1AC- Environment

Trump is continuing Obamas worst policies in rolling back shield laws, which are key to an effective press.

Alexandra Ellerbeck and Jonathan Turley “Trump’s targeting of a New York Times journalist, explained by experts” Vox, 6/9/18 ([vox.com/policy-and-politics/2018/6/9/17442918/trump-leak-times-journalist-press-freedom-obama](http://vox.com/policy-and-politics/2018/6/9/17442918/trump-leak-times-journalist-press-freedom-obama))

This is the first instance, that we know of, in which the Trump administration has gone after a journalist’s communications records. **There is nothing more vital to a functioning press than the ability of journalists to protect their sources**, so **the seizure of a journalist’s communications records sets a dangerous precedent**. The past decade has seen repeated federal assaults on the ability of journalists to protect their sources. Under the Obama administration, the Justice Department came under fire for subpoenaing outgoing call records from 20 phone lines belonging to AP reporters or editors. The Obama administration also set the record for leak-related prosecutions. After the public outcry, the administration did make some modest positive steps. New leak prosecutions quieted down and the administration revised internal guidelines to make it harder to obtain journalist records. It’s deeply alarming that **the Trump administration** has decided to **build off of the worst of the Obama legacy** on leak investigations and reporter source protection. Attorney General Jeff Sessions has called for putting leakers in jail, and President Trump allegedly even floated the idea of putting journalists themselves in jail. Last fall, Sessions expressed a desire to roll back some of the protections put in place at the end of Obama’s term. So far, however, they are still in place. We urgently need an explanation of how the troubling actions taken by the DOJ adhere to the guidelines they have set out for themselves. Jonathan Turley, law professor, George Washington University The case raises a troubling pattern of surveillance targeting journalists. The Obama administration’s targeting of Rosen was far more serious, however. In this case, the journalist had an alleged intimate relationship with the target who was sharing highly classified information. That type of “pillow talk” risk is one of the primary dangers facing the government over the release of information. Indeed, it is a common tactic by foreign powers. The alleged use of such intimate relationships by a journalist raises serious journalistic ethical concerns. Nevertheless, **the targeting of a journalist should be the last, not first, response**. It is not clear if this was necessary since the targets emails and phone records were available. Moreover, recording [Rosen’s] conversations would inevitably include some calls with the journalist. Thus, it is not clear why the government would need to target the reporter or her communications. While the Supreme Court has sharply curtailed the constitutional protections afforded to journalists and has left them with the same basic protections afforded average citizens, there remains a longstanding policy against such intrusive measures. There is ample reason to be concerned about such cases and legitimate questions that should be answered by the Justice Department. Unfortunately, the Congress has never been a strong advocate of journalistic protections (as opposed to the states which passed shield laws protecting reporters).

When environmental concerns are abandoned by the government, whistleblowers are necessary to expose environmental concerns.

Christopher K. Warren “Blowing the Whistle on Environmental Law: How Congress Can Help the EPA Enlist Private Resources in the Fight to Save the Planet” Boston College Environmental Affairs Law Review, Vol. 42, Iss. 1, Article 7, 1/21/2015 (<https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=2158&context=ealr>)

