# 1AC Stop and Frisk:

## 1AC – Generic:

### UQ – Militarization:

#### Academia is at risk – the police force has been militarized – stop and frisk victim’s become disposable targets by the neoliberal state. GIROUX 15:

[Henry A. Giroux. “Youth in Authoritarian Times: Challenging Neoliberalism's Politics of Disposability” October 21 2015. LHP AA]

As the war on terror comes home, **public spaces have been transformed into** war zones **as local** **police forces have taken on the role of an occupying army**, **especially in poor neighborhoods of** **color**, accentuated by the fact that the **police now have** access to armored **troop carriers**, night-vision-equipped rifles, **Humvees**, **M-16** automatic rifles, grenade launchers and other weapons designed for military tactics.(31)**Acting as a paramilitary force**, the **police have become a new symbol of domestic terrorism**, **shaking down** youth of color and **Black communities** in general by criminalizing a multitude of behaviors. The rise of the punishing state and the war on terror has emboldened police forces across the nation. This was **especially true in** the stop-and-frisk policies **so widespread under former** Mayor Michael Bloomberg in New York City. In Ferguson, Missouri, the entire population was subject to a form of legal lawlessness in what can only be described as a practice of racist extortion. **Rather than defined as a population to be protected**, **the** largely **Black citizens** of Ferguson **were arrested** and fined **for** being unable to pay their debts, **violating trivial rules such** **as** **letting their grass grow too high** or jaywalking, all of which made them a prime target for the criminal legal system. As a result, **the police viewed the Black residents** of Ferguson “**as potential targets** **for** what can only be described as a **shake-down operation** **designed to wring money out** **of the poorest** and most vulnerable by any means they could, and that as a result, the overwhelming majority of Ferguson’s citizens had outstanding warrants.”(32) **The rise of the punishing state and** **the war on terror has emboldened police forces across** **the nation** **and** in **doing so feeds** their use of **racist violence** against young people of color, **resulting in** what has been called **an “**epidemic of police brutality.” Sadly, even children are not immune to such violence, as the killing of 12-year-old Tamir Rice on November 22, 2014, by a white police officer has made clear. Even more tragic is the fact that the City of Cleveland tried to blame the boy for his own death. (33) Rice was holding a BB gun when he was shot to death by a police officer judged unfit for duty just two years prior. The killing of Black youth and adults has taken on the image of a cruel sport suggestive of a police force spiraling downward into a form of authoritarianism that merges lawlessness with a dangerous form of militarism. (34)

#### And, stop and frisk is an epidemic – despite disproving evidence, politicians spin it is a ‘crime fighting’ tool, while evidentially targeting certain individuals . GRAHAM 9/21:

[David A. Graham. “Stop-and-Frisk: Trump's Bad Idea for Fighting Crime”. Sep 21 2016. LHP AA]

Trump’s answer comes in the context of his latest series of events aimed at black voters, and nearly every sentence here offers something to think about. First, **stop-and-frisk is**already **in place in** **Chicago and other cities, making** **this idea in keeping with Trump’s habit of suggesting policies**, such as “extreme vetting” of refugees, **that** closely **resemble practices** that are **already in place.** (Stop-and-frisk is not federal policy, but it is practiced by police departments across the country.) Second, the best studies [suggest](http://www.tandfonline.com/doi/abs/10.1080/07418825.2012.752026) that stop-and-frisk does not effectively reduce crime where it is used. Third, court decisions and settlements have acknowledged that the methods used in both New York and Chicago were unconstitutionally discriminatory, setting aside their efficacy. Fourth, one of the two New York mayors who oversaw the implementation of stop-and-frisk, Michael Bloomberg, has [blasted Trump](http://www.cnn.com/2016/07/27/politics/michael-bloomberg-dem-convention-speech/), saying, “I'm a New Yorker, and New Yorkers know a con when we see one.” Moreover, it’s hard to take the proposal seriously as outreach to the black community. **National polling on stop-and-frisk is tough to come by,** **but both**[**anecdotal**](http://www.nytimes.com/2011/12/18/opinion/sunday/young-black-and-frisked-by-the-nypd.html)**and statistical data from New York suggest that black citizens view the practice as discriminatory and dehumanizing**. In a 2012 Quinnipiac [poll](https://www.qu.edu/news-and-events/quinnipiac-university-poll/new-york-city/release-detail?ReleaseID=1788), seven in 10 black New Yorkers opposed stop-and-frisk. In 2013, [Marist](http://maristpoll.marist.edu/tag/stop-and-frisk/) found an even higher proportion, 75 percent, wanted an overhaul. **Trump’s** supposed black outreach has taken place to a great degree in white communities, before white audiences, while his appearances in African American communities [have not always gone so well](http://www.npr.org/2016/09/15/494064219/trump-criticizes-flint-pastor-but-misstates-key-facts-about-their-encounter). His **advocacy for stop-and-frisk offers** **more evidence for the view that Trump’s goal is not so much** **to court black voters but to** convince white ones who are rattled **about crime to back him**. This is one of the many contradictions of Trump’s recent moves. Even as he campaigns on the basis of “law and order,” he appeared at events in Ohio Wednesday with Don King, the boxing promoter who shot and killed a man (the death was excused as justifiable homicide) and served time for manslaughter after stomping a man to death in 1966. King’s speech in Cleveland was a strange, sporadically coherent stream of consciousness, in which he said, “I want you to understand, every white women should cast their vote for Donald Trump, not for Donald Trump the man but to knock out the system.” One important question is what the Republican presidential nominee means by “stop-and-frisk.” As Donald Braman [wrote in The Atlantic in 2014](http://www.theatlantic.com/national/archive/2014/03/stop-and-frisk-didnt-make-new-york-safer/359666/), “No one thinks a police officer with a reasonable suspicion that a suspect has a gun should be barred from frisking the suspect, but that is not what stop-and-frisk has come to mean,” i.e., stopping vast numbers of people for vaguely “suspicious behavior,” then searching them. Since Trump cited New York City, it seems reasonable to assume that’s what he meant. Stop-and-frisk is not inherently unconstitutional, but the recent record shows that it’s hard to execute without racial discrimination. In New York, a federal judge deemed the city’s approach unconstitutional. Of city officials, Judge Shira Scheindlin [wrote](http://www.nytimes.com/interactive/2013/08/12/nyregion/stop-and-frisk-decision.html), “In their zeal to defend a policy that they believe to be effective, they have willfully ignored overwhelming proof that the policy of targeting ‘the right people’ is racially discriminatory and therefore violates the United States Constitution.” Something similar happened in Chicago, where the American Civil Liberties Union of Illinois documented a pattern of racially disparate enforcement. [The report came in March 2015](http://www.aclu-il.org/wp-content/uploads/2015/03/ACLU_StopandFrisk_6.pdf). Among its findings: Blacks made up three-quarters of stops but less than a third of the city's population. Chicago’s police department decided to [reach an agreement](http://www.nytimes.com/2015/08/09/us/chicago-stop-and-frisk-to-be-monitored.html) with the ACLU to install closer oversight. **Proponents of stop-and-frisk argue that disproportionate stops are a regrettable but forgivable and necessary side effect of the practice**. Poor black communities are often plagued by high crime rates, they say, and so it stands to reason that police would be making the most stops in the places where crime is highest. This may or may not be true. [A Columbia study found](http://www.stat.columbia.edu/~gelman/research/published/frisk9.pdf) that racial disparities existed even when controlling for location. **But** in any case, what happened in New **York undercuts the theory that stop-and-frisk is a necessary tool for reducing** **crime**. New York officials credited a huge drop in crime to aggressive use of stop-and-frisk, though hard data told a different story. In 2013, prior to New York effectively ending stop-and-frisk, David Greenberg of New York University [found](http://www.tandfonline.com/doi/abs/10.1080/07418825.2012.752026) “no evidence that misdemeanor arrests reduced levels of homicide, robbery, or aggravated assaults.” Since the end of stop-and-frisk, [crime has remained at historically low rates](http://www.wsj.com/articles/nyc-officials-tout-new-low-in-crime-but-homicide-rape-robbery-rose-1451959203) or even dropped further. In 2015, murder rebounded slightly from its all-time low in 2013, though the first quarter of 2016 was the [lowest on record](http://www.huffingtonpost.com/entry/nypd-low-crime-first-quarter-2016_us_5702b0dae4b0a06d580653e3).

#### Now, the inherency - qualified immunity defense is increasing in the context of civil litigation. KINPORTS 16:

[2016. The Supreme Court's Quiet Expansion of Qualified Immunity Kit Kinports Penn State Law. LHP AA]

CONCLUSION In recent years, the **Supreme Court opinions applying the qualified immunity defense have engaged in a pattern** of describing the defense **in increasingly** generous **terms** and qualifying and deviating from past precedent—**without** offering any **justification** or even acknowledgement of the Court’s departure from prior case law. These gratuitous, seemingly off-the-cuff remarks have then taken on a life of their own and have been reiterated in later opinions, often issued summarily without the benefit of briefing and oral argument. The clandestine manner in which this retreat has been accomplished is especially troubling because, despite the fact that constitutional tort suits against state officials are based on federal statute, **qualified immunity is a doctrine**—and a limitation on that statute—**that is entirely the Court’s creation**, **devoid of support in §** **1983’s legislative** history. Perhaps **most problematic** **are the caveats** **in** recent **decisions that could** conceivably **set the stage for a ruling that § 1983 plaintiffs** **can avoid qualified immunity** only **if they can point** **to Supreme Court precedent** **supporting the constitutional right they** **are asserting.** An outright holding that only **the Supreme Court can** create **clearly established** **law** **would** obviously be binding on lower courts and would **prove fatal to many** constitutional **tort suits**. But terminology and tone matter as well, and the increasingly broad brush the Supreme Court uses in characterizing the qualified immunity defense is not likely to escape the attention of government actors seeking immunity or the lower courts tasked with resolving their claims.

