

Transparency

Topicality-

1. "United States Federal Government" Refers to the 3 branches of the government of the United States of America

Oxford English dictionaries 2015,

<http://www.oxfordlearnersdictionaries.com/us/definition/english/federal-government>

(in the US) the system of government as defined in the Constitution which is based on the separation of powers among three branches: the executive, the legislative and the judicial.

2. Violation- The aff is only using one branch of the USFG

3. Standards/Voters-

4. Limits- The have explodes the limits of the resolution, they allow for affs to only use one branch, exploding the negatives research burden

5. Ground- The aff destroys neg ground, by only using one of the 3 branches, they take away core negative ground such as the courts counterplan.

Politics-

1. Republicans will work with Obama and avoid a shutdown now:

Rudy Takala, 9/5/2015 (staff writer, "Obama: I'll veto any budget if it limits spending," <http://www.washingtonexaminer.com/obama-ill-veto-any-budget-if-it-limits-spending/article/2571507>, Accessed 9/11/2015, rwg)

President Obama praised the monthly jobs report during his weekly address Saturday and called on Republicans to pass his budget when Congress reconvenes next month. He also threatened to veto any budget that did not increase spending. "The unemployment rate dropped to 5.1%, the lowest it's been in seven years," Obama said, noting the August jobs report released on Friday. "This month, Congress has an opportunity to continue that progress. As always, the deadline for Congress to pass a budget is the end of September." "And if they don't, they'll shut down the government for the second time in two years," said Obama. "If Congress wants to support working Americans and strengthen our middle class, they can pass a budget that invests in, not makes cuts to, the middle class. If they pass a budget with shortsighted sequester cuts that harm our military and our economy, I'll veto it. If they make smart investments in our military readiness, our infrastructure, our schools, public health, and research, I'll sign that budget." Critics have pointed out that the job growth figures are inflated due to declining labor force participation. The number of Americans who were not participating in the labor force reached a record 94,031,000 in August, an increase of 261,000 over July. As a percentage, the participation rate was 62.6 percent, the lowest since 1977. More from the Washington Examiner Obama will press China on cyber rules By Nicole Duran • 09/11/15 7:21 PM Conservatives have argued that increasing the national debt whilst the economy is shrinking is unsustainable. President Obama's budget proposal would increase discretionary spending again this year from \$1.017 trillion to \$1.091 trillion, a 6.4 percent increase split roughly evenly between domestic and military spending. Congress passed the Budget Control Act in 2011, implementing sequestration. It allowed President Obama to spend \$2 trillion immediately under the pretense that cuts would be made to offset the spending over the ensuing decade. However, Democrats say that the cuts are no longer feasible, which has led to annual autumn battles on the budget. If Congress fails to approve a budget by September 30, some federal operations would shut down until a budget is approved. However, Republican congressional leaders are largely expected to go along with Obama's plan.

2. Curtailing surveillance and even creating the perception as going soft on terror is political suicide

National Journal 9/19/2014 Alex Roarty, "Republicans Airing Ads Attacking Democrats as Being Soft on Terrorism," <http://www.nationaljournal.com/politics/republicans-airing-ads-attacking-democrats-for-being-soft-on-terrorism-20140919>

September 19, 2014 House Republicans are making a big bet that in the final weeks of the midterm election they can exploit doubts about President Obama's foreign policy to persuade late-deciding voters to support Republicans. The National Republican Congressional Committee announced Friday a quartet of new ads focusing on national security. One, airing against Rep. Dan Maffei of New York, accuses the congressman of "backing constitutional rights for foreign terrorists." Another, in a bellwether Iowa district, claims that Democratic candidate Staci Appel supports "passports for terrorists." These ads open with footage from Islamic State fighters. 'DAN MAFFEI PUTS US AT RISK' (NRCC) At a breakfast hosted by the Christian Science Monitor the same morning, the group's chairman, Greg Walden, made clear it's a topic voters can expect to see more of from Republicans before Election Day. Foreign policy and terrorism, he said, have seen a "big uptick" in polls, Walden said, and are contributing to a big shift among voters toward the GOP in recent weeks. "There is just this growing sense that things are a little out of control," he said. "And I don't mean they don't like Washington. Fifty-seven percent of the American people don't think President Obama is doing a good job on the terrorist question. That points to a real, real problem for all concerned." The NRCC chairman pointed specifically to "security moms"—women whose worries about national security nudged many of them to vote for the Republican Party in the 2002 midterms—as a bloc who have been sensitive to the issue. There's a real debate within the GOP, in both Senate and House races, about how prominent a role foreign policy should play in the campaign's closing weeks. Many of the party's candidates have used the topic to argue that Obama is incompetent, but others have shown hesitation to distract their airtight message on domestic issues. The NRCC, apparently, no longer

shares those worries. Asked if foreign policy had overtaken the economy as voters' primary issue of concern, Walden demurred. "I don't know that I could answer that at this point," he said. "I'd want to see more data." He added that it's a "very potent and important issue." "In campaigns, you want to be talking about issues people care about."