Given the scope of the problem, **every effort should be made to incentivize widespread participation in the enforcement of environmental protection measures**.199 The government should not only devote public resources to this fight, but also actively recruit, promote, and support assistance from private citizens, and provide resources that will incentivize such a program.200 A. Problems with the Current Enforcement Regime 1. Public Resources Alone Are Not Enough Public resources alone will be insufficient to combat the environmental challenges that the United States now faces.201 The federal and state governments and their agencies are simply ill equipped to effectively ascertain, address, and reverse the environmental problems now being confronted.202 The government lacks sufficient financial resources to adequately address all of the threats to the environment, and even if it had adequate resources, its scope of expertise is inadequate.203 In fact, the government’s resources are so limited that it cannot even enforce the statutory regulations that it currently has in place by addressing every reported violation.204 It is nearly impossible, for example, for the Environmental Protection Agency (EPA) to monitor every source of pollution or project that poses a threat to the environment.205 Detecting such violations requires not only financial wherewithal, but also the technical expertise and understanding to clearly identify every breach of a statute or regulation.206 Further, private resources appear to be necessary to combat the alignment of the economic interests of the federal government, the states, and private industry.207 Many states attempt to foster a favorable operating arena for industry by engaging in a race to the bottom for lax environmental regulations meant lure businesses into their economies.208 In such instances, state and private economic interests run counter the overall public welfare that the federal government is trying to protect.209 Further, government agencies responsible for enforcing environmental statutes may also have deep ties to industry as a result of agencycapture, which run counter to the government’s own goals.210 **In order to account for these shortcomings, citizens must be given a more meaningful opportunity to assist in the enforcement of statutes that protect public welfare.211** 2. The Inadequacy of Citizen Suit Provisions for Enforcement The government’s current efforts to enlist private resources into the fight to protect the environment have primarily been made through citizen suit provisions.212 Citizen suit provisions, however, have many weaknesses that largely render them ineffective at recruiting private resources that significantly aid in the protection of the environment.213 One of the major problems with citizen suits is that they fail to sufficiently improve the public’s ability to detect violations.214 The moving party in most citizen suits is most often a large, well-funded private group, and such parties generally lack specific knowledge of wrongdoing by a given violator.215 They must work to uncover violations just as any public agency or government prosecutor would.216 Further, although citizen suits may add more eyes to look for alleged violations, they do not achieve the necessary effect of incentivizing those with actual knowledge of specific violations to come forward.217 Citizen suits can also be ineffective because they have the potential to promote environmentally counterproductive cooperation between prosecutors, agencies and industry.218 Hurdles contained in citizen suits, such as the requirement that a citizen suit be dropped if the government diligently prosecutes the matter, may foster lax enforcement. 219 This is because pro-industry governmental actors may simply pursue minimal corrective measures against an industry violator, inhibiting the full compliance generally sought in a successfully waged citizen suit.220 Perhaps most importantly from the perspective of potential whistleblowers, citizen suits also fail to adequately incentivize whistleblowers and their counsels to engage in these suits by aligning their interests with the government’s.221 Citizen suits do not provide any financial reward to plaintiffs and merely provide injunctive relief or damages paid to the government.222 In some cases, plaintiffs who bring these suits are even barred from even recovering attorney’s fees, regardless of whether or not bringing the suit achieves the desired result.223 B. Advantages of Whistleblower Programs Whistleblower programs provide assistance to the U.S. government and regulatory agencies by aligning public and private interests.224 When private instruments of justice are undertaken in the interest of the common good, they can produce beneficial tools, such as legal talent, investigative resources, and inside information.225 Wrongdoing can often be difficult to detect, and therefore, an insider with intimate knowledge of a company or a potentially liable party’s actions, can be invaluable in prosecuting enforcement actions without expending prohibitively large amounts of resources.226

Whistleblowers enforce environmental laws through effective implementation and prevention of environmental collapse

Christopher K. Warren “Blowing the Whistle on Environmental Law: How Congress Can Help the EPA Enlist Private Resources in the Fight to Save the Planet” Boston College Environmental Affairs Law Review, Vol. 42, Iss. 1, Article 7, 1/21/2015 (<https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=2158&context=ealr>)

CONCLUSION The threats posed by climate change and environmental degradation are real and can only be overcome with high level cooperation amongst those governments, institutions, and individuals with the power to incite change. In this respect, the enforcement mechanism for environmental statutory laws must exhaust all possible options and resources to ensure that the rules and regulations to protect environmental standards are upheld. It is highly doubtful that this can be done relying solely on public resources. Instead, significant contributions from private parties--such as **whistleblowers--are** likely **required to ensure the environmental legal system is working properly, and thus protecting human health and the environment.**

The aff is a key movement toward protections.

