



## CRIMINAL JUSTICE TOPIC: NEGATIVE

National Federation of State  
High School Associations

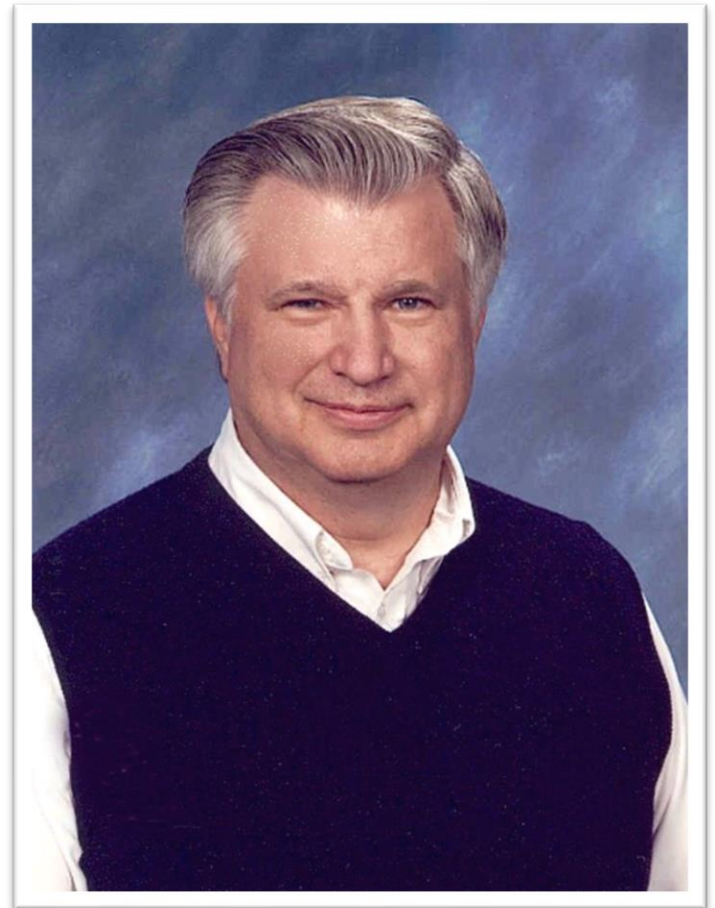


Resolved: The United States federal government should enact substantial criminal justice reform in the United States in one or more of the following: forensic science, policing, sentencing.

A look at possible negative arguments, provided by Rich Edwards, Baylor University

# DR. RICH EDWARDS

- Professor at Baylor University
- Former President, American Forensic Association
- UIL Debate Consultant
- Hall of Fame recipient
- Author of *Policy Debate Quarterly*
- Author of *Competitive Debate: The Official Guide*





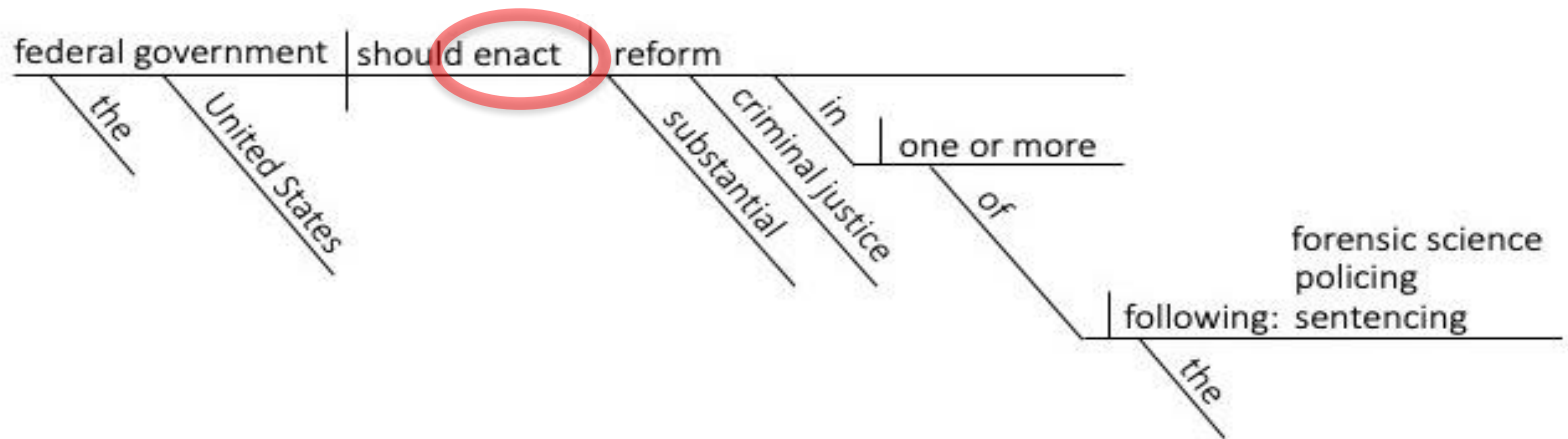
# NEGATIVE TOOLBOX

- ❖ Topicality
- ❖ Disadvantages
- ❖ Case
- ❖ Counterplans
- ❖ Kritiks



A brief look at Topicality, Disadvantages and Case Arguments will be provided here; see other slide series for Counterplans. Kritiks will not be discussed here.

