# Interpretations

‘Ought to be’ is not a command, so the aff burden is to prove that the ideals that underpin rehab are morally better than those that justify retribution. **Robinson[[1]](#footnote-1):**

Many **ought-sentences** are not prescriptive at all, either prudentially or morally, but express valuations. **Such as** "Everybody **ought to be happy**". This is **[are] not a** prescription or **command** to anybody to act or to refrain. **There is no** possible **act that would count as the fulfillment of the[m]** command, if it were a command. Neither individually nor collectively can we make everybody happy. But the state of universal happiness **[it] is an ideal that** we cherish; and the sentence expresses this ideal. It is thus a valuation. A valuation **is** something **distinct from a prescription**, though they share the negative property of not being descriptions. Even when there is a possible act, the ought may be more ideal than prudential. The question "Do you think the hem of this dress ought to be higher?" suggests the practical possibility of raising the hem; but what the speaker has in mind is rather the question of beauty, of better- ness, of the ideal dress-length. "A clock ought to keep good time" is obviously not an imperative to clocks. Nor is it, except indirectly, a prescription to clockmakers and clockminders. It is a platitudinous restatement of the obvious ideal of a clock. (I take this example from Mellor's discussion of knowledge in Mind, 1967.) "You ought to feel ashamed" might be a moral ought if the speaker believed that we can feel what we will when we will; but usually it is the ideal ought. A man who feels shame after doing such an act is, in the speaker's opinion, a less bad man than one who does such an act and feels no shame. "Feel ashamed" does not refer to an action, a doing. **Wherever ought is followed by a nondoing infinitive**, as "to feel ashamed", **it is** likely to be the ideal **[an] ought.** An outstanding case of the nondoing infinitive is "'to be"; and "ought tobe" usually belongs to a sentence that expresses an ideal, not a command. "Everyone ought to be happy." "There ought to be a chicken in every pot." "Ought to have" is nearly the same. "Everyone ought to have a motor-car." "Everyone ought to have equal opportunity." "There ought to be a minimum wage" can perhaps be interpreted as a command to Parliament, and hence as the moral ought. Still more so the common phrase "There ought to be a law against it". But probably those who use such phrases rarely think of themselves as prescribing to Parliament; and what they say ought to exist is often something that cannot be brought into existence by the passage of a law. They are **expressing an ideal.**

**This** textual interp controls the internal link into any other standard because without text we don’t know what we’re debating in the first place.

**And,** retributive logic is backwards looking and doesn’t endorse specific policy options. **Cahill[[2]](#footnote-2):**

By contrast, **retributivism**, which adopts a **[is] backward-looking** perspective **focusing on the** moral **duty to punish** past wrongdoing, is a justificatory theory, but seemingly **[it is] not** a **prescriptive** one. 8 **It offers retribution as a[n]** justifying **ideal but does not** explain how legal institutions are supposed to make retribution [it] real**.** 9 To the extent retributivism offers guidance about its own operation in practice, it **speak[ing]**s **only to the content of** criminal law **rules,** and **not** to **their implementation**. 10 Retributive principles may identify what the law should criminalize, 11 and might even say something about the proper idealized level of punishment for those crimes relative to each other. 12 As to matters of application, however, **retrib[s]**utivists tend to **focus only on the** resolution of individual (often **hypothetical**) cases where an offender’s behavior is known or stipulated.

**Whereas,** rehab is a forward-looking utilitarian rejection of guilt. **Banks[[3]](#footnote-3):**

**Utilitarian theory argues that punishment should have reformative or rehabilitative effects on the offender** (Ten 1987: 7–8). The offender is considered reformed because the result of punishment is a change in the offender’s values so that he or she will refrain from committing further offenses, now believing such conduct to be wrong. This change can be distinguished from simply abstaining from criminal acts due to the fear of being caught and punished again; this amounts to deterrence, not reformation or rehabilitation by punishment. **Proponents of rehabilitation in punishment argue that punishment should be tailored to fit the offender and his or her needs, rather than fitting the offense. Underpinning this** notion **is the view that offenders ought to be rehabilitated** or reformed **so they will not reoffend, and that society ought to provide treatment** to an offender. Rehabilitationist theory regards crime as the symptom of a social disease and sees the aim of rehabilitation as curing that disease through treatment (Bean 1981: 54). **In essence, the rehabilitative philosophy denies any connection between guilt and punishment** (p. 58).

**So,** proving guilt is nonsensical is a sufficient to justify rehab because it rejects the concept that people commit crimes willingly. Util proves that guilt is irrelevant because the only morally relevant qualities are end states. The aff burden is to uphold these ideals.

**And,** presume aff; burden of proof is on retributivists. **Shafer-Landau[[4]](#footnote-4):**

Punishment is presumptively unjustified because it involves the deliberate infliction of coercive, sometimes painful treatment. Retributivism seeks to override that presumption by citing the moral requirement to mete out just deserts for wrongdoers. This response has attracted widespread criticism that usually proceeds in the following way: either this moral requirement is self-justifying or it isn't. If it isn't self- justifying, then appeal must be made to some ulterior good obtained through punishment(e.g., deterrence).In that case, the resulting general justifying aim isn't retributive at all. To the possibility that the retributivist moral requirement might be self-justifying, opponents simply disagree and charge that such manoeuvres are question-begging.