3. Obama's political capital is key to winning the budget battle

Dennis 9/9/2015 (Steven, "Democrats Want Ransom to Keep Government Open", <http://blogs.rollcall.com/white-house/democrats-want-ransom-keep-government-open/?dcz=>, Accessed 9/14/2015, rwg)

The Planned Parenthood funding fight may have garnered the most headlines, but a bigger fight over the budget — prompted by an emboldened President Barack Obama — could just as easily result in a government shutdown later this fall. The tables have turned from four years ago, when newly minted Speaker John A. Boehner was the one demanding a ransom — and getting it. The short-lived "Boehner Rule" amounted to a shakedown of Obama: Either he deliver dollar-for-dollar spending cuts for debt-limit increases or the GOP would toss the nation into the first-ever default on its obligations. Obama, facing a potential economic and political catastrophe heading into his re-election, blinked and handed Boehner north of \$2 trillion in spending cuts over a decade, including nearly \$1 trillion in so-called sequester spending cuts that all sides said they wanted to replace with smarter deficit cuts. Earnest on Shutdown: GOP 'Judged by Actions' Obama likewise blinked during the fiscal cliff deal shortly after winning re-election, giving Republicans permanent tax cut extensions for 99 percent of taxpayers — even for the heirs of billionaires — without meaningful concessions on his demands for more spending in infrastructure, research, education and the like. Since then, Obama has driven a harder bargain, vowing to never again bow to the Boehner Rule. And this year, he's the one making ransom demands. Whereas four years ago Republicans demanded spending cuts or else, now Obama is demanding the GOP reverse some of those cuts or else. Leverage has shifted in the direction of the short-timer in the West Wing who no longer has to worry about re-election or trying to hold onto a Senate majority by saving the hides of a handful of red-state Democrats. Obama first made his threat back when he introduced the budget, as CQ Roll Call noted at the time. He has repeated it several times since, and his aides have sent a mountain of veto threats down Pennsylvania Avenue for good measure. Senate Democrats have backed the president by filibustering Republican attempts to bring up appropriations bills without a deal for more spending. Press Secretary Josh Earnest repeated Monday the threat not to sign a bill keeping sequestration-level spending caps in place — though he noted that applied to a long-term spending bill as opposed to the short-term measure needed by the end of the month. The only question seems to be whether Democrats will stand firm behind the president when push comes to shove. Sen. Patty Murray of Washington, who negotiated the 2013 budget deal after the government shutdown drama ended, sounded ready for battle. "Our principle from the start has been we are not going to allow sequester to go into effect and it has to be equal defense and non-defense and our members are really strong about it," she said. And she warned Republicans about pursuing a long-term bill keeping the sequester level spending in place. "The Republicans would not want to shut down our government over implementing sequestration. It is not a policy this country supports," she said. Minority Whip Richard J. Durbin, D-Ill., likewise said Democrats were heartened by Obama taking a tougher stand. "I think the resolve of Senate Democrats is there, and has been throughout this process and I think this resolve is strengthened by the position of the president," he said. "I think this president has shown repeatedly now in the closing two years of his presidency that he is going to stand up and take on the leaders on the Republican side in a different way. I think it makes a difference."

4. Delay in passing a continuing resolution undermines the economy:

Jeremy Stahl, 8/27/2015 (staff writer, "Obama Calls Out GOP Over Possible Government Shutdown Threat in Katrina Speech", http://www.slate.com/blogs/the_slatest/2015/08/27/obama_calls_out_gop_over_possible_government_shutdown_threat_in_katrina.html, Accessed 9/11/2015, rwg)