# TOPICALITY: “ENACT” DOES NOT MEAN SUPREME COURT ACTION

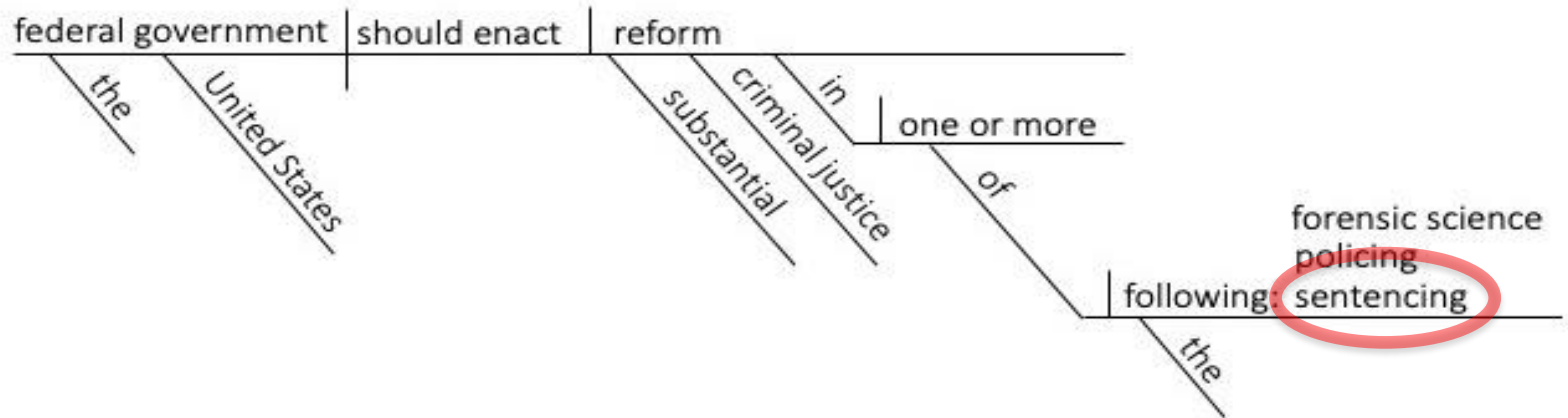


“Enact” means congressional action, not action by a court.

Administrative Office of the U.S. Courts, UNDERSTANDING THE FEDERAL COURTS, Nov. 22, 2019. Retrieved May 13, 2020 from <https://www.uscourts.gov/sites/default/files/understanding-federal-courts.pdf>

The courts do not enact the laws; that is the responsibility of Congress. Nor do the courts have the power to enforce the laws; that is the role of the President and the many executive branch departments and agencies.

# TOPICALITY: “SENTENCING” DOES NOT MEAN LEGALIZATION

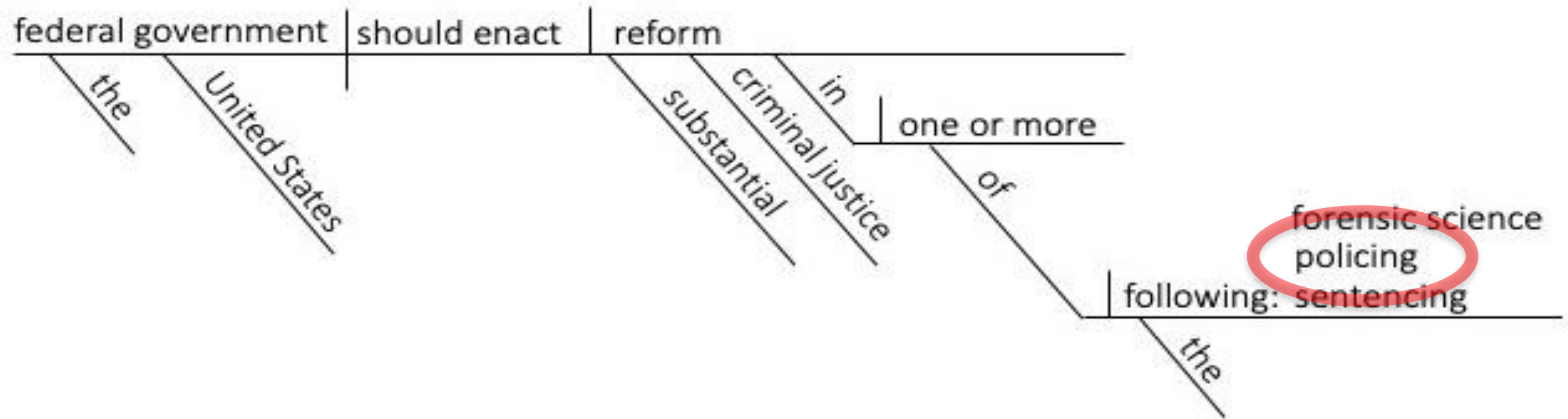


“Sentencing” refers only to the post-conviction phases of a criminal trial – the resolution gives no power to change what is legal or illegal, but only the penalty for illegality.

Mark Davis, (Dir., Institute for the Study of Violence, Kent State U.), *CONCISE DICTIONARY OF CRIME AND JUSTICE*, 2016, 234.

Sentencing: the phase of court processes at which the defendant is punished. In many felony cases, the presiding judge uses a presentence investigation report for assistance in arriving at a more just sentence. Sentencing options include prison or jail terms, probation, fines, or other alternatives.

