## Case

### 2AC Circumvention

#### Congressional opposition to the authority curbs Presidential action – robust statistical and empirical proof

KRINER 10 Assistant professor of political science at Boston University [Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, page 228-231]

Conclusion

The sequence of events leading up to the sudden reversal of administration policy and the dramatic withdrawal of U.S. Marines from Lebanon clearly demonstrates that open congressional opposition to Reagan's conduct of the mission in Beirut was critically important in precipitating the change in course. By tracing the pathways of congressional in- fluence, the case study achieves two important objectives. First, it vividly illustrates Congress's capacity to influence the scope and duration of a use of force independent of major shifts in public opinion and changing conditions on the ground. The analysis makes clear that there was no dramatic shift in public opinion after the Beirut barracks bombing that compelled the Reagan administration to withdraw the Marines; in fact, in the wake of the attack the public rallied behind the president. As such, opponents of Reagan's policies in Congress initially fought against the tide of public opinion, and the modest decline in popular support for the president's handling of the Lebanon mission occurred only after a sustained campaign against the deployment on Capitol Hilt.89 Similarly, the administration's own internal analysis of the situation in early January 1984 makes clear that changing conditions on the ground did not necessitate a dramatic change in the nature of the Marine mission. Indeed, by the National Security Council's own estimate, some conditions in the region were actually improving. Instead, administration officials repeatedly emphasized domestic pressures to curtail the scope and duration of the Marine mission.90 Moreover, as the political and military situation in Lebanon worsened in late January and early February 1984, it is interesting that a number of key administration officials publicly and privately believed that there was a direct link between congressional opposition at home and the deterioration of the situation on the ground in the Middle East.

Second, the case study illustrates how the formal and informal congressional actions examined in the statistical analyses of chapter 4 affected presidential decision-making through the proposed theoretical mechanisms for congressional influence over presidential conduct of military affairs developed in chapter 2. Vocal opposition to the president in Congress-expressed through hearings and legislative initiatives to curtail presidential authority, and the visible defection from the White House of a number of prominent Republicans and erstwhile Democratic allies-raised the political stakes of staying the course in Lebanon. Nothing shook Reagan's basic belief in the benefits to be gained from a strong, defiant stand in Beirut. But the political pressure generated by congressional opposition to his policies on both sides of the aisle raised the likely political costs of obtaining these policy benefits. Congressional opposition also influenced the Reagan administration's decision-making indirectly by affecting its estimate of the military costs that would have to be paid to achieve American objectives. In the final analysis, through both the domestic political costs and signaling mechanisms discussed in chapter 2 , congressional opposition contributed to the administration's ultimate judgment that the benefits the United States might reap by continuing the Marine mission no longer outweighed the heightened political and military costs necessary to obtain them.

Finally, while the Marine mission in Lebanon is admittedly but one case, it is a case that many in the Reagan administration believed had important implications for subsequent military policymaking. In a postmortem review, Don Fortier of the National Security Council and Steve Sestanovich at the State Department warned that the debacle in Lebanon raised the possibility that, in the future, the decision to use force might be akin to an all-or-nothing decision. "If the public and Congress reject any prolonged U.S. role (even when the number of troops is small)," the administration analysts lamented, "we will always be under pressure to resolve problems through briefer, but more massive involvements-or to do nothing at all." Thus, from the administration's "conspicuously losing to the Congress" over Lebanon policy, Fortier and Sestanovich argued that the White House would have to anticipate costly congressional opposition if similar actions were launched in the future and adjust its conduct of military operations accordingly, with the end result being a "narrowing of options" on the table and more "limited flexibility" when deploying major contingents of American military might abroad.91 This last point echoes the first anticipatory mechanism posited in chapter 2, and reminds us that Congress need not overtly act to rein in a military action of which it disapproves for it to have an important influence on the scope and duration of a major military endeavor. Rather, presidents, having observed Congress's capacity to raise the political and tangible costs of a given course of military action, may anticipate the likelihood of congressional opposition and adjust their conduct of military operations accordingly.

## T

### 2AC Vagueness

#### 1) We specify the TYPE of restriction we do – we don’t have to specify the ACTOR of the restriction – theres no rez burden – the rez burden is to RESTRICT authority of the prez externally, means all of their offense is preserved like the XO CP and we’ll defend against BOTH congress and COURTS disads, we don’t have to for CP competition.

#### Czar arg is aobut people consulting with Obama – XO self restrint not the plan?

#### 2) Congress can do it

KAISER 80 The Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Congressional Action to Overturn Agency Rules: Alternatives to the Legislative Veto; Kaiser, Frederick M., 32 Admin. L. Rev. 667 (1980)]

In addition to direct statutory overrides, there are a variety of statutory and nonstatutory techniques that have the effect of overturning rules, that prevent their enforcement, or that seriously impede or even preempt the promulgation of projected rules. For instance, a statute may alter the jurisdiction of a regulatory agency or extend the exemptions to its authority, thereby affecting existing or anticipated rules. Legislation that affects an agency's funding may be used to prevent enforcement of particular rules or to revoke funding discretion for rulemaking activity or both. Still other actions, less direct but potentially significant, are mandating agency consultation with other federal or state authorities and requiring prior congressional review of proposed rules (separate from the legislative veto sanctions). These last two provisions may change or even halt proposed rules by interjecting novel procedural requirements along with different perspectives and influences into the process.

It is also valuable to examine nonstatutory controls available to the Congress:

1. legislative, oversight, investigative, and confirmation hearings;

2. establishment of select committees and specialized subcommittees to oversee agency rulemaking and enforcement; 3. directives in committee reports, especially those accompanying legislation, authorizations, and appropriations, regarding rules or their implementation; 4. House and Senate floor statements critical of proposed, projected, or ongoing administrative action; and 5. direct contact between a congressional office and the agency or office in question. Such mechanisms are all indirect influences; unlike statutory provisions, they are neither self-enforcing nor legally binding by themselves. Nonetheless, nonstatutory devices are more readily available and more easily effectuated than controls imposed by statute. And some observers have attributed substantial influence to nonstatutory controls in regulatory as well as other matters.3 It is impossible, in a limited space, to provide a comprehensive and exhaustive listing of congressional actions that override, have the effect of overturning, or prevent the promulgation of administrative rules. Consequently, this report concentrates upon the more direct statutory devices, although it also encompasses committee reports accompanying bills, the one nonstatutory instrument that is frequently most authoritatively connected with the final legislative product. The statutory mechanisms surveyed here cross a wide spectrum of possible congressional action: 1. single-purpose provisions to overturn or preempt a specific rule; 2. alterations in program authority that remove jurisdiction from an agency; 3. agency authorization and appropriation limitations; 4. inter-agency consultation requirements; and 5. congressional prior notification provisions.

#### 2) Courts could do it

Singer 07 (Jana, Professor of Law, University of Maryland School of Law, SYMPOSIUM A HAMDAN QUARTET: FOUR ESSAYS ON ASPECTS OF HAMDAN V. RUMSFELD: HAMDAN AS AN ASSERTION OF JUDICIAL POWER, Maryland Law Review 2007 66 Md. L. Rev. 759)

n25. See, e.g., Dep't of the Navy v. Egan, 484 U.S. 518, 530 (1988) (noting the reluctance of courts "to intrude upon the authority of the Executive in military and national security affairs"); see also Katyal, supra note 1, at 84 (noting that "in war powers cases, the passive virtues operate at their height to defer adjudication, sometimes even indefinitely"); Harold Hongju Koh, Why the President (Almost) Always Wins in Foreign Affairs: Lessons of the Iran-Contra Affair, 97 Yale L.J. 1255, 1313-17 (1988) (discussing the Court's use of justiciability doctrines to refuse to hear challenges to the President's authority in cases involving foreign affairs); Gregory E. Maggs, The Rehnquist Court's Noninterference with the Guardians of National Security, 74 Geo. Wash. L. Rev. 1122, 1124-38 (2006) (discussing the Rehnquist Court's general policy of nonintervention in cases concerning actions of governmental agencies and political entities in national security matters); Peter E. Quint, Reflections on the Separation of Powers and Judicial Review at the End of the Reagan Era, 57 Geo. Wash. L. Rev. 427, 433-34 (1989) (discussing the use of the political question doctrine as a means to avoid judicial restrictions on presidential power in cases involving military force).

#### Decreasing authority requires reducing the permission to act, not the ability to act.

Taylor, 1996 (Ellen, 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### Super regression – reject it

#### Reasonability -- competing interpretations are arbitrary and make aff prep impossible

### Aspec

#### 1.Counter-interp – We have to specify to the extent of the resolution

#### 2. Prefer it

#### A. No resolution basis for specification -- our interp is key to pre-round research and predictable limits

#### B. Agent CPs are bad -- their interp leads to unlimited agent CPs that moot the 1ac and kill topic education.

#### C. Infinitely Regressive -- creates a slippery slope, and unlimits affirmative mechanisms -- kills clash and turns all their offense about why agent debates are good

#### 3. Functional limits check -- affs would still have to be statutory or judicial restrictions, means they still get links based off of the type or restrictions

#### 4. Reasonability -- competing interpretations are arbitrary and make aff prep impossible

#### Agency Irrelevent

Pillar 2013, Paul R. Pillar¶ Nonresident Senior Fellow, Foreign Policy, Center for 21st Century Security and Intelligence Brookings Institute, August 1, 2013, “Stop Bashing the NSA”, http://www.brookings.edu/research/opinions/2013/08/01-stop-bashing-nsa-pillar

The brouhaha over some of the National Security Agency's collection activities is the most recent example of a tendency—by the public, the press and the Congress—to treat certain controversial issues of public policy as if they were problems with particular government institutions even when they really aren't. Of course, government institutions, like other institutions, often have problems, whether of ineffectiveness, inefficiency or even malfeasance. But what I am referring to instead are policies and programs that, although implemented by a particular department or agency, exist for reasons found elsewhere—and with the mere existence of the policy or program, more than how it is implemented, being the main point of controversy.