### Plan – Pierson v. Ray:

#### Thus, the plan – resolved: The Supreme Court should overturn their 1967 ruling in *Pierson v. Ray*, which began qualified immunity. I will specify the extent of the limit and other concerns in CX. SILBER ‘85:

[Silber, Douglas Noah. “Casenotes: Judicial Immunity — State Judicial Officials Are Not Immune from Prospective Relief in an Action Brought under 42 U.S.C. § 1983 or from Paying Attorney 's Fees to Prevailing Parties Pursuant to 42 U.S.C. § 1988. Pulliam v. Allen, 104 S. Ct. 1970 (1984).” University of Baltimore School of Law. 1985. LHP MK]

The Pulliam Court was able to avoid the issue of immunity from prospective relief because the case essentially turned on an interpretation of § 1988. **The Court should** therefore **have examined more closely the magistrate's argument that Pierson v. Ray** 92 **requires** § 1988 **to be interpreted** as prohibiting attorney's fees awards against state judges.93 **Had it done so, the Court might have reasoned** that **Pierson's prohibition of suits for damages was not inconsistent with the underlying intent of § 1988.** The plaintiffs in Pierson were the quintessential "unsatisfied litigants" from whom the doctrine of immunity sought to protect judges.94 In Pulliam, however, the plaintiffs were citizens seeking to enjoin future civil rights violations by a magistrate.95 The Court in Pulliam was thus presented with an excellent opportunity to explain how Congress's intent to permit attorney's fees awards against state judges was not inconsistent with Pierson's prohibition against suits for damages; in effect, that judges are only liable for costs when prospective relief is sought to cure judicial conduct, but not decisions that restrict a person's civil rights.96 **The Court** also **failed to point out that the original concerns for judicial immunity** - that judges should be at liberty to exercise their functions with independence and without fear of consequences97 - **have been substantially vitiated because the burdens of litigation and accountability for monetary awards have been largely shifted to state governments through indemnification statutes**.98 Any arguments that the prospect of large fee awards against the public funds would have an intimidating effect on conscientious jurists99 could have been countered with the overriding policy consideration that "the potential harm to the public from denying immunity . . . is outweighed by the benefits of providing a remedy." 100 The availability of attorney's fees awards in light of Pulliam v. Allen \01 is likely to result in a multiplicity of suits against state judges, an anomolous result that the doctrine of judicial immunity was adopted to prevent. \02 Yet, because the Pulliam Court's conclusion that judges are not immune from prospective relief was not properly before the Court, 103 the Court effectively has reserved the right in future cases to reverse an order of prospective relief against a state judge. Further, **by failing adequately to discuss the Civil Rights Attorney's Fees Award Act in light of Pierson v. Ray,**l04 Pulliam **leaves unresolved whether** Congress's apparent **abrogation of judicial immunity** for attorney's fees was intended to **stand beside or in lieu of the Supreme Court's holding of absolute immunity from damages suits**. 105

#### And, *Pierson v. Ray* started the culture of qualified immunity and illegal police action – the plan is key. BERNICK ’15:

[Bernick, Evan. “To Hold Police Accountable, Don’t Give Them Immunity.” Foundation for Economic Education. May 6, 2015. LHP MK]

In **the 1967 case of** [**Pierson v. Ray**](https://scholar.google.com/scholar_case?case=4871005922110746242&q=pierson+v+ray&hl=en&as_sdt=6,47)**,** the Supreme Court **held that police officers sued for constitutional violations can raise “qualified immunity” as a defense, and** thereby **escape paying out of their own pockets**, even if they violated a person’s constitutional rights. **This decision was unabashedly policy-oriented: it was thought that government officials would not vigorously fulfill their obligations if they could be held accountable for actions taken in good faith**. Under current law, the general rule is that victims of rights violations pay the costs of their own injuries. **In practice, qualified immunity provides a near-absolute defense** to all but the most outrageous conduct. The Ninth Circuit has [held](https://scholar.google.com/scholar_case?case=9359102228224258186&q=boyd+v+benton+county&hl=en&as_sdt=6,47) that throwing a flash-bang grenade “blindly” into a house, injuring a toddler, isn’t outrageous enough. Just last year, in [Plumhoff v. Rickard](https://scholar.google.com/scholar_case?case=17750181401591044185&q=plumhoff+v+rickard&hl=en&as_sdt=6,47), **the** Supreme **Court decided** that firing 15 bullets at a motorist is a reasonable method to end the driver’s flight from the police. So much for “every person” “shall be liable.” **Qualified immunity shields police misconduct not only from liability but also from meaningful judicial scrutiny**. Private lawsuits are an essential tool in uncovering the truth about police misconduct. The discovery process can yield information that makes broader policy changes within police departments possible. At trial, [judicial engagement](http://www.ij.org/cje) — an impartial, evidence-based determination of the constitutionality of the officer’s actions — can take place. Qualified immunity can cut this search for truth short. If qualified immunity is raised as a defense before trial and the judge denies it, that decision is immediately appealable. If it is granted, discovery stops, and there is no trial on the merits.

### Advantage – Normal:

#### The plan causes a shift away from stop and frisk – empirical data proves three points of improvement that civil litigation has. MORROW ET AL 15:

[Morrow et Al 15’- Wesont, Federal Civil Litigation as an Instrument of Police Reform: A Natural Experiment Exploring the Effects of the Floyd Ruling on Stop-and-Frisk Activities in New York City† Michael D. White, Ph.D.\* Henry F. Fradella, J.D., Ph.D.\*\* Weston J. Morrow, Ph.D.\*\*\* Doug Mellom, M.S. LHP FD]

**The** current **study examines the New York City** **confluence of racial injustice** in policing, misuse **of stop-and-frisk by officers**, and federal civil litigation designed to precipitate police reform. The **results provide direct evidence of the impact of federal civil** **litigation on unconstitutional stop-and-frisk practices** in New York specifically, as well as some more general insights on the potential for federal civil litigation to generate police reform. The year-to-year **comparison of stop-and-frisk in New** **York highlights a number of** **positive findings**, suggesting that the federal **civil litigation has begun to alter the** unconstitutional **practices** outlined in the Floyd case. **First**, the **sheer number of stops** conducted **by officers** **has** **dropped** dramatically, by **more than 90%.** **Second**, **the geographic** **concentration** of stops **in** mostly **minority** **precincts has** also **declined**. An examination of ten precincts with large minority populations showed that the **racial**/ethnic **concentration** of stops **has dropped** by nearly 10% overall in those precincts, with some precincts experiencing declines of 50% or more. **Third, stops appear to be more** efficient and **accurate**. The percentage of stops resulting in arrest has more than doubled. The percentage of stops where weapons and contraband were seized remain low but those percentages have doubled or tripled compared to the 2011 rates. In short, **the NYPD has altered its** day-to-day **practices with regard to stop-and-frisk**, to the benefit of thousands of New Yorkers. And importantly, the reforms in the NYPD’s stop-and-frisk program coincided with continued declines in crime and violence in New York, especially homicides which declined by 35% from 2011 to 2014.

#### Stop and frisk disproprtionatly targets a specific group of individuals, therefore limmitiing their participation in politics.

#### And, qualified immunity was the barrier to the type of litigation needed – means the plan solves. MORROW ET AL 2:

[Morrow et Al 15’- Wesont, Federal Civil Litigation as an Instrument of Police Reform: A Natural Experiment Exploring the Effects of the Floyd Ruling on Stop-and-Frisk Activities in New York City† Michael D. White, Ph.D.\* Henry F. Fradella, J.D., Ph.D. Weston J. Morrow, Ph.D. Doug Mellom, M.S. LHP AA]

**By stopping an individual when no justifiable purpose exists, police officers violate citizens’** **Fourth Amendment** **rights**. Such violations, however, are difficult to prove. **Given** that **the** **nature of stop and frisk does not typically result in “the recovery of evidence**, and because the qualified immunity doctrine shields most police action from scrutiny, **few stop and** **frisks are ever reviewed by courts**.”60 Further, because these encounters are rarely reviewed and the nature of the encounters reflects a quick and ongoing exchange with likely limited witnesses, abuse of police discretion in stop and frisks is rarely discovered.61 The NYPD has adopted a number of policies in an attempt to control abuse of citizens’ constitutional rights, but most of these procedures are inadequate.

#### ­Legislative mechanism prevents police reform from being voted on – only the 1AC’s judicial litigation will resolve it. MORROW ET AL 3:

[Morrow et Al 15’- Wesont, Federal Civil Litigation as an Instrument of Police Reform: A Natural Experiment Exploring the Effects of the Floyd Ruling on Stop-and-Frisk Activities in New York City† Michael D. White, Ph.D.\* Henry F. Fradella, J.D., Ph.D.\*\* Weston J. Morrow, Ph.D. Doug Mellom, M.S. LHP FD]

The federal court litigation in New York was relatively unique. Since the case was filed as a § 1983 class-action lawsuit, plaintiffs first had to satisfy the four requirements for class certification under Federal Rule of Civil Procedure 23(b)(2), namely numerosity, commonality, typicality, and adequacy.246 Then plaintiffs were required to demonstrate Fourth and Fourteenth Amendment liability for the certified class as a result of the NYPD’s stop-and-frisk program. Margeson highlighted the power of this federal civil litigation approach: Politics, socio-economic inequality, and the accumulation of precedent that has diminished the likelihood of legal redress for Fourth and Fourteenth Amendment violations have effectively deregulated police power to conduct investigative *Terry* stops. The Floyd litigation demonstrates the[re is] immense value of judicial process to advocates of social reform, especially where the prospective beneficiaries have been underserved by the democratic process. In Floyd, the democratic and judicial processes worked in tandem to affect a policy shift in the oversight of police conduct that either branch, acting in isolation, most probably would not have achieved.247 Though the Floyd case began as a class-action suit in 2008, the judge’s ruling in 2013 mimicked the oversight process outlined in 42 U.S.C § 14141. As a result, the progress made by the NYPD in the three years since the Floyd ruling speaks directly to the potential for § 14141 consent decrees to effect change in police departments. Only a handful of studies have sought to assess the effectiveness of § 14141 consent decrees on law enforcement agencies engaged in pattern or practice unconstitutional policing. The research is mixed, but there are modestly promising findings from that small body of work (e.g., enhanced public satisfaction, implementation of new processes and policies, reductions in use of force and citizen complaints during the consent decree, and greater transparency via access to department data and independent monitor reports).248 More generally, the experiences of agencies under § 14141 consent decrees demonstrate that police reform is a complex, multi-year process with a high level of difficulty. It involves organizational change in a profession characterized by resistance to change, and the remedies target functions that go to the very core of policing: supervision, training, policy, and accountability. In short, police reform is a marathon, not a sprint. The results from this study demonstrate that important police reforms can be achieved early on during the marathon, as a result of federal civil litigation

