# Deont Case Neg

## Offcase

### Suspect Class CP

Counterplan Text: The USFG should designate all individuals in the United States below the poverty line as a “suspect class.”

The counter-plan resolves any unfairness with applying retribution to people of low socio-economic status. **Datlof 12**[[1]](#footnote-1)

The second way to move toward a more coherent regime of punishment is somewhat less concrete, and relies heavily on ideas and arguments put forward in the United States Supreme Court case San Antonio Independent School District v. Rodriguez (1973). The plaintiffs in the case, Demetrio Rodriguez and several other citizens of his school district, claimed, “Texas’s system for financing public schools violated the equal protection clause of the Fourteenth Amendment because it discriminated on the basis of wealth.”20 The decision issued by the Supreme Court would focus on two initial questions: how to define a ‘suspect class,’ and whether education could be considered a fundamental right. **A suspect class is a group** of people that the **courts recognize as** particularly **likely to be subject to discrimination and thus deserving of special protection** in the eyes **of the law.**21 When granted the protection of suspect classification, the courts apply a standard of strict scrutiny in judging discrimination against the group. Strict scrutiny also is applied in any case where a fundamental right, particularly those enumerated in the Constitution, is violated. Applying a standard of strict scrutiny means that in order for a policy to be constitutional while treating the suspect class differently from other groups, it must be justified by a compelling governmental interest, be as narrowly tailored as possible toward achieving that interest, and use the least restrictive means available.22

[…]

Finally, although Justice Powell believed that classifying the poor as a suspect class was impossible, there are grounds to believe that it could and should have been done. The difficulty, Justice Powell suggests, stems from the fact that the group is “large, diverse and amorphous.”26 However, applying strict scrutiny to any class is difficult. There could be a minimum standard of wealth or access to education or living conditions that could be used as a proxy for severe and entrenched lack of opportunity that would afford certain individuals access to an additional level of legal protection. Just because fair treatment is difficult to administer does not make it justifiable to renege on a duty to provide it. Moreover, the specific reasons Justice Powell puts forth for refusing suspect classification to the poor are of questionable accuracy. He claims, “[the class of the poor] have none of the traditional indicia of suspectness: the class is not saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process.”27 The Rodriguez case, along with Murphy’ essay Marxism and Retribution, Rawls’s Theory of Justice, and endless empirical evidence show this to be false. **Those born in**to **poor households are less able to access** their **fundamental rights and** therefore exercise less **political power** than the average citizens. **They receive unequal treatment** that can be seen from the type of education they receive to the expertise of the lawyers that defend them in a court of law. Most importantly, **this is an historical inequity.** Just as AfricanAmericans, Hispanics and women have been deprived of equal treatment throughout long periods of American history, so too have those white Americans born into situations of financial destitution. While **offering the** poor the **protection of a suspect class** would be an imperfect solution, it **would alleviate** some of the **philosophical inconsistencies of applying retrib**utive punishment **in a capitalist**ic **society.** Although both retributive and utilitarian punishment theories have powerful arguments in their favor, both become difficult to defend at the margins. In their purest forms, utilitarians must defend an exclusively forward-looking system without any regard for desert of punishment whereas retributivists must defend an exclusively backward-looking system without any regard for the practical outcome. It is telling that while Bentham and Kant may have defended these extremes, modern policymakers do not speak in such universal terms. They recognize that, given the realities of the world that we live in and the inadequacies of even the best laid plans, the goal of creating an efficient and happy society for the majority does not outweigh the sacrifices that would be required of those who are left behind. Therefore, it is best to attempt to prevent individuals from falling behind in the first place, provide for those who have fallen behind, and in the meantime realize that in the marginal cases a balance of the theories of punishment is necessary in order to achieve acceptable outcomes.

### Mission Statement CP

Counterplan: Agents of the CJS ought to issue and abide by a mission statement declaring the intention of prison to be confinement, not rehab.

The counter-plan solves the whole aff. We can provide treatment for retributive reasons as part of humane punishment without intending rehab.

**Logan and Gaes 93** write[[2]](#footnote-2)

Another way to preserve **treatment programs** for prisoners would be to justify them on grounds that would be relevant even if rehabilitation were not an official goal of the system. Many programs currently offered in prisons **could be separated from the** context and **vocab**ulary **of** "**rehab**ilitation," **and** could be **justified instead in the context** and with the vocabulary **of "confinement." Despite a decline in official endorsement of** the **rehab**ilitative ideal, **many** corrections **officials** continue to **endorse programs because of their normalizing effect on the prison environment**, not because they believe in effecting a change in the inmates. In addition, many corrections officials endorse the view that some programs work for some inmates in the sense that those who want to change should receive the opportunity to change. Both of these goals— time spent constructively and the opportunity to acquire skills— still can be pursued without the baggage of the rehabilitative ideal. John DiIulio (1991:114) notes that most prison and jail administrators view correctional programs from what he calls an "institutional perspective." That is, they "evaluate programs not mainly in terms of what they do to reduce the likelihood of recidivism or otherwise affect inmates' post-release behavior but as institutional management tools.” DiIulio also suggests that **programs can be defended** in less utilitarian terms **simply as part of** what we mean by **humane conditions of confinement.** A "confinement model" of imprisonment (Logan 1991: ch. 1) would be a follow-up to the "justice model" of sentencing. The confinement model, like the justice model, is based on a purely retributive philosophy of punishment. In this philosophy, the essential purpose of imprisonment is to punish offenders–fairly and justly–through lengths of confinement proportionate to the seriousness of their crimes. Although confinement may serve other purposes in addition to justice and punishment, those are the necessary and sufficient conditions for justifying it. Thus the term confinement model may be regarded as a shorthand for a clumsier but more explicit label: the doing-justice-through-confinement-as-a-form-of-punishment model. **Under the confinement model, offenders are sent to prison as punishment, not for punishment. Thus, prisons** operated on this model **need not be harsh or internally punitive**, nor would they be insensitive to the welfare of prisoners. Coercive confinement carries an obligation to meet prisoners' basic needs at a reasonable standard of decency, so measures of health care, safety, sanitation, nutrition, and other aspects of basic living conditions are relevant. Furthermore, confinement must meet constitutional standards of fairness and due process, so not only effectiveness and efficiency, but also the procedural justice with which confinement is imposed, are important. In addition–and most relevant to this discussion–programmatic **activities** such as education, recreation, and work **can be viewed as part of the conditions of confinement, regardless of** their alleged effects on **rehab**ilitation. In short, confinement is much more than merely warehousing.

**Here is a mission statement for** a prison under **the confinement model: “The mission** of a prison **is to keep prisoners**–to keep them in, keep them safe, keep them in line, keep them healthy, and keep them busy–and to do it with fairness, **without undue suffering,** and as efficiently as possible.” Many inmate **programs** currently offered in prisons–such as work, training, education, and recreation-**can be justified under the heading of** constructive activity (**"keep them busy"**). "Constructive" activity is not defined here as "contributing to the betterment of inmates" but as activity that is, on its face, consistent with the orderly, safe, secure, and humane operation of a prison. Idleness and boredom can be viewed as wrong from a work ethic standpoint, or as unnatural because human beings are not meant to be idle, or as so fundamentally related to mischief as to be undesirable for that reason. In any case, prison programs can be defended as forms of constructive and meaningful activity and as antidotes to idleness, without invoking claims of rehabilitative effectiveness. This is not to say that it does not matter whether the programs have any rehabilitative effects; it would be fine if they did so. But when we say that the primary purpose of prison is to punish through confinement, we become more interested in the operation of these programs inside the prison gates and less concerned about their effects beyond. It is the duty of prisons to govern fairly and well within their own walls. It is not their duty to reform, rehabilitate, or reintegrate offenders into society. Though they may attempt these things, it is not their duty even to attempt these goals, let alone their obligation to achieve them. **Prisons ought not to impose upon themselves, by inclusion in a mission statement, any responsibility for inmates' future conduct**, welfare, or social adjustment. These are primarily the responsibility of the offenders themselves, and perhaps secondarily a concern of some others outside the justice system. They should not be declared the official business of prisons.

## AT Framework

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## Case Turns

1. TURN – focus on rehab as an ideal masks coercive state power.

**Logan and Gaes 93** write[[3]](#footnote-3)

Proponents believe that rehabilitation programs reduce the harshness of imprisonment by softening and humanizing the prison environment. But what if this effect is more apparent than real? What if **prisons merely pay lip service to the ideal of rehab**ilitation **and create** what amounts to **a facade** of fine-sounding programs **that masks the harsh reality of doing time? Might this** approach not **reduce pressure** from the public **for real reform? A veneer of good intentions could undermine** the vigilance and the **restraint of power** that we need to maintain a system of just punishment. Rather than softening the pains of imprisonment, the rehabilitative goal may even add injustice to injury because it encourages individualized treatment, which undermines consistency and fairness. Individualized treatment requires discretion, which lends itself to abuse in the form of arbitrary and capricious distinctions. In pursuit of rehabilitation, offenders who have committed similar wrongs often are treated differently because of differences in personality, background, and social skills. Furthermore, when rehabilitative treatment is defined as an official goal of the agents and institutions of authority, then treatment, too, becomes paternalistic and authoritarian. The result is cynicism and resistance on the part of the intended beneficiaries. If our goal is to reform the conditions of life inside prisons, it is better to do so directly than under the rubric of rehabilitation. The direct approach has less chance of backfiring.

2. TURN – rehab causes paternalism. **Logan and Gaes 93** write[[4]](#footnote-4)

Proponents believe that rehabilitation programs reduce the harshness of imprisonment by softening and humanizing the prison environment. But what if this effect is more apparent than real? What if prisons merely pay lip service to the ideal of rehabilitation and create what amounts to a facade of fine-sounding programs that masks the harsh reality of doing time? Might this approach not reduce pressure from the public for real reform? A veneer of good intentions could undermine the vigilance and the restraint of power that we need to maintain a system of just punishment. Rather than softening the pains of imprisonment, **the rehab**ilitative **goal may even add injustice** to injury **because it encourages individualized treatment, which undermines consistency and fairness.** Individualized treatment requires discretion, which lends itself to abuse in the form of arbitrary and capricious distinctions. **In pursuit of rehab**ilitation, **offenders** who have committed similar wrongs often **are treated differently because of differences in personality**, background, **and social skills.** Furthermore, **when rehab**ilitative treatment **is defined as an official goal** of the agents and institutions of authority, then **treatment**, too, **becomes paternalistic and authoritarian.** The result is cynicism and resistance on the part of the intended beneficiaries. If our goal is to reform the conditions of life inside prisons, it is better to do so directly than under the rubric of rehabilitation. The direct approach has less chance of backfiring.

Coercion outweighs all aff offense. **Korsgaard 86** writes[[5]](#footnote-5)

According to the Formula of Humanity, **coercion** and deception are **[is] the most fundamental form**s **of wrongdoing** to others - **the root**s **of all evil. Coercion** and deception **violate[s] the conditions of possible assent, and all actions which depend for their** nature and **efficacy on their coercive** or deceptive **character are ones that others cannot assent to. Coercion** and deception **also make[s] it impossible for others to choose** to contribute to **our ends. This** in turn **makes it impossible**, according to Kant's value theory, **for the ends of such actions to be good.** For on Kant's view "what we call good must be, in the judgement of every reasonable man, an object of the faculty of desire." (C2 60/62-63) If your end is one that others cannot choose - not because of what they want, but because they are not in a position to choose - it cannot, as the end of that action, be good. This means that in any cooperative project - whenever you need the decisions and actions of others in order to bring about your end - everyone who is to contribute must be in a position to choose to contribute to the end.

3. Criminals are morally responsible regardless of social conditions. It’s a question of second order desires. **Frankfurt 71**[[6]](#footnote-6)

A person’s will is free only if he is free to have the will he wants. This means that, in regard to any of his first-order desires, he is free either to make that desire his will or to make some other first-order desire his will instead. Whatever his will, then , the will of the person whose will is free could have been otherwise; he could have done otherwise than to constitute his will as he did. It is a vexed question just how “he could have done otherwise” is to be understood in contexts such as this one. But although this question is important to the theory of freedom, it has no bearing on the theory of moral responsibility. For **the assumption that a person is morally responsible for what he has done does not entail that the person was in a position to have whatever will he wanted.** This assumption does entail that the person did what he did freely, or that he did it of his free will. **It is a mistake**, however, **to believe that someone acts freely only when he is free to do whatever he wants** or that he acts of his own free will only if his will is free. Suppose that a person has done what he wanted to do, that he did it because he wanted to do it, and that the will be which he was moved when he did it was his will because it was the will he wanted. Then he did it freely and of his own free will. **Even supposing that he could have done otherwise, he would not have done otherwise**; and even supposing that he could have had a different will, he would not have wanted his will to differ from what it was. Moreover, **since the will that moved him** when he acted **was his will because he wanted it to be, he cannot claim that** his will was forced upon him or that **he was a passive bystander** to its constitution. Under these conditions, it is quite irrelevant to the evaluation of his moral responsibility to inquire whether the alternatives that he opted against were actually available to him.

4. TURN – Treating someone as if they aren’t culpable is immoral, whether they’re actually culpable or not. **Korsgaard 86** writes[[7]](#footnote-7)

This latter is the basis of the duties of respect. Respect is violated by the vices of calumny and mockery (MMV 466-468/131-133): we owe to others not only a practical generosity toward their plans and projects - a duty of aid - but also a generosity of attitude toward their thoughts and motives. **To treat another with respect is to treat him as if he were using his reason** and as far as possible as if he were using it well. Even in a case where someone evidently is wrong or mistaken, we ought to suppose he must have what he takes to be good reasons for what he believes or what he does. **This is not because**, as a matter of fact, **he** probably **does have** good **reason**s. Rather, this attitude is something that we owe to him, something that is his right. And he cannot forfeit it. **Kant is explicit about** this: Hereupon is founded **a duty to respect man** even **in** the logical **use of** his **reason: not to censure** someone's **errors under the name of** absurdity, **inept judgement**, and the like, but rather to suppose that in such an inept judgment there must be something true, and to seek it out. ... Thus it is also with the reproach of vice, which must never burst out in complete contempt or deny the wrongdoer all moral worth, because on that hypothesis he could never be improved either -- and this latter is incompatible with the idea of man, who as such (as a moral being) can never lose all predisposition to good. (MMV 463-464/l28-l29)12 **To treat others as ends** in themselves **is always to** address and **deal with them as rational beings.** Every rational being gets to reason out, for herself, what she is to think or to choose or to do. So if you need someone's contribution to your end, you must put the facts before her and ask for her contribution. If you think she is doing something wrong, you may try to convince her by argument but you may not resort to tricks or force. The Kingdom of Ends is a democratic ideal, and poor judgment does not disqualify anyone for citizenship. In the Critique of Pure Reason, **Kant says: Reason depends on this freedom for its very existence. For reason** has no dictatorial authority; its verdict **is** always **simply the agreement of free citizens**, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto. 9 This means that there cannot be a good reason for taking a decision out of someone else's hands. It is a rational being's prerogative, as a first cause, to have a share in determining the destiny of things.

5. The turns outweigh the case. Punishing violations of freedom is the foundation of the state and therefore a prerequisite to other rights.

**Korsgaard 08** writes[[8]](#footnote-8)

Why is it permissible for others to force or coerce you to conform to the duties of justice? The Universal Principle of Justice in effect says that **the only restriction on freedom is consistency with the freedom of everyone else.** Anything that is consistent with universal freedom is just, and you therefore have a right to do it. If someone tries to interfere with that right, he is interfering with your freedom and so violating the Universal Principle of Justice. **Violations of** the Universal Principle of **Justice may be opposed by coercion for the** simple **reason that anything that hinders a hindrance to freedom is consistent with freedom**, and anything that is consistent with universal freedom is just. **It follows that rights are coercively enforceable.** Indeed, coercive enforceability is not something attached to rights; it is constitutive of their very nature (MPJ 6:232). To have a right just is to have the executive authority to enforce a certain claim. **This** in turn **is the foundation of** the executive or coercive authority of **the political state.**

Kant’s political philosophy is a social contract theory, in obvious ways in the tradition of Locke. But the differences are important. In Locke’s view, individuals have rights in the state of nature, and may enforce those rights. But **when each person** determines and **enforces his own rights the result is social disorder. Since** this **disorder is contrary to our interests, people join together into a political state**, transferring our executive authority to a government.

6. The fact that rehab could result in punishment is irrelevant. It’s the intent that makes rehab wrong. **Murphy 73**[[9]](#footnote-9):

The Kantian position on the issue of punishing the innocent, and the many ways in which the utilitarian might try to accommodate that position, constitute extremely well-worn ground in contemporary moral and legal philosophy. I do not propose to wear the ground further by adding additional comments on the issue here. What I do want to point out, however, is something which seems to me quite obvious but which philosophical commentators on punishment have almost universally failed to see-namely, that problems of the very same kind and seriousness arise for the utilitarian theory with respect to the punishment of the guilty. For a **util**itarian theory of punishment (Bentham's is a paradigm) **must** involve **justify**ing **punishment in terms of** its social results-e.g., deterrence, incapacitation, and **rehab**ilitation. **And thus even a guilty man is**, on this theory, being **punished because of the instrumental value** the action of **punishment will have in the future. He is** being used as **a means to some future good**-e.g., the deterrence of others. **Thus those** of a Kantian persuasion, **who see the importance of** worrying about **the treatment of persons as mere means, must**, it would seem, **object** just as strenuously **to** the **punishment** of the guilty **on util**itarian **grounds** as to the punishment of the innocent. Indeed the former worry, in some respects, seems more serious. For a utilitarian can perhaps refine his theory in such a way that it does not commit him to the punishment of the innocent. However, if he is to approve of punishment at all, he must approve of punishing the guilty in at least some cases. This makes the worry about punishing the guilty formidable indeed, and it is odd that this has gone generally unnoticed. It has generally been assumed that if the utilitarian theory can just avoid entailing the permissibility of punishing the innocent, then all objections of a Kantian character to the theory will have been met. This seems to me simply not to be the case.

7. TURN – rehab allows racist discretion. **MacKenzie 6:**[[10]](#footnote-10)

For many, the answer to this question was no; the officials should not be given such wide discretion. However, liberals and conservatives differed in why they wanted to limit discretion. Conservatives argued that the judges and parole boards were too lenient; they used their discretion to release predatory criminals who continued to victimize innocent citizens. Liberals argued that [And] **the discretion given to officials was coercive and ineffective**. **Because officials could not** really **tell when offenders were rehabilitated,** why should they have the power to decide when the individual should be released? If the professionals who were responsible for rehabilitation could not demonstrate that they could effectively change offenders (as the Martinson report indicated), then their authority and autonomy in establishing the length of sentences should be severely restricted so that they would have less control over people’s lives. Furthermore, they argued, the wide discretion often results in disparity and unfair sentences that are not remedied through the parole release system. **As a result of the wide discretion allotted to officials in the c**riminal **j**ustice **s**ystem, offenders with similar past histories convicted of similar crimes often served widely disparate sentences whereas those with disparate histories and crimes served similar sentences. Critics of the indeterminate sentencing system argued that **poor and minority offenders were discriminated against,** imprisoned offenders were **coerced into programs, and offenders who challenged prison conditions were denied parole.**

8. Retribution accounts for factors which mitigate culpability.

**Markel and Flanders 10**[[11]](#footnote-11)

By our lights, we can locate a few "islands of agreement" between us and the subjectivists regarding the significance of individualized experience.' 0 First, **retributivists should care about** the individual offender's **mental competence** throughout the life cycle of a crime, from commission through punishment. In this respect, a person selected for punishment must be a fit interlocutor for the communicative message of retributive punishment, a point that the U.S. Supreme Court emphasized recently." Accordingly, it is critical for state officials to have a good grasp of the offender's competence during his punishment. After all, an offender who cannot appreciate ex post the retributive deprivations of, say, liberty or property is likely not a good candidate for punishment; instead, he probably requires treatment. We might even say this competence criterion is the most basic form of subjectivity relevant for punishment. To be punished, **the offender must be an autonomous agent** (a "subject")-that is, at least capable of rationally understanding the message directed at him via punishment. **But with** respect to **offenders above that threshold** of competence, **retributivists should** reasonably **be** relatively **indifferent to the idiosyncratic** ex post preferences and varying **experiences of offenders.** Second, we agree that retributivist policymakers should be sensitive to knowledge of human psychology and social norms when crafting laws and setting sentencing policy so that coercive actions or deprivations designed to communicate condemnation do not flout the social expectations of what reasonably counts as appropriate punishment, either as a floor or as a ceiling for that offense. For example, it would be a mistake for retributive institutions to throw ticker-tape parades to communicate condemnation to the offender or express condemnation to the public.12 A retributive response must be convincingly viewable as a coercive condemnatory action by the polity and its citizens under prevailing social norms; a ticker-tape parade does not qualify as such a condemnatory action. A punishment also cannot be excessive or cruel; this would flout moral expectations in the other direction. 1 3 Nor, relatedly, can individuals (including both citizens and officials) take it upon themselves to impose in the name of punishment hardships beyond what the polity has authorized. But **these observations are** largely **unobjectionable**, if not quite banal, **within** the realm of **retributive** justice **theories.** Consequently, our "concessions" to the importance of subjectivity are minor and provide little basis for debate. Indeed, neither concession requires much tailoring of punishment to the particular experiences and capacities of each offender. We merely point out that **for each offense there will be floors** (punishment that is too tame to convey condemnation) **and ceilings** (punishment that is too harsh or excessive, including any punishment for the mentally incompetent), and that there must be some mechanism to ensure that the floors and ceilings do not crumble.

9. Retribution applies regardless of culpability. **Corlett, 2001:**[[12]](#footnote-12)

Third, Marx's words speak only to the practical application of a model of punishment, such as retributivism. They do not in the least render retributivism's justificatory status problematic. For **even if we are socialized such that we are insufficiently** **autonomous** or voluntary beings **to be held** legitimately **accountable** for what we do, fail to do, or attempt to do, **this would not count against retributivism.** For r**etributivism** does (or **need) not hold that there are** or must be **guilty parties** to be punished.7" **Rather, it** holds, among other things, that only the guilty deserve (can or must) be punished, and it **sets** the **conditions for justified punishment.** Yet **if no one satisfies the conditions** for retributive punishment, then **no one is** to be **punished**! Thus **there is nothing inconsistent between Marx**'s words on punishment **and** what is essential to **retributivism.**

## NR Permutation Frontline

The perm can’t solve and doesn’t access the net benefit. It just mixes messages which creates confusion. **Logan and Gaes 93** write[[13]](#footnote-13)

As punishment, imprisonment conveys an important cultural message, but **if the official mission** of a prison **is defined simultaneously as both punishment and rehab**ilitation **conflicting and confusing messages are transmitted both inside and outside the prison walls. Inside the walls, such a definition conveys a message of rights without responsibility.** When a prison system is mandated in its mission statement to attempt rehabilitation, or even merely to provide opportunities and resources for self-improvement, that mandate creates for inmates a legitimate claim (a right) to personally beneficial services. At the same time, **it undermines inmates' accountability by defining them**, **like children**, as insufficiently developed and disadvantaged persons for whose future behavior society must take some responsibility. Whereas imprisonment as punishment defines inmates as responsible for their past behavior, and whereas discipline within prison defines inmates as accountable for their current behavior, rehabilitation as a goal of the system defines inmates as not fully responsible for their future behavior. **Outside the walls,** linking imprisonment with rehabil**it**ation **conveys a confusing message to the general public. As punishment, the message** of imprisonment **is** "**Felonies are very wrong** acts, and those who commit them will be held to account." **But the message of** the **rehab**ilitation ethic **is "Felonies are the result of personal deficiencies** (of knowledge, skills, habits, values, temperament, motivation, personality, and so on) on the part of the individual; society must attempt to correct those personal deficiencies." That is not an appropriate message for society to construct through its institutions of punishment. Such a message depicts criminal behavior in deterministic terms and portrays offenders as objects in need of adjustment, rather than as responsible human beings who must accept the consequences of their actions. It may not actually excuse their crimes, but **it conflicts with and weakens the punishment message.**

# Pell Grants Neg

## Politics DA Link

The Plan is unpopular in Congress and massively drains capital. **Travis 11**[[14]](#footnote-14)

Ideally, our community‐based programs would be linked to a strong suite of prison‐based programs, but we face the congressional ban on funding college‐level programs.  I think the time is right for a national re‐examination of that ban.  The enactment of the Second Chance Act of 2007 (signed into law in April of 2008) has demonstrated the strong bi‐partisan support for federal leadership on ways that promote successful prisoner reentry. Granted, **the effort to restore Pell Grants faces an uphill battle.  At a time when** funding for public universities is being cut back, and **the tuition burden faced by our students is being increased, it will be very, very difficult to persuade Congress to restore Pell funding.**  But we must make this effort.  We have many good arguments on our side.  First, **the amount of money in question is modest**. When the Pell Grants for prisoners were eliminated in 1994, the funding for students in prison represented a small amount, $34 million representing less than 1/10 of 1 percent of all Pell grants, which totaled $5.3 billion (Karpowitz and Kenner 2001).  Second, as noted above, the reductions in recidivism are significant, and the programs are cost‐effective, so this investment of federal dollars would save money for states and localities.  **Yet** we must face the reality that **these arguments are not likely to carry the day.**

## Accountability DA

Pell Grants aren’t key to prison education. Squo solves. Plan just kills accountability.

**Gordon 94** writes[[15]](#footnote-15)

**The question here is not should prisoners have education.** The **State** and Federal **Governments** are **already spend**ing **half a billion dollars to educate prisoners. The question is: Is the Pell Grant an efficient way to do that? The D**epartment **o**f **E**ducation **cannot give you the name of one prisoner who has ever gotten a grant** or whether or not they have been successful with that. **There is no accountability.** That is the problem, not whether prisoners should be educated, but whether Pell Grants are an appropriate vehicle to do that. Certainly they are not, because there is no accountability. I think **those limited funds can better be spent by at-risk students to keep them out of jail, not to throw money at prisoners** that are in jail **with no accountability.**

Accountability is key to avoiding extinction.

**Boggs 97** writes[[16]](#footnote-16)

**The decline of the public sphere** in late twentieth- century America poses a series of great dilemmas and challenges. Many ideological currents scrutinized here localism, metaphysics, spontaneism, post-modernism, Deep Ecology intersect with and reinforce each other. While these currents have deep origins in popular movements of the 1960s and 1970s, they remain very much alive in the 1990s. Despite their different outlooks and trajectories, they all share one thing in common: a depoliticized expression of struggles to combat and over-come alienation. The false sense of empowerment that comes with such mesmerizing impulses **is accompanied by a loss of public engagement, an erosion of citizenship and a depleted capacity of individuals** in large groups **to work for** social **change.** As this ideological quagmire worsens, urgent problems that are destroying the fabric of American society will go unsolved perhaps even unrecognized only to fester more ominously into the future. And such problems (ecological crisis, poverty, urban decay, spread of infectious diseases, technological displacement of workers) cannot be understood outside the larger social and global context of inter nationalized markets, chance, and communications. Paradoxically, the widespread retreat from politics, often inspired by localist sentiment, comes at a time when agendas that ignore or side- step these global realities will, more than ever, be reduced to impotence. In his commentary on the state of citizenship today, Wolin refers to the increasing sublimation and dilution of politics, as larger numbers of people turn away from public concerns toward private ones. By diluting the life of common involvements, we negate the very idea of politics as a source of public ideals and visions.74 In the meantime, **the fate of the world hangs in the balance. The unyielding truth is that**, even as the ethos of anti-politics becomes more compelling and even fashionable in the United States, **it is the vagaries of political power that will continue to decide the fate of human societies.**

This last point demands further elaboration. The shrinkage of politics hardly means that corporate colonization will be less of a reality, that social hierarchies will somehow disappear, or that gigantic state and military structures will lose their hold over people's lives. Far from it: **the space abdicated by a broad citizenry**, well-informed and ready to participate at many levels, **can** in fact **be filled by authoritarian and reactionary elites, an already familiar dynamic in many lesser-developed countries**. The fragmentation and chaos of a Hobbesian world, not very far removed from the rampant individualism, social Darwinism, and civic violence that have been so much a part of the American landscape, could be the prelude to a powerful Leviathan designed to impose order in the face of disunity and atomized retreat. In this way the eclipse of politics might set the stage for a reassertion of politics in more virulent guise or it might help further rationalize the existing power structure. In either case, the state would likely become what Hobbes anticipated: the embodiment of those universal, collective interests that had vanished from civil society.75

## Wynn Amendment CP

Text: Congress should pass the Wynn Amendment with a 2015 deadline.