President Obama took some time at the start of his remarks to commemorate the 10th anniversary of Hurricane Katrina on Thursday to preemptively bash congressional Republican rivals over another possible government shutdown fight next month. Saying he was asserting "presidential privilege" to begin his remarks by discussing the economy, Obama threatened to veto any funding bill that threatened additional austerity or extra measures. "Congress needs to fund America in a way that invests in our growth and our security and not cuts us off at the knees by locking mindless austerity or shortsighted sequester cuts to our economy," Obama said. Citing this week's turmoil in the financial markets and in the Chinese economy — as well as a sunnier report that showed the economy grew in the second quarter at a much faster rate than previously thought — Obama said that failing to pass a clean budget would further

harm global economic stability. “Eventually we’re going to do it anyways, so let’s just do it without too much drama,” Obama said of a potential budget showdown. “Let’s do it without another round of threats to shut down the government. Let’s not introduce unrelated partisan issues. Nobody gets to hold the American economy hostage over their own ideological demands.” Senate Majority Leader Mitch McConnell, a Kentucky Republican, has previously said there would be no shutdown, but the New York Times reported Monday that might be easier said than done. With only 15 legislative days on the Senate calendar for the month, a brewing fight over whether to end federal funding for Planned Parenthood, and a raft of senators running for president, it could be difficult to pass even a short-term funding measure despite vows by senior Republican legislators that they will not support a shutdown. As the Times noted, the next fight could come over the efforts of conservative backbenchers to remove federal funding for Planned Parenthood as a condition of passing a budget. Politico reported on Tuesday that Speaker John Boehner still hadn’t settled on a strategy for passing a budget, and that 18 Republican lawmakers in the House have said they wouldn’t vote for any spending bill that did not cut Planned Parenthood spending. Republican presidential candidates and senators Rand Paul and Ted Cruz have said they will try to pass measures to defund the group, which would not likely get past a Democratic filibuster in the Senate. The uproar over Planned Parenthood comes in the wake of secretly recorded videotapes of Planned Parenthood officials that have reignited the debate over research on fetal tissues. Obama was adamant that any delay over the issue could potentially harm the economy. **“My message to Congress is pass a budget, prevent a shutdown, don’t wait until the last minute,”** Obama said. **“Don’t worry our businesses or our workers by contributing unnecessarily to global uncertainty. Get it done.”**

5. Economic decline causes multiple scenarios for nuclear war:

Geoffrey **Kemp, 2012** (Director of Regional Strategic Programs at The Nixon Center) , The East Moves West: India, China, and Asia’s Growing Presence in the Middle East. 2012, 2032.

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. **The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy.** As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. **That in turn leads to political unrest and nurtures different radical groups,** including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” **Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran**, always worried about an extremist Pakistan, **expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East,** with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. **Under these circumstances, the potential for nuclear terrorism increases,** and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

Judicial Precedent D.A-

1. The third-party doctrine precedent is at a tipping point — recent cases prove

Sheehan 15 — Tim Sheehan, J.D. Candidate, Georgetown University Law Center (2015); B.F.A. from New School University (2009), 2015 ("Taking the Third-Party Doctrine Too Far: Why Cell Phone Tracking Data Deserves Fourth Amendment Protection," *Georgetown Journal of Law and Public Policy* (13 Geo. J.L. & Pub. Pol'y 181), Available Online to Subscribing Institutions via Lexis-Nexis)

[*197] V. THE SUPREME COURT'S RENEWED FOCUS ON THE NORMATIVE ANALYSIS

This section analyzes the Supreme Court's recent decisions in *United States v. Jones* n136 and *Riley v. California*. n137 Although the Court has not directly decided whether CSLI is protected by the Fourth Amendment, Jones and Riley show that the current Court is serious about crafting constitutional rules to account for shifting societal norms, and more pointedly that a majority of the Justices appear willing to reconsider the third-party doctrine altogether. Jones is notable for the concurring opinions of Justices Sotomayor and Alito, which seriously challenged the continuing viability of the third-party doctrine and show that the Court is willing to reassess old precedents in light of new technologies. n138 Riley is significant because it shows the Court's willingness to treat evidence gleaned from cell phones as categorically different, given the wealth of information that modern cell phones reveal. n139

2. Ruling on the 4th Amendment necessarily overturns Smith and the third party doctrine — only current legal justification for mass surveillance

Donohue 15 — Laura K. Donohue, Professor of Law, Georgetown University Law Center, Director of Georgetown's Center on National Security and the Law, and Director of the Center on Privacy and Technology, writes on U.S. Constitutional Law, American and British legal history, and national security and counterterrorist law, currently working on *The Future of Foreign Intelligence* (Oxford University Press, 2015), focusing on the Fourth Amendment and surveillance in a digital world, A.B., Dartmouth; M.A., University of Ulster, Northern Ireland; Ph.D., Cambridge University; J.D., Stanford, 2015 ("Bulk Metadata Collection: Statutory And Constitutional Considerations," *Harvard Journal of Law & Public Policy* (37 Harv. J.L. & Pub. Pol'y 757), Available Online to Subscribing Institutions via Lexis-Nexis)

