*I affirm: Resolved- Rehabilitation ought to be valued above retribution in the United States criminal justice system.*

GOD IS DEAD.

PART ONE IS FRAMEWORK

Every standard we posit serves a higher function than just proving truth. We care about truth only if that truth fosters value in our lives. Impacts boil down to questions of what we care about and how we come to care about those things, so your ballot is the mechanism by which we gauge how the aff project serves this essential function of values debate. Thus, the “value” is VALUE TO LIFE.

The standards we’re used to say we can affect or reflect the real world by using vacuous normative language to promote self-righteousness and influence policy. This conception of thought is ridiculous. A reworking of debate discourse is necessary to preserve the intellectual value and integrity of our activity. Any other model means sacrificing the potential for real effectiveness in favor of empty platitudes. Debate has devolved into making empty assertions about normative frameworks without investigating the assumptions of those frameworks. We yell at judges to improve the world with their ballot knowing full well that none of us have control over what happens outside the round. Normative thought tries to pack everything into a neat little box with a value and criterion to limit the range of acceptable ways of living one’s life. Abandoning those limits through critical discussion is key to fulfilling our role as intellectuals. I advocate a model of debate in which we advance the critical discussion of ethics missing from politics and normative discourse. The value of thought lies in affirming our lives. You as a judge have the power to promote the critical engagement necessary for all of us to gain an understanding of how we define the value of our lives. Deleuze:  
Gilles Deleuze [Professor of Philosophy Emeritus at the University of Paris VIII]. “Nietzsche and Philosophy”. Translated by Hugh Tomlinson. 1962.

When knowledge becomes a legislator, the most important thing to be subjected is thought. Knowledge is thought itself, but thought subject to reason and to all that is expressed in reason. The instinct for knowledge is therefore thought, but thought in its relation to the reactive forces which seize and conquer it. For rational knowledge sets the same limits to life as reasonable life sets to thought; life is subject to knowledge and at the same time thought is subject to life. **Reason** sometimes **dissuades and** sometimes **forbids us to cross certain limits: because it is useless** (knowledge is there to predict) because it would be evil (life is there to be virtuous), **because it is impossible** (there is nothing to see or think behind the truth). 2' — But does not critique, understood as **critique of knowledge** itself, **express[es] new forces capable of giving thought another sense,** a thought that would go to the limit of what life can do, **a thought that would lead life to the limit of what it can do, a thought that would affirm life instead of a knowledge that is opposed to life. Life would be the active force of thought, but thought would be the affirmative power of life.** Both would go in the same direction, carrying each other along, smashing restrictions, matching each other step for step, in a burst of unparalleled creativity. **Thinking would then mean discovering, inventing new possibilities of life.** "There are lives with prodigious difficulties; these are the lives of the thinkers. And we must lend an ear to what we are told about them, for here we discover possibilities of life the mere story of which gives us joy and strength and sheds light on the lives of their successors. There is as much invention, reflection, boldness, despair and hope here as in the voyages of the great navigators; and to tell the truth, these are also voyages of exploration in the most distant and perilous domains of life. What is surprising in these lives is that two opposed instincts, which pull in opposite directions, seem to be forced to walk under the same yoke: the instinct that leads to knowledge is constantly constrained to abandon the ground where man habitually lives and to throw itself into the uncertain, and the instinct that wills life is forced to grope ceaselessly in the dark for a new place to establish itself' (PTG). In other words**, life goes beyond the limits that knowledge fixes for it, but thought goes beyond the limits that life fixes for it.** Thought ceases to be a ratio **y**26\* life ceases to be a reaction. **The thinker** thus **expresses the noble affinity of thought and life: life making thought active, thought making life affirmative.**

Claims about the value of superior values must themselves have value. Before we work within the assumptions of moral frameworks, we need to determine what values give value to existence. Nietzsche:  
Friedrich Nietzsche, “On the Genealogy of Morals”, page 4