This phenomenon can arise with any government component, but intelligence agencies seem especially liable to be viewed in this misplaced way. Scott Shane of the New York Times observes that U.S. intelligence agencies “have entered a period of broad public scrutiny and skepticism,” citing controversies over interrogation and drone strikes as well as the more recent attention to electronic surveillance. The fact that these agencies, by mission and charter, do not make policy means that any perceptions that they are the drivers of whatever policy is the subject of controversy are very likely incorrect. The secrecy that surrounds these agencies and contributes to ignorance about them is another factor, although occasionally journalists shed corrective light on the subject, as Walter Pincus of the Washington Post has done with regard to the specific NSA-implemented electronic collection programs that are at the center of the most recent controversies.

Those programs do not exist because someone at NSA thought it would be nifty to expand the agency's operations by doing something like that. They exist because the American public—with its desires and demands expressed through the political branches of government—wanted vigorous intelligence efforts on behalf of counterterrorism and because the technology is such that large-scale electronic collection is one of the most promising ways of making such efforts. NSA is implementing the programs because it is the component that happens to have the mission and capability to do such things. The purpose, general parameters and limitations of the programs all have been set outside the agency.

///////////////////////MARKED/////////////

The specific operational designs are the work of NSA, but any design that was not intensive and extensive would not have delivered the expected vigor.

The Central Intelligence Agency has figured even more often than NSA into such misdirected controversy. Although recent times have featured issues involving the handling of detainees, a variety of covert actions that later come to light have for many years illustrated the popular conflation of controversial policies with the agency charged with implementing them. The legal framework for covert action that has been in place since the 1970s forces the direct involvement of the most senior policy-makers, including the president, and Congressional leaders. What the agency doing the implementing can and cannot do is carefully detailed and circumscribed. CIA frequently gets involved in implementation because it happens to be the agency with the most capability to do things overseas covertly. But it makes about as much sense to refer to an operation as a “CIA covert action” as it would to refer to the “Department of Defense war in Iraq.”

One reason for the conflation of institutions with policies, and for the projection onto the former of controversies about the latter, is that this imparts a satisfying concreteness to what might otherwise be a rather inchoate and difficult-to-understand issue. Directing one's dissatisfaction to a known, named institution with familiar initials feels better than directing it against a policy process in which there may have been many hands. Hauling officials from those institutions before Congressional committees in public hearings makes things even more concrete and seemingly tractable by applying specific names and faces to the subject.

Another reason for treating controversies this way is that it helps the public and political leaders to avoid having to confront squarely the role that the public and political leaders themselves played in bringing about what became controversial. It makes it easier to overlook the inconsistency of their own mood swings, their changing demands, and their prior support for what later came to be seen as blunders or scandals.

This lack of self-confrontation by the public and political class (and often by the press) leads to the biggest cost of the misdirected conflation of institutions with issues. It impedes the correction of national mistakes. Reducing the chance of blunder or scandal in the future requires full discussion and understanding of everything that led to blunders and scandals in the past. Simply characterizing something as a problem with the XYZ agency does not do that.

## Counterplan

### 2AC Reveal CP

B) Doesn’t decrease bureaucratic inertia – the Prez will by-pass self restraint, decreasing intertia in the chain of command is NECESSARY to solve nuclear retal – Extinction DA

#### Battles between jurisdiction in cyber space makes the propensity for cyber retaliation likely. Congressional involvement is necessary to stop bureaucratic inertia.

Moss 02 ( KENNETH B. Moss, Associate Professor, Felix Posen Chair in Modern Jewish Studies Modern Jewish history, Russia and Eastern Europe, nationalism, theory and practice of cultural history – Johns Hopkins, “Information Warfare and War Powers: Keeping the Constitutional Balance”, VOL.26:2 SUMMER/FALL 2002 p. 239 – 245 )

The last part of this scenario, involving a Presidential order to use limited military force and an ensuing disagreement with Congress over prior consultation and authorization to use force, is fairly predictable. Congress has been trying to protect its war powers-the power of declaration of war or an authorization to use force-since the 1970s through the War Powers Resolution of 1973 and other measures. But the first half of the scenario, involving "information war- fare," as it is now being called, places law and U.S. lawmakers on terra incognita. Perhaps consultation with Congress would occur with the senior Senate and House leadership, the Senate Foreign Relations Committee or the International Relations Committee in the House, as well as the intelligence committees, but it is just as likely that no consultation would take place. The role of Congress in information warfare operations is unclear because the status of such operations remains undefined in national law, international law, or the laws of warfare. Yet, if Congress is to protect its constitutional powers in war-making and the use of military force, the time has come when it must study the subject of information warfare and amend or create legislation to address this issue.

#### Expediency kills soft power

Belk & Noyes 12 (Robert Belk Naval aviator and Politico-Military Fellow, studying international and global affairs at the Harvard Kennedy School, and Matthew Noyes studies international security policy and is a senior associate with the cybersecurity practice at Good Harbor Consulting. Prior to attending the Harvard Kennedy School, he served for five years as an infantry officer in the US army serving multiple tours in Iraq. Following graduation he plans to continue working on cybersecurity issues. He has a degree in Computer Science and Applied Computational Mathematics from the University of Washington., Advised by Professor Joseph Nye & Professor Monica Toft 20 March 2012, “On the Use of Offensive Cyber Capabilities A Policy Analysis on Offensive US Cyber Policy”, <http://belfercenter.ksg.harvard.edu/files/cybersecurity-pae-belk-noyes.pdf>)

The U.S. must be able to project the second and third order effects of conducting external operations in cyberspace. One critical example would be the soft power implications for such operations. Specifically, most civilian global perceptions of the Internet (especially in light of the Arab Awakening) focus on peaceful uses. External cyber operations or other actions that may affect normal cyber activities, therefore, can adversely affect America’s soft power.

A recent example of this is the Egyptian protesters’ reaction to the Bay Area Transit Authority’s (BART) shut down of cell service in one of their stations in August 2011. In anticipation of a protest at one of its stations, BART officials halted cell service in order to minimize the gathering. Many Bay Area citizens viewed this as a limit on their right to peaceful assembly. Egyptian activists from the Tahrir Square demonstrations seemed to agree. They began voicing their disapproval by referencing BART in tweets as “MuBARTak.”62 Likening BART’s actions to those of the deposed president reflects a certain loss of prestige abroad, signifying an erosion of soft power.

In that vein, the U.S. must consider the implications for external cyber operations in affecting perceptions of the U.S. abroad. A cyber action that is Executionally or Strategically expedient may have second or third order effects that diminish American soft power.

**Extinction**

Joseph **Nye 8** is professor of international relations at Harvard University, “American Power After the Financial Crises,” <http://www.foresightproject.net/publications/articles/article.asp?p=3533>, DOA: 7-23-13, y2k

Power always depends on context, and in today's world, it is distributed in a pattern that resembles a complex three-dimensional chess game. On the top chessboard, military power is largely unipolar and likely to remain so for some time. But on the middle chessboard, economic power is already multi-polar, with the US, Europe, Japan and China as the major players, and others gaining in importance. **The bottom chessboard is the realm of transnational relations that cross borders outside of government control,** and **it includes actors as** **diverse as bankers** electronically **transferring sums larger than most national budgets** at one extreme, **and terrorists transferring weapons** **or hackers disrupting Internet operations** at the other. **It** also **includes new challenges like pandemics and climate change**. On this bottom board, power is widely dispersed, and it makes no sense to speak of unipolarity, multi-polarity or hegemony. **Even in the aftermath of the financial crisis, the giddy pace of technological change is likely to continue to drive globalisation, but the political effects will be quite different for the world of nation states and the world of non-state actors**. In inter-state politics, the most important factor will be the continuing "return of Asia". In 1750, Asia had three-fifths of the world population and three-fifths of the world's product. By 1900, after the industrial revolution in Europe and America, Asia's share shrank to one-fifth of the world product. By 2040, Asia will be well on its way back to its historical share. **The "rise" in the power of China and India may create instability**, but it is a problem with precedents, and we can learn from history about how our policies can affect the outcome. **A century ago, Britain managed the rise of American power without conflict, but the world's failure to manage the rise of German power led to two devastating world wars.** In transnational politics, **the information revolution is dramatically reducing the costs of computing and communication. Forty years ago, instantaneous global communication was possible but costly, and restricted to governments and corporations**. Today it is virtually free to anyone with the means to enter an internet café. **The barriers to entry into world politics have been lowered, and non-state actors now crowd the stag**e. In 2001, **a non-state group killed more Americans than the government of Japan killed at Pearl Harbor**. **A pandemic** spread by birds or travelers on jet aircraft **could kill more people than perished in the first or second world wars**. This is a new world politics with which we have less experience. The problems of power diffusion (away from states) may turn out to be more difficult than power transition among states. **The problem for American power in the 21st century is that there are more and more things outside the control of even the most powerful state**. Although the United States does well on the traditional measures, there is increasingly more going on in the world that those measures fail to capture. **Under the influence of the information revolution and globalisation, world politics is changing in a way that means Americans** cannot achieve all their international goals acting alone. For example, **international financial stability** **is vital to the prosperity of Americans,** but the United States needs the cooperation of others to ensure it. **Global climate change too will affect the quality of life, but the United States cannot manage the problem alone**. **And in a world where borders are becoming more porous than ever to everything from drugs to infectious diseases to terrorism, America must mobilise international coalitions to address shared threats and challenges.** As the largest country, American leadership will remain crucial. The problem of American power after this crisis is not one of decline, but realisation that **even the largest country cannot achieve its aims without the help of others.**

#### **C) Jurisdictional battles cause agency side-stepping – congress needs a STATUTORY ROADMAP to begin a change in executive policy.**

#### Lack of certainty makes unintended escalation inevitable

Owens et al. 09 (WILLIAM A. OWENS, AEA Holdings, Inc., Co-chair KENNETH W. DAM, University of Chicago, Co-chair THOMAS A. BERSON, Anagram Laboratories GERHARD CASPER, Stanford University DAVID D. CLARK, Massachusetts Institute of Technology RICHARD L. GARWIN, IBM Fellow Emeritus JACK L. GOLDSMITH III, Harvard Law School CARL G. O’BERRY, The Boeing Company JEROME H. SALTZER, Massachusetts Institute of Technology (retired) MARK SEIDEN, MSB Associates SARAH SEWALL, Harvard University WALTER B. SLOCOMBE, Caplin & Drysdale WILLIAM O. STUDEMAN, U.S. Navy (retired) MICHAEL A. VATIS, Steptoe & Johnson LLP, “Technology, Policy, Law, and Ethics Regarding U.S. Acquisition and Use of Cyberattack Capabilities”, pdf)

If an adversary conducts a cyberattack against the United States, a first question for U.S. decision makers will be knowledge of the attack’s impact and magnitude. Such knowledge is necessary to inform an appropriate U.S. response. (If, for example, the United States wishes to make a commensurate response, it needs to know what parameters of the incoming attack would characterize a commensurate response.)

