made by ordinary citizens based on publicly available information. It further underscores that the question of who decides cannot be foreclosed in advance by simply asserting deference to elite knowledge. If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very dramatic political and legal pathologies. In recent years, the country has witnessed a variety of security crises built on the basic failure of ‘expertise.’195 At present, part of what obscures this fact is the very culture of secret information sustained by the modern security concept. Today, it is commonplace for government officials to leak security material about terrorism or external threat to newspapers as a method of shaping the public debate.196 These ‘open’ secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making. But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit. If both objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this mean for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars—emphasizing new statutory frameworks or greater judicial assertiveness—is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants—danger too complex for the average citizen to comprehend independently—it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that no popular base exists to raise these questions. Unless such a base emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### SOLVO

#### Applying WPR won’t solve – President will turn to covert action to avoid reporting requirements

Lorber ’13 Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science. Journal Of Constitutional Law 15.3 <https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013>.

V. A MIDDLE GROUND OF LEGAL OVERSIGHT This analysis suggests that, given inherent weaknesses in the underlying statutory schemes, excluding offensive cyber operations from their scope does not substantially shift the balance of war-making authority between the President and Congress. This exclusion does, however, provide the President additional, powerful means by which to conduct military action without congressional oversight. Based on analysis of the War Powers Resolution, the lack of oversight for OCOs does not radically shift the balance between the legislative and executive branches' war-making authority. Most notably, because the War Powers Resolution itself has proven ineffective in providing Congress with a powerful tool to govern presidential use of force, bringing OCOs under the War Powers Resolution's statutory umbrella likely would not provide the possibility of such oversight. However, insofar as the President has increasingly turned to covert action since the passage of the War Powers Resolution to avoid its reporting requirements, offensive cyber operationsprovide the President another means by which to continue this trend. OCOs therefore may give the President substantially more flexibility than he already has under the War Powers Resolution by adding what will become an increasingly frequent tool of warfare to his option-set. The lack of congressional oversight of offensive cyber operations under the Intelligence Authorization Act also likely does not seriously shift the balance between congressional and executive war-making powers. The reason is inherent in the limitations of the legislation itself: the Intelligence Authorization Act specifies reporting requirements, but does not require the 234 non-use or withdrawal of forces.

#### Obama would issue a signing statement to circumvent the aff.

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Another tool of the Executive branch, which subordinates constitutional and international law, is the signing statement. The use of signing statements is not a new phenomenon. The first President on record issuing a singing statement was James Monroe in the early 1800‟s. They were used primarily for public record until Reagan‟s presidency in the 1980‟s. A legal theory was developed which asserted signing statements could be used as a tool of the Executive branch. Instead of vetoing a law passed through the senate, the President can claim the law is unconstitutional and his branch is not bound to obey. Since President Bush II came into office in 2001, he has signed 157 statements challenging 1,100 provisions of federal law –more than any previous President in history (Green, 2008).¶ The use of signing statements by President Bush allows for new and broad interpretations of law and Executive power. Signing statements have three significant functions: to notify the public on how the President views the legislation and how it relates to the administration‟s policy views; to guide and direct the organizations which fall under the Executive branch; and, most importantly, announces the Presidents‟ view on the constitutionality of the legislation (Dellinger, 1993). The President has in effect, acquired the role of the judiciary and the legislative; he can now create laws and interpret them. Signing statements are important because, currently, our legal system does not know how to deal with them. They are inherently outside the sphere of law. When a law is passed by congress, it is sent to the President and then signed into law. When he signs the law is the moment he issues the signing statement. In relation to the Supreme Court, signing statements are beyond judicial review because, “a specific victim of a law or policy, over whom courts have jurisdiction, must file a lawsuit for a question to get before the Supreme Court. But nobody has legal standing to sue over most of the important laws Bush challenged” (Savage, 2007; 241). The Executive is no longer fixed in the system of checks and balances. The Executive body has moved above the other branches because the President believes he has the power.

#### Offense is the best defense—OCOs are the key component of US cyber operations.

Prince 9/5, (Brian Prince, Security Experts: Expect U.S. Cyberoffensive Efforts To Grow, September 05, 2013, http://www.darkreading.com/privacy/security-experts-expect-us-cyber-offensi/240160914)

The disclosure follows the release of a mountain of information contained in documents leaked recently to The Washington Post that provide a peek at just how much the United States has embraced offensive cyberactivity -- something security experts say is likely to continue as other countries build cyberarsenals of their own.¶ "The best way I can explain why is to paraphrase a maxim echoed throughout history, which is: 'The best defense is a good offense,'" says Leo Versola, vice president of technology at security solution provider AhnLab. "Defense has always been much harder to successfully implement than offense for obvious reasons. However, I don't think this will necessarily change the way [the U.S. approaches] other countries suspected of conducting similar operations."¶ "Warfare," says Versola, "is shifting from a physical to a virtual battlefield and the rules of engagement are evolving."¶ According to documents obtained by The Washington Post, U.S. intelligence services carried out 231 offensive cyberoperations in 2011. In addition, under a $652 million project code-named GENIE, U.S. specialists broke into foreign computer networks and placed malware dubbed "implants" on tens of thousands of machines every year.¶ By the end of 2013, GENIE is expected to control at least 85,000 implants in machines across the globe -- roughly four times the number available in 2008, according to the U.S. intelligence budget. Many of the NSA implants are designed by the agency, but $25.1 million was set aside this year to make covert purchase of software vulnerabilities as well.¶ "Offensive cyberoperations will continue to play a key part of the government's strategy in the future; it only makes sense from a tactical and strategic perspective," says Rob Kraus, director of research with Solutionary's Security Engineering Research Team (SERT), adding that "disarming a country through the use of cyberwarfare can be very powerful and can be very effective without ever requiring boots on the ground."

#### Statutes are dead letters and grey holes.

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

If the constitutional framework of liberal legalism is too rickety to con­tain executive power, perhaps statutes can substitute new legal con­straints. A principal hope of liberal legal theory is that the deficiencies of the constitutional framework can be patched up by framework statutes that will channel and constrain executive power. The executive comprises the president and (various types of) agencies, and liberal legalism tries to constrain both, through different statutes. As to the agencies, liberal legal­ists hope that general procedural statutes such as the Administrative Proce­dure Act (APA) can “translate” the principles and values underlying the separation of powers into a world in which agencies routinely hold consol­idated powers of lawmaking, law-execution, and law-interpretation.1 As to the president, Congress has enacted many subject-specific framework stat­utes that attempt to constrain executive power, especially with regard to warmaking, foreign policy, and emergencies. And liberal legal theorists often propose new statutes of this sort—for example, a statute that would confine presidential emergency powers in the aftermath of a terrorist attack.2

These efforts all fall short of the aspirations of liberal legalism, in greater or lesser degree. The subject-specific framework statutes that attempt to constrain presidential power are the most conspicuous failure; most are dead letters. Seemingly more successful is the APA, which remains the cen­tral framework for the administrative state. We will suggest that this is something of an illusion; the greater specificity of the subject-specific stat­utes, and the greater plasticity and ambiguity of the APA, make the failure of the former group more conspicuous, while giving the latter a misleading appearance of constraining force.

The secret of the APAs “success”—its ability to endure in a nominal sense-—is that it contains a series of adjustable parameters that the courts use to dial up and down, the intensity of their scrutiny over time. The APA’s basic flexibility allows courts to allow government to do what government needs to do when it needs to do it. The result is a series of legal “black holes” and “grey holes”—the latter being standards of reasonableness that have the appearance of legality, but not the substance, at least not when pressing interests suggest otherwise. This regime is a triumph for the nom­inal supremacy of the APA, but not for any genuine version of the rule of law. Liberal legalisms basic aspiration, that statutes (if not the Constitu­tion) will subject the administrative state to the rule of law, is far less suc­cessful than it appears.

#### Congress will defer--Self-fulfilling crises of authority.

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

Finally, we mention a dynamic that further tightens the political constraints on legislatures and courts in times of crisis. Precisely because markets expected the House to pass the EESA, its initial failure to do so created a perceived “crisis of authority,”87 suggesting a risk that dysfunctional political institutions would not be able to coordinate on any economic policy at all. That second-order crisis supervened on the underlying economic crisis, but acquired force independent of it. The Senate had to scramble to undo the damage and did so in world-record time. The House quickly fell into line.

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

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

#### Legislative monitoring and checks fail.

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

American government in the period 2001 to 2008 bears little resemblance to the constitutional framework erected, or wished for, by liberal legalism. In the liberal-legalist view, legislatures are said or at least hoped to be the primary actors, with executive and judicial power following suit—through law-execution and law-interpretation respectively. Both legislatures and courts are supposed to check and monitor the executive, keeping its power tightly cabined. In these episodes, however, executive officials take center stage, setting the agenda and determining the main lines of the gov­ernment’s response, with legislatures and courts offering second-decimal modifications. Legislative and judicial monitoring and checking is largely hopeless, in part because of the necessarily ad hoc character of the government’s initial reaction (“regulation by deal”),88 in part because legislatures and courts come too late to the scene. The overall impression is that the constitutional framework of liberal legalism has collapsed under the pressure of fact, especially the brute fact that the rate of change in the , policy environment is too great for traditional modes of lawmaking and policymaking to keep pace. Although crises demonstrate the problem with particular clarity, it is embedded in the structure of the administrative state. None of this means that the president is all-powerful; that is not our .As political science assessments of executive power show,89 the pres­ident does face some checks even from a generally supine Congress and even in the domains of war and foreign affairs where presidential power reaches its zenith.90 However, these checks are not primarily legal. Even Congress’s main weapon for affecting presidential behavior is not the cumbersome and costly legal mechanism of legislation. Rather legislators ap­peal to the court of public opinion, which in turn constrains the president.

Oversight and various forms of‘‘soft law”91—congressional statements and resolutions short of legally binding legislation—affect public support for presidential action in the realm of foreign policy, and in many other domains as well. There are real constraints on executive government, but formal constitutional procedures are not their source.