Christopher K. Warren “Blowing the Whistle on Environmental Law: How Congress Can Help the EPA Enlist Private Resources in the Fight to Save the Planet” Boston College Environmental Affairs Law Review, Vol. 42, Iss. 1, Article 7, 1/21/2015 (<https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=2158&context=ealr>)

**While there is a significant public benefit that comes with environmental whistleblowing, whistleblowers put themselves at potentially serious risk.**242 Thus, the law should adequately reflect the cost-benefit analysis that each whistleblower must do by offsetting the risk with adequate awards.243Although there are currently whistleblower awards under select environmental statutes, they are wholly inadequate in light of the possible risks.244 Some statutes, such as the Clean Air Act (CAA) provide only nominal awards when compared to the risks that whistleblowers would be taking, and others, such as the Clean Water Act (CWA) provide no financial incentive whatsoever.245 Without significant changes to these statutory schemes—such as the proposed whistleblower programs—those with inside information about environmental crimes will be unlikely to come forward when facing the risks involved with doing so.246 2. **Streamlining Whistleblower Protection** Although many environmental statutes provide whistleblowers with protection against retribution, **there is room for improvement**.247 Currently, whistleblower protection in environmental statutes is only available to whistleblowers who file complaints with the Occupational Safety and Health Administration (OSHA).248 While OSHA protects employee-whistleblowers against retaliation, it is required to conduct an investigation to satisfy a common law framework before doing so.249 Furthermore, individual statutes have varying procedural hurdles that must be met for a successful claim.250

Protecting sources of information on climate is key – the status quo is a culture of fear

Shankman, quoting Clement (whistleblower), 17 Sabrina Shankman, Arctic Reporter, 7-20-2017, "Whistleblower Case Shows How Trump Tries to Silence Science," InsideClimate News, https://insideclimatenews.org/news/20072017/whistleblower-trump-intimidation-abuse-power-climate-scientists-joel-clement-zinke [Premier]

The report also describes the creation of hostile environments for scientific staff. "Evidence is growing that a culture of fear is increasing at government agencies, undermining scientific research and communication. **Scientists are speaking to the media anonymously out of fear of retaliation; some are afraid to utter the words 'climate change'," the report says. The report points out that while Trump has appointed opponents of strong climate action to many key posts, the administration has left key science positions empty.** "We risk reducing the role of science in policymaking by decades, just when science is more important than ever in addressing global challenges—from keeping our air and water clean and staving off global pandemics to mitigating and preparing for the effects of climate change," the authors wrote. Ignoring Climate Change Won't Make It Go Away For a while, Clement said he thought work related to adaptation and resilience might be safe from the politics—that the administration's ire might focus more on regulations related to greenhouse gas emissions. Then the president rescinded the North Bering Sea Climate Resilience Executive Order. The purpose of that order, issued by President Obama, was to increase consultation with Alaska native groups on issue that impact them, to require protections from increased shipping, and to prohibit oil, gas and mineral leasing in certain areas. "That's when it occurred to a lot of us that maybe climate resilience and adaptation are actually in the crosshairs," Clement said. Clement says the problems facing Alaskans are all too real. "American lives are at risk. I really worry about the coming storm system. I have for the last several years. I feel like every year we dodge a bullet," he said. Now that the administration has signaled that these communities are not a priority, Clement said he worries more. "Of all the climate adaptation and resilience things," he said, "this is the most pressing: The possibility that these communities could become refugees here in the U.S. It's not something I want to think about."

Climate change is potentially catastrophic, risking extinction

**Beard 12/18** [(Simon, Research Associate at the Centre for the Study of Existential Risk, University of Cambridge) “Climate Change and the Worst-Are Scenario,” The Progressive Policy Think Tank, 12/18/17]