The counter-plan would conduct a study of Pell Grants and make plan passage contingent on whether the Secretary of Education and state governors conclude that Pell Grants are effective.

It solves the aff better and avoids politics. Conditioning Pell Grants on a study would assure Republicans.

**Brooks and Wynn 94** writes[[17]](#footnote-17)

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I think having spoken in opposition to the amendment, my position is probably abundantly clear. We need to fight crime. We need to be hard on criminals. But we also need to keep in mind that we are now incarcerating more individuals per capita than any other country in the world, to the tune of $25,000 per inmate. To the extent that it is cheaper to provide college education to those inmates who desire it and have them not return, I suggest that **the far more sound policy** option **would be to adopt the Wynn amendment**, which preserves the programs through 1996 and requires the affirmative certification of the Secretary of Education. Mr. Chairman, I yield 45 seconds to the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I rise in support of **this** amendment offered by the gentleman from Maryland [Mr. Wynn], which **is a more thoughtful, measured response to** the issue of **Pell grants for prisoners.** Mr. **Wynn's amendment eliminates Pell grants** for prisoners after January 1, 1996, **at the Federal level if the Secretary of Education--or at the State level if the Governor** of a State--**does not certify** that the provision of **Pell grants** to prisoners reduces recidivism, is cost effective, and requires satisfactory academic progress toward completion of the education program for which the grant was made. **This**, coupled with the restrictions we discussed earlier that Congress adopted in 1992, **will provide firm assurance that Pell grants for inmates are serving a proper function** in our correctional system. I urge support for the Wynn amendment.

Only the counter-plan can solve the case. It’s key to iron out inefficiencies in implementation. **Browder 94** writes[[18]](#footnote-18)

**One problem** with it though **is that it does not give an opportunity for those institutions that are doing a good job**, that are **decreasing** the **recidivism** rate, and I think we should have that opportunity; at least, **we should study to see which institutions deserve that opportunity.** I think **the amendment offered by** the gentleman from Maryland [Mr. **Wynn**] **makes a** very good contribution to making the **good amendment** offered by the gentleman from Tennessee [Mr. Gordon] an **even better** amendment. **I urge support of the Wynn amendment.**

## Case Answers

Pell grants can’t solve – multiple barriers. **Gordon 94** writes[[19]](#footnote-19)

Mr. Chairman, I yield myself 2 minutes. Just because one blind hog may occasionally find an acorn does not mean many other blind hogs will. The same principle applies to giving Federal Pell grants to prisoners. Certainly there is an occasional success story, but when virtually every prisoner in America is eligible for Pell grants, national priorities and taxpayers lose. That is especially true since the education department has no way to track success or even know for sure if a recipient is a prisoner. Pell grants were created to help low- and middle-income students get the education they need to improve their lives. **With** college **tuition**s **skyrocketing and the workplace demanding more advanced education,** those **students must be our first priority. Unfortunately, that is not the case.** Prisoner advocates say **inmates get as much as $200 million a year in grants.** Meanwhile, budget pressures have cut Pell grants to pre-1989 levels, squeezing out thousands of traditional students. Mr. Chairman, law-abiding students have every right to be outraged when a Pell grant for a policeman's child is cut but a criminal that the officer sends to prison can still get a big check. Even worse, **there are documented cases of sham prison schools that are** only interested **using prisoners as tools to get grants**, not to educate students. Mr. Chairman, criminal rehabilitation is important, but $500 million a year in State and Federal funds already go to prisoner education. If more is needed, it should come through targeted programs with strict guidelines that assure cost efficiency. Mr. Chairman, quite simply, **it makes much better sense to spend Pell grants on education** and job training **that will help keep young adults out of trouble.** We cannot afford to throw millions of unaccountable dollars into prisoner Pell grants in search of a few acorns. Mr. Chairman, I reserve the balance of my time.

Pell Grants for prisoners fail. They’re ridden with fraud. **Taylor 97**[[20]](#footnote-20)

The senator was not alone in her discontent, nor the only legislator moved to action. Three weeks before, waving a copy of the Pottstown, P A Mercury above his head, **Representative** Timothy **Holden** from Pennsylvania fulminated before the C-SP AN cameras that he **was appalled to learn** from the newspaper's report that **prisoners were receiving** $200 million in **Pell Grant funding**, allowing them free college educations (Berkey, 1993A). “There is an obligation to do the best you can to give incarcerated people a chance, but certainly not from a program that has been earmarked for lowincome people to educate their children,” explained the representative. This, he argued, was “an outright abuse” (Berkey, 1993A). **The abuse** the congressman referred to, besides the fact that prisoners were receiving this grant, **was that colleges listed bogus students, inflated tuition bills, and submitted fraudulent housing charges** **for already “housed” prisoner students**. **He** also **accused the understaffed offic**e **administering the** grant **program of negligence**. Holden then declared that he was planning to cosponsor Representative Bart Gordon's (D-TN) Amendment 1168, which would exclude prisoners from Pell Grant eligibility. At the conclusion of his speech, the congressman was barraged by other House members questioning him about his proposal.

Pell Grants for prisoners fail – trades off with grants for poor and working class families.

**Taylor 97**[[21]](#footnote-21)

Senator Hutchinson (1994) rationalized her proposal for citing **the federal government' s expenditure of $100 million a year on education** and training **available only to prisoners**. She stated that **the Pell Grant** program **was created,** “in order **to help the children of the poor and working class families** to have a chance to **go to college**” (Congressional Record - Senate, 1993), **and** that **more than one million students were denied grants because there was not enough money** to go around. To punctuate the point of this ongoing injustice, she used **the example of a**n exasperated **police officer whose daughter could not qualify for a Pell Grant**. The Senator quoted his trite retort that, “**maybe I should take off my badge and rob a store”** (Congressional Record - Senate, 1993).

Prisoner Pell grants fail. Pell grants face massive mismanagement.

**Taylor 97**[[22]](#footnote-22)

**Abuses of** the **Pell Grant** program **were** sadly rather **common during** the tenure of the **Reagan** administration. **More than 1,600 schools** (mostly fly-by-night trade schools teaching skills such as cooking and trucking (Foust, 1993» **have been closed during a recent** two-year Department of Education **fraud investigation** (Berkey, 1993t). Focusing on corrections, only a handful of propriety schools with prisoners composing 100 percent of their enrollments were found to be guilty of abuses. These **abuses ranged from charging prisoner-students for room and board to filing claims for non-existent students**. Meanwhile, some three dozen ultra-orthodox **Jewish seminaries** in the New York area alone **were accused of** illegally **bilking the** Pell Grant **program for** as much as **$40 million** (Fenyvsi, 1993); more than the annual total disbursements to prisoner-students. Yet, no one was calling for the banishment of would-be cooks, truckers or rabbis from the Pell Grant program for what their schools did, only prisoners. **The allegations** of the DOE's Office of PostSecondary Education (OSPE) **of mismanagement** of the federal grant and loan programs **are reasonable** charges. **Instances of store front schools, non-resident students, and non-enrolled students receiving. millions of dollars in aid supported the** mismanagement **charges.**

# Drug Courts Neg

## Due Process NC

Due process rights are a moral side-constraint that respects human worth. **Allan 98**[[23]](#footnote-23)

The analogy between fair hearings, in legal and administrative proceedings, and participation in political affairs shows why the connection between procedures and outcomes is not merely instrumental. Just as democratic participation cannot guarantee the enactment of good laws, so **fair hearings cannot always ensure the accurate application of** authoritative **legal standards. In each case, however, the process affords moral grounds for accepting the outcome, even when it is otherwise unjust.** It is not merely that procedures are inherently imperfect, so that the correct outcome can never be guaranteed. More fundamentally, **the right outcome is itself usually a matter of controversy**: divergent views can reasonably be taken both about the justice of (actual or proposed) legal rules and the appropriateness of their application in the particular case. These matters are, of course, closely connected because any particular case can raise questions about the meaning and scope of the general rule and, ultimately, in so far as there is no room left for argument over meaning and scope, questions about whether it should ever be applied at all. **When procedures allow genuine participation**, in the sense that questions of justice can be raised and answered, and where every rule is ultimately open to challenge and, accordingly, modification, **the citizen is treated with the respect which his dignity deserves.**

Drug courts disrespect due process rights – 2 reasons.

(a) The trial isn’t fair. Drug court judges are biased. **Meyer 07**[[24]](#footnote-24)

**Due process requires that a judge possess neither actual nor apparent bias** in favor of or against a party. The standard for determining the appearance of bias or partiality is an objective one. **Usually** the basis of recusal is due to partiality or **bias [is] acquired outside** the context of **the proceedings** – or from an “extrajudicial source.” Additionally, a judge should recuse where the Court has personal knowledge of disputed facts. **Judges sitting in drug court often have substantial information about drug court participants** – some of which was **gained through on the record** colloquies and pleadings and other **information from informal staffings with defense counsel, the prosecutor, treatment provider and probation**, etc. The Oklahoma Supreme Court recognized the potential for accusations of bias against a drug court judge for information obtained in the Court’s supervisory role and recommended an alternate judge handle termination proceedings: However, we recognize the potential for bias to exist in a situation where a judge, assigned as part of the Drug Court team, is then presented with an application to revoke a participant from Drug Court. Requiring the District Court to act as Drug Court team member, evaluator, monitor and final adjudicator in a termination proceeding could compromise the impartiality of a district court judge assigned the responsibility of administering a Drug Court participant’s program.

(b) Drug courts don’t provide counsel that works to protect the rights of the accused. **DPA 11**[[25]](#footnote-25)

**In drug court, the** traditional functions and adversarial nature of the U.S. justice system are profoundly altered. The **judge – rather than lawyers – drives court processes** and serves not as a neutral facilitator but **as the leader of a “treatment team” that** generally **consists of the judge, prosecutor, defense attorney,** probation officer **and drug treatment personnel. The judge is the ultimate arbiter of treatment and punishment** decisions and holds a range of discretion unprecedented in the courtroom, including the type of treatment mandated, whether methadone prescription is acceptable (and at what dosage) and how to address relapse. **The defense lawyer, no longer an advocate for the participant’s rights, assists the participant to comply with court rules.**

Due process turns the AC. It’s key to decrease crime in the long-run. **Meares 5**[[26]](#footnote-26)

Fair process norms are typically promoted as ethical imperatives to be pursued as goods in and of themselves set apart from their value in reducing outcome error. Importantly, however, even if procedure is disconnected from the objective of accurate sorting, **fair process norms** still can **lead to instrumental benefits.** Public confidence in the criminal justice system is one such obvious benefit. **The public is much more likely to support** and participate in **the criminal justice process** and support those officials who run it **when the public believes that the process is run fairly.** If the American public does not perceive its criminal justice system to be fair, negative consequences can result. **Diminished public support** for the criminal justice system, taken to the extreme, **can** lead to **diminish**ed **respect for the law and, thereby, less compliance** with the law.

## Case

### AT Racism

TURN – drug courts increase racism. **DPA 11**[[27]](#footnote-27)

Unfortunately, **drug courts may** actually **exacerbate** existing **racial disparities** in the criminal justice system. **First, drug courts** may **increase the number of people of color brought into the criminal justice system. An increase in drug arrests** (an effect called net-widening) **has been documented following the establishment of drug courts.** 51 **Second, the number of people of color incarcerated may increase**; net-widening brings in many people who do not meet narrow drug court eligibility criteria. 52 **Third, African Americans have been at least 30 percent more likely than whites to be expelled from drug court due in part to** a lack of culturally appropriate treatment 54 programs, few counselors of color in some programs 55 and **socioeconomic disadvantages.** 56 **Finally, people who do not complete drug court are often given a sentence that is significantly longer** – in one drug court, even two to five times longer – **than if they were conventionally sentenced** in the first place (often, because they have forfeited the opportunity to plead to a lesser charge). 57

### AT Crime

1. Their metaanalysis fails – studies it evaluates were flawed to begin with. **DPA 11**[[28]](#footnote-28)

**Despite the large number of studies** on drug courts**,** the poor quality of that research has led many to conclude that **there is insufficient evidence to demonstrate that drug courts reduce crime and drug use.** As John Roman, senior researcher at the Urban Institute, put it: “The central criticism is that **they** employ convenience samples or **compare drug court participants with drug court failures,** in effect **stacking the deck to ensure that the study finds a positive effect of drug court.”** 59 Meta-analyses (i.e., studies that aggregate and analyze data from multiple drug court evaluations) have been conducted in an attempt to provide more generalized and reliable data; however, **meta-analyses’ output is** ultimately **limited by the quality of the data that went in.** A 2006 meta-analysis report oft-cited by drug court supporters as conclusive evidence that drug courts reduce recidivism, for example, warns that “The overall findings tentatively suggest that drug offenders participating in a drug court are less likely to reoffend than similar offenders sentenced to traditional correctional options. The equivocation of this conclusion stems from the generally weak methodological nature [of] the research in this area.” 60 Of the 38 studies included in the meta-analysis, only four used “random assignment to conditions” in order to protect against bias. A separate 2006 meta-analysis also frequently relied upon by drug court proponents as proof of drug courts’ efficacy found that the studies it depended on for its analysis had measured recidivism rates only for drug court participants who successfully completed the program – a group that accounted, on average, for only 50 percent of those who originally enrolled. 61

A new study was done to account for these flaws, and it goes Neg. **DPA 11**[[29]](#footnote-29)

In an attempt to produce more reliable findings on drug court outcomes, **the National Institute of Justice funded a five-year, national drug court study – the** Multi-Site Adult Drug Court Evaluation (**MADCE**) **–** that aims **to address** many of the **shortcomings of existing drug court research.** Preliminary results of MADCE, which appears to be better designed than previous studies, were released in 2009 and 2010, and are considered in this report. Unsound drug court studies have repeatedly claimed that drug courts reduce drug use and criminal behavior, but significant methodological shortcomings call their positive findings into question. Indeed, **preliminary results of** the lengthiest and largest study so far, **the MADCE, find that drug court participation did not lead to** a **statistically significant reduction in re-arrests.**

2. Drug courts don’t solve. They don’t deal with drug addicts who are actually violent. **DPA 11**[[30]](#footnote-30)

The claim that drug courts intend to reduce crime among “drug-involved offenders” is misleading. As previously mentioned, **many drug court participants are not guilty of a crime against person or property but** of **a petty drug law violation** – many of them apparently involving marijuana. Few drug court participants have long or varied histories of offending. Moreover, as previously noted, **roughly one-third of drug court participants do not have clinically significant substance use disorders.** That is, **the “criminal conduct” that drug courts are currently positioned to address is drug use**, a behavior **that** for many participants **is not compulsive.** Even when it comes to drug law violations, **the majority of drug courts exclude all but those convicted of low-level drug possession.** Even addicted persons who are caught selling petty amounts of drugs simply to support their own addictions are typically barred from drug court. As a result, most drug courts cater to those who are least likely to be jailed or imprisoned and who generally pose little threat to the safety of person or property. Only a handful of drug courts nationwide admit individuals with any previous serious or violent conviction, no matter how long ago the conviction occurred. Moreover, when drug court participants are arrested, it is typically for a drug law violation, not for a crime against person or property. Early findings of the Multi-Site Adult Drug Court Evaluation (MADCE), for example, show that arrests for “violent, weapons-related or public order offenses” were “rare” for both the drug court participants and those in the comparison group. **As long as drug courts focus on people who use drugs** (**rather than** on **people who commit** serious or **violent crime**)**,** the programs are unlikely to provide worthwhile benefit over other policy approaches to drug use. Indeed, research consistently supports changing the population of drug court participants, because “drug courts work better for those who are at an inherently higher risk for future criminal behavior.” Given who they accept**, it is no surprise that drug courts** on the whole **have not produced significant reductions in** serious or **violent crime.**

### General AT Solvency

1. Drug courts don’t solve. Tons of drug abusers will still be incarcerated post-Plan.

**DPA 11**[[31]](#footnote-31)

**With drug court completion rates ranging** widely **from 30** percent **to 70 percent,** 40 **it is** probably **optimistic to assume that** even **25,000** people **will complete a drug court program each year.** \* The rest are deemed to have “failed.” **Even if drug courts were dramatically expanded** to scale **to cover all people arrested for drug possession, between 500,000 and 1 million** people **would still be ejected from a drug court and sentenced conventionally every year.** 41 As this report discusses, however, drug courts should not focus their resources on those arrested for simple drug possession. Absent policies to stem the flow of people into (and retention within) the criminal justice system for petty drug law violations, drug courts and other criminal justice-based treatment programs will not meaningfully reduce the imprisonment of people who use drugs. 42

2. TURN – Drug courts fail at providing effective treatment. **DPA 11**[[32]](#footnote-32)

Drug courts often inadequately assess people’s needs and, as a result, place them in inappropriate treatment. **Overcrowded court dockets leave judges unable to effectively manage** participant **cases.** 91 **Insufficiently trained court staff** often **send participants to services irrespective of their specific needs. Some courts** use a “shotgun” approach in which they **subject participants to several programs with incompatible philosophies.** 93 In many cases, referrals to treatment are made not because the program is appropriate for the participant but because a drug court-approved treatment provider has an opening. 94

# Scarspolls Neg

## AT Scarsdale Shadiness

Allow new NR responses to aff theory spikes. 3 reasons.

(A) Spikes aren’t complete arguments until the 1AR because he hasn’t proven a link to the NC yet.

(B) Forcing the neg to answer every potential theory spike in the NC means every round gets wasted on theory.

(C) This Aff was written to be shady. Don’t blame me for missing anything.

## AT Permiss/Presumption

Permissibility and presumption flow neg.

1. The most common definition of ought is obligation. **Harper 12** writes[[33]](#footnote-33)

**Ought** O.E. ahte, past tense of agan "to own, possess, owe" (see owe). **As a past tense of owe, it** shared in that word's evolution and **meant** at times **in Middle English** "possessed" and "**under obligation to pay."** It has been detached from owe since 17c., though he aught me ten pounds is recorded as active in East Anglian dialect from c.1825. **As an auxiliary verb expressing duty or obligation** (late 12c., **the main modern use**), it represents the past subjunctive.

Look to common usage.

a. Definitions of words are literally reducible to common usage because words have no meaning outside of how they are used in society.

b. Cross-apply his own democracy framework. The only epistemologically valid way to determine truth is through consensus, so common usage comes first.

c. Common usage is the key internal link to predictability.

2. A statement is more likely false than true because any part can be false.

3. “Resolved” means “firmly determined to do something” so without a proactive reason to affirm, we wouldn’t be firmly determined and the resolution would be false.

4. Aff has side bias.

a. infinite prep.

b. he speaks first and last.

c. Empirics prove. Aff won 8% more rounds at Harvard on this topic and every elim round at the round robin yesterday. Proves that this topic is uniquely aff biased.

5. Presuming neg is key to fairness and real world education. **Colling 12** writes[[34]](#footnote-34)

**A** ‘tabula rasa **default neg**ative lacking affirmative offense’ **paradigm is** also **real world because it is similar to** the way issues are ‘resolved’ in **court**s. **The prosecution has a burden to prove the accused guilty** in a criminal trial, or the plaintiff has a burden to prove their case in civil law. The defendant in either case, unless some type of affirmative defense is submitted, does not have this reciprocal burden. **Requiring a reciprocal burden would be** an **unfair** imposition upon the defendant because it would presume some level of guilt. The same would apply to the negative in a debate round **as it would presume the resolution true** on some level (**which** again also **defies the rules of logic.**) **The legalistic model is** as real world as the legislative model, as cases are considered daily by the courts. It could even be considered **more ‘real world’ considering the great frequency of court cases** resolved compared to legislation passed by Congress, **and more debaters end up lawyers than** the debaters that end up **legislators. The legalistic model seems a better fit for LD** as well considering the variety of issues and resolutions debated annually. Courts consider a large variety of issues on a daily basis. Certainly legislative bodies do as well, but while some LD value resolutions are focused on the value of policies, others are more focused on individual, ethical issues. Courts consider policies, at least the Constitutionality of policies, but they also must deal with the individualized concerns of the particular parties in each case. Legislative model paradigms are valuable and beneficial, but there is certainly no logical justification for why the legislative model should apply exclusively to LD, assuming it is applicable at all. So, in LD, negative offense should never be absolutely essential for a negative ballot because, in courts, the defendant, unless opting for an affirmative defense need not prove anything other than that the prosecutor or plaintiff did not prove their case.

## AT Counter-Epistemology

My counter-epistemology is coherentism.

First it’s key to solve the infinite regress. Geoffrey **Sayre-McCord 96** writes[[35]](#footnote-35)

Moreover, such a coherentist can continue to hold that what positive reason we have for any belief will still always depend solely on what other beliefs a person has. This sort of **coherentism**, then, **grants the regress argument's initial assumption: that a belief can provide (positive) justification for another belief only if it is, itself (permissively) justified.** It grants as well that, to the extent an unacceptable regress threatens, it can be brought to a stop with the recognition that beliefs can be justified in either of two senses. What it denies is foundationalism's characteristic -- and defining -- claim that some beliefs (the regress stoppers) are epistemically privileged independently of the inferential/evidential relations they bear to other beliefs. It insists instead that whether a belief can serve to stop the regress, whether it counts as permissively justified or not, is fully determined by the evidential relations it bears to other beliefs, and that when it does so count it itself enjoys no positive justification, even as it is available to provide positive support for other beliefs. **The coherentist won't hold that the permissively justified beliefs that bring the regress to a stop have anything else to recommend them independently of how they relate to other beliefs; their primary role is to provide** the epistemic input -- **the initial bits of evidence** -- **one** justifiably **relies upon in seeking out views that are positively justified.**

Second, coherentism is key to avoid the “is”/“ought” fallacy. **Sayre-McCord 96** writes[[36]](#footnote-36)

**Coherentists**, in contrast, reject precisely this view, **maintain**ing **that whatever justification our moral beliefs enjoy is due entirely to the relations they bear to other things we believe. Those who think the gap between nonmoral and moral beliefs** (or at least between nonevaluative and evaluative beliefs) **is forever unbridgeable, maintain that** all **our moral beliefs receive what justification they have only from other moral** (or at least evaluative) **beliefs.** […Text Omitted, Full card available…] **given** just **how implausible it is to see** any of **our moral views as epistemically privileged, a great attraction of coherentism is its ability to make sense of our moral views being** (to a greater or lesser extent) **justified even in the face of the "is"/"ought" gap.**

Util’s most coherent. We all value happiness. **Sayre McCord 1** writes[[37]](#footnote-37)

According to the second argument, the evaluative starting point is again each person thinking "my own happiness is valuable," but this fact about each person is taken as evidence, with respect to each bit of happiness that is valued, that that bit is valuable. **Each person** is seen as **ha[s]**ving **reason to think that the happiness she enjoys is valuable, and** reason to think of others -- given that they are in a parallel situation with respect to the happiness they enjoy -- that each person's happiness is such **that there is the same evidence** available to each **for the value of the happiness that another person enjoys** as there is for the value of one's own happiness. **If** happiness is such that **every piece of it is desired by someone, then** it seems as if, **in** taking ourselves to have reason to **see[ing] the bit we value as valuable, we are committed to acknowledging the value of all the rest.**

## Omni-perspectivism fails

1. Most people aren’t experts on either criminal justice or philosophy, so the opinions of experts get drowned out by the general public.

2. The omni-perspective is circular because if everyone adopted the omni-perspective, they would change their own beliefs which would change what the omni-perspective is.

3. Devolves to util. Only util weighs all relevant opinions.

4. Polls don’t prove the omni-perspective. They only consider United States citizens.

5. Omni-perspective would consider all sentient beings, and animals wouldn’t want to be killed by nuclear war.

6. It’s not key to epistemology. We don’t need to know others’ perceptions to know they value happiness. They can tell us.

## AT Agnosticism

1. Agnosticism doesn’t lead to democracy. If none of us knows what morality is, all of us together aren’t any more likely to be right.

2. Agnosticism means avoid extinction, so we can find moral truth in the future.

**Bostrom 1** writes[[38]](#footnote-38)

These reflections on moral uncertainty suggest an alternative, complementary way of looking at existential risk. Let me elaborate. Our present understanding of axiology might well be confused. We may not now know—at least not in concrete detail—what outcomes would count as a big win for humanity; we might not even yet be able to imagine the best ends of our journey. If we are indeed profoundly **uncertain about our ultimate aims,** then **we should recognize that there is** a **great option value in preserving**—and ideally improving—**our ability to recognize value and to steer the future accordingly. Ensuring that there will be a future version of humanity with great powers and a propensity to use them wisely is** plausibly **the best way** available to us **to increase the probability that the future will contain a lot of value.**

Adopt a parliamentary model to account for moral uncertainty. This entails minimizing existential risks. **Bostrom 9** writes[[39]](#footnote-39)

It seems people are overconfident about their moral beliefs.  But **how should one** reason and **act if one** acknowledges that one **is uncertain about morality** – not just applied ethics but fundamental moral issues? if you don't know which moral theory is correct?

It doesn't seem **you can[’t] simply plug your uncertainty into expected utility** decision theory and crank the wheel; **because many** moral **theories** state that you **should not** always **maximize** expected **utility.**

Even if we limit consideration to consequentialist theories, it still is hard to see how to combine them in the standard decision theoretic framework.  For example, suppose you give X% probability to total utilitarianism and (100-X)% to average utilitarianism.  Now an action might add 5 utils to total happiness and decrease average happiness by 2 utils.  (This could happen, e.g. if you create a new happy person that is less happy than the people who already existed.)  Now what do you do, for different values of X?

The problem gets even more complicated if we consider not only consequentialist theories but also deontological theories, contractarian theories, virtue ethics, etc.  We might even throw various meta-ethical theories into the stew: error theory, relativism, etc.

I'm working on a paper on this together with my colleague Toby Ord.  We have some arguments against a few possible "solutions" that we think don't work.  On the positive side we have some tricks that work for a few special cases.  But beyond that, the best **we have managed** so far is **a** kind of **metaphor, which** we don't think is literally and exactly correct, and it is a bit under-determined, but it **seems to get things roughly right** and it might point in the right direction:

**The Parliamentary Model.**  Suppose that you have a set of mutually exclusive moral theories, and that you assign each of these some probability.  Now imagine that **each** of these **theorie**s **gets to send** some number of **delegates to The Parliament**.  The number of delegates each theory gets to send is **proportional to the probability of the theory.**  Then the delegates bargain with one another for support on various issues; and the Parliament reaches a decision by the delegates voting.  What you should do is act according to the decisions of this imaginary Parliament.  (Actually, we use an extra trick here: we imagine that the delegates act as if the Parliament's decision were a stochastic variable such that the probability of the Parliament taking action A is proportional to the fraction of votes for A.  This has the effect of eliminating the artificial 50% threshold that otherwise gives a majority bloc absolute power.  Yet – unbeknownst to the delegates – the Parliament always takes whatever action got the most votes: this way we avoid paying the cost of the randomization!)

The idea here is that moral theories get more influence the more probable they are; yet **even a** relatively **weak theory can still get its way on some issues** that the theory think are extremely important **by sacrificing** its influence **on other** i**s**sues that other theories deem more important.  For example, **suppose you assign 10% probability to** total **util**itarianism and 90% to moral egoism (just to illustrate the principle).  Then **the Parliament** would mostly take actions that maximize egoistic satisfaction; however it **would make some concessions to util**itarianism **on** issues that utilitarianism thinks is especially important.  In this example, the person might donate some portion of their income to **existential risks** research and otherwise live completely selfishly.

I think there might be wisdom in **this model**.  It **avoids the** dangerous and **unstable extremism** that would result **from letting one’s current favorite moral theory completely dictate action**, while still allowing the aggressive pursuit of some non-commonsensical high-leverage strategies so long as they don’t infringe too much on what other major moral theories deem centrally important.

## AT Ought Definition = Democracy

Words are defined **by** common usage, not **as** common usage. Harper 12 is the only evidence that speaks to the common usage of ought, and it says ought is an obligation.

## AT Nature of the State

1. Democracy isn’t key to state authority. There’s tons of authoritarian governments. Even the US isn’t a direct democracy.

2. Is/ought fallacy. Just because governments are democratic, doesn’t mean they shouldn’t change.

3. Util is the only moral system available to policy-makers. **Goodin 90**[[40]](#footnote-40)

My larger argument turns on the proposition that there is something special about the situation of public officials that makes utilitarianism more probable for them than private individuals. Before proceeding with the large argument, I must therefore say what it is that makes it so special about public officials and their situations that make it both more necessary and more desirable for them to adopt a more credible form of utilitarianism. Consider, first, the argument from necessity. **Public officials** are obliged to **make** their **choices under uncertainty**, and uncertainty **of a** very **special sort** at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have for them. Public officials, in contrast, **[they] are** relatively **poorly informed as to the effects that their choices will have on individuals, one by one. What they** typically **do know are** generalities: **averages and aggregates. They know what will happen most often to most people** as a result of their various possible choices, **but that is all. That** is enough to **allow[s]** public **policy-makers to use** the **util**itarian **calculus** – assuming they want to use it at all – to chose general rules or conduct.

