## T

#### We meet- Indef detention is without trial -

US LEGAL 13 [US Legal Forms Inc., Indefinite Detention Law and Legal Definition http://definitions.uslegal.com/i/indefinite-detention/]

Indefinite detention is the practice of detaining an arrested person by a national government or law enforcement agency without a trial. It may be made by the home country or by a foreign nation. Indefinite detention is a controversial practice, especially in situations where the detention is by a foreign nation. It is controversial because it seems to violate many national and international laws. It also violates human rights laws. Indefinite detention is seen mainly in cases of suspected terrorists who are indefinitely detained.The Law Lords, Britain’s highest court, have held that the indefinite detention of foreign terrorism suspects is incompatible with the Human Rights Act and the European Convention on Human Rights. [Human Rights Watch] In the U.S., indefinite detention has been used to hold terror suspects. The case relating to the indefinite detention of Jose Padilla is one of the most highly publicized cases of indefinite detention in the U.S. In the U.S., indefinite detention is a highly controversial matter and is currently under review. Organizations such as International Red Cross and FIDH are of the opinion that U.S. detention of prisoners at Guantanamo Bay is not based on legal grounds. However, the American Civil Liberties Union is of the view that indefinite detention is permitted pursuant to section 412 of the USA Patriot Act.

#### plan causes trils in 7 days

David Welsh, J.D. from the University of Utah. He is currently a doctoral student in the Eller School of Business at the University of Arizona where his research focuses on organizational fairness and ethics, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, 9 U.N.H. L. Rev. 261, March 2011, Lexis

¶ Second, a re-articulation of detention policies under the DTC model will limit procedural burdens on detainees to a greater degree. The DTC model requires that detainees be brought before a judge without unnecessary delay. [n182](https://www-lexisnexis-com.libproxy.usc.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1371367095741&returnToKey=20_T17612684264&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.445699.5416944018#n182) This should occur within seven days unless exigent circumstances arise. [n183](https://www-lexisnexis-com.libproxy.usc.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1371367095741&returnToKey=20_T17612684264&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.445699.5416944018#n183) Detentions must be independently reviewed at periodic intervals to ensure that the process is progressing either toward trial or release. [n184](https://www-lexisnexis-com.libproxy.usc.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1371367095741&returnToKey=20_T17612684264&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.445699.5416944018#n184) Fairness and efficiency are maximized by a system adapted specifically to detainees, and holding individuals for years without trial would become the rare exception under this model rather than the norm.¶

#### If there is a reasonable way to define their definition to include the aff, than T is a wash. A race to the most limiting interpretation causes a race to the bottom that kills substantive debate

#### Coutner interp - Restriction means a limit or qualification, and includes conditions on action

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition.").

P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

#### Over limits – their arg restricts the topic to one aff per topic area, kills innovation, creativity and aff ground which is vital to two sided engagement

#### Precision – no ev in the context of the topic proves excluding the aff is arbitrary – turns limits because imprecise limits are worse than not at all

#### Not bidirectional – posner is talking about ex post restrictions

#### Functional limits guarantee ground – ESR etc

## Terror Adv.

#### Congress has already passed detention restrictions---pounds DA

Janet Cooper Alexander 13, professor of law at Stanford University, March 21st, 2013, "The Law-Free Zone and Back Again," Illinois Law Review, [illinoislawreview.org/wp-content/ilr-content/articles/2013/2/Alexander.pdf](http://illinoislawreview.org/wp-content/ilr-content/articles/2013/2/Alexander.pdf" \t "_blank)

Congress also passed legislation requiring suspected members of al- Qaeda or “associated forces” to be held in military custody, again making it difficult to prosecute them in federal court. The bill as passed contained some moderating elements, including the possibility of presidential waiver of the military custody requirement, 7 recognition of the FBI’s ability to interrogate suspects, 8 and a disclaimer stating that the statute was not intended to change existing law regarding the authority of the President, the scope of the Authorization for Use of Military Force, 9 or the detention of U.S. citizens, lawful residents, or persons captured in the United States. 10 All the while, Republican presidential hopefuls were vying to see who could be the most vigorous proponent of indefinite detention, barring trials in civilian courts, and reinstating a national policy of interrogation by torture.¶ 11¶ During the same period, the D.C. Circuit issued a series of decisions that effectively reversed the Supreme Court’s habeas decisions of 2004 and 2008. 12 The Supreme Court’s failure to review these decisions has left detainees with essentially no meaningful opportunity to challenge their custody. ¶ Thus, a decade that began with the executive branch’s assertion of sole and exclusive power to act unconstrained by law or the other branches ended, ironically, with Congress asserting its power to countermand the executive branch’s decisions, regardless of detainee claims of legal rights, in order to maintain those law-free policies. And although the Supreme Court had blocked the Bush administration’s law-free zone strategy by upholding detainees’ habeas rights, the D.C. Circuit has since rendered those protections toothless.

#### No drone shift link---numbers don’t line up

Robert Chesney 11, Charles I. Francis Professor in Law at the UT School of Law as well as a non-resident Senior Fellow at Brookings, "Examining the Evidence of a Detention-Drone Strike Tradeoff", October 17, www.lawfareblog.com/2011/10/examining-the-evidence-of-a-detention-drone-strike-tradeoff/

Yesterday Jack linked to this piece by Noah Feldman, which among other things advances the argument that the Obama administration has resorted to drone strikes at least in part in order to avoid having to grapple with the legal and political problems associated with military detention:¶ Guantanamo is still open, in part because Congress put obstacles in the way. Instead of detaining new terror suspects there, however, Obama vastly expanded the tactic of targeting them, with eight times more drone strikes in his first year than in all of Bush’s time in office.¶ Is there truly a detention-drone strike tradeoff, such that the Obama administration favors killing rather than capturing? As an initial matter, the numbers quoted above aren’t correct according to the New America Foundation database of drone strikes in Pakistan, 2008 saw a total of 33 strikes, while in 2009 there were 53 (51 subsequent to President Obama’s inauguration). Of course, you can recapture something close to the same point conveyed in the quote by looking instead to the full number of strikes conducted under Bush and Obama, respectively. There were relatively few drone strikes prior to 2008, after all, while the numbers jump to 118 for 2010 and at least 60 this year (plus an emerging Yemen drone strike campaign). But what does all this really prove?¶ Not much, I think. Most if not all of the difference in drone strike rates can be accounted for by specific policy decisions relating to the quantity of drones available for these missions, the locations in Pakistan where drones have been permitted to operate, and most notably whether drone strikes were conditioned on obtaining Pakistani permission. Here is how I summarize the matter in my forthcoming article on the legal consequences of the convergence of military and intelligence activities:¶ According to an analysis published by the New America Foundation, two more drone strikes in Pakistan’s FATA region followed in 2005, with at least two more in 2006, four more in 2007, and four more in the first half of 2008.[1] The pattern was halting at best. Yet that soon changed. U.S. policy up to that point had been to obtain Pakistan’s consent for strikes,[2] and toward that end to provide the Pakistani government with advance notification of them.[3] But intelligence suggested that on some occasions “the Pakistanis would delay planned strikes in order to warn al Qaeda and the Afghan Taliban, whose fighters would then disperse.”[4] A former official explained that in this environment, it was rare to get permission and not have the target slip away: “If you had to ask for permission, you got one of three answers: either ‘No,’ or ‘We’re thinking about it,’ or ‘Oops, where did the target go?”[5]¶ Declaring that he’d “had enough,” Bush in the summer of 2008 “ordered stepped-up Predator drone strikes on al Qaeda leaders and specific camps,” and specified that Pakistani officials going forward should receive only “‘concurrent notification’…meaning they learned of a strike as it was underway or, just to be sure, a few minutes after.”[6] Pakistani permission no longer was required.[7] ¶ The results were dramatic. The CIA conducted dozens of strikes in Pakistan over the remainder of 2008, vastly exceeding the number of strikes over the prior four years combined.[8] That pace continued in 2009, which eventually saw a total of 53 strikes.[9] And then, in 2010, the rate more than doubled, with 188 attacks (followed by 56 more as of late August 2011).[10] The further acceleration in 2010 appears to stem at least in part from a meeting in October 2009 during which President Obama granted a CIA request both for more drones and for permission to extend drone operations into areas of Pakistan’s FATA that previously had been off limits or at least discouraged.[11] ¶ There is an additional reason to doubt that the number of drone strikes tells us much about a potential detention/targeting tradeoff: most of these strikes involved circumstances in which there was no feasible option for capturing the target. These strikes are concentrated in the FATA region, after all. ¶ Having said all that: it does not follow that there is no detention-targeting tradeoff at work. I’m just saying that drone strikes in the FATA typically should not be understood in that way (though there might be limited exceptions where a capture raid could have been feasible). Where else to look, then, for evidence of a detention/targeting tradeoff?¶ Bear in mind that it is not as if we can simply assume that the same number of targets emerge in the same locations and circumstances each year, enabling an apples-to-apples comparison. But set that aside.¶ First, consider locations that (i) are outside Afghanistan (since we obviously still do conduct detention ops for new captures there) and (ii) entail host-state government control over the relevant territory plus a willingness either to enable us to conduct our own ops on their territory or to simply effectuate captures themselves and then turn the person(s) over to us. This is how most GTMO detainees captured outside Afghanistan ended up at GTMO. Think Bosnia with respect to the Boumediene petitioners, Pakistan’s non-FATA regions, and a variety of African and Asian states where such conditions obtained in years past. In such locations, we seem to be using neither drones nor detention. Rather, we either are relying on host-state intervention or we are limiting ourselves to surveillance. Very hard to know how much of each might be going on, of course. If it is occurring often, moreover, it might reflect a decline in host-state willingness to cooperate with us (in light of increased domestic and diplomatic pressure from being seen to be responsible for funneling someone into our hands, and the backdrop understanding that, in the age of wikileaks, we simply can’t promise credibly that such cooperation will be kept secret). In any event, this tradeoff is not about detention versus targeting, but something much more complex and difficult to measure.

#### Drone Shift Locked-In

Jay Lefkowitz 13, senior lawyer and former domestic policy advisor to President George W. Bush and John O'Quinn, former DOJ official in the Bush administration, Financial Times, "Drones are no substitute for detention", March 4, www.ft.com/cms/s/0/dae6552c-84c2-11e2-891d-00144feabdc0.html#axzz2dZnIVyqb

Memo to all those critics of Guantánamo Bay: beware what you wish for. The nomination of John Brennan to head the CIA was put on hold, in no small part because of the growing debate over the use of drone strikes to kill suspected high-value al-Qaeda operatives and other alleged terrorists. President Barack Obama’s administration defends these strikes as “legal”, “ethical”, “wise” and even “humane”. Opponents characterise them as an aggrandisement of executive power in which the president becomes judge, jury and executioner. Sound familiar? It should – because it parallels the debate over the policy of detaining terrorist suspects at Guantánamo that punctuated most of George W. Bush’s time in office.¶ In the past four years, there has been a dramatic shift from detention to drone strikes as the tool of choice for removing al-Qaeda operatives from the field of battle. They have reportedly been used more than 300 times in Pakistan alone by the Obama administration, at least six times more than under Mr Bush. They inevitably come with collateral damage. Meanwhile, not one detainee has been transferred to Guantánamo, and the US has largely outsourced the running of the detention facility at Bagram air base to the Afghan government. Rather than capture enemies and collect valuable information, this administration prefers to pick them off. In short, every successful drone strike is another wasted intelligence-gathering opportunity.¶ Lost amid recent hysteria over the drone programme is the question of why – when detention produces little collateral damage – there appears to be little appetite for capturing and questioning suspects. The answer: it poses hard choices for an administration fearful of the criticism directed at its predecessors – one that in effect abandoned its efforts to close Guantánamo, and came round largely to defending Bush-era policies regarding detention, but only very reluctantly.¶ Detention requires the government to decide: when is a detainee no longer a threat? Should they be tried, and where? When, where and how can they can be repatriated? What intelligence can be shared with a court or opposing counsel? And, one of the hardest questions of all: what if you release a detainee and they take up arms again?¶ On top of that, it raises questions about intelligence-gathering, a primary mission at Guantánamo. Indeed, it has been widely reported that intelligence from detainees helped lead the US to Osama bin Laden. But how is it to be gathered? What techniques are permissible? Moreover, accusations of torture are easily made – it is literally part of the al-Qaeda play book to do so – but hard to debunk without compromising intelligence.¶ By contrast, drone strikes are easy. With a single key stroke, a suspected enemy is eliminated once and for all, with no fuss, no judicial second-guessing and no legions of lawyers poised to challenge detention. Indeed, one of the unintended consequences of the criticism of Guantánamo is to make drone strikes more attractive than detention for removing al-Qaeda operatives from the field of battle.¶ Yet, even as potential intelligence assets are bombed out of existence, the information trail from detainees captured 10 years ago grows cold. At the same time, al-Qaeda evolves and expands. What could we have learnt from even a handful of the high-value operatives killed in drone strikes?¶ We do not dispute that use of drones against al-Qaeda is a legitimate part of the president’s powers as commander-in-chief, and we have doubts about some proposals that purport to circumscribe that authority. But it is clear this administration is using them as a substitute for capture, detention and intelligence-gathering. The current debate highlights the need for Congress and the administration to refocus their efforts on developing a sensible, sustainable policy for detention of foreign enemy combatants – in which enemies are safely held far from US soil, intelligence is actively gathered and justice promptly administered through military courts – instead of taking the easy way out.