After a year of unprecedented meteorological extremes, the impacts of climate-induced catastrophes are finally getting some attention. The number of catastrophic meteorological events has already tripled over the past 30 years and 2017 had, by early October, equaled previous record years for major weather disasters in the USA. However, this is a trend that has only just started. In truth, a few hurricanes and wildfires, even ones that cause hundreds of billions of dollars' worth of damage, are far from the worst things climate change is likely to cause.According to one prominent risk assessment by the atmospheric scientist Veerabhadran Ramanathan, climate change could be 'beyond catastrophic'. In the worst-case scenario, where global temperatures rise by 5 degrees or more, **climate change could end human civilization once and for all, taking most of the Earth's species with us.** At present, however, countries around the world have committed to holding global warming to "well below" 2 degrees above pre-industrial levels, which, as one analysis in Nature Geoscience recently put it, is "**not yet a geophysical impossibility**". This would imply that human beings end up producing ‘only’ around twice as much atmospheric warming as we have already experienced since pre-industrial times. However, even if all countries honour these commitments, that may not be enough to stave off climate catastrophe. For one thing, when a system is as large and complex as the global climate, it just cannot be steered with any degree of precision, and understanding the long-term impact of emissions is near impossible. For instance, the last time the earth's atmosphere contained as much carbon dioxide as it does now, during the mid-Pliocene around 3 million years ago, global surface temperatures were probably already well above 1.5 degrees warmer than our pre-industrial levels, and sea levels may have been 20 meters higher. A key challenge for assessing the impact of greenhouse gas emissions is determining the **‘climate sensitivity to carbon'**, the expected effect of doubling the amount of carbon dioxide in the atmosphere on global surface temperatures. Despite massive improvements in our understanding of the physics of climate change, the degree of our climate's current sensitivity to carbon remains surprisingly uncertain. Indeed, the IPCC's assessments of this crucial variable remain little changed since their first report in 1990. They believe that there is a greater than 66% chance that it lies somewhere between 1.5 to 4.5 degrees, but as much as a 10% chance that it exceeds 6 degrees. Given this level of uncertainty, even ambitious efforts to tackle climate change may not be enough to avert catastrophe. For instance, the economist Matthew Weitzman has estimated that under current plans to reduce emissions, we still have a 10% chance of causing 6 degrees of warming or more. Others take a far more pessimistic view, with one recent report arguing that when all potential sources of positive feedback within the climate system are taken into account “we are looking at a greater than one-in-two chance of either annihilating intelligent life, or permanently and drastically curtailing its potential development”. A second reason why current efforts to mitigate climate change may not be sufficient to avoid catastrophic climate change is that even if we do limit global surface temperature rise to 1.5-degrees, other features of the climate could still go catastrophically wrong. Many things that we would wish to avoid, such as increased hurricane intensity and the so-called ‘Clathrate Gun' (the sudden release of frozen methane from the seabed), are governed more by oceanic temperature than surface temperature, and these can be poorly correlated. Other equally important climatic vital signs include the availability of fresh water and the acidity of our oceans. Our impact on the Earth’s atmosphere are affecting all of these features simultaneously and, as we are finding with diesel emissions, narrow-minded efforts to deal with just one environmental impact at a time often make things worse rather than better. If limiting global surface temperatures to a 1.5 degree is all we achieve, we could still therefore face many other catastrophic global climate changes. When most people learn about these challenges their response seems to be 'OK, we’re doomed!' However, this is a mistake. For one thing, all this complexity and uncertainty could also mean that we are safer than we feared. The climate may respond less to greenhouse gas emissions than our models predict (although this does appear less likely) and global temperature rises may be less dangerous than we thought. For another, even if things do turn out for the worst, **it is not like we are powerless to do anything about it**. I work at the Centre for the Study of Existential Risk, a University of Cambridge research group working to prevent human extinction. We believe that humanity is a lot more resilient, creative and productive than many people give us credit, and that, so long as we do not go extinct, we have a promising future ahead of us. The challenge we face right now is making sure we survive to see it. The effects of climate change are not linear. For one or two degrees of warming, they amount to 'only' a few percentage points drop in global GDP, hundreds of thousands of extra deaths each year, hundreds of millions of climate refugees. For six degrees of climate change, it becomes reasonable to talk about the total collapse of the global economy, billions of deaths and the prevention of trillions of future lives. So, even if the likelihood of catastrophic climate change is only 10% its impacts may be hundreds or thousands of times worse than those of more ‘likely’ outcomes, and hence their impact on our assessment of the costs and benefits of action should not be insignificant.Seen this way, averting climate catastrophe should be **our number one goal** in mitigating and adapting to climate change. That certainly involves **adopting the toughest policies towards reducing global greenhouse gas emissions**, because even a 10% chance of a climate catastrophe is way too high. And it means studying the potential for such catastrophe much more, so that we understand how likely they are and how to prevent them rather than focusing solely on the most likely outcomes.

