# 1NC

## Acknowledgment

#### Acknowledgment: I prefer the term IPV to ‘domestic violence.’ I acknowledge that IPV involves all kinds of people. I prefer to consider so-called ‘victims’ survivors.

## 1

#### The suffering of another is impenetrable and unknowable – their demand that you empathize with the other is reliant on liberal ethics and aesthetics. Performance of suffering in exchange for a performance of justice is liberalism par excellence – responding to the specter of suffering represented in the 1AC with anything except ambivalence causes unethical spectatorship that instrumentalizes pain, creating a distancing effect where the absence of spectacle is taken as normal conditions, breeding interpassivity. This act simulates progress while concealing systems of violence, cementing the structural conditions that create oppression. Their scholarship can only create an attachment to pedagogy, not other humans in all of their depth and complexity. Vote Negative to reject the 1AC’s relationship to otherness. Adelman 2k14:

Rebecca [Associate Professor of Media & Communication Studies], “Discordant Affects: Ambivalence, Banality, and the Ethics of Spectatorship.” Theory & Event, Vol 17, Issue 3.

**As critics, we always seem to want images** to “do” something **or to make their** viewers “do” something, that is, **to be instruments in a larger process** motivating or impelling a feeling or an action. Yet, **even as such wishes address the role and behavior of the spectator, they also risk** divesting her of responsibility**, endowing the image itself with an overabundance of power and the burden of making something happen, thereby tidying up all of the ethical messiness inherent in spectatorship itself.** **This erasure of spectatorial agency is**, problematically, **often easiest to achieve when the image in question** graphically documents another’s suffering; perhaps **because the scene seems** so kinetic **and the image itself** so vivid, **it is easy to forget both the agency of the spectator and** the constraints that bind her. As Elizabeth Dauphinée contends in her reconsideration of the uses of the Abu Ghraib images, “Images do not speak for themselves – they are made to speak for, by, and about us. **We are asking these bodies to do political work for us that, however ‘right,**’ also **works to reduce them to** representative examples of their plights.”15 **An instrumentalizing approach to** photographs and other visual documents of **injury** thus risks objectifying the people depicted within them, **pressing them into political service** without their consent**, apparently for** their own good. On the other hand, images that do not seem to “do” anything or make the spectator want to “do” anything are often characterized, disparagingly, as banal. Critical dismissal of banal images rests on the presumption that they are insufficiently affective and so incapable of initiating an ethical response from the viewer. Alternately, spectators who confess that they find images, even images of extraordinary suffering, banal or unmoving are presumed to be ethically deficient or mere voyeurs. But it is precisely in those ostensible failures that we locate the radical potential of the “banal” image, insofar as such images elude the instrumentalizing impulse that pervades so much critical thinking on the ethics of spectatorship. The banal image might harbor a unique potential to avoid the problem that Georges Didi-Huberman names in Images in Spite of All: the tendency to ask either “too much” or “too little” from photographs, where critics fault them for being affectively inadequate or read them merely as documentary records, losing in the process their complexity and phenomenology.16 How might images matter when they do not compel the spectator toward any action? In what ways might they be significant even when they do not inspire the viewer towards much in the way of feeling? Specifically, in this section, we ask what kind of ethical spectatorship viewers can enact in affective encounters with the banal: those instances where the spectator registers the sight of suffering but is not greatly emotionally moved by it. By posing such questions, we do not mean to preclude the possibility that images of suffering can move viewers to action, or to suggest that the feelings such images might provoke are not ethically relevant. Instead, we want to attend to the process of regarding images that are less spectacular, less dramatic, and less obvious in their import so that we might linger in the moment of spectatorship itself. Judith Butler speculates about the possibility of an alternate visual framing of war that would be politically productive and consequential. “For photographs to communicate in this way,” she argues, “they must have a transitive function, making us susceptible to ethical responsiveness.”17 Here, we explore the ethics of spectatorial responsiveness by interrogating the mechanics of that transitive function around images that seem to lack the capacity to activate it. This leads us directly into the paradox mapped out by Sharon Sliwinski, namely that “the photograph is the exemplary site for encountering the painful labour of facing responsibility to others and the world” even as “[e]ncountering images of suffering illuminates the limit of the ability to respond.”18 Often, criticism of photography has either overlooked this limit altogether by writing as if spectators are unrestrained in their agency or posited it as a threat to ethical looking at images. Recently, however, visual culture scholarship has evinced a concern for thinking through the ethical possibilities and limitations of the spectatorial response.19 Building on that work, **our vision of** ethical spectatorship **starts with a frank acknowledgment of** the limits of viewers’ abilities to respond, but also, more radically, takes this limit as one of the conditions of possibility for ethical spectatorship itself. “Ethical spectatorship” denotes a viewing practice that acknowledges the subjectivity of the people depicted within the photograph and the viewer’s connections to and disconnections from these subjects. Our vision of spectatorship is compatible with that recently advanced by Jacques Rancière in The Emancipated Spectator, in which he emphasizes that the viewer is an active participant in a dialogic, if often uneven or ambivalent, relationship with the people at whom s/he is looking.20 By definition, spectatorship occurs at a remove from suffering; the past-ness of the photograph temporally constrains all viewers such that what we see has either already ended (no thanks to us) or evolved into something else (to which we do not have immediate access). In most cases, geographical distances — along with social, cultural, and geopolitical systems—separate viewers from the suffering people at whom they look. Given these essential limitations, how can ethical spectatorship foster that “painful labour of facing responsibility”? What, precisely, does it mean to face responsibility in this way? How is that transitive work apportioned between the spectator and the photograph itself? Ariella Azoulay argues for a reinterpretation of spectatorship as an active “contract” instead of an implied relationship based on “terms such as ‘empathy,’ ‘shame,’ ‘pity,’ or ‘compassion.’” She rejects these terms not only