#### Overall levels of violence may increase, but the effectiveness and impact of those attacks goes way down. Prefer our comparative evidence here—violence has to be evaluated in terms of frequency and magnitude.

Wilner 10, (Alex S. Wilner, Center for Security Studies, ETH Zurich, Swiss Federal Institute of Technology, Targeted Killings in Afghanistan: Measuring Coercion and Deterrence in Counterterrorism and Counterinsurgency, Studies in Conflict & Terrorism, Vol. 33 No. 4, 09 Mar 2010, http://dx.doi.org/10.1080/10576100903582543)

Generally, overall violence increased following the targeted eliminations (Figure 2). This was especially so with the Dadullah case. On the surface, these are unanticipated developments.74 The literature on targeted killings suggests that eliminations should result in a general diminishment of violence. In their quantitative analysis of Israel’s campaign of targeted killings between 2000 and 2004, Mohammed Hafez and Joseph Hatfield provide similar findings. They conclude that “targeted assassinations have no significant impact on rates of Palestinian violence.”75 That both this and the Hafez/Hatfield study find trends that contradict theoretical expectations would suggest that certain components of the literature on targeted killings need to be substantially revised. However, a closer examination of the Afghan data does corroborate the literature’s most basic theoretical principle: targeted killings influence the type of violence terrorists are capable of planning effectively and forces them to conduct less-preferred forms of activity.¶ Violent, non-state organizations have coercive preferences. The Taliban is no exception. The type of violence they engage in rests as much on the impact they are trying to have as it does on their capacity and capability to muster efforts toward particular goals. To that end, suicide attacks are the Taliban’s preferred tactic—they are the most effective form of violence, provide the greatest consequence (both in kill ratios and psychological effect), can be directed against hard targets, are difficult to detect, stop, and mitigate, and have a proven track record of killing Coalition and Afghan soldiers. Suicide bombings are also the most sophisticated type of violence to plan, the most difficult to organize effectively, and take a considerable amount of time, energy, and expertise to mount successfully. Improvised Explosive Devices (IED) are the Taliban’s second most preferred tactic—they have proven deadly against Afghan National Police (ANP) and other lightly armored ISAF/NATO and Afghan National Army (ANA) personnel carriers, they are cheaply constructed, and provide a deadly concentrated explosive blast. IEDs are also less sophisticated than suicide bombs and are easier to organize effectively. They offer less control, however, cannot be consistently directed against particular targets, can be detected and diffused more easily than suicide bombs, their detonation can be mitigated with proper armor, and they are all too often triggered by civilians. Small arms and rocket fire (SA/R) is the Taliban’s least preferred tactic—it is most effective against soft targets, Afghan and international officials, lightly armed ANP forces, and when used in complex ambushes. However, SA/R attacks against security forces can be easily mitigated and usually result in a disproportionately high rate of Taliban casualties. Likewise, Taliban SA/R attacks are usually successfully repelled and the heavy concentration of gunmen in one location can be easily attacked with aerial support. Furthermore, Taliban rocket fire is crude, uncontrolled, and ineffective. In sum, SA/R attacks are the least sophisticated type of violence and the easiest to organize yet provide the worst results.¶ With these Taliban preferences in mind, the aggregate data on overall levels of violence reveal a number of expected findings. After the targeted killings, for instance, suicide bombings dropped by over 30 percent, from a total of 43 before, to 29 after, the targeted eliminations. This is in keeping with the degree of difficulty, amount of time and expertise, and level of leadership that is required to coordinate effective suicide bombings. It is also plausible that the decrease in suicide attacks spurred a rise in less-sophisticated forms of violence, with IEDs increasing by 6 percent and SA/R attacks by roughly 15 percent following the four targeted attacks.76 As leaders and facilitators were eliminated, the Taliban began using less-sophisticated forms of violence that required less energy, expertise, and time to organize effectively. This shift resonates with elements outlined in the literature on targeted killings: as organizations succumb to the effects of a protracted campaign of elimination, their overall ability to operate at a high level of sophistication decreases and the selection and use of less formidable forms of violence increases.¶ Overall levels of violence, however, are only a minor part of the analysis. The data also reveal changes in Taliban professionalism following the targeted killings. For the two most sophisticated forms of violence (IEDs and suicide attacks), the aggregate data suggest a decrease in professionalism and an increase in failure rates. After the eliminations, IED failure rates rose precipitously from 20 to roughly 35 percent. This is a considerable change in proficiency. Suicide bombing success rates also dropped (by a less impressive though no less important five percentage points) following the strikes. Both are theoretically expected findings (Figure 3). Finally, the data also suggest that the targeted killings influenced the selection of targets. For instance, in terms of known target selection for suicide bombers, the aggregate data reveal that following the eliminations, soft targets were more often selected (as a percentage of all target selection) after the leadership strikes (Figure 4). As leaders where killed, remaining forces selected less formidable targets to attack, like Afghan government officials, civil-society actors, and off-duty police commanders, rather than hardened, military actors.

## Cred Adv.

#### Now is key to the European alliance- they fear America will pivot to Asia.

Aronsson and Keller, 2012 (Lisa is a fellow in Transatlantic Security Studies, Royal United Services Institute and Patrick is a coordinator at the Royal United Services Institute for Defence and Security Studies and the Konrad-Adenauer-Stiftung, “British-German Defense Co-Operation in NATO” May 2012. Konrad Adenauer Stiftunt, RUSI Institute. Web, Acc at http://www.rusi.org/downloads/assets/OP\_201205\_Aronsson\_and\_Keller.pdf

German, British and other European leaders became increasingly concerned when Secretary of State Hillary Clinton mentioned America had reached a ‘pivot point’ in her Foreign Policy article, ‘America’s Pacific Century’.2 American statecraft going forward, she argued, would have to increase its diplomatic, economic and strategic investment in Asia. European leaders interpreted the ‘American pivot’ in their own ways and in ways, perhaps, that were never intended in Washington. American policy statements have been debated in the European capitals and understood differently, particularly among the British and German defence and security communities. In London, the ‘pivot’ sparked a genuine debate about the UK’s place in Europe and about the possibility of a ‘post-American Alliance’. The British response centred on the recognition that the world is changing and that the relative strategic relevance of the UK and Europe are in decline. The UK has charted a policy to redouble its efforts towards defining a British strategy for Asia and making provisions for a European-led NATO in the distant future, while remaining focused in the short term on keeping the US deeply involved in Europe. After all, America’s involvement in Europe has served British strategic interests for decades and will continue to do so. It has reinforced the ‘special relationship’, strengthened British political influence in Washington, and protected a peaceful and prosperous Europe.

#### The terror attack doesn’t need to occur against the US to trigger the impact- a terrorist could nuke Israel or Russia and that’s bad- only international cooperation can prevent those attacks from occurring. Because other countries have weaker infrastructure to deal with the aftermath of the attack, that places a premium on cooperation that can prevent an attack from occurring in the first place.

#### Defense ignores empirics

Moran and Cottee, 10 (Matthew Cottee is working towards a PhD in nuclear security at King's College London. He is employed as a Research Assistant at the International Centre for Security Analysis. Matthew Moran holds a PhD from University College London. He is currently employed as a Research Associate at the International Centre for Security Analysis, King's College London. “Nuclear terrorism: should the UK be concerned?” Web, Acc at Open Democracy.net http://www.opendemocracy.net/matthew-moran-matthew-cottee/nuclear-terrorism-should-uk-be-concerned

A [recent article](http://www.guardian.co.uk/world/2010/nov/07/nuclear-material-black-market-georgia) published in a national newspaper revealed the key details of a successful sting operation carried out by Georgian counter-proliferation specialists. The incident, which took place in March of this year, saw two Armenians, a physicist and a businessman, smuggle 18 grams of highly enriched uranium (HEU) into Georgia by train. The smugglers believed that they were selling an advanced sample to a terrorist group when in reality the buyer was an undercover police officer.

In technical terms, 18 grams of almost weapons-grade HEU does not pose any large-scale threat; to construct a nuclear device, an amount of around [25 kilograms](http://www.parliament.uk/documents/post/pn179.pdf) is required. The real cause for concern lies in the fact that the HEU was successfully transported across national borders. In the case of Georgia, this is the third time in seven years that HEU has been intercepted by the authorities. On a larger scale, however, the [illicit trafficking database](http://www-ns.iaea.org/security/itdb.asp) maintained by the International Atomic Energy Agency reveals that since the early 1990s, there have been 15 confirmed incidents involving unauthorized possession of HEU and Plutonium (Plutonium being the other fundamental material that could be used in a nuclear device, although it requires considerable technical expertise to weaponise). Some of these events involved attempts to sell these materials and their smuggling across national borders.

The news of the trial in Georgia has thrust the question of nuclear terrorism into the spotlight and there are three main issues at stake. First, there exists a certain amount of fissile nuclear material which is beyond government control. Second, this material can potentially be sold transnationally on the black market. Third, vendors are willing to sell to international terrorist organizations. So what are the larger implications for nuclear terrorism?

In April 2009, Barack Obama’s [Prague speech](http://prague.usembassy.gov/obama.html) proposed an international effort to lock down nuclear material in order to prevent the acquisition of a nuclear weapon by terrorists.  He surmised that although ‘the threat of global nuclear war has gone down [...] the risk of a nuclear attack has gone up.’ Obama’s concerns culminated in the Nuclear Security Summit in Washington – the largest gathering of Heads of State hosted by a US President since 1945 – highlighting the seriousness of the issue.

However, concerns regarding accessible nuclear material have existed for some time. Legacy threats resulting from the Cold War led to the creation of the US Cooperative Threat Reduction Program (CTR) in 1992, and the G-8 initiated Global Partnership (GP) in 2002. These programmes have thrown significant resources at mitigating the threat of nuclear material and relevant knowledge ending up in the wrong hands. CTR was aimed at preventing the theft or diversion of sensitive material following the collapse of the Soviet Union and the subsequent turmoil that followed, and has tried to safeguard the technical expertise associated with the Soviet nuclear weapons programmes. Similarly, the GP, which budgeted US$20 billion over 10 years, was designed to enhance the security of nuclear and radiological materials in the same region. The GP represents a very narrow set of achievements however, focused on destroying chemical weapon stockpiles and the dismantling of old nuclear submarines. Although a clear step in the right direction, the magnitude of the task has become clearly apparent. The Georgian episode has highlighted the limitations of these initiatives, and has provided an insight into just how big the problem could be.

Should the Georgian case give the UK cause for concern? The recent and comprehensive government review of national security found form in two key documents in October, The National Security Strategy and The Strategic Defence and Security Review. In her [critique](http://www.opendemocracy.net/mary-kaldor/documents-at-odds-uk%E2%80%99s-national-security-review) of these documents, Mary Kaldor highlights the move, outlined in the first document, away from ‘classic military threats’, acknowledging the benefits of the suggested defence framework which is more suited to the changing nature of the security threats facing nation-states in contemporary society. In this context, The National Security Strategy does allude to the threat of nuclear terrorism. However, as Kaldor points out, the ‘radical overhaul’ envisaged in this document is undermined by The Strategic Defence and Security Review, which constitutes a cost-cutting exercise in essence. At odds with the first document, this second review ‘fails to create a capability for the kind of intervention envisaged’ in The National Security Strategy. In terms of nuclear security this is significant, for while the threat posed by non-state actors is recognized, it appears that the national security review fails to go beyond acknowledging the threat posed by nuclear terrorism. There are a number of reasons for this, the overarching one being the gap between perception and reality.