### STATS

#### Russia, Israel, and the US prove – a devastating cyberwar is inevitable. Attacks shut down the grid and defenders can’t solve

Baker 11, Denial of Service, BY STEWART BAKER, Stewart Baker is a former official at the U.S. Department of Homeland Security and the National Security Agency. He practices law at Steptoe & Johnson in Washington | SEPTEMBER 30, 2011, http://www.foreignpolicy.com/articles/2011/09/30/denial\_of\_service?page=0,0

No one seriously denies that cyberwar is coming. Russia pioneered cyberattacks in its conflicts with Georgia and Estonia, and cyberweapons went mainstream when the developers of Stuxnet sabotaged Iran's Natanz uranium-enrichment plant, setting back the Islamic Republic's nuclear weapons program more effectively than a 500-pound bomb ever could. In war, weapons that work get used again.¶ Unfortunately, it turns out that cyberweapons may work best against civilians. The necessities of modern life -- pipelines, power grids, refineries, sewer and water lines -- all run on the same industrial control systems that Stuxnet subverted so successfully. These systems may be even easier to sabotage than the notoriously porous computer networks that support our financial and telecommunications infrastructure.¶ And the consequences of successful sabotage would be devastating. The body charged with ensuring the resilience of power supplies in North America admitted last year that a coordinated cyberattack on the continent's power system "could result in long-term (irreparable) damage to key system components" and could "cause large population centers to lose power for extended periods." Translated from that gray prose, this means that foreign militaries could reduce many of U.S. cities to the state of post-Katrina New Orleans -- and leave them that way for months.¶ Can the United States keep foreign militaries out of its networks? Not today. Even America's premier national security agencies have struggled to respond to this new threat. Very sophisticated network defenders with vital secrets to protect have failed to keep attackers out. RSA is a security company that makes online credentials used widely by the Defense Department and defense contractors. Hackers from China so badly compromised RSA's system that the company was forced to offer all its customers a new set of credentials. Imagine the impact on Ford's reputation if it had to recall and replace every Ford that was still on the road; that's what RSA is experiencing now.¶ HBGary, another well-respected security firm, suffered an attack on its system that put thousands of corporate emails in the public domain, some so embarrassing that the CEO lost his job. And Russian intelligence was able to extract large amounts of information from classified U.S. networks -- which are not supposed to touch the Internet -- simply by infecting the thumb drives that soldiers were using to move data from one system to the next. Joel Brenner, former head of counterintelligence for the Office of the Director of National Intelligence, estimates in his new book, America the Vulnerable, that billions of dollars in research and design work have been stolen electronically from the Defense Department and its contractors.¶ In short, even the best security experts in and out of government cannot protect their own most precious secrets from network attacks. But the attackers need not stop at stealing secrets. Once they're in, they can just as easily sabotage the network to cause the "irreparable" damage that electric-grid guardians fear.

#### OCOs key to deterrence and strengthen defensive capabilities – international agreements don’t solve – cheating states, non-state actors

NRC 9, National Research Council of the National Academies, Committee on Offensive Information Warfare, 2009 www.lawfareblog.com/wp-content/uploads/2013/01/NRC-Report.pdf

Recommendation 8: The United States should maintain and acquire effective cyberattack capabilities. Advances in capabilities should be continually factored into policy development, and a comprehensive budget accounting for research, development, testing, and evaluation relevant to cyberattack should be available to appropriate decision makers in the executive and legislative branches. The committee believes that it would be unwise policy to eschew cyberattack under all circumstances. For those instances in which the use of cyberattack is warranted, the United States should have at its disposal the most effective and flexible cyberattack technologies and supporting infrastructure possible—systems that can operate on the time scales required, with the necessary command and control (including selfdestruct when necessary and appropriate), guided by the best possible intelligence information, with a high probability of mission success and a low risk of collateral damage. Accordingly, in addition to a robust and significant effort for research, development, testing, and evaluation to strengthen U.S. cyber defensive capabilities, the committee believes that the United States should continue to invest in the development and acquisition of effective and highly flexible cyberattack capabilities. In addition to providing operational utility, such capabilities may strengthen deterrence against cyber adversaries. Lastly, increased knowledge of cyberattack technologies will contribute to the knowledge base supporting development of improved defensive capabilities, assuming that mechanisms can be found to promote crossfertilization among the researchers in the relevant areas. If and when new policy emerges that calls for a deemphasis of cyberattack capabilities, the U.S. investment can be scaled back at that time. The committee recognizes precedents from history in which the momentum built up by a large-scale development and procurement plan made changes in policy more difficult to accomplish. Nevertheless, it believes that acquiring many kinds of cyberattack weaponry is relatively inexpensive compared to traditional large-scale weapons acquisition efforts, and thus policy changes would be easier to effect. In addition, even if international agreements are made to restrict the use of cyberattack, nations must prepare for the possibility that non-signatories (e.g., non-state actors, or recalcitrant states) or “cheating” states will not abide by the provisions of any such agreement—and for the United States to not be prepared to compete successfully in such a world is unacceptable. Finally, it is important for the United States to have a comprehensive view of the effort among all of the relevant stakeholders to develop and acquire cyberattack capabilities. Some responsible party within the executive branch, perhaps an office within the Office of Management and Budget, should have a cross-agency view into overall amounts being spent on acquisition of cyberattack capabilities and the details of how individual agency budgets are being spent. Overall levels of spending and the relevant detail should be available, on a classified basis as necessary, to appropriate congressional decision makers. (Recommendation 8 is not a plea for centralized direction of the acquisition effort, but rather one for information to help policy makers understand the overall effort.)

#### Aff can’t solve – patriotic hackers make crisis management impossible

Owens et al 9 (William A. Owens, as an Admiral in the United States Navy and later Vice Chairman of the Joint Chiefs of Staff, \*\*Kenneth W. Dam, served as Deputy Secretary of the Treasury from 2001 to 2003, where he specialized in international economic development, \*\*Herbert S. Lin, Senior Scientist and Study, “Technology, Policy, Law, and Ethics Regarding U.S. Acquisition and Use of Cyberattack Capabilities” 4/27/2009, <http://www.lawfareblog.com/wp-content/uploads/2013/01/NRC-Report.pdf>, KB)

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

#### Cyber war doesn’t happen—their evidence is all hype

Gartzke 2012(Erik, University of California, San Diego, December 7, "The Myth of Cyberwar: Bringing War on the Internet Back Down to Earth", http://dss.ucsd.edu/~egartzke/papers/cyberwar\_12062012.pdf)

A blitz of media, punditry and public pronouncements inform interested observers and policy makers that the next war is likely to be won or lost on the internet. Indeed, events such as the coordinated cyber attacks on Estonia and the Stuxnet worm seem to indicate that cyberwar has already begun. The sense of urgency surrounding cyberwar appears to be tied to perceptions that internet conflict is the newest phase in the ongoing revolution in military affairs, only this time the threat is directed at the sophisticated technological civilizations of the West, rather than at poor developing states or the recipients of inferior second-world military hardware. 1 To believe a growing number of pundits and practitioners, cyberwar threatens to render existing military advantages impotent, exposing those nations most dependent on comprehensive information infrastructures to devastating and unpredictable attacks. If powerful states largely immune to terrestrial invasion can have their military might blunted and their factories and cities idled by foreign hackers, then perhaps this latest technological revolution really does presage a “Pearl Harbor" in which the United States and other great powers will be targets, rather than perpetrators, of shock and awe. There is a problem with the growing consensus of impending cyber apocalypse, however: it is far from clear that conflict over the internet can actually function as war. Discussions of cyberwar commit a common fallacy of arguing from opportunity to outcome, rather than considering whether something that could happen is at all likely, given the motives of those who are able to act. Cyber pessimism rests heavily on capabilities (means), with little thought to a companion logic of consequences (ends). Much that could happen in the world fails to occur, largely because those capable of initiating action discern no benefit from doing so. Put another way, advocates have yet to work out how cyberwar actually accomplishes the objectives that typically sponsor terrestrial military violence. Absent a logic of consequences, it is di cult to believe that cyberwar will prove as devastating for world affairs and for developed nations in particular as many seem to believe.

### INFRAN

#### No causality between deterrence and peace

-this card is really good

Fettweis 11 Christopher, Professor of Political Science @ Tulane, Dangerous Times?: The International Politics of Great Power Peace, pg. 172-174

The primary attack on restraint, or justification of internationalism, posits that if the United States were to withdraw from the world, a variety of ills would sweep over key regions and eventually pose threats to U.S. security and/or prosperity. These problems might take three forms (besides the obvious if remarkably unlikely, direct threats to the homeland.). generalized chaos, hostile imbalances in Eurasia, and/or failed states. Historian Arthur Schlesinger was typical when he worried that restraint would mean "a chaotic, violent, and ever more dangerous planet." All of these concerns either implicitly or explicitly assume that the presence of the United States is the primary reason for international stability, and if that presence were withdrawn chaos would ensue. In other words, they depend upon hegemonic-stability logic. Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that are generally in the interests of all countries to follow. Without a benevolent hegemon, some strategists fear, instability may break out around the globe.."'. Unchecked conflicts could cause humanitarian disaster and, in today's interconnected world, economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would "become a more dangerous place' and, sooner or later, that would 'redound to America's detriment."' If the massive spending that the United States engages in actually provides stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, to believe that U.S hegemony is not the primary cause of the current era of stability. First of all, the hegemonic-stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can he stability in the community of great powers is if self-policing occurs, if states have decided that their interests are served by peace. if no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would he wasted. The 5 percent of the world's population that live in the United States simply could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States maybe patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to he the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to he especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s the United States cut back on its defense spending fairly substantially. By 1998 the United States was spending $100 billion less on defense in real terms than it had in 1990,72 To internationalists, defense hawks, and other believers in hegemonic stability, this irresponsible peace dividend" endangered both national and global security. "No serious analyst of American military capabilities;' argued Kristol and Kagan, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peac&'73 If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew' more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable Pentagon, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove mistrust and arms races; no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

#### Heg unsustainable—Counterbalancing and overstretch

Omestad 08  Former Associate Editor of Foreign Policy, Winner of the Edwin M. Hood Award for Diplomatic Journalism

(Thomas, Is America Really on the Decline? US News and World Report, 10/29)