because they place the viewer (and photographer) in privileged positions vis-à-vis the subjects of the photograph, but also because they occlude the essentially political nature of the photographic relation as a practice of citizenship. Rather than mere visual consumption, the civil contract encapsulates a dynamic and mutual “covenant” between the photographer, the subject of the image claiming citizenship in conditions of social vulnerability, and the spectator looking at—or ‘watching,’ in Azoulay’s terms—the photograph.21 She writes, “I assume that photography—taking photos, being photographed, and disseminating and looking at photos—provides a privileged access to the problem of impaired citizenship, as well as a moral practice in the face of the vulnerability this condition creates.”22 While Sliwinski identifies the photograph as a signpost of the limit of our capacity to prevent or respond to suffering, Azoulay situates the photographic event as the process that initiates or compels such a response. For Azoulay, “watching” the photograph of injury as a spectator involves an interlocking set of duties: “the duty to resist injury to others who are governed and the duty to restore the civilian skill of spectatorship: to be an addressee of this injury, to produce its meaning as injury, and to continue to address it.”23 In this model, citizenship via the civil contract of photography is extended to all: it has, she writes, “no sovereign and therefore no apparatus of exclusion.”24 According to Azoulay, citizenship and viewership are not only active but also somewhat automatic: When and where the subject of the photograph is a person who has suffered some form of injury, a viewing of the photograph that reconstructs the photographic situation and allows a reading of the injury inflicted on others becomes a civic skill, not an exercise in aesthetic appreciation. This skill is activated the moment one grasps that citizenship is not merely a status, a good, or a piece of private property possessed by the citizen, but rather a tool of struggle or an obligation to others to struggle against injuries inflicted on those others, citizen and noncitizen alike—others who are governed along with the spectator.”25 Azoulay’s description calls to mind images like that of 12-year-old al-Dura, crouched against a wall with his father and caught in a firefight between Israeli soldiers and Palestinians. The rapid dissemination of this image across the Internet and the resultant outrage with which some spectators responded to it seem to offer ready support for Azoulay’s claims. But not all photographs elicit such strong reactions, and even those that do might not have the same politicized affective impact on all their spectators. Moreover, spectators typically encounter images of others’ suffering after the groups that circulate them have imprinted them with meaning, so these reactions are not as spontaneous or immediate as they might seem to be. So the question becomes: to what extent does the photograph that fails to ‘activate’ this skill at reading and responding to injury, that merely feels banal to the spectator, complicate Azoulay’s formulation?26 Juxtaposing Azoulay’s insights about photography’s civil contract as a triangulated event between photographer, subject, and viewer with concerns about the instrumentalizing imperative, identified by critics such as Dauphinée, suggests the need to consider how spectatorship can be ethical even in a photographic encounter that fails to ‘move’ us, rather than deeming such photos ineffective (or such spectators uncaring) for that ostensible shortcoming. Ethical spectatorship may entail some kind of intense affective response—that might subsequently be expressed or narrated as a feeling of sadness, anger, outrage, or horror—but such feelings are neither necessary nor sufficient for ethical spectatorship. Thus, we want to consider the possibility that a spectator might be ethical even if she feels or does ‘nothing’ in response to an image, that there are ways, albeit imperfect and constrained, to be ethical even within the affectively discordant conditions of spectatorship itself. At the same time, we want to insist that spectatorship itself is fundamentally active, that it is not merely a synonym for ‘looking’ or ‘viewing.’ By leaving us unmoved, and so keeping us from moving beyond the place of spectatorship, banal images potentially enable viewers to consider how discordant affects interact with the ethics of looking itself, and to explore the relationships between the subjects positioned within that visual circuit. Death and the “Sensorium” of Banality Among the reasons to consider images that do not vividly convey injury is that they provide a way of **critiquing the problematic liberal economies of sentiment in which** **the public performance of injury is the key to political recognition**.27 Lauren Berlant, for instance, queries the politics of subaltern suffering and recognition thusly: **“Which kinds of life engender** ordinary anonymity **and, in contrast, which unhistoric lives are exemplary only as waste,** uncanny in trauma, and perfected in death?”28 **This question raises the haunting possibility that certain, perhaps many, lives are recognized as valuable only when they are** damaged or destroyed**,** **and only in such a way that they stir the emotions of sympathetic witnesses**. Similarly, Asma **Abbas argues for a** rethinking of the politics of suffering **apart from and a repositioning of** the suffering subject outside of the “sensorium” **that demands the** “performance of suffering” **in exchange for any** “performance of justice.”29 In such a context, **the performance of suffering might garner some kind of** restitution for the victim**,** but it ultimately serves to consolidate the relative privilege of the interlocutors who bear witness to it. Instead, Abbas asserts that **“the experience of suffering deserves to be** (**acknowledged as) the subject of politics in a way that** does not relegate it to being an object **or event** harnessed merely as injury, identity, or other currency in liberal politics.”30 While **Abbas is referring primarily to the vocal expression of suffering**, her framework can be productively translated onto visual depictions of harm. Images that depict the banality of violence, rather than spectacularizing suffering, are sites that can proffer such an alternatively politicized acknowledgment of suffering. A first step toward ethical spectatorship, then, is to resist the tendency to conflate ethics with affective responses to a photograph. Images of conflict zones that do not ‘move’ us might be precisely the sorts of documents of violence around which spectators can enact an alternate politics by providing a different vision of the suffering other. Because they do not establish a foundation upon which to emote or to mobilize, apparently **banal images may resist being** instrumentalized toward any other end, and might therefore be as ethically meaningful as their rather more spectacular counterparts. 