#### And, stop and frisk perpetuates a culture of violence – it is unequally targeted, which creates the perception that the police are not there to help – only tangible political reform like the 1AC will solve. SIMMONS 14:

[Fall 2014. Kami Chavis Simmons. “The Law As Violence: Essay: The Legacy Of Stop And Frisk: Addressing The Vestiges Of A Violent Police Culture” 49 Wake Forest L. Rev. 849. LHP AA]

In the introduction to his famous essay, Violence and the Word, Robert Cover explained that law and legal interpretive acts exact violence upon individuals. n2 He noted that "[a] judge articulates her understanding of a text, and as a result, somebody loses his freedom, his property, his children, even his life. Interpretations in law also constitute justifications for violence which has already occurred or which is about to occur." n3 This statement is especially true in the context of police-citizen encounters. The law that governs police has been consistently interpreted to justify violence against the very individuals they are charged with protecting. For many years, the New York City Police Department ("NYPD") has engaged in a practice known as "Stop and Frisk." This policy allows officers, based on reasonable suspicion that criminal activity is afoot, to engage in investigatory stops and to conduct a pat down of the outer clothing of the individual if there is reasonable suspicion that the suspect is armed. Unfortunately, this policy symbolizes [\*850] Cover's explanation of how laws **and** legalinterpretation can justify violence. Although police had previously engaged in these stop-and frisk tactics, the Supreme Court's landmark1968 decision in Terry v. Ohio n4gave this practice the imprimatur of an acceptable law enforcement tool to investigateand prevent violent crime. n5 In Terry, the Court authorized a narrow window of police behavior to stop and frisk individuals based on reasonable suspicion of criminal activity and reasonable suspicion of armed danger. n6 As practiced in New York, however, many critics argue that stop and frisk does not comport with Terry at all, and many view the stop-and-frisk policy as it is currently implemented as an extreme bastardization of the practice the Court actually authorized. Stop and frisk has long been a controversial law enforcement measure, particularly among black and Latino communities, two groups who disproportionately are subject to this policy. For example, in 2011, 87% of those stopped by the NYPD were black or Latino. n7 In 2013, in Floyd v. City of New York, n8 a federal judge found the City liable for a pattern and practice of racial profiling and unconstitutional stop and frisks. n9 While the Floyd I decision stopped short of ending stop and frisk, many advocates hoped that it would result in remedial measures. n10 Then mayor, Michael Bloomberg, decried the ruling and filed a quick appeal to the Court of Appeals for the Second Circuit, claiming, "It's a dangerous decision made by a judge who doesn't understand how policing works." n11 The Second Circuit stayed the remedial ruling and then removed Judge Shira Schiendlin from the case alleging that she was not impartial. n12 Many scholars have relentlessly challenged the constitutional frailty of stop and frisk and the racially discriminatory aspects of the policy as the court highlighted in Floyd I. Although the investigation and prevention of violent crime are important law enforcement goals, stop and frisk has not proved to be an effective law enforcement tool. Not only do police rarely find the weapons for which they purportedly have a "reasonable suspicion" to exist, but these police-citizen encounters inflict needless violence on law- [\*851] abiding citizens who are merely going about their daily routine. n13 The individuals whohavebeen subjected to this policy live in constant fear that they will be stopped, harassed**,** and physically harmed by **the** very police officers who are responsible for protecting their communities. While there is an abundance of analysis regarding the detrimental impact of the stop-and-frisk policy, particularly the allegations of racial discrimination, an under examined facet of this policy and its implementation is the inherently violent nature of these encounters. The "frisk," or pat down, necessarily connotes a physical touching, but personal accounts of stop-and-frisk encounters reveal a disturbing pattern of violence towards those stopped. In Terry, Chief Justice Warren explicitly recognized the intrusiveness such behavior had on the targeted suspect when Chief Justice Warren vehemently argued, "It is simply fantastic to urge that such a procedure performed in public by a policeman while the citizen stands helpless, perhaps facing a wall with his hands raised, is a "petty indignity.'" n14 Not only did Chief Justice Warren recognize the true nature of these encounters, but it also had great insight into the impact that these encounters would have on people. Warren further noted, "It is a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment, and it is not to be undertaken lightly." n15 Additionally there is little attention devoted to the long-term effects that police violence might have on the individuals and community as a whole. Clearly, New York's stop-and-frisk policy has evolved into a tactic whose purpose is to intimidate and harass vulnerable classes of individuals - poor, racial, and ethnic minorities. There are numerous accounts of aggressive police tactics, rangingfrom physical violence to verbal abuse, that demonstrate the culture of violence surrounding these police encounters. Ironically, the same individuals who have experienced violence at the hands of police are often those most in need of police protection. In fact, as members of the community, these individuals may possess valuable information useful to police in their own crime-prevention endeavors. The days of stop and frisk, at least as an official policy of the NYPD, appear to be numbered as intense scrutiny and negative publicity have weakened public support for the policy. Not only has the NYPD been found liable for a pattern of racial discrimination, n16 but New York City's current mayor, Thomas de Blasio, has also [\*852] vowed to end the policy. n17 Despite improvements and monitoring, the legacy of the stop and frisk will surely survive. The culture of violence is undoubtedly imbued within the institutional fabric of the police department, and abuses will likely continue. Also unfortunate are the physical and emotional scars that are indelibly seared in the memories of the hundreds of thousands of residents who have endured this violence for so long. Part I of this Essay explains the controversial stop-and-frisk policy as it has been implemented in New York City and explores arguments for and against the use of such tactics to prevent and investigate crime. Part II explains the inherent violence the NYPD has employed in numerous stop-and-frisk encounters. Part III argues that the institutional nature of practices such as stop and frisk and other aggressive police strategies create a culture that cultivates misconduct within police departments, imposes unfair burdens on residents of these communities, and undermines the legitimacy of law enforcement. The violence visited upon those who have been subject to these practices will have a lasting impact that serves only to perpetuate the violence in the affected communities. In conclusion, Part IV offers solutions to counteract institutional police misconduct associated with stop and frisk and other aggressive police tactics. Any successful reform must be organizational in nature and must include various stakeholders to ensure sustainable and politically legitimate reforms.

#### And, supreme court ruling will allow for lower courts to be less confused and more cases to go to trial, showing a better support for citizens’ constitutional rights and an end to unqequal distribution. STEFAN 16:

[Lindsey De Stefan. “‘No Man Is Above the Law and No Man Is Below It:’ How Qualified Immunity Reform Could Create Accountability and Curb Widespread Police Misconduct.” The article claims it’s from 2017 but let’s just go 2016 to be safe. Seton Hall University. <http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1861&context=student_scholarship>. LHP SG]

**Altering the qualified immunity doctrine is an excellent way to** begin the path to **restor**ing **trust by establishing a** much-needed **sense of accountability. Civil remedies are a good jumping off point because, as repeated failures to indict officers—even in the face of video footage—have demonstrated, accountability via the criminal law is a far-off possibility, if it is possible at all. Prosecutors are** generally **disinclined to bring charges against** law enforcement **officers,** 140 **and grand juries are equally as hesitant to indict them.**141 **Independent investigations**, as suggested by the Task Force, are an excellent idea, but establishing a feasible system nationwide **would take time.** On the other hand, **Supreme Court amendment of the** stringent **immunity** afforded to police officers **could take effect relatively quickly**. Of course, this is easier said than done. The Court has increasingly enlarged the immunity afforded to police officers in its recent decisions, and any 180-degree turnaround would likely require a change in Court composition. But **the current Court can nevertheless begin** to firm up qualified immunity doctrine **by simply providing more guidance and clarification, thereby enhancing accountability and reaffirming trust** between law enforcement and their respective communities. **The** concept of a **clearly established right is**, in many ways, **a problem that requires solving. A substantial number of cases are disposed of on the premise that a right was not “clearly established”—yet lower courts have struggled for years with what those words actually mean.** Arguably, then, at least some officers are escaping liability simply because of the Court’s repeated failures to establish consistency in its qualified immunity jurisprudence. But if the Court used qualified immunity opinions to demonstrate what qualifies as a clearly established right by meticulously outlining its reasoning in answering whether a set of facts implicates such a right, **the Court could alleviate some confusion**. In other words, rather than taking cases simply to overturn the lower courts’ denial of immunity, it could take cases to affirm those denials or, alternatively, to reverse lower courts’ grant of immunity. By so doing, the Court can give examples of what constitutes a right that is “sufficiently clear that every reasonable official would have understood that what he is doing violates that right,”142 and can give lower courts somewhat of a guide to follow. By elucidating the contours of the clearly established right, the Court would alleviate someof the confusion **of lower courts and ensure that they are in fact applying that part of the test properly**. Proper application of this prong directly promotes **accountability**, as the public can rest assured that, at least in that regard, **cases are not being disposed of based merely on perplexity and uncertainty.** Moreover, **increased confidence about the clearly established prong could foster a willingness to take on the second part of the test and, in so doing, advance the development of constitutional law and clarify further constitutional rights**. The Court could also accept that its attempts at a general standard for all classes of officials that are not otherwise entitled to absolute immunity has been problematic and hugely unsuccessful. Though the Court apparently fears “complicating” qualified immunity, the doctrine is quite complicated as is, and adopting more particularized classes of officials with different standards of immunity would not only assist lower courts in properly analyzing immunity, but would promote justice in constitutional tort litigation. For example, the Court could classify officials based on the approximate number of people with whom they come in contact, so to speak, and that might therefore bring civil suits against them. A governor, for example, could theoretically face a lawsuit from any resident of the state, and would thus be afforded more stringent protection—much like the standard afforded to all officials now. But law enforcement officers, who come in contact with only the residents of one town, city, or perhaps county, risk possible suits from a much smaller pool of people. The threat of litigation would therefore be much less crippling on governmental function, and immunity protection need not be so rigorous. In the case of allegations of Fourth Amendment violations, in light of the already-existing reasonableness standard, immunity may be inappropriate altogether. In addition, the Court could do its proverbial homework and take notice of the widespread indemnification of officers that often results in a complete absence of financial or employmentrelated consequences for law enforcement. **If the Court stopped relying on its own intuition, and instead came to grip with the facts, it would likely realize that it has been overzealous in protecting low-level officers, and be inclined to alter course somewhat.** By beginning to mend the qualified immunity doctrine in these ways, the Court will allow more civil suits for the vindication of constitutional rights to succeed. This will help to reduce the public mentality—strengthened by recent events—that cops get away with everything, in every regard. Civil suits avoid subjecting law enforcement to any criminal liability that, because of recent events, many laypersons believe is warranted. While this may be true in select circumstances, reality demonstrates that criminal charges are highly unlikely to stick against a police officer. But **allowing more civil suits to go forward will serve as an important reminder to both civilians and law enforcement that the police are not above the law, and that they are held accountable for their wrongdoings. In turn, this accountability will begin to heal the relationship between law enforcement and communities** by serving as the first step on what will surely be a long path to rebuilding the trust that is so crucial. VII. Conclusion 29 By adopting different immunity standards for high-level and low-level officials, clarifying the vagueness surrounding the definition of a “clearly established” right, and acknowledging the real-world effects of indemnification, the Court can begin to repair some of the substantial flaws in its qualified immunity jurisprudence. As it does, it will permit more constitutional tort suits to succeed, thereby fostering law enforcement accountability. Because criminal liability is nearly impossible as a practical matter, and because strategies like improving police training and recruiting tactics will likely take years to effectively implement, civil suits are the (relatively) fastest way to demonstrate to the country that our officers are our guardians and that they are accountable to us. It is thus the most immediate way to rebuild trust and begin healing the citizenpolice relationship.