**And,** *Rehabilitation* is ‘To restore to good health or useful life, as through therapy and education.’[[5]](#footnote-5) Retributive systems must be based on desert and justify punishment for its own sake. **Hart[[6]](#footnote-6):**

It is I think helpful to start with a simple, indeed a crude, model of a **retributive theory** which would satisfy stricter usage. Such a theory will **assert[s]** three things: **first, that a person may be punished** if, and **only if, he has voluntarily done something** morally **wrong; second**ly, **that** his **punishment must** in some way **match,** or be the equivalent of, the wickedness of **his offence; and third**ly, **that** the justification for **punishing** men under such conditions is that the return of suffering for moral evil voluntarily done, **is itself just or morally good.** So the theory gives a retributive answer to the three questions, ‘What sort of conduct may be punished?’ ‘How severely?’, and ‘What is the justification for the punishment?’

**And,** neg must defend that retribution ought to be valued over rehabilitation – otherwise there isn’t any substantive clash and burdens aren’t reciprocal. If they aren’t topical presume aff because they have no advocacy with which to derive offense.

**And,** rehab is offered in conjunction with punishment in a proportional manner. **Ihuah[[7]](#footnote-7):**

**Rehabilitation** aims to offer the offenders opportunities to find a useful place in society on release from prison. It does not argue for a ‘no punishment’ for offenders. They must be **punishe[s]**d **fittingly and appropriately** though, opportunities should be availed them to busy their minds away from crime e.g. provision of recreational, educational and vocational for prisoners. This is aimed at re-engineering their criminal mind and to ‘in steal’ in them the spirit of self-reliance if and when they leave prison. Long periods of incarceration make prisoners less able to cope with normal life in the outside world. It is only good that **rehabilitation techniques are designed to counteract** this and other **undesirable effects of punishment**. The issue concerning law and punishment is central to social harmony and should not be reduced to a neither nor question. It is not whether the reductionist theory is more effective than the retributivist theory in curbing or reducing crime as the case may be. Similarly the issue is not whether the reformative, rehabilitative or curative approaches to punishment should replace the reductivist and retributivist theories of punishment. **Punishment** of criminals is no doubt important if society must endure; but only as a means not as an end. It **is** thus suggested as **a compliment** of the reformative, **rehabilitative** and curative **approaches which should be incorporated in the sentencing policies of the courts.**

# Case

**Next,** free will is impossible. Three warrants: **1)** Quantum mechanics and genetics. **Coyne[[8]](#footnote-8):**

The first is simple: **we are biological** creatures, **collections of molecules that must obey the laws of physics**. **All the success of science rests on the regularity of those laws, which determine the behavior of every molecule in the universe.** Those molecules, of course, also make up your brain — the organ that does the "choosing." And **the neurons and molecules in your brain are the product of both your genes and your environment,** an environment including the other people we deal with. Memories, for example, are nothing more than structural and chemical changes in your brain cells. **Everything that yo**u think, say, or **do, must come down to molecules and physics.** True "**free will**," then, **would require us to somehow step outside of our brain's structure and modify how it works**. Science hasn't shown any way we can do this because "**we" are simply constructs of our brain.** We can't impose a nebulous "will" on the inputs to our brain that can affect its output of decisions and actions, any more than a programmed computer can somehow reach inside itself and change its program.

**2)** Neuroscience. **Coyne 2:**

And that's what neurobiology is telling us: **Our brains are** simply meat computers that, like real computers, are **programmed by our genes and experiences to convert an array of inputs into a predetermined output**. Recent **experiments involving brain scans show that when a subject "decides"** to push a button on the left or right side of a computer, **the choice can be predicted** by brain activity **at least *seven seconds* before the subject is consciously aware of having made it.** (These studies use crude imaging techniques based on blood flow, and I suspect that future understanding of the brain will allow us to predict many of our decisions far earlier than seven seconds in advance.) "**Decisions"** made like that **aren't conscious ones. And if our choices are unconscious**, with some determined well before the moment we think we've made them, **then we don't have free will** in any meaningful sense. Psychologists and neuroscientists are also showing that the experience of will itself could be an illusion that evolution has given us to connect our thoughts, which stem from unconscious processes, and our actions, which also stem from unconscious process. We think this because our sense of "willing" an act can be changed, created, or even eliminated through brain stimulation, mental illness, or psychological experiments. **The ineluctable scientific conclusion is that** although we *feel* that we're characters in the play of our lives, rewriting our parts as we go along, in reality **we're puppets performing scripted parts** written by the laws of physics.

**3)** Identity. **Strawson[[9]](#footnote-9):**

You do what you do because of the way you are. **To be** truly morally **responsible for what you do you must be** truly **responsible for the way you are** - at least in certain crucial mental respects. **But** (3) You cannot be truly responsible for the way you arc. So you cannot be truly responsible for what you do. Why can’t you be truly responsible for the way you are? Because (4) **To be** truly **responsible for the way you are, you must have intentionally brought it about that you are the way you are, and this is impossible**. Why is it impossible? Well, suppose it is not. Suppose that (5) You have somehow intentionally brought it about that you are the way you now are, and that you have brought this about in such a way that you can now be said to be truly responsible for being the way you are now. For this to be true (6) **You must already have had a certain nature N in the light of which you intentionally brought it about that you are as you now are. But** then For it to be true you and you alone are truly responsible for how you now are, **you must be truly responsible for having had the nature N** in the light **of which you intentionally brought it about that you are the way you now are.** You must have intentionally brought it about that you had that nature N, in which case you must have existed already with a prior nature in the light of which you intentionally brought it about that you had the nature N in the light of which you intentionally brought it about that you are the way you now are Here **one is setting off on the regress**. Nothing can be causa sui in the required way. Even if such causal "aseity' is allowed to belong unintelligibly to God, it cannot be plausibly be supposed to be possessed by ordinary finite human beings.