## Contention

TURN – at a meta-level most people empirically prefer a representative democracy to a direct democracy even if they disagree with specific policies, so there’s an obligation to do what current congressmen suggest instead of rehab.

## AT Cottingham (Must Spec Retrib)

1. I meet. I’ll defend status quo laws and the reasons they give for punishment.

2. He violates. He doesn’t specify a method of rehab. There’s tons. Alcoholics anonymous, drug treatment, pell grants, multisystemic therapy, terrorist deradicalization, religious programs, and they all have different purposes and effects. Extend his standards for him. He destroys all ground which makes debate impossible. Only dropping the debater deters future abuse. Also, specifying in the 1AR is too late because my NC was already skewed.

## AT Row Buck

1. He doesn’t get to define the neg advocacy. I defend the status quo not a system of no punishment. That would make the topic un-debatable.

2. Even if our intuitions vary, that just means we might give slightly less than perfect proportional punishment. It’s still a comparative advantage. And no punishment at all is obviously unproportional.

3. All my util warrants prove that there’s an objective measure of goodness which is happiness which means it’s not arbitrary.

4. I have to defend a retributive policy, but I don’t have to defend it for retributive reasons.

## AT AFC

**Counter-interpretation** – the judge should evaluate the round under the moral framework best justified by the debaters.

**1. Philosophical debate**

Philosophy debate is key to solve extinction. The brink is now.

**Muehlhauser 11** writes[[41]](#footnote-41)

Barring a major collapse of human civilization (due to nuclear war, asteroid impact, etc.), many **experts expect the intelligence explosion Singularity to occur within 50-200 years.**

That fact means that **many philosophical problems**, about which philosophers have argued for millennia, **are suddenly very urgent.**

Those concerned with the fate of the galaxy must say to the philosophers: "Too slow! Stop screwing around with transcendental ethics and qualitative epistemologies! Start thinking with the precision of an AI researcher and solve these problems!"

**If** a near-future **AI will determine the fate of the galaxy, we need to figure out what values** we ought **to give it.** Should it ensure animal welfare? Is growing the human population a good thing?

But those are questions of applied ethics. More fundamental are the questions about which normative ethics to give the AI: How would the AI decide if animal welfare or large human populations were good? What rulebook should it use to answer novel moral questions that arise in the future?

**But even more fundamental are** the **questions of meta-ethics.** What do moral terms mean? **Do moral facts exist? What justifies one normative rulebook over the other?**

The **answers to these meta-ethical questions will determine the** answers to the questions of **normative ethics, which**, if we are successful in planning the intelligence explosion, **will determine the fate of the galaxy.**

Eliezer Yudkowsky has put forward one meta-ethical theory, which informs his plan for Friendly AI: Coherent Extrapolated Volition. But what if that meta-ethical theory is wrong? The galaxy is at stake.

Princeton philosopher Richard Chappell worries about how Eliezer's meta-ethical theory depends on rigid designation, which in this context may amount to something like a semantic "trick." Previously and independently, an Oxford philosopher expressed the same worry to me in private.

Eliezer's theory also employs something like the method of reflective equilibrium, about which there are many grave concerns from Eliezer's fellow naturalists, including Richard Brandt, Richard Hare, Robert Cummins, Stephen Stich, and others.

My point is not to beat up on Eliezer's meta-ethical views. I don't even know if they're wrong. Eliezer is wickedly smart. He is highly trained in the skills of overcoming biases and properly proportioning beliefs to the evidence. He thinks with the precision of an AI researcher. In my opinion, that gives him large advantages over most philosophers. When Eliezer states and defends a particular view, I take that as significant Bayesian evidence for reforming my beliefs.

Rather, my point is that **we need lots of smart people working on** these **meta-ethical questions**. We need to solve these problems, **and quickly. The universe will not wait for** the pace of traditional **philosophy to catch up.**

**2. Topic-specific education**

If the aff can choose the criterion, they'll always choose the one better for the aff. For example, the aff will always spec util or polls and not proportionality. This **(a)** kills education since we only learn about the side of the topic that's aff biased, and **(b)** kills fairness since they'll always choose the criterion that's easiest to win under, skewing ground in Michael’s favor.

**3. Predictable ground**

This philosophy is nonsense. There’s no author that advocates “consensus of polls is objectively good.” There’s no lit base to predict it.

4. AFC affirms on face on this topic because the topic is about values. Makes the neg undebatable.

5. My side bias arguments on presumption impact turn aff time skew. There’s aff bias now, so you shouldn’t give the aff more ground.

6. AFC doesn’t solve time skew. I’d just spread you out on turns instead of the NC.

If I win the counter-interp, you vote neg.

**First**, my NC was already skewed by having to devote a massive amount of time responding to theory, so there's no way to resolve the round fairly on substance.

**Second**, introducing theory into the round trades off with policy and philosophical education, so if he can't win that running AFC was key, vote against him for unnecessarily destroying the educational value of the round.

**Third**, debaters write cases based on what is strategic, so the only way to prevent bad theory spikes in the future is to vote against them. Otherwise, he'll keep running AFC for the timeskew.

## ILaw Turns

Omitted

# Brentwood Natural Form Neg

## Suspect Class CP

Counterplan Text: The USFG should designate all individuals in the United States below the poverty line as a “suspect class.”

The CP solves the need to account for social dependency under a retributive framework. **Datlof 12**[[42]](#footnote-42)

The second way to move toward a more coherent regime of punishment is somewhat less concrete, and relies heavily on ideas and arguments put forward in the United States Supreme Court case San Antonio Independent School District v. Rodriguez (1973). The plaintiffs in the case, Demetrio Rodriguez and several other citizens of his school district, claimed, “Texas’s system for financing public schools violated the equal protection clause of the Fourteenth Amendment because it discriminated on the basis of wealth.”20 The decision issued by the Supreme Court would focus on two initial questions: how to define a ‘suspect class,’ and whether education could be considered a fundamental right. **A suspect class is a group** of people that the **courts recognize as** particularly **likely to be subject to discrimination and thus deserving of special protection** in the eyes **of the law.**21 When granted the protection of suspect classification, the courts apply a standard of strict scrutiny in judging discrimination against the group. Strict scrutiny also is applied in any case where a fundamental right, particularly those enumerated in the Constitution, is violated. Applying a standard of strict scrutiny means that in order for a policy to be constitutional while treating the suspect class differently from other groups, it must be justified by a compelling governmental interest, be as narrowly tailored as possible toward achieving that interest, and use the least restrictive means available.22

[…]

Finally, although Justice Powell believed that classifying the poor as a suspect class was impossible, there are grounds to believe that it could and should have been done. The difficulty, Justice Powell suggests, stems from the fact that the group is “large, diverse and amorphous.”26 However, applying strict scrutiny to any class is difficult. There could be a minimum standard of wealth or access to education or living conditions that could be used as a proxy for severe and entrenched lack of opportunity that would afford certain individuals access to an additional level of legal protection. Just because fair treatment is difficult to administer does not make it justifiable to renege on a duty to provide it. Moreover, the specific reasons Justice Powell puts forth for refusing suspect classification to the poor are of questionable accuracy. He claims, “[the class of the poor] have none of the traditional indicia of suspectness: the class is not saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process.”27 The Rodriguez case, along with Murphy’ essay Marxism and Retribution, Rawls’s Theory of Justice, and endless empirical evidence show this to be false. **Those born in**to **poor households are less able to access** their **fundamental rights and** therefore exercise less **political power** than the average citizens. **They receive unequal treatment** that can be seen from the type of education they receive to the expertise of the lawyers that defend them in a court of law. Most importantly, **this is an historical inequity.** Just as AfricanAmericans, Hispanics and women have been deprived of equal treatment throughout long periods of American history, so too have those white Americans born into situations of financial destitution. While **offering the** poor the **protection of a suspect class** would be an imperfect solution, it **would alleviate** some of the **philosophical inconsistencies of applying retrib**utive punishment **in a capitalist**ic **society.** Although both retributive and utilitarian punishment theories have powerful arguments in their favor, both become difficult to defend at the margins. In their purest forms, utilitarians must defend an exclusively forward-looking system without any regard for desert of punishment whereas retributivists must defend an exclusively backward-looking system without any regard for the practical outcome. It is telling that while Bentham and Kant may have defended these extremes, modern policymakers do not speak in such universal terms. They recognize that, given the realities of the world that we live in and the inadequacies of even the best laid plans, the goal of creating an efficient and happy society for the majority does not outweigh the sacrifices that would be required of those who are left behind. Therefore, it is best to attempt to prevent individuals from falling behind in the first place, provide for those who have fallen behind, and in the meantime realize that in the marginal cases a balance of the theories of punishment is necessary in order to achieve acceptable outcomes.

## AT AFC = No Spreading

1. AFC isn’t a reason to prefer his interp on spreading. None of the AFC offense is contingent on going slow, so my use of speed doesn’t moot any of the AC or cause timeskew.

2. I have to spend time answering this spike which solves back timeskew anyway.

3. Aff won 6% more rounds at Lexington and Sunvite on this topic, so skewing aff time is good.

4. Spreading’s key to education. (A) We can go more in depth in round, (B) it encourages more research out of round because we need more cards to fill in the longer speeches, (C) it’s key to critical thinking because we have to make more in round strategic decisions.

5. No fairness violation. It’s completely reciprocal. He’s qualified to the TOC. He can obviously flow speed.

6. Prewritten arguments solve. He can follow along.

7. Default to community consensus; we wouldn’t spread unless there were good reason to.

## AT Framework Cards

### AT Ayer

Blatant misinterpretation of Ayer. Ayer is an emotivist which means he believes that moral statements are non-cognitive expressions of emotions. This means you negate on face if he wins Ayer because moral statements cannot possibly be true. **Ayer 36 explains his actual conclusion**.[[43]](#footnote-43)

We begin by admitting that the fundamental ethical concepts are unanalysable, inasmuch as there is no criterion by which one can test the validity of the judgments in which they occur. so far we are in agreement with the absolutists. But, unlike the absolutists, we are able to give an explanation of this fact about ethical concepts. We say that the reason why they are unanalysable, is that they are mere pseudo-concepts. **The presence of an ethical symbol in a proposition adds nothing to its factual content**. Thus if I say to someone, 'You acted wrongly in stealing th6I am not stating anything more than if I had simply said, 'You stole that money.' In adding that this action is wrong I am not making any further statement about it. I am simply evincing my moral disapproval of it. It is as if I had said, 'You stole that money,' in a particular tone of horror, or written it with the addition of some special exclamation marks. The tone, or the exclamation marks, adds nothing to the literal meaning of the sentence. It merely serves to show that the expression of it is attended by certain feelings in the speaker. If now I generalize my previous statement and say, 'Stealing money is wrong.' I produce a sentence which has no factual meaning - that is, expresses no proposition which can be either true or false. It is as if I had written 'Stealing money!!' - where the shape and thickness of the exclamation marks show, by a suitable convention, that a special sort of moral disapproval is the feeling which is being expressed. It is clear that there is nothing said here which can be true or false. Another man may disagree with me about the wrongness of stealing, in the sense that he may not have the same feelings about stealing as I have, and he may quarrel with me on account of my moral sentiments. But he cannot, strictly speaking, contradict me. For in saying that a certain type of action is right or wrong, I am not making any factual statement, not even a statement about my own state of mind. I am merely expressing certain moral sentiments. And [he] the man who is ostensibly contradicting me is merely expressing his moral sentiments. So that there is plainly no sense in asking which of us is in the right. For neither of us is asserting a genuine proposition. What we have just been saying about the symbol 'wrong' applies to all normative ethical symbols. Sometimes they occur in sentences which record ordinary empirical facts besides expressing ethical feeling about those facts; sometimes they occur in sentences which simply express ethical feeling about a certain type of action, or situation, without making any statement of fact. But in every case in which one would commonly be said to be making an ethical judgment, the function of the relevant ethical word is purely 'emotive.' It is used to express feelings about certain objects, but not to make any assertion about them. It is worth mentioning that ethical terms do not serve only to express feeling. They are calculated also to arouse feeling, and so to stimulate action. Indeed some of them are used in such a way as to give the sentences in which they occur the effect of commands. Thus the sentence 'It is your duty to tell the truth' may be regarded both as the expression of a certain sort of ethical feeling about truthfulness and as the expression of the command 'Tell the truth.' The sentence 'You ought to tell the truth' also involves the command 'Tell the truth,' but here the tone of the command is less emphatic. In the sentence 'It is good to tell the truth' the command has become little more than a suggestion. And thus the 'meaning' of the word 'good,' in its ethical usage, is differentiated from that of the word 'duty' of the word 'ought.' In fact, we may define the meaning of the various ethical words in terms both of the different feelings they are ordinarily taken to express and also the different responses which they are calculated to provoke. We can now see why it is impossible to find a criterion for determining the validity of ethical judgments. It is not because they have an 'absolute' validity which is mysteriously independent of ordinary sense-experience, but because they have no objective validity whatsoever. If a sentence makes no statement at all, there is obviously no sense in asking whether what it says is true or false. And we have seen that sentences which simply express **moral judgments do not say anything. They are pure expressions of feeling and as such do not come under the category of truth and falsehood. They are unverifiable for the same reason as a cry of pain** or a word of command **is unverifiable - because they do not express** genuine **propositions.**

TURN –A materialist understanding of morality shows that moral realism is true and justifies util. **Harris 10** writes[[44]](#footnote-44)

I believe that **we will increasingly understand** good and evil, **right and wrong**, **in scientific terms**, **because moral concerns translate into facts about** how our thoughts and behaviors affect **the well-being of conscious creatures like ourselves. If there are facts** to be known **about the well-being of such creatures**—and there are—**then there must be right and wrong answers to moral questions.** Students of philosophy will notice that **this commits me to** some form of **moral realism** (viz. moral claims can really be true or false) **and** some form of **consequentialism** (viz. the rightness of an act depends on how it impacts the well-being of conscious creatures). While moral realism and consequentialism have both come under pressure in philosophical circles, they have the virtue of corresponding to many of our intuitions about how the world works. Here is my (consequentialist) starting point: all questions of value (right and wrong, good and evil, etc.) depend upon the possibility of experiencing such value. Without potential consequences at the level of experience—happiness, suffering, joy, despair, etc. —all talk of value is empty. Therefore, to say that an act is morally necessary, or evil, or blameless, is to make (tacit) claims about its consequences in the lives of conscious creatures (whether actual or potential).I am unaware of any interesting exception to this rule. Needless to say, if one is worried about pleasing God or His angels, this assumes that such invisible entities are conscious (in some sense) and cognizant of human behavior. It also generally assumes that it is possible to suffer their wrath or enjoy their approval, either in this world or the world to come. Even within religion, therefore, consequences and conscious states remain the foundation of all values.

Pain is still an intrinsic bad. **Garib 4** writes[[45]](#footnote-45)

A possible criticism of Korsgaard’s theory is that of pain, and she addresses it in Lecture 4 of Normativity. **Pain**, it would seem, **is a** wholly **private reason and a** possible **substantive basis for** both normativity and **morality. Hedonism has been** a **popular** theory of morality in various forms **for thousands of years, and its intuitive appeal** – basing the good on pleasure and the absence of pain – has **add**ed **to its longevity.** “Pain seems to be a kind of normative fact. If that is so, **pain is an objection to Kantian ethics**, or to any ethics which makes the value of humanity the foundation of all value.” (Korsgaard 145) Pain could threaten public reasons, and Korsgaard’s whole edifice of morality. But those who think so are mistaken, thinks Korsgaard. Pain is not inherently normative; it is a particularly acute expression of our intense desire to maintain identical integrity, whether physical or emotional. Pain is “the perception of a reason… Pity is painful because it is the perception of another’s pain, and so the perception that there is a reason to change his condition.” (Korsgaard 149) As such it’s the sharing of a reason just like humanity itself, and conforms with Korsgaard’s overall theory. “Obligation is the reflective rejection of a threat to your identity. Pain is the unreflective rejection of a threat to your identity. So pain is the perception of a reason, and that is why it seems normative.” (Korsgaard 150) This kind of reasoning may seem silly to many. **Pain** certainly **doesn’t seem like a perception at all. It** certainly feels and perhaps **acts like an intrinsically normative entity**, a creature on par with our other inclinations and desires which push our wills this way or that – or at least, make available to our wills certain reasons which we feel. If Korsgaard’s reasoning may be taken to its logical extents, then any of our gut feelings or our hearts’ desires are just perceptions of a reason, the reason being the maintenance of our identity.

### AT Newell (Determinism True)

This isn’t offense for him. Determinism justifies util. **Petersen 11**[[46]](#footnote-46)

Again, at the level of normative ethics the utilitarian has a typical strategy for handling these problems—one that can be carried straightforwardly into the epistemic realm. **Since util**itarian value **does not depend on** the formation of free **intentions,** the **util**itarian **can** consistently **deny the existence of** any robust **free will**, including doxastic freedom. The utilitarian also must deny the existence of what we might call “thick” moral responsibility—the moral responsibility of the retributivist, who claims that it can be just to punish even when net consequences of such punishment are bad.17 **To** the **util**itarian**, punishment and reward are** only **justiﬁed**, as anything, **by its impact on welfare.** The utilitarian thus has what we might call a “thin” notion of moral responsibility. Roughly speaking, **for a utilitarian to say someone is responsible** for an outcome **is just to say that the person houses the most appropriate place** to apply change in order **to bring about** more **future utility** with respect to that outcome. When Squeaky is responsible for murder, this means that efforts to redress current and future such harms are best concentrated on her. Squeaky is not morally responsible in the thick sense for the act; she does not deserve punishment for its own sake. Nonetheless it can be just to subject her to isolation and rehabilitation for the sake of future consequences. To the extent we discover that Charlie caused Squeaky to murder, that is the extent to which we discover Charlie is the more effective place to apply such change, and thus in the utilitarian sense we attribute him more of the moral responsibility for the crime.18

### AT Must Be Intent-Based

1. This contradicts Ayer. He says we must look to empirical facts, not intentions.

2. Intentions are unverifiable.

3. All my framework arguments prove consequences are the unit of moral value, not intention.

4. At worst, if he wins this argument it just means you should evaluate intentions in terms of whether they lead to good consequences.

### Collapses to Util

Natural form reduces to Util.

1. The state is an aggregate of people, so it has to weigh the interests of everyone in society.

2. The preamble to the constitution establishes that the state’s natural form is to provide for the general welfare.

3. The natural form of all beings is to exist, so extinction is a prerequisite.

4. The nature of the state forces it to aggregate. . **Goodin 90**[[47]](#footnote-47)

My larger argument turns on the proposition that there is something special about the situation of public officials that makes utilitarianism more probable for them than private individuals. Before proceeding with the large argument, I must therefore say what it is that makes it so special about public officials and their situations that make it both more necessary and more desirable for them to adopt a more credible form of utilitarianism. Consider, first, the argument from necessity. **Public officials** are obliged to **make** their **choices under uncertainty**, and uncertainty **of a** very **special sort** at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have for them. Public officials, in contrast, **[they] are** relatively **poorly informed as to the effects that their choices will have on individuals, one by one. What they** typically **do know are** generalities: **averages and aggregates. They know what will happen most often to most people** as a result of their various possible choices, **but that is all. That** is enough to **allow[s]** public **policy-makers to use** the **util**itarian calculus – assuming they want to use it at all – to chose general rules or conduct.

## Contention

Strong evolutionary tendencies show that the human form is fundamentally retributive. **Mackie 82**[[48]](#footnote-48)

**Suppose that a**n animal, **human** or nonhuman, **is injured by another**, either of the same species or of some other, where the first is able to do some harm to the second which the second can associate with its aggression and perhaps recognize as a reaction to it. Then such **retaliation will** tend to **benefit the retaliator, since the aggressor will be discouraged from repeating** the attack**. This** mechanism can operate either at the psychological level, by negative reinforcement in an individual aggressor, or at a genetic level, where there will be some selective pressure against a kind of aggression that commonly proves harmful to the aggressor. For both reasons there will then be some selective pressure in favor of the tendency to retaliate. This need not be, and originally will certainly not be, the result of calculation and deliberate choice by the retaliator; it **is** rather that **the mechanism of natural selection** mimics calculated, purposive, action. Spontaneous retaliation will thus develop because it is often beneficial, either immediately or in a longer term, but it will be spontaneous, not chosen by the retaliator for the sake of the benefit. Of course, we need not assume that retaliation is always beneficial, as it clearly is not, and we can well admit that what is thus biologically developed is likely to be a “mixed strategy,” a combination of retaliatory tendencies with tendencies, say, to flight or, at least among members of the same species, to conciliation. All that we need is that there should be a retaliatory component in whatever mixed strategy is developed, and it is easy to see why this should be so. And the spontaneous repaying of benefit with benefit may be developed in a corresponding way. Initially **what is thus explained is retributive behavior**, but in creatures that have the capacity for emotion this will naturally be accompanied by the development of retributive emotions directed toward the sources of injury or help. However, these are still only the nonmoral retributive emotions. In order to account for their moral counterparts we must, as Westermarck says, turn to society as the birthplace of the moral consciousness. Among animals that live in social groups, it is easy to explain cooperation in the resentment of injuries. The helping, in this as in other ways, of individuals closely related to an agent will be of direct genetic advantage, of a sort that results in selection in its favor, insofar as close relatives will tend to share the agent’s genes. **There can** also **be selective pressures in favor of** reciprocal **altruism**, the tendency to help those who help the agent in return. **But what may be most important,** especially among human beings, **is** that cooperative social practices or conventions can grow up by social interaction. A simple model will illustrate this possibility. If two agents will do better in some way if the cooperate, they may begin to do so gradually and tentatively, each making his further cooperative moves conditional upon a favorable response from the other. Such a tentative development of a cooperative practice is easy to describe in terms of a series of conscious choices; but it could equally well grow up more automatically, through agents coming habitually to adopt ways of behaving in relation to one another that tend to help each in whatever pursuits are already established as part of his behavior. Reciprocal sanctioning, the fact that each will be less cooperative if the other is less cooperative, can generate and maintain cooperative conventions even without any series of conscious choices. Since cooperation in general is thus explicable, **cooperation in resentment** can be understood in social animals and particularly in human beings once resentment itself has been explained. And cooperation in **resentment is more** likely to be **useful** to those who develop it than cooperation in gratitude**;** the **repelling of injuries will** often **require greater** concentrations of **force than** are **needed** in order **to make a worthwhile return for a benefit.**

# CPS Lyotard Neg

## Framework

Omitted.

Thus the standard is **maximizing happiness**.

## AT Gailbraith

1. Devolves to util. Extinction creates the worst differend. You can’t have a voice if you’re dead.

2. Util takes into account all relevant suffering, so it solves the differend.

3. Act-util takes into account the “particularity of the event” by definition, so it meets Lyotard’s condition for justice.

4. Rejecting the differend would mean considering all sentient beings, and animals wouldn’t want to be killed by nuclear war.

5. Only util gives all people equal respect. **Rakowski** writes[[49]](#footnote-49)

On one side, it presses toward the consequentialist view that individuals’ status as moral equals requires that the number of people kept alive [life] be maximized. Only in this way, the thought runs, can we give due weight to the fundamental equality of persons; **to allow more deaths when we can ensure fewer is to treat some** people **as less valuable than others.** Further, **killing some to save others**, or letting some die for that purpose, **does not entail that those who are killed** or left to their fate **are** being **used merely as means** to the well-being of others, as would be true if they were slain or left to drown merely to please people who would live anyway. They do, of course, in some cases serve as means. But they do not act merely as means. Those who die are no less ends than those who live. **It is because they are** also **no more ends than others** whose lives are in the balance **that [one]** an impartial decision-maker **must** choose to **save the more numerous group, even if she must kill to do so.**

6. Util is the only moral system available to policy-makers. **Goodin 90**[[50]](#footnote-50)

My larger argument turns on the proposition that there is something special about the situation of public officials that makes utilitarianism more probable for them than private individuals. Before proceeding with the large argument, I must therefore say what it is that makes it so special about public officials and their situations that make it both more necessary and more desirable for them to adopt a more credible form of utilitarianism. Consider, first, the argument from necessity. **Public officials** are obliged to **make** their **choices under uncertainty**, and uncertainty **of a** very **special sort** at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have for them. Public officials, in contrast, **[they] are** relatively **poorly informed as to the effects that their choices will have on individuals, one by one. What they** typically **do know are** generalities: **averages and aggregates. They know what will happen most often to most people** as a result of their various possible choices, **but that is all. That** is enough to **allow[s]** public **policy-makers to use** the **util**itarian **calculus** – assuming they want to use it at all – to chose general rules or conduct.

7. The state cannot adhere to side-constraints like “never create a differend” because state action requires value trade-offs. Gary **Woller** writes[[51]](#footnote-51)

Moreover, virtually all **public policies entail** some **redistribution of** economic or political **resources, such that one group’s gains must come at another group’s expense. Consequently, public policies** in a democracy **must be justified to the public,** and especially to those who cannot pay the costs of those policies. Such justification cannot simply be assumed a priori by invoking some higher-order moral principle. **Appeals to a priori moral principles**, such as environmental preservation, also often **fail to acknowledge that public policies inevitably entail trade-offs among competing values. Thus** since policymakers cannot justify inherent value conflicts to the public in an philosophical sense, and since public policies inherently imply winners and losers, the **policymakers’ duty to the public** interest **requires** them to demonstrate **that** the re-distributive effects and **value trade-offs** implied by their policies **are** somehow **to the** overall **advantage of society.**

8. Gailbraith is an unwarranted summary. If her framework doesn’t devolve to util, prefer my framework warrants anyway.

## AT Steele

1. Lyotard fails. Her framework has zero weighing mechanism.

Aff author **Steele 90**[[52]](#footnote-52)

However, Rajchman's formulation does not answer Nancy Fraser's questions about Foucault's project: "Why is struggle pre- ferable to submission? Why ought domination to be resisted? Only with the introduction of normative notions could he [Foucault] begin to tell us what is wrong with the modern power/knowledge regime and why we ought to oppose it."31 A similar charge could be made against **Lyotard** since he also **offers no justification or development of** the abstract call to present the unpresentable. The unpresentable, the beyond, is the counterpart to the differend, the suppressed, since they both are defined only negatively against existing discursive structures. He offers no discussion of **how competing differends are to be adjudicated.** Thus, we find statements such as "Politics cannot have for its stake the good but must have the least bad" (D, 203). The "bad" is defined as the "interdiction of possible sentences at every moment" (D, 204). These citations raise **numerous questions about differends** and value **for which Lyotard has no satisfactory response. Are all differends equivalent? Does minimizing the bad mean** simply **reducing the number of differends?**

2-6. Omitted (Util Justifications).

## Extinction First

Omitted

## AT Contention

## AT Lipsey and Cullen

Non-unique. Rehab empirically incorporates punishment.

**Lab et al. 04** [[53]](#footnote-53)

Balancing competing ideologies also applies to the philosophies of criminal justice (retribution, deterrence, rehabilitation). The system constantly oscillates among such philosophies and, in many cases, decisions made to satisfy more than one ideology. Yet, this constant mixture of philosophies means that advocates of one philosophy (e.g., [like] retribution) are never completely happy, for the system never fully implements their version of justice. Instead, the system is operating under all three philosophies in most situations. A mix of philosophies is sometimes evident when individual criminal justice employees make decisions. For example, **judges might decide** up**on a** defendant’s **sentence** length **based** up**on** the amount of **time required for rehab**ilitation, **but** they **may** also decide to **simultaneously punish the offender** and to send a deterrent message to the community. Probation can be viewed as a way for the state to keep offenders under surveillance in their community (thus achieving a degree of deterrence) while also requiring Chapter 1 ✦ Crime and the Criminal Justice System 7treatment or counseling for them (thus providing rehabilitation). In action, then, **the criminal justice system cannot be viewed as** being **committed to any one philosophy.** Rather, the operation of the system is a simultaneous combination of these different ideologies.

## AT FAILinger

No link to rehab. This article is about restorative justice. Restorative justice is not rehab which proves I coopt 100% of her offense.

