# Explanation/Guide

### File Description and General Tips

This file contains the Surveillance State Repeal Act negative. It includes 1NC frontlines against the affirmative’s three advantages and solvency as well as comprehensive backline evidence. When debating against this affirmative, students will need to prepare to answer the Constitutional Privacy Advantage, the Tech Leadership Advantage, and/or the Investigative Journalism Advantage. The affirmative’s case materials are located in the Surveillance State Repeal Act affirmative file. It includes explanations of the plan and each of the advantages.

When responding to the case, the negative is provided with a 1NC frontline for each contention. Two backline cards for each 1NC argument are also included; they can be used when extending case arguments in the 2NC and 1NR. Students should prepare 2NC/1NR blocks that extend the 1NC evidence as well as introduce additional evidence from the backline materials.

When debating against the SSRA affirmative, the negative should also read one or more disadvantages. These materials are located in the separate DA files.

### Answering the Constitutional Privacy Advantage

In response to the Constitutional Privacy Advantage, the negative argues that NSA surveillance does not violate the constitution because it is authorized by statute and subject to judicial review. To the extent that it *does* violate privacy, the negative argues that private companies are already violating privacy on a much greater scale than NSA. Moreover, the negative contends that privacy is relatively unimportant — especially in the face of a competing security interest. For that reason, the negative suggests that decision-makers should weigh privacy against security. When doing so, the negative argues that security should be prioritized.

### Answering the Tech Leadership Advantage

When answering the Tech Leadership Advantage, the negative argues that the U.S. technology sector is plagued by two more important problems than NSA surveillance: a lack of qualified STEM workers and high corporate taxes that drive businesses overseas. To the extent that NSA surveillance is hurting the industry, the negative argues that the passage of the USA Freedom Act was sufficient to restore international confidence in American companies. Finally, the negative contests the impact to the advantage by contesting whether “competitiveness” is a sound economic theory and by contending that the U.S. is not at risk of losing its global hegemony.

### Answering the Investigative Journalism Advantage

In response to the Investigative Journalism Advantage, the negative argues that the chilling effect from NSA surveillance has been exaggerated and that journalists aren’t being dissuaded from reporting important stories. Moreover, the negative contends that financial woes are a much bigger problem for journalists than surveillance — especially because journalists are taking advantage of encryption tools to circumvent NSA and protect the confidentiality of their sources. Finally, the negative argues that transformative social change is impossible because the U.S. government is not responsive to public opinion. Even if important stories are reported, the public won’t be able to force government reform.

### Answering Solvency

The negative argues that the plan will be circumvented because there is no meaningful oversight of intelligence agencies like NSA. The FISA Court provides a rubber stamp to surveillance requests and Congressional Intelligence Committees have proven unwilling to reign in NSA. When making this argument, the negative should be cognizant of how it interacts with the disadvantage(s) that they have read. If NSA circumvents the plan, is there still a link to the disadvantage? Students should make sure that they have a clear and consistent story that ties together their circumvention arguments and disadvantage(s).

## 1NC

### 1NC — Constitutional Privacy Advantage

#### 1. Not Unconstitutional — NSA Internet collection doesn’t violate privacy.

Wittes 13 — Benjamin Wittes, Senior Fellow in Governance Studies at the Brookings Institution, Editor in Chief of Lawfare, Member of the Task Force on National Security and Law at the Hoover Institution, 2013 (“Five In-Your-Face Thoughts in Defense of the NSA,” *Lawfare*—a national security blog curated by the Brookings Institution, September 9th, Available Online at https://www.lawfareblog.com/five-your-face-thoughts-defense-nsa, Accessed 08-08-2015)

This brings me to my fourth point: the NSA's activities are legal. We are not living in the age of COINTELPRO or the Watergate-era intelligence scandals. We are living in an age in which the intelligence activities about which we harbor anxieties take place pursuant to statute and subject to judicial review. People may object to the government's interpretation of Section 215, about which I have my own doubts, but nobody can argue that it is a lawless or crazy interpretation of the statute; in fact, it's on its face quite plausible. And it's one that the courts have approved, and to which Congress has assented. Similarly, nobody can deny that Section 702 grants sweeping collection powers with regard to communications by persons reasonably believed to be overseas; that's the point of the law, and it's the reason the FISA Amendments Act was controversial as a legislative matter. Yes, there have been errors and compliance issues, as there are with any government (or private sector) program. And yes, there was a substantial dialog with the FISA Court over one component of Section 702, in which the court held that component unconstitutional, forced changes to it, and referred to two other incidents in which the government had misrepresented aspects of 702 collection to the judges. But this sort of back-and-forth is little different from the iterative discussion that takes place between, say, the courts and a big city police department over the conduct of searches or, for that matter, the discussion between any agency and the courts that review its activities. They are examples of the mechanisms Congress set up to keep the NSA within the law doing just that.

Many critics of the NSA elide this point by insisting that the Constitution—specifically, the Fourth Amendment—forbids such activity, even if the statute purports to permit it. But the constitutional law here actually doesn't get them very far. The doctrine is quite permissive with respect to data held in the hands of third parties, and it's almost-infinitely permissive with respect to collection against non-U.S. persons overseas. The result is that rote invocations of the Constitution as some kind of trump card against the big bad intelligence agency that wants to collect data generally falls flat, no matter how emotionally satisfying it may be to people who choose not to understand the law.

Let me put this point as simply as I can: The NSA can collect a gargantuan quantity of telephone and internet data without violating any statutory or constitutional law. And nearly all of the current debate involves activity that either clearly or arguably falls on the legal side of the line. To the extent that people argue against the legality of what the NSA is doing, they are generally arguing that the courts should have ruled other than the way they did. But in our society, what defines an agency's legal authority is what the courts actually ruled, not what later critics think they should have ruled.

#### 2. Privacy Already Dead — tech companies are a greater threat than NSA.

Sterner 14 — Eric Sterner, Fellow at the George C. Marshall Institute, Faculty in the Graduate Department of Defense and Strategic Studies at Missouri State University, former Associate Deputy Administrator for Policy and Planning and Chief of Strategic Communications for NASA, former Senior Professional Staff Member of the House Armed Services Committee, holds an M.A. in Political Science from George Washington University and an M.A. in Security Policy Studies from George Washington University, 2014 (“The security vs. privacy debate is already over, and privacy lost,” *Washington Examiner*, March 10th, Available Online at <http://marshall.org/science-and-tech/the-security-vs-privacy-debate-is-already-over-and-privacy-lost/>, Accessed 08-07-2015)

When Edward Snowden leaked massive troves of information about the National Security Agency‘s collection of electronic information, he started a debate over the tradeoffs between security and privacy. At least that’s how President Obama framed it, arguing, “we have to make some important decisions about how to protect ourselves and sustain our leadership in the world, while upholding the civil liberties and privacy protections that our ideals and our Constitution require.”

Unfortunately, the security vs. privacy debate is largely over. As cybertechnologies pervaded our daily lives, we surrendered privacy, usually voluntarily. Consequently, framing the decisions before us as a contest between privacy and security is misguided; privacy died with the information age.

Information and communication technologies make life better. They improved economic productivity, efficiency, and economic growth. More personally, information digitization created opportunities to grow, relate to others, and generally realize one’s creative potential. Connected to the Internet, we create, post, and retrieve vast amounts of data, almost all of which is in the hands of third parties.

These benefits come at a price. In order for the applications we use to improve their performance and offer us ever better services, they require information about us. We give it to them. Facebook‘s 1 billion active users, for example, share roughly 5 billion items a day, not counting the data Facebook collects about them.

Consider Google‘s privacy policy. Google collects personal information, data about the services you use and how you use them, server logs (exactly the kind of thing the NSA was after), location information, data about the software you use, storage data and other identifying information that third parties may store on the hardware you use to access cyberspace. That is an awful lot of information when all you want to do is make a call, play a game or write a letter.

This is not to single Google out for praise or condemnation. Its policy is a standard for the industry. Most companies use that information to make our lives better. Surrendering data enables us to better exploit the Internet. When amalgamated, doctors can track public health risks, improve medical research, promote energy efficiency and more. Unsurprisingly, our adversaries use the technology too.

Not very long ago we considered all this information personal. But, as soon as we voluntarily shared it with others, the information stopped being truly private. Our behavior changed, but our expectations did not. So, when Snowden announced that “A child born today will grow up with no conception of privacy at all. They’ll never know what it means to have a private moment to themselves — an unrecorded, unanalyzed thought,” he was right. But the NSA had nothing to do with it.

#### 3. No Impact To Privacy — it’s just personal false advertising. There’s no harm to people with nothing to hide.

Posner 13 — Richard A. Posner, Senior Lecturer in Law at the University of Chicago, Judge on the United States Court of Appeals for the Seventh Circuit in Chicago, was named the most cited legal scholar of the 20th century by *The Journal of Legal Studies*, holds an LL.B. from Harvard University, 2013 (“Privacy is overrated,” *New York Daily News*, April 28th, Available Online at <http://www.nydailynews.com/opinion/privacy-overrated-article-1.1328656>, Accessed 04-16-2015)

There is a tendency to exaggerate the social value of privacy. I value my privacy as much as the next person, but there is a difference between what is valuable to an individual and what is valuable to society. Thirty-five years ago, when I was a law professor rather than a judge, I published an article called “The Right of Privacy,” in which I pointed out that “privacy” is really just a euphemism for concealment, for hiding specific things about ourselves from others.

We conceal aspects of our person, our conduct and our history that, if known, would make it more difficult for us to achieve our personal goals. We don’t want our arrest record to be made public; our medical history to be made public; our peccadilloes to be made public; and so on. We want to present sanitized versions of ourselves to the world. We market ourselves the way sellers of consumer products market their wares — highlighting the good, hiding the bad.

I do not argue that all concealment is bad. There is nothing wrong with concealing wealth in order to avoid being targeted by thieves or concealing embarrassing personal facts, such as a deformity or being related to a notorious criminal, that would not cause a rational person to shun us but might complicate our social and business relations.

There may even be justification for allowing the concealment of facts that might, but should not, cause a person to be shunned. Laws that place a person’s arrest (as distinct from conviction) record behind a veil of secrecy are based on a belief that prospective employers would exaggerate the significance of such a record, not realizing, for example, that arrests are often based on mistakes by witnesses or police officers, or are for trivial infractions.

Privacy-protecting laws are paternalistic; they are based on a skepticism regarding whether people can make sensible evaluations of an arrest record or other private facts that enter the public domain.

Still, a good deal of privacy just facilitates the personal counterpart of the false advertising of goods and services, and by doing so, reduces the well-being of society as a whole.

I am not suggesting that privacy laws be repealed. I don’t think that they do much harm, and they do some good, as just indicated. But I don’t think they serve the public interest as well as civil libertarians contend, and so I don’t think that such laws confer social benefits comparable to those of methods of surveillance that are effective against criminal and especially terrorist assaults.

#### 4. Weigh Consequences — the Constitution is not a suicide pact.

Posner 6 — Richard A. Posner, Senior Lecturer in Law at the University of Chicago, Judge on the United States Court of Appeals for the Seventh Circuit in Chicago, was named the most cited legal scholar of the 20th century by *The Journal of Legal Studies*, holds an LL.B. from Harvard University, 2006 (“Wire Trap,” *New Republic*, February 6th, Available Online at http://www.newrepublic.com/article/104859/wire-trap, Accessed 04-16-2015)

The revelation by The New York Times that the National Security Agency (NSA) is conducting a secret program of electronic surveillance outside the framework of the Foreign Intelligence Surveillance Act (FISA) has sparked a hot debate in the press and in the blogosphere. But there is something odd about the debate: It is aridly legal. Civil libertarians contend that the program is illegal, even unconstitutional; some want President Bush impeached for breaking the law. The administration and its defenders have responded that the program is perfectly legal; if it does violate FISA (the administration denies that it does), then, to that extent, the law is unconstitutional. This legal debate is complex, even esoteric. But, apart from a handful of not very impressive anecdotes (did the NSA program really prevent the Brooklyn Bridge from being destroyed by blowtorches?), there has been little discussion of the program’s concrete value as a counter-terrorism measure or of the inroads it has or has not made on liberty or privacy.

Not only are these questions more important to most people than the legal questions; they are fundamental to those questions. Lawyers who are busily debating legality without first trying to assess the consequences of the program have put the cart before the horse. Law in the United States is not a Platonic abstraction but a flexible tool of social policy. In analyzing all but the simplest legal questions, one is well advised to begin by asking what social policies are at stake. Suppose the NSA program is vital to the nation’s defense, and its impingements on civil liberties are slight. That would not prove the program’s legality, because not every good thing is legal; law and policy are not perfectly aligned. But a conviction that the program had great merit would shape and hone the legal inquiry. We would search harder for grounds to affirm its legality, and, if our search were to fail, at least we would know how to change the law--or how to change the program to make it comply with the law--without destroying its effectiveness. Similarly, if the program’s contribution to national security were negligible--as we learn, also from the Times, that some FBI personnel are indiscreetly whispering--and it is undermining our civil liberties, this would push the legal analysis in the opposite direction.

Ronald Dworkin, the distinguished legal philosopher and constitutional theorist, wrote in The New York Review of Books in the aftermath of the September 11 attacks that “we cannot allow our Constitution and our shared sense of decency to become a suicide pact.” He would doubtless have said the same thing about FISA. If you approach legal issues in that spirit rather than in the spirit of ruat caelum fiat iusticia (let the heavens fall so long as justice is done), you will want to know how close to suicide a particular legal interpretation will bring you before you decide whether to embrace it. The legal critics of the surveillance program have not done this, and the defenders have for the most part been content to play on the critics’ turf.