# TOPICALITY: “POLICING” DOES NOT MEAN LEGALIZATION

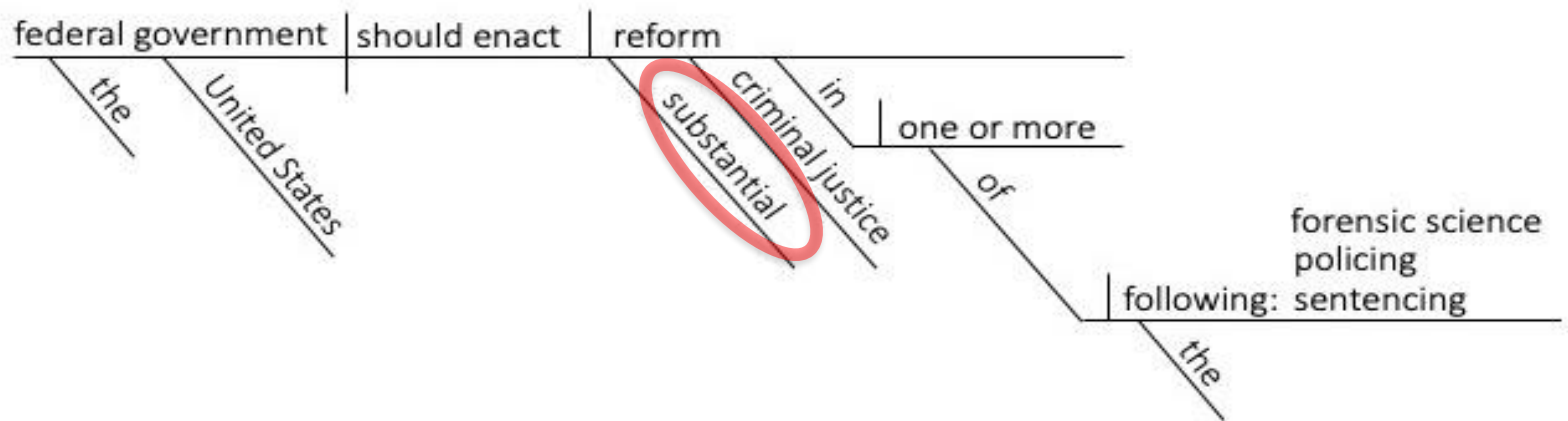


“Policing” refers to those whose job it is to make sure that people obey the law – the resolution gives no power to change what is legal or illegal, but only the policing of existing laws.

Della Summers, (Editor), LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH: THE LIVING DICTIONARY, 2005, 1264.

Policing: The people who work for an official organization whose job is to catch criminals and make sure that people obey the law.

# TOPICALITY: “SUBSTANTIAL” MEANS MORE THAN JUST A TINY PERCENT

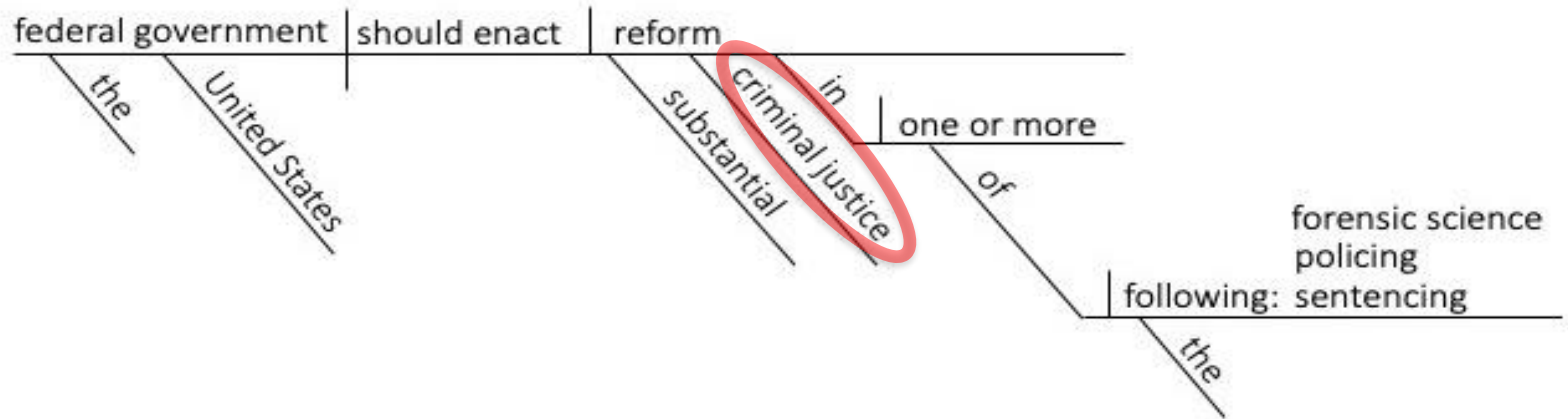


“Substantial” means that the affirmative plan must offer a big change, rather than minor ones – numerous proposed changes are “incremental” in nature, rather than “substantial.”

Nicole Porter, (Dir., Advocacy at the Sentencing Project), WAKE FOREST JOURNAL OF LAW AND POLICY, Feb. 2016. 1-2.

In recent years, there has been growing consensus across ideological lines to address mass incarceration. Yet, policy changes are incremental in approach and do not achieve the substantial reforms needed to significantly reduce the rate of incarceration and its collateral impacts. Incremental policy reforms include: reducing the quantity differential between crack and powder cocaine that results in racially disparate sentencing outcomes at the federal level and in certain states; reclassifying certain felony offenses to misdemeanors; expanding voting rights and access to public benefits for persons with felony convictions; and adopting fair chance hiring policies for persons with criminal records.

