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

1. Aff gets RVI. The AC is always vulnerable to T since the NC is reactive and can run theory on any interp, so aff RVI checks unnecessary theory. Also, aff RVI is key to resolve the theory debate; they claim my interp has skewed substance too much to evaluate it, which means you can’t vote on it. If they don’t allow me to turn theory with an RVI, then I can’t gain offense on the only layer left in the round, making theory itself abusive. Also, if the neg presents a better interp, don’t drop me; adopt theirs and drop my argument to avoid dropping me for marginal abuse on reasonable interps.

2. Aff has a time skew since I only get 4 minutes to answer a 7 minute NC and preempt 6 minutes of negative responses. Also, negs pick their position after hearing the aff, giving them the advantage in the case debate. Also, I have to extend my offense twice, but they only have to do it once, making my offense harder to win. At the point where each side has equal offense, presume aff since I did the same work in less time.

3. Ought statements are evaluations of actions. Evaluations distinguish between good and bad, on the basis of features, and those features constitute our reasons. Having an obligation means that we have the best reason. If there were a better reason, then the obligation would instead apply to that action. All reasons to take or not take an action are evaluated comparatively on the basis of the strength of those reasons. Sufficient strength requires only that the reason be equal to the comparative reasons. If no valid justification exists, then all reasons are sufficient in comparison to the other equally invalid justifications. Therefore, any purported justification would constitute a sufficient reason. As you ought to do what you have sufficient reason to do, you ought to take the action.

4. The neg must defend the converse of the resolution: that retribution ought to be valued above rehabilitation. Key to predictability since the aff goes into the round blind with only the ability to make comparative statements, so neg should be bound to same lit base. Also key to reciprocity since allowing the neg to simply deny the normative implications of the AC would give them a 2-1 skew; they could prove either there is no value system that distinguishes the two concepts or the converse. Both key to fairness since I need access to the AC offense before any substantive debate for the ballot.

5. Theory against explicit interps in the AC is not a reason to reject the debater absent an RVI since such arguments are functionally counter-interps with no implicit offensive implication.

I value MORALITY.

Chains of moral reasoning for societal rules cannot reach valid conclusions without terminating in assertions, and these assertions define the axiomatic values we hold when forming further moral principles. Taylor:  
(Charles Taylor, “Bourdieu: Critical Perspectives”, 1993, pg. 46)

Wittgenstein shows that the **[a] subject** not only isn’t but **[cannot] be aware of** a whole host of issues which nevertheless have direct,l bearing on **the correct application of a rule.** Wittgenstein shows this by raising the possibilities of misunderstanding. **Some outsider**, unfamiliar with the way we do things, **might misunderstand what to us are** perfectly clear and **simple directions**. You want to get to town? Just **[such as] follow the arrow**s. But suppose that what seemed the natural way of following the arrow to him or her was to go in the direction of the feathers, not of the points? We can imagine a scenario: [but] there are no arrows in the outsider’s culture, but there is a kind of ray gun whose discharge fans out like the feathers on our arrows…From the intellectualist perspective, it must be that **somewhere in our mind,** consciously or unconsciously, **a premise has been laid down about how you follow arrows.** From another angle, Once we see the stranger’s mistake, we can explain what he or she ought to do. But if we can give an explanation, we must already have an explanation. SO the thought must reside somewhere in us that you follow arrows this way…There are an indefinite number of points at which, for a given explanation of a rule and a given run of paradigm cases, someone could nevertheless misunderstand, as our stranger did the injunction to follow the arrows. For instance, I might say that by “Moses” I mean the man who led the Israelites out of Egypt, but then my interlocutor might have trouble with the words “Egypt” and “Israelites”. Nor would **these questions would not come to an end when we get down to words like red, dark, sweet.** Nor would even mathematical explanation be proof against this danger…We recognize an obsession of the modern intellectual tradition, from Descartes. It didn’t see this as a problem, because it thought we could find such secure foundations, explanations in terms of features which were self-explanatory or self-authenticating. That’s why the imagined interlocutor placed his hopes in words like red, dark, sweet, **referring to** basic **empirical experiences on which we** can **ground everything else**. The force of Wittgenstein’s argument lies in its radical undercutting of any such foundationalism. Wittgenstein stresses the unarticulated—at some points even unarticulable—nature of this understanding. **Obeying a rule is a practice**”. **Giving reasons for** one’s practice in **following a rule has to come to an end**. “[as] **One’s reasons will soon give out. And then one shall act**, without reasons”. Or later, “If I have exhausted my justifications I have reached bedrock, and my spade is turned. Then I am inclined to say: **‘[and say] This is simply what I do”.**