**And,** the argument from consequences disproves compatibilism. **McKenna[[10]](#footnote-10):**

**No one has power over the facts of the past and the laws of nature.** No one has power over the fact that the facts of the past and the laws of nature entail every fact of the future (i.e., determinism is true). **Therefore, no one has power over the facts of the future.** According to the Consequence Argument, if determinism is true, it appears that no person has any power to alter how her own future will unfold. The Consequence Argument shook compatibilism, and rightly so. The classical compatibilists' failure to analyze statements of an agent's abilities in terms of counterfactual conditionals (see section 3.3) left the compatibilists with no perspicuous retort to the crucial second premise of the Classical Incompatibilist Argument: If determinism is true, no one can do otherwise (see section 2.1). The Consequence Argument, on the other hand, offered the incompatibilists powerful support of this second premise. If, according to the consequence argument, **determinism implies that the future will unfold in only one way, and if no one has any power to alter its unfolding in that way, then it seems that, in a very clearly presented manner, no one can do other than she does.** It is fair to say that the Consequence Argument earned the incompatibilists the dialectical advantage. **[so] The burden of proof** was **[is] placed upon** the **compatibilists**, at least to show what was wrong with the Consequence Argument, and better yet, to provide some positive account of the ability to do otherwise. Seemingly, the compatibilists' only way around this burden was to defend compatibilism without relying upon the freedom to do otherwise.

**And,** disproving determinism just proves indeterminism, meaning free will is still impossible. **McGinn[[11]](#footnote-11):**

Either [determinism](http://www.informationphilosopher.com/freedom/determinism.html) is true or it is not. If it is true, then all our chosen actions are uniquely necessitated by prior states of the world, just like every other event. But then it cannot be the case that we could have acted otherwise, since this would require a possibility determinism rules out. Once the initial conditions are set and the laws fixed, [causality](http://www.informationphilosopher.com/freedom/causality.html) excludes genuine [freedom](http://www.informationphilosopher.com/freedom/problem/). On the other hand, if [indeterminism](http://www.informationphilosopher.com/freedom/indeterminism.html) is true, then, though things [could have happened otherwise](http://www.informationphilosopher.com/freedom/otherwise.html), it is not the case that we could have chosen otherwise, since a merely [random event](http://www.informationphilosopher.com/freedom/chance.html) is no kind of free choice. That some events occur causelessly, or are not subject to law, or only to probabilistic law, is not sufficient for those events to be free choices. Thus one horn of the dilemma represents choices as predetermined happenings in a predictable causal sequence, while the other construes them as inexplicable lurches to which the universe is randomly prone. Neither alternative supplies what the notion of free will requires, and no other alternative suggests itself. Therefore freedom is not possible in any kind of possible world.

**And,** a lack of free will denies moral responsibility. **Norwitz[[12]](#footnote-12):**

Inwagen presents three premises in his main argument: that **free will is** in fact **incompatible with determinism,** that **moral responsibility is incompatible with determinism**, and that (since we have moral responsibility) determinism is false. Hence, he concludes, we have free will. The argument for the first premise runs as follows [p.56]: “**If determinism is true, then our acts are the consequences of the laws of nature and events in the remote past. But it is not up to us what went on before we were born, and neither is it up to us what the laws of nature are. Therefore the consequences of these things** (including our present acts) **are not up to us.**” The argument for the second premise [p. 181]: “**If** (i) **no one is morally responsible for having failed to perform any act**, and (ii) **no one is morally responsible for any event**, and (iii) no one is morally responsible for any state of affairs, **then there is no such thing as moral responsibility**.” For the third premise van Inwagen does not present a concise summary of his line of argument. He takes it as being self-evident that we have moral responsibility, as we do, after all, continue to hold people morally responsible for their actions.

**Therefore,** determinism denies retributivism and underscores utilitarianism. **Greene and Cohen[[13]](#footnote-13):**