#### Additionally - Qualified immunity justifies police officers’ hindsight bias against racial minorities. CARRIÉ ’15:

[Carrié, Shawn. “Why do police officers keep killing unarmed black men?” The Daily Dot. March 12, 2015. LHP MK]

Why do police officers keep on killing black men? In the past week alone, three men have been shot by police in America, adding on to more than 200 reports of people killed by law enforcement in what analysts have repeatedly called an epidemic of violence. In Ferguson—the small Missouri town that's now a synecdoche of America’s racial strife—some steps toward progress are being made. Ferguson Police Chief Thomas Jackson and chief executive John Shaw resigned this week as federal investigators are pushing hard for reforms of the city’s documented practices of racial discrimination in the wake of the release of a scathing reporting carried out by the Department of Justice. While the ouster of the officials who oversaw the practice of routine racism brings some relief, the protesters that pushed Ferguson into the national spotlight say that a report and a few staff changes are not enough. “This report was almost like a spit in the face from the government,” Ferguson organizer Alexis Templeton told the Daily Dot. “The truth that hundreds of people have been spewing for over six months finally comes to light and all the people of Ferguson receive is a document stating that people’s experiences may in fact have some truth to it? People risked arrest, their health, their safety, and their lives for over six months just for the Department of Justice to put together a Word document with a federal watermark on it and say, ‘There may have been a reason these folks were standing face-to-face with law enforcement.’ That’s a spit in the face if I’ve never seen one before.“ Somehow, the killing needs to stop. The Justice Department hasn’t ruled out a total reboot of the Ferguson Police Department—but what comes next? In order to stop the violence, we need to look at what’s causing it under a microscope. Why do police officers kill unarmed black men? Whether it’s Mike Brown, Tony Robinson, or Anthony Hill, the reason is almost always a cop who says, “I feared for my life.” But what causes them to fear for their life when their victim is unarmed? Lack of experience and training in nonviolent de-escalation practices are one factor. Younger cops are more likely to shoot than their more experienced colleagues. “Incidents in which officers employ verbal and/or physical force diminished with each year of experience gained by the officer,” reads a 2007 report published in the Criminal Justice and Behavior Journal. Most police departments have a minimum age of 21, but for some it’s only 18, and there is no federal age limit for becoming a police officer. Putting guns in the hands of young people barely old enough to drive a car is probably a bad idea, but the problem goes much deeper. Rockit Ali, a 22-year-old organizer in Ferguson says he can feel the way police look at him underneath his skin. “They just look at us like we’re suspicious just for being here. Sometimes I tell them, 'It’s okay! I’m only black!'” he told the Daily Dot in November. “I know there’s this stereotype in their head of the black man as a feral, unpredictable, 800-pound gorilla with super strength, and prone to violence,” he said. “It’s in the way they look at you and talk to you.” Scientific **research** even **shows that biased judgments based on race can influence split-second decisions that**—in the situations **police** often **find themselves in**—can mean the difference between life or death. FBI Director James Comey echoed these claims during a speech at Georgetown University last February: “No one’s really color blind. Maybe it’s a fact we all should face. Everyone makes judgments based on race,” Comey said. Most police officers aren’t card-carrying members of the KKK—although there are some examples of that occurring—and their biases are much more subtle. It’s **these innate biases** of white police officers that can sometimes **cause them to shoot because they’ve seen black skin.** The most lethal kind of racism isn’t ignorant songs sung by drunken frat boys; **it’s the implicit bias that can sway a cop in a split second to decide a black man is more likely to pull out a gun than a wallet**, as four New York City cops did when they shot Amadou Diallo 41 times in 1999**. This lethal bias is reinforced every time a police shooting rationalizes the taking of another human life as a simple cause-and-effect outcome of the victim’s own decisions**. The police officer who shot 19-year old Tony Robinson in Madison, Wisc., said Robinson had pointed a gun at him. Police told the same story in the case of Kimani Gray, a scrawny 16-year old who was shot dead after he allegedly pulled out a gun and pointed it, unprovoked, at two plainclothes police officers in Brooklyn, Ny. Cleveland police opened fire on 12-year old Tamir Rice within seconds of jumping out of a police car. John Crawford III was killed while holding a BB gun he had taken off the shelf in an Ohio Walmart in September 2014, a month after Ferguson erupted in anger. Yet when two white men in Idaho actually fired shots inside of a Walmart, they were taken into custody without being killed. Like Darren Wilson, all of the officers involved in these shootings were cleared of wrongdoing and escaped any punishment. **By rationalizing death after death** in the same way, **our justice system is failing to recognize the pattern of a continual lapse in accountability for officers who kill in the line of duty**. “Without accountability, nothing’s gonna change,” says Jeralynn Brown-Blueford, whose son was killed by an Oakland cop who turned off his lapel camera in 2012. **That officer[s], who like many others who claimed he self-defense for murder, was protected by qualified immunity, a legal doctrine that effectively exonerates a police officer for any actions they take in their official capacity. “All they have to do is claim self-defense** and say 'I feared for my life' **and they know they can walk free**,” says Tory Russel, co-founder of Hands Up United, one of Ferguson’s grassroots organizations founded in the summer of 2014. **Accountability is precisely what America’s police force needs** to put a safety on its eagerness to pull the trigger. The shakeup in Ferguson’s police force is a decent start, but there’s a lot more to be done before residents will feel they’ve had a fair resolution. At its heart, the movement growing out of Ferguson is one that fervently demands equality. “If you or I or any other regular person shot somebody, and everybody knew it, you'd be thrown in jail and you know it. What we want for the police is nothing more, nothing less,” says Pastor Derrick Robinson, another boisterous voice from the streets. **Police won’t stop killing unarmed black people until they know they can face actual punishment and repercussions for themselves before they end the life of another. Ending qualified immunity** and sticking police with some personal responsibility for their actions **may** **actually save lives.**

#### That means you affirm - qualified is intrinsically tied to an unequal participation in politics – police have inherent biases that affect individuals of color.

### FW – Structural Violence:

#### The standard is minimizing structural oppression, defined as promoting the material conditions necessary for inclusion. Debate is a space for real world change, but we have to consider tangible policy action above all else – reject ideal theory. CURRY ’14:

Dr. Tommy J. Curry 14, “The Cost of a Thing: A Kingian Reformulation of a Living Wage Argument in the 21st Century”, Victory Briefs, 2014

Despite the pronouncement of **debate** as an activity and intellectual exercise **pointing to the** real world **consequences of dialogue**, **thinking, and (personal) politics** when addressing issues of racism, sexism, economic disparity, global conflicts, and death, many of the discussions concerning these ongoing challenges to humanity **are fixed to a paradigm** which sees the adjudication of material disparities and sociological realities as the conquest **of one ideal theory over the other**. In “Ideal Theory as Ideology,” Charles Mills outlines **the problem** contemporary theoretical-performance styles in policy debate and value-weighing **in Li**ncoln**-Do**uglass are confronted with in their attempts to get at the concrete problems in our societies. At the outset, Mills concedes that “ideal theory applies to moral theory as a whole (at least to normative ethics as against metaethics); [s]ince ethics deals by definition with normative/prescriptive/evaluative issues, [it is set] against factual/descriptive issues.” At the most general level, the conceptual chasm between what emerges as actual problems in the world (e.g.: racism, sexism, poverty, disease, etc.) and how we frame such problems theoretically—the assumptions and shared ideologies we depend upon for our problems to be heard and accepted as a worthy “problem” by an audience—**is** the most obvious call for an anti-ethical paradigm, since such a paradigm insists on the actual as the basis of what can be considered normatively. Mills, however, describes this chasm as a problem of **an ideal-**as**-**descriptive **model which argues** **that** for any actual-empirical-observable social phenomenon (P), an ideal of (P) is necessarily a representation of that phenomenon. In the idealization of a social phenomenon (P), **one “necessarily has to abstract away** from certain features” of (P) that is observed before abstraction occurs. **This gap between what is actual** (in the world), **and what is represented by theories** and politics of **debaters proposed in rounds threatens any real discussions about the concrete nature of oppression** and the racist economic structures **which necessitate tangible policies and reorienting changes** in our value orientations. As Mills states: “What distinguishes ideal theory is the reliance on idealization to the exclusion, or at least marginalization, of the actual,” so what we are seeking to resolve on the basis of “thought” is in fact incomplete, incorrect, or ultimately irrelevant to the actual problems which our “theories” seek to address. **Our attempts to situate social disparity cannot simply** appeal to the ontologization of social phenomenon—meaning we canno**t suggest that the various complexities of social problems** (which are constantly emerging and undisclosed beyond the effects we observe) **are totalizable** by any one set of theories **within an ideological frame** be it our most cherished notions of Afro-pessimism, feminism, Marxism, or the like. **At best, theoretical endorsements make us aware of** sets of actions to address ever developing **problems in our empirical world**, **but** even this awareness **does not command us** to only do X, but rather do X and the other ideas which compliment the material conditions addressed by the action X. As a whole, debate (policy and LD) neglects the need to do X in order **to remedy** our cast-away-ness among **our ideological tendencies** and politics.