31 For example, the lack of blood or other explicit signs of physical suffering in the video from Beit Ummar potentially destabilizes viewer expectations about representations of conflict zones. The cameraman films the scene from beginning to end, and so we see a confrontation that escalates rapidly but comes to neither a climactically violent conclusion nor a peaceful resolution. Cavarero describes eruptions like these in the following terms: “Disengaged from the intensive continuity of war, the time of violence thus dilates and finishes by coinciding, through unfathomable intermittence, with the banal dimensions of daily life . . .”32 While horrorism, Cavarero’s neologism for the devastating impacts of extreme violence on non-combatants, makes evident the ways in which modern warfare pervades the everyday, narrowing attention to images of such violence reinforces rather than destabilizes hegemonic media attention to the spectacular. Beyond, or in addition to horrorism, representations of banality provide a different angle through which to view contemporary militarization. Images of banality such as the Beit Ummar video provide a perspective on violence distinct from the realm of spectacle. Here, the medium of the video makes this starkly evident for the unfolding of the scene captures the dilation and seeping permeation of violence. The encounter with Sliwinski’s “limits,” which form an invisible but impassable boundary around the image, moreover, necessitates a political interpretation of the viewer’s discordant reactions to the scene. In the spring of 2012, media outlets circulated photographs of US soldiers posing with the dead bodies of Afghan ‘insurgents’; significantly, discordance, ambiguity, and uncertainty pervade these photographs. While politicians and news commentators described the pictures as spectacular or somehow exceptional, we suggest that these photos (and their framing) expose a conundrum fundamental to ethical spectatorship: the difficulty of parsing the motives of soldiers within the routinized visual practices of this war as well as the consequences of looking at images forged in violence.33 Photographer-soldiers of the 82nd Airborne Division regularly use their cameras in their visual work of inspecting attack sites, documenting bombings, scanning and identifying corpses, and collecting biometric information. Routine performances of those duties notwithstanding, these soldiers got into trouble when they took unauthorized photographs of themselves posing with the corpses, pictures that were subsequently published by the Los Angeles Times in April 2012. 34 In a broader context where digital cameras are ubiquitous, and more specifically in a conflict where soldiers continually negotiate the interfaces between death and the visual, perhaps it is unsurprising that they might occasionally blur or ignore distinctions between sanctioned and unsanctioned uses of the camera. So-called “scandals” involving the archival impulse to photograph militarized violence have become almost commonplace since the circulation of photographs from Abu Ghraib in 2004.35 In 2011, for instance, Rolling Stone published a lengthy article on the self-identified ‘Kill Team’ in Afghanistan, a group of soldiers who covered up killings of Afghan civilians by staging scenes in which soldiers appear to be ambushed as well as photographing themselves performing routine procedures for dealing with enemy corpses.36 One of the published pictures shows two soldiers leaning over a boy’s corpse to obtain scans of his iris and fingerprints. This extreme close-up features a soldier in profile bending over the body to hold one eye open while the arms of the other soldier reach into the frame to center a camera over the boy’s face. Gazing down from a high-angle shot, the viewer joins the soldiers in this forensic gaze at the sprawled bloody corpse. Bright daylight and a stable composition created by the complementary lines of the soldiers’ arms reaching into the center of the image convey a sense that this is not an unusual event. The stable composition, in contrast to a snapshot taken spontaneously, reinforces the calm forensic feel of the image. As in the video from Beit Ummar, this event is marked as important but not extraordinary. Composition, lighting and the unhurried appearance of the soldiers suggest the ordinariness of the event. While the US soldiers’ actions were part of standard visual protocols, the questionable behavior of taking pictures of the soldiers taking pictures was subsequently recast as criminal by the photograph’s inclusion in the Kill Team’s grisly montage of displayed corpses and carefully composed shots of severed limbs. The photograph of the dead boy’s body refracted on the digital screen of the device that one soldier positions over him makes visible two types of military operations that typically remain invisible to a wider public—the officially sanctioned visual work of the war and the “unofficial” actions of soldiers on the ground.37 Sanctioned and unsanctioned visual practices coexist in the war zone as common and extraordinary visual encounters with the dead overlap and contaminate one another. Recognition of this commingling might be a way of moving beyond the critical impasse about the political efficacy of photographs that arises when we presume that spectators only have two choices: to look or not to look, a binary in which the former is presumed to be a sign of compassion and the latter to suggest a lack of care for suffering others. Indeed, the editors of the Times framed their decision as an ethical question of publishing or not publishing the images, which implied that the soldiers may simply have made the wrong visual choice to pose for photographs with the dead. Against this tidy dualistic narrative, the blurring of boundaries between sanctioned and unsanctioned visual work is evident in a pairing of photographs published in the Times article. In the first, one soldier leans intently over the insurgent body, ignoring the camera, while the other soldier, with the dead man’s hand resting limply on his shoulder, turns his sweaty face away from it and smiles. In the second photo, some of the US soldiers are occupied with something beyond the frame, while a few of their comrades insert themselves awkwardly into the shot behind the legs of a corpse, which two Afghan policemen suspend by its ankles, one looking impassively at the camera, the other gazing downward at the remains. For all the clarity with which the pictures depict the viscera of the dead and the faces of the men sent to document these deaths, they also testify to the murkiness of the boundary between visual practices that are sanctioned and those that are not. Beyond the texts themselves, circulation patterns as well as the positionality of the spectator interact with affective elements in the images to determine whether a viewer will experience a photograph of a corpse as banal, or gruesome, horrific, and spectacular. Photos like these shift or rupture the boundaries between official and unofficial photography, and in so doing, expose the unstable boundaries between the banal and the spectacular. Reactions to the photographs and the circumstances of their publication offer vivid evidence of the capacity of images to generate political discourse, but also to the contested and ambiguous character of that discourse. Published in American newspapers and then picked up by national cable and network television, these photographs circulated in the United States at a time of rising impatience with the war.38 Denunciations of the pictures by news commentators and political leaders pointed viewers