#### 5. Security Outweighs Privacy — without security, privacy is meaningless.

Himma 7 — Kenneth Einar Himma, Associate Professor of Philosophy at Seattle Pacific University, holds a Ph.D. in Philosophy from the University of Washington and a J.D. from the University of Washington Law School, 2007 (“Privacy Versus Security: Why Privacy is Not an Absolute Value or Right,” *San Diego Law Review* (44 San Diego L. Rev. 857), Fall, Available Online to Subscribing Institutions via Lexis-Nexis)

XIII. Security as a Prerequisite for the Meaningful Exercise of Privacy Rights

The last argument I wish to make in this essay will be brief because it is extremely well known and has been made in a variety of academic and nonacademic contexts. The basic point here is that no right not involving [\*919] security can be meaningfully exercised in the absence of efficacious protection of security. The right to property means nothing if the law fails to protect against threats to life and bodily security. Likewise, the right to privacy has little value if one feels constrained to remain in one's home because it is so unsafe to venture away that one significantly risks death or grievous bodily injury.

This is not merely a matter of describing common subjective preferences; this is rather an objective fact about privacy and security interests. If security interests are not adequately protected, citizens will simply not have much by way of privacy interests to protect. While it is true, of course, that people have privacy interests in what goes on inside the confines of their home, they also have legitimate privacy interests in a variety of public contexts that cannot be meaningfully exercised if one is afraid to venture out into those contexts because of significant threats to individual and collective security — such as would be the case if terrorist attacks became highly probable in those contexts.

It is true, of course, that to say that X is a prerequisite for exercising a particular right Y does not obviously entail that X is morally more important than Y, but this is a reasonable conclusion to draw. If it is true that Y is meaningless in the absence of X, then it seems clear that X deserves, as a moral matter, more stringent protection than Y does. Since privacy interests lack significance in the absence of adequate protection of security interests, it seems reasonable to infer that security interests deserve, as a moral matter, more stringent protection than privacy interests.

### 1NC — Tech Leadership Advantage

#### 1. Alternate Causality — STEM worker shortages hamstring the U.S. tech sector.

Tech CEOs 13 — An Open Letter by more than 100 chief executives of major tech companies and trade associations, 2013 (Open Letter to President Obama, Speaker Boehner, Senator Reid, Senator McConnell, and Representative Pelosi, March 14th, Available Online at <https://www.scribd.com/doc/130388692/Tech-CEO-letter>, Accessed 08-09-2015)

One of the biggest economic challenges facing our nation is the need for more qualified, highly-skilled professionals, domestic and foreign, who can create jobs and immediately contribute to and improve our economy. As leaders of technology companies from around the country, we want to thank you for your sincere efforts in addressing high skilled immigration and we urge that you and your colleagues enact reform legislation this year.

As you know, the United States has a long history of welcoming talented, hard-working people to our shores. Immigrant entrepreneurs have gone on to found thousands of companies with household names like eBay, Google, PayPal and Yahoo! to name just a few. These companies provide jobs, drive economic growth and generate tax revenue at all levels of government.

Yet because our current immigration system is outdated and inefficient, many high-skilled immigrants who want to stay in America are forced to leave because they are unable to obtain permanent visas. Some do not bother to come in the first place. This is often due to visa shortages, long waits for green cards, and lack of mobility. We believe that numerical levels and categories for high-skilled nonimmigrant and immigrant visas should be responsive to market needs and, where appropriate, include mechanisms to fluctuate based on objective standards. In addition, spouses and children should not be counted against the cap of high-skilled immigrant visas. There should not be a marriage or family penalty.

According to the U.S. Bureau of Labor Statistics, there are tens of thousands of unfilled jobs requiring highly skilled individuals. Five high-tech companies alone – IBM, Intel, Microsoft, Oracle and [end page 1] Qualcomm – have combined 10,000 openings in the United States. Each one of these jobs has the potential to create many others, directly and indirectly. Bipartisan legislation currently introduced in the Senate, such as The Immigration Innovation Act of 2013, and bi-partisan legislation focused on addressing the needs of entrepreneurs and start ups such as the Startup Visa Act and Startup Act 3.0, will encourage innovation here in the U.S. by allowing American companies and entrepreneurs to have access to the talented workers they need while simultaneously investing in STEM education here in the U.S. We know what it will take to keep America in a position of global leadership. We know that when America is leading, our economic growth follows to the benefit of our nation’s workforce.

#### 2. Alternate Causality — high taxes hurt the U.S. tech industry.

BDO 15 — BDO, a worldwide professional services network of public accountancy firms, 2015 (“2015 BDO Technology Outlook,” March, Available Online at <https://www.bdo.com/insights/industries/tech-life-sciences/2015-bdo-technology-outlook>, Accessed 08-10-2015)

Policy and Tax Concerns Persist

Pending tax proposals in Washington are leaving many finance chiefs uncertain about the future of their business growth. In fact, 24 percent of CFOs cite policy and tax changes as the top factor inhibiting overall business growth, on trend with 2014 (26 percent). Moreover, 50 percent cite U.S. corporate tax rates as the leading tax issue this year, a 35 percent increase from 2014.

Even the debate around tax inversions, particularly for large corporations, is giving tech CFOs pause. Fourteen percent say they are most concerned about taxation of overseas activities, a significant increase from last year when only eight percent expressed similar sentiment. As companies look to expand their global footprint to remain competitive, 41 percent of CFOs believe the domestic tax system hampers their ability to effectively compete in the global marketplace.

“As the focus on U.S. taxation of overseas activities increases, multi-national organizations should carefully consider potential changes to U.S. tax policy when making global investment and operational decisions. Though many CFOs believe U.S. tax rates are too high relative to other countries, the concern hasn’t yet inspired Congress to make a move toward reform,” said Matthew K. Becker, Central Region Tax and National Tax Office Managing Partner at BDO.

#### 3. Status Quo Solves — the Freedom Act boosted trust in U.S. tech companies.

Smith 15 — Brad Smith, General Counsel and Executive Vice President of Legal and Corporate Affairs at Microsoft, 2015 (“USA Freedom Act: An important step forward,” *Microsoft on the Issues*, June 2nd, Available Online at <https://blogs.microsoft.com/on-the-issues/2015/06/02/xxxusa-freedom-act-an-important-step-forward/>, Accessed 08-10-2015)

Earlier this afternoon, the U.S. Congress passed by a 2-to-1 margin the USA Freedom Act, which will bring about significant reforms to the nation’s surveillance programs once it is signed into law as expected by President Obama.

The USA Freedom Act strikes an important balance between protecting public safety and preserving civil liberties. In addition to protecting personal privacy, it provides for greater transparency and increased accountability about the government’s surveillance activities while maintaining national security.

Since the disclosures about surveillance first emerged in 2013, the world has rightfully focused on concerns about government access to personal information. We know that people will not use technology they do not trust. That’s why Microsoft and a broad coalition of tech companies and civil society called on Congress to act to change the surveillance laws.

The USA Freedom Act will increase trust in technology by implementing essential reforms to the USA Patriot Act. The legislation will ensure that the public is aware of what their government is doing by allowing companies to publish detailed transparency reports. Governments also need to act with proper accountability with proper regard for legal process and people’s rights. The reforms of the FISA Court in the bill moves government accountability forward by increasing the transparency of its proceedings and rulings and introducing a process for amicus curiae. And the new law ends the bulk collection of data – a program that a federal court recently struck down.

As we’ve said before, 2015 is a year that calls for solutions – for measures that will ensure people benefit from the privacy and civil liberties they deserve while ensuring law enforcement can access the information it needs to keep the public safe – all pursuant to proper legal process and the rule of law. Congress and the President have provided a solution with this new law. The USA Freedom Act is a substantial step in reforming US surveillance laws, increasing transparency and accountability.

There’s still more work to do, both here in the United States and internationally. High on that list is the creation of new international legal frameworks to tackle other important issues we face in ensuring the free flow of information around the world while respecting national sovereignty. There is no doubt that today marks an important step forward in striking a better balance between public safety and privacy.

#### 4. No Competitiveness Impact — there’s no economic basis for the theory of competitiveness.

Krugman 94 — Paul Krugman, Professor of Economics at the Massachusetts Institute of Technology, 1994 (“Competitiveness: A Dangerous Obsession,” *Foreign Affairs*, March-April, Available Online to Subscribing Institutions via Lexis-Nexis Academic Universe)

It was a disappointing evasion, but not a surprising one. After all, the rhetoric of competitiveness – the view that, in the words of President Clinton, each nation is "like a big corporation competing in the global marketplace" – has become pervasive among opinion leaders throughout the world. People who believe themselves to be sophisticated about the subject take it for granted that the economic problem facing any modern nation is essentially one of competing on world markets – that the United States and Japan are competitors in the same sense that Coca-Cola competes with Pepsi – and are unaware that anyone might seriously question that proposition. Every few months a new best-seller warns the American public of the dire consequences of losing the "race" for the 21st century. n1 A whole industry of councils on competitiveness, "geo-economists" and managed trade theorists has sprung up in Washington. Many of these people, having diagnosed America's economic problems in much the same terms as Delors did Europe's, are now in the highest reaches of the Clinton administration formulating economic and trade policy for the United States. So Delors was using a language that was not only convenient but comfortable for him and a wide audience on both sides of the Atlantic.

Unfortunately, his diagnosis was deeply misleading as a guide to what ails Europe, and similar diagnoses in the United States are equally misleading. The idea that a country's economic fortunes are largely determined by its success on world markets is a hypothesis, not a necessary truth; and as a practical, empirical matter, that hypothesis is flatly wrong. That is, it is simply not the case that the world's leading nations are to any important degree in economic competition with each other, or that any of their major economic problems can be attributed to failures to compete on world markets. The growing obsession in most advanced nations with international competitiveness should be seen, not as a well-founded concern, but as a view held in the face of overwhelming contrary evidence. And yet it is clearly a view that people very much want to hold – a desire to believe that is reflected in a remarkable tendency of those who preach the doctrine of competitiveness to support their case with careless, flawed arithmetic.

This article makes three points. First, it argues that concerns about competitiveness are, as an empirical matter, almost completely unfounded. Second, it tries to explain why defining the economic problem as one of international competition is nonetheless so attractive to so many people. Finally, it argues that the obsession with competitiveness is not only wrong but dangerous, skewing domestic policies and threatening the international economic system. This last issue is, of course, the most consequential from the standpoint of public policy. Thinking in terms of competitiveness leads, directly and indirectly, to bad economic policies on a wide range of issues, domestic and foreign, whether it be in health care or trade.

#### 5. No U.S. Leadership Impact — enduring geopolitical strengths prevent *relative* U.S. economic decline.

Meltzer et al. 13 — Joshua Meltzer, Fellow in the Global Economy and Development Program at the Brookings Institution, Adjunct Professor at The Johns Hopkins University’s School of Advanced International Studies, holds an S.J.D. and L.L.M from the University of Michigan Law School, et al., with David Steven, Nonresident Senior Fellow for the Managing Global Order Project in the Foreign Policy Program at the Brookings Institution, Nonresident Senior Fellow and Associate Director of the Center on International Cooperation at New York University, and Claire Langley, Research Analyst in the Global Economy and Development Program at the Brookings Institution, 2013 (“The United States After The Great Recession: The Challenges of Sustainable Growth,” Brookings Institution Global Economy & Development Working Paper #60, February, Available Online at http://www.brookings.edu/~/media/research/files/papers/2013/02/us%20post%20great%20recession%20meltzer%20steven/02%20us%20post%20great%20recession%20meltzer%20steven.pdf, Accessed 08-11-2013, p. 20)

A New Era of Global Leadership

Although the United States is certain to face headwinds in the coming decades, this does not mean that its stance will be a pessimistic one. Though fears of American decline will continue to surface, a more confident narrative is likely to predominate at most times. Even during the crisis, a slim majority of Americans remained optimistic about the country’s future over the next 50 years.148 At the ballot box, meanwhile, they consistently reward optimistic politicians over negative ones.149 A blind analysis of the speeches of presidential candidates between 1900 and 1984\* showed that the candidate who sounded least pessimistic was elected on 80 percent of occasions, creating strong incentives for politicians to emphasize the potential for renewed American leadership.

At the same time, the United States will be able to draw on enduring absolute geopolitical strengths, even if its relative power continues to diminish due to the economic success of rising powers. It will continue to benefit from:

• Its position as a dominant security actor, which it seems certain to maintain for at least another generation, and its privileged position in most global institutions. 150

• Its internal security, which is more robust than that of countries such as India (currently tackling a Naxalite insurgency in 125 of its 640 districts)151 or China (reported to be spending as much on domestic security as it does on defense).152

• Its growth potential, especially when compared with the EU, but more generally if it manages to use its leadership in key export sectors to exploit the purchasing power of a growing global middle class153 or if one or more of the emerging economies suffers an interruption to its growth.

### 1NC — Investigative Journalism Advantage

#### 1. No Chilling Effect — the impact is minimal.

Holcomb et al. 15 — Jesse Holcomb, Associate Director of Research at the Pew Research Center, former Adjunct Professor of Media and Public Affairs at George Washington University, former Writing Associate at the Fund for Public Interest Research, holds an M.A. in Media and Public Affairs from George Washington University, with Amy Mitchell, Director of Journalism Research for the Pew Research Center, former Congressional Research Associate at the American Enterprise Institute, holds a B.A. in English and Government from Georgetown University, and Kristen Purcell, Associate Director for Research at Pew Research Center’s Internet Project, holds a Ph.D. in Sociology from Rutgers University, 2015 (“Investigative Journalists and Digital Security: Perceptions of Vulnerability and Changes in Behavior,” Pew Research Center on Journalism & Media, February 5th, Available Online at <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>, Accessed 08-11-2015)

About two-thirds of investigative journalists surveyed (64%) believe that the U.S. government has probably collected data about their phone calls, emails or online communications, and eight-in-ten believe that being a journalist increases the likelihood that their data will be collected. Those who report on national security, foreign affairs or the federal government are particularly likely to believe the government has already collected data about their electronic communications (71% say this is the case), according to a new survey of members of Investigative Reporters and Editors (IRE) – a nonprofit member organization for journalists – by the Pew Research Center in association with Columbia University’s Tow Center for Digital Journalism.1

Thus far, concerns about surveillance and hacking have mostly fallen short of keeping many journalists from pursuing a story or a source; Just 14% say that in the past 12 months, such concerns have kept them from pursuing a story or reaching out to a particular source, or have led them to consider leaving investigative journalism altogether.