This time, however, might not turn out as well for America, some analysts worry, because the trends eroding America's pre-eminence run deeper. "It's not simply that we've run into a rough patch, shaking our self-confidence," warns Andrew Bacevich, an international affairs specialist at Boston University and author of this year's The Limits of Power: The End of American Exceptionalism. "It's different this time." That there is some sort of big change is widely accepted, even mainstream. Defense Secretary Robert Gates now speaks of a "multipolar world." In its 2007 annual survey, the International Institute for Strategic Studies referred to "the profound loss of authority suffered by the United States since its invasion of Iraq." Diminished dominance. Yet more troubling was the vista painted by Thomas Fingar, the U.S. intelligence community's top analyst. Foreshadowing a conclusion of a coming report called "Global Trends 2025," he said in September that "American dominance will be much diminished over this period of time" and "will erode at an accelerating pace with the partial exception of the military." In future competition, he added, the military will be "the least significant" factor. Fingar labeled U.S. pre-eminence since World War II a "truly anomalous situation." Indeed, shifts in economic and military power--played out slowly, over decades and centuries--are the norm, as Yale historian Paul Kennedy pointed out in his 1988 work, The Rise and Fall of the Great Powers. Some analysts conclude that if the reality of America's power position has changed, so must American attitudes. "We should disenthrall ourselves from the idea that the well-being and security of the United States can only be attained by seeking to maintain primacy," says Bacevich. In any case, the new financial shock is rattling a load-bearing pillar of American strength--its role as global financial superpower, including its privileged position as issuer of the world's favored reserve currency, the U.S. dollar. The dollar's special role has been critically important. It allows the federal government to affordably cover budget and current account deficits. The Feds are selling about half the new national debt to foreign investors, including governments like China's and sovereign wealth funds like those in Abu Dhabi and Kuwait. That has bridged the yawning U.S. fiscal gap, financing, in effect, global military activities and domestic spending without sparking inflation or driving up the interest cost of such monumental borrowing. It has also allowed Americans to maintain a notoriously low net savings rate. Critics point to the hazards inherent in racking up some $10 trillion in public debt--exacerbated now by fresh doubts over American solvency. Says historian Kennedy, "The crisis will confirm in the minds of Asians not to be so fiscally dependent on Uncle Sam." Those foreign investors, suggests Chas. W. Freeman Jr., a former U.S. diplomat in China and Saudi Arabia and president of the Middle East Policy Council, will conclude, "We're not going to finance your improvidence indefinitely." One other vulnerability also looms larger than in the past: energy imports. When Jimmy Carter was urging energy conservation in 1980, the United States imported 37 percent of oil consumed; last year, it was 58 percent. Something else is different about the current debate over U.S. decline. Without any contraction of its daunting military firepower or the size of its economy, other nations are bound to assume more influential positions. The world geopolitical map is being redrawn: Several powers are rising, some rapidly. China takes top billing on the list. Back when economic reforms began in 1978, China contributed but 1 percent of the world's GDP and its trade. Last year, it reached 5 percent of world GDP and 8 percent of trade. China's growth has hummed along at nearly 10 percent annually--for three decades. That is three times the global average. China's "peaceful rise," as officials call the strategy, aims to restore China to the status it had enjoyed for many centuries: the world's largest economy. A recent Goldman Sachs report has bumped up the time by which China's economy is expected to surpass America's in size to 2027. China's growth is fueling a rapid expansion of military capabilities and, in effect, promoting a model competing with that of the United States--authoritarian capitalism. At the same time, India, the world's most populous democratic state, has also found a surer path to prosperity that is broadening its influence and enabling a military buildup. Along with the economic recovery of Japan and the growth of what used to be called the "tigers" of South Korea and Southeast Asia, predictions of a "Pacific century" or an Asian one look more plausible. Asia is returning to its historical norms, Kishore Mahbubani, dean of the Lee Kuan Yew School of Public Policy at the National University of Singapore, argues in his book The New Asian Hemisphere. "The era of Western domination has run its course," he writes. There are shifts elsewhere, too. The once slumbering giant of South America, Brazil, is overcoming its past weaknesses. Russia is undergoing a resurgence of uncertain duration, courtesy of massive sales of oil and natural gas. Its invasion of neighboring Georgia and support for separatist regions there may mark a new period of strategic challenges to the West. Meanwhile, the European Union, in fits and starts, continues to evolve into a more coherent force in global affairs that, as a 27-nation collective, already presents the world's largest economy Biggest loser. The world's energy suppliers--especially those along the Persian Gulf--are also gaining strength. Flynt Leverett, director of the New America Foundation's Geopolitics of Energy Initiative, calls the flood of money from oil consumers to producers "arguably the greatest transfer of wealth from one group of countries to another." The "big loser," he says, is the United States. The Gulf Arab states, as a group, may emerge as the world's most important investor. As well, Iran and its regional ambitions will get plenty of sustenance. But the rise of other powers doesn't tell the whole geopolitical story. They are forging connections without U.S. involvement and, in some cases, with the likely aim of blunting U.S. influence. The maneuvering reflects the sort of games nations have virtually always played. When one country's overweening power ignites concern, some of the others search for ways to counterbalance it. That can happen frontally, through political-military alliances or, more gingerly, in a nonconfrontational mode dubbed "soft balancing." For instance, Russia, China, and the four Central Asian states have formed the Shanghai Cooperation Organization, a group with a decidedly non-U.S. approach to world affairs--no hectoring about human rights and democracy there. And though the United States, with its tight alliances, is East Asia's leading protecting power, it is not part of a new regional grouping that is becoming more influential. China is reaching deeply into Africa, the Middle East, and even Latin America with trade deals, energy investments, and aid with few strings attached. Russia, too, is using arms sales and energy commerce to revive old connections in the developing world. Its outreach, especially in Latin America, appeals to left-leaning governments aloof from Washington. For the first time since the Cold War, a Russian naval fleet is heading into Latin American waters for exercises with Venezuela. Parag Khanna, an analyst with the New America Foundation, sees the unipolar moment giving way to a different global game. In The Second World: Empires and Influence in the New Global Order, he predicts a "geopolitical marketplace" in which developing countries are courted by and align flexibly with one of the new "Big Three": the United States, the European Union, and China. Others anticipate an even more complex diffusion of global power. Richard Haass, president of the Council on Foreign Relations and a former Bush administration official, argues that the new era will devolve into "nonpolarity," in which nation-states lose influence and a fractious assortment of nonstate players wield more clout. These include a variety of regional and global organizations, nongovernmental groups, foundations, multinational corporations, and even unsavory militias, drug cartels, and terrorist networks. The erosion of U.S. global standing--at least in the eyes of the world--has been hastened by a foreign policy routinely portrayed overseas as one of arrogance and hubris. The charge of U.S. unilateralism--stoked above all by a costly and unresolved war of choice in Iraq--has fortified a troubling caricature of America as a militaristic and hypocritical behemoth that frittered away the outpouring of global goodwill after 9/11. The damage to America's reputation has weakened its "soft power"--the attractiveness abroad of its society and politics. Reports of prisoner abuse at Abu Ghraib and Guantánamo and what many see as encroachments on America's civil liberties in the name of fighting terrorism have taken a toll. It was, seemingly, with some glee that the German magazine Der Spiegel ran a cover story this fall titled "The Price of Arrogance" and depicting the Statue of Liberty with its flame extinguished. The world supply of deference to the lone superpower is flagging--a likely drag on the next presidency**.** The go-it-alone instincts of the Bush administration--though tempered in its second term--came into play on issues from climate change to international justice to arms control. Old allies felt a cool wind from Washington. Grand ambitions for a democratic Middle East went unfulfilled. The Americans championed the war on terrorism with a "with us or against us" zeal. Fairly or not, friends and foes alike saw a lecturing, moralistic American style of leadership. It sat badly. "We exited the Cold War with amazing prestige and an automatic followership," says Freeman. "Nobody will charge a hill with us anymore." There have been other body blows to American prestige. The inability to bring closure to the wars in Afghanistan and Iraq (especially the lengthy bungling of the Iraq occupation), the initial feeble response to Hurricane Katrina, and the regulatory laxity and greed that underlie this year's financial crisis all served to cloud the picture of American pre-eminence. Chinese students are questioning whether they should study American-style business. Mahbubani, the Singaporean analyst and former diplomat, marvels at "a new level of incompetence in America that is puzzling the world."

#### No impact to cyber attacks or natural disasters—Grid is resilient and sustainable.

Clark 12

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(Paul, “The Risk of Disruption or Destruction of Critical U.S. Infrastructure by an Offensive Cyber Attack,” American Military University)

In 2003, a simple physical breakdown occurred – trees shorted a power line and caused a fault – that had a cascading effect and caused a power blackout across the Northeast (Lewis 2010). This singular occurrence has been used as evidence that the electrical grid is fragile and subject to severe disruption through cyber-attack, a disruption that could cost billions of dollars, brings business to a halt, and could even endanger lives – if compounded by other catastrophic events (Brennan 2012). A power disruption the size of the 2003 blackout, the worst in American¶ history at that time (Minkel 2008), is a worst case scenario and used as an example of the¶ fragility of the U.S. energy grid. This perceived fragility is not real when viewed in the context¶ of the robustness of the electrical grid.¶ When asked about cyber-attacks against the electrical grid in April of 2012, the¶ intelligence chief of U.S. Cyber Command Rear Admiral Samuel Cox stated that an attack was¶ unlikely to succeed because of the “huge amounts of resiliency built into the [electrical] system¶ that makes that kind of catastrophic thing very difficult” (Capaccio 2012). This optimistic view¶ is supported by an electrical grid that has **proven to be robust in the face of large natural**¶ **catastrophes.**

Complex systems like the electrical grid in the U.S. are prone to failures and the¶ U.S. grid fails frequently. Despite efforts to reduce the risk out power outages, the risk is always¶ present. Power outages that affect more than 50,000 people have occurred steadily over the last¶ 20 years at a rate of 12% annually and the frequency of large catastrophes remains relatively¶ high and outages the size of the 2003 blackout are predicted to occur every 25 years (Minkel¶ 2008). In a complex system that is always at risk of disruption, the effect is mitigated by policies¶ and procedures that are meant to restore services as quickly as possible. The most visible of these policies is the interstate Emergency Management Assistance Compact, a legally binding¶ agreement allowing combined resources to be quickly deployed in response to a catastrophic¶ disaster such as power outages following a severe hurricane (Kapucu, Augustin and Garayev¶ 2009).¶ The electrical grid suffers service interruptions regularly, it is a large and complex system¶ supporting the largest economy in the world, and yet commerce does not collapse (Lewis 2010).¶ **Despite blizzards, earthquakes, fires, and hurricanes** that cause blackouts, the economy is¶ affected but does not collapse and even after massive damage like that caused by Hurricane¶ Katrina, national security is not affected because U.S. military capability is not degraded (Lewis¶ 2010).¶ Cyber-security is an ever-increasing concern in an increasingly electronic and¶ interconnected world. Cyber-security is a high priority “economic and national security¶ challenge” (National Security Council n.d.) because cyber-attacks are expected to become the¶ top national security threat (Robert S. Mueller 2012). In response to the threat Congress is¶ crafting legislation to enhance cyber-security (Brito and Watkins 2012) and the Department of¶ Homeland Security budget for cyber-security has been significantly increased (U.S. Senate¶ Committee on Homeland Security and Governmental Affairs 2012).