In their work on nuclear terrorism, Matthew Bunn and Anthony Weir debunk what they term the ‘[myths of nuclear terrorism](http://belfercenter.ksg.harvard.edu/publication/658/seven_myths_of_nuclear_terrorism.html)’. Among these myths are the belief that it is possible to place a security cordon around a state, the belief that terrorists need to source nuclear weapons from a state, and the belief that terrorists are unable to construct a nuclear device. The incident in Georgia has proven that at least two of the above statements are indeed myths; states are not impenetrable and fissile material can be bought on the black market. The problem is, proof of the third myth would be potentially devastating. For while the threat of nuclear terrorism is easily exaggerated, an enormous amount of damage could be done with a relatively small quantity of HEU in the wrong hands.

#### They don’t need much nuclear material, and neg evidence doesn’t assume DIRTY BOMBS

Dahl, 13 (Fredrik, “Governments warn about nuclear terror threat” Reuters. Web, Acc at http://www.reuters.com/article/2013/07/01/us-nuclear-security-idUSBRE96010E20130701)

An apple-sized amount of plutonium in a nuclear device and detonated in a highly populated area could instantly kill or wound hundreds of thousands of people, according to the Nuclear Security Governance Experts Group (NSGEG) lobby group.¶ But experts say a so-called "dirty bomb" is a more likely threat than a nuclear bomb. In a dirty bomb, conventional explosives are used to disperse radiation from a radioactive source, which can be found in hospitals or other places that are generally not very well protected.¶ More than a hundred incidents of thefts and other unauthorized activities involving nuclear and radioactive material are reported to the IAEA every year, Amano said.¶ "Some material goes missing and is never found," he said.¶ U.S. Energy Secretary Ernest Moniz said al Qaeda was still likely to be trying to obtain nuclear material for a weapon.¶ "Despite the strides we have made in dismantling core al Qaeda we should expect its adherents ... to continue trying to achieve their nuclear ambitions," he said.

## XO CP

Interpretation: Counterplans that use a different agent than the plan are illegitimate.

1. Doesn’t cause critical thinking outside of debate- personal decisions aren’t made by finding a different agent than ourselves

2. no literature compares it- discussions are only valuable if they are informed with real information

3. Promotes abdication of responsibility – they teach debaters to wish someone else would act instead of how to persuade someone to act

4. Forces us to debate ourselves- any of our solvency deficits can be applied to the aff as reasons why the executive will ignore the plan

Voter for fairness and education

#### Permutation do both

#### Net benefit is circumvention -

Posner 11 - Kirkland & Ellis Professor, University of Chicago Law School (Eric A. Posner, “Deference To The Executive In The United States After September 11: Congress, The Courts, And The Office Of Legal Counsel”, http://www.harvard-jlpp.com/wp-content/uploads/2012/01/PosnerFinal.pdf)

In the early years of the Bush Administration, the Office of Legal Counsel (OLC), an office within the Department of Jus‐ tice, issued a series of memoranda arguing that certain counter‐ terrorism practices—including surveillance of U.S. citizens and coercive interrogation—did not violate the law. 37 These memos were later leaked to the public, causing an outcry. 38 In 2011, the head of the OLC told President Obama that continued U.S. military presence in Libya would violate the War Powers Act. The President disregarded this advice, relying in part on contrary advice offered by other officials in the government.

These two events neatly encapsulate the dilemma for the OLC, and indeed all the President’s legal advisers. If the OLC tries to block the President from acting in the way he sees fit, it takes the risk that he will disregard its advice and marginalize the institution. If the OLC gives the President the advice that he wants to hear, it takes the risk that it will mislead him and fail to prepare him for adverse reactions from the courts, Congress, and the public.

Many scholars, most notably Professor Jack Goldsmith, argue that the OLC can constrain the executive. 39 The underlying idea here is that even if Congress and the courts cannot constrain the executive, perhaps offices within the executive can. The opposite view, advanced by Professor Bruce Ackerman, is that the OLC is a rubber stamp. 40 I advocate a third view: The OLC does not constrain the executive but enables him to accomplish goals that he would not otherwise be able to accomplish. It is more accurate to say that the OLC enables rather than constrains.

#### Permutation do the Counterplan

#### The CP does not create a domestic terror court OR trials

#### Extend Silivana - only Congressional action inspires the public to care about habeas violations- that solves accountability issues the prevent the executive from circumventing the counterplan - CP causes circumvention and more detention.

Hammond, 2012, (J.D. Candidate 2013, University of Southern California Gould School of Law; B.S. Environmental Economics & Policy 2009, University of California, Berkeley. Southern California Interdisciplinary Law Journal. 22 S. Cal. Interdis. L.J. 193 “NOTE: THE NATIONAL DEFENSE AUTHORIZATION ACT AND THE UNBOUND AUTHORITY TO DETAIN: A CALL TO CONGRESS” Lexis.

¶ A. The Executive's Incentive to Over-Detain¶ ¶ The executive branch has little incentive to restrain its authority to detain - the executive has an incentive to over-detain suspected terrorists. n91 Terrorist attacks present the executive with an unpredictable and severe threat. Faced with such a tremendous threat, the executive is likely to "err on the side of the detention." n92 If an individual is erroneously detained and subsequently released, the executive's "error is invisible." n93 However, if an individual is not detained or erroneously released and proceeds to cause harm, "the error will be emblazoned across the front pages." n94 It is politically more desirable for the executive to push the boundaries of the detention authority than to risk suffering the "accusatory political backlash for having failed to take sufficient action." n95¶ The Bush Administration's detention polices provide a striking example of the executive's propensity to over-detain in the face of a terrorist threat. In the first two years after the September 11 terrorist attacks, over 5000 individuals were detained. n96 To this day, some of these detained individuals remain missing. n97

#### Court Creation DA – The executive cannot create a national security court, only Congress is vested with this power.

Schuck, Lecturer at Yale Law School, ‘4

[Peter, “Terrorism Cases Demand New Hybrid Courts”, LA Times, 7-9-2004,

<http://articles.latimes.com/2004/jul/09/opinion/oe-schuck9>, RSR]

The Supreme Court in its recent rulings has given U.S. citizens who are captives in the war on terror, as well as noncitizen Guantanamo detainees, the right to hearings. Now comes the hard part: what kinds of hearings, in what courts, by what process?¶ The court wisely refrained from answering these questions in detail. Arguments on the specifics had not been presented to the court, and the limited guidance that the justices did offer was more intuitive than analytical. Wisdom aside, this sort of self-restraint is constitutionally required: Article 1, Section 8, Clause 14 gives Congress -- not the judicial or the executive branch -- the authority to make rules for the armed forces, including the initial design of hearings for the prisoners.

#### Extend Chesney – Legislative action is key to international legitimacy – it’s seen as the most meaningful constraint on presidential action and sends a stronger signal to allies.

#### Extend the Welsh evidence- the plan promotes separation of powers which is the only way to prevent the executive from dominating the process and appointing biased judges – that tanks solvency.

#### Extend Periseault – vesting sole power in the executive increases separation of powers criticism – exec is able to control who should be tried and when – replicates status quo problems with military commissions

#### (if politics=NB) Congress will backlash to the CP by holding up debt ceiling

Risen ’04 (Clay, Assistant Editor – New Republic, The American Prospect, Aug, Lexis)

Congress provides an additional, if somewhat less effective, check on executive orders. In theory, any executive order can be later annulled by Congress. But in the last 34 years, during which presidents have issued some 1,400 orders, it has defeated just three. More often, Congress will counter executive orders by indirect means, holding up nominations or bills until the president relents. "There's always the potential that a Congress angry about one issue will respond by limiting other things you want," says Mayer.

#### Links to politics through bypassing debate – reporting requirements are statutes – also links to prez powers

Billy Hallowell 13, 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.”

#### Internal processes destroy legitimacy

Kent Roach 13, Professor of Law and Prichard-Wilson Chair of Law and Public Policy at the University of Toronto, editor-in-chief of the Criminal Law Quarterly, “Managing secrecy and its migration in a post-9/11 world,” Ch 8 in Secrecy, National Security And The Vindication Of Constitutional Law, ed. David Cole, Federico Fabbrini, and Arianna Vedaschi, google books

Secret evidence is used by the US military and the CIA in decisions about targeted killing. Attorney General Holder has stressed that the evidence supporting such decisions is carefully reviewed within the government and has argued that the process satisfies due process because due process need not be judicial process.11 The problem with this approach is that it requires people to trust the government that the secret evidence has been thoroughly tested and vetted even though the executive has an incentive to err on the side of security. In contrast to the Israeli courts, American courts have taken a hands-off approach to review of targeted killing.12 The Israeli courts have in one prominent case reviewed targeted killings and have stressed the importance of both ex ante and ex post review within the military and involving the courts.13 To be sure, Israel has not gone as far as the United Kingdom in giving security cleared special advocates access to secret information, but it has provided a process that goes beyond the executive simply reviewing itself. The Obama administration does not seem to think that anyone could seriously challenge the legitimacy of their attempts to keep strategic military information behind targeted killings secret. In a sense, this is a return to a Cold War strategy where the need to preserve secrets from the other side was widely accepted. What has changed since 9;11, however, is that terrorism as opposed to invasion or nuclear war is widely accepted as the prime threat to national security. Terrorism is seen by many as a crime and the use of war-like secrecy is much more problematic in responding to a crime than to a threat of invasion or nuclear war. Hence, the legitimacy of the US’s use of secrets to kill people in its controversial war against al Qaeda has been challenged. It may become a liability in the US’s dealings with the Muslim world.

#### Doesn’t solve legitimacy- Israel relations prove executive foreign policy commitments aren’t trusted.

Justin C. Danilewitz, 2004 Fellow and JD candidate, university of Pennsylvania Law School and the Fletcher School of Law and Diplomacy; A.B., Harvard (magna cum laude). The Ties That Bind: U.S. Foreign Policy Commitments and the Constitutionality of Entrenching Executive Agreements, 14 J. Transnat’l L. & Pol’y 87, 91 (2004). –