towards a consensus that cheerfully posing with corpses was extraneous to the mission, and hence gratuitous, objectionable, even criminal.39 At the same time, objections to the photos were notably muted, especially in contrast to the more widespread and vociferous protests elicited by the Abu Ghraib photos and the efforts (albeit superficial) by US political leaders to apologize for what had transpired there. It was unclear, moreover, whether criticisms of the pictures by political and military leaders were directed at errant soldier-photographers and their behavior, or were directed at the news media for circulating the pictures, which may ultimately be impossible to disentangle. Such commentary, with its disciplining functions, substantiates Abbas’s claim about how the “**performance of suffering,”** or bodily desecration in this instance, **serves** political ends **distinct from the politics of subjectivity for the dead, and for their communities. Witness**, for example, the befuddlement of many American commentators who observed that Afghans seemed less incensed by these incidents than by the burning of Korans that had occurred some months earlier, an event which precipitated deadly riots across Afghanistan and attacks on military installations after it was discovered that US military personnel had incinerated copies of the text removed from a prison library. Western observers struggled to understand what seemed to be an affective mismatch or, rather, an apparent misallocation of anger by the Afghans with regard to these transgressions. **Atrocity images**, like other images of trauma and suffering, **dialogically engage viewers in** often-discordant affective and ideological acts of spectatorship.In that regard, while affects are messy, incoherent, and intersubjective, as scholars today claim, they do not occur in some moment of pre-signification but rather within historically situated contexts, or within a “sensorium” that serves to shape, enable and/or constrain affective responses into identifiable, more politically manageable, emotions. In this instance, the surrounding news apparatus marked these photographs of soldiers posing cheerfully with body parts as significant and spectacular, much like B’Tselem’s circulation of the video of the IDF soldier pointing his gun at a Palestinian civilian marked that moment as eventful, rather than claiming its uneventfulness as the locus of its power. Priming by activists and news media to “feel” outrage in such moments indicates some of the ways in which affects, intertwined with modes of circulation and presentation, come to “move” the spectator.40 **The affects that we feel or display when confronting an** image of suffering **often seem authentic, automatic, or unbidden, but these self-assessments themselves emerge from discursive conditions that encourage us to think of ourselves as sentient and responsive to the suffering of others, a self-concept that obligates those others, implicitly,** to suffer visibly in a manner that provokes and justifies an intense response. In this context, our affective responses start to seem, **in** Lauren **Berlant’s words, like “expressions of one’s** true capacity **for attachment to other humans rather than** effects of pedagogy,”41 **which is** often **delivered through a complex of** political and ideological mechanisms**. The lack of discussion in the media about military procedures** **for processing enemy corpses suggests that neither news commentators nor viewers found such policies, in and of themselves, troubling, much less “outrageous.”** Debates **centered on the apparent** excesses of violence, not the routine visual practices of militarization, including the commonplace battlefield forensic act of processing corpses by scanning their irises and fingerprints. Such framings attempt to resignify the banality of violence within normative understandings of military conflict. **Given the potential of prevailing forms of sentimentality to either overdetermine or** delimit spectatorial responses **to banal** sights of suffering, **what possibilities for ethical encounters with the suffering other, alive or dead, are afforded within mediated sites of publication and circulation of their images?** And, moreover, given the lack of attention to Afghani corpses as political subjects (reporters made no attempts to identify and name these dead “insurgents”), are compassion or sadness even politically meaningful or ethically relevant in this instance? Berlant asks, **“what happens to questions of managing alterity or difference … when feeling bad becomes evidence for a structural condition of injustice?”** 42 This query suggests both that **spectatorial discomfort is an** untrustworthy indicator of another’s suffering **(because its** absence can be taken as a sign that there is no suffering after all) **and** a problematic response to it **(because it begins to seem** ethically sufficient in itself). **In the case of the photos from Afghanistan, emotions like outrage gave Americans a roundabout way into domestic debates,** allowing them to feel good about their presumed distance from**, or opposition to, national policies and the unsavory corporeality of the visual work of war, while** also **demonstrating a kind of** ‘civilized’ affective superiority **to the Afghans who did not seem to care enough about what the pictures revealed**. Here, the potential for ethical spectatorship is complicated by the circumstances in which these photos were taken, by the fact of the deaths recorded within them, and by their vexed status as both evidence and implements of a peculiarly visual kind of violence. Confronting the sensorium that incorporates both routine practices of documentation and the visual pleasures of spectatorship exposes not only the dilemmas facing soldiers over sanctioned and unsanctioned visual work but also underscores the challenges for spectators looking at atrocity pictures, who by looking risk replicating, even in small ways, the original harm of actions like desecrating bodies for visual pleasure. **Approaching such images from a position that acknowledges and accepts their banality, rather than resisting it, can be a way of bearing witness to the routine and commonplace visual violences of war that**, in turn, **might facilitate a conceptualization of a** visual **ethics of banality**. Orientation toward Otherness: Ethics, Affect, Spectatorship Describing the bewildered ache that afflicts spectators confronting photographs of suffering, Sharon Sliwinski suggests, “it is perhaps from this state of uncertainty and anguish that the dilemmas of modern political life might best be approached.” 43 Recalling Abbas’s concerns about how **the sensorium of** liberal humanism demands **a performance of suffering in exchange for** a performance of justice, we suggest that **spectators who are not anguished by the sight of suffering might still care about it, might still be capable of responding ethically to it**: in other words, a spectatorial ethics of banality. Part of our goal in this paper has been to disaggregate affective and ethical spectatorial responses to photographs of suffering others; we want to write against the critical tendency to envision them as identical to or inextricable from one another, and in the process, make explicit the continuities and disjunctures between them.