#### 2. Alternate Causality — resource shortages are a much bigger concern.

Holcomb et al. 15 — Jesse Holcomb, Associate Director of Research at the Pew Research Center, former Adjunct Professor of Media and Public Affairs at George Washington University, former Writing Associate at the Fund for Public Interest Research, holds an M.A. in Media and Public Affairs from George Washington University, with Amy Mitchell, Director of Journalism Research for the Pew Research Center, former Congressional Research Associate at the American Enterprise Institute, holds a B.A. in English and Government from Georgetown University, and Kristen Purcell, Associate Director for Research at Pew Research Center’s Internet Project, holds a Ph.D. in Sociology from Rutgers University, 2015 (“Investigative Journalists and Digital Security: Perceptions of Vulnerability and Changes in Behavior,” Pew Research Center on Journalism & Media, February 5th, Available Online at <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>, Accessed 08-11-2015)

Still, other issues are more pressing for the profession than surveillance and hacking. When asked to rank four challenges facing journalists today, an overwhelming majority (88%) of journalists identify decreasing resources in newsrooms as their top concern. No other issue comes close. Following far behind are: legal action against journalists (5%), electronic surveillance by governments or corporations (4%) and hacking targeted at journalists or news organizations (1%). Furthermore, relatively few journalists (27%) have spent at least “some time” in the past 12 months researching how to improve their electronic security.

#### 3. Encryption Solves — journalists are using it to protect sources.

Stearns 13 — Josh Stearns, Press Freedom Director at Free Press—a non-profit advocacy organization, Founding Board Member at the Freedom of the Press Foundation, holds an M.A. in American Studies from the University of Massachusetts-Amherst, interviewed by Denise Lu, Editorial Intern at *PBS Mediashift*, Senior at the Medill School of Journalism at Northwestern University, 2013 (“Freedom of the Press Foundation Steps Up Encryption Efforts for Journalists,” *Media Channel*, December 17th, Available Online at <http://www.mediachannel.org/freedom-of-the-press-foundation-steps-up-encryption-efforts-for-journalists/>, Accessed 08-11-2015)

*Have you seen an increase in journalists coming to you for these tools in the wake of the trending news? Do you think that FPF specifically has been affected by this change in perception?*

Stearns: In the journalism industry, I think that the Snowden revelations have been a huge wakeup call, especially coming on the heels of learning that the Department of Justice had secretly seized 20 AP phone records. All of this stuff came at once this summer, and it has sent shockwaves through the journalism landscape. So we’ve seen a huge increase in the number of workshops and trainings and discussions at conferences and online about security and encryption tools, and we’ve definitely been flooded with requests from individual journalists and newsrooms that want to build these practices more into their routines.

*Do you think this will change the way of reporting in the future?*

Stearns: I think these revelations have fundamentally changed the way that journalists are going to report on sensitive activities and it’s going to make people really not take their own privacies for granted. How quickly we see widespread adoption of these encryption tools is really up in the air, and it’s going to mean that we need to really invest in these tools, which is why we’ve launched this project.

It’s a two-way street: Encryption doesn’t work if only one person is using it. You need to have the source comfortable using it, you need to have your whole newsroom feeling secure because all it takes is one colleague to open an infected email and something will get on the network. So there’s a long learning curve ahead of us. I’m really encouraged by the response so far. I think if journalism schools really step up and begin making this a part of their curriculum as well, that will help, and I hope that we can help them do that.

We’re not interested in just having encryption for the New York Times or the Washington Post or ProPublica. It’s critical that anybody who wants to implement these tools can. We’re really dedicated to making sure that freelance journalists, alternative news organizations and others of any size and budget can get up and running on these tools. This is really meant to be encryption for all, and press freedom for all as well.

#### 4. Public Opinion Irrelevant — only the rich and powerful can influence policy-making.

Nesbit 14 — Jeff Nesbit, Science and Technology Writer for *U.S. News & World Report*, Executive Director of Climate Nexus—a sponsored project of Rockefeller Philanthropy Advisors to focus on national climate and energy communications, former Director of Legislative and Public Affairs at the National Science Foundation, former Director of Public Affairs for the Food and Drug Administration, 2014 (“Oligarchy Nation,” *U.S. News & World Report*, April 21st, Available Online at <http://www.usnews.com/news/blogs/at-the-edge/2014/04/21/oligarchy-nation>, Accessed 08-12-2015)

Their thesis? That the wealthiest, most powerful elites in American society control more than just the levers of finance – they control the terms of public debates, what people care about and, ultimately, what gets acted on at the national level in Congress and the White House.

The wealthiest Americans care passionately about things like financial debt and budgets. What do most Americans put at the top of their list of concerns, according to polls from Gallup, Pew and others? Federal debt and budgets – not access to health care, or job training, or clean water, or gun control, or climate disruptions, or access to higher education, or efforts to alleviate poverty.

The two political scientists, Martin Gilens of Princeton and Benjamin Page of Northwestern, organized a team of researchers to study 1,779 survey questions between 1981 and 2002 on major public policy issues and broke them down by income levels and how organized interest groups saw their policy preferences enacted.

The conclusion? The wealthy move national policy, and average Americans are effectively powerless.

“Americans do enjoy many features central to democratic governance, such as regular elections, freedom of speech and association. (But) despite the seemingly strong empirical support in previous studies for theories of majoritarian democracy, our analyses suggest that majorities of the American public actually have little influence over the policies our government adopts,” Gilens and Page wrote in a study that will be published this fall in the journal Perspectives in Politics.

Essentially, the issues that the wealthiest care about are discussed nationally and enacted much more frequently than issues they don’t care about, they found.

What’s more, if the wealthy and powerful don’t like something, they stop it. If they do like it, then something happens nearly half the time.

"A proposed policy change with low support among economically elite Americans (one-out-of-five in favor) is adopted only about 18 percent of the time, while a proposed change with high support (four-out-of-five in favor) is adopted about 45 percent of the time," they wrote.

While this may not be surprising to people – after all, most people already believe that Washington caters to the rich and powerful – it does have profound implications about the way in which issues with generally popular support (like gun control efforts or climate change mitigation) are dealt with at the national level if powerful forces of status quo are determined to stymie political action.

“We believe that if policymaking is dominated by powerful business organizations and a small number of affluent Americans, then America's claims to being a democratic society are seriously threatened,” they concluded.

In fact, even in areas where a vast majority of Americans do care passionately about something but it cuts against the interests of the wealthy and elite in America, they lose at the national level.

“When a majority of citizens disagrees with economic elites…or with organized interests, they generally lose,” Gilens and Page wrote. “Moreover, because of the strong status quo bias built into the U.S. political system, even when fairly large majorities of Americans favor policy change, they generally do not get it.”

### 1NC — Solvency

#### No Solvency — “reforms” like the plan will be circumvented.

Greenwald 14 — Glenn Greenwald, journalist who received the 2014 Pulitzer Prize for Public Service for his work with Edward Snowden to report on NSA surveillance, Founding Editor of *The Intercept*, former Columnist for the *Guardian* and *Salon*, recipient of the Park Center I.F. Stone Award for Independent Journalism, the Online Journalism Award for investigative work on the abusive detention conditions of Chelsea Manning, the George Polk Award for National Security Reporting, the Gannett Foundation Award for investigative journalism, the Gannett Foundation Watchdog Journalism Award, the Esso Premio for Excellence in Investigative Reporting in Brazil, and the Electronic Frontier Foundation’s Pioneer Award, holds a J.D. from New York University School of Law, 2014 (“Congress is Irrelevant on Mass Surveillance. Here’s What Matters Instead.,”

*The Intercept*, November 19th, Available Online at <https://firstlook.org/theintercept/2014/11/19/irrelevance-u-s-congress-stopping-nsas-mass-surveillance/>, Accessed 06-16-2015)

All of that illustrates what is, to me, the most important point from all of this: the last place one should look to impose limits on the powers of the U.S. government is . . . the U.S. government. Governments don’t walk around trying to figure out how to limit their own power, and that’s particularly true of empires.

The entire system in D.C. is designed at its core to prevent real reform. This Congress is not going to enact anything resembling fundamental limits on the NSA’s powers of mass surveillance. Even if it somehow did, this White House would never sign it. Even if all that miraculously happened, the fact that the U.S. intelligence community and National Security State operates with no limits and no oversight means they’d easily co-opt the entire reform process. That’s what happened after the eavesdropping scandals of the mid-1970s led to the establishment of congressional intelligence committees and a special FISA “oversight” court—the committees were instantly captured by putting in charge supreme servants of the intelligence community like Senators Dianne Feinstein and Chambliss, and Congressmen Mike Rogers and “Dutch” Ruppersberger, while the court quickly became a rubber stamp with subservient judges who operate in total secrecy.

Ever since the Snowden reporting began and public opinion (in both the U.S. and globally) began radically changing, the White House’s strategy has been obvious. It’s vintage Obama: Enact something that is called “reform”—so that he can give a pretty speech telling the world that he heard and responded to their concerns—but that in actuality changes almost nothing, thus strengthening the very system he can pretend he “changed.” That’s the same tactic as Silicon Valley, which also supported this bill: Be able to point to something called “reform” so they can trick hundreds of millions of current and future users around the world into believing that their communications are now safe if they use Facebook, Google, Skype and the rest.

## 2NC/1NR — Constitutional Privacy Advantage

### Extend: “Not Unconstitutional”

#### Internet surveillance doesn’t violate the Constitution.

Yoo 13 — John Yoo, Emanuel Heller Professor of Law at the University of California-Berkeley, Visiting Scholar at the American Enterprise Institute, former official in the Office of Legal Counsel of the U.S. Department of Justice, holds a J.D. from Yale Law School, 2013 (“The NSA’s Surveillance: No Clear Constitutional Violations,” *The Corner*—the *National Review* blog, June 7th, Available Online at <http://www.nationalreview.com/corner/350498/nsas-surveillance-no-clear-constitutional-violations-john-yoo>, Accessed 08-09-2015)

The latest Obama administration controversy will not prove as bad as it first seems. Apparently, the administration has been asking Verizon for all of the “metadata” on all of its customers’ calling — the phone numbers called and received, but not the content of the calls themselves.

In the days after the September 11, 2001 attacks, the Bush administration’s Justice Department (in which I served) approved a program that may have relied on similar technology, but was far narrower in scope. Both programs, however, seek to use communications coming into the United States from a known terrorist abroad to identify an al-Qaeda network within the country.

The program does not represent a violation of the Constitution because the Fourth Amendment does not protect dialed phone numbers, in contrast to the content of the communications, because individuals lose privacy over those numbers when they are given to the phone company. The Constitution protects the content of the communications, whether it be a phone call, e-mail, or old-fashioned letter. And Congress approved a change to the FISA statute to allow such collection, and a court of federal judges approved it. And as commander-in-chief, the president has the wartime authority to find and intercept enemy communications, known as signals intelligence. Analyzing such metadata — what is sometimes called data mining — is perhaps the most effective way to find terrorist cells in the U.S. and stop future attacks because the Obama administration has dropped our best methods for producing intelligence (the detention and interrogation of al-Qaeda leaders).

The revelation of broad e-mail surveillance is more troubling, but it is because we don’t know the program’s scope. If the program only intercepts the content of e-mails for foreigners abroad, as is being reported, there is no constitutional violation. As the Supreme Court has made clear, the Fourth Amendment does not protect the communications of non-U.S. persons that take place abroad. In fact, the Justices reached that conclusion because they observed that it would be impossible for the U.S. to fight a war against a foreign enemy if limited by the Fourth Amendment. Allowing the government to intercept foreign, potentially enemy signals intelligence abroad without a warrant recognizes the reality of war, as opposed to the precise targeting of communications that would apply if domestic law enforcement were the framework.

#### Internet surveillance is constitutional — the Privacy and Civil Liberties Oversight Board agrees.

Sledge 14 — Matt Sledge, Reporter for *The Huffington Post*, 2014 (“Government Privacy Board Says Controversial NSA Surveillance Program Is Constitutional,” *The Huffington Post*, July 2nd, Available Online at <http://www.huffingtonpost.com/2014/07/02/pclob-section-702_n_5550010.html>, Accessed 08-09-2015)

A government privacy oversight board's draft report, released Tuesday night, finds the National Security Agency's use of a controversial surveillance authority is constitutional, but says some aspects of it edge up to violating the Fourth Amendment's prohibition against unreasonable searches or seizures.

The report from the Privacy and Civil Liberties Oversight Board, an independent agency within the federal government's executive branch, centers on programs revealed by former NSA contractor Edward Snowden that the NSA uses to pick up communications of foreigners that may also involve a U.S. citizen. The programs rely for legal authority on a law passed in 2008 to bring former President George W. Bush's warrantless wiretapping program under judicial oversight.

Critics charge that the NSA, in collecting the foreign targets' communications under its PRISM and upstream collection programs, incidentally picks up far too many Americans' emails and phone calls. Sen. Ron Wyden (D-Ore.) has raised alarm about what happens with Americans' communications once they're collected, because the NSA believes it can search through them without a warrant.