#### Their impact is overstated—resilience and adaptation check

Farrell et al, 02 **-** research engineer in the Department of Engineering and Public Policy at Carnegie Mellon University and the executive director of the Carnegie Mellon Electricity Industry Center (Alexander, “Bolstering the Security of the Electric Power System,” Issues in Science and Technology, Spring, http://www.issues.org/18.3/farrell.html)

Turning out the lights¶ Many terrorism scenarios involve disruption of electric service, or "turning out the lights." Whether this would allow terrorists to create widespread fear and panic is open to question. In the United States, households lose power for an average of 90 minutes per year. For the most part, individuals and society cope with these outages well, and power companies respond rapidly to restore service. Facilities that have special needs for reliability, such as hospitals and airports, typically have backup generators.¶ The local distribution system is the source of most outages; these affect relatively small numbers of people. The bulk power (generation and transmission) system causes only a few outages each year. In its most recent report on failures in this part of the electric power system, the North American Electricity Reliability Council (NERC) identified 58 "interruptions, unusual occurrences, demand and voltage reductions, and public appeals" in 2000. Of these events, almost half (26) were due to weather, mostly thunderstorms. Operator or maintenance errors accounted for 12 events, another 12 were due to faulty equipment, and 2 (including the largest single event) were due to forest fires. Six outages occurred simply due to failure to have sufficient power to meet demand. Not all of these 58 events caused the lights to go out, but when they did, many customers were affected. Even so, recovery was typically swift. The largest single outage in 2000 affected more than 660,000 customers in New Mexico but lasted for less than four hours.¶ Natural challenges of even larger scale have been met. For example, in January 1998 an ice storm struck Southern Canada and New York State, felling 1,000 transmission towers and 30,000 distribution poles while sending thousands of tree branches into power lines. This event left 1.6 million people without power, some for more than a month. Almost a quarter-million people were forced to leave their homes. Insurance claims reached about $1 billion (Canadian). This event was disruptive and costly, but it did not create terror or significant loss of life.¶

#### No meltdowns—NRC is cracking down.

Francis 2004 David R. Francis Staff writer of The Christian Science Monitor, 2004 (DS) “After nuclear's meltdown, a cautious revival” http://www.csmonitor.com/2004/0329/p12s02-usec.html

Could a Three Mile Island happen again? The NRC blames that accident on "a combination of personnel error, design deficiencies, and component failures." The event, adds an NRC fact sheet, led to "permanent and sweeping changes in how NRC regulates its licensees - which, in turn, has reduced the risk to public health and safety." David Lockbaum, an engineer at the Union of Concerned Scientists, agrees that the NRC has become much tougher, even before 9/11 raised the specter of terrorists flying a jet into a nuclear power plant. Instead of inspecting nuclear plants every two years for four safety categories, the NRC since April 2000 has been looking them over every three months for 26 or so safety factors. "When performance starts to fall, it should show up sooner," says Mr. Lockbaum, a longtime campaigner for reducing the risks of nuclear power.

## 2NC

### CP

#### Key to upholding SOP and creating an effective legal framework for cyber operations

Lorber ’13 Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science. Journal Of Constitutional Law 15.3 <https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013>.

Should these statutes be adjusted (or new ones created) that give Congress additional oversight in this area? Two competing desiderata suggest that oversight should be increased, but only to a limited extent. On the one hand, policymakers have suggested that developing strict rules and limitations on the use of offensive cyber operations will handicap the military's ability to quickly and effectively employ these tools in critical situations, such as cyber warfare against adversarial states. According to these arguments, developing red lines that proscribe the use of these capabilities will create reluctance and trepidation among strategists and will lead to disadvantages in combat situations. On the other hand, developing some legal rules is necessary to ensure that, as these cybercapabilities continue to develop, the President does not gain sufficient leverage to substantially tilt the balance between the President and Congress. Moreover, because these capabilities are still developing at a fast rate, understanding how they should and should not be employed is an important goal and having senior members of Congress and their staffs— professional staff members on the intelligence committees, who likely have substantial experience in these areas—provide input would be useful in developing this understanding. These competing arguments—one for limiting any oversight and one for increasing it—suggest a middle ground that will avoid drawing red lines but will still provide useful congressional insight into the doctrinal and legal development of offensive cyber operations. Such an approach would include new legislation, similar to the Intelligence Authorization Act, explicitly requiring the President to report its use of covert cyber activities to the heads of Senate and House intelligence committees (i.e. the Gang of Eight). Congress would not have the ability to veto such actions, however it would be able to raise potential legal issues with the executive branch, as well as provide policy advice as to the wisdom of employing these capabilities in such circumstances. As a result, while the heads of these committees would not have the ability to draw red lines themselves, they would be able to consult with the executive branch—as the branch employs these capabilities—to determine their likely legality and wisdom. While the President could ignore this advice, such an approach would at the very least keep Congress informed of the developing capabilities and their employment. With such an approach, Congress could play a meaningful role in the shifting and uncertain legal and policy realms of offensive cyber operations, which will undoubtedly become increasingly important as the United States and other nations develop and employ these capabilities with ever-greater frequency.

#### oversight key to effective regulation

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Though a full accounting of the potential domestic legal mechanisms governing the use of offensive cyber weapons is beyond the scope of this Comment, a first step in determining whether the current legal framework can be effective, at least partially, in governing the uses of these new weapons is to examine whether an appropriate procedural system exists as to regulate when and how they are employed. Though not delving into specifics about the use of these weapons, an operative, procedural framework that allows other governmental branches to review, understand, and potentially check the uses of these weapons provides an initial move towards their effective regulation. Though it may not be sufficient to fully clarify when and how the use of offensive cyber weapons may be legal, such a system at least would allow for oversight and hold the promise of helping policymakers better understand the conditions under which they can lawfully use these tools. To this end, this Comment examines the two primary statutory tools through which Congress has tried to regulate executive military action: the War Powers Resolution and the Intelligence Authorization Act. There are two reasons to focus on these statutes. First, they apply to instances in which offensive cyber weapons will most likely be employed outside of surveillance and espionage actions: covert actions to disable and disrupt adversary systems and capabilities, and overt actions taken in conjunction with kinetic operations to degrade an adversary's ability to effectively conduct combat operations. Second, they are the primary means through which Congress has attempted to constrain the President's exercise of his constitutional Commander-in-Chief function. Historically, and particularly since 1970, Congress has been reluctant to use its primary power, the power of the purse, to defund military activities, utilizing it only a handful of times. As recent controversies over funding for wars in Iraq and Afghanistan, as well as the intervention in Libya illustrate, threatening to defund ongoing military operations is politically delicate and many legislators prefer to avoid taking such action. Before proceeding to analyze OCOs through the prism of these two statutes, however, sharpening our understanding of the different types of OCOs is necessary.

declaration of¶ war. The¶ Bas¶ v.¶ Tingy¶ decision in 1800 has already been referred¶ to.

#### Counterplan is a prerequisite – key to effective legislative and judicial oversight

Metzger ‘9, Gillian E. Metzger, Professor of Law @ Columbia Law School, “The Interdependent Relationship Between Internal and External Separation of Powers” 59 Emory L.J. 423, Emory Law Journal, 2009

Equally important, the relationship between internal and external separation of powers is reciprocal: Internal and external checks reinforce and operate in conjunction with one another. Congress needs information to conduct meaningful oversight of the Executive Branch. 94 Internal agency experts and watchdogs are important sources of that information, whether in the guise of [\*445] formal reports, studies, and testimony or informal conversations and leaks. 95 Procedural constraints within agencies can serve a similar function, alerting Congress to agency activities. 96 Internal mechanisms also reinforce congressional mandates by creating bodies of personnel within the Executive Branch who are committed to enforcing the governing statutory regime that sets out the parameters of their authority and regulatory responsibilities - and on whose expertise the functioning of these regulatory regimes often depends. 97 Courts equally depend on information and evidence compiled by agency personnel to review agency actions, and they have invoked this dependence to justify the requirement that agencies disclose underlying information and offer detailed explanations of their decisions. 98 Moreover, despite courts regularly intoning that "it [is] not the function of the court to probe the mental processes of Secretaries in reaching [their] conclusions," 99 judicial review of agency actions often appears to turn on judges' perceptions of the role politics played in decisionmaking by agency officials. 100 Evidence that decisions were made over the objections of career staff and agency professionals often triggers more rigorous review. 101 A particularly striking [\*446] suggestion of how internal checks can effect judicial review came in the recent Boumediene litigation. Just a few months after refusing to grant certiorari in order to allow the Combatant Status Review Tribunal process to proceed, the Court reversed course and granted review, apparently influenced by the concerns of military lawyers about how the tribunals were functioning. 102

#### Congressional war decisions cause compromise and create a sign of weakness and lack of US resolve

Kahn 2K Paul W. Kahn, Robert W. Winner Professor of Law and Humanities at Yale Law School, “THE SEVENTH ANNUAL FRITZ B. BURNS LECLTURE THE WAR POWERS RESOLUTION AND KOSOVO: WAR POWERS AND THE MILLENNIUM,” Loyola of Los Angeles Law Review, November, 2000, pp. LN.