In Smith v. Maryland, the Supreme Court held that a pen register placed on a telephone line did not constitute a search within the meaning of the Fourth Amendment, because persons making phone calls do not have a reasonable expectation that the numbers they dial will remain private. n478 The key sentence from the decision centered on the customer's relationship with the telephone company: "A person has no legitimate expectation of privacy in information he voluntarily turns over to third parties." n479 It is this sentence that spawned what has come to be known as the "third party doctrine." n480

The government relies on this opinion and the resultant third-party doctrine to argue that the telephony metadata program is constitutional. In the DOJ's August 2013 White Paper, it suggests that a Section 215 order is not a search because "the Supreme Court has expressly held participants in telephone calls lack any reasonable expectation of privacy under the Fourth Amendment in the telephone numbers dialed." n481

In ACLU v. Clapper, the government again cited to the Court's reasoning [*867] in Smith v. Maryland that, even if a subscriber harbored a subjective expectation that the numbers dialed would

remain private, it would not be reasonable because individuals have "no legitimate expectation of privacy in information" voluntarily turned over "to third parties." n482 The government suggested that because courts subsequently followed *Smith* to find no reasonable expectation of privacy in the sending or receipt of e-mail and Internet protocol addressing information, as well as subscriber information, "*Smith is fatal to Plaintiffs' claim that the collection of metadata* records of their communications violates the Fourth Amendment." n483

Judge Eagan similarly relied almost exclusively on *Smith v. Maryland* in her August 2013 opinion: "*The production of telephone service provider metadata is squarely controlled by the U.S. Supreme Court decision in Smith v. Maryland.*" n484 She reasoned that because customers are aware that telephone service providers maintain call detail records in the normal course of business, customers assume the risk that the telephone company will provide those records to the government. n485 That information was collected in bulk was of no consequence: "[W]here one individual does not have a Fourth Amendment interest, grouping together a large number of similarly-situated individuals cannot result in a Fourth Amendment interest springing into existence ex nihilo." n486

3. The third-party doctrine is key to investigating child pornography — IP address tracking

Kerr 10 — Orin Kerr, Professor at George Washington University Law School, JD from Harvard, M.S. from Stanford, BSE from Princeton, 2010 ("Applying The Fourth Amendment To The Internet: A General Approach," *Stanford Law Review*, Available online to subscribing institutions via Lexis-Nexis, Accessed 6-26-15)

The only Fourth Amendment fact pattern that courts reached concerning Internet investigations before 2007 considered the disclosure of basic subscriber information for Internet users. This has proved to be a recurring issue in child pornography investigations: in these cases, *investigators learn that an individual has been using a specific Internet account or Internet protocol (IP) address to distribute or seek images of child pornography. Investigators then subpoena the Internet service provider (ISP) associated with that address to obtain the name and home address associated with that account, and they use that information as part of the probable cause to obtain a warrant* to search the home associated with the address. n75 After a search warrant reveals contraband images and leads to charges, the *defendant challenges the collection of his home address*. Courts began to decide such cases in the late 1990s and have uniformly concluded that the Fourth Amendment does not protect it. n76 This conclusion did not require any intellectual heavy lifting, however: *it has been long established that the Fourth Amendment doesn't apply to basic subscriber information for telephone accounts*, n77 Western Union accounts, n78 *and other* [*1027] *similar third-party accounts*, and it is difficult to articulate a reason why the name and address of an Internet account should receive a different rule.

4. If child-pornography elicits a strong emotional reaction from you, that's a reason to prioritize stopping it—any other system is morally indefensible

King 7 — Peter King, Professor of Philosophy at Pembroke College, Oxford, PhD from Oxford, 2007 ("No Plaything: Ethical Issues concerning Child-Pornography," *Ethical Theory and Moral Practice*, November 30, Available online at <http://www.jstor.org/stable/40284244>, Accessed 6-29-15)

The emotional reaction to such a suggestion will surely be appalled rejection, similar to the reaction to the consumer of rape-type child-pornography. As I explained in Section 2, as an objectivist I take our emotions to be at the heart of morality; if the utilitarian really were to suppress her revulsion and apply a bloodless principle, then **something would have gone badly wrong with her utilitarianism as a moral theory**. Mill addresses a similar criticism in Utilitarianism:

It is often affirmed that **utilitarianism renders *[people] cold and unsympathising; that it chills their moral feelings towards individual**s; that it makes them regard only the dry and hard consideration of the consequences of actions, not taking into their moral estimate the qualities from which those actions emanate. (Mill 1861, chap. 2, f20)

Our emotions cannot be ignored without losing part of the heart of morality. Also at the heart of morality, though, is reason; **it is essential to** establish grounds for our condemnation of the consumer of the material in question - that is, to **show that our emotional response has the right origin and the right relationship with our rational nature**.¹² What are the available approaches here?

FISC-

1. The Foreign Intelligence Surveillance Court of Review should rule that [Insert Plan Mandate].

2. CP solves — FISC Rulings set binding precedent for future FISC rulings AND those decisions remain secret

Boeglin & Taranto 15, Jack Boeglin & Julius Taranto; Both are J.D. candidates in the class of 2016 at Yale Law School. “Stare Decisis and Secret Law: On Precedent and Publication in the Foreign Intelligence Surveillance Court” Yale Law Journal Number 124, Volume 6, April, 2015, 1836-2201. <http://www.yalelawjournal.org/comment/stare-decisus-and-secret-law>

*en banc – a hearing where all judges make a ruling

*Stare Decisis – setting law based on legal precedent

*FISCR – Foreign Intelligence Surveillance Court of Review

A. The Foreign Intelligence Surveillance Act, enacted in 1978,¹⁰ sets up the Foreign Intelligence Surveillance Court (FISC), a specialized Article III court with the power to hear and grant government requests for foreign surveillance.¹¹ The FISC’s work consists almost entirely of ex parte proceedings granting, modifying, and denying government requests for the authority to conduct surveillance or searches, or to compel the production of tangible things.¹² Pursuant to the statute, the FISC consists of eleven Article III district court judges, selected by the Chief Justice of the United States.¹³ All applications are considered by a single judge and cannot be reheard by another judge of the FISC except when the court sits en banc.¹⁴ FISA provides for both en banc consideration and appeals to the Foreign Intelligence Surveillance Court of Review (Court of Review). En banc review involves a panel of all eleven FISC judges and must be ordered by a majority of the FISC judges based on a determination that “(i) en banc consideration is necessary to secure or maintain uniformity of the court’s decisions; or (ii) the proceeding involves a question of exceptional importance.”¹⁵ According to public records, the FISC has sat en banc only once,¹⁶ but it is impossible to know how many sittings and opinions remain secret. The Court of Review, which consists of three district or circuit judges also designated by the Chief Justice, has issued only two public decisions.¹⁷ B. Stare Decisis and the FISA Courts In terms of its core function, the FISC is effectively a federal district court.¹⁸ The vast majority of its work involves a single judge’s determinations of the legality of government requests to authorize surveillance or compel production. Although it is hard to be certain without more publicly available information, FISC judges likely treat their opinions as non-precedential, as is standard practice for federal district courts.¹⁹ The relatively few public FISC opinions do cite earlier FISC opinions and principles of law,²⁰ but we have seen no clear evidence to suggest that the judges feel formally bound by those earlier opinions in any manner that would set them apart from other Article III district courts. In contrast, en banc opinions and Court of Review opinions apparently do have the force of stare decisis. With en banc rulings, this point is evident from the statute: the court may sit en banc only to “secure or maintain uniformity” or to decide a “question of exceptional importance.”²¹ These bases for en banc jurisdiction suggest that individual FISC judges must give stare decisis effect to any en banc panel decision that is not overturned by the Court of Review because, absent such a practice, the en banc panels would not fulfill one of their two statutory purposes: to secure or maintain uniformity. Court of Review opinions can be precedential, but they are not necessarily precedential. The Court of Review is an appellate court, and like other Article III appellate courts, it has the power to bind both lower courts (in this case, the FISC) and later Court of Review panels.²² The Court of Review probably has the same discretion as federal courts of appeals to designate opinions as precedential and non-precedential; at least, no statutory provision declares otherwise.²³ The two public Court of Review opinions are published in redacted form in the Federal Reporter.²⁴ As with the published case of the FISC sitting en banc, these published Court of Review cases are certainly precedential.²⁵

We do not know the volume, if any, of secret non-precedential Court of Review opinions, or whether there are non-public Court of Review opinions that are nonetheless treated as precedential.