The privacy board's harsh January report on the NSA's separate domestic telephone metadata collection program provided ammunition for critics looking to end it. But in its new report, the privacy board largely accepts the government's assurances that NSA surveillance under the 2008 Foreign Intelligence Surveillance Act is well-grounded. The board is set to vote on whether to finalize the draft report on Wednesday.

"Overall, the Board has found that the information the program collects has been valuable and effective in protecting the nation’s security and producing useful foreign intelligence," the report reads. The program, it says, "has been subject to judicial oversight and extensive internal supervision, and the Board has found no evidence of intentional abuse."

The board acknowledges that the two NSA surveillance programs revealed by Snowden that make use of the 2008 law -- PRISM, which sends specific search terms to electronic communications service providers, and "upstream collection," in which the NSA searches the Internet backbone -- may incidentally sweep up an untold number of Americans' communications.

"The collection and examination of U.S. persons’ communications represents a privacy intrusion even in the absence of misuse for improper ends," the report finds.

Its authors express frustration that the NSA and other government agencies have been unable to furnish estimates of the incidental collection of Americans' communications, which "hampers attempts to gauge whether the program appropriately balances national security interests with the privacy of U.S. persons."

But without signs of abuse, the board concludes privacy intrusions are justified in protecting against threats to the U.S.

### Extend: “Privacy Already Dead”

#### Private sector threats to privacy are more serious. Government surveillance is vital to counteract them.

Simon 14 — William H. Simon, Arthur Levitt Professor of Law at Columbia University, Gertrude and William Saunders Chair Emeritus at Stanford Law School, holds a J.D. from Harvard Law School, 2014 (“Rethinking Privacy,” *Boston Review*, October 20th, Available Online at <https://www.bostonreview.net/books-ideas/william-simon-rethinking-privacy-surveillance>, Accessed 08-07-2015)

The critics’ preoccupation with the dangers of state oppression often leads them to overlook the dangers of private abuse of surveillance. They have a surprisingly difficult time coming up with actual examples of serious harm from government surveillance abuse. Instead, they tend to talk about the “chilling effect” from awareness of surveillance.

By contrast, there have been many examples of serious harm from private abuse of personal information gained from digital sources. At least one person has committed suicide as a consequence of the Internet publication of video showing him engaged in sexual activity. Many people have been humiliated by the public release of a private recording of intimate conduct, and blackmail based on threats of such disclosure has emerged as a common practice. Some of this private abuse is and should be illegal. But the legal prohibitions can only be enforced if the government has some of the surveillance capacities that critics decry. Illicit recording and distribution can only be restrained if the wrongdoers can be identified and their actions effectively restrained. Less compromising critics would deny government these capacities.

With low crime rates and small risks of terrorism in the United States, privacy advocates do not feel compelled to address the potential chilling effect on speech and conduct that arises from fear of private lawlessness, but we do not have to look far to see examples of such an effect abroad and to recognize that its magnitude depends on the effectiveness of public law enforcement. To the extent that law enforcement is enhanced by surveillance, we ought to recognize the possibility of a warming effect that strengthens people’s confidence that they can act and speak without fear of private aggression.

#### Corporations are more likely to violate privacy than government.

Callahan 13 — David Callahan, Senior Fellow at Demos—a U.S.-based research and policy center, former Fellow at the Century Foundation, holds a Ph.D. in Politics from Princeton University, 2013 (“How Could Cato Think That Government Poses a Bigger Threat to Privacy Than Corporations?,” *PolicyShop*—a Demos blog, November 27th, Available Online at <http://www.demos.org/blog/11/27/13/how-could-cato-think-government-poses-bigger-threat-privacy-corporations>, Accessed 08-05-2015)

The Cato Institute claims to be a leading defender of individual liberty, and in that role, it has endlessly sounded the alarm about government surveillance and other state encroachments on people's privacy. Weirdly, though, Cato rarely mentions even bigger threats to privacy from corporations.

That's quite a blind spot. After all, who spends more time and energy scouring the details of your life: The U.S. government or Google? Who is more likely to track everything you buy, everyplace you go, what you eat, and how you vote – the geeks at the NSA or consumer data firms like Acxiom, which is said to have information on 500 million consumers worldwide, including nearly every adult in the U.S., with up to 1,500 data points per person? Who is more likely to materially affect your life chances – say, for getting a mortgage or a job—federal intelligence agencies or private credit rating agencies, including those that sell information about your borrowing history or criminal record that may be incorrect? Finally, what's scarier to you—the idea that your medical records and genetic information could end up in the hands of health and life insurance companies or end up in some computer at the U.S. Department of Health and Human Services?

The answers to these questions seem pretty clear: Private entities not only have a lot more information about our lives, they are more likely to misuse that information in ways that adversely affect our lives. Just look at Demos' research about how employee credit checks bar people from jobs they desperately need—even though there is no evidence that one's credit history predicts job performance. Or look at the studies of how errors in credit reports lead people to have lower credit scores and thus pay more for loans.

When was the last time that the NSA increased anyone's mortgage payments?

I'm not saying that government intelligence agencies don't pose a threat to our liberties. They do, and there is a long history of such agencies abusing their powers to monitor and repress domestic dissent. Scary stuff. But most people have come to recognize that surveillance capacities of corporations are pretty damn scary, too. And, in fact, polls show that Americans are concerned about both private and public threats to privacy and want better controls in each sphere—including tighter regulations of corporations.

### Extend: “No Impact To Privacy”

#### Ordinary people have nothing to fear from surveillance agencies. Aff authors are answering a strawperson argument.

Wittes 14 — Benjamin Wittes, Senior Fellow in Governance Studies at the Brookings Institution, Editor in Chief of Lawfare, Member of the Task Force on National Security and Law at the Hoover Institution, 2014 (“Why Glenn Greenwald's Challenge is Asking the Wrong Question,” *Lawfare*—a national security blog curated by the Brookings Institution, January 14th, Available Online at https://www.lawfareblog.com/why-glenn-greenwalds-challenge-asking-wrong-question, Accessed 08-07-2015)

Indeed, when people make the argument that they don't fear government surveillance because they have nothing to hide, they are generally not contending that they have no secrets they want to keep from anyone or that they want their entire lives exposed to the public. People who genuinely believe that install webcams in their bedrooms. The claim that one has nothing to hide is not a claim that one's dignity could survive malicious intrusion by a reporter devoted maximally to embarrassing one with full access to one's stuff. It's not a claim either that the Stasi couldn't find something on one.

The claim, rather, is more modest. It's a claim that one does not fear law enforcement and intelligence entities operating within their lawful powers as set by democratic institutions, subject to constitutional constraint, and faced with competing priorities. It's a statement that one has a basic comfort level with the power of these entities to collect material because one believes the laws and rules will protect one if followed and one believes as well that they will be followed. It's a statement that the speaker believes that no rational intelligence or law enforcement agency would devote energy to investigating the speaker, because he or she hasn't done anything worth the attention of those agencies—being basically a law-abiding person in a world full of serious law enforcement intelligence threats. And it's a statement of comfort with the fact that should one's material be swept up in the course of investigations of others, that would be a bummer—but one the speaker's dignity could survive because it's not juicy enough to spark sustained interest. In other words, it's a statement of belief on the speaker's part that the collection powers of the state will not be maliciously directed against the speaker.

#### Surveillance authority *won’t* be abused — there is aggressive oversight.

Liepman 13 — Andrew Liepman, Senior Policy Analyst at the RAND Corporation, former Principal Deputy Director of the National Counterterrorism Center, served in the Central Intelligence Agency for over 30 years, holds a B.S. in Forestry from the University of California-Berkeley, 2013 (“What did Edward Snowden get wrong? Everything,” *Los Angeles Times*, August 10th, Available Online at <http://articles.latimes.com/2013/aug/10/opinion/la-oe-0811-liepman-snowden-and-classified-informat-20130811>, Accessed 08-07-2015)

Let me break this to you gently. The government is not interested in your conversations with your aunt, unless, of course, she is a key terrorist leader. More than 100 billion emails were sent every day last year — 100 billion, every day. In that vast mass of data lurk a few bits that are of urgent interest and vast terabytes of tedium that are not. Unfortunately, the metadata (the phone numbers, length of contact, and so forth, but not the content of the conversations) that sketch the contours of a call to your family member may fall into the same enormous bucket of information that includes information on the next terrorist threat. As Jeremy Bash, the former chief of staff of the CIA, memorably put it, "If you're looking for a needle in the haystack, you need a haystack."

Unfortunately, during the Snowden affair, many news outlets have spent more time examining ways the government could abuse the information it has access to while giving scant mention to the lengths to which the intelligence community goes to protect privacy. We have spent enormous amounts of time and effort figuring out how to disaggregate the important specks from the overwhelming bulk of irrelevant data.

This is done under tight and well-thought-out strictures. I witnessed firsthand the consequences of breaking the privacy rules of my former organization, the National Counterterrorism Center. As the center's deputy director, I had to fire people, good people, and remove others from their posts for failing to follow the rules about how information could be accessed and used. It didn't happen often, and it was never a malicious attempt to gather private information. We had mandatory training and full-time staffers to supervise privacy regulations. We used precious resources to hire lawyers and civil liberties experts to oversee our efforts. And on those few occasions when we made mistakes, the punishments were swift and harsh.

### Extend: “Weigh Consequences”

#### The Constitution is an open-ended framework, not a “side constraint.”

Litchwick 11 — Dahlia Lithwick, journalist covering courts and the law for *Slate*, 2011 (“Read It and Weep,” *Slate*, January 4th, Available Online at http://www.slate.com/articles/news\_and\_politics/jurisprudence/2011/01/read\_it\_and\_weep.single.html, Accessed 04-30-2012)

This newfound attention to the relationship between Congress and the Constitution is thrilling and long overdue. Progressives, as Greg Sargent points out, are wrong to scoff at it. This is an opportunity to engage in a reasoned discussion of what the Constitution does and does not do. It's an opportunity to point out that no matter how many times you read the document on the House floor, cite it in your bill, or how many copies you can stuff into your breast pocket without looking fat, the Constitution is always going to raise more questions than it answers and confound more readers than it comforts. And that isn't because any one American is too stupid to understand the Constitution. It's because the Constitution wasn't written to reflect the views of any one American.

The problem with the Tea Party's new Constitution fetish is that it's hopelessly selective. As Robert Parry notes, the folks who will be reading the Constitution aloud this week can't read the parts permitting slavery or prohibiting cruel and unusual punishment using only their inside voices, while shouting their support for the 10th Amendment. They don't get to support Madison and renounce Jefferson, then claim to be restoring the vision of "the Framers." Either the Founders got it right the first time they calibrated the balance of power between the federal government and the states, or they got it so wrong that we need to pass a "Repeal Amendment" to fix it. And unless Tea Party Republicans are willing to stand proud and announce that they adore and revere the whole Constitution as written, except for the First, 14, 16th, and 17th amendments, which totally blow, they should admit right now that they are in the same conundrum as everyone else: This document no more commands the specific policies they espouse than it commands the specific policies their opponents support.

This should all have been good news. The fact that the Constitution is sufficiently open-ended to infuriate all Americans almost equally is part of its enduring genius. The Framers were no more interested in binding future Americans to a set of divinely inspired commandments than any of us would wish to be bound by them. As Justice Stephen Breyer explains in his recent book, Making Our Democracy Work: A Judge's View, Americans cannot be controlled by the "dead hands" of one moment frozen in time. The Constitution created a framework, not a Ouija board, precisely because the Framers understood that the prospect of a nation ruled for centuries by dead prophets would be the very opposite of freedom.

#### It is impossible to resolve constitutional issues without weighing costs and benefits. There should be no “decision rules.”

Posner 7 — Richard A. Posner, Judge of the United States Court of Appeals for the Seventh Circuit, Senior Lecturer at the University of Chicago Law School, was identified by *The Journal of Legal Studies* as the most cited legal scholar of the 20th century, holds an L.L.B. from Harvard Law School, 2007 (“‘How to Skip the Constitution’: An Exchange,” *New York Review of Books*, January 11th, Available Online at <http://www.nybooks.com/articles/archives/2007/jan/11/how-to-skip-the-constitution-an-exchange/>, Accessed 06-28-2015)

Cole’s review does, however, raise an important question, which is whether judges can get away from “balancing” as the method for resolving constitutional disputes in which the stakes are great. Cole is correct that I reject the possibility of resolving such disputes by a distinctively legal methodology involving, in his words, “an effort, guided by text, precedent, and history, to identify the higher principles that guide us as a society”; “the judge’s attempt, informed by text, tradition, precedent, and reason, to identify and enforce those principles that rise above day-to-day cost-benefit analysis”; “we must insist on a Constitution of principle.” Lovely sentiments, but empty. One sees this in Cole’s call for a “return to established Fourth Amendment jurisprudence, which has long required that searches must generally be justified by a showing of objective, specific suspicion approved by a judge who is willing to issue a specific warrant.” So much for guidance by text, for the text of the Fourth Amendment does not require that searches be conducted pursuant to warrants. It places tight limits on warrants; the only limits it places on searches without warrants is that they not be “unreasonable.” Although Cole says that “the Constitution does not trust government officials to balance in some ad hoc fashion the value of the information they hope to obtain from suspects against the harms their tactics may inflict,” a standard of reasonableness is an invitation to do just that, and it is an invitation that the Supreme Court has accepted. Whether electronic surveillance without a warrant is constitutional will turn on whether five Supreme Court Justices think it’s “reasonable.”