Domestically, Congress often works best through a process of articulation of policy differences and then compromise. The parties set out widely divergent positions as an initial matter. This allows them to establish distinct identities, which in turn allows appeals to different groups of constituents. Difference is then overcome through a process of negotiated compromise. Compromise is often made possible by the fact that it can be multidimensional: in seeking to achieve a compromise in one area, bargains can be made in other areas. Compromise occurs not only within Congress, but in the process of negotiation between the Congress and the executive. n58 To fully understand the act of negotiating compromise, moreover, one must consider the role of Washington lobbyists who provide information and coordinate interest group positions. n59 This process of party differentiation followed by compromise produces consensus around the middle, which is generally the safest position in American politics. Americans tend to distinguish between politics and government, and do not like it when government [\*29] is driven too explicitly by political ends. n60 They generally expect their politicians to shed the party differentiating ideologies that get them elected and to tend to the task of governance under standards of policy rationality. When this process of compromise appears too risky, when it cuts too deeply into the entrenched political positions of the parties, we have seen appeals to bipartisan, expert commissions, the responsibility of which is to articulate the middle ground and so to relieve the pressure on the politicians as they move toward a common ground. n61 With respect to foreign affairs, however, these techniques of congressional decision-making work poorly. The differentiation that marks the parties as distinct and separate, and is domestically an initial step toward compromise, serves the same differentiating function in foreign policy, but there it tends to freeze party positions. Treaties come before the Senate too late in the process for compromise to be an option, particularly when they are multiparty covenants. n62 Moreover, compromises can look like concessions of U.S. interests to foreign states, rather than a distribution among competing elements of the polity. Nor is there a great deal of pressure to compromise. Rejecting foreign policy initiatives is a way of preserving the [\*30] status quo, and preserving the international status quo is rarely a policy for which one is held politically accountable. It is hard to make an issue out of a failure to change the conditions that prevail internationally, when the country is enjoying power, prestige, and wealth. Unable to compromise, the Senate can end up doing nothing, and then treaty ratification fails. Difference leads to stalemate, rather than to negotiation. The problem is greatly exacerbated by the two-thirds requirement for ratification. n63 This structural bias toward inaction accounts in part for the use of executive agreements in place of treaties. n64 These agreements make use of some of the tactical advantages of presidential initiative. Many of the structural problems remain, however, when executive agreements require subsequent congressional approval. If the issue involves the use of force, compromise is particularly difficult. A compromise that produces a less substantial response to a foreign policy crisis can look like a lack of commitment. Disagreement now threatens to appear to offer an "exploitable weakness" to adversaries. Congress cannot simply give the president less of what he wants, when what he wants is a military deployment. There cannot easily be compromises on a range of unrelated issues in order to achieve support for a military deployment. While that may happen, it has the look of disregard for the national interests and of putting politics ahead of the public interest. Nor can Congress easily adopt the technique of the expert commission. n65 The timeframe of a crisis usually will not allow it. More importantly, the military - particularly in the form of the Joint Chiefs of Staff - has already preempted the claim of expertise, as well as the claim to be "apolitical." [\*31] Finally, there is little room for the private lobbyist with respect to these decisions. Congress, in short, is not capable of acting because it only knows how to reach compromise across dissensus. When disagreement looks unpatriotic, and compromise appears dangerous, Congress is structurally disabled. This produces the double consequence for American foreign policy of a reluctance to participate in much of the global development of international law - outside of those trade and finance arrangements that are in our immediate self-interest - and a congressional abdication of use of force decisions to the president. The same structural incapacities are behind these seemingly contradictory results.

#### Congress will use the plan to blame Obama and steal credit

Williams 2K DOUGLAS R. Associate Professor of Law, Saint Louis University School of Law. Saint Louis University Public Law Review, 19 St. Louis U. Pub. L. Rev. 75

There are number of reasons to question this logic. First, it is precisely on issues "of particular local interest" that legislators are unlikely to delegate, preferring instead to push for the favored position in order to gain credit. 127 Delegation is most likely the product of intense conflict among constituencies - a circumstance in which a delegation allows legislators to blame agencies for adverse constituent effects, while at the same time claiming credit for delivering the goods to benefited constituencies.

#### Executive action avoids politics

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

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

### CASE

#### The statute cannot guarantee constraint—presidents can simply ignore the statutory restriction.

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

Even where the statutes attempt to change the legal default rule, so that the president cannot act without legislative permission—as in the case of the War Powers Resolution, after the 60- or 90-day grace period has passed—the president may simply ignore the statutory command, and will succeed if he has correctly calculated that Congress will be unable to engage in ex post retaliation and the courts will be unwilling to engage in ex post review. President Clintons implicit decision to brush aside the res­olution during the Kosovo conflict (albeit with the fig leaf of a compliant legal opinion issued by the Justice Department’s Office ofLegal Counsel)16 shows that what matters is what Congress can do after the fact, not what it says before the fact.¶ Here a major problem for framework statutes is the “presidential power of unilateral action”17 to which we referred in the introduction. Statutory drafters may think they have cleverly closed off the executive’s avenues of escape when they set the legal status quo to require legislative permission.¶ Because the president can act in the real world beyond the law books,, however—the armed forces did not threaten to stand clown from their Kosovo mission until Congress gave its clear approval, but instead simply obeyed the Presidents orders—the actual status quo may change regard­less of whether the legal situation does. Once armed forces are in action, the political calculus shifts and legislators will usually be unable to find enough political support to retaliate—especially not on the basis of an arcane framework statute passed years or decades before.¶ To be sure, if the framework statutes are very specific, then violating them may itself create a political cost for the president, whose political oppo­nents will denounce him for Caesarism. This cost is real, but in the type of high-stakes matters that are most likely to create showdowns between the president and Congress in the first place, the benefits are likely to be greater than the costs so long as the president s action is popular and credible—the crucial constraints we will discuss in chapter 4. Moreover, if the president can credibly claim to the public that the violation was necessary, then the public will be unlikely to care too much about the legal niceties. As legal theorist Frederick Schauer argues for constitutional violations18 (and, we add, the argument holds a fortiori for statutory violations), there is an interesting asymmetry surrounding illegality: if the underlying action is un­popular, then citizens will treat its illegality as an aggravating circumstance, but if the underlying action is popular, its illegality usually has little inde­pendent weight. Finally, if the president credibly threatens to violate the statute, then Congress will have strong incentives to find some face-saving compromise that allows the president to do what he wishes without forcing a showdown that, legislators anticipate, may well end badly.¶ The upshot is that subject-specific framework statutes have a Potemkin quality: they stand about in the landscape, providing an impressive facade of legal constraint on the executive, but actually blocking very little action that presidents care about. In some cases presidents will have strictly polit­ical incentives to obtain congressional permission before acting, even in the domain of foreign affairs and national security. Yet this is not a conse­quence of the legal structures erected by Madisonian theory, either through constitutional rules or framework statutes. Rather, as an important recent model suggests, it actually implies a very different regime in which presi­dents may, but need not, obtain congressional consent.19 The intuition behind this result is that a regime of optional separation of powers puts presidents to a revealing choice between proceeding unilaterally or instead through Congress, and thus gives imperfectly informed voters the max­imum possible information and the greatest possible scope for rewarding or punishing presidents and legislators for their actions. Needless to say, however, this political mechanism gives cold comfort to Madisonian lib­eral legalists, who would blanch, at the idea that an optional version of the separation of powers is superior to a mandatory version.¶ Political scientist Andrew Rudalevige is correct to describe the collapse of the constrained post-Watergate executive as the most significant con­tributor in the growth of a “New Imperial Executive,”10 Framework statutes are one of liberal legalisms principal instruments of executive constraint, in a world of little constitutional constraint. But having been tried, they have been found wanting.

#### Grey holes turns oversight.

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

The upshot is that the EESA will, in all probability, create nothing more than a series of legal grey holes, rather than genuinely independent judicial oversight. Lawyers, who are frequently obsessed with the formal, question whether judicial review is technically available or not, may draw comfort from Congress’s decision to provide for arbitrariness review. From another perspective, however, legal grey holes may be worse than legal black ones. The former create an illusion of oversight, whereas the latter are in a sense more candid about whether meaningful review will in fact occur.'4 Our perspective is that it is not useful to talk about whether black or grey holes are preferable. Some mix of both types is inevitable where statutes like the AUMF, the Patriot Act, and the EESA delegate administrative power to cope with an emergency. Background legalist statutes like the APA are themselves shot through with exceptions and qualifications that allow the standard pattern of crisis management to proceed without real check.

#### Congress will defer--Self-fulfilling crises of authority endows tremendous pressure on the legislature to bend to executive demands.

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

Finally, we mention a dynamic that further tightens the political constraints on legislatures and courts in times of crisis. Precisely because markets expected the House to pass the EESA, its initial failure to do so created a perceived “crisis of authority,”87 suggesting a risk that dysfunctional political institutions would not be able to coordinate on any economic policy at all. That second-order crisis supervened on the underlying economic crisis, but acquired force independent of it. The Senate had to scramble to undo the damage and did so in world-record time. The House quickly fell into line.

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

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

#### Info asymmetries bestow the executive with an epistemic deference.

Ben-Asher 9 Noa Ben-Asher, prof of law at Pace University School of Law*, Legal Holes*, Pace Law Publishing, 1-1-2009

Second, the legislative and judicial branches owe an “epistemic deference” to the executive branch. “Epistemically humble judges,” according to Vermeule and¶ Posner, “should not require statutory authorization for emergency action by the¶ President.”¶ 46¶ Vermeule explains elsewhere:¶ [e]pistemic deference is deference to expert judgment about whether a certain state of¶ facts exists, while authority-based deference is deference to an agent empowered by¶ some higher source of law to choose a policy or establish a rule, even or especially if¶ there is no fact of the matter or right answer about which policy or rule is best under¶ the circumstances . . . .¶ 47¶ Epistemic deference has to do with knowledge of certain facts to which the deferring judge allegedly has lesser or no access. Vermeule characterizes Holmes’s¶ approach to emergencies as “epistemic deference,” and argues that the Holmesian¶ version of “epistemic deference” correlates with the Holmesian view of the emergency¶ as a pure question of fact. This means that emergencies are not social or legal events.¶ They are objective/factualrealities to which judges should epistemically defer.¶ 48¶ The notion of epistemic deference interestingly echoes the theistic structure of this¶ approach. When performing miracles, God disregards the rules of nature by creating¶ an unpredictable factual situation. In the miracle, God is both a law-breaker (in that¶ he breaks the ordinary rules of nature) and a maker of an alternate reality. Vermeule¶ views the executive declaration of an emergency as an epistemic act to which the¶ other branches defer because the executive epistemically knows that “a certain state of¶ facts exists.” The factual knowledge regarding the existence of an emergency is avail able only to the executive branch. Therefore the declaration of an emergency, like¶ the divine miracle, is not a legal act but an epistemic one.¶ Third, Vermeule tells us that in the course of U.S. history courts have always deferred to the executive branch in emergencies. For example, during the Civil War,¶ President Lincoln suspended habeas corpus, allowing the Secretary of War to detain¶ 13,000 Northern civilians, most of them political opponents of the war. The arrests¶ were either made without charges or were for vaguely defined offenses created by executive decrees. During World War II, approximately 120,000 Japanese were interned in camps on the basis of military orders.49¶ Therefore: “[i]t is natural,¶ inevitable, and desirable for power to flow to this branch of government . . . . Both¶ Congress and the judiciary realize that they do not have the expertise or the resources¶ to correct the executive during an emergency. Only when the emergency wanes do¶ these institutions reassert themselves . . . . ”¶ 50