Every individual in society holds their own positions on public issues, but those positions cannot remain private if politics can be acted upon. We must reconcile our private beliefs with those of others to resolve moral subjectivism into policies the government can enact. Kelsen:  
**Kelsen** (Hans Kelsen, Absolutism and Relativism in Philosophy and Politics, The American Political Science Review, Vol. 42, No. 5 (Oct., 1948), pp. 906-914)

**The subjectivistic character of the relativistic theory of knowledge** involves two perils. The one is a paradoxical solipsism; that is, the assumption that the ego as the subject of knowledge is the only existent reality. Such assumption **would involve a relativistic epistemology in a self-contradiction. For if the ego is the only existent reality, it 'must be an absolute reality.** The other danger is a no less paradoxical pluralism. Since the world exists only in the knowledge of the subject, according to this view, the ego is, so to speak, the center of his own world. **If**, however, **the existence of many egos must be admitted,** the consequence seems to be inevitable that **there are as many worlds as there are knowing subjects. Philosophical relativism** deliberately **avoids** solipsism as well as **pluralism**. Taking into consideration-as true relativism-the mutual relation among the various subjects of knowledge, this theory **[and] compensates its inability to secure the objective existence of the one and same world for all subjects by the assumption that the** individuals, as **subjects of knowledge**, **are equal**. This assumption implies that also the various processes of cognition in the minds of the subjects are equal, and thus the further assumption becomes possible that **the objects of knowledge**, as the results of these individual processes, **are in conformity with one another, an assumption confirmed by the external behavior of** the **individuals.**

Language, ethics, and reason cannot be private; there would be no way to judge something as correct or incorrect without public norms. We are not independent norm-makers; justifications for our moral beliefs must arise from social consensus as it is the only coherent way to resolve the infinite regress of asking for reasons for following rules. Taylor 2:

**The connections which form our background are** just de facto links, **not susceptible of any justification.** For instance, **justifications are simply imposed by our society; we are conditioned to make them.** They become “automatic,” which is why the question never arises. The view that society imposes these limits is the heart of Kripke’s interpretation of Wittgenstein. Or else they can perhaps be considered as “wired in.” **It’s just a fact about us that we react this way, as it is that we blink when something approaches our eyes, and no justification is in order**…It is his insistence that **as following rules is a social practice**. Granted, this also fits, perhaps, with Kripke’s version of the first view. But I think that, in reality, this connection of background with society reflections an alternative vision, which has jumped altogether outside the old monological outlook which dominates the epistemological tradition. Whatever Wittgenstein thought, this second view seems to me to be right. What the first cannot account for is the fact that **we do give explanations, that we can often articulate** reasons **when challenged. [For example] Following arrows towards the point is an arbitrarily imposed connection**; **it** that **makes sense, granted the way [society has decided] arrows move**. What we need to do is follow a hint from Wittgenstein and attempt to give an account of the background as understanding, **which [in turn] places [the arrow] in social space.**

State action is bound to expressions of consent to the pursuit of certain aims. Those aims must be the goals of the public since the state is not a private actor; it is merely the omnilateral will without its own preferences. Ripstein:  
Arthur Ripstein, “Force and Freedom”, page 321

**The sovereign cannot exempt itself in pursuit of a private purpose because the sovereign is not a private actor; the sovereign is the omnilateral will, and its only purposes are those inherent in the idea of the original contract.** So **the sovereign has no discretion over the ends** that **it will pursue**, **and** so **does not have means in the way that a private person has means subject to his or her choice** in setting and pursuing ends. To fail to punish, then, would be to treat its coercive power as an instrument to be used for discretionary purposes, and so to do wrong in the highest degree by renouncing its own principle, even in the form of a single exception