But in many kinds of cyberattack, the magnitude of the impact of the first cyberattack will be uncertain at first, and may remain so for a considerable period of time. Decision makers may then be caught between two challenges—a policy need to respond quickly and the technical fact that it may be necessary to wait until more information about impact and damage can be obtained. (As noted in Section 2.5, these tensions are especially challenging in the context of active defense.)

Decision makers often feel intense pressure to “do something” immediately after the onset of a crisis, and sometimes such pressure is warranted by the facts and circumstances of the situation. On the other hand, the lack of immediate information may prompt decision makers to take a worst-case view of the attack and thus to assume that the worst that might have happened was indeed what actually happened. Such a situation has obvious potential for inappropriate and unintended escalation.

### 2AC Brecher CP

#### Counterplans that fiat the executive are a reason to reject the team -

#### A. Object Fiat – they change the position of the thing we are trying to restrict – that ruins neg ground.

#### B. Abuses the literature which only exists because of an abusive executive.

#### They can have CPs that do a different restriction to solve their restriction debate good warrant.

#### Perm do the counter plan — it’s an example of how the aff can be implemented — their author

Brecher 12 (Aaron P., , JD candidate at Michigan Law, Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations, [www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf](http://www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf))

**This Part argues that** the federal government **should adopt the presumption that cyberattacks will be carried out under the covert action statute**, and that the best way forward is for the president to issue an executive order making the covert action regime the presumptive framework for cyberattacks. It includes a brief discussion of why a president might willingly constrain her discretion by issuing the proposed executive order. It also shows that while the internal executive processes associated with both military and intelligence legal frameworks help mitigate the risk of cyberattacks’ misuse by the executive, **only the covert action regime provides an adequate role for Congress**. Finally, this Part argues that the executive order option is preferable to one alternative proposed by scholars—enacting legislation—because of the practical difficulties of passing new legislation.

#### Perm do both — only the perm solves legitimacy — their author

Brecher 12 (Aaron P., , JD candidate at Michigan Law, Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations, [www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf](http://www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf))

It has become axiomatic of American constitutional doctrine that **presidential decisions gain greater** constitutional **legitimacy** **when** they are **carried out with Congress’s approval**. Though the president has tremendous freedom to act autonomously when conducting foreign affairs, the concerted action of both elected branches strengthens the presumption that the presidential policy is lawful. It is unclear, however, what the respective powers of either branch are when the president and Congress actively oppose one another, or when the president acts in the face of congressional silence.84 In the exercise of constitutional war powers, it seems clear that the president can order the responsive use of force, but becomes less so when faced with the question of whether the president may initiate an armed conflict. **Congress is** probably **empowered to place substantive limits on the scope of hostilities and the initiation of conflicts.**

#### Links to politics – immense opposition to bypassing debate

Hallowell 13 (Billy Hallowell, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>)

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”

And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”

The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

#### No solvency- Congress CANNOT prohibit

Colella ‘88¶ Frank SPRING, 1988 54 Brooklyn L. Rev. 131

Because the subsequent versions of the amendment sought to deny the executive any latitude in supporting the Contras, they seem to be examples of congressional overreaching. Congress may regulate aspects of "foreign covert action," but it cannot totally bar the president from carrying them out. n151 One commentator incisively observes, "[C]ongress cannot deny the President the capacity to function effectively in this area any more than it could deny the courts the capacity to carry out their independent constitutional duties." n152 The restrictions contained in later versions of the amendments n153 make it apparent that Congress prevented effective execution of the president's policy objectives.

#### Cant solve retal –

A) No checks and balances – lack of transparency and congressional checks makes pre-emptive OCO use inevitable

**Only a change in CHECKS AND BALANCES solve – international distrust of US policies means the cred advantage is still a DA to the CP**

Rothschild 13 (Matthew, Feb 4, "The Danger's of Obama's Cyber War Power Grab," [www.progressive.org/dangers-of-obama-cyber-war-power-grab](http://www.progressive.org/dangers-of-obama-cyber-war-power-grab))

When our founders were drafting the Constitution, they went out of their way to give warmaking powers to Congress, not the President.

They understood that if the President could make war on his own, he’d be no different than a king.

And they also understood, as James Madison said, that such power “would be too much temptation” for one man.

And so they vested that power in Congress.

But since World War II, one President after another has usurped that power.

The latest usurper is President Obama, who did so in Libya, and with drones, and now is prepared to do so in cyberspace.

According to The New York Times, the Obama Administration has concluded that the President has the authority to launch preemptive cyberattacks.

This is a very dangerous, and very undemocratic power grab.

There are no checks or balances when the President, alone, decides when to engage in an act of war.

And this new aggressive stance will lead to a cyber arms race. The United States has evidently already used cyber weapons against Iran, and so many other countries will assume that cyber warfare is an acceptable tool and will try to use it themselves.

Most troubling, U.S. cybersupremacy—and that is Pentagon doctrine—will also raise fears among nuclear powers like Russia, China, and North Korea that the United States may use a cyberattack as the opening move in a nuclear attack.

For if the United States can knock out the command and control structure of an enemy’s nuclear arsenal, it can then launch an all-out nuclear attack on that enemy with impunity. This would make such nuclear powers more ready to launch their nuclear weapons preemptively for fear that they would be rendered useless. So we’ve just moved a little closer to midnight.

Now, I don’t think Obama would use cyberwafare as a first strike in a nuclear war. But our adversaries may not be so sure, either about Obama or his successors.

They, too, worry about the temptations of a President.

#### Congress is key to transparency – cant solve china

Butler 4/26 (Appellate Advocacy Counsel for the Electronic Privacy Information Center, When Cyberweapons End Up On Private Networks: Third Amendment Implications for Cybersecurity Policy, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2257078>)

A. Authority: Congress Must Be Involved in Establishing Any Framework for the Authorization of Cyberoperations **Given that the Third Amendment requires war-time quartering be conducted “in a manner to be prescribed by law**,”223 Congress must have a role in establishing the framework used to authorize any offensive cyberoperation. This **legislative involvement would not only ensure that all cyberoperations have adequate legal authorization but** it would also **promote** the **broader goals of transparency and cooperation that the President has emphasized throughout this process**. So far Congress has focused its energy on perceived problems rather than real solutions.224 A debate raged in the 112th Congress over whether to let DHS or NSA take the lead on a proposed information-sharing environment.225 This turf war was quite tangential from the problems of substandard security for critical systems and a lack of legal clarity as to the role of each government agency in responding to an external threat or strategic opportunity.226 **The only congressional involvement in developing a cybersecurity framework so far has been its brief affirmance in the 2012 National Defense Authorization Act227 that the President may conduct “operations in cyberspace” subject to the traditional legal regimes applicable to kinetic warfare.228 Congress’s active role in setting our nation’s military actions in cyberspace is the only way to have a national dialogue and to avoid relying on secret legal interpretations about important national security matters. The President took steps to begin a national dialogue when he issued an Executive Order** on the same day as the 2013 State of the Union Address.229 The Executive Order focused on improving critical infrastructure cybersecurity while promoting privacy, civil liberties, and the economy.230 The Order also provided for sharing of “cyber threat information” from executive branch agencies to private sector entities,231 and the development of a framework by the National Institute of Standards and Technology (NIST) to establish baseline security standards for government agencies and critical infrastructure companies.232 The Order also required that privacy and civil liberties protections be incorporated into the cybersecurity program and that the Chief Privacy Officer of DHS assess the privacy risks and publish a report.233 The Executive Order did not address the “information sharing environment” proposed in Congress during 2012 and again in 2013.234 The Order also did not address the legal determination of when and how cyberoperations can be authorized, which has apparently already been made in an internal executive-branch memorandum.235 **The** President’s Executive **Order** is a step in the right direction but it does not provide sufficient authority for cyberoperations that could intrude upon civilian systems; only Congress can authorize such quartering.

## Cyber DA

### 2AC

**The risk of nuclear terrorism is vanishingly small --- terrorists must succeed at each of twenty plus stages --- failing at one means zero risk.**

**Mueller ‘10** (John, Woody Hayes Chair of National Security Studies at the Mershon Center for International Security Studies and a Professor of Political Science at The Ohio State University, A.B. from the University of Chicago, M.A. and Ph.D. @ UCLA, *Atomic Obsession – Nuclear Alarmism from Hiroshima to Al-Qaeda*, Oxford University Press, Accessed @ Emory)