#### Unrestrained OCOs are key to military strategy—any efforts at restrictions are doomed to fail and backfire.

Baker 11, Denial of Service, BY STEWART BAKER | SEPTEMBER 30, 2011, http://www.foreignpolicy.com/articles/2011/09/30/denial\_of\_service?page=0,0

American lawyers' attempts to limit the scope of cyberwar are just as certain to fail as FDR's limits on air war -- and perhaps more so.¶ It's true that half a century of limited war has taught U.S. soldiers to operate under strict restraints, in part because winning hearts and minds has been a higher priority than destroying the enemy's infrastructure. But it's unwise to put too much faith in the notion that this change is permanent. Those wars were limited because the stakes were limited, at least for the United States. Observing limits had a cost, but one the country could afford. In a way, that was true for the Luftwaffe, too, at least at the start. They were on offense, and winning, after all. But when the British struck Berlin, the cost was suddenly too high. Germans didn't want law and diplomatic restraint; they wanted retribution -- an eye for an eye. When cyberwar comes to America and citizens start to die for lack of power, gas, and money, it's likely that they'll want the same.¶ More likely, really, because Roosevelt's bargain was far stronger than any legal restraints we're likely to see on cyberwar. Roosevelt could count on a shared European horror at the aerial destruction of cities. The modern world has no such understanding -- indeed, no such shared horror -- regarding cyberwar. Quite the contrary. For some of America's potential adversaries, the idea that both sides in a conflict could lose their networked infrastructure holds no horror. For some, a conflict that reduces both countries to eating grass sounds like a contest they might be able to win.¶ What's more, cheating is easy and strategically profitable. America's compliance will be enforced by all those lawyers. Its adversaries' compliance will be enforced by, well, by no one. It will be difficult, if not impossible, to find a return address on their cyberattacks. They can ignore the rules and say -- hell, they are saying -- "We're not carrying out cyberattacks. We're victims too. Maybe you're the attacker. Or maybe it's Anonymous. Where's your proof?" Even if all sides were genuinely committed to limiting cyberwar, as they were in 1939, history shows that it only takes a single error to break the legal limits forever. And error is inevitable. Bombs dropped by desperate pilots under fire go astray -- and so do cyberweapons. Stuxnet infected thousands of networks as it searched blindly for Iran's uranium-enrichment centrifuges. The infections lasted far longer than intended. Should we expect fewer errors from code drafted in the heat of battle and flung at hazard toward the enemy?¶ Of course not. But the lesson of all this for the lawyers and the diplomats is stark: Their effort to impose limits on cyberwar is almost certainly doomed.¶ No one can welcome this conclusion, at least not in the United States. The country has advantages in traditional war that it lacks in cyberwar. Americans are not used to the idea that launching even small wars on distant continents may cause death and suffering at home. That is what drives the lawyers -- they hope to maintain the old world. But they're being driven down a dead end.¶ If America wants to defend against the horrors of cyberwar, it needs first to face them, with the candor of a Stanley Baldwin. Then the country needs to charge its military strategists, not its lawyers, with constructing a cyberwar strategy for the world we live in, not the world we'd like to live in.¶ That strategy needs both an offense and a defense. The offense must be powerful enough to deter every adversary with something to lose in cyberspace, so it must include a way to identify attackers with certainty. The defense, too, must be realistic, making successful cyberattacks more difficult and less effective because resilience and redundancy has been built into U.S. infrastructure.¶ Once the United States has a strategy for winning a cyberwar, it can ask the lawyers for their thoughts. But it can't be done the other way around.

#### No impact—only ground forces matter.

DeBlois, 05 (Bruce DeBlois et al, Director of Systems Integration for BAE Systems, Lt. Col, USAF, 2005 Star-Crossed, http://www.spectrum.ieee.org/print/1585).

Return now to the three potential roles for space weapons: protecting existing satellites, denying the hostile use of space, and projecting force worldwide. It is difficult to identify a space weapon that is more attractive than its competing terrestrial alternatives. Offensive space weapons face inherent limitations, including long distances to targets and high energy requirements, which suggest in many circumstances a non-space-based alternative, such as forward-deployed missiles and conventional ICBMs. In nearly every case, space weapons are more complex, more costly, and less effective than Earth-based weapons. Moreover, we have seen that there are a number of ways to render military space systems inoperable without destroying the satellites themselves, such as attacks on their ground stations. In such cases, space weapons would be rendered useless. We have also argued that satellites could be better protected with redundant systems that would mitigate attacks or with stand-in capabilities provided by UAVs or balloons above the battlefield. As for denying adversaries the use of space, this may likewise be more readily achieved by less expensive terrestrial alternatives, such as electromagnetic jamming and the temporary blinding of adversaries' reconnaissance systems. The United States would prefer a world in which it alone had military space systems, weapons in space, and antisatellite capability. However, such a world never existed and never will. Already, several states and consortia have autonomous space-launch capabilities, among them Russia, China, Ukraine, Japan, India, and the European Union. Such groups would likely respond if the United States took a first step toward weaponizing space.

#### No meltdowns—NRC is cracking down.

Francis 2004 David R. Francis Staff writer of The Christian Science Monitor, 2004 (DS) “After nuclear's meltdown, a cautious revival” http://www.csmonitor.com/2004/0329/p12s02-usec.html

Could a Three Mile Island happen again? The NRC blames that accident on "a combination of personnel error, design deficiencies, and component failures." The event, adds an NRC fact sheet, led to "permanent and sweeping changes in how NRC regulates its licensees - which, in turn, has reduced the risk

to public health and safety." David Lockbaum, an engineer at the Union of Concerned Scientists, agrees that the NRC has become much tougher, even before 9/11 raised the specter of terrorists flying a jet into a nuclear power plant. Instead of inspecting nuclear plants every two years for four safety categories, the NRC since April 2000 has been looking them over every three months for 26 or so safety factors. "When performance starts to fall, it should show up sooner," says Mr. Lockbaum, a longtime campaigner for reducing the risks of nuclear power.

## 1NR

### POLITICS

#### Will pass – moderate GOP

Hodor-Lee 10/18

Alex Hodor-Lee Op-Ed Editor “With Fiscal Crisis End in Sight, White House, Advocates Gear Up for Renewed Immigration Battle”

http://www.skidmorenews.com/news/with-fiscal-crisis-end-in-sight-white-house-advocates-gear-up-for-renewed-immigration-battle-1.3096933#.UmFoMRZN3A4

As congress moves towards a vote on a new budget deal to end the government shutdown, President Barack Obama plans to tackle the nation's broken immigration policies.¶ After being reelected in 2012, the President announced that immigration reform would be one of the administration's top legislative priorities, but assiduous efforts from determined House Republicans to deny funding to the Affordable Care Act--President Obama's signature achievement--has stalled any talks of immigration reform.¶ Once Capitol Hill sources revealed that Senate Democrats and Republicans struck a deal to end the shutdown, the President declared that White House efforts would be refocused on reforming immigration, telling Latino media outlet, Univision, "Once that's done, you know, the day after, I'm going to be pushing to say, call a vote on immigration reform."¶ Washington's top immigration reform advocates believe that the government shutdown may have created an opening to advance the discussion on immigration reform and push forward on progressive policies.¶ Frank Sharry, executive director of America's Voice told Buzzfeed, "It’s at least possible with sinking poll numbers for the Republicans, with a [GOP] brand that is badly damaged as the party that can’t govern responsibly and is reckless that they’re going to say, ‘All right, what can we do that will be in our political interest and also do tough things?’ That's where immigration could fill the bill."¶ Sharry is one of the Districts's most active immigration reform advocates. He still has scars from the 2007 immigration reform efforts, when the Senate voted down a bipartisan bill that would have provided legal status and a path to citizenship for the 12 million undocumented immigrants residing in the United States.¶ This time around, reform advocates are hoping for comprehensive reform. They have found support from some unlikely places, including moderate House Republicans, business interests such as Facebook CEO Mark Zuckerberg --who has already contributed $50 million dollars to the cause-- and Evangelical groups outraged at US deportation policies that have, in many cases, torn families apart.