# TOPICALITY: “CRIMINAL JUSTICE” DOES NOT INCLUDE CIVIL LAW



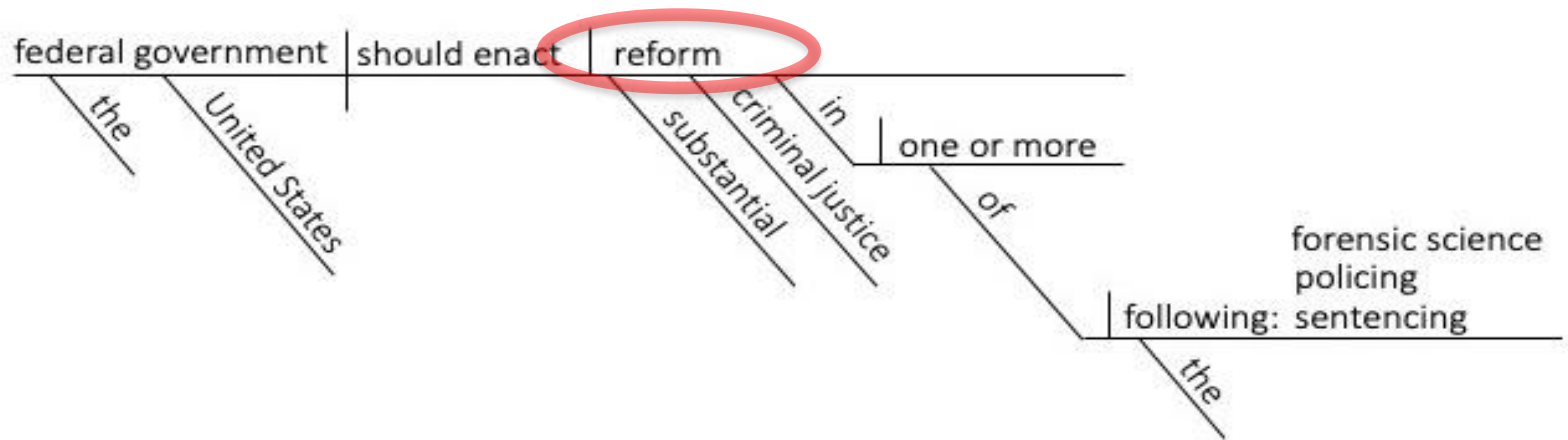
Deportation of immigrants is a matter of civil, rather than criminal law; affirmative cases that attempt to halt deportation of immigrants would be nontopical.

Christopher Lasch, (Prof., Law, U. of Denver Sturm College of Law), YALE LAW JOURNAL FORUM, Oct. 24, 2017, 431.

The Supreme Court has explained that immigration arrests that initiate deportation proceedings are civil in nature.



# TOPICALITY: “REFORM” DOES NOT MEAN ABOLITION

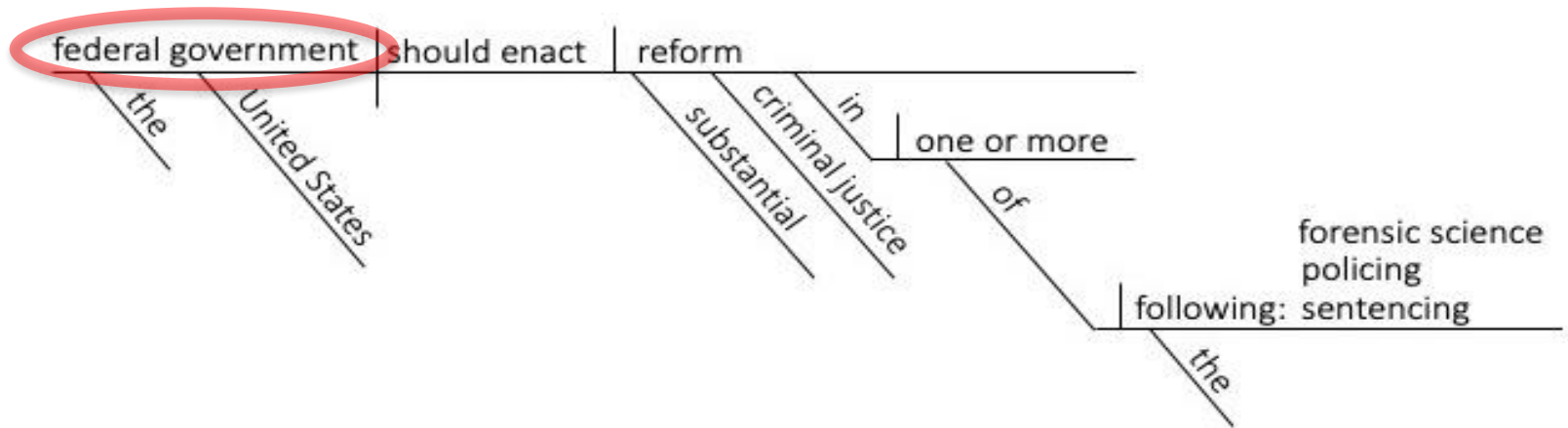


Reform means to improve the present system; abolitionists argue for scrapping the present system.

Ruairi Arrieta-Kenna, (Assistant Editor), POLITICO MAGAZINE, June 12, 2020. Retrieved June 28, 2020 from <https://www.politico.com/news/magazine/2020/06/12/abolish-defund-police-explainer-316185>

We still do need police, the argument goes, but policing as we know it is so broken that departments can't simply be reformed. It will take scrapping our current police forces to allow a new and better version to emerge.

# TOPICALITY: “FEDERAL GOVERNMENT” DOES NOT MEAN STATES



The “federal government” is the agent of action in the resolution; affirmative plans may not “enact reform” in state and local police forces.

Nathan James and Ben Harrington, (Staff, Congressional Research Service), WHAT ROLE MIGHT THE FEDERAL GOVERNMENT PLAY IN LOCAL GOVERNMENT REFORM?, Nov. 16, 2018. Retrieved May 10, 2020 from <https://fas.org/sgp/crs/misc/IF10572.pdf>.

The federalized system of government in the United States limits the influence Congress can have over state and local law enforcement policies. The U.S. Constitution established a federal government of limited powers. A general police power is not among them. That authority is largely reserved for the states.

# DISADVANTAGE: MOVEMENTS

- Momentum building now
- Reform co-opts abolition
- Criminal justice reform leads to more social control.