This means democracy. Five reasons:

Democracy makes the decision most people consent to, not what the state deems true or valuable that relies on unequal power structures. Christiano:  
<http://plato.stanford.edu/entries/democracy/> Thomas Christiano, Stanford Encyclopedia of Philosophy Democracy, Jul 27, 2006

Some argue that the basic principles of democracy are founded in the idea that each individual has a right to liberty. **Democracy**, it is said, **extends the idea that each ought to be master of** his or her **[their] life to the domain of collective decision making.** First, **each person's life is deeply affected by the** larger social, legal and cultural **environment in which he or she lives.** Second, **only when each person has an equal voice and vote** in the process of collective decision-making **will each** have **control** over **this** larger **environment.** Thinkers such as Carol Gould (1988, pp.45-85) conclude that only when some kind of democracy is implemented, will individuals have a chance at self-government. **Since individuals have a right of self-government, they have a right to democratic participation. This right is established** at least partly **independently of the worth of the outcomes of democratic decision making**. The idea is that the right of self-government gives one a right, within limits, to do wrong. **Just as an individual has a right to make some bad decisions for himself** or herself**, so a group** of individuals have **[has] a right to make** bad or **unjust decisions for** themselves regarding those **[shared] activities** they share.

Only democracy respects the equality of each person’s consent to the state. Christiano 2:

Many democratic theorists have argued that **democracy is a way of treating persons as equals when there is good reason to impose** some kind of **organization on their shared lives but they disagree about how best to do it.** On one version, defended by Peter Singer (1973, pp. 30-41), **when people** insist on **differ**ent ways of arranging matters properly**, each person** in a sense **claims a right to be dictator over their shared lives. But these claims to dictatorship cannot all hold up**, the argument goes**. Democracy embodies a** kind of peaceful and **fair compromise among these conflicting claims** to rule**. Each compromises equally on what he claims as long as the others do, resulting in each having an equal say over decision making.** 1999, chap. 5).

Democracy allows for the inclusion of the most expressions of opinion, allowing for more accurate and representative policies. Christiano 3:

Two kinds of in instrumental benefits are commonly attributed to democracy: relatively good laws and policies and improvements in the characters of the participants. John Stuart Mill argued that a democratic method of making legislation is better than non-democratic methods in three ways: strategically, epistemically and via the improvement of the characters of democratic citizens (Mill, 1861, Chapter 3). Strategically, **democracy** has an advantage because it **forces decision-makers to take into account the interests, rights and opinions** **of most people in society. Since democracy gives** some **political power to each, more people are taken into account than under aristocracy or monarchy.** The most forceful contemporary statement of this instrumental argument is provided by Amartya Sen, who argues, for example, that “no substantial famine has ever occurred in any independent country with a democratic form of government and a relatively free press” (Sen 1999, 152). The basis of this argument is that politicians in a multiparty democracy with free elections and a free press have incentives to respond to the expressions of needs of the poor. Epistemologically **democracy is** thought to be **the best decision-making method** on the grounds that it is generally more reliable in helping participants discover the right decisions. **Since democracy brings a lot of people into** the process of **decision making, it** **can take advantage of many sources of information and critical assessment of laws and policies.** Democratic decision-making tends to be more informed than other forms about the interests of citizens and the causal mechanisms necessary to advance those interests**.**

Democracy encourages the most rational individual assessment of state policy and optimizes the voting power of citizens. Christiano 4:

Furthermore, **the broad based discussion** typical **of democracy enhances** the **critical assessment of the different moral ideas that guide decision-makers.** Many have endorsed democracy on the basis of the proposition that democracy has beneficial effects on character. Many have noted with Mill and Rousseau that **democracy** tends to **make[s] people stand up for themselves** more than other forms of rule do **because it makes collective decisions depend on them** more than monarchy or aristocracy do. Hence, in democratic societies individuals are **encourag[ing]**ed **[individuals] to be more autonomous.** In addition, **democracy** tends to **get[s] people to think** carefully and **rationally more** than other forms of rule **because it makes a difference whether they do or not. Finally,** some have argued that **democracy** tends to **enhance[s] the moral qualities of citizens. When they participate in making decisions, they have to listen to others,** they are called upon to **justify themselves to others and** they are forced to **think** in part **in terms of the interests of others.** Some have argued that when **people** find themselves in this kind of circumstance, they **come** genuinely **to think in terms of** the common good and **justice.** Hence, some have argued that democratic processes tend to enhance the autonomy, rationality and morality of participants. Since these beneficial effects are thought to be worthwhile in themselves, they count in favor of democracy and against other forms of rule (Mill 1861, p. 74, Elster 2002, p. 152). Some argue in addition that the above effects on character tend to enhance the quality of legislation as well. **A society of autonomous, rational, and moral decision-makers is more likely to produce good legislation than a society ruled by a self-centered person** or small group of persons **who rule[s] over** slavish and **unreflective subjects.**

Absolute moral statements aren’t effective in shaping government policies. Polls don’t investigate why people hold certain values since the function of government is not to respond to individual reasons for wills, but the wills themselves. Polls are the best way to measure public opinion. Shapard Research:  
<http://soonerpoll.com/polls-and-democracy/> Shapard Research

**Public opinion** is a critical force in shaping and transforming society. Properly conducted and disseminated survey **research gives the general public an opportunity for its voice to be heard.**  Through opinion research the public, **politicians**, the media and other interested groups **have access to accurate measures of public attitudes and intentions.** “Scientific” polling is among the most successful political developments of the last century.  Public opinion polls help guide policy by giving decision-makers impartial information about what the public wants.  **Polls also alert the public to their own hopes, desires, and political goals.  They are mirrors, permitting individuals to understand where they fit into the political system.** Media reports of the results of opinion polls tell readers and listeners that their opinions are important, and can even sometimes be more important than the opinions of the elite.The democratic urge towards participation and the journalistic desire to ask questions have merged to create the extensive media polling of the last 70 years.  Imagine a political system where the public is told what it thinks by its political leaders, where election winners have the ability to tell voters why they voted the way they did and where the government, when it looks for public input, asks only its friends what the public thinks.  **The alternative to** properly conducted **polls is a public and a government exposed only to unscientific and** probably **inaccurate assertions about what people believe, in many cases presented by partisan individuals** or organizations with a political agenda.Public opinion polling seems today like a fixture of politics in a democracy, sometimes helpful and sometimes annoying.  But thanks to such polls, journalists can trace, step by step, the ups and downs of election campaigns and the rise and fall of political leaders’ popularity.  Political scientists obtain from them unique information on the electoral choices of different groups of citizens and on the motivations which explain those choices.  **Sociologists can follow shifts of opinion on the major social problems and chart the evolution of values.**  Political leaders and their opponents can trace the movements in their relative support between elections, as well as the impact of important national or international events on the public.  And voters can now make themselves heard at all times and compare their own views with those of others. **In democracies, poll results are** recognized and **credible sources for journalists, who need** those sources in order to have **authority and detachment.  Accurate reporting of polls** in the news media **keeps** the **government honest by not allowing misrepresentations of public opinion.**  When new nations join the ranks of democracies, polls soon appear.  That is the case today in Eastern Europe, as it was yesterday in Latin America.  Totalitarian regimes, even when they claim to have won 99% of votes in single list elections, have never risked allowing opinion polls to be conducted in which their citizens might be able to say whether they would prefer a freely chosen regime.Indeed opinion **polls and freedom cannot be separated since the relationship between the pollsters and the polled presupposes** a climate of **confidence.**  Published results become credible only when all opinions can be freely expressed, unpleasant as they might be to those in power, or one side of the debate or the other.

The standard is CONSISTENCY WITH POPULAR CONSENSUS.

I contend that polls show the public prefers rehabilitation over retribution.