Let's proclaim this new demand: **we need a critique of moral values, and we must first question the very value of these values. For that we need a knowledge of the conditions and circumstance out of which these values grew, under which they have developed and changed** (morality as consequence, as symptom, as mask, as hypocrisy, as illness, as misunderstanding—but also morality as cause, as means of healing, as stimulant, as scruples, as poison), **a knowledge of the sort which has not been there until now, something which has not even been wished for.** People have taken the worth of these "values" as something given, as self-evident, as beyond all dispute.Up until now **people have** also **not had the least doubts about** or wavered **in setting up "the good man" as more valuable than "the evil man,"** of higher worth in the sense of the improvement, usefulness, and prosperity of mankind in general (along with the future of humanity). Now what about this? What if the truth were the other way around? **What if in the "good" there lay** a symptom of **regression,** something like a danger, a seduction, **a poison**, a narcotic, something which makes the present live at the cost of the future**?** Perhaps something more comfortable, less dangerous, but also on a smaller scale, something more demeaning? . . . **So that this very morality would be guilty if the highest** possible **power** and magnificence **of the human type were never attained?** So that this very morality might be the danger of all dangers?

PART TWO IS LINKS.

Retribution appeals to the moral authority of guilt in forcing humanity to constantly measure up to and be judged by false ideals. The genealogy of guilt and free will is marred by false “truths” designed to permit a false God to punish us for our wrongdoing. Retribution posits the necessity of a perfect universe free of suffering and moderated by a higher power that controls the balance of the world. Criminals are invented as free to fulfill the need of retributivists to use humanity as a means to satisfy a divine command for a moral world. Retribution destroys humanity; it uses humanity up; it makes humanity accountable for uncontrollable elements of existence as a means to promote a transcendent morality, precluding pursuit of a valuable life. Nietzsche 2:  
Friedrich Nietzsche, “Twilight of the Idols” [ 1895 ]. Text prepared from the original German and the translations by Walter Kaufmann and R.J. Hollingdale, PDF page 16

Today **[W]e no longer have any tolerance for the idea of "free will"**: we see it only too clearly for what it really is — **the foulest of all theological fictions, intended to make mankind "responsible" in a religious sense** — that is, dependent upon priests. Here I simply analyze the psychological assumptions behind any attempt at "making responsible." Whenever responsibility is assigned, it is usually so that judgment and punishment may follow. **Becoming has been deprived of its innocence when any acting-the-way-you-did is traced back to will, to motives, to responsible choices: [T]he doctrine of the will** has been **[is] invented** essentially **to justify punishment through the pretext of assigning guilt.** All primitive psychology, **[T]he psychology of will**, **arises from the fact that its interpreters**, the priests at the head of ancient communities, **wanted to create for themselves the right to punish —** or wanted **to create this right for their God.** **Men were considered "free" only so that they** might be considered guilty — **could be judged and punished**: consequently, every act had to be considered as willed, and the origin of every act had to be considered as lying within the consciousness (and thus the most fundamental psychological deception was made the principle of psychology itself). Today, [W]e immoralists have embarked on a counter movement and are trying with all our strength to take the concepts of guilt and punishment out of the world — to cleanse psychology, history, nature, and social institutions and sanctions of these ideas. And there is in our eyes no more radical opposition than that of the **[T]heologians**, whocontinue to **infect the innocence of becoming by means of** the concepts of **a "moral world-order," "guilt," and "punishment."** Christianity is religion for the executioner. What alone can be our doctrine? That **[N]o one gives a man his qualities — neither God, nor society,** nor his parents and ancestors, **nor he himself**. (The nonsense of the last idea was taught as "intelligible freedom" by Kant — and perhaps by Plato.) **No one is responsible for a man's being here at all,** for his **being such-and-such, or** for his **being** in these circumstances or **in this environment. The fatality of his existence is not to be disentangled from the fatality of all that has been and will be. Human beings are not the effect of some special purpose**, **or will,** or end; **nor are they a medium through which society can realize an** "ideal of humanity" or an "ideal of happiness" or an **"ideal of morality."** It is absurd to wish to devolve one's essence on some end or other. We have invented the concept of "end": in reality there is no end. A man is necessary, a man is a piece of fatefulness, a man belongs to the whole, **[A] man is** in **the whole; there is nothing that could judge**, measure, compare, **or sentence his being, for that would mean judging**, measuring, comparing, **or sentencing the whole.** But there is nothing besides the whole. **That nobody is held responsible any longer, that** the mode of **being may not be traced back to a primary cause**, that the world does not form a unity either as a sensorium or as "spirit" **— that alone is the great liberation.** **With that idea** alone **we absolve our becoming of any guilt.** The concept of "God" was until now the greatest objection to existence. **We deny God, we deny the responsibility that originates from God: and thereby we redeem the world.**