#### Will pass has the votes – no thumpers it’s everyone’s TOA

Rojas 10/17

Nicole Rojas editor for @LatinosPost, proud Boston University alum, world traveller, believer in women's rights “Congressman Luis Gutierrez: 'Votes Exist for Comprehensive Immigration Reform'” Oct 17, 2013

http://www.latinospost.com/articles/29855/20131017/congressman-luis-gutierrez-votes-exist-comprehensive-immigration-reform-exclusive-video.htm

It comes as little surprise that immigration reform has taken a backseat to the government shutdown that began on October 1. But while the White House and Congress have devoted the last 16 days to the fiscal cliff and debt ceiling, all signs indicate that immigration reform will be the next issue on the docket.¶ In an exclusive interview with Latinos Post at the onset of the government shutdown, Rep. Luis Gutierrez, D- Ill., discussed the “detrimental effect” the shutdown had on immigration reform talks. Gutierrez, who has made immigration reform one of his top priorities, also discussed what he expects will happen to the immigration reform debate in the future.¶ “I think that if we didn’t have the government shutdown, if we didn’t have this looming fiscal cliff because of the debt ceiling, I think there’d be more of an appetite to take [it] up,” Gutierrez told Latinos Post. “We’re not going to take up immigration reform while we’re dealing with the fiscal cliff. Absolutely, it’s taking a detrimental effect.”¶ “That doesn’t mean we can’t do it,” the congressman added. “It’s just we’re going to have to get this [the government shutdown] done first.”¶ Gutierrez, who spoke at the Congressional Hispanic Caucus Institute’s Public Policy Conference earlier this month, has special interest in immigration reform through his participation in the House of Representative’s “Gang of Seven.” The “Gang of Seven,” which is the House’s bipartisan team currently working on overhauling the country’s immigration laws, saw the departure of two Republican members in late September, including Reps. John Carter, R-Texas, and Sam Johnson, R-Texas.¶ Despite their departures, Gutierrez assured that the group is committed to bringing about immigration reform. “The votes exist for comprehensive immigration reform,” he said. “The fact that Johnson and Carter have left does not change that.”¶ Gutierrez added, “Never before have we seen such broad based support for it. And because that broad based support for it exists, sooner or later we’re going to get a vote.”¶ According to a recent report by Buzzfeed, advocates for immigration reform contest that immigration reform could be the next issue the House tackles once the government shutdown comes to an end. Frank Sharry, the executive director of the immigration reform group America’s Voice, told Buzzfeed that “sinking poll numbers for Republican” and a “badly damaged” GOP image could be enough to address immigration reform.¶ It appears that the White House is also eager to have immigration reform as their top priority once the fiscal crisis is resolved, Reuters reported. During an interview with Univision, President Barack Obama said, “Once that’s down, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform.”¶ On Tuesday, Obama blamed House Speaker John Boehner for preventing immigration reform from going to a vote, Reuters reported. “We had a very strong Democratic and Republican vote in the Senate,” he said. “The only thing right now that’s holding it back is, again, Speaker Boehner now willing to call the bill on the floor of the House of Representatives.”¶ Despite the House’s inability to call the bill to a vote, Gutierrez seemed confident that it would before the end of the year. “I can see the House of Representatives passing the bill,” he said. “I can see the House of Representatives passing the bill and going to conference by the end of the year.”

#### Regulations on cyber operations drain political capital—debates over infrastructure cybersecurity—like the aff—prove.

Bucci 12, (Steven Bucci, Director of The Heritage Foundation's Douglas & Sarah Allison Center for Foreign Policy Studies, A Cybersecurity Executive Order Could Harm Security, September 12, 2012, http://blog.heritage.org/2012/09/12/a-cybersecurity-executive-order-could-harm-security/)

With reports of a draft executive order on cybersecurity being circulated, it now seems likely that President Obama will go forward with this flawed approach. The peculiar thing is that the order does not seem to add anything new. If that is true, why is the President expending political capital to pursue it?¶ The Cybersecurity Act of 2012 failed to pass in the Senate, even with the last minute horse trading that occurred just before the vote. The concern of most opponents—including numerous businesses and the Chamber of Commerce—was the regulatory basis of the bill. Regulation is the wrong way to add security, and many of the nation’s legislators agreed. The bill could not clear the Senate, and certainly wouldn’t have passed the House.¶ The President again wants to tell Congress that his judgment is better than theirs. The Administration still feels that the Department of Homeland Security (DHS) can not only develop the appropriate regulations to provide cybersecurity, but should fully oversee U.S. businesses and infrastructure in that effort. That is wrong. DHS has shown itself to be inadequate for that task on smaller issues such as chemical industry security. Why would anyone think that it could handle a task as monumental as cybersecurity for all U.S. critical infrastructure? This is especially concerning since the government doesn’t even do a good job protecting its own infrastructure from cyber attacks.

#### The President will have to expend capital for regulations on cyber.

Newmeyer 12, (Kevin P. Newmeyer, Assistant Professor in the Center for Hemispheric Defense Studies at the National Defense University, Who Should Lead U.S. Cybersecurity Efforts?, MAR 2012, www.dtic.mil/dtic/tr/fulltext/u2/a571195.pdf‎)

Cybersecurity concerns have only grown with the expansion of digital technology into all aspects of daily life and daily government operations. President Obama in the International Strategy to Secure Cyberspace stated that cyber- security is part and parcel of everyday life for all Americans and much of the world. Maintaining the status quo of scattered responsibilities and patchwork policy solutions is not only poor gov- ernance but also potentially places the Nation’s critical assets at risk.¶ Establishing a strong DCYBER at a Cabinet-equivalent level would provide the necessary leadership within the Federal Government. The Department of Homeland Security would continue to play an impor- tant role in protecting civilian governmental systems and coordinating with the private sector. DOD has already taken several steps to improve its capabilities for action, and senior leaders are addressing cybersecurity in a responsible manner.¶ Congress and the President need to dem- onstrate the political leadership and expend the political capital to make the needed changes in legislation and structure on the domestic front. Waiting for a perfect solution to appear is not an option. Decisive action is required now.

#### Obama has PC to court Republicans

McMorris-Santoro 10/16

Evan McMorris-Santoro, BuzzFeed White House Reporter, “DREAMers Put Obama On Notice: New Immigration Push Better Not Be A Play For 2014 Votes”

http://www.buzzfeed.com/evanmcsan/dreamers-put-obama-on-notice-new-immigration-push-better-not

WASHINGTON — The children of undocumented immigrants, known in the capital as the DREAMers, warned President Obama Wednesday not to toy with them to score political points as he shifts the White House’s focus back to immigration following the end of the fiscal battle.¶ Cesar Vargas, executive director of the DREAM Action Coalition — a group known for high-profile actions featuring children of undocumented immigrants raised for most of their lives in the United States — said Wednesday he’s cautiously optimistic that House Republicans could be persuaded to take up immigration reform after seeing their poll numbers collapse through the government shutdown. But as Democrats and the White House geared up to take advantage of the situation, Vargas penned an open letter to Obama calling on him to focus on getting something done when it comes to immigration reform instead of spouting rhetoric designed to help his party’s chances in 2014.¶ “Dreamers and the American people, however, especially Latino voters, have heard the same empty words and broken promises before from candidate Barack Obama and President Obama,” he wrote. Even during the shutdown, Vargas wrote, immigration agents have been working, “bringing [Obama’s] Administration closer to the 2 million deportations milestone.”¶ “We will not be fooled by your rhetoric again,” Vargas wrote. If Obama wants to talk about immigration reform, Vargas said in an interview, he needs to get serious about working across the aisle, even if that means upsetting leaders of his own party. He called on the president to “make phone calls to the Speaker and Republican leadership on immigration” and “not follow” what Vargas sees as a Democratic House “strategy to just make immigration a partisan issue to win more seats the next election.”¶ Comprehensive immigration reform is an intensely personal issue for the DREAMers, and their plight has tugged at the nation’s heartstrings, leading to strong support in polling for legislation providing a pathway to citizenship for them. In perhaps the best example of how difficult it is to move immigration legislation through the House Republican caucus, the House GOP voted in June to end an Obama administration policy that seeks to limit the deportation of DREAM Act-eligible immigrants.¶ Nevertheless, many Republicans have expressed interest in DREAM Act-like legislation and Vargas said that if Obama wants to get serious on immigration reform in the coming weeks he’ll reach out to them as much as possible.

#### Obama has capital and he’s spending it

NBC Latino 10/16

Suzanne Gamboa “Conflicting views on approaching 2 million deportations” 10/16/2013

http://nbclatino.com/2013/10/16/conflicting-views-on-approaching-2-million-deportations/

The Obama administration is approaching two million deportations, a milestone that immigration advocates decry and enforcement hawks dismiss as a failing of the president’s immigration policies.¶ Exactly when the number will be reached is unknown, possibly by year’s end or more likely early in 2014.¶ But it’s close enough for immigration activists to invoke the number as they clamor for Congress to move on immigration reform legislation and press President Barack Obama to suspend deportations.¶ Enforcement hawks see the number as a statistics gimmick spun by the administration to appear it has been tougher on immigration enforcement than it actually has.¶ Immigration activists have been organizing around the coming two millionth deportation, having met in Phoenix last weekend for what they dubbed the “#Not1MoreDeportation” conference.¶ They’ve chained themselves to buses loaded with immigrants headed to deportation hearings, to fencing outside an Arizona immigration center and along the White House perimeter. They plan more protests.¶ It is not enough that Obama has championed immigration reform and in his second term, has put some political capital behind moving immigration legislation through Congress, said B. Loewe, a spokesman for the National Day Laborer Organizing Network, a group that has organized deportation protest activities.

#### Obama’s shifting gears using PC to push House vote

Martosko 10/17

DAVID MARTOSKO, U.S. POLITICAL EDITOR, “Immigration battle threatens to dwarf debt-limit fight as many Republicans fear power of 17 MILLION newly legalized loyal Democrats” http://www.dailymail.co.uk/news/article-2464112/Immigration-battle-threatens-dwarf-debt-limit-fight-Republicans-fear-power-17-MILLION-newly-legalized-loyal-Democrats.html#ixzz2i0S6Jq00

Republicans' new worst fear isn't defaulting on America's debts. If an immigration policy favored by the White House and Senate Democrats should become law, 17.3 million newly legalized immigrant voters would emerge by 2036, eager to reward the party that gave them a path to citizenship.¶ The White House has shifted gears and put its policy team in immigration overdrive, zooming past the debt crisis that threatened to sink the republic and on to the task of normalizing the estimated 11 million U.S. residents who have no legal basis for being there.¶ The Democrat-dominated U.S. Senate passed a bill in June that would provide a citizenship path for those who have been in the U.S. since the end of 2011. But as with the early days of the debt crisis and the partial government shutdown, Republican leaders in the House of Representatives aren't eager to consider it.¶ The White House has avoided saying that it take advantage of a weak House and spend its political capital to push an immigration policy, but Republicans have reason to suspect the other shoe is about to drop.

#### Obama spending his PC on CIR

Reuters 10/17

http://www.reuters.com/article/2013/10/17/us-usa-fiscal-obama-idUSBRE99G0R720131017

(Reuters) - President Barack Obama scolded congressional Republicans on Thursday, hours after a fiscal crisis was narrowly averted and called on his opponents to help repair the economic damage caused by a 16-day U.S. government shutdown and a close brush with a debt default.¶ Obama stressed that he is willing to work with lawmakers wherever they can agree, but the tone he struck amounted to a rebuke of Republicans, whom Americans largely blame for pushing the United States to the brink of an economic calamity.¶ "The American people are completely fed up with Washington," said Obama in a White House speech attended by many of the aides who worked day and night through the various stages of the latest fiscal stalemate.¶ Hours after he signed into law a bill hastily cobbled together to end the crisis, Obama said events over the past two weeks had inflicted "completely unnecessary" damage on the U.S. economy.¶ An increase in borrowing costs caused by the near-debt default was harmful and consumers cut back on spending with hundreds of thousands of government workers suddenly idled, he said.¶ "There was no economic rationale for all of this," he said.¶ Though bruised by the battle, Obama emerged as the clear winner. He immediately sought to use the political capital gained to advance a domestic policy agenda centered around a fresh round of budget talks and an effort to win approval of two stalled items, immigration reform and a farm bill.