87% of people interviewed in the most solid study on the topic said they specifically preferred the wording of the topic to the converse. My evidence was evaluated for accuracy and objectivity by the American Association of Public Opinion Research, the only source the government accepts as legitimate peer reviews of statistical analyses. Krisberg and Marchionna:  
FOCUS Views from the National Council on Crime and Delinquency “Attitudes of US Voters toward Prisoner Rehabilitation and Reentry Policies”, April 2006, Barry Krisberg and Susan Marchionna http://d1lj51l9p3qzy9.cloudfront.net/handle/10207/bitstreams/5943.pdf

Of those polled, 74% are somewhat or very concerned about the problem of crime in their communities, and 79% are concerned or fearful about the annual release of 700,000 prisoners. **By** almost **an 8 to 1 margin (87% to 11%), the US voting public is in favor of rehabilitative services for prisoners as opposed to a punishment-only system.** Of those polled, **70% favored services both during incarceration and after release from prison.** Only 14% of those polled thought that people coming out of prison were less likely to commit new crimes than they were before imprisonment. Over 50% thought the likelihood was at least the same, while 31% thought that the likelihood of new crime was greater after prison than before. By strong majorities, **US voters feel that a lack of life skills, the experience of being in prison, and obstacles to reentry are major factors in the rearrest of prisoners after release. Few thought that criminality is inherent. By an overwhelming majority (82%),** likely **voters felt that** a lack of **job training was a very signiﬁcant barrier to released prisoners avoiding subsequent crime.** They also thought that medical care, the availability of public housing, and student loans are important (86%, 84%, and 83% respectively). By huge margins, those polled felt that job training, drug treatment, mental health services, family support, mentoring, and housing were all very important services that should be offered to prisoners. Less than 10% of those polled (only 2% in the case of job training) thought that these services were unimportant. Of those polled, 44% felt that planning for reentry should begin at sentencing, another 27% thought it should begin 12 months prior to release. Only 7% were not in favor of planning for reentry. **When asked about** pending **legislation that would allocate federal dollars to** prisoner **reentry** (The Second Chance Act), **78% were in support.** Of those, almost half expressed strong support.

The public prefers a system that investigates and treats the root cause of crime instead of punishing its negative externalities. Hart:  
“Changing Public Attitudes toward the Criminal Justice System” February 2002 Peter Hart

**Public opinion has shifted substantially on the question of whether to take a preemptive approach to crime reduction by addressing the underlying causes of crime, or whether to focus on deterrence through stricter sentencing.** In 1994, Americans were divided on this question, when 48% favored addressing the causes of crime and 42% preferred the punitive approach. Since then, there has been significant movement toward the progressive view. **The public now favors dealing with the roots of crime over strict sentencing by a two to one margin, 65% to 32%.**

Members of every major demographic prefer rehab to retribution. Even victims and their families prefer for the criminal to be rehabilitated. Hart 2:

**Americans strongly favor rehabilitation** and reentry programs **over incapacitation as the best method of ensuring public safety. Nearly two-thirds of all Americans (66%) agree that the best way to reduce crime is to rehabilitate prisoners** by requiring education and job training so they have the tools to turn away from a life of crime, while just one in three (28%) believe that keeping criminals off the streets through long prison sentences would be the more effective alternative. This idea has broad-based support, with **solid majorities of whites (63% / 31%), fundamentalist Protestants (55% / 36%), and Republicans (55% / 38%) support**ing **rehabilitation over incapacitation as the best way to reduce crime.** Interestingly, the **23% of Americans who report that they or a close family member have been the victim of a violent crime endorse rehabilitation** even more strongly than the general public, **by a decisive 73% to 21% margin.**

The public supports rehabilitation for the most common types of nonviolent crimes. Hart 3:

More broadly, **three-quarters (75%) of all adults favor sentencing nonviolent offenders to supervised community service or probation instead of imprisonment**, including 41% who strongly favor this proposal. A similar proportion (73%) approves of sentencing nonviolent offenders to serve prison time in the evening or on weekends so they can keep working at their job during the day (40% strongly support). **A majority of Americans (63%) also favors simply reducing prison sentences for people convicted of nonviolent crimes**, although support for this measure is considerably weaker: only 26% strongly favor the proposal. There is broad support for all three of these measures.

Only rehabilitation promotes the enfranchisement of criminal defendants and restores their participation in shaping public policy. 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.