1AC- Food Security

Whistleblowers expose critical problems in food security.

Patty Lovera "Why We Need Whistleblowers to Keep Our Food Safe” food and Water Watch 2011 (<http://www.foodandwaterwatch.org/blogs/why-we-need-whistleblowers-to-keep-our-food-safe/>)

This conference was particularly well-timed since the Food Safety Modernization Act (FSMA) that President Obama signed into law in January establishes for the first time private sector whistleblower protections specifically for the food industry. This is great news for consumers – giving food industry whistleblowers legal protection to speak out against potential problems can help make our entire food chain safer. Hearing the stories of whistleblowers whose lives were torn apart because they spoke out to protect consumers’ safety was extremely powerful. People like Kit Foshee, the former corporate quality assurance manager at Beef Products, Inc. (BPI) who openly questioned BPI’s practice of using ammonia to “cleanse” microbes from beef trim, and Former Peanut Corporation of America (PCA) assistant plant manager Kenneth Kendrick, who repeatedly reported to the Texas Department of Health incidences of rat infestation at his plant, put their necks on the line because it was the right thing to do for public health. Hopefully these new whistleblower protections will encourage more workers to speak up if they witness something going wrong. I participated in the first panel discussion of the day, A Century in Food: Evolving trends affecting the U.S. food supply with American University Law Professor Lewis Grossman, Caroline Smith DeWaal from the Center for Science in the Public Interest, lawyer and author Michele Simon and moderated by GAP Executive Director Mark Cohen. As the title suggests, we had the assignment of giving the big picture view of how the American food system has evolved over time; how our government has (and hasn’t) kept up with those changes, and the impacts of globalization and industrialization on the safety and quality of our food supply. One of the primary issues that percolated throughout the conversation is that the FDA is light years behind on being able to deal with safety issues in our current food system, which is why the FSMA was so desperately needed. And although it is now law, there is a massive amount of work that needs to be done to put the law into practice. Without agency rules to put into effect or funding to hire new inspectors, the law won’t make the changes we need. Just as prominent in the conversation was the fundamental root cause of our food safety problems – the consolidation at every step of the food chain that has changed the way we produce, process, distribute and sell food and has created a powerful lobby in D.C. that makes changing policy way too difficult. Like any good discussion of big picture food trends, two popular topics came up – Walmart and climate change. On the Walmart front we talked about the role Walmart and other mammoth industrial players played in creating lots of food system problems and our skepticism that these entities who have caused the problems can effectively create their own “solutions” and standards. This must be the role of government – to establish and enforce functional standards that protect citizens. On climate change, the discussion ranged from the very specific issues it will cause for food safety – new emerging pathogens driven by a changing environment – to sweeping disruption to agriculture as a whole and how our very consolidated industrialized system is not equipped to adapt well to such disruption. Tony participated in the last panel of the day, Are We There Yet?: Next steps for improving whistleblower and food safety about where we go from here. While the passage of the FSMA whistleblower provision is a strong first step, panelists provided their expert views on how whistleblower rights should be **implemented and improved**, particularly for migrant workers and government food safety employees. Tony illustrated the importance of whistleblowers by telling the stories of USDA meat inspectors who have blown the whistle to expose very serious problems with how meat inspection was being run by USDA management. Safeguarding private sector **whistleblowers is a key piece of what needs to change in our food system**, but it’s only part of the equation. **Government whistleblowers** too should have the same protections, if not more since they are directly charged with protecting the public. This conference was a good first step in that direction.

That risks nuclear war along with starvation.

Future Directions International “Food and Water Insecurity: International Conflict Triggers & Potential Conflict Points,” 2012 (<http://www.futuredirections.org.au/workshop-papers/537-international-conflict-triggers-and-potential-conflict-points-resulting-from-food-and-water-insecurity.html>)