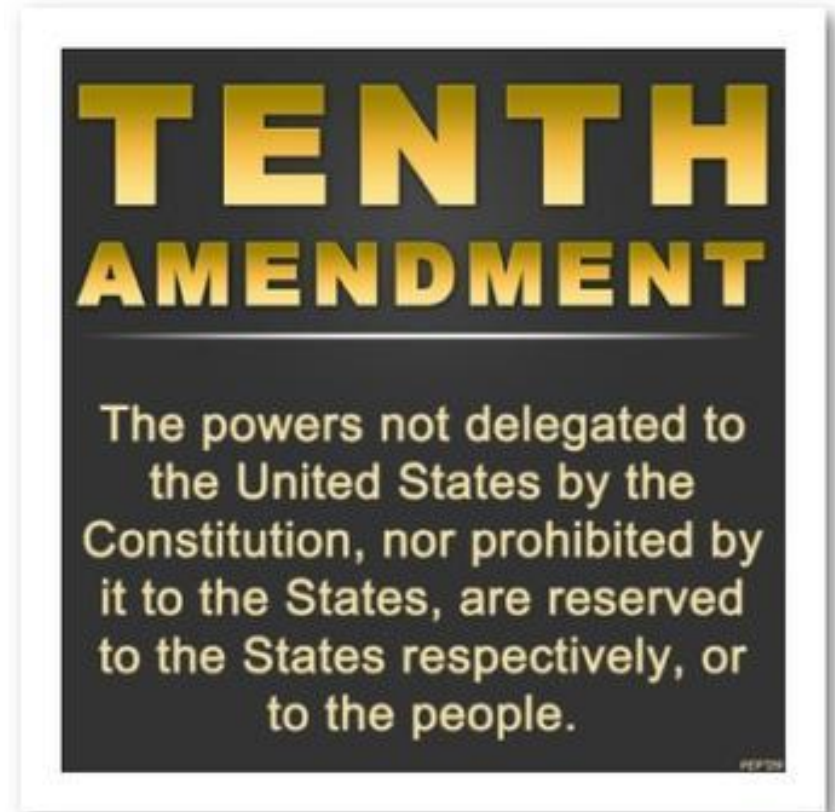
# DISADVANTAGE: ELECTIONS

- At present, Trump will lose the 2020 election, but it remains closer than current predictions.
- Trump could recover among independent voters if he were perceived as embracing criminal justice reform.
- A second Trump term will cause a climate change disaster.



# DISADVANTAGE: FEDERALISM

- At present, federalism is alive and well in the United States.
- Federal mandates in the area of criminal justice reform upset the balance of federalism.
- Undermining federalism destroys the resilience necessary to preserve freedom and save human civilization.





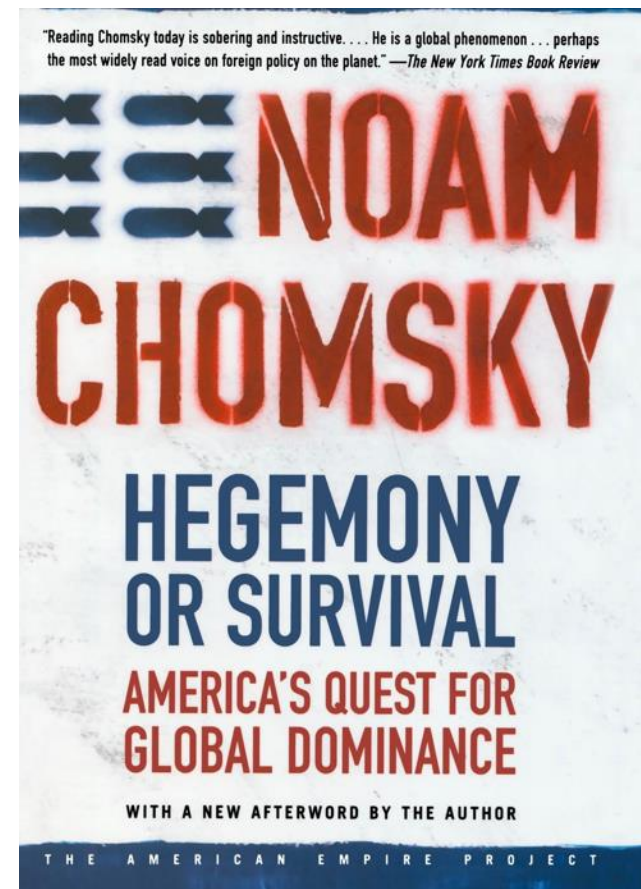
# DISADVANTAGE: COURT BACKLASH

- Despite his grumbling, Trump currently obeys Supreme Court rulings.
- Trump will defy the Supreme Court if it invalidates policies deemed essential to his base.
- Defying the Supreme Court will destroy the rule of law with disastrous consequences.



# DISADVANTAGE: HEGEMONY BAD

- U.S. credibility on human rights is low now, undermining U.S. soft power and leadership around the world.
- The affirmative case claims to restore U.S. soft power on human rights and re-establish U.S. global leadership.
- U.S. global leadership results in unending wars.



# DISADVANTAGE: RESURGENCE OF CRIME

- Crime rates are falling now.
- Substantial criminal justice reform undermines deterrence and promotes crime.
- The resurgence of crime undermines the U.S. economy and has a devastating impact on minority groups.