LIKELIHOOD In his thoughtful, influential, and well-argued 2004 book, Nuclear Terrorism: The Ultimate Preventable Catastrophe—a work Nicholas Kristof of the New York Times finds "terrifying"—Graham Allison relayed his "considered judgment" that "on the current path, a nuclear terrorist attack on America in the decade ahead is more likely than not." He repeated that judgment in an article published two years later—albeit without reducing the terminal interval to compensate—and he had presumably relied on the same inspira-tional mechanism in 1995 to predict: "In the absence of a determined program of action, we have every reason to anticipate acts of nuclear terrorism against American targets before this decade is out."1 He has quite a bit of company in his perpetually alarming conclusions. In 2003, UN Ambassador John Negroponte judged there to be a "a high probability" that w&Jjjn two years al-Qaeda would attempt an attack using a nuclear or other weapon of mass destruction. When some 85 foreign policy experts were polled by -Senator Richard Lugar in 2004 and 2005, they concluded on aver-age that there was a 29 percent likelihood a nuclear explosion would occur somewhere in the world within the next ten years, and they overwhelmingly anticipated that this would likely be carried out by terrorists, not by a government. And in 2007, physicist Richard Garwin put the likelihood of a nuclear explosion on an American or European city by terrorist or other means at 20 percent per year, which would work out to 87 percent over a ten-year period.2 In late 2008, after working for six months and interviewing more than 250 people, a congressionally mandated task force, the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (possibly known as COPWOMDPAT to its friends) issued its report, portentously entitled World at Risk. It led by expressing the belief that "unless the world community acts decisively and with great urgency, it is more likely than not that a weapon of mass destruction will be used in a terrorist attack somewhere in the world by the end of 2013." Although the report is careful to reassure its readers that it does not intend to frighten them about the current state of terrorism and weapons of mass destruction, it failed miserably in that admirable goal almost immediately. Representative Ellen Tauscher (D-Calif.), chairwoman of the Strategic Forces Subcommittee of the House Armed Services Committee, proclaimed shortly after the report was issued, that it "scared the pants off of most of us."3 In its dire forecast, the report's phraseology echoes, of course, Allison's formulation of 2004, and this may owe something to the fact that he was one of the commission's nine members. There are a couple of differences, however. In Allison's earlier rendering, bad things happen only if we stay on "the current path." Thus, should bad things fail to occur, this happy result could be taken as proof that we somehow managed somewhere along the line to alter our path, and who, pray, will be able exactly to designate what a "current path" actually is (or was)? The commission, in stark contrast, claims bad things are likely to happen "unless the world community acts decisively and with great urgency" something, experience suggests, that is next to impossible. On the other hand, the commission artfully broadens its definition of bad things from Allison's "acts of nuclear terrorism against American targets" to the use of a "weapon of mass destruction" by terrorists "some-where in the world." As one critic points out, there is certainly a good chance that someone somewhere will release some germs, killing few, if any, or, as insurgents have done in Iraq, ineffectually lace the occasional bomb with chlorine. Although no normal person would consider either act to constitute "mass destruction," the report can, strictly speaking, claim vindication. Actually, the report is on even safer ground. A man in Rockford, Illinois, who purchased some bogus hand grenades from an FBI informant with the intent to detonate them at a local shopping mall, has been convicted of attempting to use weapons of mass destruction under laws that creatively define hand grenades to be weapons of mass destruction.4 Even those who decidedly disagree with such scary-sounding, if somewhat elusive, prognostications about nuclear terrorism often come out seeming like they more or less agree. In his Atomic Bazaar, William Langewiesche spends a great deal of time and effort assessing the process by means of which a terrorist group could come up with a bomb. Unlike Allison—and, for that matter, the considerable bulk of accepted opinion—he concludes that it "remains very, very unlikely. It's a possibility, but unlikely." Also: The best information is that no one has gotten anywhere near this. I mean, if you look carefully and practically at this process, you see that it is an enormous undertaking full of risks for the would-be terrorists. And so far there is no public case, at least known, of any appreciable amount of weapons-grade HEU [highly enriched uranium] disappearing. And that's the first step. If you don't have that, you don't have anything. The first of these bold and unconventional declarations comes from a book discussion telecast in June 2007 on C-SPAN and the second from an inter-view on National Public Radio. Judgments in the book itself, however, while consistent with such conclusions, are expressed more ambiguously, even coyly: "at the extreme is the possibility, entirely real, that one or two nuclear weapons will pass into the hands of the new stateless guerrillas, the jihad-ists, who offer none of the retaliatory targets that have so far underlain the nuclear peace" or "if a would-be nuclear terrorist calculated the odds, he would have to admit that they are stacked against^ffen," but they are "not impossible."5 The previous chapter arrayed a lengthy set of obstacles confront-: v ,„ ing the would-be atomic terrorist—often making use in the process of Langewlesche's excellent reporting. Those who warn about the likelihood of a terrorist bomb contend that a terrorist group could, if often with great difficulty, surmount each obstacle—that doing so in each case is, in Langewiesche's phrase, "not impossible."6 But it is vital to point out that, while it may be "not impossible" to surmount each individual step, the likelihood that a group could surmount a series of them could quickly approach impossibility. If the odds are "stacked against" the terrorists, what are they? Lange-wiesche's discussion, as well as other material, helps us evaluate the many ways such a quest—in his words, "an enormous undertaking full of risks"— could fail. The odds, indeed, are stacked against the terrorists, perhaps massively so. In fact, the likelihood a terrorist group will come up with an atomic bomb seems to be *vanishingly small*. ARRAYING THE BARRIERS Assuming terrorists have some desire for the bomb (an assumption ques-tioned in the next chapter), fulfillment of that desire is obviously another matter. Even the very alarmed Matthew Bunn and Anthony Wier contend that the atomic terrorists' task "would clearly be among the most difficult types of attack to carry out" or "one of the most difficult missions a terrorist group could hope to try" But, stresses the CIA's George Tenet, a terrorist atomic bomb is "possible" or "not beyond the realm of possibility." In his excellent discussion of the issue, Michael Levi ably catalogues a wide array of difficulties confronting the would-be atomic terrorist, adroitly points out that "terrorists must succeed at every stage, but the defense needs to succeed only once," sensibly warns against preoccupation with worst-case scenarios, and pointedly formulates "Murphy's Law of Nuclear Terrorism: What can go wrong might go wrong." Nevertheless, he holds nuclear terrorism to be a "genuine possibility," and concludes that a good defensive strategy can merely "tilt the odds in our favor."7 Accordingly, it might be useful to take a stab at estimating just how "difficult" or "not impossible" the atomic terrorists' task, in aggregate, is— that is, how far from the fringe of the "realm of possibility" it might be, how "genuine" the possibilities are, how tilted the odds actually are. After all, lots of things are "not impossible." It is "not impossible" that those legendary monkeys with typewriters could eventually output Shakespeare.8 Or it is "not impossible"—that is, there is a "genuine possibility"—that a colliding meteor or comet could destroy the earth, that Vladimir Putin or the British could decide one morning to launch a few nuclear weapons at Ohio, that an underwater volcano could erupt to cause a civilization-ending tidal wave, or that Osama bin Laden could convert to Judaism, declare himself to be the Messiah, and fly in a gaggle of mafioso hit men from Rome to have himself publicly crucified.9 As suggested, most discussions of atomic terrorism deal in a rather piecemeal fashion with the subject—focusing separately on individual tasks such as procuring HEU or assembling a device or transporting it. However, as the Gilmore Commission, a special advisory panel to the president and Congress, stresses, setting off a nuclear device capable of producing mass destruction presents "Herculean challenges," requiring that a whole series of steps be accomplished: obtaining enough fissile material, designing a weapon "that will bring that mass together in a tiny fraction of a second" and figuring out some way to deliver the thing. And it emphasizes that these merely constitute "the minimum requirements." If each is not fully met, the result is not simply a less powerful weapon, but one that can't produce any significant nuclear yield at all or can't be delivered.10 Following this perspective, an approach that seems appropriate is to catalogue the barriers that must be overcome by a terrorist group in order to carry out the task of producing, transporting, and then successfully detonating an improvised nuclear device, an explosive that, as Allison acknowledges, would be "large, cumbersome, unsafe, unreliable, unpredictable, and inefficient." Table 13.1 attempts to do this, and it arrays some 20 of these— all of which must be surmounted by the atomic aspirant. Actually, it would be quite possible to come up with a longer list: in the interests of keeping the catalogue of hurdles down to a reasonable number, some of the entries are actually collections of tasks and could be divided into two or three or more. For example, number 5 on the list requires that heisted highly enriched uranium be neither a scam nor part of a sting nor of inadequate quality due to insider incompetence, but this hurdle could as readily be rendered as three separate ones. In contemplating the task before them, woixftlsbe atomic terrorists effectively must go through an exercise that looks much like this. If and when they do so, they are likely to find the prospects daunting and accordingly uninspiring or even terminally dispiriting. "

#### 5) Prior – notification preserves flex

Dycus 10 (Professor Vermont Law School, “Congress’s Role in Cyber Warfare”, 8/11/2010, <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf>)

Because of the grave potential consequences and the attendant need for close control and accountability, such operations should be undertaken only by government officials. These recommendations are, of course, riddled with terms that require careful definition. They also omit many critical details. Specific provisions relating to timing of notices and the requirement of consultation, for example, must be worked out between the political branches. Congress’s active role in the development and implementation of cyber warfare policy is no guarantee of national security. The policy might be flawed in various ways. There is also a risk that whatever policy is adopted will not be properly executed or that its execution will have unintended results. The policy might be misunderstood or might not provide clear or appropriate guidance in the urgent circumstances facing its interpreter. The person charged with implementing the policy might make a mistake – for example, by interpreting a potential enemy’s electronic espionage as an attack. Available cyber weaponry might not work as planned. Or a purely defensive move by U.S. operators might be construed by another nation as offensive, and provoke an attack. Nor can the clearest policy, statutory or executive, guarantee compliance by an Executive determined to ignore it.71 The rules might be construed by the President in a way that reduces the importance of Congress’s role. Or they might be challenged in court. Congress should not, however, hesitate to take the steps outlined here merely because they might produce unintended results or because they could be difficult to enforce. Exactly the same criticisms could be leveled at almost any reorganization or legislative initiative. The high stakes in this instance, and Congress’s constitutional responsibility for formulation of national security policy, mean that Congress cannot sit this one out. It might be suggested that these proposed measures would dangerously tie the President’s hands, thereby limiting her freedom to respond to unpredictable future national security threats. The very point of the recommendations, however, is that Congress should place limits on the President’s actions – to require her to share the responsibility for deciding to go to war. Even then, if the nation comes under sudden cyber or kinetic attack the President will remain free to respond as she sees fit. The United States faces unprecedented challenges from enemies equipped with new weaponry possessing vast, evolving destructive potential. The two political branches must draw on their respective expertise and experiences to work together to meet these challenges, as the Framers intended.