David Cole must realize at some level that his ardent civil libertarian views are not the product of “text, tradition, precedent, and reason,” since equally capable legal thinkers hold opposite views. This is possible because there is no consensus on what methodology to use to resolve constitutional disputes and because text, tradition, precedent, and reason so often tug in different directions. As a result, his “higher principles” have no better constitutional pedigree than the “higher principles” that his conservative opponents purport to derive from the same Constitution. The text is very old and to a degree obsolete, tradition is a mixed bag (the Alien and Sedition Acts and Lincoln’s suspension of habeas corpus in the Civil War are part of the tradition), the precedents are mixed as well and many Cole rejects, and “reason” as lawyers use the term is in the eye of the beholder. Realism requires recognition that constitutional decision-making at the highest level (the US Supreme Court) in the most difficult cases is driven in the main by policy judgments based usually on just the kind of balancing that Cole deplores. Or pretends to deplore; for I imagine that au fond the reason he dislikes the administration’s counterterrorism measures is that he thinks they impose greater costs, in harm to civil liberties, than the benefits that they confer in reducing the risk of further terrorist attacks. The rest is rhetoric.

### Extend: “Security Outweighs Privacy”

#### When in conflict, security must always outweigh privacy. Without security, there’s no value to privacy.

Himma 7 — Kenneth Einar Himma, Associate Professor of Philosophy at Seattle Pacific University, holds a Ph.D. in Philosophy from the University of Washington and a J.D. from the University of Washington Law School, 2007 (“Separation, Risk, and the Necessity of Privacy to Well-Being: A Comment on Adam Moore's Toward Informational Privacy Rights,” *San Diego Law Review* (44 San Diego L. Rev. 847), Fall, Available Online to Subscribing Institutions via Lexis-Nexis)

IV. Why We Care about Privacy: Because it Conduces to Security Interests

Even in these cases, my principal concern is to protect some aspect of my security. I do not, for example, conceptualize identity theft, the principal concern here, as a threat to privacy. It is rather a threat to my financial security that can cause me great trouble in taking out loans or retaining property that has been paid for by loans. Much of what seems to be, on the surface, a concern with privacy is really, at bottom, a concern for material security — suggesting that, at the end of the day, privacy is not, other things being equal, as important as security.

This brings me to my second concern with the argument. I think there are a couple of problems with Moore's approach to balancing privacy and security. First, I think the requirement that probable cause be shown before privacy can be breached in the interest of security is far too onerous. Indeed, if this requirement were correct, then it would follow [\*855] that passenger bags could not be searched prior to check-in without obtaining a warrant based on probable cause from a magistrate. While I cannot say that I agree with every regulation that the Federal Aviation Administration has adopted with respect to airport security, or for that matter with every provision of the USA PATRIOT Act, n20 it seems clear that submitting all carry-on bags to x-ray inspection prior to boarding a flight is an infringement of privacy that is justified by security concerns. Moore's analysis implies that this general requirement is not justified - which strikes me as a counterexample to his analysis. n21

Second, it seems clear to me that security trumps privacy, other things being equal - and many arguments can be, and have been, made in support of this proposition. n22 One cannot, for example, enjoy the benefits of any other interest, including privacy, if security interests are not generally protected. The protection of security is a necessary prerequisite for the exercise of any other interest that gives rise to a moral right of some kind.

From an intuitive standpoint, it seems clearly rational to prefer security to privacy in cases where the most egregious breach of one or the other is threatened. I would rather disclose the most private piece of information about myself than suffer death, grievous bodily injury, or even loss of financial security (say, through loss of a job). Indeed, I would view anyone who made a conflicting valuation in need of therapy. It seems clear from an intuitive standpoint that, other things being equal, security wins in a conflict with privacy.

Finally, security interests tend to be valued intrinsically (namely, as ends in themselves), while informational privacy is generally valued instrumentally (as a means to another end). Although it is true that I sometimes value solitude for its own sake, in addition to its value in enabling me to rest, I am not convinced solitude is an interest that falls under the rubric of informational privacy. There is much information about me that I regard as private and want protected not because I value privacy for its own sake, but rather because of the problems that information might cause for me with employers or insurance companies. Much else that I value as private is contingent: people do, while dogs do not, feel a [\*856] need to use the bathroom in private. That preference on our part is not hardwired into us as necessary to our well-being, but is rather the result of social conventions that have evolved over time and might very well change in the future.

In contrast, I am hardwired to value my life and freedom from grievous bodily injury and severe pain and to value them, at least in part, as ends in themselves — rather than as means to ends. It is true that my continuing sentient existence also has instrumental value to me. I cannot have fun of any kind without being conscious. But I value it as an end in itself, to be valued for its own sake. I would not judge someone who does not care at all about privacy interests as necessarily being in need of mental therapy. I would, on the other hand, judge someone who did not care at all about security interests as being in need of mental therapy.

In closing, I should point out that no one who takes the view, as I do, that - other things being equal - security trumps privacy is committed to claiming that "any increase in security should be preferred to any increase in privacy or any decrease in privacy is to be preferred to any decrease in security." n23 Sometimes it makes sense to give up a little security to protect a lot of privacy. I should also point out that the security trumps privacy view does not logically entail, contra Moore, that those who provide security are completely trustworthy. Indeed, I do not trust the Bush Administration very much at all these days, but I still think it is as clear as anything can be that security wins in direct conflicts with privacy. It is, of course, a difficult and contentious issue when privacy and security come into direct conflict, but I think it is clear that when they do, the security interests have to win. Civilized life is not possible otherwise.

But the main point here is that while security is essential to well-being, privacy is primarily valuable insofar as it conduces to security interests. And this connection is contingent, as Moore's own risk argument makes clear. We value privacy because it is conducive to avoiding those in a society contingently organized like ours with bigots and profiteers willing to dispose of someone on the basis of private information. But this just speaks to contingent qualities of human beings. Accordingly, while well-being is not possible without security, it is possible without privacy - even if we live in a society where the contingent features of the society continue to expose risks to our well-being through disclosure of private information. But while privacy is not an essential constituent of well-being, security is. Therefore, Moore's argument for Premise One fails.

#### Intuitively, security is more important than privacy. We would *all* give up our privacy rather than be killed or seriously injured.

Himma 7 — Kenneth Einar Himma, Associate Professor of Philosophy at Seattle Pacific University, holds a Ph.D. in Philosophy from the University of Washington and a J.D. from the University of Washington Law School, 2007 (“Privacy Versus Security: Why Privacy is Not an Absolute Value or Right,” *San Diego Law Review* (44 San Diego L. Rev. 857), Fall, Available Online to Subscribing Institutions via Lexis-Nexis)

V. The Argument from Intuitive Case Judgments

From an intuitive standpoint, the idea that the right to privacy is an absolute right seems utterly implausible. Intuitively, it seems clear that there are other rights that are so much more important that they easily trump privacy rights in the event of a conflict. For example, if a psychologist knows that a patient is highly likely to commit a murder, then it is, at the very least, morally permissible to disclose that information about the patient in order to prevent the crime - regardless of whether such information would otherwise be protected by privacy rights. Intuitively, it seems clear that life is more important from the standpoint of morality than any of the interests protected by a moral right to privacy.

Still one often hears - primarily from academics in information schools and library schools, especially in connection with the controversy regarding the USA PATRIOT Act - the claim that privacy should never be sacrificed for security, implicitly denying what I take to be the underlying rationale for the PATRIOT Act. This also seems counterintuitive because it does not seem unreasonable to believe we have a moral right to security that includes the right to life. Although this right to security is broader than the right to life, the fact that security interests include our interests in our lives implies that the right to privacy trumps even the right to life - something that seems quite implausible from an intuitive point of view. If I have to give up the most private piece of information about myself to save my life or protect myself from either grievous bodily injury or financial ruin, I would gladly do so without hesitation. There are many things I do not want you to know about me, but should you make a credible threat to my life, bodily integrity, financial security, or health, and then hook me up to a lie detector machine, I will truthfully answer any question you ask about me. I value my privacy a lot, but I value my life, bodily integrity, and financial security much more than any of the interests protected by the right to privacy.

It is true, of course, that the hierarchy defined by my personal attributions of value may not reflect the hierarchy implied by the moral values themselves, but I would be surprised if there are any rational persons who would react differently to the choice presented above. Personal valuations can be idiosyncratic and for this reason not tell us [\*877] anything about the corresponding moral values. But if it is true, as I would hypothesize, that very few, if any, people would choose to withhold some piece of private information about themselves if needed to save their lives, or protect them from serious physical injury or financial ruin, that is a pretty good reason to think that these valuations do tell us something about morality. It would be very odd if, on the one hand, all, or nearly all, rational persons assign greater value to what I have described as the most important of security interests than to the most important of privacy interests where there is a genuine conflict between the two but, on the other hand, morality assigned more value to privacy than to security.

## 2NC/1NR — Tech Leadership Advantage

### Extend: “Alternate Causality – STEM”

#### Contrarians are wrong — there *is* a STEM shortage.

Rothwell 14 — Jonathan Rothwell, Fellow at the Metropolitan Policy Program at the Brookings Institution, former Senior Research Analyst at Haver Analytics, holds a Ph.D. in Public Affairs from Princeton University and an M.A. in Economics from New School University, 2014 (“Short on STEM Talent,” *U.S. News & World Report*, September 15th, Available Online at <http://www.usnews.com/opinion/articles/2014/09/15/the-stem-worker-shortage-is-real>, Accessed 08-09-2015)

It should be well-accepted that the U.S. economy could use more workers with high levels of knowledge in science, technology, engineering and mathematics. The shortage of these skilled STEM professionals eased during the recession, but by any conventional definition, now it appears to have returned.

For one thing, wages have grown relatively fast in most STEM-oriented occupations, which is a clear indication of a shortage. From 2000 to 2013, analyzing Bureau of Labor Statistics data and adjusting for inflation, median salaries for workers in computer and mathematical, health care practitioner, engineering, and science occupations rose 8 percent, 7 percent, 6 percent and 5 percent respectively, even as those for the average U.S. worker showed no growth. Software developers, for instance, saw salaries soar 26 percent over the same period, culminating in an average of $82,000 in 2013, up from $48,000 in 1980. More broadly, an analysis I completed earlier this summer for the Brookings Institution of census data showed a large relative increase in the STEM earnings premium – about 60 percent – from 1980 to 2012, controlling for education, experience and gender.

In addition, vacancies for STEM jobs are going unfilled in large numbers. My recent report analyzes this phenomenon using a rich database with millions of vacancies posted on company websites compiled by Burning Glass, a labor market analytics firm. There are some 40,000 computer science bachelor’s degree earners each year but roughly 4 million job vacancies for computer workers. In all, the median duration of advertising for STEM vacancies is more than twice that of those in other fields.

Moreover, many people are economically better off with STEM skills. It’s often noted that college graduates outearn those with only high school diplomas, and among workers with college degrees, STEM majors earn some of the highest salaries.

Likewise, jobs are more plentiful in STEM fields, which is why the unemployment rates are low for grads with these degrees. According to the Conference Board, there are currently three job vacancies advertised online for every unemployed computer worker; by contrast, there are more than six unemployed construction workers per vacancy.

Oddly, a small contrarian group of academics claims that not only is there no shortage of STEM talent, but the U.S. actually has too many graduates in these fields. They say that universities oversupply such grads, citing statistics showing that many computer science majors work in other occupations, for example. In fact, the skills of these graduates are highly valued beyond a narrow subset of occupations, further evidence of STEM’s high demand. Indeed, computer science degree holders are commonly employed in managerial positions, business operations, engineering, and even as top executives – hardly evidence of a wasted education.

#### Prefer our evidence — their authors misrepresent the data.

Nager and Atkinson 15 — Adams B. Nager, Economic Research Analyst at the Information Technology and Innovation Foundation, holds an M.A. in Political Economy and Public Policy and a B.A. in Economics and Political Economy from Washington University in St. Louis, and Robert D. Atkinson, Founder and President of the Information Technology and Innovation Foundation, Co-Chair of the White House Office of Science and Technology Policy’s China-U.S. Innovation Policy Experts Group, Member of the U.S. State Department’s Advisory Committee on International Communications and Information Policy, Member of the U.S. Department of Commerce’s National Advisory Council on Innovation and Entrepreneurship, Member of the Markle Foundation Task Force on National Security in the Information Age, serves on the boards or advisory councils of the Internet Education Foundation, the NetChoice Coalition, the University of Oregon’s Institute for Policy Research and Innovation, and the State Science and Technology Institute, has held positions in the Clinton, Bush, and Obama Administrations, holds a Ph.D. in City and Regional Planning from the University of North Carolina-Chapel Hill, 2015 (“Debunking the Top Ten Arguments Against High-Skilled Immigration,” Report by The Information Technology & Innovation Foundation, April, Available Online at <http://www2.itif.org/2015-debunking-myths-high-skilled.pdf>, Accessed 08-09-2015, p. 1-2)

Until recently there was widespread agreement that the United States faced a shortage of science, technology, engineering, and mathematics (STEM) workers. However, that consensus has begun to fracture, largely due to an assertive campaign by some liberal economists more interested in protecting the salaries of high-wage professionals than in helping the broad base of American consumers and workers. In particular, in their single-minded campaign to eliminate the H-1B visa program, these advocates have engaged in a determined effort to cast doubt on the reality of the U.S. STEM shortage.

Introduction

For leading advocates who make this claim, such as Ron Hira, Hal Salzman, and Michael Teitelbaum, economic policy reflects a fundamental tension between capital and labor: if capital gets less, labor gets more. One way of ensuring capital gets less is to restrict the supply of labor so that businesses must bid up wages. To be sure, these labor advocates have every right to make this argument, but they should be upfront about their real agenda and its implications, including on progressivity. Engineers, for example, earn 2.5 times the median national wage with a median yearly income of $88,720. 1 This places them in the top 5 percent of single income earners.2 Why is it progressive to raise their incomes by restricting the supply of STEM workers, when the result would be fewer jobs in the rest of the economy, higher prices for American consumers of all incomes, and reduced U.S. global competitiveness? Indeed, limiting the supply of STEM professionals in the United States will raise prices for consumers, reduce the output of U.S. firms in globally traded [end page 1] sectors (like manufacturing and software), and cost the jobs of tens of thousands of Americans who work alongside engineers and IT professionals.