Of course, the significance of the supposed American¶ commitment from the Israeli perspective begged the question of its¶ enforceability or legal “bindingness.” But on this essential issue the¶ Israeli editorialist adopted a skeptical tone, recalling an earlier¶ seeming commitment by a U.S. administration to a foreign¶ government that subsequently “evaporated” when judged to be no¶ longer in the American interest.32 Could Bush’s committment to¶ Sharon be merely a repeat of former President Richard Nixon’s¶ guarantees to South Vietnamese President Nguyen Van Thieu?33 ¶ ¶ Despite the obvious dissimilarities in the analogy,34 the writer¶ could not “ignore the historical lesson: political promises are meant¶ to solve urgent political problems and are . . . only good for the¶ moment they are made. Don’t regard them as a ‘political insurance¶ policy’ as Dov Weisglass [sic], the [P]rime [M]inister's lawyer and¶ [B]ureau [C]hief has referred to the anticipated Bush letter.”35¶ Moreover, with an American presidential election only months¶ away, the writer noted, future administrations might not feel bound¶ by Bush’s commitments.36¶ Who is to be believed? Should Israelis follow the cautious¶ realism of the editorialist, or the assurances of the Prime Minister’s¶ lawyer, Mr. Weissglas? As a matter of American constitutional law,¶ would the Bush letter indeed constitute a reliable “insurance policy”¶ for the State of Israel, or would it be subject to unilateral revision¶ or disposal at the whim of succeeding U.S. administrations (or even¶ the Bush Administration itself) at a later date? Finally, is there¶ some way for the Bush Administration to allay Israeli concerns of¶ a repetition of the broken “promise” to South Vietnamese President¶ Thieu by “entrenching” its commitment in a way that prevents easy¶ repeal?¶ Before taking up these issues, it is worth considering more¶ closely the nature of the alleged American commitment to Israel in¶ light of the language of the actual letters that were eventually¶ exchanged between Bush and Sharon on April 14, 2004.37 What one¶ finds from this examination, is that the talk about American¶ commitments prior to the letter exchange now seems almost anticlimactic¶ in retrospect. Indeed, the much anticipated Bush¶ “commitments” are hard to discern from the American letter at all.38¶ While Bush’s letter seeks to “reassure” Sharon of “several points” —¶ language that seems to fall short of a binding legal commitment —¶ the elements of reassurance are all stated in notably hortatory and¶ aspirational terms.39 The closest the U.S. comes to making a full fledged commitment of any sort is in the Bush letter’s comment that¶ “[t]he United States reiterates its steadfast commitment to Israel’s¶ security, including secure, defensible borders, and to preserve and¶ strengthen Israel’s capability to deter and defend itself, by itself,¶ against any threat or possible combination of threats.”40 However,¶ no actionable policy is attached to this reiterated commitment.41¶ Similarly, the comment that “Israel will retain its right to defend¶ itself against terrorism”42 does not amount to an American¶ commitment to come to Israel’s defense but is, rather, merely an¶ acknowledgement of a right that Israel enjoys antecedently to its¶ relationship with the U.S.43 Finally, even the two most eagerly¶ anticipated aspects of the Bush letter noted by the Israeli¶ editorialist — settlement of Palestinian refugees in a future¶ Palestinian state rather than in Israel; another regarding the¶ recognition of Israeli communities in the areas of Judea and¶ Samaria — seem to state no more than an American perspective on¶ the issue that might well be subject to future modification and that¶ requires no policy action on the part of the United States.44¶ In contrast to the formless and noncommittal language of the¶ Bush letter, the weightier responsibilities, ironically, seem to have¶ ¶ been undertaken by Sharon. Thus, for example, Sharon’s letter¶ states:¶ [W]e are fully aware of the responsibilities facing the¶ State of Israel. These include limitations on the¶ growth of settlements; removal of unauthorized¶ outposts; and steps to increase, to the extent¶ permitted by security needs, freedom of movement for¶ Palestinians not engaged in terrorism. Under¶ separate cover we are sending to you a full¶ description of the steps the State of Israel is taking to¶ meet all its responsibilities.45¶ The importance of Sharon’s acceptance of such responsibilities¶ is suggested by the Bush letter’s pointed reference to them.46¶ Meanwhile, other references to responsibilities in the Bush letter¶ refer to those of the “parties” to the conflict, and never to the¶ responsibilities of the United States itself.47¶ In short, the speculation surrounding the Bush-Sharon letters¶ raised more interesting hypothetical questions concerning executive¶ agreement commitments than has been borne out by the actual¶ exchange. And while the Bush commitments may well be of great¶ political significance, this is a separate issue from their legal¶ significance.48 On that score, my own reading suggests that the¶ American letter fails to create legally binding American¶ commitments to Israel, despite the representations of the Sharon¶ government.49 Nevertheless, the task of answering the original hypothetical questions remains. It is to that subject that I now¶ turn.

#### Permutation: do the plan and (write text)

#### Perm is key for inter branch consensus- that’s the only way to get foreign powers on board- proven by War Powers Resolution.

Justin C. Danilewitz, 2004 Fellow and JD candidate, university of Pennsylvania Law School and the Fletcher School of Law and Diplomacy; A.B., Harvard (magna cum laude). The Ties That Bind: U.S. Foreign Policy Commitments and the Constitutionality of Entrenching Executive Agreements, 14 J. Transnat’l L. & Pol’y 87, 91 (2004). –

The foregoing sections on custom, case law, and intent have¶ each contributed to the effort to establish criteria for the executive’s¶ authority to entrench executive agreements. In the last century this¶ project gained impetus with Congress’ passage of key legislation.¶ Not coincidentally, that legislation was promulgated in the era of¶ the War Powers Resolution. It was, no doubt, like the War Powers¶ Resolution, a product of the same political culture that had been¶ jaded by the excesses of unfettered executive power.¶ In 1969, a report of the Senate Foreign Relations Committee¶ proposed a resolution expressing “the sense of the Senate” that U.S.¶ commitments to foreign powers required inter-branch consensus.143¶ The version subsequently adopted (what became the National¶ Commitments Resolution) noted “the sense of the Senate that a national commitment by the United States results only from¶ affirmative action taken by the executive and legislative branches¶ of the United States Government by means of a treaty, statute, or¶ concurrent resolution of both Houses of Congress specifically¶ providing for such commitment.”144 Although the resolution¶ evidently was not intended to have the power of binding law,145 it is¶ an instructive example of the Senate’s views on the importance of¶ inter-branch cooperation in concluding international agreements.¶

#### CP Links to the net benefit

#### Solves interbranch conflict and prevents rollback.

Justin C. Danilewitz, 2004 Fellow and JD candidate, university of Pennsylvania Law School and the Fletcher School of Law and Diplomacy; A.B., Harvard (magna cum laude). The Ties That Bind: U.S. Foreign Policy Commitments and the Constitutionality of Entrenching Executive Agreements, 14 J. Transnat’l L. & Pol’y 87, 91 (2004). –

Does this mean that presidents are legally powerless to¶ preserve their foreign commitments through agreements that will¶ stand the tests of time? Surely not. Recall that a president who so¶ wished could always opt for a legislative-executive agreement rather¶ than a sole executive agreement. The former approach bears¶ significant benefits. First, inter-branch agreement confers upon the¶ executive greater insurance that the agreement will not be erased¶ by a future unilateral act of either branch. At the same time, the¶ acquiescence of the legislature which Justice Rehnquist found to be¶ of consequence in Dames & Moore would be obvious.157 In effect,¶ this arrangement offers an alternative to both inter- and intrabranch¶ conflict, substituting inter-branch consensus, and keeping¶ the action within the first zone of Justice Jackson’s tripartite¶ structure.158¶ What this means is that the executive’s ability to entrench¶ foreign commitments should be of the “weak” variety discussed¶ above in Part II. Like section 1547 of the War Powers Resolution159¶ and the judicial doctrine of stare decisis, the executive should be¶ able to affect the conduct of future foreign policy, but not in a way¶ that makes his own commitments irreversible. While presidents must have the authority to solidify foreign commitments, this power¶ should not extend beyond the limits of their treaty-making power.¶ This argument, like Professor Eule’s, is both a prudent recognition¶ of the past’s inability to dictate the future, and a normative¶ argument that it should be so.160

V

#### Turns CP- Inter-branch tension cripples US foreign policy and leadership

Jamison, 93 Deputy of Governmental Relations at CSIS, 19**93** (Linda S., *Executive-Legislative Relations after the Cold War*, Washington Quarterly, Spring Vol. 16, No. 2; Page 189)

Indeed, **there are very few domestic issues that do not have strong international implications, and likewise there are numerous transnational issues in which all nations have a stake**. **Environmental degradation, the proliferation of weapons of mass destruction, population control, migration, international narcotics trafficking, the spread of AIDS, and the deterioration of the human condition in the less developed world are circumstances affecting all corners of the globe. Neither political isolation nor policy bifurcation is an option for the United States. Global circumstances have drastically changed with the end of the Cold War and the political and policy conditions that sustained bipartisan consensus are not applicable to the post-war era. The formulation of a new foreign policy must be grounded in broad-based principles that reflect domestic economic, political, and social concerns while providing practical solutions to new situations.** Toward a Cooperative U.S. Foreign Policy for the 1990s If the federal government is to meet the new international policy challenges of the post-cold war era**,** institutional dissension caused by partisan competition and executive-legislative friction must give way to a new way of business**.** Policy flexibility must be the watchword of the **1990s** in the foreign policy domain if the United States is to have any hope of securing its interest**s in the uncertain years ahead.** One former policymaker, noting the historical tendency of the United States to make fixed "attachments," has argued that a changing world dictates policy flexibility, where practical solutions can be developed on principles of broad-based foreign policy objectives (Fulbright 1979). Flexibility, however, will not be possible without interbranch cooperation. The end of the Cold War and the new single-party control of the White House and Congress provide a unique opportunity to reestablish foreign policy cooperation. Reconfiguring post-cold war objectives requires comprehension of the remarkable transformations in world affairs and demands an intense political dialogue that goes beyond the executive branch (Mann 1990, 28-29).

## QDR

Multiple Conditional alternatives are evil - and a voting issue -

1. Skews strategy and time – we have to focus the 2ac on multiple alternatives to the plan - this gives the neg the ability to exploit aff time decisions - not make the best most educational decision.
2. Kills rejoinder & not reciprocal - the aff doesn't get to respond OR claim advantages from offense they've read – that kills debate and kills the affs ability to generate offense.
3. Ensures argumentative irresponsibility - that undermines education - kicking arguments and not defending them is anti-educational. Multiple conditional alts insures that it has to happen.
4. Counter-interpretation – the neg gets one conditional strategy and the status quo - this solves all of their offense.

#### Links to politics and Prez powers

#### Permutation-Do Both-Implement the plan as recommended by the Quadrennial Defense Review that the United States federal government should create a Domestic Terror Court to resolve the legal status of persons detained an Active Theater of War.

#### The permutation is legitimate.

#### A. Includes all of the plan. Legitimate counterplans must compete with a part of the plan text. Changing implementation is infintely regressive and is beyond the scope of fiated plan action.

#### B. Normal means. The QDR establishes the basis for policy. It is a logical prerequisite to plan adoption.

Inside Defense – ‘6

QDR Planners: Review Changes How DOD Runs, http://www.military.com/features/0,15240,86775,00.html

Required by law to be conducted every four years, the QDR is designed to anticipate the needs of the armed forces for the next two decades and provide a guide to near-term decisions about the size, shape and capabilities of the military. The Pentagon set out last year to conduct a no-holds-barred review of the entire military establishment that its overseers felt was sure to spell the end of some of the biggest and most prized weapons programs. The final product, however, calls for modest changes to both conventional and strategic forces, as well as a range of new capabilities to deal with terrorist networks around the world and new capabilities to deter and defeat potential major adversaries such as China. Details of the QDR draft were first reported Jan. 22 by InsideDefense.com, which also posted excerpts of the document. Many in Washington have already thumbed through draft copies of the review, with press reports focusing on those moderate changes to weapon system programs and force structure. The overall aim of the QDR is to put the U.S. military on a more flexible footing to deal with a wider set of challenges than preparing to fight major conventional wars. While the QDR report includes a number of decisions with near-term budget implications, it is designed to set the framework for deliberations within the Pentagon in the coming months that will influence the fiscal year 2008 to 2013 spending plan.

#### Doesn’t solve the aff –

#### First, QDR’s too vague

Finel 11(Finel, Bernard I., associate professor of national security strategy at the National War College, “The Failed Secretary”, September 2011, Armed Forces Journal, http://www.armedforcesjournal.com/2011/09/7558137/)

Gates also oversaw a consistent weakening of Defense Department strategic products. The 2010 Quadrennial Defense Review (QDR) continued a downward spiral for these assessments from the already mediocre 1997 review (although the 2002 version does contain some compelling analysis). But the 2010 version essentially lacks any rigorous analytical methodology. Indeed, it doesn’t include a force-sizing construct at all, meaning that, in a macro sense, it does not even try to answer the “how much is enough” question, much less seek to rigorously assess risk to the current national military strategy. Indeed, given the QDR and current National Military Strategy and National Defense Strategy, it isn’t even clear how one can assess risk given the vagueness of these products and their lack of prioritization. As a consequence, given current fiscal realities, the defense budget is likely to at least shrink relative to inflation. Given the state of strategic analysis out of the Office of the Secretary of Defense, it is likely that cuts will be allocated essentially across the board. Such an outcome would be a definitive indicator that strategic planning has been lacking over the past several years.

#### Only works at the beginning of a term

Patterson et al - Jr. Lt Col, USMC – ‘8

P. Dean, RETHINKING THE QDR: THE CASE FOR A PERSISTENT DEFENSE REVIEW, online

Realistically, a sitting President has one shot at implementing his or her agenda into the QDR process. As it currently stands, this opportunity comes along during the first six months of a new administration. These first six months are a busy time--filled with Senate confirmation of political appointees, setting initial domestic and foreign policy priorities, all superimposed on topof the “tyranny of the in-box” and the day to day business of running the U.S. Government. When the scope is narrowed down to the Department of Defense alone, the next U.S. president will have from inauguration day in January 2009 until about the end of the fiscal year in September to set defense budget priorities and draft a QDR. The following year will be focused on implementation of Guidance for the Development of the Force and President’s Budget execution. Not much time to make a mark. The only continuity between the two Presidential administrations will be career civil servants. But the QDR should be more than a stand-alone document. Instead of a new president having to either accept or reject the previous document, a PQDR allows for acceptance of those concepts embraced by the next administration.