## Politics

### 2AC Debt Ceiling

#### Neither side will budget – shutdown inevitable AND proves no impact because it’s temporary

**McTague 9-21** [Jim, Barrons, “The GOP’s Threat to Investors,” http://online.barrons.com/article/SB50001424052748704293904579071302142628152.html?mod=BOL\_twm\_col]

Based on last week's stock action, the bulls are ignoring the Grand Old Party's threat to create a debt-limit crisis to exploit for political gain. They also don't seem to believe Obama's threat to behave as obstinately as his opposition. Yet, if Republicans and Democrats don't agree on a debt-ceiling increase by Oct. 1, a shutdown of the federal government is assured.¶ Hired political experts such as Gregg Hartley, vice chairman of the lobbying and advisory firm Cassidy & Associates, put the probability of a short-term shutdown at 100%. The GOP is driving it, but Democrats would benefit and so have no reason to budge. Because voters likely would blame the Republicans, a crisis would boost the Democrats in the 2014 midterm election. The House GOP will pass a debt-ceiling measure with spending and legislative proposals that Senate Democrats can't swallow, including defunding Obamacare. Because there's no shot clock on Capitol Hill, the Senate Democrats will play a four-corners defense, taking their good old time rewriting and passing the measure before sending it back to the House for a vote at the 11th hour, where it will fail.¶ In 2011, a similar debt-ceiling contretemps between Congressional Republicans and Democrats engendered several weeks of stomach-churning stock-market swings. The week of Aug. 7 was one of the wildest. On Monday, Aug. 8, the Dow industrials fell 635 points. On Tuesday, it rose 430 points. On Wednesday, it slid 520 points. On Thursday, the Dow rose 423, and on Friday, Aug. 12, it climbed 126 points. The Dow Jones Industrial Average ended the week at 11,269, up 4.2%. Barron's late, great Alan Abelson noted that advances led declines by 90% one day and vice versa the next day, for four consecutive days.

### 2AC Debt Ceiling Econ Impact

#### No debt econ impact

Michael Tanner 11, National Review, “No Surrender on Debt Ceiling”, Jan 19, <http://www.nationalreview.com/articles/257433/no-surrender-debt-ceiling-michael-tanner>

Of course the Obama administration is already warning of Armageddon if Congress doesn’t raise the debt ceiling. Certainly it would be a shock to the economic system. The bond market could crash. The impact would be felt at home and abroad. But would it necessarily be worse than the alternative? While Congress has never before refused to raise the debt ceiling, it has in fact frequently taken its time about doing so. In 1985, for example, Congress waited nearly three months after the debt limit was reached before it authorized a permanent increase. In 1995, four and a half months passed between the time that the government hit its statutory limit and the time Congress acted. And in 2002, Congress delayed raising the debt ceiling for three months. It took three months to raise the debt limit back in 1985 as well. In none of those cases did the world end. More important, what will be the consequences if the U.S. government fails to reduce government spending? What happens if we raise the debt ceiling then continue merrily on our way spending more and running up ever more debt? Already Moody’s and Standard & Poor’s have warned that our credit rating might be reduced unless we get a handle on our national debt. We’ve heard a lot recently about the European debt crisis, but, as one senior Chinese banking official recently noted, in some ways the U.S. financial position is more perilous than Europe’s. “We should be clear in our minds that the fiscal situation in the United States is much worse than in Europe,” he recently told reporters. “In one or two years, when the European debt situation stabilizes, [the] attention of financial markets will definitely shift to the United States. At that time, U.S. Treasury bonds and the dollar will experience considerable declines.” Moreover, unless we do something, federal spending is on course to consume 43 percent of GDP by the middle of the century. Throw in state and local spending, and government at all levels will take 60 cents out of every dollar produced in this country. Our economy will not long survive government spending at those levels.

#### Empirics prove no war.

Miller 1—Morris Miller is an adjunct economics professor at the University of Ottawa [Jan.-Mar, 2001, “Poverty: A Cause of War?” *Peace Magazine*, <http://peacemagazine.org/archive/v17n1p08.htm>]

Economic Crises?

Some scholars have argued that it is not poverty, as such, that contributes to the support for armed conflict, but rather some catalyst, such as an economic crisis. However, a study by Minxin Pei and Ariel Adesnik shows that this hypothesis lacks merit. After studying 93 episodes of economic crisis in 22 countries in Latin American and Asia since World War II, they concluded that much of the conventional thinking about the political impact of economic crisis is wrong:

"The severity of economic crisis—as measured in terms of inflation and negative growth—bore no relationship to the collapse of regimes ... or (in democratic states, rarely) to an outbreak of violence... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another)."

### 2AC Politics (Body)

#### ---No Capital – Obama irrelevant

ROGERS 9 – 17 – 13 chair of the lobbying and communications firm BGR Group, Contributor to PostPartisan [Ed Rogers, Washington Post, The Insiders: Stubborn facts and bothersome polls, [http://www.washingtonpost.com/blogs/post-partisan/wp/2013/09/17/the-insiders-stubborn-facts-and-bothersome-polls/]\*\*\*eddited](http://www.washingtonpost.com/blogs/post-partisan/wp/2013/09/17/the-insiders-stubborn-facts-and-bothersome-polls/%5d***eddited) for ablest language

It seems like it has been 10 years, but in reality it has been less than 10 months since the president’s second inauguration. And as President Obama tries to put Syria behind him, nothing on the domestic agenda looks promising. I don’t know what the opposite of the Midas Touch is, but that’s what Obama has.

To try and regain some momentum and credibility domestically, the president is attempting to pivot back to the economy (yet again.) But his remarks yesterday, on the five-year anniversary of the Lehman Brothers bankruptcy, seemed [useless] tone-deaf, as he lashed out at Republicans on economic issues while the tragic events of the Navy Yard shooting were still unfolding.

‎And while the president loves to surround himself onstage with middle class families while he waxes poetic about how much he’s helping them, the truth is that Obama’s economic policies are only helping the rich get richer. In fact, the Associated Press reported last week that, “in 2012, the incomes of the top 1 percent rose nearly 20 percent compared with a 1 percent increase for the remaining 99 percent.” ‎

This income equality gap — now the largest since the 1920s — shows that Obama’s policies are failing miserably, with the middle class bearing the brunt of his no-growth economy. No president has been better for the 1 percent than Obama.

Obama was also dealt an embarrassing blow this week as Larry Summers withdrew his name from consideration for Federal Reserve Chairman. I wasn’t even for Summers getting the job, but this was another telling sign that the president lacks any political capital on the Hill — among members of either party. If he wasn’t so weak, he might have gotten his pick for the Fed, but as it is, he must defer to the loud voices making demands. The president does not have any influence with members of Congress now, and he isn’t going to have any going forward. I think it’s safe to say he cannot take a leadership role in the looming debt ceiling and budget battles. ‎

#### ---Gun violence is center-stage

Frumin 9/21/13 (Aliyah, MSNBC "Bright prospects on foreign agenda; domestic in chaos")

But before Obama heads to New York for the United Nations on Monday and Tuesday, the president must first face the difficulties of his domestic agenda in curbing gun violence. He’ll visit with families of victims of the Washington Navy Yard shooting and attend a memorial service on Sunday, in what has become an all-too familiar role of consoler-in-chief.¶ Domestic distractions are plenty. Earlier this week, Obama was all set to give remarks on the economy — when the debate over gun control was suddenly renewed following the mass shooting at the Washington, D.C., Navy Yard. The tragedy prompted Obama to call on Congress once again to revisit gun control. It’s likely going to be a Sisyphean task. His push for expanded background checks following the Newtown massacre failed after the Senate could not get the 60 votes it needed to overcome the threat of a filibuster. It’s unlikely this time will be any different.

#### The plan’s not perceived

Schmitt 13, **co-director of the Marilyn Ware Center for Security Studies at AEI** and the director of AEI's Program on American Citizenship. Mr. Schmitt is a former staff director of the Senate Select Committee on Intelligence. He was executive director of the President's Foreign Intelligence Advisory Board during President Ronald Reagan's second term. Mr. Schmitt's security work focuses on longer-term strategic issues that will affect America's security at home and its ability to lead abroad, while his work in the area of citizenship focuses on challenges to maintaining and sustaining a strong civic culture. His books include Of Men and Materiel: The Crisis in Military Resources (AEI Press, 2007), to which he was a contributing author and editor with Tom Donnelly; Silent Warfare: Understanding the World of Intelligence (Brassey’s, 2002), coauthored with Abram Shulsky and now in its third edition; and U.S. Intelligence at the Crossroads: Agendas for Reform (Brassey’s, 1995), a coedited volume to which he is a contributing author. His two most recent books, to which he is also editor and contributing author, are The Rise of China: Essays on the Future Competition (Encounter Books, May 2009) and Safety, Liberty and Islamist Terrorism: American and European Approaches to Domestic Counterterrorism (AEI Press, 2010), <http://www.aei-ideas.org/2011/12/authorization-for-cyber-attacks/>

**The press (and the White House) has been obsessed by the detention provision** in the recently agreed upon FY2012 **Defense Authorization bill, but one of the items that** slipped under the radar **is language authorizing the American military to engage in offensive operations in cyberspace.** Under Sec. 954,

#### ---Plan increases Inter-branch talks – builds agenda success

ANDRES & GRIFFIN 09 \*Vice Chair of Research for Dutko Worldwide, PhD in public policy analysis from Illinois \*\* partner Griffin Williams LLC, consulting firm. [Gary Andres & Patrick Griffin, “Understanding Presidential Relations with Congress,” from Rivals for Power, ed. James A. Thurber] page 117-118

Active Consultation

Presidents who put a strong emphasis on consultation with Congress, communicating often personally or through the staff with legislators, will get high marks and succeed in influencing the House and the Senate. The Clinton team got high marks early on with the Democratic leadership in Congress for consulting and working in concert on a variety of measures during 1993. Their initiatives included proposals on education and environment, the Family and Medical Leave Act, and "motor voter" legislation (two initiatives that President Clinton's predecessor, George H. W. Bush, consistently opposed that now could pass under conditions of unified party government), as well as modest institutional reform proposals regarding campaign finance and lobbying registration. Their agenda also included legislative objectives that began to reposition Democrats as supporting a balanced budget while reducing the size of government and expanding efforts to fight crime.