Retribution depends on a God who orchestrates the universe and controls the balance of suffering. Retribution posits that the suffering criminals inflict upon society must be repaid to restore equality and so creates the existence of an arbiter to whom suffering is owed. The only way to give normative weight to the claim that society is owed suffering in return is to create a transcendent banker who presides over payment of interest. Lawmakers play the role of the ascetic priest, condemning and punishing man for our guilt and forcing criminals to suffer to redeem themselves in the eyes of a false God. Deleuze 2:

When reactive forces are grafted onto species activity in this way they break off its "lineage". Here again, a projection intervenes. It is debt, it is the debtor-creditor relationship, that is projected and that changes its nature in this projection. From the standpoint of species activity man was held responsible for his reactive forces; his reactive forces themselves were considered responsible to an active tribunal. Now, **reactive forces** take advantage of their training to form a[n] complex association with other reactive forces: they feel responsible to these other forces, these other forces **feel themselves to be judges and masters** of the former. The association of reactive forces is thus **accompanied by a transformation of debt; this becomes a debt toward "divinity",** toward "society", toward "the State", toward reactive instances. Everything then takes place between reactive forces. **Debt loses the active character by virtue of which it took part in man's liberation:** in its new form **it is inexhaustible, unpayable.** "The aim now is to preclude pessimistically, once and for all, the prospect of a final discharge; the aim now is to make the glance recoil disconsolately from an iron impossibility; the aim now is to turn back the concepts 'guilt' and 'duty' - back against whom? There can be no doubt: against the'debtor'first of all. . . finally they are turned back against the 'creditor' too" (GM II21 p. 91). Examine what Christianity calls **"redemption"**. It **is no longer a matter of discharge from debt, but of a deepening of debt. It is no longer a matter of a suffering through which debt is paid, but of** a **suffering** through which **one is shackled to** it, **through which one becomes a debtor forever.** Suffering now only pays the interest on the debt; suffering is internalised, responsibility-debt ksbecome responsibility-guilt. So that the creditor himself must accept responsibility for the debt, take upon himself the bulk of the debt. This is Christianity's stroke of genius, says Nietzsche: "**God** himself **sacrifices himself for the guilt of mankind,** God himself **makes payment to himself, God as the only being who can redeem man from what has become unredeemable for man himself** (GM II 21 p. 92). We can see a qualitative difference between the two forms of responsibility, responsibility-debt and responsibility-guilt. One originates in the activity of culture; it is only the instrument of this activity, it develops the external sense of pain, it must disappear in the product in order to give way to a beautiful irresponsibility. In the other, everything is reactive: its origin is ressentiment's accusation, it grafts itself onto culture and diverts it from its initial direction, it entails a necessary change of direction oi ressentiment which no longer looks outside for someone to blame. It perpetuates itself at the same time as it internalises pain. - We said: **the priest** is the one who **internalises pain by changing the direction of ressentiment**; in this way he gives bad conscience form. We asked: how can ressentiment change direction whilst keeping its properties of hate and revenge? The lengthy analysis above gives us the elements of an answer: 1) Under the cover of species activity and by usurping this activity, reactive forces constitute associations (herds). Certain reactive forces appear to act, others serve as material: "Wherever there are herds, it is the instinct of weakness that organised it" (GM II 18 pp. 135-6). 2) It is in this milieu that bad conscience is formed. Abstracted from species activity, debt is projected into reactive association. **Debt becomes the relation of a debtor who will never finish paying** to **a creditor who will never finish using up the interest** on the debt: **"Debt toward the divinity". The pain of a debtor is internalised, responsibility for the debt becomes a feeling of guilt.** In this way **[T]he priest comes to change the direction of ressentiment: we**, reactive beings, **do not have to look for the guilty ones outside, we are all guilty** towards ourselves,toward the Church, **toward God** (GM II 20-22).