There is a **growing appreciation** that the conflicts in the next century will **most likely** be fought over a lack of resources.¶ Yet, in a sense, this is not new. Researchers point to the French and Russian revolutions as conflicts induced by a lack of food. More recently, **Germany’s World War Two** efforts are said to have been inspired, at least in part, by its perceived need to gain access to more food. Yet the general sense among those that attended FDI’s recent workshops, was that the scale of the problem in the future could be **significantly greater** as a result of population pressures, changing weather, urbanisation, migration, loss of arable land and other farm inputs, and increased affluence in the developing world.¶ In his book, Small Farmers Secure Food, Lindsay Falvey, a participant in FDI’s March 2012 workshop on the issue of food and conflict, clearly expresses the problem and why countries across the globe are starting to take note. .¶ He writes (p.36), “…if people are hungry, especially in cities, **the state is not stable** – riots, violence, breakdown of law and order and migration result.”¶ “Hunger feeds anarchy.”¶ This view is also shared by Julian Cribb, who in his book, The Coming Famine, writes that if “large regions of the world run short of food, land or water in the decades that lie ahead, then **wholesale, bloody wars are liable to follow.”** ¶He continues: “An increasingly credible scenario for World War 3 is not so much a confrontation of super powers and their allies, as a **festering**, self-perpetuating **chain** of resource conflicts.” He also says: “The wars of the 21st Century are less likely to be global conflicts with sharply defined sides and huge armies, than a scrappy mass of failed states, rebellions, civil strife, insurgencies, terrorism and genocides, sparked by bloody competition over dwindling resources.”¶ As another workshop participant put it, people do not go to war to kill; they go to war over resources, either to protect or to gain the resources for themselves.¶ Another observed that hunger results in passivity not conflict. Conflict is over resources, not because people are going hungry.¶ A study by **the I**nternational **P**eace **R**esearch **I**nstitute indicates that where food security is an issue, it is more likely to result in some form of conflict. **Darfur, Rwanda, Eritrea and the Balkans** experienced such wars. Governments, especially in developed countries, are increasingly aware of this phenomenon.¶ The UK Ministry of Defence, the CIA, the US **C**enter for **S**trategic and **I**nternational **S**tudies and the Oslo Peace Research Institute, **all identify** famine as a potential trigger for conflicts and possibly even **nuclear war**.

1AC- Solvency

In the United States, reporters ought to have the right to protect the identity of confidential sources.

The plan increases the freedom of the press and maintains free flow of information

**Tucker and Wermiel 8** – James T Tucker, First Amendment Policy Counsel, American Civil Liberties Union, Washington Legislative Office; Stephen Wermiel, Adjunct Professor of Law, American University, Washington College of Law. “Enacting a Reasonable Federal Shield Law: A Reply to Professors Clymer and Eliason” (American University Law Review Vol 57:8 2008) http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1043&context=aulr //KohlW

Freedom of the press is essential to safeguard our liberty, as recent revelations of government **torture**,326 warrantless **wiretapping**,327 **kidnapping**, and **illegal detention** have shown us.328 **Confidential sources willing to step forward about these abuses are the lifeblood for that reporting,** particularly with growing government secrecy. While Professor Clymer and Professor Eliason raise some valid concerns, the balance of public interests weighs firmly against them. “Compelling reporters to testify and, in particular, forcing them to reveal the identity of their confidential sources without extraordinary circumstances, hurts the public interest.”329 Passage of a federal reporters’ shield law like H.R. 2102 standardizes “the rules of the game . . . allowing reporters to subject government programs and actions to proper scrutiny while ensuring that important information cannot be withheld solely on the grounds of privilege.”330 In the process, **the bill will live up to its name and maintain the free flow of information to the public.**

The plan is key to counter a chilling effect that prevents whistleblowers from coming forward. Even if the aff isn’t perfect its a step in the right direction.