#### And, ethics assumes recognition of moral agency - structural violence precludes that possibility classifying oppressed groups as morally inferior. WINTER AND LEIGHTON ’99:

Winter and Leighton ‘99 Deborah DuNann Winter and Dana C. Leighton. Winter "Peace, conflict, and violence: Peace psychology in the 21st century." 1999

Finally, **to recognize** the operation of **structural violence forces us to** **ask** questions about how and why we tolerate it, questions which often have painful answers for the privileged elite who unconsciously support it. A final question of this section is how and why we allow ourselves to be so oblivious to structural violence. Susan Opotow offers an intriguing set of answers, in her article Social Injustice. She argues that our normal perceptual/cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice that would be instantaneously confronted if it occurred to someone we love or know is barely noticed if it occurs to strangers or those who are invisible or irrelevant. We do not seem to be able to open our minds and our hearts to everyone, so we draw conceptual lines between those who are in and out of our moral circle. Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer. Moral exclusion is a human failing, but Opotow argues convincingly that it is an outcome of everyday social cognition. To reduce its nefarious effects, we must be vigilant in noticing and listening to oppressed, invisible, outsiders. Inclusionary thinking can be fostered by relationships, communication, and appreciation of diversity. Like Opotow, all the authors in this section point out that structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects. Learning about structural violence may be discouraging, overwhelming, or maddening, but these papers encourage us to step beyond guilt and anger, and begin to think about how to reduce structural violence. All the authors in this section note that the same structures (such as global communication and normal social cognition) which feed structural violence, can also be used to empower citizens to reduce it. In the long run, reducing structural violence **by reclaiming neighborhoods, demanding social justice and living wages**, providing prenatal care, alleviating sexism, and celebrating local cultures, will be our most surefooted path to building lasting peace.

#### Ideal theory glosses over issues of structural domination – that reifies oppressive power structures and skews ethical theorizing. MILLS:

Charles W. Mills, “Ideal Theory” as Ideology, 2005

Now what distinguishes ideal theory is not merely the use of ideals, since obviously nonideal theory can and will use ideals also (certainly it will appeal to the moral ideals, if it may be more dubious about the value of invoking idealized human capacities). What distinguishes ideal theory is the reliance on idealization to the exclusion, or at least marginalization, of the actual. As O’Neill emphasizes, this is not a necessary corollary of the operation of abstrac- tion itself, since one can have abstractions of the ideal-as-descriptive-model type that abstract without idealizing. But ideal theory either tacitly represents the actual as a simple deviation from the ideal, not worth theorizing in its own right, or claims that starting from the ideal is at least the best way of realizing it. Ideal theory as an approach will then utilize as its basic apparatus some or all of the following concepts and assumptions (there is necessarily a certain overlap in the list, since they all intersect with one another):¶ • An idealized social ontology. Moral theory deals with the normative, but it cannot avoid some characterization of the human beings who make up the society, and whose interactions with one another are its subject. So some overt or tacit social ontology has to be presupposed. An idealized social ontology of the modern type (as against, say, a Platonic or Aristotelian type) will typically assume the abstract and undifferentiated equal atomic individuals of classical liberalism. Thus it will abstract away from relations of structural domination, exploitation, coercion, and oppression, which in reality, of course, will profoundly shape the ontology of those same individuals, locating them in superior and inferior positions in social hierarchies of various kinds.¶ • Idealized capacities. The human agents as visualized in the theory will also often have completely unrealistic capacities attributed to them—unrealistic even for the privileged minority, let alone those subordinated in different ways, who would not have had an equal opportunity for their natural capacities to develop, and who would in fact typically be disabled in crucial respects.¶ • Silence on oppression. Almost by definition, it follows from the focus of ideal theory that little or nothing will be said on actual historic oppression and its legacy in the present, or current ongoing oppression, though these may be gestured at in a vague or promissory way (as something to be dealt with later). Correspondingly, the ways in which systematic oppression is likely to shape the¶ Charles W. Mills 169¶ basic social institutions (as well as the humans in those institutions) will not be part of the theory’s concern, and this will manifest itself in the absence of ideal-as-descriptive-model concepts that would provide the necessary macro- and micro-mapping of that oppression, and that are requisite for understanding its reproductive dynamic.¶ • Ideal social institutions. Fundamental social institutions such as the family, the economic structure, the legal system, will therefore be conceptualized in ideal-as-idealized-model terms, with little or no sense of how their actual work- ings may systematically disadvantage women, the poor, and racial minorities.¶ • An idealized cognitive sphere. Separate from, and in addition to, the idealization of human capacities, what could be termed an idealized cognitive sphere will also be presupposed. In other words, as a corollary of the general ignoring of oppression, the consequences of oppression for the social cognition of these agents, both the advantaged and the disadvantaged, will typically not be recognized, let alone theorized. A general social transparency will be presumed, with cognitive obstacles minimized as limited to biases of self-interest or the intrinsic difficulties of understanding the world, and little or no attention paid to the distinctive role of hegemonic ideologies and group-specific experience in distorting our perceptions and conceptions of the social order.¶ • Strict compliance. Finally, some theorists, such as, famously, John Rawls in A Theory of Justice, also endorse “ideal theory” in the sense of “strict compliance as opposed to partial compliance theory”: the examination of “the principles of justice that would regulate a well-ordered society. Everyone is presumed to act justly and to do his part in upholding just institutions.” Rawls concedes that “the problems of partial compliance theory are the pressing and urgent matters. These are the things that we are faced with in everyday life.” But, he argues, “The reason for beginning with ideal theory is that it provides, I believe, the only basis for the systematic grasp of these more pressing problems” (Rawls 1999, 8). Since Rawls’s text is widely credited with reviving postwar Anglo- American normative political theory, and of being the most important book of the twentieth century in that tradition, this methodological decision can plausibly be argued to have been a significant factor in influencing the whole subsequent direction of the field, though I would also claim that his decision and its general endorsement also reflect deeper structural biases in the profession.¶ Now look at this list, and try to see it with the eyes of somebody coming to formal academic ethical theory and political philosophy for the first time. Forget, in other words, all the articles and monographs and introductory texts you have read over the years that may have socialized you into thinking that this is how normative theory should be done. Perform an operation of Brechtian defamiliarization, estrangement, on your cognition. Wouldn’t your spontaneous reaction be: How in God’s name could anybody think that this is the appropriate way to do ethics?

#### **The role of the ballot and judge is to vote for the debater who better contests framing and orientation towards oppression in the real world.** TRIFONAS 03.

PETER PERICLES TRIFONAS. PEDAGOGIES OF DIFFERENCE: RETHINKING EDUCATION FOR SOCIAL CHANGE/ RoutledgeFalmer. New York, London. 2003. Questia.

Just as objective social reality exists not by chance, but as the product of action, so it is not transformed by chance. If men[/wom[x]n] produce social reality (which in the “inversion of praxis” turns back upon them and conditions them), then transforming that reality is an historical task, a task for men[/wom[x]n]. **Reality which becomes oppressive results in the contradistinction of** men[/wom[x]n] as **oppressors and oppressed. The latter, whose task it is to struggle for their liberation** together with those who show true solidarity, **must acquire a critical awareness of oppression** through the praxis of this struggle. One of the gravest obstacles to the achievement of liberation is that oppressive reality absorbs those within it and thereby acts to submerge men's[/wom[x]n's] consciousness. Functionally oppression is domesticating. To no longer be prey to its force one must emerge from it and turn upon it. **This can be done only by** means of the praxis: **reflection** and action **upon the world** in order **to transform it.** (36)In this passage we see the fundamental importance that Freire places on the development of a critical consciousness of social existence. **An end to oppression**, which is the fundamental objective of Freire's call for a socially transformative praxis, requires that men and wom[x]n have the ability to perceive their existence in the world. He argues that their action in the world is largely determined by the way they see themselves within it, and that a correct perception necessitates of an ongoing reflection on their world. For Freire it is neither the mere action nor the mere reflection and critical consciousness of men and wom[x]n that will transform the world and end oppression. This can only be achieved through “praxis: the action and reflection of men in the world in order to transform it” (66). The ability to perceive correctly and arrive at a critical consciousness of the world, however, does not come automatically; it is itself the product of praxis. From this position Freire argues for an educational practice (a pedagogical praxis) that engages with the oppressed in reflection that leads to action on their concrete reality. He calls for a **pedagogy** that makes oppression and its **causes** objects of a **reflection that will allow the oppressed to develop a consciousness of “their** necessary **engagement** in the struggle **for** their **liberation**” (33). Freire clearly articulates the essential importance of critical consciousness to transformative action that is liberating: In order for the oppressed to be able to wage the struggle for their liberation, they must perceive the reality of oppression not a closed world from which there is no exit, but as a limiting situation which they can transform. This perception is a necessary but not a sufficient condition for liberation; it must become the motivating force for liberating action. (34) He attributes to education an essential role in the development of developing critical consciousness that Freire ascribes to education: **In problem posing education, men and wom[x]n develop their power to perceive critically the way they exist in the world** with which and in which they find themselves. They come to see the world not as static reality, but as reality in process, in transformation. Although the dialectical relations of men with the world exist independently of how these relations are perceived (or whether or not they are perceived at all) it is also true that the form of action men adopt is to a large extent a function of how they perceived themselves in the world. Hence the teacher-student and the students-teachers reflect multaneously on themselves and the world without dichotomizing this reflection from action, and thus establish an authentic form of thought and action. (71) From Freire we understand that a social transformation that works in the interests of working-class indigenous and nonwhite peoples necessitates a critical consciousness of social existence and the possibility of its transformation. We argue that a critical decolonizing consciousness is fundamental to the transformation of the internal neocolonial condition of social existence in the contemporary United States. One need only consider the level of post-September 11 patriotism and expressed belief in official rhetoric (about America's moral righteousness and freedom loving and defending tradition) among working-class indigenous and nonwhite people to see the degree to which our internal neocolonial condition has “submerged” the consciousness of men and wom[x]n who live and experience the effects of that condition on a daily basis. The vast majority of working-class indigenous and nonwhite people in the contemporary United States cannot see the extent to which the essence of the colonialism that made them English-speaking, Christian individuals continues to define their social existence. We agree with Freire that how men and wom[x]n act in the world is largely related to how they perceive themselves in the world, and thus we understand that the existent potential to transform our internal neocolonial condition will remain unrealized if we fail to appropriately perceive and develop a critical consciousness of this condition and its possible undoing. A **social transformation that ends** our neocolonial **oppression and exploitation** in American society **will require a** cycle of **emancipatory thought, action, and reflection**-in other words, a praxiological cycle. We build on Freire and contend that critical consciousness is developed through the struggle against internal neocolonialism both **in the classroom** and the larger social context. Critical pedagogy has put forth the notion that classroom practice integrates particular curriculum content and design, instructional strategies and techniques, and forms of evaluation. It argues that these specify a particular version about what knowledge is of most worth, what it means to know something, and how we might construct a representation of our world and our place within it (McLaren 1998). From this perspective, the pedagogical is inherently political. For us a decolonizing pedagogy encompasses both an anticolonial and decolonizing notion of pedagogy and an anticolonial and decolonizing pedagogical praxis. It is an anticolonial and decolonizing theory and praxis that insists that colonial domination and its ideological frameworks operate and are reproduced in and through the curricular content and design, the instructional practices, the social organization of learning, and the forms of evaluation **that i**nexorably sort and label students into enduring categories of success and failure of schooling. Thus, an anticolonial and decolonizing pedagogical praxis explicitly works to **transform t**hese dimensions of **schooling so that schools become sites for the development of a critical decolonizing consciousness and activity that work to** ameliorate and ultimately **end the** mutually constitutive forms of violence that characterize our internal **neocolonial condition. =**