#### They do my framing for me - all of their framing is a reason to prefer the K and they can’t leverage it. Also means I’m a prereq to their offense.

#### 1. Links to their ROB because it’s a question of how to best engage marginalization in educational spaces. Adelman also prereqs and turns case.

#### 2. Severs their link to the ROB - Adelman characterizes liberal humanism and spectatorship as dominant ideologies within education.

#### 3. Link turns abstraction - they only respond to the abstract specter of suffering of the 1AC - you sympathize with their pedagogy more than lived experiences - that’s repugnant.

#### 4. Prereq to standpoint epistemology - the standpoint of the spectator is not productive and causes Adelman’s impacts.

#### 5. Turns O’Doherty - Adelman links them to control and manipulation of the Other’s suffering and identity.

#### 6. Hijacks their Denzin evidence - an authentic orientation toward Otherness is a prereq to incorporating lived experiences. Any link to the K means Denzin is a reason to drop them, they do that weighing for me.

#### 7. Hijacks Wolfe and Jaffe - Adelman says they conceal violence - their orientation is net-less educational.

#### 8. State good/key isn’t responsive - I make our heuristic better, you waste it.

## Case

### Overview on Solvency

#### 1. Turn - they say perpetrators who violate get arrested, but that disproportionately results in the premature death of black survivors. It also increases IPV for poor survivors, and doesn’t increase longevity for *anyone* meaning it doesn’t solve. Deterrence arguments are unfounded and this at least shifts the burden of proof. Sherman and Harris 2k14:

Lawrence W. Sherman & Heather M. Harris [Department of Criminology and Criminal Justice, University of Maryland. Institute of Criminology, University of Cambridge]. "Increased death rates of domestic violence victims from arresting vs. warning suspects in the Milwaukee Domestic Violence Experiment." J Exp Criminal 11.1 (2014). Published Online 16 May 2014. Web. 10 February 2016. SHSLW

Regardless of the reasons for the racial disparity we observe, **the evidence is clear: African-American victims of domestic violence are disproportionately likely to die after partner arrests relative to white victims**. The magnitude of the disparity strongly indicates that mandatory **arrest** law**s**, however well-intentioned, can **create a racially discriminatory impact on victims**. While 6% of the deaths amongst the white partners of arrested suspects could have been avoided, 40% of the deaths amongst the black partners of arrested suspects could have been avoided, if only their partners had been warned instead. Wisconsin state law requires police to make arrests when they have probable cause to believe that a misdemeanor assault has occurred in a domestic relationship, irrespective of race. This law was not intended to place black victims at a disadvantage to white victims, or to deprive them of life. **Like many other “race-neutral” policies, however, this policy generates racially disparate outcomes**. A key question is whether the unintended potential harm generated by that disparity is outweighed by the intended potential benefit of the policy. In the realm of labor law, employment policies often require a high school diploma or passage of tailored exams to qualify for certain jobs. Those policies exemplify seemingly race-neutral policies that have resulted in racial disparity. In considering whether those policies could be considered justified, the US Supreme Court has focused on whether the policy under examination has sufficient evidence to justify its use as an employment criterion (e.g., Griggs v. Duke Power Co., 401 U.S. 424, 1971; Ricci v. DeStefano, 557 U.S. 557, 2009). In the realm of criminal law, there is no comparable body of US case law regarding unintentional disparate impacts of criminal justice policies on victims of crime. In fact, there has been no prior evidence of victim mortality differences apparently caused by any criminal sanction. Thus, it is unclear how US federal courts would rule if a Constitutional challenge to the Wisconsin mandatory arrest statute were filed by surviving families of deceased African-American domestic violence victims whose partners had been arrested. Since 1871, Section 1983 of the U.S. Code has prohibited states from depriving people of certain rights “under color of” statutes (or other acts or omissions). This code was enacted to enforce the 14th Amendment to the U.S. Constitution, which says (in part) that “No State shall make or enforce any law which shall… deny to any person within its jurisdiction the equal protection of the laws.” Whether equal protection is defined by equal enforcement or equal effect is a theme of increasing discussion by legal scholars, especially with respect to racially disparate effects of incarceration rates and the collateral consequences of incarceration. This has led to proposals for “demographic impact statements” regarding sentencing of offenders and to one state (Minnesota) reconsidering a potential change to its sentencing regime based on the projection that it would differentially impact African-Americans (Reitz 2009). That legislatures should consider the potential impact of legislation before enacting new sentencing laws could apply equally to repealing existing arrest laws. The present article can be seen as an example of what could be called a “demographic victim impact statement,” as distinct from the case-by-case use of “victim impact statements” before sentencing (e.g., Davis and Smith 1994). Such statements are also relevant to proposals to repeal existing laws governing police conduct. Perhaps the key fact in any “balancing test” of evidence for or against a law that legislatures or courts might consider is the lack of any discernible evidence of a longevity benefit for victims, caused by the arrest of abusive partners. **Using the stringent**ly unambiguous **criterion of victim life expectancy, none of the 22** moderator **analyses found any significant increase in longevity associated with arrest. Earlier findings** on short-term misdemeanor recidivism (Pate and Hamilton 1992; Sherman and Smith 1992) had **demonstrate**d opposite effects for different subgroups, with victims of employed abusers gaining a benefit of less violence from arrest, at the cost of **victims of unemployed abusers experienc**ing **a higher rate of d**omestic **v**iolence **if the abuser**s **had been arrested**. When death is the test of benefit, the result is unambiguous: **no victims appear to benefit. The** potential **benefit of a general deterrent effect is much harder to examine, and remains untested** with respect to overall mortality of domestic violence victims. Other benefits, such as moral condemnation of domestic violence, also remain untested. If nothing else, **the present findings** may **justify a shift in the burden of proof onto those who would prefer to see** mandatory **arrest continued**. For those who caution no policy change (at least in Wisconsin) until there is more evidence, we must recall that the evidence on which the Wisconsin statute was based was a 6-month follow-up of an experiment in Minnesota (Sherman and Berk 1984). For reasons of both internal and external validity, **the** present **study covering 23 years** arguably **provides much** more policy-**relevant evidence** for Wisconsin. Whatever effect these findings may have on future research or policy decisions, they provide strong evidence for proposals to test criminal sanctions in the same way that medical treatments are tested. **Evidence from controlled trials indicating a substantial cause of premature death for African-American victims should be taken seriously unless and until further strong evidence shows otherwise**.