Even if there is no intuitively satisfying solution to the problem of free will, it does not follow that there is no correct view of the matter. Ours is as follows: when it comes to the issue of free will itself, hard determinism is mostly correct. Free will, as we ordinarily understand it, is an illusion. However, it does not follow from the fact that free will is an illusion that there is no legitimate place for responsibility. Recall from x 2 that there are two general justifications for holding people legally responsible for their actions. **The retributive justification**, by which the goal of punishment is to give people what they really deserve, **does depend on** this dubious notion of **free will. However, the consequentialist approach does not require a belief** in free will **at all.** **As consequentialists, we can hold people responsible for crimes simply because doing so has**, on balance, **beneficial effects** through deterrence, containment, etc. It is sometimes said that if we do not believe in free will then we cannot legitimately punish anyone and that society must dissolve into anarchy. In a less hysterical vein, Daniel Wegner argues that free will, while illusory, is a necessary fiction for the maintenance of our social structure (Wegner 2002, ch. 9). We disagree. **There are perfectly good, forward-looking justifications for punishing criminals that do not depend on metaphysical fictions**. (Wegner’s observations may apply best to the personal sphere: see below.) The vindication of responsibility in the absence of free will means that there is more than a grain of truth in compatibilism. **The consequentialist approach to responsibility generates a derivative notion of free will that we can embrace** (Smart 1961). In the name of producing better consequences, we will want to make several distinctions among various actions and agents. To begin, we will want to distinguish the various classes of people who cannot be deterred by the law from those who can. That is, we will recognize many of the ‘diminished capacity’ excuses that the law currently recognizes such as infancy and insanity. We will also recognize familiar justifications such those associated with crimes committed under duress (e.g. threat of death). If we like, then, we can say that the actions of rational people operating free from duress, etc. are free actions, and that such people are exercising their free will. At this point, compatibilists such as Daniel Dennett may claim victory: ‘what more could one want from free will?’. In a word: retributivism. We have argued that commonsense retributivism really does depend on a notion of free will that is scientifically suspect. Intuitively, we want to punish those people who truly deserve it, but **whenever the causes of someone’s bad behaviour are made sufficiently vivid, we no longer see that person as truly deserving of punishment**. This insight is expressed by the old French proverb: ‘to know all is to forgive all’. It is also expressed in the teachings of religious figures, such as Jesus and Buddha, who preach a message of universal compassion. Neuroscience can make this message more compelling by vividly illustrating the mechanical nature of human action. Our penal system is highly counter-productive from a consequentialist perspective, especially in the USA, and yet it remains in place because retributivist principles have a powerful moral and political appeal (Lacey 1988; Tonry 2004). It is possible, however, that **neuroscience will change these moral intuitions by undermining the** intuitive, libertarian **conceptions of free will on which retributivism depends.**

**Greene** both proves util as AC offense and turns proportionality NCs – since people are not autonomous beings they have no way to control their actions, so punishment isn’t proportional to their intent.

**And,** this is empirically verified. People endorse consequentialist theories of punishment when presented with determinism. **Shariff et al[[14]](#footnote-14):**

In two studies, we found that exposing people to **neuroscientific research highlighting [deterministic]** mechanistic **influences on human behavior reduced people’s tendency to punish** a violent offender. These results suggest that increasing scientific knowledge concerning the physical correlates of human decision-making may lead to socially significant changes in people’s attitudes toward punishment. These studies extend previous research on the consequences of eroding beliefs in free will (Vohs & Schooler, 2008; Baumeister et al., 2009) in three important ways. First, in contrast to prior studies that focused on philosophical arguments for determinism, the present studies explored the effects of exposure to scientific research embedded within a mechanistic understanding of human nature. Unlike in previous studies, our primes made no explicit mention of free will. Instead, intuitions favoring metaphysical free will were implicitly undermined by interpretations of neuroscientific research emphasizing the mechanistic belief that “our brains are the ultimate sources of our choices” (prime 2B1). Though this view is not without its scientific critics (e.g. Schooler, in press), most psychologists, neuroscientists and philosophers of science operate under such philosophical assumptions. This imbues the present results with additional social significance because, independent of what science may tell us about free will, **it is all but certain that science will continue to present people with the type of information reported** in our primes. Second, the present research focuses on how mechanistic thinking affects people’s responses to others’ behavior, rather than people’s regulation of their own behavior. While this topic is interesting in its own right, the effects observed here may illuminate the mechanisms behind previously observed effects of mechanistic thinking on self-regulation. Vohs & Schooler (2008) and Baumeister and colleagues (2009) propose that people are prone to use determinism as an excuse for bad behavior, giving themselves what appears to be a scientifically valid excuse to abandon self-control. Here, however, **participants had no vested interests in assigning shorter sentences**. This suggests that mechanistic **[deterministic] thinking** does more than give people an excuse to behave selfishly; it **appears to provoke a genuine change in attitudes towards moral responsibility.** Finally, these studies are, to our knowledge, the first to show that priming mechanistic thinking affects behavior in ways that are not straightforwardly negative. Indeed, **if focusing on rehabilitation** and deterrence, rather than retribution, **is morally preferable** (Tonry 2004; Greene & Cohen, 2004), **the present findings can be** construed as **evidence that encouraging a mechanistic worldview has positive consequences.**

**And,** ethics must be based in physical facts about the world. Neuroscientific behavior is the starting point for normativity, and results in utilitarian maximization. **Nirshberg[[15]](#footnote-15):**

If **ethics is** about anything, it is **about the conscious states of organisms able to experience consciousness**. Any other definition is meaningless. **Any action that has no actual or potential affect on the conscious state of an organism is by definition valueless**. I think we can accept this claim as long as we are responsible about thinking about the broader affects that stem from our actions. **If my action isn’t immoral to me, or you**, or anyone else in the world, or anyone that may ever come along, if it causes no pain or suffering to any creature able to experience those states of consciousness, if there is no one around to care one way or the other, **then what could possibly be immoral about anything?** Harris’s next point is a simple small jump. If ethics is about the conscious states of organisms, then **this must by definition translate into facts about brains and their interaction with the world.** This also seems uncontroversial. Assuming conscious states have a neurophysiological correlate (an extremely grounded assumption), then it’s obvious that science can give us a complete account of the ever evolving dynamic states of consciousness, the very thing that ethics is about. It’s worth pointing out that when Harris uses the word “science”, he is not talking about double blind research carried out in labs by people wearing white lab coats. Harris is defining science in the broadest way imaginable, as a process with respect for the scientific method, incorporating reason and logic and proper justification for beliefs (I sometimes think his definition of science is just “philosophy”, a label and pursuit he tries to keep himself separate from). Agree or disagree with his definition, just keep it in mind when evaluating his assertions, since many who disagree with him tend to ignore his encompassing view of science. But this can’t be it right? Ethics isn’t simply about conscious states; it’s about a certain type of conscious state. And here is where we start running into some conceptual problems, which to some degree I hate myself for having. Sam Harris’s next point is that ethics must **specifically be about maximizing the well being of conscious organisms**. On the one hand, this also seems uncontroversial. **Moral concerns about the well being of other people very obviously translate into facts about how our thoughts and behaviors affect these people. Science can thus describe the result of this endeavor, and based on our goal of maximizing well being, determine what it is we ought to do.**