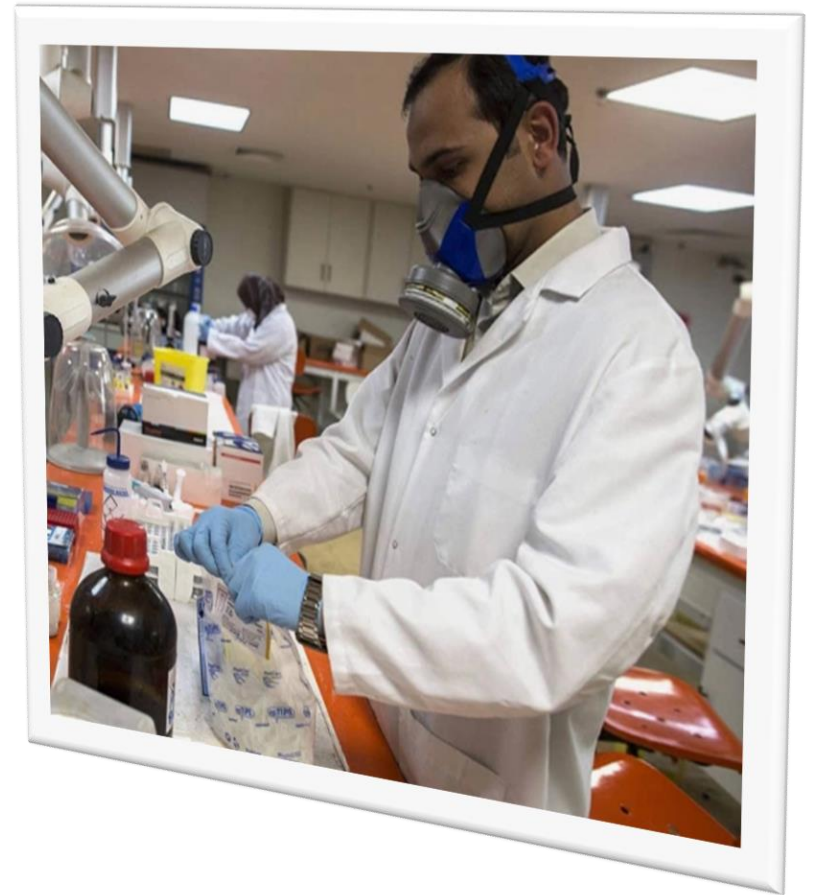
# RESPONSE: GEORGE FLOYD JUSTICE IN POLICING ACT

- Federal solutions trade off with defunding of police and other grass-roots level changes.
- The U.S. Justice Department cannot be trusted to enforce civil rights protections.
- States and localities are best to address police reform.
- DAs: Elections, Movements, Crime Resurgence, Federalism, Hegemony



# CASE RESPONSE: INDEPENDENT CRIME LABS

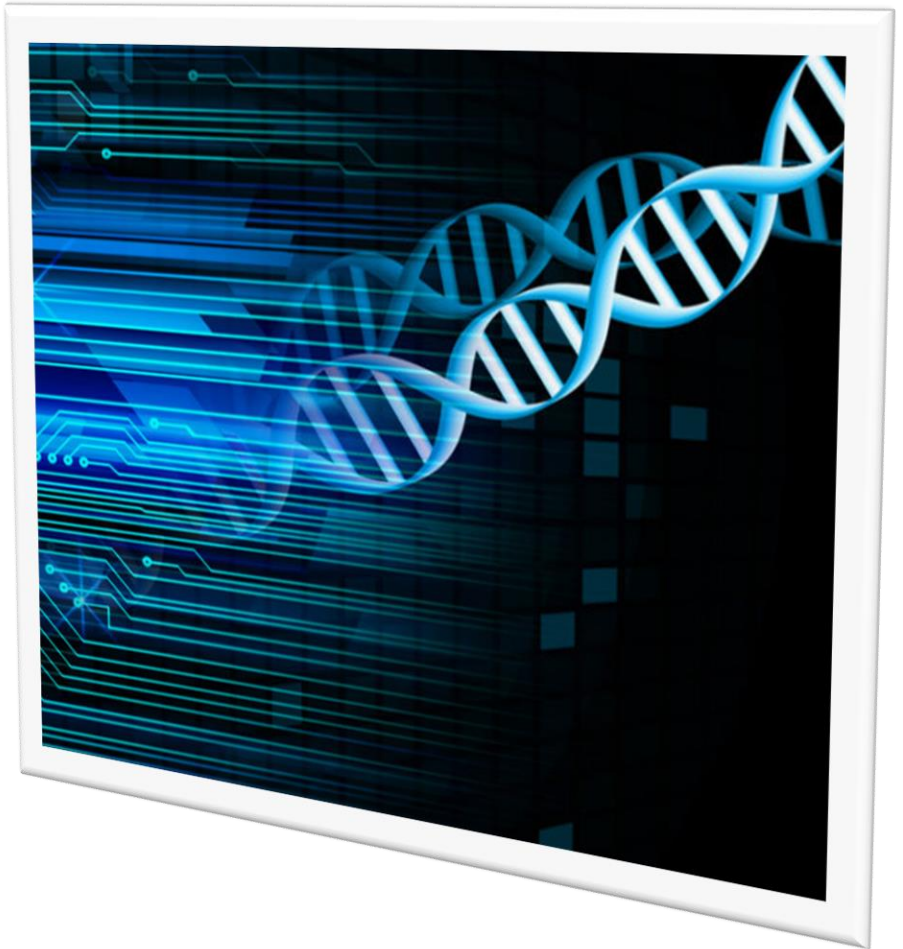
- Most crime labs are professionally accredited.
- Federal oversight adds nothing; federal agencies serve only the political interests of the President.
- States are increasing oversight over crime labs, and that approach is superior to federal control.





# CASE RESPONSE: REFORM DNA COLLECTION AND TESTING

- DNA collection and testing exonerates the innocent.
- The reliability of DNA testing is undisputed.
- Familial DNA searches are already restricted by FBI policy



# CASE RESPONSE: REFORM OF TESTING RAPE KITS

- Rapid DNA testing is reducing the backlog.
- The recently-passed Debbie Smith Reauthorization Act provides federal funding to reduce the backlog.