PART THREE IS IMPACTS

Retribution’s appeal to absolute truth is a dangerous farce that affirms ascetic values and arbitrarily assigns redemptive value to humanity sacrificing its own power and potential to please God, the arbiter of suffering. We accept our uselessness and abandon the project of discovering value in ethics and life. This static moralism denies the beauty of life by forcing restraint of our engagement with the world. The theological framing of punishment fosters resentment towards life for failing to live up to the idealized vision of the real world. The will to align reality according to absolute morality, reason, and faith in a world free of suffering expresses a hatred for life. Nietzsche 3:  
Friedrich Nietzsche, “The Birth of Tragedy”

Already in the preface addressed to Richard Wagner, art, and not morality, is presented as the truly metaphysical activity of man. In the book itself the suggestive sentence is repeated several times, that the existence of the world is justified only as an aesthetic phenomenon. Indeed, the whole book knows only an artistic meaning and crypto-meaning behind all events – a “god,” if you please, but certainly only an entirely reckless and amoral artist-god who wants to experience, whether he is building or destroying, in the good and in the bad, his own joy and glory – one who, creating worlds, frees himself from the distress of fullness and overfullness and from the affliction of the contradictions compressed in him soul. The world – at every moment the attained salvation of God, as the eternally changing, eternally new vision of the most deeply afflicted, discordant, and contradictory being who can find salvation only in appearance: you can call this whole artists’ metaphysics arbitrary, idle, fantastic; what matters is that it betrays a spirit who will one day fight at any risk whatever the *moral* interpretation and significance of existence.Here, perhaps for the first time, a pessimism “beyond good and evil” is suggested. Here that “perversity of mind” gains speech and formulation against which Schopenhauer never wearied of hurling in advance his most irate curses and thunderbolts: a philosophy that dares to move, to demote, morality into the realm of appearance – and not merely among “appearances” or phenomena (in the sense assigned to these words by Idealistic philosophers), but among “deceptions,” as semblance, delusion, error, interpretation, contrivance, art. Perhaps the depth of this *antimoral* propensity is best inferred from the careful and hostile silence with which Christianity is treated throughout the whole book – Christianity as the most prodigal elaboration of the moral theme to which humanity has ever been subjected. In truth, **nothing could be more opposed to the** purely **aesthetic** interpretation and **justification of the world** which are taught in this book **than** **the Christian teaching, which is**, and wants to be, **only moral and** which **relegates art**, every art, **to the realm of lies; with** its **absolute standards, beginning with the truthfulness of God, it negates, judges and damns art.** **Behind this mode of thought** and valuation, which must be hostile to art if it **is** at all genuine, I never failed to sense **a hostility to life – a furious**, vengeful **antipathy to life itself: for all of life is based on** semblance, **art, deception,** points of view, **and the necessity of perspective and error.** **Christianity was** from the beginning, essentially and fundamentally, **life’s nausea and** **disgust with life,** merely **concealed behind**, masked by, dressed up as, **faith in “another” or “better” life. Hatred of “the world,” condemnation**s **of** the **passion**s**, fear of beauty** and sensuality**, a beyond invented** the better **to slander this life,** at bottom **a craving** for the nothing, **for the end**, for respite, for “the Sabbath of Sabbaths” – all this always struck me, no less than the unconditional will of Christianity to recognize ***only*** moral values, as the most dangerous and uncanny form of all possible forms of “will to decline” – at the very least a sign of abysmal sickness, weariness, discouragement, exhaustion, and the impoverishment of life. For, **[C]onfronted with morality** (especially Christian, or unconditional, morality), **life *must*** continually and inevitably **be in the wrong, because life *is* something essentially amoral – and eventually, crushed by the weight of contempt and the eternal No, life *must* then be felt to be unworthy of desire and altogether worthless.** Morality itself – how now? might not morality be “a will to negate life,” a secret instinct of annihilation, a principle of decay, diminution, and slander – the beginning of the end? Hence, the danger of dangers?