**And,** generic reasons why util fails don’t interact with the AC. **A)** The entire framework indicts any non-consequentialist theory of morality because responsibility is nonsensical, so even if util has conceptual issues it’s the only possible theory of morality. **B)** I don’t endorse a traditional conception of maximization but rather a utilitarian theory of guilt with which we assess the principles of the resolution, not the end states of specific policy options.

# Under-View 1

**1.** If the neg win’s a new interp on T, just revaluate my offense under that interp. That checks back their abuse story and gives me necessary leeway since I speak in the dark and don’t know what to expect this early in the topic with multiple sufficient T-interpretations.

**2.** Aff gets RVIs **A)** **Strat-skew** neg gets flex in the NC and the 746 timecrunched 1AR. They can overcommit one the layer I don’t answer so I need structural compensation. Neg also is reactive the AC, which means their theoretical claims are checked by adaptability. **B) Topic Lit -** RVIs deter neg theory spread in the NC so only they solve back for substance debate on the topic.

**3.** Presume aff **A) Time-skew**. Affs lose 70% of outrounds. If the round’s a tie then I’ve done the better debating because I was structurally disadvantaged. **B)** We assume a statement to be true absent any reason to believe the contrary. If I tell you the door is open and you can’t give me any reason why it isn’t open then the door is open as far as your concerned.

**4.** Skep means you presume because you can’t be normatively compelled to vote for either side since you have no obligation to do so. *It denies theoretical reasons why one side is fairer or more educational because they rely on normative justifications of right and wrong.*

***5.*** If AC interps are proved unfair just drop them because I speak in the dark and the neg can adaptively respond to them, nullifying any abuse. Whereas they are able to choose their strategy, I’m forced to pick one. *Theoretical reasons I’m unfair aren’t reasons to vote if the AC is true because they’re not my fault – they’re predetermined.*

# Under-View 2

**First,** *meta,* meta-analysis concludes rehab is better than retribution at preventing crime. **Lipsey and Cullen[[16]](#footnote-16):**

This review has attempted to catalog [in] every meta-analysis that has been conducted on studies of correctional interventions and summarize the most general and robust of their collective findings. Some of these meta-analyses have broad scope, some narrow. Some are elaborate and some are relatively simple. Some are very well done and a few are rather inept. Across this diversity, however, there is striking consistency on a two key points. First, **every meta-analysis** of studies that compare recidivism outcomes for offenders receiving greater versus lesser or no sanctions has **found**, at best, modest mean recidivism reductions for **the greater sanction**s and, at worst, **increased recidivism** for that condition. Second, every meta-analysis **[and] of** large samples of studies **comparing offenders who receive rehabilitation treatment with those who do not has found lower mean recidivism for those in the treatment conditions.** Moreover, **the least of those mean reductions is greater than the largest mean reductions reported by any meta analysis of sanctions**. In addition, **nearly all of the meta-analyses of studies of specific rehabilitation treatments or approaches show mean recidivism reductions** and the great majority of those are **greater than the largest** reductions **found in any meta-analysis of sanctions.**

**And,** rehab is wildly popular. Voters want legislation for it. **Krisberg and Marchionna[[17]](#footnote-17):**

**By almost an 8 to 1 margin (87% to 11%), the US** voting **public is in favor of rehabilitative services for prisoners as opposed to a punishment**-only system. Of those polled, **70% favored services both during incarceration and after release from prison.** Only 14% of those polled thought that people coming out of prison were less likely to commit new crimes than they were before imprisonment. Over 50% thought the likelihood was at least the same, while 31% thought that the likelihood of new crime was greater after prison than before. By strong majorities, US voters feel that a lack of life skills, the experience of being in prison, and obstacles to reentry are major factors in the rearrest of prisoners after release. Few thought that criminality is inherent. By an overwhelming majority (82%), likely voters felt that a lack of job training was a very signiﬁcant barrier to released prisoners avoiding subsequent crime. They also thought that medical care, the availability of public housing, and student loans are important (86%, 84%, and 83% respectively). By huge margins, those polled felt that job training, drug treatment, mental health services, family support, mentoring, and housing were all very important services that should be offered to prisoners. Less than 10% of those polled (only 2% in the case of job training) thought that these services were unimportant. Of those polled, 44% felt that planning for reentry should begin at sentencing, another 27% thought it should begin 12 months prior to release. Only 7% were not in favor of planning for reentry. **When asked about pending legislation that would allocate federal dollars to prisoner reentry (The Second Chance Act), 78% were in support.** Of those, almost half expressed strong support.