## **Rapid DNA test could transform crime fight**

**Aims to analyze samples while suspects are still held**

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**Ray Locker  
and Kendall Breitman**  
USA TODAY

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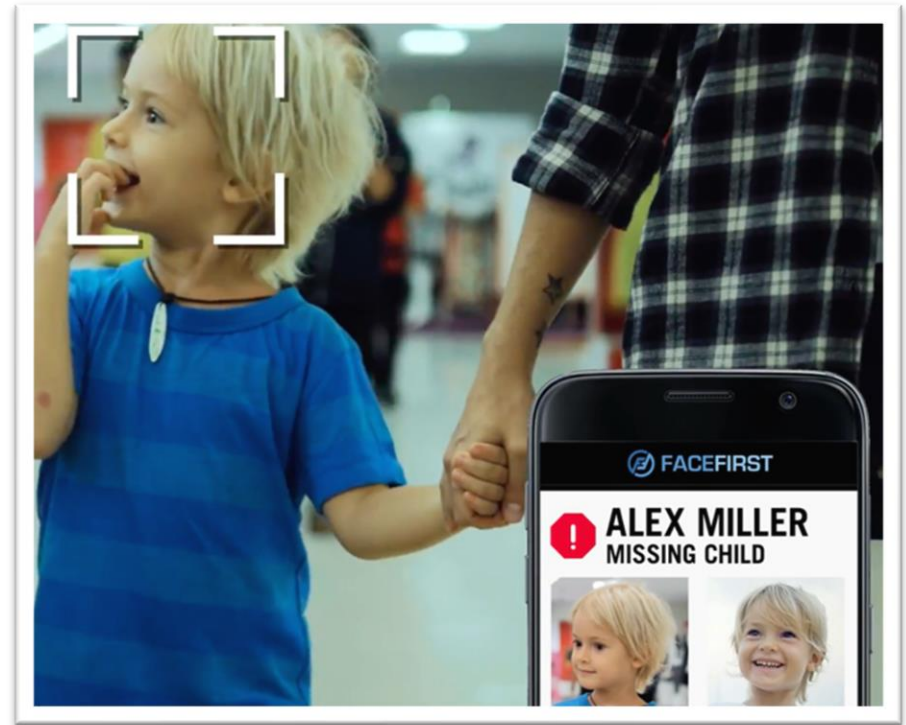
Researchers are closing in on the final steps of a new system to analyze human DNA in 90 minutes instead of the two to three weeks it now takes, according to interviews with Pentagon and industry officials.

### **HOW RAPID DNA DIFFERS**

DNA testing would likely start in the same fashion — with a swab, but then:

# CASE RESPONSE: REFORM USE OF FACIAL RECOGNITION SYSTEMS

- Facial recognition systems are essential for policing airport security, human trafficking, finding missing persons, and numerous other important functions.
- The accuracy of facial recognition systems is improving at a rapid rate.



# CASE RESPONSE: BAN PREDICTIVE POLICING TECHNIQUES

- Predictive policing aids in crime prevention.
- Predictive policing software is essential in finding child predators and restricting human trafficking.
- Predictive policing software provides the oversight capability for spotting unprofessional police behavior.



# CASE RESPONSE: REFORM JURISDICTION IN INDIAN COUNTRY

- Cross-deputization agreements offer the best answer for solving jurisdictional problems in Indian Country.
- The federal government has demonstrated that it should not be relied on as the instrument of solving policing problems in Indian Country.





# CASE RESPONSE: REFORM MILITARY-STYLE POLICING

- Most of the equipment provided through the 1033 program has nothing to do with military weapons.
- Military equipment is often necessary to deal with major natural disasters.



# CASE RESPONSE: REFORM THE POLICING OF IMMIGRANTS

- State and local sanctuary policies offer the optimal solution for the protection of vulnerable immigrant populations.
- Ironically, the hostility of the Trump administration to immigrants has backfired, resulting in the re-invigoration of sanctuary policies.



# CASE RESPONSE: REFORM THE POLICING OF JUVENILES

- The increased use of SROs in schools has not promoted the school-to-prison pipeline – The claim is empirically false, given that juvenile arrests are in steep decline.
- SROs enhance safety in schools.



# CASE RESPONSE: REFORM POLICE USE OF CIVIL ASSET FORFEITURE

- The Supreme Court's decision in *Timbs v. Indiana* solves for abuses of civil asset forfeiture.
- Civil asset forfeiture, when used responsibly, serves an important role in deterring organized crime and money laundering.





# CASE RESPONSE: REFORM MUSLIM SURVEILLANCE

- The federal Countering Violent Extremism (CVE) program was not started in the Trump administration – it started in the Obama administration, and is recommended by the UN.
- The Trump administration has continued the CVE program in much the same format as originated by Obama.