**Gabbay 5**[[54]](#footnote-54)

In essence, the **rehab**ilitative ideal views offenders as “patients” or “victims,” who commit crimes because of an “illness” or under the influence of a dysfunctional social environment.182 This approach **dictates that** in order to effectively reduce crime, it is not enough to deal with the particular offense, since it is merely a symptom of a larger problem. Rather, it is the duty of the criminal justice system to “cure” the offender’s “illness.”183 This is to be achieved by penal treatment intended to “effect changes in the characters, attitudes, and behavior of convicted offenders.”184 The deeper meaning of this approach, however, is that **offenders are** not to be morally blamed for their wrongdoing. They are **not responsible for their criminal act;** instead, their sickness is to blame. As was clearly articulated in the comparison between retributivism and restorative justice, **this is** fundamentally **different from** the way **restorative justice** views the offender and the goals of the criminal justice system. As mentioned above, offenders’ **culpability is** one of the premises of any restorative practice. It is **the basis for** the **offenders’ obligations to repair the harm they caused, which according to restorativists should be the primary goal of the c**riminal **j**ustice **s**ystem. Admittedly, in any restorative process, offenders must be treated with respect, which means allowing them to explain the reasons that led them to commit the crime and understanding (as opposed to accepting) their reasons.185 In many cases, these reasons will undoubtedly include substance abuse or growing up in a destructive environment,186 and the terms of the restitution agreement may well include a section calling for some kind of commitment on the part of the offender to try and treat his or her underlying problems. This example of the way restorative justice deals with issues that under a rehabilitative regime would be considered an “illness,” reiterates the basic principle of offender responsibility. The **restorative justice theory does not blame** the **drugs** for the offense; **it blames the drug users.** It does not undertake to “cure” offenders, but demands that they take practical steps to treat their problem as part of their overall obligation to repair the harm they caused.

# Restorative Justice Neg

## DV CP

Counterplan Text: The USFG should value restorative justice over retribution except in instances of domestic violence.

Restorative justice fails to adequately respond to domestic violence. **Cunneen 02**[[55]](#footnote-55)

Feminist critiques of **restorative justice** emphasise a **lack[s]** of **understanding of** power relations and of **the nature of crimes against women.** Feminist arguments have particularly been important for exploring the problems of applying restorative justice practices to domestic violence. This critique starts by asserting that **domestic violence is a *particular type* of crime and** that **the fundamental priority of** any type of **intervention must be to ensure** the **physical protection for victims** (usually women and children)**.**

In her contribution to this collection, Stubbs argues that an important part of the question of applying restorative justice practices to domestic violence is that the nature of domestic violence is *specific*. The violence is not a discrete act between two individuals unknown to each other. Rather, **the violence may be** one of **a number of gendered strategies of control** including various forms of behaviour and coercive tactics. The violence itself may be **[as] part of a patterned cycle of behaviour** that includes contrition. Further, social and cultural dimensions give meaning and authorisation to the violence and constrain women’s options in response (p. 45). Responding appropriately to domestic violence is made more complex by women’s relationship with their children, and the fact that **women may seek assistance from the criminal justice system**, including police, **only after a long process of violence.** The issue of how gendered power imbalances can be addressed in restorative justice practices is of fundamental concern to feminists. We cannot assume that actors marshalled together for a restorative justice conference will be capable of offering the support victims who are structurally disadvantaged need. Indeed, Stubbs argues that **the basic premise of restorative justice—that the harm between victim and offender is to be repaired—may not work for women seeking** intervention, support, and **protection against violence** (p. 51).

Domestic violence spills over to affect the security of all women in society. **Seith 97**[[56]](#footnote-56)

**Violence is used against women as a form of social control** and is effective because it ‘captures the essence of male dominance–female submission.’ Systematic subordination occurs when domestic violence pervades a particular culture or society. **Stereotypical subordinate roles for women are reinforced by violence**–a cycle which perpetuates itself when men initiate abuse against women on the basis of deviations from those stereotypes. This violence is gender-motivated because ‘the perpetrator seeks to punish the victim in order to further subordinate the victim’s group based on negative views of them.’ The target of such subordination is not purely, or even principally, the individual woman; **all women are targeted and subsequently injured by such subordination. Thus, when domestic violence occurs, it** also **functions as societal reinforcement of male power;** physical and **sexual violence is** the **manifestation of the power that men use to maintain control over women.**

Women security against gender violence is key to international stability. **Hudson 12**[[57]](#footnote-57)

Well, here is some robust empirical evidence that we cannot ignore: **Using the largest extant database on the status of women** in the world today, which I created with three colleagues, we found that **there is a strong and highly significant link between state security and women's security**. In fact, **the** very **best predictor of a state's peacefulness** is not its level of wealth, its level of democracy, or its ethno-religious identity; the best predictor of a state's peacefulness **is how well its women are treated.** What's more, **democracies with higher levels of violence against women are as insecure and unstable as nondemocracies.** Our findings, detailed in our new book out this month, Sex and World Peace, echo those of other scholars, who have found that **the larger the gender gap between the treatment of men and women** in a society, **the more likely a country is to be involved in intra-and interstate conflict**, to be the first to resort to force in such conflicts, and to resort to higher levels of violence. On issues of national health, economic growth, corruption, and social welfare, the best predictors are also those that reflect the situation of women. What happens to women affects the security, stability, prosperity, bellicosity, corruption, health, regime type, and (yes) the power of the state. The days when one could claim that the situation of women had nothing to do with matters of national or international security are, frankly, over. The empirical results to the contrary are just too numerous and too robust to ignore. But as we look around at the world, the situation of women is anything but secure. Our database rates countries based on several categories of women's security from 0 (best) to 4 (worst).

International stability solves nuclear war. Interstate aggression with the nuclear option means there is always a risk. Key to avoiding extinction. **Morgan 09**[[58]](#footnote-58)

Besides the accidental factor, **a**nother **factor that could incite nuclear war is** that of **aggression.** When nuclear powers are involved in wars of aggression, **the nuclear option is always available.** Especially when a nuclear power explicitly states that ‘‘all options are on the table,’’ concern about the nuclear option is well founded. Thus, Moore defines the aggressive factor as when ‘‘one or more nations decide to use weapons against a nuclear or non-nuclear nation in order to promote an economic, political or military goal, as part of an ongoing war or as a first strike nuclear attack. (The state, of course, may claim it is a pre- emptive, retaliatory or even accidental attack.)’’ [10].5 Especially in light of the recent U.S. attack on Iraq (ideologically based on Bush’s preventative war doctrine), **the ‘‘pre-emptive’’ factor in instigating** a **nuclear war should be taken seriously. It is when** one or more **nations believe**, whether correctly or incorrectly, or claims to believe ‘‘that **another nuclear nation is about to use nuclear weapons** against its nuclear, military, industrial or civilian targets **and preemptively attacks that nation.’’**

## AT Solves Crime

1. Restorative justice fails. Victims will refuse to participate in the healing process for offenders. **Gaudreault 5**[[59]](#footnote-59)

It must nevertheless be recognized that **many victims of serious crime want nothing to do with [restoration]** the practice**.** The more they perceive the crime as irreparable, **the more significant they view the aftermath of the crime, the less receptive they are to** the thought of **being face to face with the perpetrator** of the crime (Reeves, 1989)**.** That prospect can cause a great deal of stress. It can be hurtful and interpreted as a lack of understanding of what they went through. Our **research involving victims of violent crimes** who contacted the Canadian correctional system to obtain information, attend hearings or make a statement yielded similar findings (Gaudreault, 2003). These people had lost someone close them; they were sexually assaulted by a family member or attacked by their spouse. Leery, angry or suffering unduly, **[shows] they declined any attempt at** reconciliation or **restoration of their relationship with their attacker** or the person who took a loved one away from them**.** **In most cases,** the idea was a non-starter because **the victims had nothing to say to the offender and felt that a meeting would serve no purpose.** More importantly, **they had not reached that point and did not feel up to a meeting on an emotional level.** Some crimes cause serious rifts, severing relationships within families and with people outside the family. Many victims will opt for a healing process and measures that will help distance them from the offender (Herman, 1992). In the interest of self-protection, they will refuse to follow the legal process, media coverage of their case, in fact any form of participation in the social reintegration of the offender. The thought of being near or having any contact with the offender could instil a sense of violation or revictimization.

2. Restorative justice fails. Offenders will likely fake emotion to get out of serious punishment. **Gaudreault 5**[[60]](#footnote-60)

And what about the offenders? In some respects, restorative justice offers them a path that is not always smooth and easy. They are urged to engage in a process that will force them to acknowledge their responsibility toward the people they hurt, abused or assaulted. They will be 7 of 14 asked to prove that they want to change and mend their ways. These are expectations that can make them uncomfortable. Making an emotional commitment, revealing their true selves and dealing with shame and blame are not easy things to do. Offenders are not accustomed to expressing that level of emotion, even with the people closest to them. **Many offenders are incapable of seeing the victim as a real person**, empathizing with the victim (Fattah, 1998; Hudson, 2003) **or showing remorse that is neither feigned nor tactical** in order to avoid punishment or get off more lightly**.** It must be acknowledged that **many offenders are able to use restorative justice for** all sorts of purposes: **avoiding punishment, casting themselves in a better light, [and] playing down their faults**, even taking pride in their relationship with the victim (Van Giseghem, 2003; Hudson, 2003).

# Juveniles Neg

## AT Solves Crime

1. Incarceration solves. Juveniles are rational actors that can be deterred by legal sanctions. **Yahya 6**[[61]](#footnote-61)

Returning to smoking juveniles, **a study using experimental methodology that looked at juvenile smoking behavior** also **confirmed that price** will **negatively impact** their **consumption.** Marijuana usage[,] by juveniles was also found to be price sensitive. Another study found that cocaine addiction by high school seniors also fit the rational addiction model, as the demand for cocaine was price sensitive, and alcohol consumption by [juveniles] the same group was also found to be price sensitive. Even non-consumption risky behavior was found to be responsive to incentives. Teenage pregnancies, for example, fell as welfare benefits fell (thereby reducing the payoff for an out of wedlock child), but even non-price variables affected risky teenage behavior, as teenage pregnancies declined [and] as the incidence of AIDS grew. **Another study found that** juveniles did respond to legal variables as **minimum legal drinking ages reduced underage teenage drinking [and]**. Similarly **minimum smoking ages reduced underage** teenage **smoking**, and mandatory seat belt laws reduced vehicle fatalities among youth. In contrast, those activities that did not have an age specific legal restriction, such as smoking marijuana, did not have an age specific pattern for youth. All in all, **the econometric evidence points** to the proposition **that** even **youth** are rational who **respond to incentives in a consistent and measurable manner,** thereby **suggesting that juveniles can be deterred.**

2. TURN – Rehabilitation increases juvenile recidivism. **Wilson 7**[[62]](#footnote-62)

**The American juvenile justice system desperately needs reform.** Some 2.4 million juveniles are charged with offenses annually.An appalling **55 percent of juveniles released from incarceration nationwide are rearrested within one year. In urban centers,** that percentage—referred to as the rate of **recidivism**—**reaches** up to **76 percent.** High recidivism is associated with increases in crime, victimization, homelessness, family destabilization, and public health risks. Government-sponsored correctional programs cost sixty billion dollars annually. Most tragically, high recidivism indicates a failure to provide meaningful rehabilitation for offenders. Reducing recidivism specifically among juveniles should be of primary importance to the U.S. Department of Justice and the Office of Juvenile Justice and Delinquency Prevention. **Our government’s** current approach to lowering recidivism emphasizes the creation and funding of **rehabilitative programs**. While these initiatives have made marginal gains, efforts **have been insufficient.** Substantial progress will only come by eliminating recidivism-fostering features of the juvenile justice system itself.

3. TURN – Retributive incarceration decreases juvenile crime. **Yahya 6**[[63]](#footnote-63)

The economist Steven **Levitt conducted the most direct study of juvenile crime**. In his ground-breaking study, Professor Levitt examined the relationship between punishment and crime committed by juveniles **for** the period **1978-1993.** In his study, he found that juveniles are deterred by punishment. He also found that similar punishments had similar effects on deterring juveniles and adults. During his study, he observed that juvenile crime rates, especially **violent [juvenile] crime rates, had been rising faster than adult crime rates.** He also noted that **juvenile punishment had fallen in severity by half during this time** period**, while the severity of adult punishment had risen by over 60%.** Using data from across the United States, Levitt was able to study the relationship between the variation in punishment across states and the rate of juvenile crime in those states. Levitt looked at the impact of the incarceration rate on the number of crimes committed by juveniles. **He found that** there was a statistically significant negative relationship between the two variables. He estimated that **for each extra delinquent incarcerated, there was a reduction of between 0.49 and 0.66 violent crimes.** For property crimes, the reduction was between three and four crimes**.**

Other studies confirm Levitt’s results. **Yahya 06**[[64]](#footnote-64)

**Other studies** seem to **confirm Levitt's results.** For example, **one study** looked at a sample of 16,478 high school children surveyed in 1995. This study had the advantage of looking at individual behavior as opposed to aggregate crime rates, as in Levitt's article. The dataset **contained individual data on youth aged thirteen to seventeen from a wide cross section of society.** The juveniles were asked a set of questions as to whether they had committed certain crimes and how frequently they had done so. **The authors** of the study then **matched this data with data on crime rates and arrest rates for violent crimes** and property crimes**, for both adults and youth, in the county of residence of the juveniles.** The crime categories included selling marijuana, assault, robbery, and burglary. The authors found that the arrest rates negatively impacted the probability of juveniles selling drugs. Specifically, **they found that one additional arrest for a violent crime** **reduced by 3.6% the probability that male juveniles would sell drugs**. In addition, for each violent crime arrest, **[and] the probability** that male juveniles would commit an **[of] assault** was reduced **by 6.6 %** for each arrest**.** However, robbery and burglary rates by males were not responsive to violent crime arrest rates. On the other hand, the number of thefts and drug sales among female juveniles fell in response to violent crime arrests. Given that the death penalty is a tool aimed primarily at the most violent of crimes, namely murder, the fact that male juveniles committing assaults or selling drugs were responsive to violent crime arrest rates suggests that a fortiori they would be very responsive to the presence of the death penalty as a punishment.

## AT Not Culpable

Juveniles are adults are equally rational. **Morse 99**[[65]](#footnote-65)

**Many** able **scholars have reviewed the literature** concerning potential legally relevant difference between adolescents and adults. I shall make the simplifying assumption that **near consensus of their findings represents the most accurate** current **assessment** of those differences**.** In brief, **the literature indicates that the formal reasoning ability and level of cognitive moral development of mid adolescents differs little from adults.** Further, on narrowly conceived cognitive tasks performed under laboratory conditions that concern decisions about medical treatment, there is little difference in outcome between mid adolescents and adults.

More evidence – juveniles are equally as rational as adults. Neuroscience proves. **Bower 4**[[66]](#footnote-66)

UCLA's Elizabeth Sowell, another prominent brain-development researcher, takes a dim view of the movement to apply neuroscience to the law. Delayed frontal-lobe maturation may eventually be shown to affect teenagers' capacity to make long-term plans and control their impulses, she says, but **no current research connects specific brain traits of typical teenagers to any mental or behavioral problems.** "The scientific data aren't ready to be used by the judicial system," she remarks. "The hardest thing [for neuroscientists to do] is to bring brain research into real-life contexts." The ambiguities of science don't mix with social and political causes, contends neuroscientist Bradley S. Peterson of the Columbia College of Physicians and Surgeons in New York City. For instance, **it's impossible to say at what age teenagers become biologically mature because the brain continues to develop in crucial ways well into adulthood**, he argues. **A team led by Sowell and Peterson used an MRI scanner to probe the** volume of white and gray matter throughout the **brains of 176 healthy volunteers, ages 7 to 87. The researchers reported** in the March 2003 *Nature Neuroscience* **that myelin formation**—measured by the total volume of white matter in the entire brain—**doesn't reach its peak until around age 45.** Although gray matter volume generally declines beginning around age 7, it steadily increases until age 30 in a temporal-lobe region associated with language comprehension. Such findings underscore the lack of any sharp transition in brain development that signals maturity, according to neuroscientist William T. Greenough of the University of Illinois at Urbana-Champaign. Definitions of adulthood change depending on social circumstances, Greenough points out. Only 200 years ago, Western societies regarded 16-year-olds as adults.

# Culpability Neg

1. There’s no reason retribution can’t give lesser sentences to account for factors that mitigate culpability. The criminal justice system already does this for juveniles and the mentally ill.

2. Retribution accounts for factors which mitigate culpability and would avoid intuitively undeserved punishment. **Markel and Flanders 10**[[67]](#footnote-67)

By our lights, we can locate a few "islands of agreement" between us and the subjectivists regarding the significance of individualized experience.' 0 First, **retributivists should care about** the individual offender's **mental competence** throughout the life cycle of a crime, from commission through punishment. In this respect, a person selected for punishment must be a fit interlocutor for the communicative message of retributive punishment, a point that the U.S. Supreme Court emphasized recently." Accordingly, it is critical for state officials to have a good grasp of the offender's competence during his punishment. After all, **an offender who cannot appreciate** ex post the **retributive deprivations of**, say, **liberty** or property is likely not a good candidate for punishment; instead, he **probably requires treatment.** We might even say this competence criterion is the most basic form of subjectivity relevant for punishment. To be punished, the offender must be an autonomous agent (a "subject")-that is, at least capable of rationally understanding the message directed at him via punishment. **But with** respect to **offenders above that threshold of competence, retributivists should** reasonably **be relatively indifferent to the idiosyncratic** ex post preferences and **varying experiences of offenders.** Second, we agree that **retributivist policymakers should be sensitive to** knowledge of human psychology and social norms when crafting laws and setting sentencing policy so that coercive actions or deprivations designed to communicate condemnation do not flout the **social expectations of what** reasonably **counts as appropriate punishment**, either as a floor or as a ceiling for that offense. For example, it would be a mistake for retributive institutions to throw ticker-tape parades to communicate condemnation to the offender or express condemnation to the public.12 A retributive response must be convincingly viewable as a coercive condemnatory action by the polity and its citizens under prevailing social norms; a ticker-tape parade does not qualify as such a condemnatory action. A punishment also cannot be excessive or cruel; this would flout moral expectations in the other direction. 1 3 Nor, relatedly, can individuals (including both citizens and officials) take it upon themselves to impose in the name of punishment hardships beyond what the polity has authorized. But **these observations are** largely **unobjectionable**, if not quite banal, **within** the realm of **retributive justice theories.** Consequently, **our "concessions"** to the importance of subjectivity are minor and provide little basis for debate. Indeed, neither concession requires much tailoring of punishment to the particular experiences and capacities of each offender. We **merely point out that for each offense there will be floors** (punishment that is too tame to convey condemnation) **and ceilings** (punishment that is too harsh or excessive, including any punishment for the mentally incompetent), and that there must be some mechanism to ensure that the floors and ceilings do not crumble.

3. Non-unique. Rehabilitation still incarcerates the offender and suggests that they’re guilty. Their warrants for “no culpability” imply that the criminal can’t be responsible at all, so they have no offense.

4. If crime is blamed on social conditions, this doesn’t deny the criminal’s moral agency. Even if actions are predetermined, we can consider an individual a responsible agent who enacts free will if they can formulate reason for acting internally. **Frankfurt 71**[[68]](#footnote-68)

A person’s will is free only if he is free to have the will he wants. This means that, in regard to any of his first-order desires, he is free either to make that desire his will or to make some other first-order desire his will instead. Whatever his will, then , the will of the person whose will is free could have been otherwise; he could have done otherwise than to constitute his will as he did. It is a vexed question just how “he could have done otherwise” is to be understood in contexts such as this one. But although this question is important to the theory of freedom, it has no bearing on the theory of moral responsibility. For **the assumption that a person is morally responsible for what he has done does not entail that the person was in a position to have whatever will he wanted.** This assumption does entail that the person did what he did freely, or that he did it of his free will. **It is a mistake**, however, **to believe that someone acts freely only when he is free to do whatever he wants** or that he acts of his own free will only if his will is free. Suppose that a person has done what he wanted to do, that he did it because he wanted to do it, and that the will be which he was moved when he did it was his will because it was the will he wanted. Then he did it freely and of his own free will. **Even supposing that he could have done otherwise, he would not have done otherwise**; and even supposing that he could have had a different will, he would not have wanted his will to differ from what it was. Moreover, **since the will that moved him** when he acted **was his will because he wanted it to be, he cannot claim that** his will was forced upon him or that **he was a passive bystander** to its constitution. Under these conditions, it is quite irrelevant to the evaluation of his moral responsibility to inquire whether the alternatives that he opted against were actually available to him.

5. Retribution isn’t about proportionality. **Markel and Flanders 10**[[69]](#footnote-69)

Beyond this, we find little to agree with in the work of the subjectivists, conceptually interesting though it may be (especially to the heirs of Bentham). A key point of our disagreement is the common and, for the most part, apparently unreflective conflation of punishment with suffering. 14 Punishment involves the causing of (physical) pain or suffering, say the subjectivists, and because individuals' emotional reactive sensibilities differ, so too should society's punishments. This assumption that retributivism involves exchanging or matching pain for pain-that is, the pain the offenders caused (or threatened) by their criminal actions should be balanced by the pain they will experience via punishment-may be true of some, mostly antiquarian versions of retributivism, but not of the best versions, and not, as we will explain, of ours.' 5 If **retributive punishment** is not about matching pain for pain but rather **serves as an attempt to communicate to the offender society's condemnation by** means of a **deprivation of** an objective good such as **liberty**, then the idiosyncratic experience of the offender will hardly matter-if at all. To be sure, some retributivists (or their critics) may have also equated punishment with suffering.16 But we view this equation as mistaken in the sense that attempts to justify punishment to cause suffering cannot work as persuasive justifications for state punishment. Moreover, we think the claims of subjectivists vis-f-vis sentencing particularism misrepresent the animating and distinctive values of retributive justice, particularly its commitments to equality and, relatedly, proportionality. As we will show, the focus of the subjectivists' critiques is off-target. It is not retributive (or utilitarian) justifications for punishment institutions that are the object of the subjectivist ire. Rather, their focus hinges on the difficulties of implementing the principle of proportionality in sentencing. That is worth noting because proportionality is a principle that is not only contested but also largely "expressively overdetermined;" 7 that is, proportionality is a guidepost to action that people from a wide number of viewpoints or dispositions have come to agree upon despite disagreements over why that principle is or should be operative.' 8 Thus, while the subjectivists might have something interesting or important to say about sentencing and proportionality, it is less clear that their message is relevant to the core claim that many if not all contemporary retributivists defend: institutions of criminal justice have a prima facie justification because of the internal intelligibility of retributive punishment for offenses defined and enforced by the legal order of a liberal democracy.' As we put it later, **retributivism is** a theory **primarily about the justification of punishment, and** as such, **will have little** of substantive **interest** or precision **to say directly about questions of proportionality in sentencing.**

6. TURN – Treating someone as if they aren’t culpable is immoral, whether they’re actually culpable or not. **Chrissy K 86** writes[[70]](#footnote-70)

This latter is the basis of the duties of respect. Respect is violated by the vices of calumny and mockery (MMV 466-468/131-133): we owe to others not only a practical generosity toward their plans and projects - a duty of aid - but also a generosity of attitude toward their thoughts and motives. **To treat another with respect is to treat him as if he were using his reason** and as far as possible as if he were using it well. Even in a case where someone evidently is wrong or mistaken, we ought to suppose he must have what he takes to be good reasons for what he believes or what he does. **This is not because**, as a matter of fact, **he** probably **does have** good **reason**s. Rather, this attitude is something that we owe to him, something that is his right. And he cannot forfeit it. **Kant is explicit about** this: Hereupon is founded **a duty to respect man** even **in** the logical **use of** his **reason: not to censure** someone's **errors under the name of** absurdity, **inept judgement**, and the like, but rather to suppose that in such an inept judgment there must be something true, and to seek it out. ... Thus it is also with the reproach of vice, which must never burst out in complete contempt or deny the wrongdoer all moral worth, because on that hypothesis he could never be improved either -- and this latter is incompatible with the idea of man, who as such (as a moral being) can never lose all predisposition to good. (MMV 463-464/l28-l29)12 **To treat others as ends** in themselves **is always to** address and **deal with them as rational beings.** Every rational being gets to reason out, for herself, what she is to think or to choose or to do. So if you need someone's contribution to your end, you must put the facts before her and ask for her contribution. If you think she is doing something wrong, you may try to convince her by argument but you may not resort to tricks or force. The Kingdom of Ends is a democratic ideal, and poor judgment does not disqualify anyone for citizenship. In the Critique of Pure Reason, **Kant says: Reason depends on this freedom for its very existence. For reason** has no dictatorial authority; its verdict **is** always **simply the agreement of free citizens**, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto. 9 This means that there cannot be a good reason for taking a decision out of someone else's hands. It is a rational being's prerogative, as a first cause, to have a share in determining the destiny of things.

7. Non-unique. Rehab incorporates punishment too. **Lab et al. 04**[[71]](#footnote-71)

Balancing competing ideologies also applies to the philosophies of criminal justice (retribution, deterrence, rehabilitation). The system constantly oscillates among such philosophies and, in many cases, decisions made to satisfy more than one ideology. Yet, this constant mixture of philosophies means that advocates of one philosophy (e.g., [like] retribution) are never completely happy, for the system never fully implements their version of justice. Instead, the system is operating under all three philosophies in most situations. A mix of philosophies is sometimes evident when individual criminal justice employees make decisions. For example, **judges might decide** up**on a** defendant’s **sentence** length **based** up**on** the amount of **time required for rehabilitation, but** they **may** also decide to **simultaneously punish the offender** and to send a deterrent message to the community. Probation can be viewed as a way for the state to keep offenders under surveillance in their community (thus achieving a degree of deterrence) while also requiring Chapter 1 ✦ Crime and the Criminal Justice System 7treatment or counseling for them (thus providing rehabilitation). In action, then, **the criminal justice system cannot be viewed as** being **committed to any one philosophy.** Rather, the operation of the system is a simultaneous combination of these different ideologies.

8. Proving offenders aren’t fully culpable is insufficient to affirm. **Jacobs 99**[[72]](#footnote-72)

We need not attempt to settle the free will and determinism debate in order to answer that question. The extent to which luck is involved in human action does not undermine the significant distinctions that can be made between voluntary and involuntary acts, and between conditions for liability to punishment and excusing and exempting conditions. It is plain that **sometimes causal factors** operate in ways that **warrant** attributions of **diminished responsibility. It is also plain that most human action is not so affected.** What count as coercion, compulsion, provocation, defects of sanity and the like, are by no means obvious or unproblematic. Still, **we** do **appropriately regard ourselves and others as responsible agents**, unless there are special reasons not to. **There is no special burden on retributivism to metaphysically underwrite that fact**; there is no special burden on retributivism to make a successful case for libertarianism or contra-causal agency. **We can acknowledge** the significance of **each person's 'story' without** the individual's agency being assimilated to it in a way that dissolves **[dissolving]** the grounds for **reward and penalty.**

# Narrative Neg

Rehab fails. **Kosm 8** shares his experience[[73]](#footnote-73)

**I went to rehab, it didn't work. I had an addiction to prescription drugs. I wrote fake prescriptions. I went to prison and it worked.** I do not do that anymore and never ever will. **I was using 60 pills a day. I couldn't function. I was arrested many times, and just kept doing it. After going through prison, I am cured!** Although, **it wasn't because of the corrective therapy** in prison, **it was the scare of the dreadful place. I got clean in there and a lightbulb turned on "What the hell was I thinking?"**. I have stopped. I am clean! I won't do it again.

# Crime Neg

## With Meta-Analyses

1. Reject meta-analyses. They’re biased for rehab – 2 reasons.

**Logan and Gaes 93** write[[74]](#footnote-74)

Separately, **studies like these** are perfectly legitimate, but they do not prove anything. They **are tautological;** they explain their results with after-the-fact hypotheses but do not test those explanations. **What**, then, **if a meta-analysis** of 100 studies **finds**, **a significant relation** between “risk” or “responsivity” or “needs,” on the one hand, and treatment effect, on the other? Could this metas-analysis be regarded as confirmatory--a summary of replications? Not necessarily. If the operational definitions of "risk" and "responsivity" and "needs" (the predictor variables) differ from study to study, we will learn nothing from a meta-analysis showing that treatment effect depends on these factors. Even if "risk" always were based, say, on prior record, at least two problems still could exist. **First, the criterion** of how long or how serious a record had to be in order to be "risky" still **could be defined differently, and ex post facto, for each study**; thus "risk" still would be tautological. **Second, researchers** typically **do not report all** the **interactions** they test; they tend to report **only those that make a difference. Thus** most of the **neg**ative **evidence** showing that treatment effects do not vary by level of risk **goes unreported. A bias is** thereby **created in favor of** the conclusion that **treatment** works, if only for cases in which risk makes a difference and therefore is reported.