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Well, for one thing, **we have several examples of the chilling effect**. Many reporters have described cases in which the threat of disclosure shut down their confidential sources. As columnist William Safire testified, “[b]elieve me, when a journalist is threatened with jail or, indeed, is jailed for refusing to blow the whistle on a whistleblower or to betray a trusting source, he or she feels a coercive chill.”228 Lucy Dalglish also points out that it is increasingly common for federal judges to impose heavy fines—hundreds or even thousands of dollars a day—on journalists in contempt, and sometimes even prohibit their employers from paying it.229 Unless a journalist is independently wealthy, and few are, lengthy jail sentences and hefty fines certainly can discourage reporters from printing stories derived from confidential sources likely to be sought by prosecutors or civil litigants. Lee Levine testified during the House hearing on H.R. 2102 about one such case: [T]he Cleveland Plain Dealer . . . decided that it was obliged to withhold from publication two investigative reports because they were predicated on documents provided by confidential sources. Doug Clifton, the newspaper’s editor, explained that the public would have been well-served to know about these stories, but that publishing them would “almost certainly lead to a leak investigation and the ultimate choice: talk or go to jail. Because talking isn’t an option and jail is too high a price to pay, these two stories will go untold for now.”230 Representative John Yarmuth, a former journalist,231 also described the impact of not being able to assure anonymity to a source: At my newspaper in Louisville, we were able to open doors for the community on several occasions due to confidential accounts of protected sources which would have otherwise remained closed to us forever. . . . [W]e saw what happens when we fail to protect a source’s identity. There, **Jeffrey Wigand, the famous tobacco whistle-blower, was victimized by threats and intimidation, ultimately losing his job, his family and his home.** He is considered a hero today, but for many the lesson from that episode was, if you have incriminating information that will benefit the American public, just keep it to yourself.232

hears a definition of journalism in court cases. It doesn’t exclude anyone because its the act of journalism, not profession.

**Papandrea 7** - Papandrea, Mary-Rose. “Citizen Journalism and the Reporter’s Privilege.” MINNESOTA LAW REVIEW, March 19, 2007, 78. \*Papandrea concludes that a broader definition with various qualification is superior, but agrees that this is the best functional definition\*

**Other scholars have suggested more workable functional approaches that essentially ask whether the individual claiming the privilege acts like a journalist. The most attractive approach is one suggested** by Professor Linda Berger, who has argued that the **privilege should be afforded to anyone who is engaged in the “journalistic work process.”**367 Berger identifies three essential elements of that process: regular and public dis- semination; the presence of internal verification measures; and transparency regarding the owner or sponsor of the publication and the editorial standards that are followed.368 This approach is based on a desire to expand the category of those eligible to invoke the privilege beyond mainstream journalists, while keeping the courts out of difficult and subjective questions such as those discussed above.369

1AC- Framework

The standard is minimizing suffering.

1) government policy is constrained by limitations on resources. Any government decision must account for tradeoffs, which only utilitarian ethics can do.

Mack 4 [(Peter, MBBS, FRCS(Ed), FRCS (Glasg), PhD, MBA, MHlthEcon) “Utilitarian Ethics in Healthcare.” International Journal of the Computer, the Internet, and Management Vol. 12, No.3. 2004. Department of Surgery. Singapore General Hospital.]