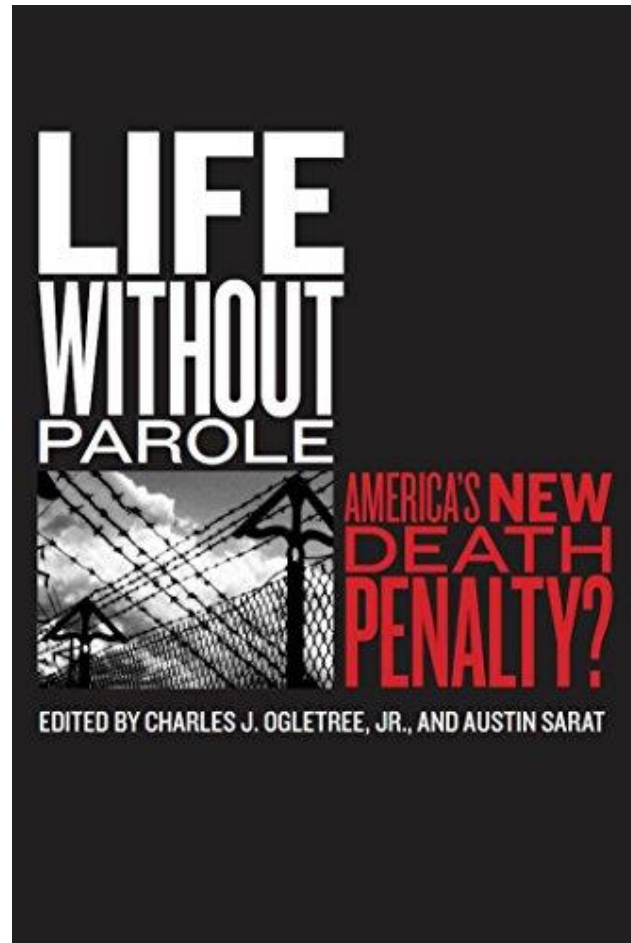
# CASE RESPONSE: POLICING OF VIOLENCE AGAINST WOMEN

- Increasing criminal penalties will not solve for domestic violence; it is a problem best solved by community service agencies, rather than by police.
- Mandatory arrest policies end up harming victims more than perpetrators of violence.
- Police are not social workers – stop expecting them to solve all social ills.



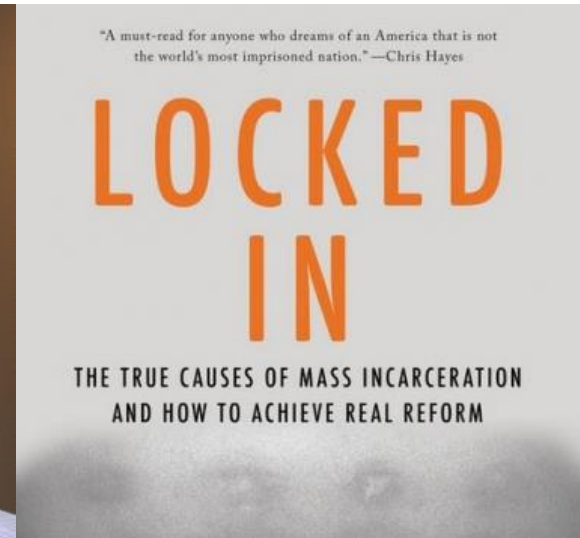
# CASE RESPONSE: ABOLISH THE DEATH PENALTY

- The death penalty serves a deterrent and incapacitation function.
- When the death penalty is abolished, the alternative is “life without parole” – a sentence that is in some ways more harmful.



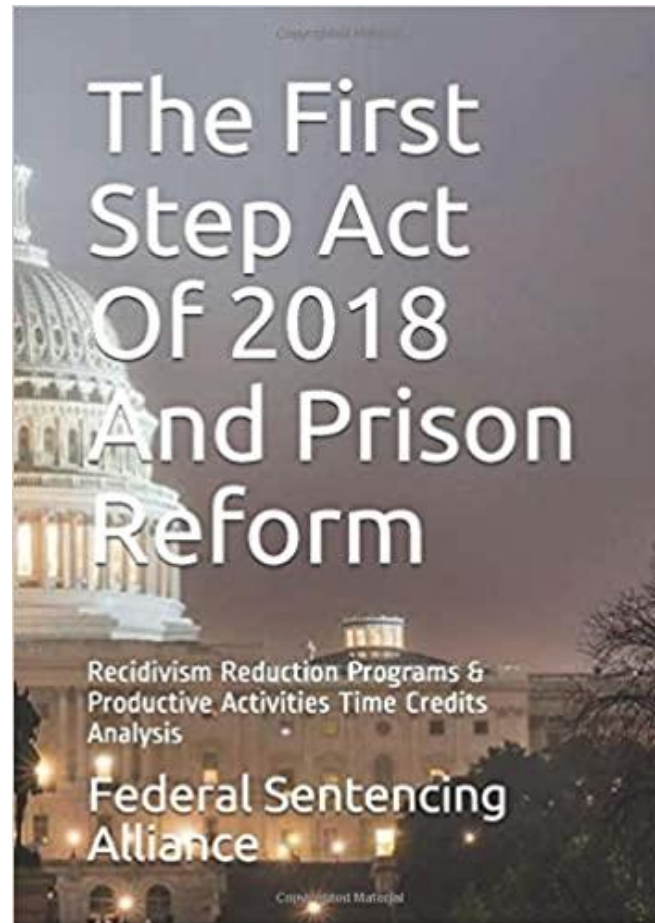
# CASE RESPONSE: ELIMINATE IMPRISONMENT FOR DRUG USERS

- Drug offenses are not a major cause of incarceration.
- Most sentences for drug offenses are short.
- Ending the war on drugs will not reverse mass incarceration.



# RESPONSE: ABOLISH MANDATORY MINIMUM SENTENCES

- Only a small percentage of prisoners are there because of mandatory minimum sentences.
- Most sentences are short.
- The rate of imprisonment is now decreasing.



# CASE RESPONSE: LIMIT PLEA BARGAINING

- Plea bargaining benefits both the prosecution and the defense.
- The U.S. justice system would collapse without plea bargaining.
- The claim that public defenders do a poor job in representing their clients is false.







## CRIMINAL JUSTICE TOPIC: NEGATIVE

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Resolved: The United States federal government should enact substantial criminal justice reform in the United States in one or more of the following: forensic science, policing, sentencing.

A look at possible negative arguments, provided by Rich Edwards, Baylor University