When pressed, some of these advocates will privately acknowledge that the United States would be better off with more STEM workers, whether from increased domestic education and training or more immigration, but their intense opposition to the H-1B high-skilled immigration program leads them to argue publically that there is an over-abundance of STEM labor. As such the “no STEM worker shortage” camp makes a number of claims that are simply not supported by the evidence.

Recent testimony from Hal Salzman and Ron Hira before the Senate Judiciary Committee provides a handy guidebook for these flawed claims.3 According to them: 1) there is no unmet demand for STEM skills; 2) foreign STEM workers displace native STEM workers, especially recent graduates, competing for the same limited pool of jobs; 3) a rising supply of STEM labor depresses wages, harming American workers and discouraging students from entering STEM fields; 4) immigration is a foot in the door for foreign companies who want to compete in American markets; and 5) U.S. companies can remain competitive without high-skilled immigration. Unfortunately, all of those points are wrong or misleading. America faces a shortage of high-skilled STEM talent, especially in IT industries.

This report identifies these and other claims made by labor advocates and refutes each myth.

Myths Surrounding High-Skilled Immigration

Myth 1: Data disprove the STEM shortage

A common tactic for opponents of the H-1B program is to accuse industry of making up the STEM shortage in order to gain access to cheaper labor, claiming that the data proves that the shortage does not actually exist. For example, Salzman’s testimony claims that a “preponderance of evidence” shows the STEM shortage is a myth, while he dismisses data supporting the shortage of STEM workers as “largely based on anecdotal evidence and testimonials from employers, rather than solid evidence.”4

There are data sources that would seem to support Salzman’s dismissal. However, many of these metrics are poorly constructed or intentionally misleading. Advocates for artificially constraining the STEM labor supply then adopt them, misinterpret them and present weak arguments as fact. For example, a Census Bureau definition of STEM which includes psychology and political science majors has been used to claim that STEM graduates do not go into STEM fields, and therefore the United States has excess labor. Hira’s testimony uses anecdotal wage evidence to insinuate that H-1B workers are paid up to 49 percent less than native workers when in reality wages are comparable.5

In addition, many arguments against high-skilled immigration begin with stories about individuals in STEM fields who have been unable to find work. While this is indeed troublesome, the plural of anecdote is not data, and in reality these are relatively isolated incidents. Unemployment in STEM fields is actually very low.6

### Extend: “Alternate Causality – Taxes”

#### Tech companies are *forced* to move money overseas because of a broken U.S. tax system. This is a huge barrier to industry growth.

Turrentine 13 — Dan Turrentine, Vice President of Government Relations and Business Development at TechNet—the preeminent bipartisan political network of CEOs and Seniors Executives that promotes the growth of technology-led innovation, 2013 (“Study Misses the Mark; US Tax Policy Locks Out Foreign Profits of American Companies,” *The Huffington Post*, January 29th, Available Online at <http://www.technet.org/op-eds-articles/>, Accessed 08-10-2015)

Last week, the Citizens for Tax Justice released a study about the money U.S. based-companies technology companies have overseas. Unfortunately, the entire premise of the study misses the forest for the trees.

The United States economy today faces intense global competition for economic advantages, particularly in innovation-based, high-wage industries. We are currently one of only six other Organization for Economic Cooperation and Development (OECD) countries (Chile, Ireland, Korea, Mexico, and Poland) that use a worldwide tax regime in which foreign earnings are subject to domestic tax when remitted home (the difference between the jurisdiction where the earnings occurred and the American corporate rate). Importantly, the other five nations have a much lower corporate tax rate than the United States.

To add further insult to injury, many of the most prominent U.S. technology companies did not exist or existed in a very different form when our tax code was last rewritten in 1986. At the time, a company’s success was largely determined by business in the United States. Today, success is determined by business all over the globe, from here at home to Europe, to the BRICs (Brazil, Russia, India and China), to other emerging markets like Africa.

For many technology companies, the majority of their profits are now earned overseas, ranging from 60 percent to 80 percent. At the same time, the majority of their research and development, ranging from 70 percent to 90 percent, is done in the United States. The fact is that many American high-tech, high-paying jobs are dependent upon their companies success overseas.

The answer to making America more competitive and to maintaining our title as the innovation capitol of the world is to lower the corporate tax rate and move to a competitive, market-based territorial tax system. Advocating for both higher taxes and the continuation of a world-wide tax system are wrong for American jobs of today and particularly for American jobs of the future.

#### High taxes are the largest threat to the U.S. tech industry.

Jones 14 — Kara Jones, Intern at *Town Hall*, Student at the University of South Carolina Honors College, citing Curtis S. Dubay, Research Fellow in Tax and Economic Policy at The Heritage Foundation, former Senior Associate at PricewaterhouseCoopers, former Senior Economist for the Tax Foundation, holds an M.A. in Economics from the University of Connecticut and a B.A. in Economics and Leadership Studies from the University of Richmond, 2014 (“Another American Company Goes Abroad, Escaping High Tax Rates,” *Town Hall*, June 23rd, Available Online at <http://townhall.com/tipsheet/karajones/2014/06/23/another-american-company-goes-abroad-escaping-high-tax-rates-n1854843>, Accessed 08-10-2015)

The world’s largest medical technology company, Medtronic, has announced plans to move its corporate headquarters from Minneapolis to Dublin, Ireland. With U.S. corporate tax rate at a mighty 35 percent, one of the highest in the world, it is no wonder Medtronic would rather operate from Ireland, where the tax rate is only 12.5 percent.

Medtronic is already familiar with the global stage, having reached more than 140 countries with its technology. The company is able to make the move overseas by buying out Dublin-based rival Covidien for $42.9 billion. Acquisition and corporate takeover are now legally required for a business to relocate its tax base to another country.

It is important to understand just how detrimental this current tax system is to American business:

Heritage Foundation tax expert Curtis Dubay predicted this trend nearly a year ago, arguing that if the United States didn’t change its destructive corporate tax code, multinational companies would move their business elsewhere.

“We are the only developed country in the world that attempts to tax the foreign earnings of our businesses, and we do so at the highest rate in the industrialized world,” Dubay said.

“U.S. businesses will keep moving abroad as long as Congress fails to move to a territorial system,” Dubay said.

Medtronic is just one of many American companies that has recently made the switch to having a foreign executive base. We saw a strikingly similar transition in 2012 with electrical equipment manufacturer Eaton, who also acquired an Irish company and moved its headquarters from Cleveland to Dublin.

### Extend: “Status Quo Solves”

#### The Freedom Act was a big win for the tech industry — it restored trust.

Schwartz 15 — Eric Hal Schwartz, Technology Reporter at *DC Inno*, holds an M.S. in Science and Medical Journalism from Boston University and a B.A. in Journalism from the University of Arizona, 2015 (“Why the Senate NSA Reform Vote is a Win for Tech Companies,” *DC Inno*, June 1st, Available Online at <http://dcinno.streetwise.co/2015/06/01/nsa-reform-vote-a-win-for-tech-internet-companies/>, Accessed 08-10-2015)

Phone and tech companies have been trying to get something like this reform passed for a long time. McConnell's resistance has not made companies like Google, Facebook as well as phone companies very happy. They've argued that the surveillance has hurt their ability to offer safe and private services and technology to their customers. It's a rare point of unity among tech company trade groups like TechNet, BSA - The Software Alliance and the Internet Association, groups that are more usually butting heads over policy.

"Protecting global Internet users through surveillance reform is of paramount importance to the Internet industry and our member companies, many of whom have expressed strong support for the USA Freedom Act," the Internet Association said in a statement about the USA Freedom Act.

"The bill’s provisions to end overly broad data collection and increased transparency are important steps in restoring trust in the U.S. surveillance regime," BSA said in an emailed comment. "Just as importantly, though, the bill ensures the continued availability of other important national security authorities."

#### The Freedom Act was *sufficient* to restore trust in U.S. companies.

Vijayan 14 — Jaikumar Vijayan, freelance technology writer specializing in computer security and privacy topics, 2014 (“Tech groups press Congress to pass USA Freedom Act,” *ComputerWorld*, September 9th, Available Online at <http://www.computerworld.com/article/2604630/tech-groups-press-congress-to-pass-usa-freedom-act.html>, Accessed 08-10-2015)

As Congress returned from summer recess Monday, several technology and civil rights groups quickly renewed their push for a bill that seeks to put curbs on the bulk collection of phone records and Internet data by the government.

In a letter, representatives of the Computer and Communications Industry Association, the Software Alliance, the Information Technology Industry Council and the Software and Information Industry Association urged Senate lawmakers to quickly approve the USA Freedom Act (S. 2685).

Introduced in July by Sens. Patrick Leahy (D-Vt.), Al Franken (D-Minn.), Mike Lee (R-Utah) and Dean Heller (R-Nev.), the bill would put new limits on the federal government's authority to ask telecommunications companies and Internet service providers for customer records under Section 215 of the USA Patriot Act.

It would also require the secretive Foreign Intelligence Surveillance Act (FISA) Court to be more transparent about its decisions regarding the government's use of FISA to collect data on individuals suspected of terrorist activity. In addition, the USA Freedom Act seeks to limit the use of data collected by entities such as the National Security Agency and the FBI under FISA and the Patriot Act.

Supporters of the bill say the changes are vital to reining in the NSA's domestic surveillance practices.

Concerns over the U.S. government's data collection activities have caused substantial problems for U.S. technology companies over the past year. Former NSA contractor Edward Snowden's leaks about PRISM and other NSA data collection programs have caused U.S. companies to lose customers and business in other countries.

Technology giants like IBM and Cisco have reported blowback from overseas customers as a result of concerns stoked by Snowden's revelations. Some have predicted that U.S. cloud hosting companies could lose tens of billions of dollars over the next few years as overseas customers take their business to foreign rivals.

Many vendors, including Google, Microsoft and others have asked the government for permission to disclose more details about the the kind of customer data they have provided to the government in recent years in response to requests under the Patriot Act and FISA. The companies have argued that such transparency is vital to regaining the confidence of international customers.

It is against this background that the tech groups are calling for quick passage of the USA Freedom Act. Reforms contained in the bill "will send a clear signal to the international community and to the American people that government surveillance programs are narrowly tailored, transparent, and subject to oversight," this week's letter to the senators noted.

U.S. technology companies have experienced losses in overseas markets as a result of the surveillance programs revelations, the letter noted. Other countries are also mulling proposals that would limit free data flows between countries, the letter cautioned.

The measures in the USA Freedom Act would alleviate some of these concerns and would help restore faith in the U.S. government and the U.S. technology sector, the letter said.

### Extend: “No Competitiveness Impact”

#### “Competitiveness” is the wrong focus — it’s a bankrupt metaphor.

Krugman 11 — Paul Krugman, Columnist for the *New York Times*, Professor of Economics and International Affairs at Princeton University, and Recipient of the 2008 Nobel Prize in Economics, 2011 (“The Competition Myth,” *New York Times*, January 23rd, Available Online at http://www.nytimes.com/2011/01/24/opinion/24krugman.html, Accessed 08-11-2013)

Meet the new buzzword, same as the old buzzword. In advance of the State of the Union, President Obama has telegraphed his main theme: competitiveness. The President’s Economic Recovery Advisory Board has been renamed the President’s Council on Jobs and Competitiveness. And in his Saturday radio address, the president declared that “We can out-compete any other nation on Earth.”

This may be smart politics. Arguably, Mr. Obama has enlisted an old cliché on behalf of a good cause, as a way to sell a much-needed increase in public investment to a public thoroughly indoctrinated in the view that government spending is a bad thing.

But let’s not kid ourselves: talking about “competitiveness” as a goal is fundamentally misleading. At best, it’s a misdiagnosis of our problems. At worst, it could lead to policies based on the false idea that what’s good for corporations is good for America.

About that misdiagnosis: What sense does it make to view our current woes as stemming from lack of competitiveness?

It’s true that we’d have more jobs if we exported more and imported less. But the same is true of Europe and Japan, which also have depressed economies. And we can’t all export more while importing less, unless we can find another planet to sell to. Yes, we could demand that China shrink its trade surplus — but if confronting China is what Mr. Obama is proposing, he should say that plainly.

Furthermore, while America is running a trade deficit, this deficit is smaller than it was before the Great Recession began. It would help if we could make it smaller still. But ultimately, we’re in a mess because we had a financial crisis, not because American companies have lost their ability to compete with foreign rivals.

But isn’t it at least somewhat useful to think of our nation as if it were America Inc., competing in the global marketplace? No.

#### Krugman is *right* — “competitiveness” is economically bankrupt.

Schrage 94 — Michael Schrage, writer, consultant and research associate at the Massachusetts Institute of Technology, 1994 (“The Myth of a 'Competitive' Economic Policy,” *Los Angeles Times*, March 10th, Available Online at http://articles.latimes.com/print/1994-03-10/business/fi-32358\_1\_economic-policy, Accessed 08-11-2013)

An American economy that cares a great deal about boosting domestic productivity requires policy-makers who care very little about global competitiveness.

A Zen koan for the nationalistic '90s? The sound of one Keynesian clapping? A lyric for aspiring autarkists?

None on the above. It's the startling pronouncement of MIT's Paul Krugman, one of the country's most brilliant young economists, a nonpartisan academic with a reputation for intellectual honesty and a cruel tongue.