Punishment undermines its proclaimed effect and makes humanity hateful of our fate and existence. Retribution does not inspire change in the criminal, but participates in the same moral failing it aims to solve. Nietzsche 4:  
Friedrich Nietzsche, “On The Genealogy of Morals”, 1887

**Real pangs of conscience are** something **extremely rare**, especially **among criminals** and prisoners. Prisons and penitentiaries are not breeding grounds in which this species of gnawing worm particularly likes to thrive—on that point all conscientious observers agree, in many cases delivering such a judgment with sufficient unwillingness, going against their own desires. In general, **punishment** makes people hard and cold. It concentrates. It **sharpens the feeling of estrangement and** strengthens **power**s **of resistance.** If it comes about that punishment shatters a man’s energy and brings on a wretched prostration and self-abasement, such a consequence is surely even less pleasant than the ordinary results of punishment—characteristically a dry and gloomy seriousness. However, if we consider the millennia before the history of humanity, without a second thought we can conclude that the very development of a feeling of guilt was most powerfully hindered by punishment, at least with respect to the victims onto whom this force of punishment was vented. For let us not underestimate just how much **the criminal is prevented** by the sight of judicial and executive processes **from sensing the nature of his action as something inherently reprehensible, for he sees** exactly **the same** kind of **actions undertaken in the service of justice**, **applauded and practiced in good conscience,** like espionage, lying, bribery, entrapment, **the whole** tricky and sly **art of the** police and **prosecution,** as it develops in the various kinds of punishment—**the robbery, oppression, abuse, imprisonment, torture, murder (all done as a matter of principle, without any emotional involvement as an excuse).** All these actions are in no way rejected or condemned in themselves by his judges, but only in particular respects when used for certain purposes. “Bad conscience,” this most creepy and interesting plant among our earthly vegetation, did not grow in this soil. In fact, for the longest period in the past no notion of dealing with a “guilty party” penetrated the consciousness of judges or even those doing the punishing. They were dealing with someone who had caused harm, with an irresponsible piece of fate. And even the man on whom punishment later fell, once again like a piece of fate, experienced in that no “inner pain,” other than what came from the sudden arrival of something unpredictable, a terrible natural event, a falling, crushing boulder against which there is no way to fight. At one point Spinoza became aware of this point in an incriminating way (something which irritates his interpreters, like Kuno Fischer, who really go to great lengths to misunderstand him on this issue), when one afternoon, he came up against some memory or other (who knows what?) and pondered the question about what, as far as he was concerned, was left of the celebrated morsus conscientiae [the bite of conscience]—for he had expelled good and evil into the human imagination and had irascibly defended the honour of his “free” God against those blasphemers who claimed that in everything God worked sub ratione boni [with good reason] (“but that means that God would be subordinate to Fate, a claim which, if true, would be the greatest of all contradictions”). For Spinoza the world had gone back again into that state of innocence in which it existed before the fabrication of the idea of a bad conscience. So what, then, had happened to the morsus conscientiae? “The opposite of gaudium [joy],” Spinoza finally told himself “is sorrow, accompanied by the image of something over and done with which happened contrary to all expectation” (Ethics III, Proposition XVIII, Schol. I. II). Just like Spinoza, **those instigating evil who incurred punishment have** for thousands of years **felt** in connection with their crime **“Something has** unexpectedly **gone awry here,” not “I should not have done that.”** **They submitted to their punishment as people submit to** a sickness or some bad luck or **death, with that brave fatalism free of revolt** which, for example, even today gives the Russians an advantage over us westerners in coping with life. If back then there was some criticism of the act, such criticism came from prudence: without question we must seek the essential effect of punishment above all in an increase of prudence, in a extension of memory, in a will to go to work from now on more carefully, mistrustfully, and secretly, with the awareness that we are in many things definitely too weak, in a kind of improved ability to judge ourselves. In general, what can be achieved through punishment, in human beings and animals, is an increase in fear, a honing of prudence, control over desires. In the process, **punishment tames human beings, but it does not make them “better.”** People might be more justified in asserting the opposite (Popular wisdom says “Injury makes people prudent,” but to the extent that it makes them prudent, it also makes them bad. Fortunately, often enough it makes people stupid).

PART FOUR IS THE ALTERNATIVE

Embrace a legal system conducive not to retribution and repentance to a higher authority, but open to man’s pursuit of self-overcoming and discovery. The legal system will not view the criminal as someone who upsets the moral order; rather, it will abandon its notion of guilt and create the conditions necessary for man to better himself. Litowitz:  
Douglas Litowitz. Nietzsche's Theory of Law: A Critique of Natural Law Theory 18 Legal Stud. F. Hein online.