As is often the case in unified government, the Democrats worked to ensure that their proposals passed without Republican support. The cornerstone of this early agenda was a $500 billion tax increase and spending cut package to reduce the deficit. The measure passed the House by a margin of one, with all Republicans opposing it.

President George W. Bush's legislative strategy in the House followed a similar path over his first five years. In the Senate, however, Mr. Bush was also able to secure some Democratic support for most of his major initiatives like tax cuts, Medicare prescription drug legislation, and the No Child Left Behind education bill.

Holding their respective parties in line took Presidents Clinton and Bush many hours of consultation by inviting members to the White House and sending administration personnel to the Hill. Active consultation results in members of Congress believing that someone at the White House is listening and considering their point of view. Often just "hearing people out" and being attentive to their views go a long way toward strengthening and creating positive relations with Congress.

Barack Obama followed an almost identical path in the House of Representatives. While he worked hard trying to win Republican support through phone calls, meetings, and social gatherings, he failed to win any House Republican votes on his first major legislative initiative-an economic stimulus package. Although these presidents failed to produce a lot of bipartisan votes, they received strong initial marks for trying. At a minimum, these consultations began a dialogue, keeping the door open for future negotiations and bipartisanship in policy areas that did not produce as much polarization. A cynical interpretation of these gestures might be that they were never expected to produce a bipartisan result. The hope in making these gestures was to reinforce a bipartisan image of the president that was carefully forged in the campaign. The president's advisers may have concluded early on that true bipartisanship was necessary or doable for the president to be successful in the long run. What he needed was to get the legislation through the Congress while minimizing a negative impact on his brand.

## 1AR

### 1AR Vagueness

#### 2) Congress can do it

KAISER 80 The Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Congressional Action to Overturn Agency Rules: Alternatives to the Legislative Veto; Kaiser, Frederick M., 32 Admin. L. Rev. 667 (1980)]

In addition to direct statutory overrides, there are a variety of statutory and nonstatutory techniques that have the effect of overturning rules, that prevent their enforcement, or that seriously impede or even preempt the promulgation of projected rules. For instance, a statute may alter the jurisdiction of a regulatory agency or extend the exemptions to its authority, thereby affecting existing or anticipated rules. Legislation that affects an agency's funding may be used to prevent enforcement of particular rules or to revoke funding discretion for rulemaking activity or both. Still other actions, less direct but potentially significant, are mandating agency consultation with other federal or state authorities and requiring prior congressional review of proposed rules (separate from the legislative veto sanctions). These last two provisions may change or even halt proposed rules by interjecting novel procedural requirements along with different perspectives and influences into the process.

It is also valuable to examine nonstatutory controls available to the Congress:

1. legislative, oversight, investigative, and confirmation hearings;

2. establishment of select committees and specialized subcommittees to oversee agency rulemaking and enforcement; 3. directives in committee reports, especially those accompanying legislation, authorizations, and appropriations, regarding rules or their implementation; 4. House and Senate floor statements critical of proposed, projected, or ongoing administrative action; and 5. direct contact between a congressional office and the agency or office in question. Such mechanisms are all indirect influences; unlike statutory provisions, they are neither self-enforcing nor legally binding by themselves. Nonetheless, nonstatutory devices are more readily available and more easily effectuated than controls imposed by statute. And some observers have attributed substantial influence to nonstatutory controls in regulatory as well as other matters.3 It is impossible, in a limited space, to provide a comprehensive and exhaustive listing of congressional actions that override, have the effect of overturning, or prevent the promulgation of administrative rules. Consequently, this report concentrates upon the more direct statutory devices, although it also encompasses committee reports accompanying bills, the one nonstatutory instrument that is frequently most authoritatively connected with the final legislative product. The statutory mechanisms surveyed here cross a wide spectrum of possible congressional action: 1. single-purpose provisions to overturn or preempt a specific rule; 2. alterations in program authority that remove jurisdiction from an agency; 3. agency authorization and appropriation limitations; 4. inter-agency consultation requirements; and 5. congressional prior notification provisions.

#### Decreasing authority requires reducing the permission to act, not the ability to act.

Taylor, 1996 (Ellen, 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### They have no impact other than “turns the case” they’ve conceded that the plan is not circumvented- - Requiring prior Authorization for war deters adventurism – 2AC Kriner evidence is a BROAD statistical ranging analasys – the case study proves that theres no impact.

Dickerson 9 – Annette Warren Dickerson, Director of Education & Outreach for the Center for Constitutional Rights, “Restore. Protect. Expand. Amend the War Powers Resolution”, Center for Constitutional Rights White Paper, http://ccrjustice.org/files/CCR\_White\_WarPowers.pdf

Reform the War Powers Resolution

The War Powers Resolution has failed. Every president since the enactment of the Act has considered it to be unconstitutional. Presidents have generally not filed a report that would start the 60-day clock running, despite repeated executive introduction of armed forces into places like Indochina, Iran, Lebanon, Central America, Grenada, Libya, Bosnia, Haiti, Kosovo and Somalia, among others. Congress has usually not challenged this non-compliance. And, the judiciary has persistently refused to adjudicate claims challenging executive action as violating the War Powers Resolution, holding that members of Congress have no standing to seek relief, or that the claim presents non-justifiable political questions.

The War Powers Resolution, as written, was flawed in several key respects. The first flaw was that the Resolution imposed no operative, substantive limitations on the executive’s power to initiate warfare, but rather created a time limit of 60 days on the president’s use of troops in hostile situations without explicit congressional authorization. This approach was a mistake, because as a practical matter it recognized that the President could engage in unilateral war-making for up to 60 days, or 90 days with an extension. But the Constitution requires that Congress provide authorization prior to initiating non-defensive war, not within a period of months after warfare is initiated. As history has demonstrated time and again, it is difficult to terminate warfare once hostilities have begun. The key time for Congress to weigh in is before hostilities are commenced, not 60 or 90 days afterward.

Secondly, the War Powers Resolution correctly recognized that even congressional silence, inaction or even implicit approval does not allow the president to engage in warfare – but it failed to provide an adequate enforcement mechanism if the president did so. Under the resolution, wars launched by the executive were supposed to be automatically terminated after 60 or 90 days if not affirmatively authorized by Congress – but this provision proved unenforceable. Presidents simply ignored it, Congress had an insufficient interest in enforcing it and the courts responded by effectually saying: if Congress did nothing, why should we?

Reforming the War Powers Resolution is a project that will require leadership from the President and the political will of Congress, working together in the service and preservation of the Constitution. In light of the abuses that have taken place under the Bush administration, it is the responsibility of a new administration to insist on transparency in the drafting of new legislation.

There is a long history of attempts to revise the War Powers Resolution. As new legislation is drafted, though, it will be important to focus on the central constitutional issues. Much time has been spent in debating how to address contingencies. It will be impossible to write into law any comprehensive formula for every conceivable situation, though; much more important will be establishing the fundamental principles of reform:

The War Powers Resolution should explicitly prohibit executive acts of war without previous Congressional authorization. The only exception should be the executive’s power in an emergency to use short-term force to repel sudden attacks on US territories, troops or citizens.

It is true that many potential conflict situations will be murky, complicated or divisive, and that quick congressional action may not always be forthcoming. Yet, history shows the folly of launching wars that are not supported by the American people. The United States should not use military force until a substantial consensus develops in Congress and the public that military force is necessary, appropriate and wise.

Today, as in 1787, the reality is that the interests of the people of the United States are best served if the Congress retains the power to declare war, and the President’s unilateral power to use American forces in combat should be reserved to repelling attacks on American troops or territories and evacuating citizens under actual attack. Repelling does not equate retaliation for an attack on an American city that occurred in the past, be it several days, weeks or months prior; it also does not mean launching a surprise invasion of a nation that has not attacked us. Repelling similarly does not permit the inflation of supposed threats against US citizens as justification to invade another country, as was the case in the Dominican Republic in 1965 and Grenada in 1983. The president can respond defensively to attacks that have been launched or are in the process of being launched, but not to rumors, reports, intuitions, or warnings of attacks. Preventive war, disguised as preemptive war, has no place in constitutional or international law.

### 1AR Soft Power

#### Obama’s foreign policy has epitomized soft power

Hallams, 11 – joined the Defence Studies Department in 2009 at King’s College in London. Prior to this she lectured in the Department of Politics & IR at the University of Reading and was a Visiting Lecturer at the Centre for the Study of Democracy at the University of Westminster in London (Ellen, “From Crusader to Exemplar: Bush, Obama and the Reinvigoration of America’s Soft Power,” European Journal of American Studies, 2011)

Yet critics of Obama perhaps fail to understand that the complexity and pragmatism that appears to lie at the heart of his foreign policy, although not always appreciated by the public and political commentators, is arguably one of the president’s strengths. Obama appears to have an astute ability to see the world not in narrow black-and-white, good v. evil terms, but in the shades of gray he finds it. A blanket policy of intervention in support of pro-democracy movements may not always be the right choice to make, even if it morally seems the right thing to do; nor does ruling out ‘liberal interventionism’ on the grounds that it fuels resentment towards the US or drags the US into conflicts in which its vital interests are not at stake. In his May 2011 speech on the turmoil in the Middle East, Obama sought to respond to his critics by once again affirming America’s support for democratic movements, but reminding his audience that America had to act with “humility” after its actions in Iraq. Soft power was, however, at the heart of Obama’s speech. Justifying military action in Libya, but not elsewhere, on the grounds of an “imminent massacre” and the scale of the violence, he acknowledged the violence and repression in Syria, Bahrain and Yemen claiming that America must use all our influence to encourage reform in the region. Even as we acknowledge that each country is different, we will need to speak honestly about the principles that we believe in, with friend and foe alike. Our message is simple: if you take the risks that reform entails, you will have the full support of the United States. We must also build on our efforts to broaden our engagement beyond elites, so that we reach the people who will shape the future – particularly young people... We will continue to make good on the commitments that I made in Cairo – to build networks of entrepreneurs, and expand exchanges in education; to foster cooperation in science and technology, and combat disease. Across the region, we intend to provide assistance to civil society, including those that may not be officially sanctioned, and who speak uncomfortable truths. And we will use the technology to connect with – and listen to – the voices of the people. In fact, real reform will not come at the ballot box alone. Through our efforts we must support those basic rights to speak your mind and access information. We will support open access to the Internet, and the right of journalists to be heard – whether it's a big news organization or a blogger. In the 21st century, information is power; the truth cannot be hidden; and the legitimacy of governments will ultimately depend on active and informed citizens.77