2. Meta-meta-analyses that correct for the bias of individual meta-analyses conclude neg. **Wright 95** writes[[75]](#footnote-75)

Elsewhere **I have noted a variety of shortcomings in** the four **metaevaluations** that support the effectiveness of treatment (Wright 1994b; also see Lab and Whitehead 1990). To reach her optimistic conclusions, for example, **Garrett** (1985) **places great importance on** studies that use **outcome measures other than recidivism** rates. "Among the 34 studies in her metaevaluation that relied on recidivism rates as an outcome measure, treatment programs were found to produce virtually no benefits" (Wright 1994b:32). Although **Gendreau and Ross** (1979, 1987) rely mostly on recidivism rates as their outcome measure for demonstrating effectiveness of programs, they can be criticized for tending "to **see success where** many of **the rest** of us might **see failure"** (Wright 1994b:33). In their recent assessment of the effectiveness of offender diversion programs, for example, Gendreau and Ross (1987:357) conclude that "diversion can work," even though **only two** (16.7%) **of the 12 studies they review support this** position. **In an extensive survey of the metaevaluation evidence, I sided with the skeptics**, concluding that "there simply is no compelling evidence to suggest that rehabilitation programs ... show much promise for reducing the recidivism rates among criminal offenders" (Wright 1994b:36). In a more charitable assessment, however, the research evidence at this point may be inconclusive and the metaevaluation debate may have ended in a draw; some studies show the failure of treatment programs, while others report modest signs of success. **One cannot conclude that rehab**ilitation **programs are** largely **effective**; this position is taken in many of the most recent criminology textbooks.

3. TURN – Most recent empirics prove rehab increases crime. Your meta-analyses don’t account for this study. **Lukenbill 10** writes[[76]](#footnote-76)

**Another recent** evaluation of a **major reentry effort making things worse: the S**erious and **V**iolent **O**ffender **R**eentry **I**nitiative, **funded at $100 million dollars**, which worked with criminals inside of prison and out, showed that results for the adult males revealed that the program actually made the problem worse. **“Cumulative rearrest rates were calculated** for 3, 6, 9, 12, 15, 21, and 24 months after release. SVORI program participants were less likely to have an officially recorded rearrest during the 24-month period after release. The differences were small and not significant for the men. … **By 24 months** post-release, **the** reincarceration **rate for** adult male SVORI program **participants was** about **8% higher** than the non-SVORI rate (42%, as opposed to 39%)” (p. 125)

4. TURN – Personal testimony proves that rehab fails. Studies are wrong. The books are cooked. **Del Rosario 10**[[77]](#footnote-77)

**Jose Cortez, a[n]** recently-released **inmate** who served five months in Tehachapi State Prison in California, recalled the prison rehabilitation programs there: “We had classes for anger management, substance abuse, one for sexual predators, and others. The problem was that you had to sign up for them and there was a long waiting list. I was in there for five months and I never got entry into the substance abuse class.” Cortez, 23, is a rare exception to rehabilitation. Currently back in El Paso, he attributes his recovery to the strong support he has from his family. He **says** that a large part of **recidivism lies in** certain **factors** of prisoners’ lives **that the justice system can do very little**, if anything, **to control.** He refers to an anxiety of living a “normal life,” saying, “You try and go back to society and you get tired of the same thing. You find the easy way out. You make $1,500 selling dope. When you get out, there’s no luck finding a job.” Many prisoners, upon release, have no other choice but to return back to where they were before being incarcerated: the same environment, the same people, the same habits. During my tour of the Sanchez Unit, two prisoners acted as my and Lt. Quidachay’s chaperones. These men are his “gophers,” his right-hand men with the official title of “Special Support Inmates.” I was not allowed to ask their names or what they were in for. One of them did not speak English very well and kept quiet, while the other provided a consistent view of a prisoner’s reality with respect to environment: “The irony of the system is that prisoners are better in the system than when they’re out in society. It’s a controlled environment in here. Here, they’re healthier and drug-free.” Perhaps a counter-irony to that point is the perpetuation of gang life in prisons. “Some people join gangs because they need protection due to the crime they committed, some are snitches,” says Cortez of his experience with gangs in prison. Cortez, himself, is not gang-affiliated, but did get to know the workings of gangs from his time in prison. **“When you get out, you still have to do the gangs favors.** There’s communication within gangs inside and outside. You work for them until they say it’s over,” he says. According to Lt. Quidachay, there are 12 major gangs that the state of Texas deems as “security threats” and are monitored by the in-house Security Threat Group. These gangs include the Barrio Aztecas, Texas Syndicates, the Aryan Circle, and the Bloods among others. There are also lesser-monitored gangs, known in the Sanchez Unit as “clikas,” that consist of people brought together by region of origin. Lt. Quidachay estimates that “a good 75% of gang members will be back.” He also estimates that there should be about 15 to 20 new gang members who join in the Sanchez Unit annually. The prison environment, in addition to gang life, seems to generally affect prisoners negatively. “It’s a vicious circle. We have officers provoking the offenders and offenders provoking the officers. It just makes for a stressful environment,” says the Special Support Inmate. The first department I was taken on my tour was where they assigned incoming inmates their cells. Every inmate’s information was on a label that was put in a plastic keychain that was either white (Caucasians), blue (African-American), or orange (Hispanic). They do not simply assign inmates to rooms randomly. This is a security measure. “When you go to school, they teach you to tolerate people of all kinds,” says the SSI. “In jail, there’s no tolerance. There’s no diversity.” Cortez cites exposure to those knowledgeable to crime as another downfall of the prison environment’s supposed rehabilitative efforts. “You go in there with an Associate’s Degree in Crime and you leave with a Doctorate,” he says. “You learn a lot of crazy things in there. I’m not saying you end up doing them, but it’s in your head. You’re in there with the worst of the worst, and you learn from the best.” Outside the prisons walls, the world of prisoners on parole does not do much for rehabilitation either. Certainly, state-mandated **rehab**ilitation **programs are attended, but** the programs’ **efficiencies are hard to measure. “I’m ordered to go to AA three times a week,”** says Cortez. **“Most** of us **don’t go** because we really want to. **Lots** of them **go in the last 10 minutes** to have a piece of paper signed **to show their parole officer.”** “Speaking of parole officers, rehabilitation becomes a checklist,” says Dr. Theodore Curry, Associate Professor of Sociology at the University of Texas at El Paso, who teaches Criminology and conducts research in deviance, crime, and social control. “This checklist is not rehabilitation, it’s security.” The futility of rehabilitation in the justice system is a burden on taxpayers and the communities that departments of corrections and safety aim to keep safe. “Some criminals are just not interested in changing,” says Dr. Curry. “This does not make them good candidates, which makes rehabilitation programs a waste of time, money and effort.” “There is no rehabilitation,” says the SSI. “For some of these prisoners, their backgrounds are so engrained in them.” Most experts knowledgable with crime agree that the American justice system has been reduced to a gratuitously expensive system of punishment. Inefficiencies in funding have brought the responsibility of criminal justice to the private sector with the creation of private prisons. But to presume that privatizing prisons will make rehabilitation more effective is putting trust in the elusive Free Market to solve a problem as urgent and pervasive as crime. Public or private, the system merely prescribes momentary relief to the disease of punishment rather than curing it. Punishment is perspective, not change. “Change: it’s got to come from within,” says Detective Armando Fonseca, retired El Paso police officer, now working as a detective with the UTEP Police Department. “It’s having the want.”

5. Retribution solves best. Prop 8 proves – best controls for variables.

**Francis 08** writes[[78]](#footnote-78)

**California's Prop**osition **8**. Passed by popular referendum in 1982, this law **requires courts to lengthen the sentence of repeat offenders** in cases of willful homicide, forcible rape, robbery, aggravated assault with a firearm, and burglary of a residence. Kessler and Levitt find that the law requiring longer sentences has been effective in lowering crime. **Within** three years, crimes covered by the law fell an estimated 8 percent. **Seven years** after the law changed, these **crimes were down 20 percent.** In order to obtain these estimates, the authors collected data on crimes covered by Proposition 8 and on a set of crimes that was exempted from the law (burglary of a non-residence, aggravated assault without a firearm, simple assault, and larceny). **By comparing** California's **crime rates** for these two sets of crimes **before and after Prop**osition **8 to** rates in **the rest of the nation, they can isolate any causal effect of the law change.** Prior to the passage of Proposition 8, California's experience with the two sets of crimes mirrored that of the United States as a whole. Immediately after the law changed, crimes covered by Proposition 8 fell in California compared to the rest of the nation. Crimes not eligible under Proposition 8, however, showed no such pattern. The timing of the declines in crime also sheds light on the reasons why crime fell. The primary effect of Proposition 8 was to increase the sentence length of criminals who would have gone to prison even without the law. Thus, for the first few years after the law changed, it had no impact on the size of the prison population: everyone affected by the law would have been behind bars anyway. The authors argue that the immediate decreases in crime -- roughly half of the overall decline -- therefore must be attributable to deterrence. **Criminals, fearing** the **harsh**er **sentences** that awaited them, **reduced** their illegal **activity.** The fact that the impact of the law's change continued to grow steadily over time suggests that incapacitation also helped to reduce crime. Because convicted criminals were serving longer sentences, years after the law's change **they were still locked up, rather than** out on the streets **committing crime.** The results of this study are particularly relevant to the spread of "three-strikes laws" which entail extremely long sentences upon a third conviction of a crime. If criminals are effectively deterred by such laws, then it is possible that both the amount of crime and the number of prisoners can decline.

6. Aff studies fail – funding bias. **Farabee 5** writes[[79]](#footnote-79)

Opportunities abound to impinge on what is assumed to be the scientific process of evaluating offender rehabilitation programs and accurately reporting their results. In some cases, the resulting bias is unintentional, but often it occurs because of pressures exerted upon researchers that predispose them to deliver findings in support of a particular position. Two sources of such bias relate to dominant fixtures in the lives of academic researchers: funding and publishing. Funding-Related Bias. Conducting a **large-scale** outcome **evaluation of** a correctional **rehab**ilitation program **is** an enormous—and **costly**—undertaking. For statistical reasons (based on samplesize calculations that help ensure the study will be sensitive enough to detect a moderate effect of treatment should there be one), such an evaluation requires there be several hundred subjects in the treatment group and several hundred more in the comparison group. Because official records cannot adequately capture certain behaviors such as pre- and post-prison employment, drug use, or criminal activity, the subjects must be interviewed by trained interviewers. These interviews typically take place prior to program participation, and again at discharge. Next, since the ultimate goal of these programs is to reduce subsequent criminality, these same subjects must be tracked for at least one year after release and reinterviewed. At this point, since self-reported accounts of sensitive (and often illegal) behaviors cannot be assumed to tell the whole story, objective measures must also be collected, such as urine specimens, hair samples, RESEARCH METHODS 17arrest records, returns to custody, and so on. Now, two or three years after the study began, the analysis of the outcome data can commence. It is no surprise, then, that **most** of the prominent evaluations in this field **rely on funding from state** or federal **agencies** or, in some cases, large foundations. Often, the same agencies or organizations **that** fund the evaluation **also fund**ed **the project** being **evaluated. The stakes are high and**, for obvious reasons, they are also **personal.** Politicians have hazarded their careers on providing favorable results—and **researchers are expected to deliver** them. In one case, as my colleagues and I began an evaluation of a statewide treatment initiative for substance-abusing prisoners, the governor at the time told us, “I know treatment works; what I need you people to do is prove that it works!” For researchers whose sole support is derived from extramural grants and contracts, the subtle (or in some cases not-so-subtle) preferences of the funding source are difficult to ignore.

7. There’s a publishing bias, too. **Farabee 5** writes[[80]](#footnote-80)

Publication-Related Bias. Most of us have heard the expression “Publish or perish!” with reference to the mandate of academics. It is an accurate description. Not only do universities use the number and quality of journal publications as a yardstick to determine academic salaries and promotions, but funding agencies also focus on publications as a means of quantifying the productivity of prospective grantees. The emphasis on publications has its advantages. Many projects have been funded to researchers who collected the data and produced nothing. In the university setting, publications demonstrate that the researcher is making contributions to the field. And, because most journals are subject to a “blind” peer-review process, the number of articles that are actually published says something about the quality of the researcher’s work as well.

But the publication process has one very important drawback— an obsession with significance. I am, of course, referring to statistical significance, which bears no relationship to “meaningfulness.” Let us imagine that we are testing the effectiveness of a new 18 RETHINKING REHABILITATIONallergy medication. As one of the outcomes, subjects in the experimental and placebo groups are asked to rate their symptoms on a seven-point scale, with one representing no allergy symptoms and seven representing severe symptoms. With a large enough sample size, a half-point difference on this scale could be statistically significant, but at the same time clinically irrelevant. The converse could also occur, where seemingly large differences between the experimental and placebo groups do not meet the threshold for statistical significance. Nevertheless, **studies demonstrating** statistical **significance are significantly more likely to be published** than those that do not. And so, in the field of offender rehabilitation, the multitude of studies that show no significant effect of these programs are never seen. The preference given to studies with statistically significant findings is in many ways defensible. Statistical significance can serve as a filter for poorly designed studies, or erroneous hypotheses, that out of sheer luck appear to reveal a trend. But the published studies are those that form the research literature, and this literature is what (ideally) informs policy. It is at this level that the problem with significance becomes clear. **If researchers must publish** in order **not to perish,** and it is far easier to publish significant findings than nonsignificant ones, how should they deal with the results of an ineffective program—one in which there was no statistically significant difference between the treatment and comparison groups? One way to find significance is to go mining. Recall Martinson’s frustration with the state of the research he reviewed in the 1970s, and how the same problems were identified in reviews conducted a quarter of a century later. Researchers who did not find a significant difference after comparing the treatment group with the nontreatment group simply went on to make further comparisons that were unplanned and unjustified—**they “drill**ed **down” to smaller and smaller subgroups until they** could **find a significant effect.** If the program participants did no better than the comparison group of inmates who did not participate in the program, the researchers might ask, how did they compare to those who were kicked out of RESEARCH METHODS 19the program or to those who refused to enter the program in the first place? Or, how did the program participants who completed the program and volunteered to continue in an aftercare program while on parole compare to those who dropped out? Even if the program being evaluated were ineffective, we would expect these atypical subsets of prisoners to perform better after they left prison than those who had been “weeded out” along the way. These **data-mining techniques are common in the** correctional **treatment field**, and they misrepresent how well (or poorly) a program has actually performed. It is an approach that capitalizes on self-selection, in which the treatment group is pared down to the most amenable 10–20 percent of the original group while the comparison group is left intact. But now the researchers have a publishable study—one that lends further support to the nebulous claim that “this program appears to be effective for some offenders some of the time, under certain conditions.” It is important to keep in mind that treatment dollars are still being spent on the remaining majority of ignored treatment participants who did not complete treatment and enter and complete voluntary aftercare. Thus, it appears that some of the studies in this field—whether by implication or inference—have inflated expectations for the majority by emphasizing the outcomes of a self-selected few.

8. Reject meta-analysis. They’re watered down by bad studies. **Pratt 10** writes[[81]](#footnote-81)

**The** second potential **problem, which tends to be** the **more serious** of the two, **is that well-done studies may be included with studies using less rigorous** methodological **designs** (i.e., what is referred to as the "apples and oranges" problem), **which** may **bias the overall** effect size estimates of the **analysis** (Cohen 1977). The primary mechanism for minimizing this problem is to code each empirical study for methodological variations that could influence the effect size estimate(s) (e.g., see Glass, McGaw, and Smith 1981; Pratt 2002). Doing so is especially important when integrating the results of studies using correlational research designs. Statistical control, as opposed to experimental control, is typically used to assess key theoretical relationships in correlational designs (and in most criminal justice and criminological research). In turn, **estimates** of effect size from correlational designs **may be contingent**, at least in part, **on which variables are used as** statistical **controls**, on the composition of the sample, and on how theoretical variables are measured. Thus, controlling statistically such methodological variations across empirical studies becomes necessary for calculating valid and reliable mean effect size estimates.

9. There’s also a self-selection bias. **Farabee 5** writes[[82]](#footnote-82)

Many of the **studies** in Martinson’s review **that reported positive results**—that is, reductions in recidivism—were based on subsets of the experimental group, such as those who successfully completed the program (versus untreated offenders and dropouts), or those rated as “amenable” to treatment (versus untreated offenders and those receiving treatment but deemed “unamenable”). In other words, the studies **only evaluated** outcomes for what could be called the “cream of the crop”—**offenders** who were **motivated** and persistent **enough to complete treatment**—while ignoring the offenders for whom the treatment had been ineffective. Moreover, in the majority of these cases, Martinson found that when these others were not removed from the experimental group, the putative effects of treatment disappeared. Martinson went so far as to say, “It is possible that some of our treatment programs are working to some extent, but that our research is so bad that it is incapable of telling” (Martinson 1974, 49).Unfortunately, as the protreatment rhetoric has steadily regained its intensity over the thirty years since Martinson published his grim appraisal, the quality of the research on which it is based has not. A subsequent review of correctional treatment research examined studies conducted from 1968 through 1996. All were coded for research quality, ranging from one (poor) to four (excellent). Regarding the effectiveness of therapeutic communities, boot camps, and drug-focused group counseling in reducing recidivism, the authors reported a moderate effect for therapeutic communities and nonsignificant effects for the other two interventions (Pearson and Lipton 1999). However, the validity of these findings is challenged by the quality of the evaluations that produced them. None of the studies reviewed earned an “excellent” rating. All of the boot camp studies were rated “poor.” Of the seven therapeutic community evaluations, one was rated “good,” three “fair,” and three “poor.” Of the seven studies of drug-focused group counseling, five were rated “fair” and two “poor.” Not long afterward, a report issued by the National Research Council regarding the literature on correctional drug abuse treatment concluded, A number of studies of prison-based programs seem to demonstrate positive post-release outcomes, including reductions in drug use and crime along with improvements in employment, when inmates who have gone through prison treatment are compared with those who have not. . . . However, research conducted to date has not yet convincingly demonstrated the effectiveness of prison treatment programs. Even in studies that find a significant relationship between completion of a treatment program and post-release outcomes, the overall positive effect is attenuated by inconsistent findings. Moreover, **positive** treatment **outcomes may be** attributable to **selection bias** (e.g., the high level of commitment of offenders who completed the program rather than the capacity of the program to change their behavior). (Manski, Pepper, and Petrie 2001, 8.16) Methodological Shortcomings in Correctional Treatment Studies One reason for the lack of rigor among correctional treatment studies is that they occur in the “real world.” In the natural sciences—and even in the social sciences—studies can be designed that control for possible confounding influences so the researcher can state with relative certainty that differences between the experimental and control groups are indeed the result of the intervention. The sine qua non of these studies is the randomized design, in which subjects are randomly assigned to an experimental or control group. Given a sufficient sample size, it can be assumed that the two groups are identical. Thus, any differences in outcomes that occur can be confidently attributed to the effects of the treatment. Unfortunately, **field-based evaluations** of actual treatment programs are rarely implemented with such controls. Evaluators in correctional settings typically **have little say in how** the **inmates are selected** to participate in a treatment program or how the program is actually carried out. Furthermore, it is commonly argued that randomly assigning one group of offenders to receive treatment while denying it to another is unethical. This, of course, assumes that the program is beneficial. The **reluctance to use random assignment** in the evaluation of offender rehabilitation programs, though understandable, **reflects** the pervasive **a priori belief** in the field **that these programs are** inherently **effective.** By contrast, clinical trials to develop medications routinely employ random assignment on the basis that without conducting such a rigorous comparison the effectiveness of the medication cannot be established. As a result of the cultural bias against withholding the presumed benefits of social programs from offenders, correctional program evaluators are typically forced to rely on quasi-experimental research designs, such as comparing those who participated in a program with those who refused to participate. Many studies fail to include any comparison group and simply report the outcomes for those receiving treatment. In the end, it is the offenders—and taxpayers—who pay the price of ineffective programs being allowed to flourish in the absence of empirical scrutiny.

10. TURN – Rehab increases crime. Analytics and best empirics prove.

**Farabee 5**[[83]](#footnote-83)

Yes. Over the past decade, hundreds of correctional programs (adult and juvenile) in North America have been assessed using the Correctional Program Assessment Inventory (CPAI). The CPAI is designed to measure how closely a correctional rehabilitation program adheres to generally accepted principles of effective treatment in terms of implementation, client screening and assessment, types of treatment offered, staff training, quality assurances, and so forth. Recently, Gendreau, Goggin, and Smith (2001) summarized the overall findings of **the three largest** CPAI **surveys**. The researchers **found that** “while some excellent individual programs were discovered through these surveys, the blunt truth is that **70 percent of all programs ‘failed’** according to the CPAI.” Some particularly telling examples of specific program deficits included low intensity (frequency) of treatment, with some programs only taking place several hours per week; emphasis on factors that have not been shown to predict or cause crime, such as self-esteem, 38 RETHINKING REHABILITATIONdepression, or anxiety; and staff who were hired with no relevant experience or training, with most lacking a university degree. Rehabilitation programs that target characteristics that do not cause crime and operate at low intensity with poorly trained staff cannot be expected to have a lasting, positive impact on the offenders who pass through them. And they don’t. But somehow the expectations remain high. Another factor to consider is that prisons are exceedingly difficult places in which to provide treatment. A decade ago, two researchers associated with the Federal Bureau of Prisons recognized this problem and tried to make the case for a “confinement model” of incarceration, suggesting that rehabilitation be dropped as the primary goal of imprisonment (Logan and Gaes 1993). Instead, the researchers argued, “the mission of a prison is to keep prisoners—to keep them in, keep them safe, keep them in line, keep them healthy, and keep them busy—and to do it with fairness, without undue suffering, and as efficiently as possible.” Accordingly, programs should be allowed insofar as they do not interfere with this proposed mission of imprisonment, with the justification that they keep inmates engaged in constructive activities and, therefore, facilitate prison management. These researchers candidly stated, Prisons ought not to impose upon themselves . . . any responsibility for inmates’ future conduct, welfare, or social adjustment. These are primarily the responsibility of the offenders themselves, and perhaps secondarily a concern of some others outside the criminal justice system. (Logan and Gaes 1993, 261) Just as an overemphasis on rehabilitation distracts prisons from performing their role of protecting us from prisoners and the prisoners from each other, the circumstances of incarceration can also interfere with treatment. Based on a review of prison-based substance abuse programs in the United States, my colleagues and I (Farabee et al. 1999) identified several common implementation issues for developing programs in correctional settings: WHY DON’T THESE PROGRAMS WORK BETTER? 39• Client identification and referral. In most prison systems, determining who gets what kind of rehabilitative programming is not a scientific process. Some type of program participation is commonly mandated for all offenders or, in many cases, the need for treatment is determined by the absence of any other useful purpose the inmates might serve. In the latter case, many programs are only available to those whose custody levels preclude them from performing grounds maintenance, doing low-level desk jobs or janitorial tasks, or holding other jobs. **Comprehensive screening** and assessment **to determine who** actually **needs what** kind of **treatment is rare.** • Recruitment and training of treatment staff.As pointed out by Gendreau, Goggin, and Smith (2001), **hiring and retaining qualified treatment staff is a challenge** for most prison-based programs. This is largely a function of low wages, but it also occurs because prisons tend to be established in remote, rural areas where land is cheap and community resistance is low. As a result, the viable labor pool is often limited. • Redeployment of correctional staff. Evaluations of community-based offender treatment programs suggest that **staff turnover undermines program stability and effectiveness** and is especially destructive when it occurs among senior staff and in newer programs (Harland, Warren, and Brown 1979; Petersilia 1990). Although turnover among correctional staff is not unique to prisonbased treatment programs, the fact that it occurs by design is. Professional advancement for correctional officers typically requires frequent transfers to different yards or institutions. This lack of continuity affects the stability of the treatment environment. 40 RETHINKING REHABILITATIONWHY DON’T THESE PROGRAMS WORK BETTER? 41 • Coercion. Although not all participation in correctionsbased treatment is involuntary, coercion undoubtedly plays a role in most prison treatment admissions. Much of the growth in criminal justice treatment is based on the widely accepted dictum that involuntary clients tend to do as well as, or better than, voluntary clients (Leukefeld and Tims 1988; Simpson and Friend 1988). While it has been demonstrated that clients referred to community-based treatment through the criminal justice system remain in treatment longer than those not referred (Collins and Allison 1983; Leukefeld 1988), the long-term implications of external versus internal motivation as they relate to treatment outcomes are still unclear (Gerstein and Harwood 1990; Wild, Roberts, and Cooper 2002). Unfortunately, the research literature regarding the effectiveness of coerced treatment offers little guidance. A recent review revealed considerable variation in findings, most of which could be attributed to inconsistent methodologies, including different program types, outcome measures, and measures of legal involvement or coercion (Farabee, Prendergast, and Anglin 1998). Furthermore, none of these studies assessed the clients’ perception of coerced or voluntary status. Rather, involuntary status was typically inferred from the client’s criminal justice status at the time of treatment admission. The result is a lack of data comparing treatment effectiveness of involuntary and voluntary clients in the criminal justice system. • Aftercare. Although few clinicians or researchers challenge the importance of providing aftercare services to parolees, several elements in the criminal justicesystem temper the effectiveness of these sessions. First, **since many** prison-based clients **enter treatment involuntarily, only a minority** volunteer to **continue once** they are **no longer required** to do so. **Even those who do enter** a program may **leave early.** Second, many community-based providers are reluctant to admit parolees—particularly those with violent or sex offender statuses. And third, there is limited control over the type and quality of treatment available in a parolee’s county of residence, making it difficult to ensure a continuum of care consistent with his or her in-prison treatment model. Perhaps for these reasons, prison programs tend to be of lower quality than similar programs in the community. Indeed, a recent comparison of community- and prison-based substance abuse programs found that prison-based programs were of lower overall quality than their community-based counterparts. Moreover, a follow-up comparison three years later revealed that while the community-based programs tended to improve over time, the prison-based programs actually declined in quality (Latessa and Pealer 2002).

11. Don’t prefer meta-analysis. It’s less accurate. **Logan and Gaes 93** write[[84]](#footnote-84)

**Meta-analysis** is a legitimate research tool, but **is easy to misuse.** To be sure, meta-analysts are not deconstructionists who merely read into the literature whatever they please, but **their technique imposes such demanding methodological requirements** (Hedges and Olkin 1985) **that it is difficult to conduct a meta-analysis which controls** and adjusts **for errors** in the primary studies **without introducing new errors and biases of its own.** It is not surprising, then, that **separate reviews and meta-analyses** of research on the effectiveness **of** correctional **rehab**ilitation programs reach differing conclusions and **criticize each other's validity** (Andrews et al. 1990a, 1990b; Lab and Whitehead 1990).

## No Meta-Analyses

17. Reject aff studies – there’s a publishing bias. **Farabee 5** writes[[85]](#footnote-85)

Publication-Related Bias. Most of us have heard the expression “Publish or perish!” with reference to the mandate of academics. It is an accurate description. Not only do universities use the number and quality of journal publications as a yardstick to determine academic salaries and promotions, but funding agencies also focus on publications as a means of quantifying the productivity of prospective grantees. The emphasis on publications has its advantages. Many projects have been funded to researchers who collected the data and produced nothing. In the university setting, publications demonstrate that the researcher is making contributions to the field. And, because most journals are subject to a “blind” peer-review process, the number of articles that are actually published says something about the quality of the researcher’s work as well.