**And,** psychological bias means retributivists will disproportionately punish. **Dripps[[18]](#footnote-18):**

FAE **[attribution error] has troubling implications for the retributivist**’s **project** of rationally assessing blameworthiness. The character-based approach directly embraces the project of inferring personality traits from behavior. This is the very inference that the psychological research suggests human observers will make too readily. Consider, in this regard, the Fidel Castro essays, the quiz master experiment, or the foul shots taken in a dimly lit gymnasium. In these experiments, **observers held actors responsible despite the observers’ knowledge of very serious situational constraints**. Indeed the term “correspondence bias” refers precisely to the tendency to associate behavior with a corresponding trait. In the choice approach, the problem recurs. FAE [**attribution error] predisposes observers to exaggerate both volitional capacity and fair opportunity to resist situational pressure**. A choice theorist who does not repudiate situational excuse altogether admits that some bad choices are not blameworthy. As a result of FAE, however, in deciding how hard a choice the actor faced, **observers will tend to attribute the choice to the actor’s character rather than the situation.** FAE tends to magnify the causal significance of the defendant’s conduct relative to other factors. Observers predisposed to believe that the world is just need to identify personal, rather than impersonal, causes for negative events. **Compounding** this tendency **is** the so- called **hindsight bias, which inclines observers** *ex post* **to believe that actual events were probable** *ex ante* **even when they were not.** This, in turn, inclines observers to infer intention, knowledge, or recklessness from the foreseeability of events that were in fact not foreseeable. Harm-based **retributivists, with their focus on causing or risking harm, invite the tendency of observers to commingle fault with causation**, amplified by the hindsight bias. A purely subjectivist culpability theorist, by contrast, considers the actor eligible for punishment based on his subjective awareness of wrongdoing. This may disadvantage the government unduly, as those who focus on the person rather than the situation interpret failed attempts as innocent accidents and harmless recklessness as due care. As the utilitarians have pointed out, **retributivists have** some **difficulty in determining the amount of punishment required by any given instance of culpable wrongdoing**. To the extent that retributivists rely on intuition or the sense of the community to measure proportionate punishments, FAE suggests that **officials attempting to follow retributive theory will overpunish. Their intuitions will tend to overassess** personal as opposed to situational **factors at the time of the wrongdoing.**

# Frontlines

## AT Don’t Deserve Anything

**1.** Retributivists must be committed to giving people some form of punishment at some point. If they just say punishment is proportional and nobody deserves punishment then negating collapses into affirming because the system isn’t penal anymore.

**2.** Cross apply **Greene and Cohen** – 2 warrants take this out: **A)** determinism is incompatible with retribution because it undermines the concept of desert entirely. **B)** They also make an institutional claim that retribution endorses a foundation that implies free will exists.

**3.** Cross apply **Shariff et al** – determinism urges people to get rid of sanctions and endorse the rehabilitation of people in the real world. Empirically, people don’t endorse retribution when confronted with the truth of deterministic forces.

## AT No Turn Ground

**1.** You can impact turn the AC – determinism is epistemically a bad thing or is bad for morality, or its utilitarian implications are bad.

**2.** You can link turn it – retributivists just say punishment is proportional, so retributivism could say nobody ever proportionally deserves punishment and just give no sanctions.

**3.** You can just read dozens of reasons why util is false which turn back my burden structure because if consequences don’t matter, then intentions do and guilt is a morally important concept.

**4.** The structure of the AC makes burdens your argument reciprocal – even if there’s no util turn ground there’s turn ground to reasons why determinism still means people are culpable, people can still be held accountable, or guilt is a logical concept.

# Cards

**Coyne[[19]](#footnote-19):**

We should recognize that we already make some allowances for this problem by treating criminals differently if we think their crimes resulted from a reduction in their "choice" by factors like mental illness, diminished capacity, or brain tumors that cause aggression. But in truth those people don't differ in responsibility from the "regular" criminal who shoots someone in a drug war; it's just that the physical events behind their actions are less obvious. But we should continue to mete out punishments because those are environmental factors that can influence the brains of not only the criminal himself, but of other people as well. Seeing someone put in jail, or being put in jail yourself, can change you in a way that makes it less likely you'll behave badly in the future. Even without free will then, we can still use punishment to deter bad behavior, protect society from criminals, and figure out better ways to rehabilitate them. What is *not* justified is revenge or retribution — the idea of punishing criminals for making the "wrong choice." And we should continue to reward good behavior, for that changes brains in a way that promotes more good behavior.

Neuroscience. **Stenger[[20]](#footnote-20):**

Research in neuroscience has revealed a startling fact that revolutionizes much of what we humans have previously taken for granted about our interactions with the world outside our heads: Our consciousness is really not in charge of our behavior. Laboratory experiments show that before we become aware of making a decision, our brains have already laid the groundwork for it. In a recent book, [Subliminal: How Your Unconscious Mind Rules Your Behavior](http://www.amazon.com/Subliminal-Your-Unconscious-Rules-Behavior/dp/0307378217/ref=sr_1_1?ie=UTF8&qid=1338562815&sr=8-1" \t "_hplink), physicist Leonard Mlodinow reviews a wide range of psychological experiments that demonstrate the dominant role the unconscious plays in our behavior. This recognition challenges fundamental assumptions about free will and the associated religious teachings about sin and redemption, as well as our judicial concepts of responsibility and punishment. If our brains are making our decisions for us subconsciously, how can we be responsible for our actions? How can our legal system punish criminals or God punish sinners who aren't in full control of their decision-making processes? Is free will an illusion? In his recent book titled [Free Will](http://www.amazon.com/Free-Will-Sam-Harris/dp/1451683405/ref=sr_1_1?s=books&ie=UTF8&qid=1338562877&sr=1-1" \t "_hplink), neuroscientist Sam Harris pulls no punches. He tells us in no uncertain terms: "Free will is an illusion." We don't exist as immaterial conscious controllers, but are instead entirely physical beings whose decisions and behaviors are the fully caused products of the brain and body.