#### Budget process guarantees failure

Patterson et al - Jr. Lt Col, USMC – ‘8

P. Dean, RETHINKING THE QDR: THE CASE FOR A PERSISTENT DEFENSE REVIEW, online

In terms of legislation, the QDR is a relatively young and still-evolving process. Examining the previous defense reviews, a few evolutionary trends come to light. One common thread is level of interest. Because Service budges are at stake, no player wishes to leave his seat vacant at the QDR table. The result has been a process with too many players, adding ambiguity and clouding the difficult strategy decisions that could drive budget. Because the QDR is conducted so infrequently, participant expectations are perhaps unreasonably high. This could lead to failure to achieve actionable goals.

#### Not perceived

Schake – Fellow, Hoover – ‘9

Kori, Choices for the Quadrennial Defense Review, Orbis Volume 53, Issue 3, 2009, Pages 439-456

One final discouragement: only the Eisenhower administration was disciplined enough to align its government spending plans to the Strategy as a matter of routine business and rigorously police departments for concurrence with the president's decisions. It could be that the Obama administration will prove to be the equal of Eisenhower's in the crisp staff work of good management and that it will initiate a national security planning process to align resources to priorities. There is little evidence in the administration's chaotic production of spending bills, however, to suggest that this will hold true. In all likelihood, earnest reformers will be disappointed, and the departments will need to fend for themselves, doing the best they can to take candidate Obama's policy pronouncements and the early spending instruction from the new administration to grope toward defense and diplomatic strategies that approximate the president's priorities.

#### Politics link proves Congress won’t implement

Schake – Fellow, Hoover – ‘9

Kori, Choices for the Quadrennial Defense Review, Orbis Volume 53, Issue 3, 2009, Pages 439-456

None of Secretary Gates’ priorities or plans will matter unless he can deliver congressional support for their funding. The most elegant QDR will be pointless if it runs afoul of Congress, and most established procurement programs have established constituencies. Those constituencies and their representatives will be questioning why the government is shoveling money out in “stimulus” bills when it is shutting down manufacturing lines for defense equipment. The International Association of Machinists and Aerospace Workers are already organizing a “Save Our Raptor Jobs” claiming 95,000 jobs will be lost if the F-22 is cancelled, numbers difficult to ignore in a down economy especially for member of Congress facing re-election in 2010.18 A congressional strategy will be even more important for Secretary Gates while Democrats control both houses of Congress and the White House. Many congressional Democrats do not share the serious-mindedness exhibited by so many of the Obama administration's defense appointees. While Congressional Democrats may feel obligated to give the President his topline—it would be big news if they did not support a wartime President of their own party on defense—they may not feel bound to accept the specifics of Secretary Gates’ defense program. In his January 2009 budget testimony, Secretary Gates asked lawmakers to “make tough choices about specific weapons systems and defense priorities based solely on national interests.”19 Secretary Gates surely did not mean to suggest his recommendations count as acting in the national interest while congressional priorities are parochial. However, he will have a very difficult case to make on programmatic cuts, because for the past two years he has advocated the very programs he is now telling Congress are expendable. Gates is now instructing Congress that the upcoming defense budget must “critically and ruthlessly separate appetites from real requirements,” but they will likely serve him up his own previous justifications for the very programs he proposes to cut. Nor are they likely to be persuaded we need to have very different types of forces, better optimized to counterinsurgencies. Secretary Gates has said the United States is unlikely to fight another Iraq or Afghanistan soon. If you don’t support fighting wars with complex and long-duration nation building requirements, you’re unlikely to believe we need to redesign our military forces for that purpose. One need only think back to the congressional testimony of Ambassador Ryan Crocker and General David Petraeus justifying a new counterinsurgency strategy and concomitant surge of forces in Iraq to have a sense of the strong resistance the QDR could encounter. Secretary Gates can sometimes sound preachy to members of Congress and their staffs. In arguing for nuclear modernization, for example, he wrote “Congress needs to do its part by funding the Reliable Replacement Warhead Program.”20 Such accusations are unlikely to win votes. And Secretary Gates will need to win votes, rather than just corral existing support.

#### QDR recommendations will be ignored or reversed

Patterson et al - Jr. Lt Col, USMC – ‘8

P. Dean, RETHINKING THE QDR: THE CASE FOR A PERSISTENT DEFENSE REVIEW, online

At the end of the day, much of the strategy was lost somewhere in translation. — Michèle A. Flournoy, on the 2006 QDR After the 2006 QDR was released, the US Air Force cut its end-strength by 40,000, the US Marine Corps added 27,000, and the Army grew by 56,000 personnel. These major force structure changes did not grow from QDR recommendations. Aside from established PPBE processes, how could major force structure changes have happened outside the QDR process? The QDR process should provide for regular off-ramps or opportunities to adjust. It is also important to note that Congress passed legislation that added new reporting elements for the next QDR in 2010; as well as for future QDRs. For example, under current rules, the Secretary of Defense must establish an independent panel to conduct a post review assessment of the QDR including the recommendations, assumptions used, and vulnerabilities of the strategy and force structure underlying the review. New legislation also required that the Secretary of Defense submit to the Senate and House Committees on Armed Services quarterly reports on the status of the department’s implementation of the 2006 QDR decisions.65 A successful QDR requires the “buy in” not only of the senior civilian leadership of the Department, but also that of others, such as the military leaders who will have to implement it and the members of Congress who will ultimately vote on the administration’s budget submissions.66 A process that occurs once-every-four-years has thus far failed to produce the lofty goals set out at the outset of past QDRs. An incremental, continuous process could keep the debate open, allowing for periodic change and adjustment.

#### Expert and historical consensus agrees

Patterson et al - Jr. Lt Col, USMC – ‘8

P. Dean, RETHINKING THE QDR: THE CASE FOR A PERSISTENT DEFENSE REVIEW, online

Three DoD senior leaders and at least one Congressman recently promoted the idea for developing the QDR as an ongoing process, one that is persistently exercised and monitored for progress. Donald Rumsfeld felt the QDR should be “a waypoint along a continuum of change”41 and Deputy Secretary of Defense Gordon England promised that the 2006 QDR would not be “a fire-and-forget document.”42 Lastly, Ryan Henry, Principal Deputy Under Secretary of Defense for Policy and OSD’s lead on QDR, states “… past QDRs have taught us that not all decisions can be made within the confines of the formal QDR process; instead it may be necessary to planto continue work beyond the formal QDR.”43 Instead of ramping up separate QDR staffs for the OSD, Joint, and Service staffs every four years, the QDR results could gain more traction through a continual process. One such vehicle for implementing a persistent QDR is via the National Defense Panel (NDP), which could provide Congress with an alternative view to that provided by the Pentagon. The NDP would allow a new presidential administration to adjust the QDR, capitalize upon existing Pentagon staffs conducting studies and generating greater Congressional buy-in. One of the key takeaways from the National Defense Panel findings was that the QDR lacked a “strong follow-through” mechanism. The good news is that there is already a persistent process in place called PPBE. The problem is that QDR recommendations are not always reflected in the president’s budget. If the PPBE processes already in place could be tied to a QDR with built-in off-ramps, more QDR recommendations stand to make it into the budget. The counter argument is that a persistent QDR is merely a way to avoid hard budget choices, instead selling the QDR as a future capabilities document, without programmatics.44 In other words, by delaying the hard decisions, the current administration would be delaying the unpopular, hard decisions, such as budget cuts, over to subsequent administrations.45 This paper will further explore the concept of a PQDR and recommend it to improve the current process.

## Prez Powers DA

#### Conceded the Rogin evidence

#### The legitimacy advantage outweighs and solves the disadvantage

POSNER 2011 - Kirkland & Ellis Professor, University of Chicago Law School (Eric A. Posner, “Deference To The Executive In The United States After September 11: Congress, The Courts, And The Office Of Legal Counsel”, <http://www.harvard-jlpp.com/wp-content/uploads/2012/01/PosnerFinal.pdf>)

The larger and more striking point of the example is that, even during emergencies, when the stakes are high and time is of the essence, agents should follow rules rather than improvise. In this way, agents should be constrained.^^ This argument has potentially radical implications. Recall that the conventional objection to deference is that the risk of executive abuse exceeds the benefits of giving the executive a free hand to counter al Qaeda. Professor Holmes argues—although at fimes he hedges—that in fact the benefits of giving the President a free hand are zero: A constrained executive, like a constrained medical technician, is more effective than an unconstrained executive. If the benefits of lack of constraint are zero, then the deference thesis is clearly wrong. Constraints both prevent executive abuses such as violations of civil liberties and ensure that counterterrorism policy is most effective.

#### Our credibility internals solve the impact better than flexibility

Schwarz, senior counsel, and Huq, associate counsel at the Brennan Center for Justice at NYU School of Law, 2007 [Frederick A.O., Jr., partner at Cravath, Swaine & Moore, chief counsel to the Church Committee, and Aziz Z, former clerk for the U.S. Supreme Court, Unchecked and Unbalanced: Presidential Power in a Time of Terror, p. 201]

The Administration insists that its plunge into torture, its lawless spying, and its lock-up of innocents have made the country safer. Beyond mere posturing, they provide little evidence to back up their claims. Executive unilateralism not only undermines the delicate balance of our Constitution, but also lessens our human liberties and hurts vital counterterrorism campaigns. How? Our reputation has always mattered. In 1607, Massachusetts governor John Winthrop warned his fellow colonists that because they were a "City on a Hill," "the eyes of all people are upon us."4 Thomas Jefferson began the Declaration of Independence by invoking the need for a "decent respect to the opinions of mankind:' In today's battle against stateless terrorists, who are undeterred by law, morality, or the mightiest military power on earth, our reputation matters greatly.¶ Despite its military edge, the United States cannot force needed aid and cooperation from allies. Indeed, our status as lone superpower means that only by persuading other nations and their citizens—that our values and interests align with theirs, and so merit support, can America maintain its influence in the world. Military might, even extended to the globe's corners, is not a sufficient condition for achieving America's safety or its democratic ideals at home. To be "dictatress of the world," warned John Quincy Adams in 1821, America "would be no longer the ruler of her own spirit." A national security policy loosed from the bounds of law, and conducted at the executive's discretion, will unfailingly lapse into hypocrisy and mendacity that alienate our allies and corrode the vitality of the world's oldest democracy.5

#### Congress has already killed Obama’s flexibility – prevented transfer of detainees from Guantanamo.

Alexander, Frederick I. Richman Professor of Law, Stanford Law School, ‘12

[Janet, “MILITARY COMMISSIONS: A PLACE OUTSIDE THE LAW’S REACH”, SAINT LOUIS UNIVERSITY LAW JOURNAL, Vol. 56, 2012, RSR]

On the other hand, the limitations on presidential ability to prosecute ¶ detainees in federal court, release them to other countries, or transfer them to ¶ facilities within the United States for detention or to serve their sentences are ¶ contained in statutes and thus will apply regardless of who is president. These ¶ include the mandatory military detention provisions of the 2012 NDAA.260¶ Indeed, the Feinstein amendment to the 2012 NDAA, designed in part to meet ¶ objections to mandating military custody or trial of U.S. citizens, could well ¶ turn out to support that very outcome.261 The compromise, which helped to ¶ secure passage of the 2012 NDAA without a provision for mandatory military ¶ custody or trial, is worded simply to state that the statute does not change ¶ ―existing law.‖ Many argued at the time—apparently supported by a phrase in ¶ Hamdi—that existing law already permits treating U.S. citizens and permanent ¶ residents who are determined to be ―enemy combatants‖ or unprivileged ¶ belligerents exactly the same as foreign nationals, even if they are taken into ¶ custody inside the United States. If in the future the Supreme Court, the D.C. ¶ Circuit, or another federal circuit, so holds, then the trial, detention, and waiver ¶ provisions of the 2012 NDAA will apply equally to U.S. citizens.¶ Thus, because Congress has frustrated the executive branch‘s efforts to ¶ bring the treatment of suspected terrorists back to fundamental principles of the ¶ rule of law and the Obama Administration has abandoned as futile any attempt ¶ to secure legislation to make the changes permanent, the military ¶ commissions—however improved over the Bush era—remain ―outside the ¶ law‘s reach.‖¶ 262