Abandoning decades of US arms sales to unsavoury regimes may do more to bolster America’s global image than any single speech, and Obama may lack the bold leadership and courage of his convictions to deliver genuine change, but the more nuanced, studious and pragmatic leadership he has thus far provided does promise to chart a more balanced path through what are desperately turbulent times. As one adviser to Obama is reported to have commented, the administration’s emphasis on “stealth and modesty” is “so at odds with the John Wayne expectation for what America is in the world .... But it’s necessary for shepherding us through this phrase.”78

### US Soft Power Good

#### US leadership is sustainable but the right policy choices are key – the alternative is power wars

Kempe 2012, Frederick Kempe, president and chief executive officer of the Atlantic Council, a foreign policy think tank and public policy group, President and Chief Executive Officer of the Atlantic Council since December 1, 2006, and is a Visiting Fellow at Oxford University's Saïd Business School, April 18, 2012, “Does America still want to lead the world?”, http://blogs.reuters.com/thinking-global/2012/04/18/does-america-still-want-to-lead-the-world/

For all their bitter differences, President Obama and Governor Romney share one overwhelming challenge. Whoever is elected will face the growing reality that the greatest risk to global stability over the next 20 years may be the nature of America itself. Nothing – not Iranian or North Korean nuclear weapons, not violent extremists or Mideast instability, not climate change or economic imbalances – will shape the world as profoundly as the ability of the United States to remain an effective and confident world player advocating its traditional global purpose of individual rights and open societies. That was the conclusion of the Global Agenda Council on the United States, a group of experts that was brought together by the World Economic Forum and that I have chaired. Even more intriguing, our group tested our views on, among others, a set of Chinese officials and experts, who worried that we would face a world overwhelmed by chaos if the U.S. – facing resource restraints, leadership fatigue and domestic political dysfunction – disengaged from its global responsibilities. U.S. leadership, with all its shortcomings and missteps, has been the glue and underwriter of global stability since World War Two – more than any other nation. Even with the world experiencing its greatest shift of economic and political power since the 19th century, no other country is emerging – or looks likely to emerge – that would be as prepared or equipped to exercise leadership on behalf of the global good. Yet many in the world are questioning the role of U.S. leadership, the governance architecture it helped create and even the values for which the U.S. stands. Weary from a decade of war and strained financially, Americans themselves are rethinking whether they can afford global purpose. The election campaign is unlikely to shed much light on these issues, yet both candidates face an inescapable truth: How the U.S. evolves over the next 15 to 20 years will be most important single variable (and the greatest uncertainty) hovering over the global future. And the two most important elements that will shape the U.S. course, in the view of the Global Agenda Council on the United States, will be American intentions and the capability to act on them. In short, will Americans continue to see as part of their identity the championing of values such as individual opportunity and open societies that have contributed so richly to the global commons? Second, can the U.S. sufficiently address its domestic challenges to assure its economic, political and societal strength while the world changes at unprecedented velocity? Consider this: It took Great Britain 155 years to double its gross domestic product per capita in the 18th and 19th centuries, when it was the world’s leading power. It took the U.S. 50 years to do the same by 1950, when its population was 152 million. Both India and China have achieved the same growth on a scale and at a pace never experienced before. Both countries have more than a hundred times the population of Britain during its heyday, yet they are achieving similar outcomes in a tenth of the time. Although China will likely surpass the U.S. as the world’s largest economy by 2030, Americans retain distinct advantages that could allow them to remain the pivotal power. Think of Uncle Sam as a poker player sitting at a global table of cohorts, holding better cards than anyone else: a free and vibrant society, a history of technological innovation, an ability to attract capital and generate jobs, and a relatively young and regenerating population. However, it doesn’t matter how good your cards are if you’re playing them poorly.

### 1AR – Econ

#### No econ impact

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425//countries won’t attack one another, mass opinion won’t change, economic conflict doesn’t escalate to war

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable

#### The global economy is resilient – their impacts are empirically false

**Zakaria, 09** – editor of Newsweek, former editor of Foreign Affairs, PhD from Harvard, serves on the board of Yale University, The Council on Foreign Relations, and The Trilateral Commission (Fareed, “The Secrets of Stability” Newsweek, 12/12, <http://www.newsweek.com/id/226425//economy> resilient – great-power peace, superpowers haven’t competed. Low inflation increases stability. Technological connectivity – interdependence.

Beyond all this, though, I believe there's a fundamental reason why we have not faced global collapse in the last year. It is the same reason that we weathered the stock-market crash of 1987, the recession of 1992, the Asian crisis of 1997, the Russian default of 1998, and the tech-bubble collapse of 2000. The current global economic system is inherently more resilient than we think. The world today is characterized by three major forces for stability, each reinforcing the other and each historical in nature. The first is the spread of great-power peace. Since the end of the Cold War, the world's major powers have not competed with each other in geomilitary terms. There have been some political tensions, but measured by historical standards the globe today is stunningly free of friction between the mightiest nations. This lack of conflict is extremely rare in history. You would have to go back at least 175 years, if not 400, to find any prolonged period like the one we are living in. The number of people who have died as a result of wars, civil conflicts, and terrorism over the last 30 years has declined sharply (despite what you might think on the basis of overhyped fears about terrorism). And no wonder—three decades ago, the Soviet Union was still funding militias, governments, and guerrillas in dozens of countries around the world. And the United States was backing the other side in every one of those places. That clash of superpower proxies caused enormous bloodshed and instability: recall that 3 million people died in Indochina alone during the 1970s. Nothing like that is happening today. Peace is like oxygen, Harvard's Joseph Nye has written. When you don't have it, it's all you can think about, but when you do, you don't appreciate your good fortune. Peace allows for the possibility of a stable economic life and trade. The peace that flowed from the end of the Cold War had a much larger effect because it was accompanied by the discrediting of socialism. The world was left with a sole superpower but also a single workable economic model—capitalism—albeit with many variants from Sweden to Hong Kong. This consensus enabled the expansion of the global economy; in fact, it created for the first time a single world economy in which almost all countries across the globe were participants. That means everyone is invested in the same system. Today, while the nations of Eastern Europe might face an economic crisis, no one is suggesting that they abandon free-market capitalism and return to communism. In fact, around the world you see the opposite: even in the midst of this downturn, there have been few successful electoral appeals for a turn to socialism or a rejection of the current framework of political economy. Center-right parties have instead prospered in recent elections throughout the West. The second force for stability is the victory—after a decades-long struggle—over the cancer of inflation. Thirty-five years ago, much of the world was plagued by high inflation, with deep social and political consequences. Severe inflation can be far more disruptive than a recession, because while recessions rob you of better jobs and wages that you might have had in the future, inflation robs you of what you have now by destroying your savings. In many countries in the 1970s, hyperinflation led to the destruction of the middle class, which was the background condition for many of the political dramas of the era—coups in Latin America, the suspension of democracy in India, the overthrow of the shah in Iran. But then in 1979, the tide began to turn when Paul Volcker took over the U.S. Federal Reserve and waged war against inflation. Over two decades, central banks managed to decisively beat down the beast. At this point, only one country in the world suffers from -hyperinflation: Zimbabwe. Low inflation allows people, businesses, and governments to plan for the future, a key precondition for stability. Political and economic stability have each reinforced the other. And the third force that has underpinned the resilience of the global system is technological connectivity. Globalization has always existed in a sense in the modern world, but until recently its contours were mostly limited to trade: countries made goods and sold them abroad. Today the information revolution has created a much more deeply connected global system. Managers in Arkansas can work with suppliers in Beijing on a real-time basis. The production of almost every complex manufactured product now involves input from a dozen countries in a tight global supply chain. And the consequences of connectivity go well beyond economics. Women in rural India have learned through satellite television about the independence of women in more modern countries. Citizens in Iran have used cell phones and the Internet to connect to their well-wishers beyond their borders. Globalization today is fundamentally about knowledge being dispersed across our world. This diffusion of knowledge may actually be the most important reason for the stability of the current system. The majority of the world's nations have learned some basic lessons about political well-being and wealth creation. They have taken advantage of the opportunities provided by peace, low inflation, and technology to plug in to the global system. And they have seen the indisputable results. Despite all the turmoil of the past year, it's important to remember that more people have been lifted out of poverty over the last two decades than in the preceding 10. Clear-thinking citizens around the world are determined not to lose these gains by falling for some ideological chimera, or searching for a worker's utopia. They are even cautious about the appeals of hypernationalism and war. Most have been there, done that. And they know the price.

### 1ar No PC – Overview

#### Capital’s gone – only risk of a turn

ROTHMAN 9 – 5 – 13 Mediate Political Staff [Noah Rothman, Will Democrats Forgive Obama for Blowing His Second Term?, http://www.mediaite.com/online/will-democrats-forgive-obama-for-blowing-his-second-term/]

Before the confetti settled on election night in 2012, President Barack Obama’s administration and supporters were ready to get to work. As a number of media outlets observed – or warned, depending on your perspective — second-term presidents usually have a short window to achieve significant legislative accomplishments. Between 12 and 18 months into a second presidential term, the window closes. Exogenous events or increasing excitement surrounding the next presidential contest overtake the current president’s ability to capture the attention of the nation and, with them, the Congress.

Now, nearly nine months into the president’s second term, Obama is already developing the symptoms associated with lame duck syndrome. Most of Obama’s predecessors who were not wrestling with an unpopular war or a debilitating scandal had already or were on track to achieve their legacy accomplishments by this point in their second terms. But this president seems to be captive to events. Never having had the best relationship with Congress, Obama’s every effort to pass major legislative reforms has been stymied by unwilling allies and unhelpful adversaries. Furthermore, the president appeared to lack concentration. Before the debate over this reform or the other was complete, the president had shifted focus to the next all-consuming crisis. As a result, Obama’s political capital is today greatly diminished.