# Frontlines:

## XT – Core:

### XT – Framework [Long]

#### Omitted

### XT – Plan Short:

The plan overturns the Person v. Ray decision – that’s the Silbers and Bernick evidence

### --- Solvency O/W:

### --- Case O/W:

#### The case outweighs all of your offense:

#### [1] Try or die – (A) Giroux 15 - academia is at risk and the youth are militarized by stop and frisk – even if your impacts have a high magnitude, the case is a prior question for education, and (B) Graham 9/21 – stop and frisk is an epidemic, status quo policy options view it as a crime fighting tool – 1AC is key

#### [2] Impact outweighs – (A) Simmons 14 – stop and frisk

## Kritik:

### XT – State Good:

[1] The state is inevitable -

## Theory:

### CI - Overturn Case Bad:

#### Counter-Interpretation: the affirmative may defend overturning a court case if it is Pierson vs. Ray. Net benefits:

#### [1] Ground – the 1AC solvency evidence says that this court cases started the culture of qualified immunity – this means it is functionally gen rez because you get to read all of your arguments why qualified immunity is good. This is better ground for you so it outweighs because it accounts for your strat. Key to fairness because you need args to win.

#### [2] Legal Education – we learn tons of stuff by understanding the intricacies of the court cases and what goes into overturning them – only my interp lets us see this side of the topic, but their interp devolves into the typical congressional agent counterplan debates. Legal ed is key - debaters become lawyers in huge numbers, it matters for eventual careers CROTTY:

Do Debaters Make Better Lawyers?¶ 10/03/2013 James Marshall Crotty

Given this backdrop, it is no surprise that **many** former policy **debaters become** successful **lawyers**. Notable among these are David Boies (of Bush V. Gore fame), Justice Samuel Alito, and Justice Stephen Breyer. In my own circle of friends, I include several former high school **debate** partners or team **members** who **went** **on to** successful legal careers, **including Yale Law** school grad — **and** former Senior Legal **Adviser in the Clinton** State **Department** — James C. O’Brien, principal author of the Bosnian constitution

#### Out of round impacts on the theory debate come first – we cannot ignore the few opportunities we get to apply our skills in real life, but we can ignore some nebulous fairness offense.

### CI - A-Spec/Courts Bad:

#### Counter-Interpretation: \*\*\*text varies\*\*\*

#### [1] Topic literature - the Supreme Court is the central agent in qualified immunity referendum – the debate about it is centered around it. KINPORTS ’16:

[Kinports, Kit. (Law Professor at Penn State). “The Supreme Court’s Quiet Expansion of Qualified Immunity.” Penn State Law. 2016. LHP MK]

The **qualified immunity** defense available to most executive branch officials in § 1983 cases **is a** creature of policy constructed by theSupreme Court for the express purpose of “shield[ing] [government actors] from undue interference with their duties and from potentially disabling threats of liability.”1 In contrast to the absolute immunity accorded to legislators, judges, and prosecutors, the Court no longer engages in any pretense that its qualified immunity rulings are interpreting the congressional intent underlying § 1983.2 **In** its **1982** decision in Harlow v. Fitzgerald, **the** Supreme **Court** openly **refashioned the definition of qualified immunity** in the interest of sparing public officials not only from liability, but also from the costs of litigation, “permit[ting] the resolution of many insubstantial claims on summary judgment.”3 Harlow eliminated the subjective prong of the Court’s prior two-part definition of qualified immunity and rewrote the objective prong to provide that executive-branch officials are safeguarded from liability so long as “their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”4 **In the years since** Harlow, **the Court has continued to refine the defense and expand the protection it affords government officials.5** At the same time, the breadth of the defense has become apparent in the Supreme Court decisions applying the Harlow standard. **During the past fifteen years, the Court has issued eighteen opinions addressing** the question **whether** a particular constitutional right was clearly established. In sixteen of those eighteen cases, the Court found the **governmental defendants were entitled to qualified immunity** on the grounds that, whether or not they acted in contravention of the Constitution, they did not violate clearly established law.6 The Court has not ruled in favor of a § 1983 plaintiff on this question in more than a decade.7 Interestingly, more than one-third of these sixteen defendant-friendly rulings came in summary reversals, including at least one in each of the past four years. These cases represent about one of every seven opinions the Court issued without briefing and oral argument during that four-year period.8 Given that the only question discussed in these per curiam opinions was how Harlow’s clearly established law standard applied to a particular set of facts, these decisions arguably reflect the Court’s willingness to overcome its usual reluctance to assume an error-correcting role in a fact-bound case in the interest of protecting government officials from § 1983 litigation.9 Ironically, Justices Alito and Scalia leveled an objection along those lines in the one summary reversal that favored a § 1983 plaintiff⎯which did not even go so far as to find that the defendant violated clearly established law, but merely that the lower court ignored “evidence that contradicted some of its key factual conclusions” and thereby failed to view the record on summary judgment in the light most favorable to the plaintiff.10 But my purpose here is not to criticize the Court for its selective use of summary reversals or for decisions like Harlow that transparently alter precedent. Instead, my focus is on **the Supreme Court’s qualified immunity opinions** that have made a sub silentio assault on constitutional tort suits. In a number of recent rulings, the Court **has engaged in a pattern of covertly broadening the defense**, describing it in increasingly generous terms and inexplicably adding qualifiers to precedent that then take on a life of their own. This pattern began in 2011 with Ashcroft v. al-Kidd and continued with last Term’s decisions in City and County of San Francisco v. Sheehan and Heien v. North Carolina. In making this claim, I explore three different issues: (1) how **the** Court characterizes the standard governing the qualified immunity defense; (2) whether lower court opinions can create clearly established law; and (3) how qualified immunity compares to Fourth Amendment principles. As detailed below, in each of these areas **the Court has**⎯without offering any explanation, and without even acknowledging it is doing so⎯**broadened the protection qualified immunity offers government officials** in § 1983 litigation.

#### Think about the literature you have read about qualified immunity – 99% of it references a type of court case as its evidence. Means my interp limits the aff to the real world it’s really done through: the courts. My interp forces the debate into a context that makes sense. Key to fairness and education – all args assume a basis of the worlds to make a causal claim i.e the topic lit – means it constructs all ground we have and things we learn.

#### [2] Ground: normal means on this topic is the Supreme Court so all neg offense is centered on this. No neg prep talks about congress ignoring the Supreme Court. For example, disads like court clog don’t work because they rely on the federal judiciary which goes through the Supreme Court. Ground is key to fairness and outweighs all of their standards since args are the only thing that can win a round for you or educate anyone.

### CI – Limit Spec:

#### Counter-interpretation: the affirmative does not have to specify the extent to which they limit if they say in the plan text they will specify the extent.

#### [1] Reading this shell is ridiculous in the case – I said I would specify this thing specifically so it takes out all of your CX checks bad arguments because judges flow the aff and doesn’t waste time because its literally in the aff. This is offense – they moot actual discussion of the topic by not engaging in practically a gen rez aff – topical discussion is key because we only have two months to learn – impact turns all of your abuse.

#### [2] Limits – specifying an extent means I could defend something that is practically not even a limit – my interp solves because you get access to turns that apply in all limitations. Outweighs your offense – better ground for you since you can apply your turns so its key to fairness.

### CI – Must Defend Ban:

#### I-Meet: Limit[[1]](#footnote-1) is

to restrict the bounds or limits of <the specialist can no longer limit himself to his specialty> b :  to curtail or reduce in quantity or extent <we must limit the power of aggressors>

#### And, a ban is to limit with complete extent so I meet.

#### Counter-Interpretation: the affirmative does not have to defend a ban if in the text of the 1AC they say they will specify the extent of the limit.

#### [1] Solves abuse: I would have specified a ban because it is to limit with complete extent – frivolous theory is a reason to reject their interp because it proves there was no strategy lost and it just moots discussion of the topic where only have two months to learn.