#### And that links hardest into the ROB because these people are marginalized by IPV, race, and class – aff directly worsens their conditions.

#### 2. Turn - People rush to buy more guns due to perception of restriction – proven under Obama’s administration. Devaney 2k15:

Tim Devaney, Author and Staff Writer, “Gun production has doubled under Obama”, 07/23/15 12:05 PM EDT

**Gun production has more than doubled over the course of the Obama administration**, according to a new report from the Bureau of Alcohol, Tobacco, Firearms and Explosives. **The** manufacturing **boom has come in the face of the president’s push to expand background checks and place new restrictions on guns in the wake of high-profile shootings** like the recent mass-killing in Charleston, S.C., and the 2012 massacre at a Newtown, Conn., elementary school. **The numbers paint a picture of gun owners who are concerned about new restrictions** on their Second Amendment rights, activists say. “The ATF report confirms what we already know, that **Barack Obama deserves the 'Gun Salesman of the Decade' award**,” said Erich Pratt, spokesman for the Gun Owners of America. "**People have been rushing to buy firearms because they’re afraid that Obama will take away their Second Amendment rights**.” The ATF’s annual firearms commerce report tracks the number of guns manufactured in the United States, which provides an indication of gun sales around the country. The number of guns manufactured increased by 18 percent during the George W. Bush administration, while the Clinton administration actually saw a 9 percent reduction. But **under President Obama, gun production has spiked 140 percent to 10.8 million** firearms **in 2013**, the most recent year for which data is available. **The year before** President Obama entered office, **gun manufacturers produced** about **4.5 million** firearms. “President Obama has been relentless in his attacks on the Second Amendment, and it’s not shocking people are frightened and want to protect themselves,” National Rifle Association spokeswoman Jennifer Baker said. “He’ll stop at nothing to strip people of their constitutional rights to self-protection." **The spike in gun sales stems from a “constant attack on** our **constitutional right to keep and bear arms**,” said Joe Neville, director of political affairs at the National Association for Gun Rights. “President Obama has made it very clear he wants to strip away our gun rights, so people are going out and purchasing more firearms and ammunition,” Neville explained. But gun safety advocates say this is nothing more than a “scare tactic” employed by the gun industry. “The gun lobby seizes on those fears and uses scare tactics and doomsday rhetoric in order to sell more guns,” said Mark Prentice, spokesman for Americans for Responsible Solutions, the gun safety group run by former congresswoman Gabby Giffords, who survived a 2011 mass shooting in Tucson. **Pistols are the most popular type of gun, accounting for 4.4 million of** the **firearms made in 2013**, according to the report. Meanwhile, gun manufacturers produced 3.9 million rifles and 1.2 million shotguns. **The number of pistols made has nearly tripled during the Obama administration, which could also reflect more people turning to firearms for personal protection**, Pratt suggested. “Even in their homes, many gun owners prefer using handguns for self-defense,” Pratt said. This story was updated at 4:18 p.m.

#### No getting out of this because

#### (a) Plan only confiscates guns from convicts meaning it’s only retroactive. The perception of more regulation means more guns in circulation, which means unconvicted and future perpetrators become more deadly. Maloney says *access* is what causes the impacts - as long as I win access goes up I win,

#### (b) Their solvency ev is about small scale implementation - national level links,

#### (c) Ownership in general drives aggression and violence, not the other way around, so I control uniqueness. Bushman 2k13:

Bushman, Brad. “The "Weapons Effect." Psychology Today 18 Apr. 2013: Web. 1 Dec. 2015. <https://www.psychologytoday.com/blog/get-psyched/201301/the-weapons-effect>.