The president’s second inauguration and his last State of the Union address contained a laundry list of progressive legislative objectives; a higher minimum wage, universal pre-school, immigration reform which includes a pathway to citizenship, and a parade of infrastructure projects. But Obama’s most pressing objective, the project which he marshaled the most emotion advocating for in his January address before Congress, was the passage of stricter gun laws. Obama’s domestic agenda had been derailed just weeks prior by the horrific massacre of children and teachers at a Connecticut school. The minds of his base of Democratic supporters were myopically focused on the need to do something in response.

The president and his allies in Congress spent precious weeks focused on enacting new gun laws in spite of polls which showed voters did not view new gun laws to be a priority. In the end, there would be no new federal gun laws – the political support simply was not there.

What was probably the most achievable reform, the overhaul of the nation’s immigration system, was sacrificed in the process. Obama engaged the Congress too late to enact a reform that Republicans came out of the 2012 election cycle believing was in their best interests to support. A compromise may still be reached, but Obama’s opportunity to muscle through Congress a reform which prioritizes a pathway to citizenship over stricter border enforcement has passed.

When the president was finally moved to respond to his own “red line” in Syria, three months after his own administration had confirmed that it was first violated, Obama shed what may come to be seen as his last bit of political capital. The president’s schizophrenic approach to pushing for intervention in Syria was capped off by his decision (and his alone, if you believe the anonymous disclosures) to seek Congressional authorization for a strike. This was a politically deft maneuver. The proposed action in Syria being as unpopular as it is, Obama would have been partially shielded from criticism if the decision to act was born out of a national consensus. Just getting a few officeholders, Republican and Democrat alike, on the record in support of intervention will provide some political cover for the president.

But the White House’s spectacular failure to achieve support appears to be backfiring. Not only does the House look set to vote down an authorization, it is not even a close call. As of this writing, 51 Democrats and 149 Republicans are set to vote against authorizing force in Syria.

This lack of confidence in the president’s proposal has now cast doubt on whether the Democrat-dominated Senate will follow the House’s lead. Senate Majority Leader Harry Reid (D-NV) announced Wednesday that authorization of force would require 60 votes — a near impossibility in the current climate.

Can Obama reclaim some of his lost political capital? Possibly. But most of it is gone and the president has nothing to show his Democratic base for his and their efforts.

When the dust settles and historians contemplate the legacy of the Obama presidency, what will the consensus be? Will Democrats forgive this president, whose ascension to office was so promising – the most progressive president in a generation buttressed by Democratic majorities in both chambers of Congress – for squandering his second term capital on a failed effort to pass stricter gun laws and an unpopular intervention in the Middle East? They will not.

When the president is out of office and his successor takes the reins of government, and Obama’s liberal allies no longer feel compelled to defend him from attacks, an honest appraisal of the first months of his second term will not be kind. Obama, the first president to win over 50 percent of the popular vote twice since 1956, squandered his opportunities and failed Democrats.

Obama’s most stalwart fans will blame “obstructionist Republicans” who they will say managed to overcome broad public mistrust to block the president’s agenda. But this, too, is a damning verdict on Obama’s presidency. If an unpopular GOP can govern the country from one chamber of Congress where a relatively popular president could not, what does this say about the president’s competency in office?

#### GOP would rather shoot themselves than be swayed by him

COHEN 9 – 8 – 13 The Guardian [Michael Cohen, Dear President Obama: Americans Are No Longer Interested In Policing The World, <http://www.businessinsider.com/column-americans-policing-world-obama-2013-9>]

It is an extraordinary turn of events and one that goes so strongly against the currents of recent history that it may come to represent a sea change, not just in how the US employs military force in the future but in the very construct of American foreign policy. No longer, it appears are Americans and Congress willing to give the commander-in-chief a virtual blank cheque.

So why is this happening?

Part of the reason is undoubtedly politics. Republicans, who in recent years have rarely met a military engagement they didn't enthusiastically support, would sooner cut off their right arms then give Obama anything that he actually wants. Yet their opposition to involvement in Syria also reflects a growing division within Republicans, between the party's neoconservative national security elite and its long-dormant isolationist wing. Indeed, the congressional vote on Syria may preview a titanic struggle over the foreign policy direction of the Republican party.

### 1ar – Cooperation Link Turn

#### AND – regular communication boosts agenda success

THURBER 09 Distinguished Prof of Government, founder & Director of the Center for Congressional and Presidential Studies at American University. [James A. Thurber, “An Introduction to Presidential-Congressional Rivalry,” from Rivals for Power, ed. James A. Thurber] page 27

Chapter 4, 'The President and the Congressional Party Leadership in a Polarized Era," written by congressional scholar Barbara Sinclair, examines how presidential-congressional relations look from 1600 Pennsylvania Avenue and from Capitol Hill. Sinclair investigates the relationship under both unified and divided control in recent years to demonstrate the effects of control under conditions of high partisanship and to highlight the varied other determinants of cooperation and conflict. She concludes with an analysis of President Obama's relationship with Congress, House and Senate Republicans and Democrats under the staggering problems and policy challenges facing the United States.

She concludes that the relationship between Obama and the Republican congressional leadership is likely to be rocky throughout his presidency, but by regular communication with them, President Obama can perhaps prevent the relationship from descending into bitter partisanship and distrust. President Obama's relationship with Democratic House and Senate leaderships is likely to remain good under unified party government. However, Sinclair concludes that the Democratic congressional leaders believe that their Republican predecessors' deference to President Bush hurt them, resulting in Bush listening to too few voices and too few opinions. Democrats in Congress also think that the Republican oversight of Bush administration agencies and policies and decisions hurt rather than helped. She concludes that the Obama administration can expect considerably more congressional oversight. Democratic leaders in Congress see their fate and that of their members linked with that of President Obama' s. If President Obama maintains high support in the polls, if he makes decisions that are politically popular, and if he consults congressional leaders on a regular basis, he will have the political capital to push an aggressive policy agenda. In this era of high partisan polarization, Obama and the congressional Democrats are in the same boat, and if it sinks, they will go down together.

#### Dividng the GOP is good – solves agenda

DICKERSON 13 Chief Political Correspondent at the Slate, Political Director of CBS News, Covered Politics for Time Magazine for 12 Years, Previous White House Correspondent [John, , Go for the Throat!, 1/18/13 http://tinyurl.com/b7zvv4d]

On Monday, President Obama will preside over the grand reopening of his administration. It would be altogether fitting if he stepped to the microphone, looked down the mall, and let out a sigh: so many people expecting so much from a government that appears capable of so little. A second inaugural suggests new beginnings, but this one is being bookended by dead-end debates. Gridlock over the fiscal cliff preceded it and gridlock over the debt limit, sequester, and budget will follow. After the election, the same people are in power in all the branches of government and they don't get along. There's no indication that the president's clashes with House Republicans will end soon.

Inaugural speeches are supposed to be huge and stirring. Presidents haul our heroes onstage, from George Washington to Martin Luther King Jr. George W. Bush brought the Liberty Bell. They use history to make greatness and achievements seem like something you can just take down from the shelf. Americans are not stuck in the rut of the day.

But this might be too much for Obama’s second inaugural address: After the last four years, how do you call the nation and its elected representatives to common action while standing on the steps of a building where collective action goes to die? That **bipartisan** bag of tricks has been tried and it didn’t work. People don’t believe it. Congress' approval rating is 14 percent, the lowest in history. In a December Gallup poll, 77 percent of those asked said the way Washington works is doing “serious harm” to the country.

The challenge for President Obama’s speech is the challenge of his second term: how to be great when the **environment stinks**. Enhancing the president’s legacy requires something more than simply the clever application of predictable stratagems. Washington’s **partisan rancor**, the size of the problems facing government, and the limited amount of **time** before Obama is a lame duck all point to a single conclusion: The president who came into office speaking in lofty terms about **bipartisanship** and cooperation can only cement his legacy if he **destroys the GOP**. If he wants to transform American politics, he must **go for the throat**.

President Obama could, of course, resign himself to tending to the achievements of his first term. He'd make sure health care reform is implemented, nurse the economy back to health, and put the military on a new footing after two wars. But he's more ambitious than that. He ran for president as a one-term senator with no executive experience. In his first term, he pushed for the biggest overhaul of health care possible because, as he told his aides, he wanted to make history. He may already have made it. There's no question that he is already a president of consequence. But there's no sign he's content to ride out the second half of the game in the Barcalounger. He is approaching gun control, climate change, and immigration with wide and excited eyes. He's not going for caretaker.

How should the president proceed then, if he wants to be bold? The Barack Obama of the first administration might have approached the task by finding some Republicans to deal with and then start agreeing to some of their demands in hope that he would win some of their votes. It's the traditional approach. Perhaps he could add a good deal more schmoozing with lawmakers, too.

That's the old way. **He has abandoned that**. He doesn't think it will work and he doesn't have the time. As Obama explained in his last press conference, he thinks the Republicans are dead set on opposing him. They cannot be unchained by schmoozing. Even if Obama were wrong about Republican intransigence, other constraints will limit the chance for cooperation. Republican lawmakers worried about primary challenges in 2014 are not going to be willing partners. He probably has at most 18 months before people start dropping the lame-duck label in close proximity to his name.

Obama’s **only remaining option is to pulverize**. Whether he succeeds in passing legislation or not, given his ambitions, his goal should be to delegitimize his opponents. Through a series of **clarifying fights over controversial issues**, he can force Republicans to either side with their coalition's most extreme elements or cause a rift in the party that will leave it, at least temporarily, in disarray.

This theory of political transformation rests on the weaponization (and slight bastardization) of the work by Yale political scientist Stephen Skowronek. Skowronek has written extensively about what distinguishes transformational presidents from caretaker presidents. In order for a president to be transformational, the old order has to fall as the orthodoxies that kept it in power exhaust themselves. Obama's gambit in 2009 was to build a new post-partisan consensus. That didn't work, but by exploiting the weaknesses of today’s Republican Party, Obama has an opportunity to hasten the demise of the old order by increasing the political cost of having the GOP coalition defined by Second Amendment absolutists, climate science deniers, supporters of “self-deportation” and the pure no-tax wing.