Medicine is a costly science, but of greater concern to the health economist is that it is also a limitless art. Every medical advance created new needs that did not exist until the means of meeting them came into existence. Physicians are reputed to have an infinite capacity to do ever more things, and perform ever more expensive interventions for their patients so long as any of their patients’ health needs remain unfulfilled. The traditional stance of the physician is that each patient is an isolated universe. When confronted with a situation in which his duty involves a competition for scarce medications or treatments, he would plead the patient’s cause by all methods, short of deceit. However, when the physician’s decision involves more than just his own patient, or has some commitment to public health, other issues have to be considered. He then has to recognise that the unbridled advocacy of the patient may not square with what the economist perceives to be the most advantageous policy to society as a whole. Medical professionals characteristically deplore scarcities. Many of them are simply not prepared to modify their intransigent principle of unwavering duty to their patients’ individual interest. However, in decisions involving multiple patients, making available more medication, labour or expenses for one patient will mean leaving less for another. The physician is then compelled by his competing loyalties to enter into a decision mode of one versus many, where the underlying constraint is one of finiteness of the commodities. Although the medical treatment may be simple and inexpensive in many instances, there are situations such as in renal dialysis, where prioritisation of treatment poses a moral dilemma because some patients will be denied the treatment and perish. Ethics and economics share areas of overlap. They both deal with how people should behave, what policies the state should pursue and what obligations citizens owe to their governments. The centrality of the human person in both normative economics and normative ethics is pertinent to this discussion. Economics is the study of human action in the marketplace whereas ethics deals with the “rightness” or “wrongness” of human action in general. Both disciplines are rooted in human reason and human nature and the two disciplines intersect at the human person and the analysis of human action. From the economist’s perspective, ethics is identified with the investigation of rationally justifiable bases for resolving conflict among persons with divergent aims and who share a common world. Because of the scarcity of resources, one’s success is another person’s failure. Therefore ethics search for rationally justifiable standards for the resolution of interpersonal conflict. While the realities of human life have given rise to the concepts of property, justice and scarcity, the management of scarcity requires the exercise of choice, since having more of some goods means having less of others. Exercising choice in turn involves comparisons, and comparisons are based on principles. As ethicists, the meaning of these principles must be sought in the moral basis that implementing them would require. For instance, if the implementation of distributive justice in healthcare is founded on the basis of welfare-based principles, as opposed to say resource-based principles, it means that the health system is motivated by the idea that what is of primary moral importance is the level of welfare of the people. This means that **all distributive questions should be settled according to which distribution maximises welfare**. Utilitarianism is fundamentally welfarist in its philosophy. Application of the principle to healthcare requires a prior understanding of the welfarist theory as expounded by the economist. Conceptually, welfarist theory is built on four tenets: utility maximisation, consumer sovereignty, consequentialism and welfarism. Utility maximisation embodies the behavioural proposition that individuals choose rationally, but it does not address the morality of rational choice. Consumer sovereignty is the maxim that individuals are the best judge of their own welfare. Consequentialism holds that any action or choice must be judged exclusively in terms of outcomes. Welfarism is the proposition that the “goodness” of the resource allocation be judged solely on the welfare or utility levels in that situation. Taken together these four tenets require that a policy be judged solely in terms of the resulting utilities achieved by individuals as assessed by the individuals themselves. Issues of who receives the utility, the source of the utility and any non-utility aspects of the situation are ignored.

2) pleasure and pain are intrinsically valuable. People consistently regard pleasure and pain as good reasons for action, despite the fact that pleasure doesn’t seem to be instrumentally valuable for anything.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281]

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value.

3) No intent-foresight distinction – If we’re knowledgeable about the consequence of an action then we calculate that into our intention because we could always decide not to act. Thus means based theories devolve to util.

Underview

1) Presume aff – the most recent empirics of late elim rounds show huge neg side bias  

**Adler 15**, Are Judges Just Guessing? A Statistical Analysis of LD Elimination Round Panels by Steven Adler http://nsdupdate.com/2015/03/30/are-judges-just-guessing-a-statistical-analysis-of-ld-elimination-round-panels-by-steven-adler/

Yet a plausible objection here might be that maybe the elimination round data need to be further segmented. For instance, perhaps the data do not meet this randomization because judges can easily distinguish between winners and losers in early elimination rounds, which typically contain more-lopsided matchups, but that in late elimination roundsthe decision is much murkier. In fact, I find some support for this hypothesis, though it may be an artifact of a smaller sample-size for this segment.To evaluate this hypothesis, I replicated the above analysis, but pared down to the 36 coded rounds that took place in quarterfinals or later. In these rounds, the Neg side-bias was even more pronounced, with Neg winning 61% of elimination rounds, so the ‘expected’ randomization rate on ballots to achieve such an overall win-rate would be 57% for the Neg and 43% for the Aff. This creates the following expected distribution, compared to the actual observed distribution for these late elimination rounds:

Empirics over analytics on the side bias debate:

A] analytics are more likely to be biased and twisted by debater perceptions, whereas good empirics can tell a whole story.

B] empirics test the assumptions behind analytics and take them into account by comparing all of their warrants together.

C] analytics exacerbate the skew – then the 1NC can read a 5-point negating-is-harder dump, the 4 minute time crunched 1AR just doesn’t have time to cover. 

2) Aff gets 1AR theory and meta-theory—otherwise the neg can be infinitely abusive and there’s no 1AR recourse or way to check. Aff theory is drop the debater because the 1AR is too short to be able to answer theory and adequately cover substance.

4) Aff gets RVIs on theory— key to deep theory debates and thinking on your feet. provides a different kind of education than every other debate round