You might recall that Krugman was widely quoted criticizing industrial-policy economist Laura D'Andrea Tyson's research when President Clinton named her chairwoman of his Council of Economic Advisers.

Alternating between statistical scalpels and macroeconomic machetes, Krugman bloodily eviscerates "competitiveness" as a policy doctrine without any kind of economic validity.

What supply-side "economics" was to Reaganomics, Krugman asserts, competitiveness has become to Clintonomics: a sort of psuedo-rational pastiche that Nobel Prize-winning chemist Irving Langmuir once described as "pathological science"--that is to say, no science at all.

"To make a harsh but not entirely unjustified analogy," he says in his essay "Competitiveness: A Dangerous Obsession" in the current issue of Foreign Affairs, "a government wedded to the ideology of competitiveness is as unlikely to make good economic policy as a government committed to creationism is to make good science policy, even in areas that have no direct relationship to the theory of evolution."

"Gee, we must be making progress," smiles Dan Burton, president of the Council of (sigh) Competitiveness, which was formed by frustrated high-tech executives in the wake of the Ronald Reagan Administration's rejection of its own presidential commission on the topic. "In 1987, competitiveness was dismissed as a buzzword. Today, it's graduated to being a dangerous obsession."

Might Krugman be the one with the dangerous obsession? Not after you see the numbers. His arguments would command respect even without his impeccable credentials. They're important because he takes the global competitiveness champions like Tyson, U.S. Trade Representative Mickey Kantor, Labor Secretary Robert B. Reich and health care guru Ira Magaziner on their own terms, impatiently redoes their arithmetic for them and makes a strong case that competitiveness issues amount to little more than a rounding error in the $6-trillion U.S. economy.

### Extend: “No U.S. Leadership Impact”

#### No short-term impact to slow growth — any effect on military power is long-term.

Morgan 11 — Iwan Morgan, Professor of U.S. Studies and Head of U.S. Programmes at the Institute of the Americas at University College London, former Professor of U.S. Studies at the Institute for the Study of the Americas at the School of Advanced Study at the University of London, Professor of American Governance at London Metropolitan University, and Fulbright Educational Exchange Lecturer at Indiana University-Purdue University at Fort Wayne, holds a Ph.D. in International History from the London School of Economics, 2011 (“The American Economy and America’s Global Power,” *The United States after Unipolarity*, Published by the London School of Economics, December, Available Online at http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR009/morgan.pdf, Accessed 08-11-2013, p. 30)

In immediate terms, it is clear that the United States is far from any tipping point where it has to scale back its military power very significantly because of economic and debt problems at home. True, its supporting rather than lead role in the NATO intervention in Libya owed something to the Obama White House’s desire to contain defence costs while America is still actively engaged against the Taliban in Afghanistan and has just started to run down its Iraq commitments. In Obama’s Fiscal Year (FY) 2012 budget plan, defence outlays are also scheduled to decline from 5.1 percent of GDP in FY 2011 to 3.4 percent of GDP in FY 2016. Nevertheless, the savings will largely result from the running down of commitments in Afghanistan and Iraq and waste elimination rather than the reduction of core strength. Even if a new crisis demanded expansion of military spending in the course of the next decade, the United States should be able to meet that need without imposing a strain on its economy.

#### No leadership impact — the U.S. is *not* indispensable.

Zenko 14 — Micah Zenko, Douglas Dillon Fellow with the Center for Preventive Action at the Council on Foreign Relations, former Research Assistant at the Belfer Center for Science and International Affairs at the Kennedy School of Government at Harvard University, former Researcher at the Brookings Institution, 2014 (“The Myth of the Indispensable Nation,” *Foreign Policy*, November 6th, Available Online at <http://foreignpolicy.com/2014/11/06/the-myth-of-the-indispensable-nation/>, Accessed 08-10-2015)

Indispensables also hold an unrealistic faith in the latent power of leadership that flows from suppose it indispensable-ness. During a House hearing in September, Gerald Feierstein, Principal Deputy Assistant Secretary of State for Near Eastern Affairs, declared: "When the United States stands up and demonstrates resolve and demonstrates a direction, the international community generally supports and falls into place behind." Really? This hypothesis would surprise anyone who tracks multilateral fora where U.S. officials state their policy positions and then repeatedly fail to compel other leaders to get in line — see, for example, the Climate Change Conference in Copenhagen in December 2009, and the WTO trade talks since the Doha Round opened in 2001.

And if Feierstein is referring only to warfare, then why do so few countries with deployable military assets participate in U.S.-led campaigns in a meaningful way? The United States provided the majority of the actual combat forces and airpower in Iraq, Afghanistan, and Libya, and is doing so again in the air campaign to counter the Islamic State (IS). Most countries that could participate have either declined to do so, or are taking part by providing such limited and constrained capabilities that they are not significantly enhancing the coalition’s capabilities. In each of these military interventions, the United States decried unilateralism, attempted to form a large coalition, and then found itself paying most of the costs, dropping most of the bombs, sacrificing the most soldiers, and losing most of his credibility.

Whether it is multilateral talks or military operations, other governments do not do as Washington demands because, quite simply, it is not in their national interests to do so. Moreover, the United States refuses to employ the political will or coercive leverage to force them to. The point being is that few, if any, substantive and enduring foreign-policy activities can be done unilaterally, and asserting one’s indispensability does nothing to alter others’ interests. It is often stated that countries in the Middle East or East Asia are looking for America "to lead," but they actually want U.S. leadership on their terms, and in support of their own narrow objectives. The moment that leadership conflicts with the visions and objectives those countries hold, they cease or severely limit their partnerships with the United States.

Finally, the Indispensables belief that America’s role in the world is "absolutely necessary" in all areas is simply arrogant. It discounts the tremendous and essential contributions from non-U.S. countries, international non-governmental organizations, and civil society. This includes the 128 countries contributing 104,184 troops and police forces currently deployed in support of sixteen U.N. peacekeeping operations worldwide. The United States provides only 113 troops to U.N. peacekeeping operations, but, importantly, foots 27 percent of the bill and provides logistics support. Or, consider the billions of dollars from the Gates Foundation, Norwegian Refugee Council, Mercy Corps, International Red Cross and Red Crescent, and countless others, which improve the lives of the poorest and most in need. Each of these public health, humanitarian, and development organizations offer the deep pockets and political neutrality that allows them access to areas where the United States simply cannot or will not go.

The reason that the United States is not the indispensable nation is simple: the human and financial costs, the tremendous risks, and degree of political commitment required to do so are thankfully lacking in Washington. Moreover, the structure and dynamics of the international system would reject or resist it, as it does in so many ways that frustrate the United States from achieving its foreign policy objectives. The United States can be truly indispensable in a few discrete domains, such as for military operations, which as pointed out above has proven disastrous recently. But overall there is no indispensable nation now, nor has there been in modern history. Indispensables may feel compelled to repeat this feel-good myth, but nobody should believe them.

## 2NC/1NR — Investigative Journalism Advantage

### Extend: “No Chilling Effect”

#### The chilling effect is minimal — prefer survey data.

Holcomb et al. 15 — Jesse Holcomb, Associate Director of Research at the Pew Research Center, former Adjunct Professor of Media and Public Affairs at George Washington University, former Writing Associate at the Fund for Public Interest Research, holds an M.A. in Media and Public Affairs from George Washington University, with Amy Mitchell, Director of Journalism Research for the Pew Research Center, former Congressional Research Associate at the American Enterprise Institute, holds a B.A. in English and Government from Georgetown University, and Kristen Purcell, Associate Director for Research at Pew Research Center’s Internet Project, holds a Ph.D. in Sociology from Rutgers University, 2015 (“Investigative Journalists and Digital Security: Impact of Security Concerns on News Reporting,” Pew Research Center on Journalism & Media, February 5th, Available Online at http://www.journalism.org/2015/02/05/impact-of-security-concerns-on-news-reporting/, Accessed 08-11-2015)

On the whole, few IRE journalists say concerns about surveillance and hacking have changed the stories or sources they pursue, but those who identify as reporters do feel an impact when it comes to their sources’ willingness to share information.

Just 13% say concerns about surveillance and hacking have led them to not reach out to a particular source, and even fewer say concerns have led them to not pursue a particular story (3%) or to consider leaving investigative journalism (2%). In addition, only a quarter report being very (5%) or somewhat (18%) concerned that they or the organization they work for will lose a story to a journalist or organization with more sophisticated security measures, while the majority say they are not too (53%) or not at all (24%) concerned about this.

\* IRE = Investigative Reporters and Editors, a nonprofit member organization for journalists

#### The chilling effect is exaggerated — journalists aren’t actually being targeted.

Wittes 15 — Benjamin Wittes, Senior Fellow in Governance Studies at the Brookings Institution, Editor in Chief of Lawfare, Member of the Task Force on National Security and Law at the Hoover Institution, 2015 (“Pew Poll on Investigative Journalists and Digital Security,” *Lawfare*—a national security blog curated by the Brookings Institution, February 9th, Available Online at https://www.lawfareblog.com/pew-poll-investigative-journalists-and-digital-security, Accessed 08-11-2015)

This is interesting. From the Pew Research Center:

About two-thirds of investigative journalists surveyed (64%) believe that the U.S. government has probably collected data about their phone calls, emails or online communications, and eight-in-ten believe that being a journalist increases the likelihood that their data will be collected. Those who report on national security, foreign affairs or the federal government are particularly likely to believe the government has already collected data about their electronic communications (71% say this is the case), according to a new survey of members of Investigative Reporters and Editors (IRE)---a nonprofit member organization for journalists---by the Pew Research Center in association with Columbia University’s Tow Center for Digital Journalism.

Thus far, concerns about surveillance and hacking have mostly fallen short of keeping many journalists from pursuing a story or a source; Just 14% say that in the past 12 months, such concerns have kept them from pursuing a story or reaching out to a particular source, or have led them to consider leaving investigative journalism altogether.

Still, these concerns have led many of these journalists to alter their behavior in the past 12 months. Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.

And among the 454 respondents who identify as reporters, 38% say that in the past year they have at least somewhat changed the way they communicate with sources.

So here's the question: Who's right? Are investigative journalists being paranoid or is the government gathering data on them? I think the answer is that even paranoids have enemies.

Let's start with the basics: There are many more restraints on capturing journalists' phone records than there are with respect to the average person. These are generally prudential and regulatory restraints, matters of Justice Department policy, not law. But at least with respect to formal policies, journalists have more protection, not less, than the normal Joe.

On the other hand, journalists—particularly investigative journalists—are also likely to be involved in leaks, and leaks tend to spark leak investigations. And there's nothing quite like being in a pool of people who tend to get wrapped up in investigations to have the likelihood of your data being captured go through the roof.

Still, even acknowledging that fact, a lot of investigative journalists are probably inflating their importance here. Most leaks aren't worth serious investigation. And most journalists aren't doing work that prompts governmental notice, let alone action. The likelihood, in my mind, that 64 percent of investigative journalists and 71 percent of national security journalists have had their data collected by the government seems wholly improbable—more a reflection of journalists self-image than governmental behavior. It certainly happens, but come on, guys, you're probably not that important.

### Extend: “Alternate Causality – Resources”

#### Resource shortages are more important than surveillance.

Holcomb et al. 15 — Jesse Holcomb, Associate Director of Research at the Pew Research Center, former Adjunct Professor of Media and Public Affairs at George Washington University, former Writing Associate at the Fund for Public Interest Research, holds an M.A. in Media and Public Affairs from George Washington University, with Amy Mitchell, Director of Journalism Research for the Pew Research Center, former Congressional Research Associate at the American Enterprise Institute, holds a B.A. in English and Government from Georgetown University, and Kristen Purcell, Associate Director for Research at Pew Research Center’s Internet Project, holds a Ph.D. in Sociology from Rutgers University, 2015 (“Weighing Surveillance Against Other Concerns,” Pew Research Center on Journalism & Media, February 5th, Available Online at <http://www.journalism.org/2015/02/05/weighing-surveillance-against-other-concerns/>, Accessed 08-11-2015)

Despite concern expressed by some respondents about the potential impact of government data collection programs and criminal hacking, other issues clearly outweigh surveillance for the bulk of these journalists.

IRE journalists were presented with a list of four challenges facing today’s journalists and asked to rank them in order from the biggest challenge to the smallest. Of these four choices, the vast majority of respondents (88%) place “decreasing resources in newsrooms” at the top of the list. None of the other options was named as the top priority by more than 5% of these journalists.

Legal action against journalists was most commonly named as a second place priority; 56% place it second. And while just 4% see electronic surveillance as the biggest of these challenges, another 28% place it second on their list. Most revealing, 61% of respondents rank hacking of journalists or news organizations as the smallest challenge of the four, making it the clear lowest priority.

To underscore these findings, nearly all of these investigative journalists (97%) say that the benefits of digital communications like email and cellphones outweigh the risks. This belief cuts across all subgroups of respondents. Even among respondents whose own work has been impacted by concerns about electronic surveillance and hacking, just 7% say the risks posed by digital technologies outweigh the benefits.

#### Resource shortages overwhelmingly outweigh surveillance.

Edmonds 15 — Rick Edmonds, Media Business Analyst and Leader of News Transformation for The Poynter Institute for Media Studies—a non-profit school for journalism, 2015(“Surprise! Dwindling resources worry investigative journalists far more than surveillance and hacking,” *Poynter*, February 5th, Available Online at <http://www.poynter.org/news/mediawire/316883/surprise-dwindling-resources-worry-investigative-journalists-far-more-than-surveillance-and-hacking/>, Accessed 08-11-2015)

The latest Pew Research Center study — on “Investigative Journalists and Digital Security” — released Wednesday, found rising concern about hacking and government snooping. But neither came close to being the biggest challenge to those journalists doing their job well.