But the publication process has one very important drawback— an obsession with significance. I am, of course, referring to statistical significance, which bears no relationship to “meaningfulness.” Let us imagine that we are testing the effectiveness of a new 18 RETHINKING REHABILITATIONallergy medication. As one of the outcomes, subjects in the experimental and placebo groups are asked to rate their symptoms on a seven-point scale, with one representing no allergy symptoms and seven representing severe symptoms. With a large enough sample size, a half-point difference on this scale could be statistically significant, but at the same time clinically irrelevant. The converse could also occur, where seemingly large differences between the experimental and placebo groups do not meet the threshold for statistical significance. Nevertheless, **studies demonstrating** statistical **significance are significantly more likely to be published** than those that do not. And so, in the field of offender rehabilitation, the multitude of studies that show no significant effect of these programs are never seen. The preference given to studies with statistically significant findings is in many ways defensible. Statistical significance can serve as a filter for poorly designed studies, or erroneous hypotheses, that out of sheer luck appear to reveal a trend. But the published studies are those that form the research literature, and this literature is what (ideally) informs policy. It is at this level that the problem with significance becomes clear. **If researchers must publish** in order **not to perish,** and it is far easier to publish significant findings than nonsignificant ones, how should they deal with the results of an ineffective program—one in which there was no statistically significant difference between the treatment and comparison groups? One way to find significance is to go mining. Recall Martinson’s frustration with the state of the research he reviewed in the 1970s, and how the same problems were identified in reviews conducted a quarter of a century later. Researchers who did not find a significant difference after comparing the treatment group with the nontreatment group simply went on to make further comparisons that were unplanned and unjustified—**they “drill**ed **down” to smaller and smaller subgroups until they** could **find a significant effect.** If the program participants did no better than the comparison group of inmates who did not participate in the program, the researchers might ask, how did they compare to those who were kicked out of RESEARCH METHODS 19the program or to those who refused to enter the program in the first place? Or, how did the program participants who completed the program and volunteered to continue in an aftercare program while on parole compare to those who dropped out? Even if the program being evaluated were ineffective, we would expect these atypical subsets of prisoners to perform better after they left prison than those who had been “weeded out” along the way. These **data-mining techniques are common in the** correctional **treatment field**, and they misrepresent how well (or poorly) a program has actually performed. It is an approach that capitalizes on self-selection, in which the treatment group is pared down to the most amenable 10–20 percent of the original group while the comparison group is left intact. But now the researchers have a publishable study—one that lends further support to the nebulous claim that “this program appears to be effective for some offenders some of the time, under certain conditions.” It is important to keep in mind that treatment dollars are still being spent on the remaining majority of ignored treatment participants who did not complete treatment and enter and complete voluntary aftercare. Thus, it appears that some of the studies in this field—whether by implication or inference—have inflated expectations for the majority by emphasizing the outcomes of a self-selected few.

2. Meta-meta-analyses conclude neg. **Wright 95** writes[[86]](#footnote-86)

Elsewhere **I have noted a variety of shortcomings in** the four **metaevaluations** that support the effectiveness of treatment (Wright 1994b; also see Lab and Whitehead 1990). To reach her optimistic conclusions, for example, **Garrett** (1985) **places great importance on** studies that use **outcome measures other than recidivism** rates. "Among the 34 studies in her metaevaluation that relied on recidivism rates as an outcome measure, treatment programs were found to produce virtually no benefits" (Wright 1994b:32). Although **Gendreau and Ross** (1979, 1987) rely mostly on recidivism rates as their outcome measure for demonstrating effectiveness of programs, they can be criticized for tending "to **see success where** many of **the rest** of us might **see failure"** (Wright 1994b:33). In their recent assessment of the effectiveness of offender diversion programs, for example, Gendreau and Ross (1987:357) conclude that "diversion can work," even though **only two** (16.7%) **of the 12 studies they review support this** position. **In an extensive survey of the metaevaluation evidence, I sided with the skeptics**, concluding that "there simply is no compelling evidence to suggest that rehabilitation programs ... show much promise for reducing the recidivism rates among criminal offenders" (Wright 1994b:36). In a more charitable assessment, however, the research evidence at this point may be inconclusive and the metaevaluation debate may have ended in a draw; some studies show the failure of treatment programs, while others report modest signs of success. **One cannot conclude that rehab**ilitation **programs are** largely **effective**; this position is taken in many of the most recent criminology textbooks.

3. TURN – Most recent empirics prove rehab increases crime. **Lukenbill 10** writes[[87]](#footnote-87)

**Another recent** evaluation of a **major reentry effort making things worse: the S**erious and **V**iolent **O**ffender **R**eentry **I**nitiative, **funded at $100 million dollars**, which worked with criminals inside of prison and out, showed that results for the adult males revealed that the program actually made the problem worse. **“Cumulative rearrest rates were calculated** for 3, 6, 9, 12, 15, 21, and 24 months after release. SVORI program participants were less likely to have an officially recorded rearrest during the 24-month period after release. The differences were small and not significant for the men. … **By 24 months** post-release, **the** reincarceration **rate for** adult male SVORI program **participants was** about **8% higher** than the non-SVORI rate (42%, as opposed to 39%)” (p. 125)

4. TURN – Personal testimony proves that rehab fails. Studies are wrong. The books are cooked. **Del Rosario 10**[[88]](#footnote-88)

**Jose Cortez, a[n]** recently-released **inmate** who served five months in Tehachapi State Prison in California, recalled the prison rehabilitation programs there: “We had classes for anger management, substance abuse, one for sexual predators, and others. The problem was that you had to sign up for them and there was a long waiting list. I was in there for five months and I never got entry into the substance abuse class.” Cortez, 23, is a rare exception to rehabilitation. Currently back in El Paso, he attributes his recovery to the strong support he has from his family. He **says** that a large part of **recidivism lies in** certain **factors** of prisoners’ lives **that the justice system can do very little**, if anything, **to control.** He refers to an anxiety of living a “normal life,” saying, “You try and go back to society and you get tired of the same thing. You find the easy way out. You make $1,500 selling dope. When you get out, there’s no luck finding a job.” Many prisoners, upon release, have no other choice but to return back to where they were before being incarcerated: the same environment, the same people, the same habits. During my tour of the Sanchez Unit, two prisoners acted as my and Lt. Quidachay’s chaperones. These men are his “gophers,” his right-hand men with the official title of “Special Support Inmates.” I was not allowed to ask their names or what they were in for. One of them did not speak English very well and kept quiet, while the other provided a consistent view of a prisoner’s reality with respect to environment: “The irony of the system is that prisoners are better in the system than when they’re out in society. It’s a controlled environment in here. Here, they’re healthier and drug-free.” Perhaps a counter-irony to that point is the perpetuation of gang life in prisons. “Some people join gangs because they need protection due to the crime they committed, some are snitches,” says Cortez of his experience with gangs in prison. Cortez, himself, is not gang-affiliated, but did get to know the workings of gangs from his time in prison. **“When you get out, you still have to do the gangs favors.** There’s communication within gangs inside and outside. You work for them until they say it’s over,” he says. According to Lt. Quidachay, there are 12 major gangs that the state of Texas deems as “security threats” and are monitored by the in-house Security Threat Group. These gangs include the Barrio Aztecas, Texas Syndicates, the Aryan Circle, and the Bloods among others. There are also lesser-monitored gangs, known in the Sanchez Unit as “clikas,” that consist of people brought together by region of origin. Lt. Quidachay estimates that “a good 75% of gang members will be back.” He also estimates that there should be about 15 to 20 new gang members who join in the Sanchez Unit annually. The prison environment, in addition to gang life, seems to generally affect prisoners negatively. “It’s a vicious circle. We have officers provoking the offenders and offenders provoking the officers. It just makes for a stressful environment,” says the Special Support Inmate. The first department I was taken on my tour was where they assigned incoming inmates their cells. Every inmate’s information was on a label that was put in a plastic keychain that was either white (Caucasians), blue (African-American), or orange (Hispanic). They do not simply assign inmates to rooms randomly. This is a security measure. “When you go to school, they teach you to tolerate people of all kinds,” says the SSI. “In jail, there’s no tolerance. There’s no diversity.” Cortez cites exposure to those knowledgeable to crime as another downfall of the prison environment’s supposed rehabilitative efforts. “You go in there with an Associate’s Degree in Crime and you leave with a Doctorate,” he says. “You learn a lot of crazy things in there. I’m not saying you end up doing them, but it’s in your head. You’re in there with the worst of the worst, and you learn from the best.” Outside the prisons walls, the world of prisoners on parole does not do much for rehabilitation either. Certainly, state-mandated **rehab**ilitation **programs are attended, but** the programs’ **efficiencies are hard to measure. “I’m ordered to go to AA three times a week,”** says Cortez. **“Most** of us **don’t go** because we really want to. **Lots** of them **go in the last 10 minutes** to have a piece of paper signed **to show their parole officer.”** “Speaking of parole officers, rehabilitation becomes a checklist,” says Dr. Theodore Curry, Associate Professor of Sociology at the University of Texas at El Paso, who teaches Criminology and conducts research in deviance, crime, and social control. “This checklist is not rehabilitation, it’s security.” The futility of rehabilitation in the justice system is a burden on taxpayers and the communities that departments of corrections and safety aim to keep safe. “Some criminals are just not interested in changing,” says Dr. Curry. “This does not make them good candidates, which makes rehabilitation programs a waste of time, money and effort.” “There is no rehabilitation,” says the SSI. “For some of these prisoners, their backgrounds are so engrained in them.” Most experts knowledgable with crime agree that the American justice system has been reduced to a gratuitously expensive system of punishment. Inefficiencies in funding have brought the responsibility of criminal justice to the private sector with the creation of private prisons. But to presume that privatizing prisons will make rehabilitation more effective is putting trust in the elusive Free Market to solve a problem as urgent and pervasive as crime. Public or private, the system merely prescribes momentary relief to the disease of punishment rather than curing it. Punishment is perspective, not change. “Change: it’s got to come from within,” says Detective Armando Fonseca, retired El Paso police officer, now working as a detective with the UTEP Police Department. “It’s having the want.”

5. Retribution solves best. Prop 8 proves – best controls for variables.

**Francis 08** writes[[89]](#footnote-89)

**California's Prop**osition **8**. Passed by popular referendum in 1982, this law **requires courts to lengthen the sentence of repeat offenders** in cases of willful homicide, forcible rape, robbery, aggravated assault with a firearm, and burglary of a residence. Kessler and Levitt find that the law requiring longer sentences has been effective in lowering crime. **Within** three years, crimes covered by the law fell an estimated 8 percent. **Seven years** after the law changed, these **crimes were down 20 percent.** In order to obtain these estimates, the authors collected data on crimes covered by Proposition 8 and on a set of crimes that was exempted from the law (burglary of a non-residence, aggravated assault without a firearm, simple assault, and larceny). **By comparing** California's **crime rates** for these two sets of crimes **before and after Prop**osition **8 to** rates in **the rest of the nation, they can isolate any causal effect of the law change.** Prior to the passage of Proposition 8, California's experience with the two sets of crimes mirrored that of the United States as a whole. Immediately after the law changed, crimes covered by Proposition 8 fell in California compared to the rest of the nation. Crimes not eligible under Proposition 8, however, showed no such pattern. The timing of the declines in crime also sheds light on the reasons why crime fell. The primary effect of Proposition 8 was to increase the sentence length of criminals who would have gone to prison even without the law. Thus, for the first few years after the law changed, it had no impact on the size of the prison population: everyone affected by the law would have been behind bars anyway. The authors argue that the immediate decreases in crime -- roughly half of the overall decline -- therefore must be attributable to deterrence. **Criminals, fearing** the **harsh**er **sentences** that awaited them, **reduced** their illegal **activity.** The fact that the impact of the law's change continued to grow steadily over time suggests that incapacitation also helped to reduce crime. Because convicted criminals were serving longer sentences, years after the law's change **they were still locked up, rather than** out on the streets **committing crime.** The results of this study are particularly relevant to the spread of "three-strikes laws" which entail extremely long sentences upon a third conviction of a crime. If criminals are effectively deterred by such laws, then it is possible that both the amount of crime and the number of prisoners can decline.

6. Aff studies fail – funding bias. **Farabee 5** writes[[90]](#footnote-90)

Opportunities abound to impinge on what is assumed to be the scientific process of evaluating offender rehabilitation programs and accurately reporting their results. In some cases, the resulting bias is unintentional, but often it occurs because of pressures exerted upon researchers that predispose them to deliver findings in support of a particular position. Two sources of such bias relate to dominant fixtures in the lives of academic researchers: funding and publishing. Funding-Related Bias. Conducting a **large-scale** outcome **evaluation of** a correctional **rehab**ilitation program **is** an enormous—and **costly**—undertaking. For statistical reasons (based on samplesize calculations that help ensure the study will be sensitive enough to detect a moderate effect of treatment should there be one), such an evaluation requires there be several hundred subjects in the treatment group and several hundred more in the comparison group. Because official records cannot adequately capture certain behaviors such as pre- and post-prison employment, drug use, or criminal activity, the subjects must be interviewed by trained interviewers. These interviews typically take place prior to program participation, and again at discharge. Next, since the ultimate goal of these programs is to reduce subsequent criminality, these same subjects must be tracked for at least one year after release and reinterviewed. At this point, since self-reported accounts of sensitive (and often illegal) behaviors cannot be assumed to tell the whole story, objective measures must also be collected, such as urine specimens, hair samples, RESEARCH METHODS 17arrest records, returns to custody, and so on. Now, two or three years after the study began, the analysis of the outcome data can commence. It is no surprise, then, that **most** of the prominent evaluations in this field **rely on funding from state** or federal **agencies** or, in some cases, large foundations. Often, the same agencies or organizations **that** fund the evaluation **also fund**ed **the project** being **evaluated. The stakes are high and**, for obvious reasons, they are also **personal.** Politicians have hazarded their careers on providing favorable results—and **researchers are expected to deliver** them. In one case, as my colleagues and I began an evaluation of a statewide treatment initiative for substance-abusing prisoners, the governor at the time told us, “I know treatment works; what I need you people to do is prove that it works!” For researchers whose sole support is derived from extramural grants and contracts, the subtle (or in some cases not-so-subtle) preferences of the funding source are difficult to ignore.

7. There’s also a self-selection bias. **Farabee 5** writes[[91]](#footnote-91)

Many of the **studies** in Martinson’s review **that reported positive results**—that is, reductions in recidivism—were based on subsets of the experimental group, such as those who successfully completed the program (versus untreated offenders and dropouts), or those rated as “amenable” to treatment (versus untreated offenders and those receiving treatment but deemed “unamenable”). In other words, the studies **only evaluated** outcomes for what could be called the “cream of the crop”—**offenders** who were **motivated** and persistent **enough to complete treatment**—while ignoring the offenders for whom the treatment had been ineffective. Moreover, in the majority of these cases, Martinson found that when these others were not removed from the experimental group, the putative effects of treatment disappeared. Martinson went so far as to say, “It is possible that some of our treatment programs are working to some extent, but that our research is so bad that it is incapable of telling” (Martinson 1974, 49).Unfortunately, as the protreatment rhetoric has steadily regained its intensity over the thirty years since Martinson published his grim appraisal, the quality of the research on which it is based has not. A subsequent review of correctional treatment research examined studies conducted from 1968 through 1996. All were coded for research quality, ranging from one (poor) to four (excellent). Regarding the effectiveness of therapeutic communities, boot camps, and drug-focused group counseling in reducing recidivism, the authors reported a moderate effect for therapeutic communities and nonsignificant effects for the other two interventions (Pearson and Lipton 1999). However, the validity of these findings is challenged by the quality of the evaluations that produced them. None of the studies reviewed earned an “excellent” rating. All of the boot camp studies were rated “poor.” Of the seven therapeutic community evaluations, one was rated “good,” three “fair,” and three “poor.” Of the seven studies of drug-focused group counseling, five were rated “fair” and two “poor.” Not long afterward, a report issued by the National Research Council regarding the literature on correctional drug abuse treatment concluded, A number of studies of prison-based programs seem to demonstrate positive post-release outcomes, including reductions in drug use and crime along with improvements in employment, when inmates who have gone through prison treatment are compared with those who have not. . . . However, research conducted to date has not yet convincingly demonstrated the effectiveness of prison treatment programs. Even in studies that find a significant relationship between completion of a treatment program and post-release outcomes, the overall positive effect is attenuated by inconsistent findings. Moreover, **positive** treatment **outcomes may be** attributable to **selection bias** (e.g., the high level of commitment of offenders who completed the program rather than the capacity of the program to change their behavior). (Manski, Pepper, and Petrie 2001, 8.16) Methodological Shortcomings in Correctional Treatment Studies One reason for the lack of rigor among correctional treatment studies is that they occur in the “real world.” In the natural sciences—and even in the social sciences—studies can be designed that control for possible confounding influences so the researcher can state with relative certainty that differences between the experimental and control groups are indeed the result of the intervention. The sine qua non of these studies is the randomized design, in which subjects are randomly assigned to an experimental or control group. Given a sufficient sample size, it can be assumed that the two groups are identical. Thus, any differences in outcomes that occur can be confidently attributed to the effects of the treatment. Unfortunately, **field-based evaluations** of actual treatment programs are rarely implemented with such controls. Evaluators in correctional settings typically **have little say in how** the **inmates are selected** to participate in a treatment program or how the program is actually carried out. Furthermore, it is commonly argued that randomly assigning one group of offenders to receive treatment while denying it to another is unethical. This, of course, assumes that the program is beneficial. The **reluctance to use random assignment** in the evaluation of offender rehabilitation programs, though understandable, **reflects** the pervasive **a priori belief** in the field **that these programs are** inherently **effective.** By contrast, clinical trials to develop medications routinely employ random assignment on the basis that without conducting such a rigorous comparison the effectiveness of the medication cannot be established. As a result of the cultural bias against withholding the presumed benefits of social programs from offenders, correctional program evaluators are typically forced to rely on quasi-experimental research designs, such as comparing those who participated in a program with those who refused to participate. Many studies fail to include any comparison group and simply report the outcomes for those receiving treatment. In the end, it is the offenders—and taxpayers—who pay the price of ineffective programs being allowed to flourish in the absence of empirical scrutiny.

8. TURN – Rehab increases crime. Analytics and best empirics prove.

**Farabee 5**[[92]](#footnote-92)

Yes. Over the past decade, hundreds of correctional programs (adult and juvenile) in North America have been assessed using the Correctional Program Assessment Inventory (CPAI). The CPAI is designed to measure how closely a correctional rehabilitation program adheres to generally accepted principles of effective treatment in terms of implementation, client screening and assessment, types of treatment offered, staff training, quality assurances, and so forth. Recently, Gendreau, Goggin, and Smith (2001) summarized the overall findings of **the three largest** CPAI **surveys**. The researchers **found that** “while some excellent individual programs were discovered through these surveys, the blunt truth is that **70 percent of all programs ‘failed’** according to the CPAI.” Some particularly telling examples of specific program deficits included low intensity (frequency) of treatment, with some programs only taking place several hours per week; emphasis on factors that have not been shown to predict or cause crime, such as self-esteem, 38 RETHINKING REHABILITATIONdepression, or anxiety; and staff who were hired with no relevant experience or training, with most lacking a university degree. Rehabilitation programs that target characteristics that do not cause crime and operate at low intensity with poorly trained staff cannot be expected to have a lasting, positive impact on the offenders who pass through them. And they don’t. But somehow the expectations remain high. Another factor to consider is that prisons are exceedingly difficult places in which to provide treatment. A decade ago, two researchers associated with the Federal Bureau of Prisons recognized this problem and tried to make the case for a “confinement model” of incarceration, suggesting that rehabilitation be dropped as the primary goal of imprisonment (Logan and Gaes 1993). Instead, the researchers argued, “the mission of a prison is to keep prisoners—to keep them in, keep them safe, keep them in line, keep them healthy, and keep them busy—and to do it with fairness, without undue suffering, and as efficiently as possible.” Accordingly, programs should be allowed insofar as they do not interfere with this proposed mission of imprisonment, with the justification that they keep inmates engaged in constructive activities and, therefore, facilitate prison management. These researchers candidly stated, Prisons ought not to impose upon themselves . . . any responsibility for inmates’ future conduct, welfare, or social adjustment. These are primarily the responsibility of the offenders themselves, and perhaps secondarily a concern of some others outside the criminal justice system. (Logan and Gaes 1993, 261) Just as an overemphasis on rehabilitation distracts prisons from performing their role of protecting us from prisoners and the prisoners from each other, the circumstances of incarceration can also interfere with treatment. Based on a review of prison-based substance abuse programs in the United States, my colleagues and I (Farabee et al. 1999) identified several common implementation issues for developing programs in correctional settings: WHY DON’T THESE PROGRAMS WORK BETTER? 39• Client identification and referral. In most prison systems, determining who gets what kind of rehabilitative programming is not a scientific process. Some type of program participation is commonly mandated for all offenders or, in many cases, the need for treatment is determined by the absence of any other useful purpose the inmates might serve. In the latter case, many programs are only available to those whose custody levels preclude them from performing grounds maintenance, doing low-level desk jobs or janitorial tasks, or holding other jobs. **Comprehensive screening** and assessment **to determine who** actually **needs what** kind of **treatment is rare.** • Recruitment and training of treatment staff.As pointed out by Gendreau, Goggin, and Smith (2001), **hiring and retaining qualified treatment staff is a challenge** for most prison-based programs. This is largely a function of low wages, but it also occurs because prisons tend to be established in remote, rural areas where land is cheap and community resistance is low. As a result, the viable labor pool is often limited. • Redeployment of correctional staff. Evaluations of community-based offender treatment programs suggest that **staff turnover undermines program stability and effectiveness** and is especially destructive when it occurs among senior staff and in newer programs (Harland, Warren, and Brown 1979; Petersilia 1990). Although turnover among correctional staff is not unique to prisonbased treatment programs, the fact that it occurs by design is. Professional advancement for correctional officers typically requires frequent transfers to different yards or institutions. This lack of continuity affects the stability of the treatment environment. 40 RETHINKING REHABILITATIONWHY DON’T THESE PROGRAMS WORK BETTER? 41 • Coercion. Although not all participation in correctionsbased treatment is involuntary, coercion undoubtedly plays a role in most prison treatment admissions. Much of the growth in criminal justice treatment is based on the widely accepted dictum that involuntary clients tend to do as well as, or better than, voluntary clients (Leukefeld and Tims 1988; Simpson and Friend 1988). While it has been demonstrated that clients referred to community-based treatment through the criminal justice system remain in treatment longer than those not referred (Collins and Allison 1983; Leukefeld 1988), the long-term implications of external versus internal motivation as they relate to treatment outcomes are still unclear (Gerstein and Harwood 1990; Wild, Roberts, and Cooper 2002). Unfortunately, the research literature regarding the effectiveness of coerced treatment offers little guidance. A recent review revealed considerable variation in findings, most of which could be attributed to inconsistent methodologies, including different program types, outcome measures, and measures of legal involvement or coercion (Farabee, Prendergast, and Anglin 1998). Furthermore, none of these studies assessed the clients’ perception of coerced or voluntary status. Rather, involuntary status was typically inferred from the client’s criminal justice status at the time of treatment admission. The result is a lack of data comparing treatment effectiveness of involuntary and voluntary clients in the criminal justice system. • Aftercare. Although few clinicians or researchers challenge the importance of providing aftercare services to parolees, several elements in the criminal justicesystem temper the effectiveness of these sessions. First, **since many** prison-based clients **enter treatment involuntarily, only a minority** volunteer to **continue once** they are **no longer required** to do so. **Even those who do enter** a program may **leave early.** Second, many community-based providers are reluctant to admit parolees—particularly those with violent or sex offender statuses. And third, there is limited control over the type and quality of treatment available in a parolee’s county of residence, making it difficult to ensure a continuum of care consistent with his or her in-prison treatment model. Perhaps for these reasons, prison programs tend to be of lower quality than similar programs in the community. Indeed, a recent comparison of community- and prison-based substance abuse programs found that prison-based programs were of lower overall quality than their community-based counterparts. Moreover, a follow-up comparison three years later revealed that while the community-based programs tended to improve over time, the prison-based programs actually declined in quality (Latessa and Pealer 2002).

# PVP Crime AC v2 Neg (Harvard Update)

**Rawls NC**

Reaching fair moral principles requires placing oneself behind a Veil of Ignorance.

**Rawls 99** writes[[93]](#footnote-93)

One should not be misled, then, by the somewhat unusual conditions which characterize the original position.  The idea here is simply to make vivid to ourselves the restrictions that it seems reasonable to impose on arguments for principles of justice, and therefore on those principles themselves.  Thus **it seems reasonable** and generally acceptable **that no one should be advantaged** or disadvantaged **by natural fortune** or social circumstances in the choice of principles.  **It also seems widely agreed that it should be impossible to tailor principles to** the circumstances of **one’s own case**. We should insure further that particular inclinations and aspirations, and persons’ conceptions of their good do not affect the principles adopted.  The aim is to rule out those principles that it would be rational to propose for acceptance, however little the chance of success, only if one knew certain things that are irrelevant from the standpoint of justice.  For example, if a man knew that he was wealthy, he might find it rational to advance the principle that various taxes for welfare measures be counted unjust; if he knew that he was poor, he would most likely propose the contrary principle. **To represent the desired restrictions one imagines a situation in which everyone is deprived of this sort of information.  One excludes the knowledge** of those contingencies **which sets men at odds and allows them to be guided by their prejudices**.

In a criminal justice context, the perspectives of the hip hop community come first under the Veil of Ignorance. **Butler 4** writes[[94]](#footnote-94)

How would these ideas contribute to a theory of punishment? In a sense the hip-hop nation, and especially its black and Latino citizens, are [is] best situated to design a punishment regime. The philosopher John **Rawls suggests that law is most just when** it is **made by people who don’t know how they’ll fare under it.** It is impossible, of course, to actually live in Rawls’ netherworld. As Rawls recognized, our instinct is to assess public policy from the standpoint of our individual interest. **Since**, however, **minority members of the hip-hop community are the most likely to be** arrested and **incarcerated for crimes** – and also the most likely to be victims of crimes – they get closer to the netherworld than most of us. Ideally **their theory of punishment will value** both **public safety and fairness to lawbreakers.** This project is not intended to suggest that hip-hop culture has explicitly constructed a theory of punishment. The claim is more limited, but still, I hope, profound. **Thousands of hip hop songs consider crime and punishment.** These voices are worth listening to – they evaluate criminal justice from the bottom up. Our current punishment regime has been designed from the top down, and that, in part, explains why many perceive it to be ineffective or unfair. **We might punish better if** the **ghetto philosophers and** the **classic philosophers met.** They address many of the same issues in punishment, including causation, harm, responsibility, excuse and justification.

The hip hop community requires prioritizing retribution in the criminal justice system. 2 reasons.

(a) Consistent message in rap lyrics proves. **Butler 4** writes[[95]](#footnote-95)

**Hip hop lyrics exhibit a strong conviction that wrongdoers should suffer consequences** for their acts**. In the words of Jay-Z: “Now if you shoot my dog, I’ma kill yo’ cat/Just the unwritten laws of rap – know dat/ For every action there’s a reaction.” The culture abounds with narratives about** revenge, **retaliation, and avenging wrongs.** The narrator in Eve’s *“Love is Blind”* kills the man who abuses her close friend. Likewise, Nelly warns “if you take a life, you gon’ lose yours too.”

(b) The hip hop community values retribution out of respect for free choice, while accounting for social conditions that cause crime. **Butler 4** writes[[96]](#footnote-96)

**The most important** civic **virtue in** the **hip hop** nation **is respect. One of the culture’s contributions to** the **English** language **is the verb “dis**,**” which means “to disrespect.”** To dis someone is worse than to insult them – it is to deny his or her humanity. Hip hop vocabulary also includes the term “props” – to give props is to afford proper respect. The misogyny and homophobia in some hip hop makes it difficult to claim a universal value of respect for all persons. **Virtually all hip hop**, however, **connotes** a **respect for the dignity of lawbreakers.** In attempting to reconcile **hip hop’s impulse for righting wrongs** with its **[and] respect for dignity**– even the dignity of criminals– a criminal law scholar immediately thinks of **[requires] retribution.** This justification of punishment is premised on the idea of “just deserts.” When one harms another, justice requires that he or she be harmed in return. Retributivists believe that **punishment communicates respect for the criminal by recognizing him as a moral agent** and respect for the victim by avenging his harm. The Bill of Rights codifies the retributive concern for the criminal's humanity. The Eighth Amendment prohibits the state from punishing criminals in a manner that is inconsistent with their dignity. The Supreme Court has also interpreted the Eighth Amendment as requiring that criminals not be punished disproportionately to their crime, although it has given lawmakers wide latitude in determining what proportionate punishment is.115 How would a profound respect for the humanity of criminals change the way we punish them? It might require a more meaningful concept of proportionate punishment than the Supreme Court has currently endorsed.116 Harsh sentences for drug crimes, for example, are premised on utilitarian, not retributive, justifications.117 Such penalties have been the subject of much criticism in the hip-hop community. They have been defended by police and lawmakers on the ground that they keep drugs out of low-income and minority communities. If this assertion is true, it would not persuade retributivists, who require proportionality even when disproportionate punishment is socially useful.118 While I will later suggest that the hip-hop nation probably would not punish drug users, if it did, its embrace of retribution means they would be punished significantly less than they are now. 119 Hip-hop theory would reject or modify some elements of retribution. Assaultive retribution, for example, is premised on hate of the criminal, which is the opposite of the hip-hop perspective.120 More significantly, however,some theories of retribution are premised on a world in which benefits and burdens are distributed equally; it is just to punish the criminal, the argument goes, when he upsets the balance.121 **The hip-hop nation** does not share this world view; it **sees** benefits and burdens as allocated in an uneven and racialist manner. Through this lens, **the "choice" of a poor person to sell drugs** has a **[as] different** and less blameworthy social meaning **than the choice of a middle class person to engage in**, say, **insider trading.**122 In "Dope Man,'" Jay-Z raps, "I grew where you hold your blacks up/ Trap us, expect us not to pick gats up/ Where you drop your cracks off by the Mack Trucks/ Destroy our dreams of lawyers and actors/ Keep us spiralin', goin' backwards."123 **Hip-hop culture, like retributive philosophy, [still] emphasizes the importance of** moral autonomy and **free agency.**124 Both posit that people who freely choose to do wrong should be punished. Where hip-hop theorists and traditional retributivists diverge, however, is on how to determine responsibility for individual acts. Hip-hop culture emphasizes the role of environment in determining conduct, whereas classic retributivist theory focuses on individual choice. In essence, hip-hop culture discounts responsibility when criminal conduct has been shaped by a substandard environment. OutKast, for example, asserts "knowing each and every nigger sellin', but can you blame/ The fact the only way a brother can survive the game."125 The **hip-hop analysis does not deny that the poor are moral agents; it is instead a[n]** quasiscientific or **empirical claim about the nature of free choice. In the words of NWA: [A] nigga wit' nothin' to lose/One of the few who's been accused and abused/Of the crime of poisonin' young minds/But you don't know shit 'til you've been in my shoes.**

**PTX DA**

CIR will pass, but polcap’s key. State of the Union gives Obama momentum.