Compatibilist thinking is irrelevant. **Eagleman:**

This has always been the sticking point for philosophers and scientists alike. After all, **there is no spot in the brain that is not densely interconnected with—and driven by—other brain parts**. And that suggests **that no part is independent and therefore “free.”** In modern science, it is difficult to find the gap into which to slip free will—the uncaused causer—**because there seems to be no part of the machinery that does not follow in a causal relationship from the other parts. Free will *may* exist** (it may simply be beyond our current science), **but** one thing seems clear: if free will *does* exist, **it has little room in which to operate. It can at best be a small factor riding on top of vast neural networks shaped by genes and environment.** In fact, **free will may end up being so small that we eventually think about bad decision-making in the same way we think about any physical process, such as diabetes or lung disease.**

**Shariff et al[[21]](#footnote-21):**

The free will debate conventionally places free will in opposition to hard determinism—the view that all events, including all human actions, are fully determined by the state of the universe at the previous moment (Crick, 1994; Kane, 2002). It appears, however, that the real challenge to free will is not determinism *per se*, but rather *mechanism*. This is because behavioral influences that are merely random (*a la* quantum mechanics) do not necessarily confer free will, despite the fact they render behavior undetermined by prior events (Dennett, 1973).There is also evidence suggesting that intuitive conceptions of free will are compatible with purely mental forms of determinism (Nahmias, 2006). Instead, the intuitive challenge to free will appears to derive from the possibility that all behavior is completely determined by physical mechanisms—and proximately by neural mechanisms, if all voluntary action is proximately caused by the activity of the central nervous system. The threat of mechanism is closely related to a conceptually distinct threat to free will, namely the threat from automaticity (Bargh & Chartrand, 1999, Wegner, 2002). Here the concern is that much of human behavior is determined by influences outside of awareness, and therefore not caused by conscious acts of will. Mechanism and automaticity are conceptually distinct because unconscious influences on behavior need not (in principle) be mechanical (e.g. demonic possession) and because conscious influences on behavior may be mechanical (as posited by most mechanists). In philosophy, debate has focused primarily on the challenge from mechanism/determinism (Kane, 2002), while recent work in psychology has focused on automaticity (Baer, 2008).These two threats to free will are intimately related and may be ultimately equivalent: Both challenge the intuitive assumption that human behavior is determined by immaterial, consciously willing selves. Mechanism challenges the “immaterial,” while automaticity challenges the “consciously.” Neuroscience poses both challenges simultaneously when it suggests that behavior is determined by unconscious mechanical processes. It poses a specifically mechanistic challenge when it suggests that behavior is caused by processes that are conscious, but nonetheless mechanical.

**Eagleman[[22]](#footnote-22):**

Many of us like to believe that all adults possess the same capacity to make sound choices. It’s a charitable idea, but demonstrably wrong. **People’s brains are vastly different.** Who you even have the possibility to be starts at conception. If you think genes don’t affect how people behave, consider this fact: **if you are a carrier of a particular set of genes, the probability that you will commit a violent crime is four times as high as it would be if you lacked those genes. You’re three times as likely to commit robbery, five times as likely to commit aggravated assault, eight times as likely to be arrested for murder, and 13 times as likely to be arrested for a sexual offense. The overwhelming majority of prisoners carry these genes; 98.1 percent of death-row inmates do.** These statistics alone indicate that we cannot presume that everyone is coming to the table equally equipped in terms of drives and behaviors. And this feeds into a larger lesson of biology: **we are not the ones steering** the boat of **our behavior**, at least not nearly as much as we believe. ***Who we are*runs well below the surface of our conscious access, and the details reach back in time to before our birth**, when the meeting of a sperm and an egg granted us certain attributes and not others. ***Who we can be* starts with our molecular blueprints—a series of alien codes written in invisibly small strings of acids—well before we have anything to do with it. Each of us is**, in part, **a product of our inaccessible, microscopic history**. By the way, as regards that dangerous set of genes, you’ve probably heard of them. They are summarized as the Y chromosome. **If you’re a carrier, we call you a male.**