In response to this challenge, I propose that the cornerstone of a Nietzschean jurisprudence would be the notion that **a** law or **legal system is** provisionally **acceptable as long as it is life-affirming and power-generating.** This simply means that **[An]** threshold **inquiry must be made to determine if** aproposed **law seeks justification on the (unacceptable) grounds that it is mandated by nature or God, or on the (acceptable) grounds that it is a fair reflection of who we are and who we want to be as free, experimental, and "self-overcoming" individuals.** The key would be to maximize the release of power, not in the limited and literal sense of "raw power," but in the sense of self-mastery, [and] human advancement, and self-overcoming.' **Once we recognize that the legal order cannot be grounded** once and for all **as a totality, we can** go on to the task of **mold**ing **the law to fit our changing, but all too human needs. The loss of foundations**, and the accompanying legal nihilism, **is a** necessary **precondition for the** responsible **creation of a legal order that is free from metaphysical baggage.** **The Nietzschean approach would not be based on a static metaphysical view of human nature, but would** try to **respect the sense in which man is continually self-overcoming, and would attempt to open up as many avenues as possible for self-exploration and self-mastery.** If my interpretation of Nietzsche is plausible, then **Nietzsche escapes** the charge of **legal nihilism**, **because he provides a criterion for choosing between legal systems.**" First, **[H]e must reject** all laws or **legal systems** which are **tied to problematic notions of (human) nature, self-evidence, or God.** Second, **[F]or** a **law to be acceptable, it must be rooted in our** present **conception of ourselves as free and creative individuals**, and must allow maximum room for power-generation and self-mastery in the private sphere. This reading of Nietzsche makes him a legal nihilist only in the weak sense that he rejects the possibility of an ultimate grounding for the legal order. He is not a legal nihilist in the strong sense, because he actually provides a basis for choosing between alternative laws. 8

Rehabilitation is the only criminal justice model that meets this condition.

1. Rehab doesn’t depend on arbitrary comparative values of crimes and suffering. Saying my crime is worth some proportional value that I have to pay to compensate for it bites into the normative system of assigning value to meaningless disorder. The world is not a perfectly rational and ordered theater; the world is chaotic, full of crime and suffering that happens for no reason. Our anger for failing to align reality with the noumenal world shouldn’t be blindly displaced onto criminals.

2. Rehab is inherently a critical approach to the legal system. It investigates the cause of crime and tries to solve it as opposed to blindly needing to find someone to blame for random acts of chaos to restore some imaginary balance of values. Rehab doesn’t care about appeasing the demand for someone to suffer.

3. Rehab doesn’t attach normative meaning to suffering. Retribution posits that punishment must be enacted for its own sake, not to serve some other purpose, positing a static, irreducible conception of the good.

4. Rehab forgives the “debt” the criminal owes; my humanist model of rehab aims at allowing individuals to improve themselves and regain control over their lives. Rotman:  
Edgardo Rotman “Do Criminal Offenders Have a Constitutional Right to Rehabilitation?” The Journal of Criminal Law and Criminology, Vol. 44, No. 4 (Winter 1986). pp. 1023 – 1068

The humanistic model of **rehabilitation affirms** the concept of **prison inmates as possessors of rights[,].** This legal status **generates feelings of self-worth[,]** and trust in the legal system **and favors the possibility of self-command** and responsible action within society. **This** conception ultimately **leads rehabilitative efforts toward the paradigm of the inmate as a full-fledged citizen.'" The prisoners' legal status reinforces their** eventual **participation in** the shaping and governing of **society.** Thus, prisoners' rights can be qualified, using Ely's terminology, as representation-reinforcing. **This continuum of rights culminates in the right to rehabilitation,** which can be formulated as **the right to an opportunity to return to society with an improved chance of** being a useful citizen and of **staying out of prison.** This right requires not only education and therapy, but also a non-destructive prison environment and, when possible, less-restrictive alternatives to incarceration. **The right to rehabilitation is consistent with** the drive towards **the full restoration of the civil and political rights of citizenship** after release.