Instead 88 percent of 671 members of Investigative Reporters and Editors surveyed said “decreasing resources in newsrooms” was their top concern. Other multiple choice options — legal action against journalists (5 percent), electronic surveillance (4 percent) and hacking (1 percent) — trailed by a mile.

I’m not stunned that resources came out on top, but the overwhelming margin is surprising. It suggests that most investigative reporters see their bosses cutting back on investigative work and feel pressed to deliver quickly on those projects that are approved.

### Extend: “Encryption Solves”

#### Encryption use is increasing.

Hollo 15 — J. Zach Hollo, Writer for the GroundTruth Project—an organization that supports young journalists, graduate of Northwestern University’s Medill School of Journalism, 2015 (“Encryption Becomes a Part of Journalists' Toolkit,” *The Huffington Post*, April 10th, Available Online at <http://www.huffingtonpost.com/the-groundtruth-project/encryption-becomes-a-part_b_7041278.html>, Accessed 08-11-2015)

While the majority journalists still do not use encryption, it is becoming common practice for many organizations who do investigative work. The New Yorker, The Intercept, Washington Post, and ProPublica are a few of the early sign-ons for Secure Drop, a new encryption system for journalists designed by the Freedom of the Press Foundation and originally coded by Kevin Poulsen and the late Aaron Swartz. Gawker is another publication that uses it, showing encryption may become more widespread for groups focused on less hard-hitting subjects as well.

#### Journalists are using many tactics to counteract surveillance.

Sinha 14 — G. Alex Sinha, Aryeh Neier Fellow with the U.S. Program at Human Rights Watch and the Human Rights Program at the American Civil Liberties Union, former Institute for International Law & Justice Scholar at the New York University School of Law, holds a Ph.D. in Philosophy from the University of Toronto and a J.D. from the New York University School of Law, 2014 (“With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law, and American Democracy,” Report by Human Rights Watch and the American Civil Liberties Union, July 28th, Available Online at <https://www.hrw.org/report/2014/07/28/liberty-monitor-all/how-large-scale-us-surveillance-harming-journalism-law-and>, Accessed 08-11-2015)

Other Strategies to Protect Sources

In addition to seeking security in a combination of more and less advanced technology, a number of journalists have adapted their use of conventional tools to make it more difficult to track down their sources through surveillance. One approach involves deliberately creating a misleading electronic trail. For example, one journalist described a colleague who calls a large number of possible sources before a story comes out in order to obscure the identities of those who actually provided information.[181] Another reported booking “fake” travel plans for places he never intended to visit.[182]

Journalists and sources have also made creative use of common technologies to hide their interactions. The most common such approach is to use “burner” phones—cell phones with limited identifiable links to the owner, and which one disposes of after a matter of days or weeks. A significant number of journalists described elaborate processes by which they managed to obtain such phones, limit their traceability, and make them operable for a short period.[183]

Others described a variety of similar techniques for sharing information with sources electronically while minimizing the trace left behind. Some detailed the inventive use of email accounts or phones, as well as tricks for hiding purchase records related to reporting activity.[184]

Journalists also have made efforts to better protect their information. Due to the traceability of GPS information from cell phones, and the possibility of turning cell phones into listening devices (even if they are off),[185] several journalists reported turning off cell phones or taking out their phone batteries before speaking with people in person, or even leaving phones behind altogether when visiting sources.[186] One journalist reported keeping his files “on a flash drive in [his] pocket all the time,” and taking additional precautions with his notes—such as writing them by hand and encoding them.[187] A couple of others have employed codes for discussing stories or sources, whether within an office or otherwise.[188]

### Extend: “Public Opinion Irrelevant”

#### Ordinary Americans have zero impact on national policy.

Lichtman 14 — Allan J. Lichtman, Distinguished Professor of History at American University, former Director of Forensics at Brandeis University and Harvard University, has served as an expert witness in more than 75 civil and voting rights cases, holds a Ph.D. in History from Harvard University, 2014 (“Who rules America?,” *The Hill*, August 12th, Available Online at <http://thehill.com/blogs/pundits-blog/civil-rights/214857-who-rules-america>, Accessed 08-11-2015)

A shattering new study by two political science professors has found that ordinary Americans have virtually no impact whatsoever on the making of national policy in our country. The analysts found that rich individuals and business-controlled interest groups largely shape policy outcomes in the United States.

This study should be a loud wake-up call to the vast majority of Americans who are bypassed by their government. To reclaim the promise of American democracy, ordinary citizens must act positively to change the relationship between the people and our government

The new study, with the jaw-clenching title of "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens," is forthcoming in the fall 2014 edition of Perspectives on Politics. Its authors, Martin Gilens of Princeton University and Benjamin Page of Northwestern University, examined survey data on 1,779 national policy issues for which they could gauge the preferences of average citizens, economic elites, mass-based interest groups and business-dominated interest groups. They used statistical methods to determine the influence of each of these four groups on policy outcomes, including both policies that are adopted and rejected.

The analysts found that when controlling for the power of economic elites and organized interest groups, the influence of ordinary Americans registers at a "non-significant, near-zero level." The analysts further discovered that rich individuals and business-dominated interest groups dominate the policymaking process. The mass-based interest groups had minimal influence compared to the business-based interest groups.

The study also debunks the notion that the policy preferences of business and the rich reflect the views of common citizens. They found to the contrary that such preferences often sharply diverge and when they do, the economic elites and business interests almost always win and the ordinary Americans lose.

The authors also say that given limitations to tapping into the full power elite in America and their policy preferences, "the real world impact of elites upon public policy may be still greater" than their findings indicate.

Ultimately, Gilens and Page conclude from their work, "economic elites and organized groups representing business interests have substantial independent impacts on U.S. government policy, while average citizens and mass-based interest groups have little or no independent influence."

#### Government is only accountable to the rich — ordinary citizens are powerless.

Covert 14 — Bryce Covert, Economic Policy Editor for *Think Progress*, Contributor for *The Nation*, former Senior Communications Officer and Editor of the *Next New Deal* blog at the Roosevelt Institute, 2014 (“The Government Listens To Lobbyists And The Wealthy, Not You And Me,” *Think Progress*, April 12th, Available Online at <http://thinkprogress.org/economy/2014/04/12/3426152/wealthy-lobbyists-policy/>, Accessed 08-12-2015)

When organized interest groups or economic elites want a particular policy passed, there’s a strongly likelihood their wishes will come true. But when average citizens support something, they have next to no influence.

That’s according to a forthcoming article in Perspectives on Politics by Martin Gilens of Princeton University and Benjamin I. Page of Northwestern University. The two looked at a data set of 1,779 policy issues between 1981 and 2002 and matched them up against surveys of public opinion broken down by income as well as support from interest groups.

They estimate that the impact of what an average citizen prefers put up against what the elites and interest groups want is next to nothing, or “a non-significant, near-zero level.” They note that their findings show “ordinary citizens…have little or no independent influence on policy at all.” The affluent, on the other hand, have “a quite substantial, highly significant, independent impact on policy,” they find, “more so than any other set of actors” that they studied. Organized interest groups similarly fare well, with “a large, positive, highly significant impact on public policy.”

When they hold constant the preferences of interest groups and the rich, “it makes very little difference what the general public thinks,” they note. The probability that policy change occurs is basically the same whether a small group or a large majority of average citizens are in favor. On the other hand, all else being the same, opposition from the wealthy means that a particular policy is only adopted about 18 percent of the time, but when they support it it gets adopted 45 percent of the time. Similar patterns are true for interest groups. The impact could also be even higher than their findings, as there may be policy differences among those they count as wealthy, which means that the imprecision in their measure “is likely to produce underestimates of the impact of economic elites on policy making,” they write.

One mitigating factor is that they note other research shows that the interests of the average citizen often align with what the wealthy want, although that is not typically true for interest groups.

But plenty of past research has backed up the idea that our government is far more responsive to the needs of the wealthy than those of the poor. Research from the University of Connecticut found that the Senate is only responsive to the policy preferences of the rich, not those of the poor and middle class. And with income inequality continuing to worsen, the problem will only become exacerbated.

One clear example of this problem was the across-the-board, automatic spending cuts of sequestration, which gutted things like Head Start, and Meals on Wheels, while Congress responded quickly to the needs of business-class travelers who faced long airport lines during Federal Aviation Administration furloughs.

## 2NC/1NR — Solvency

### Extend: “Plan Gets Circumvented”

#### NSA reform gets quietly rolled back — *expansive interpretations* and *FISA rubber stamps*.

Ackerman 15 — Spencer Ackerman, national security editor for Guardian US, former senior writer for Wired, won the 2012 National Magazine Award for Digital Reporting, 2015 (“Fears NSA will seek to undermine surveillance reform,” The Guardian, June 1st, Available Online at <http://www.theguardian.com/us-news/2015/jun/01/nsa-surveillance-patriot-act-congress-secret-law>, Accessed 06-08-2015)

Privacy advocates fear the National Security Agency will attempt to weaken new restrictions on the bulk collection of Americans’ phone and email records with a barrage of creative legal wrangles, as the first major reform of US surveillance powers in a generation looked likely to be a foregone conclusion on Monday.

The USA Freedom Act, a bill banning the NSA from collecting US phone data in bulk and compelling disclosure of any novel legal arguments for widespread surveillance before a secret court, has already been passed by the House of Representatives and on Sunday night the Senate voted 77 to 17 to proceed to debate on it. Between that bill and a landmark recent ruling from a federal appeals court that rejected a longstanding government justification for bulk surveillance, civil libertarians think they stand a chance at stopping attempts by intelligence lawyers to undermine reform in secret.

Attorneys for the intelligence agencies react scornfully to the suggestion that they will stretch their authorities to the breaking point. Yet reformers remember that such legal tactics during the George W Bush administration allowed the NSA to shoehorn bulk phone records collection into the Patriot Act.

Rand Paul, the Kentucky senator and Republican presidential candidate who was key to allowing sweeping US surveillance powers to lapse on Sunday night, warned that NSA lawyers would now make mincemeat of the USA Freedom Act’s prohibitions on bulk phone records collection by taking an expansive view of the bill’s definitions, thanks to a pliant, secret surveillance court.

“My fear, though, is that the people who interpret this work at a place known as the rubber stamp factory, the Fisa [court],” Paul said on the Senate floor on Sunday.

#### The NSA fails to comply with regulations — even the FISA court cannot effectively exercise oversight. The harms of the affirmative will continue.

Toomey 14 — Patrick Toomey, staff attorney in the ACLU’s National Security Project where he works on issues related to electronic surveillance, national security prosecutions, whistle-blowing, and racial profiling, JD from Yale Law, former law clerk to the Hon. Nancy Gertner, United States District Judge for the District of Massachusetts, and to the Hon. Barrington D. Parker, United States circuit judge for the Second Circuit Court of Appeals, 2014 (“Too Big To Comply? NSA Says It’s Too Large, Complex to Comply With Court Order,” ACLU Blog, June 14th, Available Online at <https://www.aclu.org/blog/too-big-comply-nsa-says-its-too-large-complex-comply-court-order>, Accessed 06-05-2015)

In an era of too-big-to-fail banks, we should have known it was coming: An intelligence agency too big to rein in — and brazen enough to say so.

In a remarkable legal filing on Friday afternoon, the NSA told a federal court that its spying operations are too massive and technically complex to comply with an order to preserve evidence. The NSA, in other words, now says that it cannot comply with the rules that apply to any other party before a court — the very rules that ensure legal accountability — because it is too big.

The filing came in a long-running lawsuit filed by the Electronic Frontier Foundation challenging the NSA's warrantless collection of Americans' private data. Recently, the plaintiffs in that case have fought to ensure that the NSA is preserving relevant evidence — a standard obligation in any lawsuit — and not destroying the very data that would show the agency spied on the plaintiffs' communications. Yet, as in so many other instances, the NSA appears to believe it is exempt from the normal rules.

In its filing on Friday, the NSA told the court:

[A]ttempts to fully comply with the Court's June 5 Order would be a massive and uncertain endeavor because the NSA may have to shut down all databases and systems that contain Section 702 information in an effort to comply.

For an agency whose motto is "Collect It All," the NSA's claim that its mission could be endangered by a court order to preserve evidence is a remarkable one. That is especially true given the immense amount of data the NSA is known to process and warehouse for its own future use.

The NSA also argued that retaining evidence for EFF's privacy lawsuit would put it in violation of other rules designed to protect privacy. But what the NSA presents as an impossible choice between accountability and privacy is actually a false one. Surely, the NSA — with its ability to sift and sort terabytes of information — can devise procedures that allow it to preserve the plaintiffs' data here without retaining everyone's data.

The crucial question is this: If the NSA does not have to keep evidence of its spying activities, how can a court ever test whether it is in fact complying with the Constitution?

Perhaps most troubling, the new assertions continue the NSA's decade-long effort to evade judicial review — at least in any public court. For years, in cases like the ACLU's Amnesty v. Clapper, the NSA evaded review by telling courts that plaintiffs were speculating wildly when they claimed that the agency had intercepted their communications. Today, of course, we know those claims were prescient: Recent disclosures show that the NSA was scanning Americans' international emails en masse all along. Now, the NSA would put up a new roadblock — claiming that it is unable to preserve the very evidence that would allow a court to fully and fairly review those activities.

As Brett Max Kaufman and I have written before, our system of oversight is broken — this is only the latest warning sign flashing red. The NSA has grown far beyond the ability of its overseers to properly police its spying activities. That includes the secret FISA Court, which has struggled to monitor the NSA's compliance with basic limits on its surveillance activities. It includes the congressional oversight committees, which operate with too little information and too often appear captive to the interests of the intelligence community. And, now we are to believe, it includes the public courts as well.

No intelligence agency should be too big to be accountable to the rule of law.