In 1967, Leonard Berkowitz and Anthony LePage conducted a fascinating study.[1] First, participants were angered by a person pretending to be another participant (called a confederate). Next, **participants were seated at a table that had a** shot**gun** and a revolver **on it—or**, in the control condition, **badminton racquets** and shuttlecocks. **The items on the table were described as part of another experiment that the researcher had supposedly forgotten to put away. The participant was supposed to decide what level of electric shock to deliver** to the confederate who had angered them, and the electric shocks were used to measure aggression. **The experimenter told participants to ignore the items on the table, but apparently they could not. Participants who saw** the **guns were more aggressive than were participants who saw the sports items. This effect was dubbed the “weapons effect.” The weapons effect occurs outside of the lab too**. In one field experiment,[2] a confederate driving a pickup truck purposely remained stalled at a traffic light for 12 seconds to see whether the motorists trapped behind him would honk their horns (the measure of aggression). The truck contained either a .303-calibre military rifle in a gun rack mounted to the rear window, or no rifle. The results showed that motorists were more likely to honk their horns if the confederate was driving a truck with a gun visible in the rear window than if the confederate was driving the same truck but with no gun. What is amazing about this study is that you would have to be pretty stupid to honk your horn at a driver with a military rifle in his truck—if you were thinking, that is! But people were not thinking—they just naturally honked their horns after seeing the gun. **The mere presence of a weapon automatically triggered aggression**. Research also shows that **drivers with guns in their cars more likely to drive aggressively**.[3] A nationally representative sample of over 2,000 American drivers found that **those who had a gun in the car were significantly more likely to** make obscene gestures at other motorists (23% vs. 16%), **aggressively follow another vehicle too closely** (14% vs. 8%), or both (6.3% vs. 2.8%), **even after controlling for many other factors related to aggressive driving** (e.g., gender, age, urbanization, census region, driving frequency).

### LBL

#### On McDonough - They say enforcement is through mandatory confiscation. This means the plan is only retroactive and doesn’t proactively ban partners from purchasing. They only make possession illegal after the fact.

#### Private purchasing and background check loopholes cause the problem. EveryTown 2k14:

Everytown Research. “Guns and Violence Against Women.” June 16, 2014. Accessed April 16, 2016. Web. http://everytownresearch.org/reports/guns-and-violence-against-women/

But gaps in the laws and difficulties with enforcement pose lethal threats to the victims of domestic and family violence who are most at risk. **Loopholes in laws** prohibiting gun possession by domestic violence offenders **allow abusers and stalkers to legally buy and possess guns. Gaps in our background check laws let** prohibited domestic violence **offenders easily evade background checks and buy guns from unlicensed sellers in most states**. And many states lack adequate mechanisms to ensure domestic abusers who own guns turn them in when they become prohibited.

#### Abusers get guns from someone else. They can get a friend to buy them. It's the oldest trick in the book, like how kids get weed and booze.

#### On Mascia -

#### 1. No Solvency - Judges don’t invoke the law so the loophole stays, and judge intimidation means survivors don’t utilize it. Enforcement falls on police who don’t understand the law, choose not to enforce it, or can’t enforce it. Guns end up back in circulation anyway. Mascia 2k15:

Jennifer Mascia Editorial assistant in the editorial department of the New York Times, contributor to The Gun Report, gun violence project, "Domestic Violence Offenders Abusers Frequently Get to Keep Their Guns. Here Are the Big Reasons Why.," Trace, October 26, 2015

Even in states that do have relinquishment laws, **some judges don’t order abusers to surrender their guns** **An examination of Rhode Island**’s relinquishment policy by Everytown for Gun Safety **found that judges ordered defendants to surrender their guns in only 5 percent of qualifying d**omestic **v**iolence **cases between 2012 and 2014. Even when a judge knew a defendant had access to a firearm or threatened to use a firearm, a gun surrender order was issued in only 13 percent of cases**. (Everytown for Gun Safety is a seed donor to The Trace.) “I think there’s a feeling among people that it’s not fair to keep people’s guns unless they have proven themselves to be a really violent criminal,” says Rachel Orsinger, manager of government relations at the Rhode Island Coalition Against Domestic Violence. “They don’t see domestic violence as a real type of violence.” This attitude might also explain why judges don’t use their discretion to order a gun surrender. In California, a 2005 report prepared for the attorney general found that some **judges “intimidate victims” making it harder for them to obtain protection orders**. “A small minority of judges simply don’t believe this is an appropriate use of the law, and that it isn’t consistent with what civil courts should be doing,” says Frattaroli. **Police departments aren’t familiar with** relinquishment **laws — or don’t have the resources to enforce them** **The job of enforcing relinquishment orders falls to local police departments**. At least in her state of Rhode Island, Orsinger says, **some police departments don’t know if they’re responsible for carrying out seizures, or whether they fall under federal jurisdiction**. “I think **you can ask 39 different** towns and police **departments and get 39 different answers**.” That confusion led a group of Rhode Island police departments to lobby for a failed 2014 bill that would have given them the explicit power to confiscate guns during domestic violence calls. **Even when relinquishment orders are followed through on, there’s the issue of what to do with an abuser’s firearms. Not all police departments have the space to store a large number of guns — nor do they want to be held accountable for them. “[Police] don’t want to be responsible for these guns** or held liable if they end up lost or damaged,” says Chelsea Parsons, the vice president of guns and crime policy at Center for American Progress. To keep their storerooms from overflowing, **some law enforcement agencies partner with local businesses for storage**. Earlier this year, police in Dallas, Texas, unveiled a program that requires certain domestic abusers to turn over their weapons at a local gun range. The 2005 California report details a similar approach: During arraignments for criminal protective orders, judges in Orange County advise defendants to call the California Department of Justice, which maintains a domestic violence restraining order system, and leave a voicemail identifying all of their guns. **Gun owners can then sell their guns**, store them with a licensed gun dealer, or turn them in to a law enforcement agency. During one four-week period, according to the report, the court collected four handguns, two shotguns, three rifles, and a grenade launcher.