#### Creating a fair process for detainees preserves executive flexibility – results in judicial deference.

Bauer, Junior Editor at the Alabama Law Review, ‘6

[Jay, “DETAINEES UNDER REVIEW: STRIKING THE RIGHT¶ CONSTITUTIONAL BALANCE BETWEEN THE EXECUTIVE'S¶ WAR POWERS AND JUDICIAL REVIEW”, Vol. 57, No. 4, RSR]

Establishing a detainee review process that is as transparent and fair as¶ possible may be the best way to "strik[e] the proper constitutional balance."'179 In considering the executive's concerns for national security and¶ protection of classified information, the courts have shown an ability to be¶ flexible and accommodate the special needs of the executive while preserving¶ the fundamental precepts of the Constitution. That flexibility will likely¶ come into play regardless of whether a court is reviewing a habeas petition¶ or the final decision of a tribunal under a separate statutory scheme like that¶ in the Detainee Treatment Act.¶ If a court is reviewing a non-citizen detainee's habeas claim, now that¶ the Supreme Court has established in Rasul that federal courts do have jurisdiction¶ over detainees at Guantanamo, the federal courts and habeas jurisprudence¶ may actually prove beneficial for the executive. For instance,¶ because a habeas court looks primarily to the authority and process of detention¶ in a habeas case, this Comment argues that from a practical standpoint¶ the more the executive branch establishes a solidly fair and judicial¶ process for determining detainee status, the better it would be for the executive.¶ Since the courts tend to deny habeas petitions when there is apparent¶ authority and alternative remedies available to a habeas petitioner, it is logical¶ that a full and fair process establishing those remedies for non-citizen¶ detainees is in the executive's best interest. In other words, if the executive¶ branch wants to preserve its independent control over detainees, then practically¶ speaking it could rely on history and precedence as a model. The¶ courts will defer to executive action, but only to a point. They will seek to¶ preserve the authority of the Constitution, albeit in a restrained sense considering¶ the unique nature of detaining enemy combatants in the "war on¶ terror." Habeas corpus jurisprudence teaches that as long as there is a way¶ for an independent judiciary to examine the lawfulness of executive detention,¶ or at least ensure that the detainee has an appropriate alternative remedy¶ available, then that detention will be upheld. Thus, ironically, the way¶ for the executive to retain control over detainees is to create a full and fair¶ tribunal process. Moreover, the traditional deference the judiciary pays to¶ the executive branch when it is looking at executive wartime actions or¶ judgments should also give the executive branch confidence that federal¶ court jurisdiction over detainees at Guantanamo Bay is not going to hinder¶ its execution of the "war on terror."¶ When it passed the Detainee Treatment Act, Congress intended to interject¶ congressional oversight into the detainee review process by dictating¶ the standard of evidence used, and it wanted to ensure that the procedures of¶ the CSRT are in accordance with the Constitution. 80 The passage of the Act¶ clearly shows that the executive should anticipate more, not less, assertion¶ of authority over the detainee review process by the other branches of government.¶ Although the consequences of the Act are unknown at this point in¶ time, it is also fairly clear that however the courts consider the detainee review process-whether it is through habeas litigation or under another¶ statutorily prescribed method like that of the Detainee Treatment Act-the¶ analysis will be in terms of whether that process fundamentally complies¶ with the Constitution. Thus, from just a pragmatic standpoint, it would be¶ prudent for the executive branch to ensure that the detainee review procedures¶ uphold the ideals of that great charter.¶ Consequently, creating a detainee review process as transparent and fair¶ as possible is the best option for our government and this nation as it seeks¶ to strike the right balance between executive war powers and judicial right¶ of review.

#### Checks on the Presidents power solves deterrence better- makes our threats credible

**Waxman 13** (Matthew C- Professor of Law at Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations, “The Constitutional Power to Threaten War”, Forthcoming in Yale Law Journal, vol. 123 (2014), 8/25/2013, PDF)

A second argument, this one advanced by some congressionalists, is that stronger legislative checks on presidential uses of force would improve deterrent and coercive strategies by making them more selective and credible. The most credible U.S. threats, this argument holds, are those that carry formal approval by Congress, which reflects strong public support and willingness to bear the costs of war; requiring express legislative backing to make good on threats might therefore be thought to enhance the potency of threats by encouraging the President to seek congressional authorization before acting.181 A frequently cited instance is President Eisenhower’s request (soon granted) for standing congressional authorization to use force in the Taiwan Straits crises of the mid- and late-1950s – an authorization he claimed at the time was important to bolstering the credibility of U.S. threats to protect Formosa from Chinese aggression.182 (Eisenhower did not go so far as to suggest that congressional authorization ought to be legally required, however.) “It was [Eisenhower’s] seasoned judgment … that a commitment the United States would have much greater impact on allies and enemies alike because it would represent the collective judgment of the President and Congress,” concludes Louis Fisher. “Single-handed actions taken by a President, without the support of Congress and the people, can threaten national prestige and undermine the presidency. Eisenhower’s position was sound then. It is sound now.”183 A critical assumption here is that legal requirements of congressional participation in decisions to use force filters out unpopular uses of force, the threats of which are unlikely to be credible and which, if unsuccessful, undermine the credibility of future U.S. threats.¶ A third view is that legal clarity is important to U.S. coercive and deterrent strategies; that ambiguity as to the President’s powers to use force undermines the credibility of threats. Michael Reisman observed, for example, in 1989: “Lack of clarity in the allocation of competence and the uncertain congressional role will sow uncertainty among those who depend on U.S. effectiveness for security and the maintenance of world order. Some reduction in U.S. credibility and diplomatic effectiveness may result.”184 Such stress on legal clarity is common among lawyers, who usually regard it as important to planning, whereas strategists tend to see possible value in “constructive ambiguity”, or deliberate fudging of drawn lines as a negotiating tactic or for domestic political purposes.185 A critical assumption here is that clarity of constitutional or statutory design with respect to decisions about force exerts significant effects on foreign perceptions of U.S. resolve to make good on threats, if not by affecting the substance of U.S. policy commitments with regard to force then by pointing foreign actors to the appropriate institution or process for reading them.

## Politics

#### Economic decline doesn’t cause war

Barnett, Senior Managing Director Enterra Solutions LLC, ‘9 (Thomas, August 24, “The New Rules: Security Remains Stable Amid Financial Crisis” World Politics Review, http://www.worldpoliticsreview.com/articles/4213/the-new-rules-security-remains-stable-amid-financial-crisis)

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had virtually no impact whatsoever on the international security landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: \*No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); \*The usual frequency maintained in civil conflicts (in all the usual places); \*Not a single state-on-state war directly caused (and no great-power-on-great-power crises even triggered); \*No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); \*A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and \*No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars." Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order. Do I expect to read any analyses along those lines in the blogosphere any time soon? Absolutely not. I expect the fantastic fear-mongering to proceed apace. That's what the Internet is for.

#### Debt ceiling doesn’t collapse the economy

Tom Raum 11, AP, “Record $14 trillion-plus debt weighs on Congress”, Jan 15, <http://www.mercurynews.com/news/ci_17108333?source=rss&nclick_check=1>

Democrats have use doomsday rhetoric about a looming government shutdown and comparing the U.S. plight to financial crises in Greece and Portugal. It's all a bit of a stretch. "We can't do as the Gingrich crowd did a few years ago, close the government," said Senate Majority Leader Harry Reid (D-Nev.), referring to government shutdowns in 1995 when Georgia Republican Newt Gingrich was House speaker. But those shutdowns had nothing to do with the debt limit. They were caused by failure of Congress to appropriate funds to keep federal agencies running. And there are many temporary ways around the debt limit. Hitting it does not automatically mean a default on existing debt. It only stops the government from new borrowing, forcing it to rely on other ways to finance its activities. In a 1995 debt-limit crisis, Treasury Secretary Robert Rubin borrowed $60 billion from federal pension funds to keep the government going. It wasn't popular, but it helped get the job done. A decade earlier, James Baker, President Ronald Reagan's treasury secretary, delayed payments to the Civil Service and Social Security trust funds and used other bookkeeping tricks to keep money in the federal till. Baker and Rubin "found money in pockets no one knew existed before," said former congressional budget analyst Stanley Collender. Collender, author of "Guide to the Federal Budget," cites a slew of other things the government can do to delay a crisis. They include leasing out government-owned properties, "the federal equivalent of renting out a room in your home," or slowing down payments to government contractors. Now partner-director of Qorvis Communications, a Washington consulting firm, Collender said such stopgap measures buy the White House time to resist GOP pressure for concessions. "My guess is they can go months after the debt ceiling is not raised and still be able to come up with the cash they need. But at some point, it will catch up," and raising the debt limit will become an imperative, he suggested.

**Won’t pass---GOP spending cuts strategy**

**Bloomberg 10-3** – Bloomberg News, 12:43PM ET, 10/3/13, “Republicans Said to Plan Debt-Limit Measure Amid Shutdown,” http://www.bloomberg.com/news/2013-10-03/republicans-said-to-plan-debt-limit-measure-amid-shutdown.html

House Majority Leader Eric Cantor of Virginia indicated that Republicans and Democrats should negotiate their differences on government spending and increasing the nation’s borrowing authority at one time.¶ Republicans want to “sit down and talk to resolve our differences” on both issues, Cantor told reporters today at the U.S. Capitol.¶ House Republican leaders are weighing their next move in a standoff that has shut down the government and risks a U.S. default in two weeks.¶ They plan to bring up a measure to raise the U.S. debt-limit as soon as next week as part of a new attempt to force President Barack Obama to negotiate on the budget, according to three people with knowledge of the strategy.¶ The approach would merge the disputes over ending the partial government shutdown and raising the debt ceiling into one fiscal fight.¶ “I’d like to get one agreement and be done,” House Majority Whip Kevin McCarthy told reporters yesterday without offering details.¶ Cantor didn’t provide details on when Republicans will introduce a measure to raise the debt ceiling. Leaders will meet with rank-and-file members behind closed doors tomorrow morning to discuss the next move.¶ No Incentive¶ Republican leaders are attempting to pair their party’s priorities with a debt-limit increase, a plan they shelved last month to focus on a stopgap measure to fund the government in the new fiscal year. The goal is to have a bill ready in the coming days, even without resolving the partial government shutdown, according to a Republican lawmaker and two leadership aides who asked not to be identified to discuss the strategy.¶ There’s no incentive for the Republican-controlled House to take up a Senate-passed short-term measure without add-ons because many lawmakers don’t yet feel the effects of the government shutdown now in its third day, the people said.

#### Non unique – 1ac rogin evidence says Obama has given speeches in support of the plan but it’s on congress to act

**Obama’s already negotiating and the GOP demanded new cuts---markets already perceive default as likely which means they’ve factored in their impacts**

Peter **Schroeder 10-3**, The Hill, “GOP puts new price on debt hike (Video),” http://thehill.com/homenews/news/326271-gop-puts-new-price-on-debt-hike#ixzz2gh1fRpw7

GOP puts new price on debt hike (Video)

Rank-and-file members want Speaker John Boehner (R-Ohio) to return to the so-called “Boehner Rule,” which they say means any debt limit hike must be matched by an equal amount of spending cuts.

An earlier GOP measure to raise the debt ceiling included a host of GOP priorities, including defunding ObamaCare and constructing the Keystone XL pipeline, but not dollar-for-dollar spending cuts.

Now, as it looks increasingly like the government shutdown fight will be paired with raising the debt ceiling, Republicans are pushing hard for a strong opening bid and are adamant that changes to entitlement programs be included in any final deal.

“The American people are realizing that spending has got to be brought under control,” said Rep. Marsha Blackburn (R-Tenn.). “I want three dollars’ worth of cuts for any dollar [of debt limit increase.]”

Washington is struggling to find a way out of the standoff over the government shutdown with the Oct. 17 deadline for raising the debt ceiling fast approaching.