**Iqbal 2-13** writes[[97]](#footnote-97)

**Now more than at any point** in his administration **does** President **Obama have the political capital to broker a deal on immigration reform– a key issue among** many **voters** who put him back into office in 2012. Desperately **trying to rebrand themselves as** an **inclusive** party, many **Republicans** have **also embraced immigration reform as essential to not only their self-interest, but their survival as a party.**

In **his State of the Union** address, Obama **framed** his ideas on **immigration in a way that crosses the aisle and could pave the way** for important legislation. **However, there are a number of radicals in Congress who will** certainly **oppose reform**, no matter what shape it takes.

Republican Senator John **McCain, whose constituency in Arizona are key players** in the immigration reform debate, **warned** an audience hosted by The Atlantic **that negotiations could see push back** on a particularly sensitive topic: the issuance of guest worker visas.

Valuing rehab kills Obama’s polcap. **Trinick 12** writes[[98]](#footnote-98)

Reasons why criminal justice policy is ignored 1) It’s politically toxic. **Any move to alter the** current **tough stance** on criminal justice **is** inevitably **viewed as** being **‘soft on crime’**, regardless of how much sense a new policy might make or how much it might reduce crime in the long-run. No politician, especially one running in a race as close as the current match-up, wants to be seen as ‘soft on crime’. For Republicans, “the party of law and order”, it would be sacrilege to even suggest a change in policy. For **Democrats, especially Obama,** the **aim** appears to be **to avoid looking “weak and liberal”** and avoid alienating middle-class white voters. In addition, it lacks appeal — few voters (read ‘people likely to vote in swing states’) care about the issue as they perceive that it does not affect them and it requires hard choices to be made. 2) People don’t like to have to think about it. This relates to the point above about having to make hard choices, but there is more to it. By its very nature, criminal justice is difficult and unpleasant to think about and so most people shy away from it — who wants to think about prison and criminals when there’s the new series of Homeland? The majority of people will have no interaction with the criminal justice system, especially not on the ‘wrong’ side of it, and so they shut their eyes, pretend they cannot see the problem and hope it will go away. The politicians and media know this and cater to the demands of their audiences. 3) Changes would require the states and the Federal government to work together. This shouldn’t be a deal-breaker, but it adds more complexity to an already difficult area. **Both states and the federal government maintain prisons** and any systematic attempt to reduce the prison population would require co-operation and negotiation between all the parties. In gridlocked Washington, this would be unlikely even if the topic was not so politically explosive. 4) Criminal justice policy is hard. Really hard. **What should be the moral basis** for imprisoning criminals — Deterrence? **Rehabilitation?** Proportionate punishment? Public protection? **Retribution?** Economic reality? Most countries follow a mix of these, but a different balance of the justifications can alter dramatically the policy pursued in a particular jurisdiction. **Agreeing on the** precise **balance is** something **fraught with** potential for **disagreement, even among** those who have no political concerns, like **academics.** On top of this, of course, is the fact that a **different weighting of** the **justifications can have real cost implications** — for example, both rehabilitation programmes and capital punishment are hugely expensive.

Immigration reform is key to soft power. **Nye 12**[[99]](#footnote-99)

Equally important are **immigration**’s **benefits** for **America’s soft power. The fact that people want to come to the US enhances its appeal**, and immigrants’ upward mobility is attractive to people in other countries. The US is a magnet, and many people can envisage themselves as Americans, in part because so many successful Americans look like them. Moreover, **connections between immigrants and their families** and friends **back home** help to **convey accurate and positive information about the US.**

[CommentsView/Create comment on this paragraph](http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye)Likewise, **because the presence of many cultures creates** avenues of **connection with other countries, it** helps to **broaden[s] Americans’** attitudes and **views of the world** in an era of globalization. Rather than diluting hard and soft power, immigration enhances [it] both.

[CommentsView/Create comment on this paragraph](http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye)Singapore’s former leader, Lee Kwan Yew, an astute observer of both the US and China, argues that China will not surpass the US as the leading power of the twenty-first century, precisely because **the US attracts the best and brightest from the rest of the world** and melds them **into a diverse culture of creativity.** China has a larger population to recruit from domestically, but, in Lee’s view, its Sino-centric culture will make it less creative than the US.

[CommentsView/Create comment on this paragraph](http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye)That is a view that Americans should take to heart. **If Obama succeeds in enacting immigration reform in his second term, he will** have gone a long way toward fulfilling his promise to **maintain the strength of the US.**

Soft power solves multiple scenarios for extinction. **Nye and Armitage 07**[[100]](#footnote-100)

Soft power is the ability to attract people to our side without coercion. Legitimacy is central to soft power. **If a** people or **nation believes American objectives to be legitimate, we are more likely to persuade them to follow our lead** without using threats and bribes. **Legitimacy can also reduce opposition to**—and the costs of—**using hard power when the situation demands.** Appealing to others’ values, interests, and preferences can, in certain circumstances, replace the dependence on carrots and sticks. Cooperation is always a matter of degree, and it is profoundly influenced by attraction…The information age has heightened political consciousness, but also made political groupings less cohesive. Small, adaptable, transnational networks have access to tools of destruction that are increasingly cheap, easy to conceal, and more readily available. Although the integration of the global economy has brought tremendous benefits, **threats such as pandemic disease and the collapse of financial markets are more distributed and more likely to arise without warning. The threat of** widespread physical harm to the planet posed by **nuclear catastrophe** has existed for half a century, though the realization of the threat **will become more likely as the number of nuclear weapons states increases.** The potential security challenges posed by **climate change raise[s]** the possibility of an entirely **new** set of **threats** for the United States **to consider**… **States** and non-state actors who improve their ability to draw in allies will gain competitive advantages in today’s environment. Those **who alienate potential friends will stand at greater risk.** China has invested in its soft power to ensure access to resources and to ensure against efforts to undermine its military modernization. **Terrorists depend on** their ability to attract **support from the crowd** at least as much as their ability to destroy the enemy’s will to fight.

## AC

### AT Part 1 Interpretations

1. I meet. I advocate that the state give punishment in a means based fashion. I don’t have to defend that it’s good for means based reasons.

Counter-interpretation: neg burden is to prove that a competitive policy is better than the aff.

1. Key to test the aff from every angle. Maximizes topic education. His interp would make his own contention irrelevant.

2. No impact to fairness. Hard debate teaches critical thinking.

3. Neg flex good. Checks back infinite pre-round prep for the aff.

4. Retribution is consistent with util. It’s a pragmatic question. **Rawls 55**[[101]](#footnote-101)

On the other hand **we have** the institution of **punishment** itself, and recommend and accept various changes to it, **because it is thought by the** (ideal) **legislator** and by those to whom the law applies **that**, as a part of a system of law impartially applied from case to case arising under it, **it will have the consequence**, in the long run, **of furthering** the **interests of society.** One can say, then, that the judge and the legislator stand in different positions and look in different directions: one to the past, one to the future. The justification of **what the judge does**, *qua* judge, **sounds** like the **retributive** view**;** the justification of **what the legislator does**, *qua legislator*, **sounds** like the **utilitarian** view. Thus both views have a point (this is as it should be since intelligent and sensitive persons have been on both sides of the argument); and one’s initial confusion disappears once one sees that these views apply to persons holding different offices with different duties, and situated differently with respect to the system of rules that make up the criminal law. One might say, however, that **the utilitarian view is more fundamental since** it applies to a more fundamental office, for **the judge carries out the legislator’s will** so far as he can determine it. Once the legislator decides to have laws and to assign penalties for their violation (as things are there must be both the law and the penalty) an institution is set up which involves a retributive conception of particular cases. It is part of the concept of the criminal law as a system of rules that the application and enforcement of these rules in particular cases should be justifiable by arguments of a retributive character. The decision whether or not to use law rather than some other mechanism of social control, as the decision as to what laws to have and what penalties to assign, may be settled by utilitarian arguments; but if one decides to have laws then one has decided on something whose working in particular cases is retributive in form.

5. The topic is about policies, not justifications. “Ought” can only refer to action, even when used in the context of “ought to be.” **Prichard 12** writes[[102]](#footnote-102)

But this argument, if it is to restore the sense of obligation to act, must presuppose an intermediate link, viz., the further thesis that what is good ought to be. The necessity of this link is obvious. An "ought," if it is to be derived at all, can only be derived from another "ought." Moreover this link tacitly presupposes another, viz., that the apprehension that something good which is not an action ought to be involves just the feeling of imperativeness or obligation which is to be aroused by the thought of the action which will originate it. Otherwise the argument will not lead us to feel the obligation to produce it by the action. And, surely, both this link and its implication are false.[1](http://www.ditext.com/prichard/mistake.html#1) **The word "ought" refers to actions and to actions alone.** The proper language is never "So and so ought to be," but "I ought to do so and so." **Even if we** are sometimes moved to **say** that the world or **something** in it **is not what it ought to be, what we really mean is that** God or **some human** being **has not made something what he [or she] ought to have made it.** And it is merely stating another side of this fact to urge that **we can only feel the imperativeness** upon us **of something which is in our power; for** it is **actions and actions alone** which, directly at least, **are in our power.**

6. Double-bind. If the aff advocacy is jut value, not action, then vote neg on presumption because aff doesn’t affect crime rates if he doesn’t create policy change. If the aff advocates a policy, he violates his own interp.

7. The aff framework devolves to implementation. Changing our values changes what actions we would take. If we value rehab, we would adopt rehab policies.

### AT Part 2 Paradigm of Punishment

1. TURN – Only a Rawlsian framework is pragmatic for the state. Rawls is writing a political philosophy that explains how to include all voices in society. Util is just idealistic moralism.

2. He has no offense. None of his evidence is comparative between util and Rawlsianism.

3. Util isn’t pragmatic. Trying to calculate utility in every instance fails. Only a rule-based framework can actually maximize utility. **Chappell 05**[[103]](#footnote-103) gives 6 warrants

Utilitarianism is a much maligned moral theory, in part because it's so easily abused. It's easy for people to misunderstand the theory, and use it, for example, to argue for totalitarianism. But of course utilitarianism properly understood recommends no such thing. In fact, it tends to support our common-sense moral intuitions. Strange as it may seem, utilitarianism recommends that we do not base our everyday moral decision-making on calculations of utility. Why is this? Well, **util**itarianism **says that we ought to** do whatever would **maximize utility. But attempting to reason in a utilitarian fashion** tends to have disastrous consequences, and **fails miserably to maximize utility. Therefore, we ought not to reason in a utilitarian manner. Instead, we should try to** inculcate **those dispositions and** attitudes**, and** **abide by** those **principles**, **that** **would** **tend to promote utility.** That is, we should be honest, compassionate, loyal, trustworthy, averse to harming others, partial towards loved ones, and so forth. We should, in other words, be virtuous rather than scheming. J.L. Mackie (p.91) offers **[There are] six utilitarian reasons for opposing "the direct use of** utilitarian **calculation** as a practical working morality": **1. Shortage of time and energy will** in general **preclude such calculations. 2. Even if time and energy are available, the relevant information commonly is not. 3. An agent's judgment** on particular issues **is** likely to be **distorted by his own interests** and special affections. **4. Even if he were** intellectually able **to determine the right choice, weakness of will would** be likely to **impair** his putting of **it** into effect. **5. Even decisions that are right in themselves** and actions based on them **are liable to be misused as precedents,** so that they will encourage and seem to legitimate wrong actions that are superficially similar to them. **6.** And, human nature being what it is, **a practical working morality must not be too demanding**: it is worse than useless to set standards so high that there is no real chance that actions will even approximate to them.

4. A means based retribution focus is most pragmatic in a CJS context. Predictable proportional punishment is key to deterrence. Discretionary sentencing kills solvency. **Binder 02** writes[[104]](#footnote-104)

Beccaria argued that public coercion and injury served the common interest only to the extent that they prevented greater private coercion and injury. 28 It followed that deterrence of crime was the only legitimate basis for punishment, and then only where noncoercive measures would not suffice. 29 And the most important noncoercive crime control device was the “public tranquility” achieved by establishing legitimate government. 30 Like Helvetius, Beccaria assumed that citizens were by nature ruled by passion and self-interest, 31 and that all social achievement proceeded from using legislation to harness or enable these energies. 32 [Akhil’s card ends]

**Beccaria** insisted that both laws and their enforcement be public 33 and regular. 34 He **reasoned that certain punishment deterred more effectively than severe punishment, for two reasons. First, certain punishment did not allow the offender** the **hope of escaping punishment. Second, both severity and discretion undermined deterrence** and security **by delegitimizing the law.** If laws were too severe, citizens would refuse to cooperate with the investigation, prosecution, and punishment of crimes. Hence, the more severe punishments became, the less certain, and so the less deterrent. 35 Moreover, **if the law could be bent,** citizens would seek advantage by turning their energies to intrigue rather than productive accomplishment. 36 **Citizens would lose respect** for law and perhaps oppose it by force. 37 Rulers would criminalize dissent, causing unnecessary unhappiness and squelching enlightenment, art, and science. **Thus Beccaria was profoundly wary of discretion in the administration of justice.** 38 Beccaria accordingly insisted that justice was public and so private **forgiveness** of crimes **should play no role in** the administration of **criminal law.** In a wellconceived regime of punishment, characterized by mildness and regularity, pardons would also be unnecessary. 39

### AT Part 3 Causes of Crime

1. The objective cause of crime is irrelevant to the NC. It’s about respecting the hip hop community’s values, and they think people should be responsible.

2. I’ll concede that poverty causes crimes. That means DA turns the case because it solves poverty. CIR is key to the economy. **Hesson 12**[[105]](#footnote-105)

Leaders from both parties are talking about **immigration reform** as a central issue in 2013. Among other things, such a bill **could** potentially **legalize 11 million undocumented immigrants** who are currently living in the shadows.

How would that impact the economy?

There are a few different opinions out there.

To begin with, there is no certainty that a reform bill will materialize or, if it does, what it will look like. But there are some existing reports that, based on hypothetical scenarios, give an estimate.

"I wouldn't get too wedded to any particular or exact number, but I think you can learn a lot from the approach of going ahead and trying to make a projection," said David Dyssegaard Kallick, a senior fellow at the Fiscal Policy Institute, a nonpartisan organization that studies immigration and the economy. "You can see the magnitude of things."

To get an idea of what the numbers mean, we looked at two reports from respected researchers — one often cited by reform advocates and another cited by immigration restrictionists. Here's how each breaks down:

1. ["The Economic Benefits of Comprehensive Immigration Reform"](http://www.cato.org/pubs/journal/cj32n1/cj32n1-12.pdf#reform) by UCLA professor Raúl Hinojosa-Ojeda, published by the Cato Institute, a libertarian think tank

*Summary:* **Immigration reform** would add $1.5 trillion to the U.S. gross domestic product (GDP) over 10 years.

This report looks at three scenarios projected over a 10-year period: comprehensive reform, a guest worker program and mass deportation.

- Comprehensive reform **would include a pathway to citizenship for undocumented immigrants who register, pay a fine and pass a criminal background check. That would add $1.5 trillion to the GDP over 10 years.**

- A temporary worker program with no path to citizenship would add $792 million to the GDP, about half as much as reform.

- **Mass deportation would result in $2.6 trillion in lost GDP over 10 years.**

*How does Hinojosa-Ojeda get these numbers?*

He starts by looking at the last large-scale legalization program in the United States. That would be the 1986 amnesty under President Ronald Reagan. Via this program, nearly 3 million undocumented immigrants became lawful residents. The post-amnesty data -- which looks at a minimum period of three years, between 1988 and 1991 -- showed that legalization boosted wages for undocumented workers.

He then takes the wage increase experienced after the 1986 amnesty by this group and applies that to the number of people projected to seek legalization this time around. In Hinojosa-Ojeda's version of comprehensive reform, the immigration system is also adjusted so that the flow of immigrant workers entering the country during the 10-year period his report covers are doing so legally. He adds the higher wages that those legal workers would receive to his projection. "What you get are these very powerful increases in wages for the legalized population and the existing population," Hinojosa-Ojeda says.

### AT Part 4 Why Rehab is Consistent

Retribution solves crime better. Prop 8 proves – best controls for variables.

**Francis 08**[[106]](#footnote-106)

**California's Prop**osition **8**. Passed by popular referendum in 1982, this law **requires courts to lengthen the sentence of repeat offenders** in cases of willful homicide, forcible rape, robbery, aggravated assault with a firearm, and burglary of a residence. Kessler and Levitt find that the law requiring longer sentences has been effective in lowering crime. **Within three years , crime**s covered by the law **fell** an estimated **8 percent. [In] Seven years** after the law changed, these **crimes were down 20 percent.** In order to obtain these estimates, the authors collected data on crimes covered by Proposition 8 and on a set of crimes that was exempted from the law (burglary of a non-residence, aggravated assault without a firearm, simple assault, and larceny). **By comparing California's crime rates** for these two sets of crimes **before and after Prop**osition **8 to** rates in **the rest of the nation, they can isolate any causal effect of the law change.** Prior to the passage of Proposition 8, California's experience with the two sets of crimes mirrored that of the United States as a whole. Immediately after the law changed, crimes covered by Proposition 8 fell in California compared to the rest of the nation. Crimes not eligible under Proposition 8, however, showed no such pattern. The timing of the declines in crime also sheds light on the reasons why crime fell. The primary effect of Proposition 8 was to increase the sentence length of criminals who would have gone to prison even without the law. Thus, for the first few years after the law changed, it had no impact on the size of the prison population: everyone affected by the law would have been behind bars anyway. The authors argue that **the** immediate **decreases in crime** -- roughly half of the overall decline -- therefore **must be attributable to deterrence. Criminals, fearing** the **harsher sentences** that awaited them**, reduced their illegal activity.** The fact that the impact of the law's change continued to grow steadily over time suggests that incapacitation also helped to reduce crime. **Because convicted criminals were serving longer sentences,** years after the law's change **they were** still **locked up, rather than** out on the streets **committing crime.** The results of this study are particularly relevant to the spread of "three-strikes laws" which entail extremely long sentences upon a third conviction of a crime. If criminals are effectively deterred by such laws, then it is possible that both the amount of crime and the number of prisoners can decline.

Retribution solves crime. Texas proves. **Reynolds 98**[[107]](#footnote-107)

**Crime increases when expected punishment declines, and vice versa.** Between 1950 and 1980, expected punishment declined more-orless continuously from an average of seven weeks for every serious crime committed to only 10 days — an 80 percent drop. In response, the serious crime rate more than quadrupled during those years. In the 1980s, expected punishment began to increase, accompanied by the leveling off and then a decline in the serious crime rate. Between 1980 and 1996, expected punishment for serious crimes increased from 10.1 to 21.7 prison days, a 115 percent increase, and serious crime declined. **The experience of** our two most populous states — California and **Texas** — **confirms** the negative association between crime and expected punishment. ● During the 1980s, California increased its prison population at a rate faster than the nation and experienced a decline in serious crime relative to that of the nation. ● **Texas**, meanwhile, **lagged in the growth of its prison population and its rate of serious crime shot up** relative to that of the nation. ● **The opposite** has **occurred during the** 19**90s, as Texas** has **enjoyed a 33 percent decline in** serious **crime while** sharply **increasing its prison population to the highest rate in the nation.** ● By contrast, the growth in California’s prison population has leveled off and now trails the national average, and California consequently is making only modest progress against serious crime. If we are to succeed in achieving an even lower crime rate, we must continue to make crime less profitable by further increasing expected punishment.

Rehab doesn’t solve crime. Can’t change mindset. **Hillman 11**[[108]](#footnote-108)

The second point where the **rehab**ilitation programs **fail[s.]** is **the prisoner has to want to change his** or her **life around and many have not come to that point** yet**.** Additionally, **many states offer time cuts for taking** these **rehab**ilitation **programs and** many **prisoners take these programs just to get the time cuts.** I have **many a prisoner come up to me and say, "Yeah, I am going to go back** out **on the streets slinging drugs because that is the best way I can make money."** Which did not make any sense to me because now most prisons do have vocational schools or college courses available; however, depending on a person's offense, it does not matter the education level, sometimes it is very hard to get a decent paying job once released from prison. Maybe a good solution for this problem is for a first time drug offender or a person who seems to suffer from a mental illness, put them in a rehabilitation center instead of a jail or prison. Prison only makes people angrier and teaches them how to be better criminals. I have seen people go into prison for white collar crimes and come out drug addicts and better criminals. The prison system is something that definitely needs to be re-worked and re-adjusted because it is definitely failing.

Don’t prefer meta-analysis. **Logan and Gaes 93** write[[109]](#footnote-109)

**Meta-analysis** is a legitimate research tool, but **is easy to misuse.** To be sure, meta-analysts are not deconstructionists who merely read into the literature whatever they please, but **their technique imposes such demanding methodological requirements** (Hedges and Olkin 1985) **that it is difficult to conduct a meta-analysis which controls** and adjusts **for errors** in the primary studies **without introducing new errors and biases of its own.** It is not surprising, then, that **separate reviews and meta-analyses** of research on the effectiveness **of** correctional **rehabilitation** programs reach differing conclusions and **criticize each other's validity** (Andrews et al. 1990a, 1990b; Lab and Whitehead 1990).

Disad outweighs. Existential risk outweighs every other impact by orders of magnitude because of the lost potential for future generations. **Bostrom 11**[[110]](#footnote-110)

Even if we use **the most conservative** of these **estimates,** which entirely ignores the possibility of space colonization and software minds, we **find that the expected loss of an existential catastrophe is greater than** the value of **1018 human lives.  This implies that** the expected value of **reducing existential risk by a mere one millionth of one percentage point is at least ten times the value of a billion human lives.**  The more technologically comprehensive estimate of 1054 human-brain-emulation subjective life-years (or 1052 lives of ordinary length) makes the same point even more starkly.  Even if we give this allegedly lower bound on the cumulative output potential of a technologically mature civilization a mere 1% chance of being correct, we find that the expected value of reducing existential risk by a mere one billionth of one billionth of one percentage point is worth a hundred billion times as much as a billion human lives.

# PVP Cartel AC Neg (Harvard Update)

## Rawls NC

Reaching fair moral principles requires placing oneself behind a Veil of Ignorance.

**Rawls 99** writes[[111]](#footnote-111)

One should not be misled, then, by the somewhat unusual conditions which characterize the original position.  The idea here is simply to make vivid to ourselves the restrictions that it seems reasonable to impose on arguments for principles of justice, and therefore on those principles themselves.  Thus **it seems reasonable** and generally acceptable **that no one should be advantaged** or disadvantaged **by natural fortune** or social circumstances in the choice of principles.  **It also seems widely agreed that it should be impossible to tailor principles to** the circumstances of **one’s own case**. We should insure further that particular inclinations and aspirations, and persons’ conceptions of their good do not affect the principles adopted.  The aim is to rule out those principles that it would be rational to propose for acceptance, however little the chance of success, only if one knew certain things that are irrelevant from the standpoint of justice.  For example, if a man knew that he was wealthy, he might find it rational to advance the principle that various taxes for welfare measures be counted unjust; if he knew that he was poor, he would most likely propose the contrary principle. **To represent the desired restrictions one imagines a situation in which everyone is deprived of this sort of information.  One excludes the knowledge** of those contingencies **which sets men at odds and allows them to be guided by their prejudices**.

In a criminal justice context, the perspectives of the hip hop community come first under the Veil of Ignorance. **Butler 04** writes[[112]](#footnote-112)

How would these ideas contribute to a theory of punishment? In a sense the hip-hop nation, and especially its black and Latino citizens, are [is] best situated to design a punishment regime. The philosopher John **Rawls suggests that law is most just when** it is **made by people who don’t know how they’ll fare under it.** It is impossible, of course, to actually live in Rawls’ netherworld. As Rawls recognized, our instinct is to assess public policy from the standpoint of our individual interest. **Since**, however, **minority members of the hip-hop community are the most likely to be** arrested and **incarcerated for crimes** – and also the most likely to be victims of crimes – they get closer to the netherworld than most of us. Ideally **their theory of punishment will value** both **public safety and fairness to lawbreakers.** This project is not intended to suggest that hip-hop culture has explicitly constructed a theory of punishment. The claim is more limited, but still, I hope, profound. **Thousands of hip hop songs consider crime and punishment.** These voices are worth listening to – they evaluate criminal justice from the bottom up. Our current punishment regime has been designed from the top down, and that, in part, explains why many perceive it to be ineffective or unfair. **We might punish better if** the **ghetto philosophers and** the **classic philosophers met.** They address many of the same issues in punishment, including causation, harm, responsibility, excuse and justification.

The hip hop community requires prioritizing retribution in the criminal justice system. 2 reasons.

(a) Consistent message in rap lyrics proves. **Butler-2** writes[[113]](#footnote-113)

**Hip hop lyrics exhibit a strong conviction that wrongdoers should suffer consequences** for their acts**. In the words of Jay-Z: “Now if you shoot my dog, I’ma kill yo’ cat/Just the unwritten laws of rap – know dat/ For every action there’s a reaction.” The culture abounds with narratives about** revenge, **retaliation, and avenging wrongs.** The narrator in Eve’s *“Love is Blind”* kills the man who abuses her close friend. Likewise, Nelly warns “if you take a life, you gon’ lose yours too.”

(b) The hip hop community values retribution out of respect for free choice, while accounting for social conditions that cause crime. **Butler-3** writes[[114]](#footnote-114)

**The most important** civic **virtue in** the **hip hop** nation **is respect. One of the culture’s contributions to** the **English** language **is the verb “dis**,**” which means “to disrespect.”** To dis someone is worse than to insult them – it is to deny his or her humanity. Hip hop vocabulary also includes the term “props” – to give props is to afford proper respect. The misogyny and homophobia in some hip hop makes it difficult to claim a universal value of respect for all persons. **Virtually all hip hop**, however, **connotes** a **respect for the dignity of lawbreakers.** In attempting to reconcile **hip hop’s impulse for righting wrongs** with its **[and] respect for dignity**– even the dignity of criminals– a criminal law scholar immediately thinks of **[requires] retribution.** This justification of punishment is premised on the idea of “just deserts.” When one harms another, justice requires that he or she be harmed in return. Retributivists believe that **punishment communicates respect for the criminal by recognizing him as a moral agent** and respect for the victim by avenging his harm. The Bill of Rights codifies the retributive concern for the criminal's humanity. The Eighth Amendment prohibits the state from punishing criminals in a manner that is inconsistent with their dignity. The Supreme Court has also interpreted the Eighth Amendment as requiring that criminals not be punished disproportionately to their crime, although it has given lawmakers wide latitude in determining what proportionate punishment is.115 How would a profound respect for the humanity of criminals change the way we punish them? It might require a more meaningful concept of proportionate punishment than the Supreme Court has currently endorsed.116 Harsh sentences for drug crimes, for example, are premised on utilitarian, not retributive, justifications.117 Such penalties have been the subject of much criticism in the hip-hop community. They have been defended by police and lawmakers on the ground that they keep drugs out of low-income and minority communities. If this assertion is true, it would not persuade retributivists, who require proportionality even when disproportionate punishment is socially useful.118 While I will later suggest that the hip-hop nation probably would not punish drug users, if it did, its embrace of retribution means they would be punished significantly less than they are now. 119 Hip-hop theory would reject or modify some elements of retribution. Assaultive retribution, for example, is premised on hate of the criminal, which is the opposite of the hip-hop perspective.120 More significantly, however,some theories of retribution are premised on a world in which benefits and burdens are distributed equally; it is just to punish the criminal, the argument goes, when he upsets the balance.121 **The hip-hop nation** does not share this world view; it **sees** benefits and burdens as allocated in an uneven and racialist manner. Through this lens, **the "choice" of a poor person to sell drugs** has a **[as] different** and less blameworthy social meaning **than the choice of a middle class person to engage in**, say, **insider trading.**122 In "Dope Man,'" Jay-Z raps, "I grew where you hold your blacks up/ Trap us, expect us not to pick gats up/ Where you drop your cracks off by the Mack Trucks/ Destroy our dreams of lawyers and actors/ Keep us spiralin', goin' backwards."123 **Hip-hop culture, like retributive philosophy, [still] emphasizes the importance of** moral autonomy and **free agency.**124 Both posit that people who freely choose to do wrong should be punished. Where hip-hop theorists and traditional retributivists diverge, however, is on how to determine responsibility for individual acts. Hip-hop culture emphasizes the role of environment in determining conduct, whereas classic retributivist theory focuses on individual choice. In essence, hip-hop culture discounts responsibility when criminal conduct has been shaped by a substandard environment. OutKast, for example, asserts "knowing each and every nigger sellin', but can you blame/ The fact the only way a brother can survive the game."125 The **hip-hop analysis does not deny that the poor are moral agents; it is instead a[n]** quasiscientific or **empirical claim about the nature of free choice. In the words of NWA: [A] nigga wit' nothin' to lose/One of the few who's been accused and abused/Of the crime of poisonin' young minds/But you don't know shit 'til you've been in my shoes.**

## Zavislan CP

Counterplan Text: The USFG should legalize marijuana.