#### [2] A ban and a limit are not even close. PEDIAA 15:

Difference Between Prohibited and Restricted. Pediaa 15’ October 12, 2015. http://pediaa.com/difference-between-prohibited-and-restricted/

What Does Prohibited Mean Prohibited is a variant of the verb prohibit. Prohibited can be taken as the past tense and past participle of prohibiting as well as an adjective. Prohibited means that something is formally forbidden by law or authority. When we say ‘smoking is prohibited’, it means that smoking is not allowed at all, there are no exceptions. Prohibit indicates an impossibility. This gives out the idea that it is not at all possible under any condition or circumstance. The term Prohibited goods is used to refer to items that are not allowed to enter or exit certain countries. For example, the government of South America lists Narcotic and habit-forming drugs in any form, Poison and other toxic substances, Fully automatic, military and unnumbered weapons, explosives and fireworks as prohibited goods. The following sentences will further explain the use of prohibited. What Does Restricted Mean Restrict means to put under limits or control. Restricted can be either used as the past tense of restrict or as an adjective meaning limited. When we say something is restricted, it means that limits or conditions have been added to it. It does not mean that it is completely impossible. For example, Restricted goods are allowed to enter or exit a country under certain circumstances. A written permission can help you to import or export that item. Likewise, a restricted area does not mean that people are not allowed to enter; it means that a special permission is required to enter the place. Restricted information refers to information that are not disclosed to the general public for security purposes.

#### Two impacts:

#### [A] Extra T: the resolution says limit, but a ban is an extension outside the bounds of that – extra T comes first on the theory debate – a limit is the only pre-round prep both of us had coming into the round so even if a ban would ideally be better – the limit is still better in the context of this topic.

#### [B] Textuality: the resolution says limit – there is a reason why ban and limit are used in different contexts – only my interp is textual. Text comes first - the text of the resolution is the only access to the topic before the round.

## Disad:

### A2 Court Clog:

#### [1] C/A Stefan 16 – with qualified immunity, courts are confused on how to apply the law because they don’t understand what constitutes as a reasonable violation, so court cases will easily be able to go through because it is easy to determine if there is a rights violation

#### [2] DA non-unique– the plan prevents future suits of stop and frisk – outweighs on the long term. U.S frivolous suits have skyrocketed due to stop and frisk policies – squo makes it way worse for the courts. RAYMAN:

[Graham Rayman. “Bloomberg's Sneaky Fix For All Those Stop-and-Frisk Lawsuits” March 13, 2013. LHP AA]

Police Commissioner Ray Kelly and Mayor Bloomberg insist that stop and frisk and quality of life arrests are critical to keeping crime down and they have largely ignored the civil liberties advocates who abhor the policy. But **they are having a harder time ignoring** one **clear consequence of stop and frisk**: **New Yorkers are running to the courthouse in** **record numbers.** Over the past five years, **the number of lawsuits** and claims **filed against** **the NYPD have skyrocketed** by **40 percent**. Total NYPD settlements have risen from $92.3 million in 2007 to $185.6 million in 2011 for a total over the period of an astounding $654 million in payouts. Civil rights claims alone have cost the city $300 million, and the annual payout amount in those cases has risen in every year since 2008. **The number of** **claims against the NYPD** **has** also **spiked**--**by a** fairly **unbelievable 55** percent, from 5,707 in 2007 to 8,882 in 2011. Last year, **the Voice estimated that** **the city was being** **sued over stop** **and** **frisk** at the rate of 40 cases per month.

#### [3] Lawyers will only take cases when they are legitimate - they wont take frivolous cases, so no clog

#### [4] IPV link turns the DA. GARRITY:

MEDIATION AND DOMESTIC VIOLENCE © by Rose Garrity What Domestic Violence Looks Like

Mediation saves criminal legal systems great amounts of money; in systems where burgeoning case loads are backed up for weeks and months awaiting court action mediation may be seen as a panacea, especially for domestic violence cases which continually clog the system.

**And, that means you affirm – the plan limits IPV. SCHTELMAKER:**

[Shtelmakher 10’- Milena, Loyola Marymount University and Loyola Law School Digital Commons at Loyola Marymount University and Loyola Law School Loyola of Los Angeles Law Review Law Reviews 6-1-2010 Police Misconduct and Liability: Applying the State-Created Danger Doctrine to Hold Police Officers Accountable for Responding Inadequately to Domestic-Violence Situations]

Proving state-created danger is only the first step in successfully alleging a substantive due process violation pursuant to § 1983. In addition, a domestic-violence victim [IPV survivor] has to demonstrate that the officer's conduct shocked the conscience. 45 This requirement exists because § 1983 permits a plaintiff to sue a state actor, such as a police officer, but does not create substantive rights or define what type of conduct creates a cause of action.46 The requirement also ensures that a constitutional violation does not occur "whenever someone cloaked with state authority causes harm" 47 and prevents the Fourteenth Amendment from becoming a "font of tort law to be superimposed upon whatever systems may already be administered by the States."48 As a result, liability thresholds for depriving an individual of constitutional rights must be stricter than state tort thresholds. 49 The lowest common denominator for tort liability is negligence, which is not enough to establish a constitutional violation.so On the other hand, the highest common denominator of tort liability, intentional conduct, is most likely enough." For actions that fall between the two ends of the spectrum, constitutional liability may occur when the state actor's conduct can be classified as deliberately indifferent.52 What constitutes deliberate indifference or shocks the conscience, however, is highly dependent on the circumstances of each case" and differs from court to court.54 **Establishing a national standard for the state-created danger caused by officers responding inadequately to [IPV]** domestic violence **would heighten awareness** about the dangers and prevalence of [IPV] domestic violence. Such awareness would force police officers, judges, and society as a whole to view the issues of [IPV] domestic violence differently. **And in light of this new awareness, conduct that was once considered negligent or grossly negligent would, hopefully, be considered to shock the conscience. Nevertheless,** victims **[survivors] would still have another hurdle to overcome the police officers' defense of qualified immunity.** C. The Qualified-Immunity Defense Where a police officer is accused of violating an individual's due process rights, the officer is entitled to the defense of qualified immunity." This protects officials from liability unless they violate a law that was clearly established at the time of their conduct."6 According to the Supreme Court, "[q]ualified immunity balances two important interests-the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably."" In any given case, the burden is on the plaintiff to demonstrate that qualified immunity does not apply." To accomplish this, the plaintiff must prove that his or her constitutional right has been violated and that the right was "clearly established" at the time of the conduct in question." The "clearly established" standard means that the legal principle must be settled with enough specificity that the officers were put on notice that their conduct was unlawful.60 This specificity requirement does not depend on a precedent existing in the same circuit in which the case arose, as long as the law is supported by a consensus of the circuits.' Furthermore, just because a case presents novel factual circumstances, the "clearly established" analysis is not automatically in favor of the officer.6 2 Rather, the analysis focuses on whether a reasonable person in the officer's position would have been aware of the law.63 Part of the battle against domestic violence is to make adequate, and thus appropriate, action by police officers the "clearly established" law. To this end, different cities across the country have implemented programs to spread awareness regarding the most effective way to handle domestic-violence situations. For example, a county in northern California has organized a program whereby police officers responding to domestic-violence calls are accompanied by trained volunteers.' The volunteers are trained to speak with the victims at the scene and to fill out temporary restraining orders.65 In Farmington, New Mexico, the police department has given six officers specialized training to improve their communication with domestic-violence victims and to help them develop unique skills for collecting evidence.66 This training is especially useful when officers respond to situations where victims refuse to disclose the abuse." Furthermore, the added knowledge gives officers a safer way to approach each situation." Louisville, Kentucky, also implemented a domestic-violence awareness program. There, a council committee approved a separate domestic-violence court because these courts "make a difference in cutting down on violence and the number of murders" in the cities that utilize them.69 Despite the above and other programs, women suffer two million injuries at the hands of their intimate partners every year.o Implementing a national standard for state-created danger could be an effective tool for making police officers aware of the danger of domestic violence by making them accountable for their conduct.

#### [5] Not unique - Court clog rising and will go up – immigration, MORGENTHAU 16:

The Supreme Court’s immigration imperative: The executive branch necessarily exercises tremendous discretion in deciding whom to deport; Obama is right to try to formalize it

BY ROBERT MORGENTHAU NEW YORK DAILY NEWS Wednesday, April 27, 2016, 5:00 AM

Recently, the U.S. Supreme Court heard arguments in U.S. vs. Texas, the case challenging President Obama’s policy deferring deportation proceedings against children and some other categories of immigrants. Commentators who witnessed the arguments reported that the case seems headed to a 4-to-4 tie. That would resolve nothing. A tie vote would provide no guiding principle of law, and would leav[ing]e in place a lower-court ruling preventing the President from enforcing his policy, with nothing to replace it. And that would be a tragedy. As Justice Ruth Bader Ginsburg noted during the arguments, there are currently approximately 11.3 million undocumented immigrants in the United States. Congress has provided funds to remove perhaps 400,000, which leaves the administration with a huge pool of undocumented immigrants, funding to remove a tiny fraction, and limited guidance from Congress regarding how to prioritize removal procedures. The result of that disconnect is exactly what you would expect: a travesty. Removal cases pour into immigration courts in a flood, with little hope of resolution. The number of pending cases in immigration courts has increased every year since 2006, so that now nearly half a million immigrants await the resolution of their cases. Today, the average case in immigration court has been pending for 664 days — a year and 10 months — without resolution. Those immigrants who have valid claims to remain in the United States face even more daunting delays. The average length of time to process their claims to a successful conclusion is 871 days. In high-volume states like New York, Arizona, Illinois, Nevada and California, the delays are even crazier: more than 1,000 days. And those are for cases where the immigrant is found to have a valid claim for relief. One immigration attorney in California told me of the time the court adjourned one of his cases to a date certain. The attorney was left to ask, “What year, Judge?” Adding an additional 10 million cases to that backlog would accomplish nothing but more chaos. And so someone — be it Congress, the President or the courts — has to prioritize the cases.