The earlier GOP plan has been shelved, but a spokesman for Boehner on Wednesday said it technically met the Boehner Rule when taking into account both cuts and economic growth.

Rep. Kevin Brady (R-Texas), who released an economic report touting the benefits of the earlier plan, told The Hill on Wednesday that his colleagues are looking for more “meaningful” cuts, particularly on entitlements.

“It’s very much in play,” he said of the dollar-for-dollar approach. “Discretionary savings were modest but important, but really to get a handle on our finances, we’ve got to really start to save the entitlements.”

Asked what he wants on the debt ceiling deal, Rep. Marlin Stutzman (R-Ind.) quickly replied, “dollar-for-dollar cuts.”

“We’ve got to start getting control of our spending,” he added. “I’d like to see us even address entitlement programs.”

In private, many in the financial industry are growing increasingly concerned about a possible default, given the broad gap between the two parties and the shrinking timeline for action.

President Obama has repeatedly said he will not negotiate over raising the debt limit even as he called congressional leaders to the White House on Wednesday to discuss both the shutdown and debt ceiling.

Some speculate stocks must crash to get the sides to compromise.

“People are willing to risk it all, the credibility of the country … for political reasons,” said one banking lobbyist. “You let the market fall by 400 or 500 points and watch the constituent calls start to come in.”

The president huddled Wednesday with the heads of the nation’s largest financial institutions, who reiterated their concern over using the debt limit as a political tool.

“Individual members of our group represent every point on the political spectrum,” Goldman Sachs head Lloyd Blankfein told reporters after the private meeting. “You can litigate these policy issues, you can re-litigate these policy issues in a public forum, but they shouldn’t use the threat of causing the U.S. to fail on its obligation to repay debt as a cudgel.”

Republicans have long argued they have public opinion on their side in the debt fight, but a new poll released Wednesday by CNN/ORC International found that a majority of the public believe failing to raise the debt limit would be a bad thing for the nation. Only 38 percent said it would be a positive.

A Quinnipiac University poll released one day earlier found 64 percent opposed blocking a debt-limit boost, while 27 percent favored it.

Those results suggest a significant shift from earlier polling, which typically found a large number of Americans opposed to hiking the borrowing limit. A Sept. 13 poll from NBC News and The Wall Street Journal found twice as many Americans opposed a debt limit boost than supported it.

Republicans insist they will have leverage in the debt-ceiling talks with the White House.

**PC low and fails for fiscal fights**

Greg **Sargent 9-12**, September 12th, 2013, "The Morning Plum: Senate conservatives stick the knife in House GOP leaders," Washington Post, factiva

All of this underscores a basic fact about this fall's fiscal fights: Far and away **the dominant factor** shaping how they play out will be the divisions among Republicans. There's a great deal of chatter (see Senator Bob Corker for one of the most absurd examples yet) to the effect that **Obama's mishandling of Syria has diminished his standing on Capitol Hill and will weaken him in coming fights**. But those battles at bottom will be about whether the Republican Party can resolve its **internal differences**. Obama's "standing" with Republicans -- if it even could sink any lower -- is **utterly irrelevant to that question**.¶ The bottom line is that, when it comes to how aggressively to prosecute the war against Obamacare, **internal GOP differences may be unbridgeable**. Conservatives have adopted a deliberate strategy of deceiving untold numbers of base voters into believing Obamacare will be stopped outside normal electoral channels. Central to maintaining this fantasy is the idea that any Republican leader who breaks with this sacred mission can only be doing so because he or she is too weak and cowardly to endure the slings and arrows that persevering against the law must entail. GOP leaders, having themselves spent years feeding the base all sorts of lies and distortions about the law, are now desperately trying to inject a does of reality into the debate by pointing out that the defund-Obamacare crusade is, in political and practical terms alike, insane. But it may be too late. The time for injecting reality into the debate has long since passed.

**Obama will unilaterally resolve the crisis if Congress fails---game theory proves**

**IHT 10-4** – International Herald Tribune, 10/4/13 edition, “White House has options if impasse arises on debt ceiling,” p. lexis

As a result, economists and investors have quietly begun to explore the options the White House might have in the event Congress fails to act.

The most widely discussed strategy would be for President Barack Obama to invoke authority under the 14th Amendment and essentially order the federal government to keep borrowing, an option that was endorsed by former President Bill Clinton during an earlier debt standoff in 2011.

And in recent days, prominent Democrats like Senator Max Baucus, chairman of the Senate Finance Committee, and Representative Nancy Pelosi, the House minority leader, have urged the White House to seriously consider such a route, even if it might provoke a threat of impeachment from House Republicans and ultimately require the Supreme Court to rule on its legitimacy.

Other potential October surprises range from the logistically forbidding, like prioritizing payments, issuing i.o.u.'s or selling off gold and other assets, to more fanciful ideas, like minting a trillion-dollar platinum coin.

So far, administration officials have continued to insist that there is no plausible alternative to congressional action on the debt limit.

In December 2012, Jay Carney, the White House spokesman, flatly renounced the 14th Amendment option, saying: ''I can say that this administration does not believe that the 14th Amendment gives the president the power to ignore the debt ceiling - period.'' And on Wednesday, a senior administration lawyer said that remained the administration's view.

Still, some observers outside government in Washington and on Wall Street, citing an approach resembling game theory, suggest that the president's position is more tactical than fundamental, since raising the possibility of a way out for the White House like the constitutional gambit would take the heat off Republicans in Congress to act on their own before the Oct. 17 deadline.

''If a default is imminent, the option of raising the debt limit by executive fiat has to be on the table,'' said Greg Valliere, chief political strategist at Potomac Research. ''Desperate times require desperate measures.''

Some professional investors echoed his view, which is a reason Wall Street remains hopeful that the economic and financial disaster a government default could usher in will be avoided.

''At the end of the day if there is no action and the United States has a default looming, I think President Obama can issue an executive order authorizing the Treasury secretary to make payments,'' said David Kotok, chief investment officer of Cumberland Advisors in Sarasota, Florida, which has just over $2 billion under management. ''There's always been more flexibility in the hands of Treasury than they've acknowledged.''

According to some legal theorists, the president could essentially ignore the debt limit imposed by Congress, because the 14th Amendment states that the ''validity of the public debt of the United States, authorized by law,'' including debts like pensions and bounties to suppress insurrections, ''shall not be questioned.''

Plan is popular with the GOP – being used as a rallying call to attract different demographics.

McLaughlin, 8/9 (Rand Paul: GOP Can grow base by opposing indefinite detention” The Washington Times. Web, Acc 8/15/2013. <http://m.washingtontimes.com/news/2013/aug/9/rand-paul-gop-can-grow-base-opposing-indefinite-de/>)

Sen. Rand Paul says that one of the ways he can bring more minority and younger voters into the party is to push back against indefinite detention.¶ Speaking with [Bloomberg Businessweek](http://m.washingtontimes.com/admin/stories/story/add/(http:/www.businessweek.com/articles/2013-08-08/rand-paul-on-republicans-voter-appeal-and-the-federal-reserve), Mr. Paul, a likely 2016 presidential candidate, said this week that young blacks and Hispanics have a sense of justice and often mistrust government.¶ “So one of the big issues that I’ve fought here is getting rid of the provision called indefinite detention,” the Kentucky Republican said. “This is the idea that an American citizen could be accused of a crime, held indefinitely without charge, and actually sent from America to Guantanamo Bay and kept forever. I think there is something in that message of justice and a right to a trial by jury and a right to a lawyer that resonate beyond the traditional Republican Party and will help us to grow the Republican Party with the youth.”¶ Mr. Paul has argued that his libertarian brand of politics can help the GOP reach out to young voters and minorities who have supported Democrats in recent elections.¶ He has stopped short of calling for the closure of the controversial prison in Cuba, but has railed against locking up U.S. citizens on American soil without a trial.¶ As part of his effort to expand the GOP, Mr. Paul spoke this year at Howard University in Washington, D.C., and Simmons College in Louisville, where he urged blacks to give the GOP another look, while touting his opposition to military adventurism and desire to reduce sentences for non-violent drug possession¶ “We should stand and loudly proclaim enough is enough,” Mr. Paul said at Howard. “We should not have laws that ruin the lives of young men and women who have committed no violence. That’s why I have introduced a bill to repeal federal mandatory minimum sentences. We should not have drug laws or a court system that disproportionately punishes the black community.”

#### Forcing controversial fights key to Obama’s agenda- try or die for the link turn

Dickerson 13 (John, Slate, Go for the Throat!, 1/18 www.slate.com/articles/news\_and\_politics/politics/2013/01/barack\_obama\_s\_second\_inaugural\_address\_the\_president\_should\_declare\_war.single.html)

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.

#### Intrinsicness - Logical policy votes to do both

#### non link uniqueness and Obama won’t push- Obama aids have been pushing plan relentlessly

Klaidman, 7/31 (Daniel, national political correspondent for Newsweek and The Daily Beast and the author of [Kill or Capture: The War on Terror and the Soul of the Obama Presidency](http://www.amazon.com/Kill-Capture-Terror-Obama-Presidency/dp/0547547897/ref=as_at?tag=thedailybeast-autotag-20&linkCode=as2&), “Obama’s Secret Gitmo plan” Newsweek. Web, Acc 8/31/2013)

Ever since Obama vowed to “go back at” the Guantánamo challenge in a major national security policy address in May, his aides have gamely thrown themselves into the effort. There is more White House activity swirling around Gitmo now than there has been in three years. Numerous people are working on the project, either part time or full time, under the leadership of Lisa Monaco, Obama’s chief counterterrorism adviser. White House lobbyists have been all over Capitol Hill, meeting with members of Congress. And yet, despite all this, Obama aides quietly admit that unless the political climate changes dramatically, Guantánamo will likely be open for business for many years to come.

#### Vote no – plans introduction in this debate is its introduction in Congress

#### Aff gets McCain on board – he sees it a specific plan.

Hunt, 7/28 (Albert, “McCain Goes Maverick Again as Obama’s Republican Ally. Bloomberg View. Web, Acc 8/19/2013. http://www.bloomberg.com/news/2013-07-28/mccain-goes-maverick-again-as-obama-s-republican-ally.html

McCain also wants to help Obama fulfill his promise to close the detainee camp for terrorism suspects at Guantanamo Bay, Cuba. He says political conditions are much different than they were four years ago when there was a similar effort.¶ “The difference between 2009 and 2013 is the administration now has a plan,” he says.¶ Closing Guantanamo¶ Last month, the five-term senator traveled to Guantanamo with Senate Intelligence Committee Chairman [Dianne Feinstein](http://topics.bloomberg.com/dianne-feinstein/) and the White House chief of staff, [Denis McDonough](http://topics.bloomberg.com/denis-mcdonough/).¶ McDonough, who McCain knew as a mid-level aide to former Democratic Senate Leader Tom Daschle, is a glue that binds the Republican and the administration. He and McCain talk as often as five times a day. In addition, the Republican senator has a great fondness for Vice President [Joe Biden](http://topics.bloomberg.com/joe-biden/), a good working relationship with Secretary of State [John Kerry](http://topics.bloomberg.com/john-kerry/) and is a fan of United Nations Ambassador-designate Samantha Power.

#### McCain is key to getting GOP voters on board for th plan

Hunt, 7/28 (Albert, “McCain Goes Maverick Again as Obama’s Republican Ally. Bloomberg View. Web, Acc 8/19/2013. http://www.bloomberg.com/news/2013-07-28/mccain-goes-maverick-again-as-obama-s-republican-ally.html

The association between Obama and McCain is different. But it may be Washington’s most important since Reagan and O’Neill.¶ McCain, 76, whose political resiliency is rivaled only by such luminaries as [Bill Clinton](http://topics.bloomberg.com/bill-clinton/) and [Richard Nixon](http://topics.bloomberg.com/richard-nixon/), is the most pivotal figure in the Senate today. He often is more central than the party leaders, [Mitch McConnell](http://topics.bloomberg.com/mitch-mcconnell/), the Kentucky Republican, or [Harry Reid](http://topics.bloomberg.com/harry-reid/), a Nevada Democrat, or the self-styled new power broker, the New York Democrat Chuck Schumer.¶ When McCain is with the president -- on immigration and in brokering the recent deal to secure Senate approval of stalled Obama nominees -- they usually can trump the political right.