**Eagleman:**

**We are** likewise **influenced by the environments in which we grow up**. **Substance abuse** by a mother during pregnancy, **maternal stress, and low birth weight all** can influence **how a baby will turn out as an adult**. As a child grows, **neglect, physical abuse, and head injury** can **impede mental development, as can the physical environment.** (For example, the major public-health movement to eliminate lead-based paint grew out of an understanding that ingesting lead can cause brain damage, making children less intelligent and, in some cases, more impulsive and aggressive.) And **every experience throughout our lives can modify genetic expression—activating certain genes or switching others off—which in turn can inaugurate new behaviors**. In this way, genes and environments intertwine. When it comes to nature and nurture, the important point is that we choose neither one. **We are each constructed from a genetic blueprint, and then born into a world of circumstances that we cannot control in our most-formative years.** The complex interactions of genes and environment mean that all citizens—equal before the law—possess different perspectives, dissimilar personalities, and varied capacities for decision-making. The unique patterns of neurobiology inside each of our heads cannot qualify as *choices*; these are the cards we’re dealt. **Because we did not choose the factors that affected the formation and structure of our brain, the concepts of free will and personal responsibility** begin to **sprout question marks**. Is it meaningful to say that Alex made bad *choices*, even though his brain tumor was not his fault? Is it justifiable to say that the patients with frontotemporal dementia or Parkinson’s should be *punished* for their bad behavior? **It is problematic to imagine yourself in the shoes of someone breaking the law and conclude, “Well, *I* wouldn’t have done that**”—because if you weren’t exposed to in utero cocaine, lead poisoning, and physical abuse, and he was, then you and he are not directly comparable. You cannot walk a mile in his shoes.

Free will doesn’t exist. It’s either entirely determined by prior causes or it’s completely random. **Harris[[23]](#footnote-23):**

Free will *is* an illusion. Our wills are simply not of our own making. **Thoughts and intentions emerge from background causes of which we are unaware** and **over which we** exert **[have] no** conscious **control**. We do not have the freedom we think we have. Free will is actually more than an illusion (or less), in that it cannot be made conceptually coherent. **Either our wills are determined by prior causes and we are not responsible** for them, **or they are the product of chance and we are not responsible** for them. Ifa man’s choice to shoot the president is determined by a certain pattern of neural activity, which is in turn the product of prior causes – perhaps an unfortunate coincidence of bad genes, an unhappy childhood, lost sleep, and cosmic-ray bombardment – what can is possible mean to say that his will is “free”? **No one has ever described a way in which mental and physical processes could arise that would attest to the existence of** such **freedom**. Most illusions and made of sterner stuff than this.

**Koehler:**

The theory Harris propounds is as follows: **our conception of having ‘decided’ a course of action is**, in fact, usually **a retrospective observation about how we *did*act or *might* have acted**, as opposed to a prospective observation that illuminates something about how we *will* act or *could* have acted. To make this clearer, **an action is little more than the expression of a particular set of neuronal processes in which we elected to pursue the most appealing option that presented itself to our cognitive menu of possible actions**. Insofar as there were multiple possible options, **the ‘decision’ we think we have made is delusory precisely because we convince ourselves *retrospectively* that the other conceived options in the menu were ever really viable in the first place**. The truth, according to Harris, is that you make the choice you do because it is consistent with how your neuronal processes work, and it’s about as simple as that. In Robert Frost’s *The Road Not Taken*, the narrator vacillates between following one of two paths, and ‘chooses’ to take the one less travelled. Two roads diverged in a yellow wood, And sorry I could not travel both And be one traveler, long I stood And looked down one as far as I could To where it bent in the undergrowth; Then took the other, as just as fair, And having perhaps the better claim, Because it was grassy and wanted wear; Though as for that the passing there Had worn them really about the same, …I shall be telling this with a sigh Somewhere ages and ages hence: Two roads diverged in a wood, and I— I took the one less traveled by, And that has made all the difference. Harris would have us believe that road more travelled by (the eponymous one not taken) was never really going to be followed in that instance; instead, **it is the belief that one *might* have taken it that gives the illusion that ‘free will’ is operating at some level.**

**Newell[[24]](#footnote-24):**

Neuroscience will probably play a similar role in our feelings toward free will. Although it is unlikely that we will dramatically change the way we think about our freedom as we shuffle through our daily tasks, **when we pause to consider the reality of our condition, we will be forced to admit that we are constrained by the electro- and biochemical mechanisms silently at work within our brains**. As was previously illustrated, fMRI studies have already begun to elucidate the mechanisms by which our brains make decisions, and faster, more accurate technology is sure to arrive in the near future. Other studies have shown even more direct evidence that our feelings of free will are illusory. Libet, Gleason, Wright, and Pearl (1983) published a series of landmark and controversial experiments in which **participants indicated when they had come to the conscious decision to execute spontaneous, voluntary movements**. This time was compared to the onset of the “readiness potential” associated with the preparation of motor activity, as recorded by electrodes on the scalp. **Libet et al. concluded that participants were not conscious of their decisions to make movements until several hundred milliseconds after the first related cortical activity was detected.** While the methods of this experiment have been questioned, **more recent follow-up studies** (Lau, Rogers, & Passingham, 2006; Lau, Rogers, & Passingham, 2007) **have shown similar findings**, indicating that our brains know that we are going to move before “we” do.

**Hill[[25]](#footnote-25):**

**Utilitarian theories of punishment** **do not require that the actor be responsible in a morally significant sense** to be punished. **What is important is not the metaphysical or psychological condition of the agent at the time of the act, but** rather whether punishment will serve any **societal interests.** These interests include deterring future criminal acts by the offender (specific deterrence), deterring the crimes of others by making an example of the present offender (general deterrence), and rehabilitating the offender. The utilitarian argues that if it is an evil to punish an actor for crimes for which he is not responsible in the traditional sense, this evil cannot be countenanced unless it is outweighed by a greater good. **Decreasing the crime rate in society would constitute** such **a good**. When potential criminals know that they can be punished for a particular act, this is likely to reduce the chances that crime will occur. **Since all behavior is causally determined, punishing actions under such circumstances will itself act as a causal determinant in reducing crime.**

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