Legalization solves cartel violence. **Devine 12** writes[[115]](#footnote-115)

**Legalization would** also **drastically decrease** drug **violence caused by** the **importation of illegal drugs.** This year alone, **500 people have died in Mexico because of** drug **cartels that transport marijuana. Legalizing marijuana would eliminate the market for the cartels and subsequently eliminate the cartels** themselves **and the violence they create.**

## PTX DA

CIR will pass, but polcap’s key. State of the Union gives Obama momentum.

**Iqbal 2-13** writes[[116]](#footnote-116)

**Now more than at any point** in his administration **does** President **Obama have the political capital to broker a deal on immigration reform– a key issue among** many **voters** who put him back into office in 2012. Desperately **trying to rebrand themselves as** an **inclusive** party, many **Republicans** have **also embraced immigration reform as essential to not only their self-interest, but their survival as a party.**

In **his State of the Union** address, Obama **framed** his ideas on **immigration in a way that crosses the aisle and could pave the way** for important legislation. **However, there are a number of radicals in Congress who will** certainly **oppose reform**, no matter what shape it takes.

Republican Senator John **McCain, whose constituency in Arizona are key players** in the immigration reform debate, **warned** an audience hosted by The Atlantic **that negotiations could see push back** on a particularly sensitive topic: the issuance of guest worker visas.

Rehab kills Obama’s polcap. **Trinick 12** writes[[117]](#footnote-117)

Reasons why criminal justice policy is ignored 1) It’s politically toxic. **Any move** to alter the current tough stance on criminal justice **is** inevitably **viewed as** being **‘soft on crime’**, regardless of how much sense a new policy might make or how much it might reduce crime in the long-run. No politician, especially one running in a race as close as the current match-up, wants to be seen as ‘soft on crime’. For Republicans, “the party of law and order”, it would be sacrilege to even suggest a change in policy. For **Democrats, especially Obama,** the **aim** appears to be **to avoid looking “weak and liberal”** and avoid alienating middle-class white voters. In addition, it lacks appeal — few voters (read ‘people likely to vote in swing states’) care about the issue as they perceive that it does not affect them and it requires hard choices to be made. 2) People don’t like to have to think about it. This relates to the point above about having to make hard choices, but there is more to it. By its very nature, criminal justice is difficult and unpleasant to think about and so most people shy away from it — who wants to think about prison and criminals when there’s the new series of Homeland? The majority of people will have no interaction with the criminal justice system, especially not on the ‘wrong’ side of it, and so they shut their eyes, pretend they cannot see the problem and hope it will go away. The politicians and media know this and cater to the demands of their audiences. 3) **Changes would require the states and the Federal government to work together. This** shouldn’t be a deal-breaker, but it **adds more complexity** to an already difficult area. Both states and the federal government maintain prisons and any systematic attempt to reduce the prison population would require co-operation and negotiation between all the parties. In gridlocked Washington, this would be unlikely even if the topic was not so politically explosive. 4) Criminal justice policy is hard. Really hard. **What should be the moral basis** for imprisoning criminals — Deterrence? **Rehabilitation?** Proportionate punishment? Public protection? **Retribution?** Economic reality? Most countries follow a mix of these, but a different balance of the justifications can alter dramatically the policy pursued in a particular jurisdiction. Agreeing on **the** precise **balance is** something **fraught with** potential for **disagreement, even among** those who have no political concerns, like **academics.** On top of this, of course, is the fact that a different weighting of the justifications can have real cost implications — for example, both rehabilitation programmes and capital punishment are hugely expensive. 5) The overlap with drug policy does not help. Realistically the only way the USA is going to reduce its prison population by a meaningful amount is either to legalise (some) drugs or to impose far lighter (non-custodial) sentences for most drug related offences. While legalisation of (some) drugs may be a good idea, it is hardly an uncontroversial one and few, if any, politicians have the gumption, or the political capital, to take on both reform of the criminal justice system and drug legalisation.

Immigration reform is key to soft power. **Nye 12**[[118]](#footnote-118)

Equally important are **immigration**’s **benefits** for **America’s soft power. The fact that people want to come to the US enhances its appeal**, and immigrants’ upward mobility is attractive to people in other countries. The US is a magnet, and many people can envisage themselves as Americans, in part because so many successful Americans look like them. Moreover, **connections between immigrants and their families** and friends **back home** help to **convey accurate and positive information about the US.**

[CommentsView/Create comment on this paragraph](http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye)Likewise, **because the presence of many cultures creates** avenues of **connection with other countries, it** helps to **broaden[s] Americans’** attitudes and **views of the world** in an era of globalization. Rather than diluting hard and soft power, immigration enhances [it] both.

[CommentsView/Create comment on this paragraph](http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye)Singapore’s former leader, Lee Kwan Yew, an astute observer of both the US and China, argues that China will not surpass the US as the leading power of the twenty-first century, precisely because **the US attracts the best and brightest from the rest of the world** and melds them **into a diverse culture of creativity.** China has a larger population to recruit from domestically, but, in Lee’s view, its Sino-centric culture will make it less creative than the US.

[CommentsView/Create comment on this paragraph](http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye)That is a view that Americans should take to heart. **If Obama succeeds in enacting immigration reform in his second term, he will** have gone a long way toward fulfilling his promise to **maintain the strength of the US.**

Soft power solves multiple scenarios for extinction. **Nye and Armitage 07**[[119]](#footnote-119)

Soft power is the ability to attract people to our side without coercion. Legitimacy is central to soft power. **If a** people or **nation believes American objectives to be legitimate, we are more likely to persuade them to follow our lead** without using threats and bribes. **Legitimacy can also reduce opposition to**—and the costs of—**using hard power when the situation demands.** Appealing to others’ values, interests, and preferences can, in certain circumstances, replace the dependence on carrots and sticks. Cooperation is always a matter of degree, and it is profoundly influenced by attraction…The information age has heightened political consciousness, but also made political groupings less cohesive. Small, adaptable, transnational networks have access to tools of destruction that are increasingly cheap, easy to conceal, and more readily available. Although the integration of the global economy has brought tremendous benefits, **threats such as pandemic disease and the collapse of financial markets are more distributed and more likely to arise without warning. The threat of** widespread physical harm to the planet posed by **nuclear catastrophe** has existed for half a century, though the realization of the threat **will become more likely as the number of nuclear weapons states increases.** The potential security challenges posed by **climate change raise[s]** the possibility of an entirely **new** set of **threats** for the United States **to consider**… **States** and non-state actors who improve their ability to draw in allies will gain competitive advantages in today’s environment. Those **who alienate potential friends will stand at greater risk.** China has invested in its soft power to ensure access to resources and to ensure against efforts to undermine its military modernization. **Terrorists depend on** their ability to attract **support from the crowd** at least as much as their ability to destroy the enemy’s will to fight.

DA Turns the Case – CIR is key to Latin American relations which solves Latin American economic stability and multiple existential risks. Now is key.

**Shifter 12** writes[[120]](#footnote-120)

**Some** enduring **problems stand** squarely **in the way of** partnership and **effective cooperation.** The **inability** of Washington **to reform** its broken **immigration** system **is a constant source of friction between the U**nited **S**tates **and** nearly **every other country in the Americas**. Yet US officials rarely refer to immigration as a foreign policy issue. Domestic policy debates on this issue disregard the United States’ hemispheric agenda as well as the interests of other nations. Another chronic irritant is US drug policy, which most Latin Americans now believe makes their drug and crime problems worse. Secretary of State Hillary Clinton, while visiting Mexico, acknowledged that US anti-drug programs have not worked. Yet, despite growing calls and pressure from the region, the United States has shown little interest in exploring alternative approaches. Similarly, Washington’s more than half-century embargo on Cuba, as well as other elements of United States’ Cuba policy, is strongly opposed by all other countries in the hemisphere. Indeed, the US position on these troublesome issues—immigration, drug policy, and Cuba—has set Washington against the consensus view of the hemisphere’s other 34 governments. These issues stand as obstacles to further cooperation in the Americas . The United States and the nations of Latin America and the Caribbean need to resolve them in order to build more productive partnerships. **There are compelling reasons for the U**nited **S**tates **and Latin America to pursue** more **robust ties. Every country** in the Americas **would benefit** from strengthened and expanded economic relations, **with improved access to** each other’s **markets**, investment capital, and energy resources. Even with its current economic problems, **the U**nited **S**tates’ **$16-trillion economy is** a **vital** market and source of capital (including remittances) and technology **for Latin America**, and it could contribute more to the region’s economic performance. For its part, **Latin America’s rising economies will** inevitably **become** more and more **crucial to the U**nited **S**tates’ **economic future. The U**nited **S**tates and many nations of Latin America and the Caribbean **would** also **gain** a great deal **by more cooperation on** such **global matters as climate change**, nuclear **non-prolif**eration, and **democracy and human rights.** With a rapidly expanding US Hispanic population of more than 50 million, the cultural and demographic integration of the United States and Latin America is proceeding at an accelerating pace, setting a firmer basis for hemispheric partnership Despite the multiple opportunities and potential benefits, relations between the United States and Latin America remain disappointing . **If new opportunities are not seized, relations** will likely **continue to drift apart** . The longer the current situation persists, the harder it will be to reverse course and rebuild vigorous cooperation . Hemispheric **affairs require urgent attention**—both from the United States and from Latin America and the Caribbean.

## AC

### AT Means Based Spike

1. I meet. I advocate that the state give punishment in a means based fashion. I don’t have to defend that it’s good for means based reasons.

Counter-interpretation: neg burden is to prove that a competitive policy is better than the aff.

1. Key to test the aff from every angle. Maximizes topic education. His interp would make his own contention irrelevant.

2. No impact to fairness. Hard debate teaches critical thinking.

3. Neg flex good. Checks back infinite pre-round prep for the aff.

4. Retribution is consistent with util. It’s a pragmatic question. **Rawls 55**[[121]](#footnote-121)

On the other hand **we have** the institution of **punishment** itself, and recommend and accept various changes to it, **because it is thought by the** (ideal) **legislator** and by those to whom the law applies **that**, as a part of a system of law impartially applied from case to case arising under it, **it will have the consequence**, in the long run, **of furthering** the **interests of society.** One can say, then, that the judge and the legislator stand in different positions and look in different directions: one to the past, one to the future. The justification of **what the judge does**, *qua* judge, **sounds** like the **retributive** view**;** the justification of **what the legislator does**, *qua legislator*, **sounds** like the **utilitarian** view. Thus both views have a point (this is as it should be since intelligent and sensitive persons have been on both sides of the argument); and one’s initial confusion disappears once one sees that these views apply to persons holding different offices with different duties, and situated differently with respect to the system of rules that make up the criminal law. One might say, however, that **the utilitarian view is more fundamental since** it applies to a more fundamental office, for **the judge carries out the legislator’s will** so far as he can determine it. Once the legislator decides to have laws and to assign penalties for their violation (as things are there must be both the law and the penalty) an institution is set up which involves a retributive conception of particular cases. It is part of the concept of the criminal law as a system of rules that the application and enforcement of these rules in particular cases should be justifiable by arguments of a retributive character. The decision whether or not to use law rather than some other mechanism of social control, as the decision as to what laws to have and what penalties to assign, may be settled by utilitarian arguments; but if one decides to have laws then one has decided on something whose working in particular cases is retributive in form.

### AT Framework

1. TURN – Only a Rawlsian framework is pragmatic for the state. Rawls is writing a political philosophy that explains how to include all voices in society. Util is just idealistic moralism.

2. Binder negates. Predictable proportional punishment is key to deterrence. Discretionary sentencing kills solvency. **Binder 02** writes[[122]](#footnote-122)

Beccaria argued that public coercion and injury served the common interest only to the extent that they prevented greater private coercion and injury. 28 It followed that deterrence of crime was the only legitimate basis for punishment, and then only where noncoercive measures would not suffice. 29 And the most important noncoercive crime control device was the “public tranquility” achieved by establishing legitimate government. 30 Like Helvetius, Beccaria assumed that citizens were by nature ruled by passion and self-interest, 31 and that all social achievement proceeded from using legislation to harness or enable these energies. 32 [Akhil’s card ends]

**Beccaria** insisted that both laws and their enforcement be public 33 and regular. 34 He **reasoned that certain punishment deterred more effectively than severe punishment, for two reasons. First, certain punishment did not allow the offender** the **hope of escaping punishment. Second, both severity and discretion undermined deterrence** and security **by delegitimizing the law.** If laws were too severe, citizens would refuse to cooperate with the investigation, prosecution, and punishment of crimes. Hence, the more severe punishments became, the less certain, and so the less deterrent. 35 Moreover, **if the law could be bent,** citizens would seek advantage by turning their energies to intrigue rather than productive accomplishment. 36 **Citizens would lose respect** for law and perhaps oppose it by force. 37 Rulers would criminalize dissent, causing unnecessary unhappiness and squelching enlightenment, art, and science. **Thus Beccaria was profoundly wary of discretion in the administration of justice.** 38 Beccaria accordingly insisted that justice was public and so private **forgiveness** of crimes **should play no role in** the administration of **criminal law.** In a wellconceived regime of punishment, characterized by mildness and regularity, pardons would also be unnecessary. 39

### AT Crime

Retribution solves crime. Prop 8 proves – best controls for variables. **Francis 08**[[123]](#footnote-123)

**California's Prop**osition **8**. Passed by popular referendum in 1982, this law **requires courts to lengthen the sentence of repeat offenders** in cases of willful homicide, forcible rape, robbery, aggravated assault with a firearm, and burglary of a residence. Kessler and Levitt find that the law requiring longer sentences has been effective in lowering crime. **Within three years , crime**s covered by the law **fell** an estimated **8 percent. [In] Seven years** after the law changed, these **crimes were down 20 percent.** In order to obtain these estimates, the authors collected data on crimes covered by Proposition 8 and on a set of crimes that was exempted from the law (burglary of a non-residence, aggravated assault without a firearm, simple assault, and larceny). **By comparing California's crime rates** for these two sets of crimes **before and after Prop**osition **8 to** rates in **the rest of the nation, they can isolate any causal effect of the law change.** Prior to the passage of Proposition 8, California's experience with the two sets of crimes mirrored that of the United States as a whole. Immediately after the law changed, crimes covered by Proposition 8 fell in California compared to the rest of the nation. Crimes not eligible under Proposition 8, however, showed no such pattern. The timing of the declines in crime also sheds light on the reasons why crime fell. The primary effect of Proposition 8 was to increase the sentence length of criminals who would have gone to prison even without the law. Thus, for the first few years after the law changed, it had no impact on the size of the prison population: everyone affected by the law would have been behind bars anyway. The authors argue that **the** immediate **decreases in crime** -- roughly half of the overall decline -- therefore **must be attributable to deterrence. Criminals, fearing** the **harsher sentences** that awaited them**, reduced their illegal activity.** The fact that the impact of the law's change continued to grow steadily over time suggests that incapacitation also helped to reduce crime. **Because convicted criminals were serving longer sentences,** years after the law's change **they were** still **locked up, rather than** out on the streets **committing crime.** The results of this study are particularly relevant to the spread of "three-strikes laws" which entail extremely long sentences upon a third conviction of a crime. If criminals are effectively deterred by such laws, then it is possible that both the amount of crime and the number of prisoners can decline.

Retribution solves crime. Texas proves. **Reynolds 98**[[124]](#footnote-124)

**Crime increases when expected punishment declines, and vice versa.** Between 1950 and 1980, expected punishment declined more-orless continuously from an average of seven weeks for every serious crime committed to only 10 days — an 80 percent drop. In response, the serious crime rate more than quadrupled during those years. In the 1980s, expected punishment began to increase, accompanied by the leveling off and then a decline in the serious crime rate. Between 1980 and 1996, expected punishment for serious crimes increased from 10.1 to 21.7 prison days, a 115 percent increase, and serious crime declined. **The experience of** our two most populous states — California and **Texas** — **confirms** the negative association between crime and expected punishment. ● During the 1980s, California increased its prison population at a rate faster than the nation and experienced a decline in serious crime relative to that of the nation. ● **Texas**, meanwhile, **lagged in the growth of its prison population and its rate of serious crime shot up** relative to that of the nation. ● **The opposite** has **occurred during the** 19**90s, as Texas** has **enjoyed a 33 percent decline in** serious **crime while** sharply **increasing its prison population to the highest rate in the nation.** ● By contrast, the growth in California’s prison population has leveled off and now trails the national average, and California consequently is making only modest progress against serious crime. If we are to succeed in achieving an even lower crime rate, we must continue to make crime less profitable by further increasing expected punishment.

Rehab doesn’t solve crime. Can’t change mindset. **Hillman 11**[[125]](#footnote-125)

The second point where the **rehab**ilitation programs **fail[s.]** is **the prisoner has to want to change his** or her **life around and many have not come to that point** yet**.** Additionally, **many states offer time cuts for taking** these **rehab**ilitation **programs and** many **prisoners take these programs just to get the time cuts.** I have **many a prisoner come up to me and say, "Yeah, I am going to go back** out **on the streets slinging drugs because that is the best way I can make money."** Which did not make any sense to me because now most prisons do have vocational schools or college courses available; however, depending on a person's offense, it does not matter the education level, sometimes it is very hard to get a decent paying job once released from prison. Maybe a good solution for this problem is for a first time drug offender or a person who seems to suffer from a mental illness, put them in a rehabilitation center instead of a jail or prison. Prison only makes people angrier and teaches them how to be better criminals. I have seen people go into prison for white collar crimes and come out drug addicts and better criminals. The prison system is something that definitely needs to be re-worked and re-adjusted because it is definitely failing.

Don’t prefer meta-analysis. **Logan and Gaes 93** write[[126]](#footnote-126)

**Meta-analysis** is a legitimate research tool, but **is easy to misuse.** To be sure, meta-analysts are not deconstructionists who merely read into the literature whatever they please, but **their technique imposes such demanding methodological requirements** (Hedges and Olkin 1985) **that it is difficult to conduct a meta-analysis which controls** and adjusts **for errors** in the primary studies **without introducing new errors and biases of its own.** It is not surprising, then, that **separate reviews and meta-analyses** of research on the effectiveness **of** correctional **rehabilitation** programs reach differing conclusions and **criticize each other's validity** (Andrews et al. 1990a, 1990b; Lab and Whitehead 1990).

Disad outweighs. Existential risk outweighs every other impact by orders of magnitude because of the lost potential for future generations. **Bostrom 11**[[127]](#footnote-127)

Even if we use **the most conservative** of these **estimates,** which entirely ignores the possibility of space colonization and software minds, we **find that the expected loss of an existential catastrophe is greater than** the value of **1018 human lives.  This implies that** the expected value of **reducing existential risk by a mere one millionth of one percentage point is at least ten times the value of a billion human lives.**  The more technologically comprehensive estimate of 1054 human-brain-emulation subjective life-years (or 1052 lives of ordinary length) makes the same point even more starkly.  Even if we give this allegedly lower bound on the cumulative output potential of a technologically mature civilization a mere 1% chance of being correct, we find that the expected value of reducing existential risk by a mere one billionth of one billionth of one percentage point is worth a hundred billion times as much as a billion human lives.

### AT Oil Shocks

Plan fails – takes too long to solve. Your author **Shingal 11** agrees[[128]](#footnote-128)

Having now considered contentions as to why US involvement in the Mexican drug conflict must be increased, it is important to take into account the main two counter arguments against US involvement. The major alternative policy fundamentally calls for the United States government to concentrate on domestic factors that influence Mexican drug violence, namely lenient gun laws and high demand for drugs, rather than spending millions more in assisting the Mexican government. It is true that the American **demand for drugs is** one of the main reasons **why the drug cartels** have **become** such profitable and therefore **powerful** enterprises. The reality that over ninety percent of the cocaine found in the United States comes from south of the border only illustrates that the cartels have much to gain if they can consolidate their power in neighboring Mexico. 184 Even more, one must concede that due to the United States‘ weak gun laws and insufficient border control, the US is unintentionally arming the drug cartels and thus perpetuating the war. Without even taking into account a multitude of other statistics, it is clear that the government should address the many problems that plague the nation, whether that means more education about drugs or stricter gun laws. In fact, such a policy could be an indispensable part of a long term solution. **Yet,** such **a policy change requires time. It takes** time to educate the population, **time to pass laws, and time to change the culture of** large segments of **a nation. But time is the one thing that Mexico**, and thus the United States, **does not have.** The Mexican state is at war against a very strong enemy in the drug cartels. Although the Mexican **authorities have thrown their full weight** behind attempting **to destroy** the **cartels,** that effort has led to few victories – people are being ruthlessly massacred, human rights are being abused, violence in spilling over into the United States, and there is the increasing likelihood of a failed state. The last point proves to be the most dangerous. As mentioned above, while there are a number of experts who dispute the claim that the Mexican government is close to failing, very few disagree that the situation is only becoming worse. Jorge Chabat, a security analyst in Mexico City, noted ―The old **drug lords** often acted as mediators. The new, young guys **are not disposed to negotiation.**‖ 185 With the situation deteriorating, **the Mexican government is going to need more support to maintain the status quo.** If the United States does not further support Mexico, the likelihood of a failed state will increase substantially with time. A policy which concentrates only on **long term objectives will prove infeasible**, as it dismisses a number of immediate issues which, if overlooked, will only make the situation worse over time.

High oil prices inevitable due to shortfalls. **AP 13** writes[[129]](#footnote-129)

The price of **oil finished higher** Friday **after the Energy Department**’s Energy Information Administration **reported a much bigger drop in** the nation’s **crude supplies than** analysts **expected**. After trading lower much of the day, **benchmark crude for February** delivery **closed** up 17 cents **at $93.09 a barrel** on the New York Mercantile Exchange. The EIA report said crude supplies fell by 11.1 million barrels, or 3 percent, last week. Analysts expected a drop of just a million barrels. Oil supplies shrank as crude imports fell off by almost a million barrels a day last week. At the same time, supplies at the crucial hub for domestic crude at Cushing, Okla., stayed up at near-record levels. **Overall U.S. crude inventories are about 9 percent above year-ago levels.** There were also some encouraging economic reports Friday **that raised hopes for higher oil demand.** The Labor Department reported U.S. employers added 155,000 jobs in December, a steady gain that shows hiring held up during tense negotiations to resolve the fiscal cliff issue. The solid job growth wasn’t enough to push down the unemployment rate, however, which remained at 7.8 percent last month. Also, the Institute for Supply Management said U.S. service firms’ activity expanded in December by the most in nearly a year, driven by a jump in new orders and hiring. The index measures growth in industries that cover 90 percent of the workforce, including retail, construction, health care and financial services. Brent crude, used to price international varieties of oil, finished 83 cents lower at $111.31 a barrel on the ICE Futures exchange in London. In other energy futures trading on the New York Mercantile Exchange: — Wholesale gasoline lost 3 cents to end at $2.76 a gallon. — Heating oil fell less than a penny to finish at $3.02 a gallon. — Natural gas rose 9 cents to end at $3.29 per 1,000 cubic feet.

OPEC solves price shocks. **Yetiv 12** writes[[130]](#footnote-130)

Fourth, the **O**rganization of the **P**etroleum **E**xporting **C**ountries **won’t sit by idly if America**’s boom **begins to hurt oil prices** seriously. **It**s members **will** most likely agree to **decrease their production** to try **to keep prices high**er. For instance, **in June, when the price of oil dropped to** around **$80 a barrel** from $107 in March, fellow OPEC producers pressured **Saudi** Arabia to **cut output**. Producers need oil revenues to maintain their cradle-to-grave welfare states; otherwise, they could face Arab Spring revolts at home, which most oil-rich countries have avoided by using their wealth to quell dissent and maintain domestic control.

Zero impact to oil scocks – scholarly consensus. **Taylor and van Doren 7** write[[131]](#footnote-131)

Although oil prices hit US$80, the inflation, unemployment and recession that supposedly follow oil-price shocks are nowhere on the macroeconomic radar screen. If the economy goes into a tailspin, it will be in response to bad news in the housing market, not the oil market. The lesson to be derived from this is pretty clear: While oil-price spirals are certainly nothing for consumers to celebrate, the health of the economy is not held hostage to oil markets. The orthodox view that governed our understanding of oil-price shocks until recently was that the economic damage associated with those shocks was not the result of oil-price increases per se. **Higher oil prices**, after all, **simply make oil producers richer, and everyone else poorer.** Over the long run, more money spent on oil equals less money spent on everything else. **This reduces the demand for, and thus the price of, everything** (including labour!) save for oil. **As long as oil producers** are spending and/or **invest**ing their increased **profits, the net effect** of all this -- from a macroeconomic perspective--**is zero**. All of this will eventually happen, but the length of time required to get oil consumers to adjust their behaviour in response to a price shock is what was thought to trigger the economic downside associated with an oil crisis. If wages and consumption rates outside the oil sector fail to go down, either unemployment will follow or inflation will result, because there's only so much money to go around, unless the Federal Reserve accommodates everyone's demand for money. The main dissenting view was most strongly forwarded by then Princeton University economist and now Federal Reserve Board chairman Ben Bernanke and his colleagues. They argued that different ("better") monetary policy -- more specifically, one that maintains the federal funds rate at a constant level, rather than raising it in the face of an oil shock -- could reduce or even eliminate the recessionary effect of oil shocks. Economists James Hamilton and Anna Herrera, however, were skeptical of that proposition. They argued that the "better" monetary policy advocated by Bernanke et al. effectively calls for massive declines in the federal funds rate over the entire course of an oil shock, something that is probably not possible in the real world. Moreover, the Federal Reserve would have to keep the funds rate below levels anticipated by market actors for 36 months in a row, which is, of course, an unlikely proposition. Interestingly enough, the Federal Reserve, now chaired by Ben Bernanke, is not pursuing the policies advocated by its chairman when the chairman was in the academy. That was the state of the debate until the most recent price shock. The economy's failure to respond to one of the steepest oil-price increases in history with a recession, however, sent economists back to the theoretical drawing board. **All** the **new analyses agree that the more flexible economy that we have now allows us to cope** more **easily with oilprice shocks**. It underscores the danger of the price-control regimes of the 1970s, something that politicians are increasingly flirting with as energy prices continue to climb and put into question a panoply of government programs.

# PVP TOC Stuff

## Gewirth Answers

Omitted.

## Rotman Bad

Rights Based Rehab fails; Rotman’s wrong. **Shipe 11** writes[[132]](#footnote-132)

Although **Rotman** suggests that there is a connection between rehabilitation and inmate autonomy, he unfortunately **does not present a** philosophical **argument explaining** **on what grounds an inmate who has willfully** **violated a** societal **norm should be in possession of** any **rights** at all. Indeed **the retributivist would** be quick to **argue** that **an inmate forfeited his rights when he committed a crime.** In fairness to Rotman, it is entirely possible that **he takes for granted that** **his** **readers would agree with the proposition** of inmate rights and thus does not agree that any justification need be presented. Even if this is the case, **his assumption is** still clearly **not enough to justify the abolition of the authoritarian model.**

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