### A2 Crime:

#### [1] New link to the 1AC framework --- the drive behind the crime fighting policy frame is a propagation of stop and frisk – that is the 1AC Graham ev – means case outweighs

#### [2] No impact under stop and frisk – if I win any reason why stop and frisk, then decreasing productivity is a tradeoff

#### [3] Qualified immunity is much better. SHWARTZ 14:

“POLICE INDEMNIFICATION” JOANNA C. SCHWARTZ\* Assistant Professor of Law, University of California, Los Angeles, School of Law. June 2014. NYU Law Review

Some may argue that these studies show qualified immunity to be performing its intended function—lessening the impact of the threat of liability on officer behavior. But if officers’ mindsets regarding the prospect of being sued can be attributed to qualified immunity, the doctrine is overperforming: Although qualified immunity is intended to protect against overdeterrence, available studies indicate that officers’ behavior is currently not influenced to any substantial extent by the threat of litigation. Evidence that police officers almost never financially contribute to settlements and judgments, evidence that lawsuits have little negative impact on police officers’ employment, and evidence that officers’ behavior is not influenced to any substantial extent by the threat of being sued all undermine the Supreme Court’s current rationales for qualified immunity.283 Even if one believes that police officers need some manner of protection against the ill effects of litigation, there is no doctrinal, empirical, or logical basis for current stringent qualified immunity standards, which are designed to “provide[ ] ample protection to all but the plainly incompetent or those who knowingly violate the law.”284 Qualified immunity should be eliminated or restricted to comport with this evidence unless and until an alternative, empirically grounded justification can be offered for the defense.285

#### Outweighs: (a) Sample size – your studies are too small to get an accurate picture of who did what. SHWARTZ 14’

“POLICE INDEMNIFICATION” JOANNA C. SCHWARTZ\* Assistant Professor of Law, University of California, Los Angeles, School of Law. June 2014. NYU Law Review

After pursuing responses to these requests for over a year, I was able to gather information about litigation payments and indemnification decisions in forty-four of the seventy large departments and thirty-seven of the small and mid-sized departments I queried. These jurisdictions include twelve of the twenty largest departments nationwide (as well as significantly smaller departments) and employ approximately 20% of law enforcement officers across the country. The number of sworn officers employed by the responsive departments ranges from 1 to over 36,000. The responsive departments are located in cities, counties, and states that span the political spectrum. And they vary significantly in their formal policies regarding officer indemnification.

#### (b) accounts for your ev – says that the intention might be to fight crime, but the ev flows heavily aff on this question.

### A2 PTX:

#### This is the wrong DA to read - the plan text fiats a Supreme Court doctrine, not legislation in the house so it never passes through congress and means no link to the DA.

#### [1] Focusing on bipartisan support is a link to the 1AC – the uniqueness evidence warrants that the GOP loves stop and frisk because it is framed as a crime fighter – looking at GOP support will not do shit for stop and frisk, which is the biggest impact – that’s Simmons 14

#### [2] Not intrinsic --- a logical policy maker would know to do both to prevent a foreseeable terminal impact.

#### [3] Fiat solves the link --- I don’t test whether people should vote on the plan, but whether they should do it.

### A2 Police Backlash:

#### [1] Empirically denied in the context of the aff – stop and frisk went down in New York after civil litigation so the backlash did not impact in the context of the aff– extend stop and frisk o/w that’s Simmons [\_\_]

#### [2] Try or die takes this out – the police will always be pissed at any reform, but that will die down – the case outweighs on long term because it stops stop and frisk for cases in the future.

### A2 Equilibration:

#### [1] No link – stop and frisk is not a right that you can limit – its not like other civil suits – this means even if the courts equilibrate then it will not affect the plan – stop and frisk is a prior question so this arg has no impact

#### [2] Empirically denied – New York proves there was no limitation on anything that affected stop and frisk litigation so no impact.

## Counterplan:

### A2 Ban PIC:

#### [1] Perm do both - you can both ban and limit qualified immunity. It may be redundant, but they only say banning solves the case so there’s zero net benefit to the alt alone.

#### [2] Perm do the counterplan - this counterplan is aff ground. Limit[[2]](#footnote-2) is

to restrict the bounds or limits of <the specialist can no longer limit himself to his specialty> b :  to curtail or reduce in quantity or extent <we must limit the power of aggressors>

#### If I banned qualified immunity vs. limiting a constitutive feature of it, both in effect reduce the doctrine’s power, just to different extents.

#### [3] Perm do the plan, then the counterplan - it’s inevitable since any ban begins with small-scale limitations. For instance, the civil rights movement didn’t immediately result in a ban of Jim Crow, it made several small victories to change the law holistically.

### A2 Abolish Police:

#### [1] Your radical claims will never solve the aff – the government is too entrenched in the police industrial complex and their mechanisms against fighting crime – only the 1AC is enough to resolve its impacts

#### [2] 1AC solves better – more pragmatic and eliminates the culture of violence that surrounds police violence

#### [3] Perm do the aff then the alt – if the shift to police violence does not solve, then abolishing will be the option – we must test pragmatics first to ensure a balance

#### [4] Alt results in chaos – no police means every criminal get do what ever they want – only the aff is the correct middle ground between limited stop and frisk and order.

#### [5] Perm do both – small scale incremental reform can work if it erodes the police system – the combination is key. HERZING 15:

[Big Dreams and Bold Steps Toward a Police-Free Future 16 September 2015 By Rachel Herzing, Truthout Op-Ed Rachel Herzing lives and works in Oakland, CA, where she fights the violence of policing and imprisonment. She is a co-founder of Critical Resistance, a national grassroots organization dedicated to abolishing the prison industrial complex and the Co-Director of the StoryTelling & Organizing Project, a community resource sharing stories of interventions to interpersonal harm that do not rely on policing, imprisonment, or traditional social services]

Keeping the function of policing in focus - armed protection of state interests - increases clarity about what policing is meant to protect and whom it serves. Further, that clarity helps us reflect on what asking for police accountability really means. Police forces tend to be very accountable to the interests they were designed to serve, and those interests frequently clash with the interests of the communities targeted most aggressively by policing. Recognizing policing as a set of practices used by the state to enforce law and maintain social control and cultural hegemony through the use of force reveals the need for incremental changes that lead toward the erosion of policing power rather than reinforcing it. This recognition may also move us toward ways to reduce the impacts of the violence of policing without ignoring the serious issues that lead to violence within our communities. For anyone with experience dealing with the grinding harassment, psychological or physical harm, or death meted out by policing, it's clear that the best way to reduce the violence of policing is to reduce contact with cops. Plans for change must include taking incremental steps with an eye toward making the cops obsolete, even if not in our own lifetimes. Taking incremental steps toward the abolition of policing is even more about what must be built than what must be eliminated. Further, it requires steps that build on each other and continue to clear the path for larger future steps while being mindful not to build something today that will need to be torn down later on the path toward the long-term goal. The context created by the powerful protest movements referenced above has created an opportunity to make bigger, bolder changes than we have seen in a very long time. Now should be the time to draw from the organizations that have been hard at work making that change on the ground and to test out creative new approaches rather than attempting to develop brand new platforms or repackaging reforms already in the Department of Justice pipeline, or reintroducing old reforms such as civilian review boards that have a demonstrated track record of being more theater than substance.

#### [6] Transition DA – to abolish the police will force them to desperation and if they’re as powerful as you say they’ll kill us all in the interim. HOTCHKIN 15:

Abolish Police & the State – The Ideas That Will Replace Them NOVEMBER 19, 2015 BY JOSHUA SCOTT HOTCHKIN

This is why the state and police have become desperate. They must now be the deviants they are supposed to protect us from in order to validate their own existence and insure their survival. The increasing violence of police and the state can be seen as desperate unconscious attempts to avoid their own extinction. The closer we get to abolishing them, the more pronounced their instinct to fight will become. And that instinct is now so great police are often a greater threat than the deviants they exist to address and the state has become a risk to the existence of humanity through increasing escalations of violence on a global scale. So even though the near-future I have predicted is likely, it is not guaranteed. The police/state could destroy us all in its own death knells.

#### [7] You don’t put up the social safety nets that protect people and don’t actually solve the tangible violence of your impacts – you explicitly do nothing – advocates for abolition agree, RF 16’

TO FIGHT FOR BLACK LIVES IS TO BE ANTI-POLICE, rad fag July 21, 2016. rad fag is a Black, mixed-class, queer femme dedicated to combining arts and education to inspire direct action. Their writing has been featured in the AK Press anthology Taking Sides, as well as at Truthout, Salon Magazine, Socialist Worker and other abolitionist and feminist-based media.

Here is the most crucial value of abolition still lacking from so many of our tactics and conversations, both within and beyond Black communities: Abolition does not—and cannot—mean the mere removal of the police and prison systems. This alone does not address the centuries of violence whose trauma we still carry in our psyches and bodies, nor does it account for poverty, misogyny, racism, and all the other systemic struggles that terrorize us every day. Abolition means, fundamentally, the returning of resources, not their revoking. Taking away police and prisons is meaningless if they are not replaced with the resources that prevent violence—housing, healthcare, mental health services, public education, nutritious food, transportation, etc. When we say ‘abolition’, we are talking about taking back the resources that have been extracted from our communities and funneled towards their militarization. We are talking about reclaiming them, and channeling them into the options and opportunities that make our communities healthier, happier and stronger. This is the safety we seek. Police and prisons have nothing to do with it.

### A2 Abolish Except Private Police:

#### \*\*\* Use General Responses \*\*\*

#### Private Policing fails for the same reason publics do. HOTCHKIN 15:

Accountability Is Futile – Abolish the Police NOVEMBER 12, 2015 BY JOSHUA SCOTT HOTCHKIN

This includes private policing. It has demonstrated historically that it can do no better. From Pinkerton to endless cases of private authority abuse in modern times, we can see that private policing just does the same as its public counterpart. It protects itself and its greatest benefactors first and foremost. Private policing, like public, would just become another fascist tool of the oligarchs. And besides that, it is unnecessary. Police do not stop crimes. Criminals have this tendency to commit their crimes out of the way of police. When police do arrive at an active crime scene, things generally just get worse. Police do not stop crimes. Criminals have this tendency to commit their crimes out of the way of police. When police do arrive at an active crime scene, things generally just get worse. Police do not deter crime. If this was true the growth of the police state would have meant the end of crime by now. Yet policing does create crime. Several generations of socially and economically downtrodden people have been filtered through this system long enough to destroy individuals, families and communities. This leads to cycles of crime, as the downtrodden are given narrow choices for survival. It leads to the universities of criminal behavior that our prisons have become. Police have only one response to crime, which is to take advantage of it and profit from it. Crime is its nourishment, so it has far more to gain by creating it than stopping it. This is true of public policing and it would be true of private policing.

1. http://www.merriam-webster.com/dictionary/limit [↑](#footnote-ref-1)
2. http://www.merriam-webster.com/dictionary/limit [↑](#footnote-ref-2)