#### 2. Their Mascia only says that offences caused by prior convicts are reduced - means it doesn’t disprove my future offenders and nonconvict arg.

#### On DS -

#### 1. DS proves background checks solve, not relinquishment laws, but the plan doesn’t expand background checks - it’s only retroactive confiscation.

#### 2. Everytown, which is cited by Mascia, says private sales and background checks takeout solvency. Everytown 2k14:

Everytown Research. “Guns and Violence Against Women.” June 16, 2014. Accessed April 16, 2016. Web. http://everytownresearch.org/reports/guns-and-violence-against-women/

Third, **federal law (and** the law in **most states) allows** domestic **abusers and stalkers to easily evade** gun **prohibitions by purchasing guns from** unlicensed, **private sellers**. Federal law only requires background checks for gun sales at licensed dealers. Sixteen states require checks on all handgun sales, but in the remaining states, **prohibited abusers seeking to avoid a background check have little trouble purchasing a gun** from an unlicensed seller they meet online or at a gun show. **Prohibited** domestic **abusers are well aware of this loophole—and have taken advantage of it** to deadly effect. In a first-of-its-kind investigation of illegal online gun sales, Mayors Against Illegal Guns found that **1 of 4 prohibited purchasers seeking guns online had a domestic violence arrest**.

#### 3. More ev. Knox 2k15:

Jeff, political activist and writer, WHY BACKGROUND CHECKS DON'T WORK, 3-5-15, http://www.wnd.com/2015/03/why-background-checks-dont-work/

In the case of mandatory background checks on gun purchasers, first, keep in mind that **it is already illegal for a “prohibited person,”** someone who has been **convicted of a felony or** certain **misdemeanor**s, or “adjudicated mentally incompetent,” **to purchase** or possess **a firearm**. Most of **those people know they are prohibited, and, therefore, those who want to obtain guns get them through illegal means – theft, straw purchases or from the same guy who sells them their drugs. In 2010, only 13 people were successfully prosecuted for lying on a gun purchase form**. The second thing to keep in mind is that **most people who legally buy guns already own guns**. It is estimated that between 80 and 100 million people in the U.S. own something like 300 million guns, and millions more are sold every year. Estimates suggest that **better than 80 percent of all guns sold in this country every year are purchased by persons who already own at least one gun**. That means that **fewer than 20 percent of background checks have any potential to “keep guns away” from someone who doesn’t already have one, and better than 80 percent are just a waste of time and money**.

#### 4. Abusers get their records expunged. Highbee no date:

Mathew Higbee is a recognized authority on criminal record clearing. He has worked on more than 2,000 expungement cases in 6 states. He successfully argued the published case of People v. McLernon which helped define California's expungement law. "Expunge A Domestic Violence Charge" RecordGone is a division of Highbee & Associates. http://www.recordgone.com/expunge-domestic-violence.htm

How to Get a Domestic Violence Charge Expunged The first question that most people ask when they are convicted of domestic violence (or any crime) is "how do I live with the label of being a criminal?" If you have been convicted of domestic violence, you have probably wondered this exact same thing. The answer depends on many things, but first and foremost it depends on where the offense occurred. It is that state’s law that will dictate if and when you can get your record expunged. In general, expungement involves filing a motion or petition with the court. The petition usually has to be served (which means delivered) to the prosecution, too. Most courts also let people submit written testimony and provide any supporting evidence with the motion or petition. Keep in mind, that whichever documents are filed with the court must also be provided to the prosecution. The court will review the petition and determine if you are eligible and deserving. The prosecution may object if they do not believe that you deserve to have your domestic violence offense expunged. The court may have a hearing, where you will be required to provide oral arguments in support of your request for expungement. Hiring an attorney can greatly improve your chances of successfully expunging a domestic violence charge. Chances of a Successful Domestic Violence Expungement Each case, state and court are different, so the chances of success in expunging domestic violence can vary from state to state. Attorney Mathew **Higbee says that his nationwide success rate is about 95% on domestic violence expungement cases. “Domestic violence offenses are not** the **typically** the type of case that people commit **habitual**ly, unless substance abuse is involved or the person is stuck in a volatile relationship. While some cases of domestic violence are abusive and should be taken seriously, these offenses are all too often an argument that gets out-of-hand by people who are in an intimate relationship where emotions run high. As a result, **courts tend to grant expungement requests when presented with** the surrounding **circumstance, especially if the person has gone a few years** without any domestic violence crimes,” said Melissa Clark, Associate Attorney at RecordGone.com.

#### That’s also a turn for me - the aff just encourages them to expunge faster so they can get guns again. Their ev wouldn’t account for this because their record would be gone so they’d be first-time.

# 2NR

Omitted