#### Your defense doesn’t apply – your authors underestimate the risks and we are on the brink - safety nets that no longer exists

Reuters 10/28 Jason Lange WASHINGTON | Sun Oct 28, 2012 1:57pm EDT, http://www.reuters.com/article/2012/10/28/us-usa-economy-cliff-idUSBRE89R0EL20121028

(Reuters) - The United States runs the risk of a recession far deeper than many investors and policymakers may think if lawmakers fail to avert looming tax hikes and cuts to public spending. Absent action by Congress, the country will face the so-called fiscal cliff at the start of next year, a combination of lower spending and higher taxes that is expected to extract about $600 billion from the economy. Many economists think every dollar of deficit reduction will subtract nearly the same amount from economic growth. By that measure, the current course could cause the economy to contract by 0.5 percent in 2013, according to estimates by the Congressional Budget Office (CBO) that have been largely embraced by Wall Street and the U.S. Federal Reserve. But research by economists in academia and at the International Monetary Fund suggests a dollar of deficit reduction could drain as much as $1.70 from the economy, making the prospective belt tightening much more dangerous. "You can take that 0.5 percent contraction and double it," said Barry Eichengreen, an economist at the University of California, Berkeley. These researchers suspect fiscal contractions take a bigger-than-normal bite from economies when interest rates are very low, as is the case at the moment in the United States and in much of the developed world. One explanation, Eichengreen said, is that when rates are higher, central banks can easily lower them to provide a counterweight to austerity. But when rates are near zero, as they are in the United States, it's harder to ease the pinch. Historical data suggests higher taxes or lower government spending normally lead households to cut back on purchases only modestly. In the three decades through 2009, a dollar in government austerity would suck only half that from the economy, according to IMF research published this month which examined fiscal policy in 28 countries. But economies around the world appear to be acting differently since the Great Recession. The IMF said it appeared that every dollar of recent fiscal consolidation has drained anywhere from $0.90 to $1.70 from economies. The IMF said this suggested central banks have been having difficulty offsetting the impact from tighter budgets. That could well be the case in the United States as well. The Fed pushed overnight rates to near zero in December 2008 and has resorted to the unconventional policy of purchasing government and housing-related bonds to revive the economy. The central bank's chairman, Ben Bernanke, has acknowledged he would not be able to fully offset the pain if the economy runs into the "fiscal cliff." With the U.S. jobless rate at 7.8 percent and the recovery still shaky, the possibility of a greater-than-expected hit to activity might be food for thought for lawmakers, who will be looking to cut some sort of deal on the budget before year end. LET'S MAKE A DEAL There's little room for error. Forecasters expect economic growth next year of just 2.1 percent, with the jobless rate edging down only slightly. As it is, economists believe even the level of danger outlined by the nonpartisan CBO will be enough to propel lawmakers, who are deeply divided over taxes and spending, to reach an accord, although signs have yet to emerge that a deal is starting to gel. "No political party wants to go down in history as the one that triggered the second half of the worst recession since the Great Depression," said Paul Dales, an economist with Capital Economics in London. Capital Economics expects Congress will allow just under $100 billion in fiscal tightening, which it thinks would knock the same amount off gross domestic product (GDP). Yields on U.S. government debt suggest investors as a whole are betting on even less tightening next year, according to research by analysts at Bank of America. Bank of America itself expects lawmakers will allow much of the fiscal cliff to transpire, leading to about $325 billion in budget tightening, enough in their view to stall job growth. Like Capital Economics and many other research units in the financial world, Bank of America presumes every dollar of tightening would drain the economy by about the same amount, although it says a bigger effect is possible. "The economic impacts could be worse than our baseline assumptions," said Michael Hanson, an economist with the bank in New York. Eichengreen and others who have studied economic data from the Great Depression, another time central banks were constrained, found the drag from a tightening of fiscal policy was much higher at the time. Eichengreen thinks currently the so-called multiplier is about 1.7, in line with the upper range of the IMF's estimate. If he is right, even avoiding just half of the fiscal cliff would not be enough to steer the economy clear of recession. Earlier this month, Senate Republican leader Mitch McConnell argued for not "a penny less" than $109 billion in budget tightening next year. But even a tightening in the budget of that magnitude would have an outsized effect if Eichengreen and others are on the mark. "It would make more sense to assure a strong self-sustaining recovery before embarking on significant fiscal consolidation," Goldman Sachs economists said in a recent report that summarized research pointing to heightened risks of budget slashing.

#### Statistical studies go neg

Royal 10 Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-214

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 10981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Polllins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium, and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996,2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavior of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectation of future trade declines, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases , as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002, p.89). Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to create a ‘rally round the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997) Miller (1999) and Kisanganie and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak presidential popularity, are statistically linked to an increase in the use of force..

#### DA independently turns case—US international credibility undermined by immigration policy

Birdsall and Sowa 2013

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http://www.cgdev.org/sites/default/files/Birdsall\_Sowa\_handicapped\_donor\_final.pdf

The lack of robust political support for multilateralism is also reflected in the relatively small proportion of its aid budget (just 13 percent in 2011 compared to an average of 41 percent by other OECD donors) that the US channels through the multilateral institutions as opposed to through its USAID and other US agencies (Figure 3). This is despite the United States’ poor performance when it comes to aid quality, as measured by the Quality of Official Development Assistance (QuODA) Assessment compiled by the Center for Global Development and the Brookings Institution.21 The QuODA assessment ranks 31 countries and multilateral agencies on four dimensions of aid quality, in turn based on 30 measurable indicators. The United States scores below the mean in 21 of the 30 indicators. In contrast the United Kingdom, a strong performer on the QuODA assessment and a large donor in absolute terms and relative to the size of its economy, still chooses to channel nearly 40 percent of its total aid through multilaterals.¶ Nor is the United States in a position of leadership on other issues that matter for development. It has been unable to forge a development-friendly climate policy at home, and without its engagement a global agreement remains elusive. On other issues – trade, immigration, investment and tax policies – the United States scores in the bottom of the pack among the advanced democracies in terms of its commitment to development.22

#### Reform provides source of recruits key to winning War on Terror

Alden, Bush, and McLarty 2009

Edward Alden, Bernard L. Schwartz Senior Fellow, Florida governor Jeb Bush and former White House chief of staff Thomas "Mack" McLarty.Council on Foreign Relations “U.S. Immigration Policy” July 2009

http://www.cfr.org/immigration/us-immigration-policy/p20030

Immigrants and their offspring are important potential recruits for the U.S. armed forces. The war against terrorism has forced the United States to become engaged either directly or indirectly in environments where language skills, cultural knowledge, and the ability to work with local populations are vital ingredients of military success.137 Recruiting within the diverse immigrant populations of the United States is the most promising avenue for the armed forces to build up those capabilities. Yet policy restrictions have generally prevented recruiting anyone living in the United States who is not either a citizen or a green-card holder, even though there are now millions of potential immigrants, and their children, living here for long periods in temporary status.

#### Extinction

Ayson 10 (Robert, Professor of Strategic Studies, Director of Strategic Studies: New Zealand, Senior Research Associate with Oxford’s Centre for International Studies. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects. Studies in Conflict and Terrorism, Volume 33, Issue 7, July 2010, pages 571-593)

But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a wdevastating response.

#### The risk of a nuclear terrorist attack high.

Sturdee, AFP, 7-1 [Simon, “UN atomic agency sounds warning on 'nuclear terrorism'”, Fox News, 7-1-13,

<http://www.foxnews.com/world/2013/07/01/un-atomic-agency-sounds-warning-on-nuclear-terrorism/>, RSR]

VIENNA (AFP) – The head of the UN atomic agency warned Monday against complacency in preventing "nuclear terrorism", saying progress in recent years should not lull the world into a false sense of security.¶ "Much has been achieved in the past decade," Yukiya Amano of the International Atomic Energy Agency told a gathering in Vienna of some 1,200 delegates from around 110 states including 35 ministers to review progress on the issue.¶ "Many countries have taken effective measures to prevent theft, sabotage, unauthorised access, illegal transfer, or other malicious acts involving nuclear or other radioactive material. Security has been improved at many facilities containing such material."¶ Partly as a result, he said, "there has not been a terrorist attack involving nuclear or other radioactive material."¶ "But this must not lull us into a false sense of security. If a 'dirty bomb' is detonated in a major city, or sabotage occurs at a nuclear facility, the consequences could be devastating.¶ "Nuclear terrorism" comprises three main risks: an atomic bomb, a "dirty bomb" -- conventional explosion spreading radioactive material -- and an attack on a nuclear plant.¶ The first, using weapons-grade uranium or plutonium, is generally seen as "low probability, high consequence" -- very difficult to pull off but for a determined group of extremists, not impossible.¶ There are hundreds of tonnes of weapons-usable plutonium and uranium -- a grapefruit-sized amount is enough for a crude nuclear weapon that would fit in a van -- around the world.¶ A "dirty bomb" -- a "radiological dispersal device" or RDD -- is much easier but would be hugely less lethal. But it might still cause mass panic.¶ "If the Boston marathon bombing (in April this year) had been an RDD, the trauma would be lasting a whole lot longer," Sharon Squassoni from the Center for Strategic and International Studies (CSIS) told AFP.¶ Last year alone, the IAEA recorded 17 cases of illegal possession and attempts to sell nuclear materials and 24 incidents of theft or loss. And it says this is the "tip of the iceberg".¶ Many cases have involved former parts of the Soviet Union, for example Chechnya, Georgia and Moldova -- where in 2011 several people were arrested trying to sell weapons-grade uranium -- but not only.¶ Nuclear materials that could be used in a "dirty bomb" are also used in hospitals, factories and university campuses and are therefore seen as easy to steal.¶