When he’s against him -- sabotaging Obama’s plan last year to nominate [Susan Rice](http://topics.bloomberg.com/susan-rice/) as secretary of state -- the White House rarely prevails.

#### Feinstein is on board with the plan and no link - plan get’s bundled with 2014 defense authorization bill

Feinstein and Durbin, 8/14 (Dianne and Dick, United States Senators. “How to close Gitmo.” Los Angeles Times. Web, Acc at <http://www.latimes.com/news/opinion/la-oe-feinstein-durbin-close-gitmo-20130814,0,432429.story>

The 2014 [Senate](http://www.latimes.com/topic/politics/government/u.s.-senate-ORGOV0000134.topic) defense authorization bill will come up for debate on the Senate floor this fall. Congress must pass the provisions that streamline procedures for transferring detainees abroad and allow transfers to the U.S. for trial or detention under international law until the end of hostilities.¶ As chairwoman of the [Senate Intelligence Committee](http://www.latimes.com/topic/politics/espionage-intelligence/u.s.-senate-select-committee-on-intelligence-ORGOV000350.topic) and chairman of the defense appropriations subcommittee, respectively, we are committed to preventing terrorist attacks. We believe terrorists deserve swift and sure justice, and severe prison sentences. But holding detainees on an island off U.S. shores for years — without charge — is an abomination. It is not an effective administration of justice, does not serve our national security interests and is not consistent with our country's history as a champion of human rights.¶ It is time to close Guantanamo.

#### That’s after (fiscal debate/Syria debate)

GSN, 9/11 (Global Security Newswire, “Levin: NDAA Won’t Pass Before Fiscal Year Starts” Web, Acc 9/12/2013 at <http://www.nationaljournal.com/global-security-newswire/levin-ndaa-won-t-pass-before-fiscal-year-starts-20130911>

Senate Armed Services Committee Chairman Carl Levin (D-Mich.) on Wednesday predicted the Defense Department’s policy-setting bill will not be considered by the full Senate until after fiscal 2014 starts, according to [The Hill](http://thehill.com/blogs/defcon-hill/budget-appropriations/321617-levin-defense-bill-headed-toward-end-of-year-cliffhanger-) newspaper.¶ The Senate will likely spend September, the final month of fiscal 2013, debating the federal budget deficit and potential U.S. intervention in Syria, the senior lawmaker reportedly told journalists in Washington. The fiscal 2014 defense authorization bill probably will not be passed by the Senate, and then reconciled with a competing House version, until the final days of this calendar year, he predicted.¶ “It’ll be another cliffhanger, probably,” Levin said, referring to how in the past the defense bill has not received Congress’ blessing until the final days of the legislative session in December. “It will probably end up closer to the end of the session than I’d like.”

#### She’s key to getting GOP votes for his agenda

**SF Gate 12** (“Dianne Feinstein: 4 decades of influence”, <http://www.sfgate.com/politics/article/Dianne-Feinstein-4-decades-of-influence-3968314.php>)

She revels in split-the-baby deal making: "I think my greatest strength is finding a solution when there are opposing sides." It was Feinstein, an ally of [Hillary Rodham Clinton](http://www.sfgate.com/?controllerName=search&action=search&channel=politics&search=1&inlineLink=1&query=%22Hillary+Rodham+Clinton%22) against Barack [Obama](http://www.sfgate.com/barack-obama/) in the 2008 Democratic presidential primary, who brought the warring candidates to a secret rendezvous at her Washington home to bury the hatchet in private. In a chamber riven by partisanship, **Republicans like and respect her.** "She thinks through issues and makes what she thinks is a rational and correct decision," said Sen. Saxby Chambliss, R-Ga., the top Republican on the Intelligence Committee. "Unfortunately t**here are some Republicans who, if it's a Democratic idea, immediately jump up and they're opposed to it,** and that happens on the other side of the aisle too. **But with Dianne, that does not happen."** '

1. Political capital is fabricated- you can’t predict momentum or uplanned events. There’s only a risk the plan is a win.

Hirsh, Chief Correspondent National Journal, 2-7-’13 (Michael, “There’s No Such Thing as Political Capital” National Journal, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207)

On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through.¶ Most of this talk will have no bearing on what actually happens over the next four years.¶ Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen.¶ What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.”¶ As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The political tectonics have shifted dramatically in very little time. Whole new possibilities exist now that didn’t a few weeks ago.¶ Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. Bobby Jindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all.¶ The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.”¶ The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, political capital is a concept that misleads far more than it enlightens. It is distortionary. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history.¶ Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger.¶ But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “Winning wins.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote.¶ Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a bandwagon effect.”¶ ALL THE WAY WITH LBJ¶ Sometimes, a clever practitioner of power can get more done just because he’s aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?”¶ Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)¶ And then there are the presidents who get the politics, and the issues, wrong. It was the last president before Obama who was just starting a second term, George W. Bush, who really revived the claim of political capital, which he was very fond of wielding. Then Bush promptly demonstrated that he didn’t fully understand the concept either.¶ At his first news conference after his 2004 victory, a confident-sounding Bush declared, “I earned capital in the campaign, political capital, and now I intend to spend it. That’s my style.” The 43rd president threw all of his political capital at an overriding passion: the partial privatization of Social Security. He mounted a full-bore public-relations campaign that included town-hall meetings across the country.¶ Bush failed utterly, of course. But the problem was not that he didn’t have enough political capital. Yes, he may have overestimated his standing. Bush’s margin over John Kerry was thin—helped along by a bumbling Kerry campaign that was almost the mirror image of Romney’s gaffe-filled failure this time—but that was not the real mistake. The problem was that whatever credibility or stature Bush thought he had earned as a newly reelected president did nothing to make Social Security privatization a better idea in most people’s eyes. Voters didn’t trust the plan, and four years later, at the end of Bush’s term, the stock-market collapse bore out the public’s skepticism. Privatization just didn’t have any momentum behind it, no matter who was pushing it or how much capital Bush spent to sell it.¶ The mistake that Bush made with Social Security, says John Sides, an associate professor of political science at George Washington University and a well-followed political blogger, “was that just because he won an election, he thought he had a green light. But there was no sense of any kind of public urgency on Social Security reform. It’s like he went into the garage where various Republican policy ideas were hanging up and picked one. I don’t think Obama’s going to make that mistake.… Bush decided he wanted to push a rock up a hill. He didn’t understand how steep the hill was. I think Obama has more momentum on his side because of the Republican Party’s concerns about the Latino vote and the shooting at Newtown.” Obama may also get his way on the debt ceiling, not because of his reelection, Sides says, “but because Republicans are beginning to doubt whether taking a hard line on fiscal policy is a good idea,” as the party suffers in the polls.¶ THE REAL LIMITS ON POWER¶ Presidents are limited in what they can do by time and attention span, of course, just as much as they are by electoral balances in the House and Senate. But this, too, has nothing to do with political capital. Another well-worn meme of recent years was that Obama used up too much political capital passing the health care law in his first term. But the real problem was that the plan was unpopular, the economy was bad, and the president didn’t realize that the national mood (yes, again, the national mood) was at a tipping point against big-government intervention, with the tea-party revolt about to burst on the scene. For Americans in 2009 and 2010—haunted by too many rounds of layoffs, appalled by the Wall Street bailout, aghast at the amount of federal spending that never seemed to find its way into their pockets—government-imposed health care coverage was simply an intervention too far. So was the idea of another economic stimulus. Cue the tea party and what ensued: two titanic fights over the debt ceiling. Obama, like Bush, had settled on pushing an issue that was out of sync with the country’s mood.¶ Unlike Bush, Obama did ultimately get his idea passed. But the bigger political problem with health care reform was that it distracted the government’s attention from other issues that people cared about more urgently, such as the need to jump-start the economy and financial reform. Various congressional staffers told me at the time that their bosses didn’t really have the time to understand how the Wall Street lobby was riddling the Dodd-Frank financial-reform legislation with loopholes. Health care was sucking all the oxygen out of the room, the aides said.¶ Weighing the imponderables of momentum, the often-mystical calculations about when the historic moment is ripe for an issue, will never be a science. It is mainly intuition, and its best practitioners have a long history in American politics. This is a tale told well in Steven Spielberg’s hit movie Lincoln. Daniel Day-Lewis’s Abraham Lincoln attempts a lot of behind-the-scenes vote-buying to win passage of the 13th Amendment, banning slavery, along with eloquent attempts to move people’s hearts and minds. He appears to be using the political capital of his reelection and the turning of the tide in the Civil War. But it’s clear that a surge of conscience, a sense of the changing times, has as much to do with the final vote as all the backroom horse-trading. “The reason I think the idea of political capital is kind of distorting is that it implies you have chits you can give out to people. It really oversimplifies why you elect politicians, or why they can do what Lincoln did,” says Tommy Bruce, a former political consultant in Washington.¶ Consider, as another example, the storied political career of President Franklin Roosevelt. Because the mood was ripe for dramatic change in the depths of the Great Depression, FDR was able to push an astonishing array of New Deal programs through a largely compliant Congress, assuming what some described as near-dictatorial powers. But in his second term, full of confidence because of a landslide victory in 1936 that brought in unprecedented Democratic majorities in the House and Senate, Roosevelt overreached with his infamous Court-packing proposal. All of a sudden, the political capital that experts thought was limitless disappeared. FDR’s plan to expand the Supreme Court by putting in his judicial allies abruptly created an unanticipated wall of opposition from newly reunited Republicans and conservative Southern Democrats. FDR thus inadvertently handed back to Congress, especially to the Senate, the power and influence he had seized in his first term. Sure, Roosevelt had loads of popularity and momentum in 1937. He seemed to have a bank vault full of political capital. But, once again, a president simply chose to take on the wrong issue at the wrong time; this time, instead of most of the political interests in the country aligning his way, they opposed him. Roosevelt didn’t fully recover until World War II, despite two more election victories.¶ In terms of Obama’s second-term agenda, what all these shifting tides of momentum and political calculation mean is this: Anything goes. Obama has no more elections to win, and he needs to worry only about the support he will have in the House and Senate after 2014. But if he picks issues that the country’s mood will support—such as, perhaps, immigration reform and gun control—there is no reason to think he can’t win far more victories than any of the careful calculators of political capital now believe is possible, including battles over tax reform and deficit reduction.¶ Amid today’s atmosphere of Republican self-doubt, a new, more mature Obama seems to be emerging, one who has his agenda clearly in mind and will ride the mood of the country more adroitly. If he can get some early wins—as he already has, apparently, on the fiscal cliff and the upper-income tax increase—that will create momentum, and one win may well lead to others. “Winning wins.”¶ Obama himself learned some hard lessons over the past four years about the falsity of the political-capital concept. Despite his decisive victory over John McCain in 2008, he fumbled the selling of his $787 billion stimulus plan by portraying himself naively as a “post-partisan” president who somehow had been given the electoral mandate to be all things to all people. So Obama tried to sell his stimulus as a long-term restructuring plan that would “lay the groundwork for long-term economic growth.” The president thus fed GOP suspicions that he was just another big-government liberal. Had he understood better that the country was digging in against yet more government intervention and had sold the stimulus as what it mainly was—a giant shot of adrenalin to an economy with a stopped heart, a pure emergency measure—he might well have escaped the worst of the backlash. But by laying on ambitious programs, and following up quickly with his health care plan, he only sealed his reputation on the right as a closet socialist.¶ After that, Obama’s public posturing provoked automatic opposition from the GOP, no matter what he said. If the president put his personal imprimatur on any plan—from deficit reduction, to health care, to immigration reform—Republicans were virtually guaranteed to come out against it. But this year, when he sought to exploit the chastened GOP’s newfound willingness to compromise on immigration, his approach was different. He seemed to understand that the Republicans needed to reclaim immigration reform as their own issue, and he was willing to let them have some credit. When he mounted his bully pulpit in Nevada, he delivered another new message as well: You Republicans don’t have to listen to what I say anymore. And don’t worry about who’s got the political capital. Just take a hard look at where I’m saying this: in a state you were supposed to have won but lost because of the rising Hispanic vote.¶ Obama was cleverly pointing the GOP toward conclusions that he knows it is already reaching on its own: If you, the Republicans, want to have any kind of a future in a vastly changed electoral map, you have no choice but to move. It’s your choice.¶ The future is wide open.