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Articles

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Needs Revision – And Soon
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BACKGROUND

The *Journal for Law, Politics & Foreign Policy* at the University of Rochester presents its inaugural edition. Founded in 2025 by Pre-Law Society Co-President, Kanishk Shanmugam, and Alexander Hamilton Society Chapter President, Athena Haq, the Journal was created to better showcase student work that falls outside the strictly empirical research genre. While the University offers literary outlets in formal research, campus news, and the arts, there has been a gap in the area devoted to a specific form of analytical writing.

As a STEM-focused institution without a law school in the Greater Rochester area, the University of Rochester has many students of diverse academic backgrounds who have found a interest in law, policy, and other social sciences. The Journal was established to encourage these students to write about issues they are passionate about, and to deeply engage with the ideas that fellow peers bring to the table. This edition is the first compilation of that work.

MISSION STATEMENT

The Journal for Law, Politics & Foreign Policy's aim revolve around elevating and displaying student writing on campus, while fostering confidence and intellectual engagement. Submissions come from students with a variety of academic backgrounds, and the pieces reflect a diverse range of disciplines. Ultimately, this is a compilation of student compositions that are accessible to all, thought-provoking, and exist in the sphere between formal research and traditional news. The Journal encourages every interested student to develop their voice and contribute their own work, joining the broader conversations across law, foreign policy, and more.

LETTER FROM THE EDITOR

Dear Reader,

On behalf of our Editorial Board, I am honored to present the inaugural edition of the University of Rochester *Journal for Law, Politics & Foreign Policy* (J-LFPF).

I want to thank everyone who submitted a piece to this edition, our editorial board, the executive boards of the University's Pre-Law Society and Alexander Hamilton Society chapters, and the national Alexander Hamilton Society. I am especially grateful to Professor David Primo for his insights and advice, and to Student Activities Assistant Director Cat Crawford for her unwavering support in setting up the Journal. A special thank you as well to Publisher and Co-Founder, Athena Haq, as well as editorial board members, Austin DeLorme and Chloe Yokitis, for their diligent work and leadership in bringing this new project to life. Without all these individuals, the J-LFPF would never have come to fruition!

This edition brings together a wide selection of topics and perspectives across different grade levels and academic backgrounds. From philosophical arguments to discussions on American foreign policy regarding Taiwan, the Journal boasts a breadth of interests, that the editorial board was extremely proud to curate.

At a STEM-focused institution like the University of Rochester, especially in a region without a law school, creating a initiative to house this kind of writing has become especially meaningful. Further, with the rise in artificial intelligence's impact on producing work, developing a strong voice and robust writing and analytical skills remain essential. To that end, this Journal is dedicated to pushing future students to think more critically about the world around them, clearly communicate their unique thoughts, and take ownership of their ideas more wholeheartedly. We hope this inaugural edition furthers this spirit and adds a space to campus where student scholars can proud of their work and practice their curiosity more rigorously.

Thank you again to everyone involved with the J-LFPF's process, and to you the reader. The editorial board is thrilled to be sharing this inaugural composition of student writers.

Sincerely,



Co-Founder & Editor



Co-Editor-in-Chief



Co-Founder & Publisher



Co-Editor-in-Chief

The US's Strategy Towards Taiwan Needs Revision – And Soon

Henry A. Adrian

University of Rochester

This opinion article touches on the insecurity of the current US policy approach towards Taiwan, that being strategic ambiguity, and argues for a better path oriented toward trilateral alliance building.

I. Introduction

Taiwan is, at least in the eyes of US policy, an issue better left to ambiguity. A precedent was set in the heat of the Cold War by President Jimmy Carter, which came in the form of the 1979 “Taiwan Relations Act,” and scholars have run with the idea since. Schelling tells us that we risk the loss of flexibility when pursuing clarity, and Glenn Snyder preached that too much commitment to a strategy opens the door for entrapment. More recent proponents of ambiguity in the region echo these ideas, as Taiwan has yet to be given a defense guarantee, and the administration takes on the assumption that any overly ambitious moves might strike the match that blows the roof off the Indo-Pacific arena.

This assumption warrants reconsideration. The tension in the Indo-Pacific, the region which encompasses the coasts of California to the Bay of Bengal and everything in between, has been described by the Department of Defense as “the most comprehensive and serious challenge to U.S. national security.”¹ It’s not a point of contention that tensions have risen to a point where it seems the tide could shift badly very quickly. No, the discourse falls to whether the US should remain ambiguous in its strategy when confronting the issue, or if an unambiguous policy needs to be attained. A change is bound to occur; that much is clear. In what form exactly, and to what degree, still appears undecided.

Such a change may be closer than it seems. In recent years, the US, Japan, and the Philippines, the region’s three powerhouses outside of China, have seemingly all tried to increase shared defense spending and open discussion for counterstrike capabilities. This openness and possible shift towards a more trilateral defense strategy can be seen in the expansion efforts of the Enhanced Defense Cooperation Agreement (ECDA), a joint-offensive by the Philippines and US, which in the last three

years² has added multiple strategic military sites, for a total of nine bases, along the Northern and Eastern borders of the island nation, some of which lie within 160 miles of Chinese controlled waters.³

To add to this, Japan has made it abundantly clear that it views Taiwan's stability as of the utmost importance to the nation's security, with Prime Minister Sanae Takaichi straying from the traditional post-war view of "self-restraint" and instead asserting that Chinese action on Taiwan would likely result in Japanese retaliation.⁴ However, the three nations' leaders met at a trilateral summit in 2024, affirming that they "recognize that there is no change in our basic positions on Taiwan,"⁵ alluding to a strategy that aligns with ambiguity in the region. More recently, President Donald Trump met with the former Prime Minister of Japan, the two leaders seemingly agreeing that Taiwan's independence is a sure thing.

The three nations have not produced a united, joint strategy since the administration changes in both the US and Japan; however, as of February 2026,⁶ President Trump did meet with President Ferdinand R. Marcos, the chief in command of the Philippines since 2022, again affirming the importance of peace and stability across the Taiwan Strait. I write the following as my own assessment and understanding of US foreign policy in the Indo-Pacific, and further a declaration of more efficient avenues, as the world shifts towards a more dangerous future.

II. Strategic Ambiguity, and Its Much-Needed Remodeling

The act of being politically "careful", among other measures, should be put front and center when discussing the driving force that determines how the US and its allies surrounding the Indo-Pacific have made their policy choices concerning the region for nearly fifty years. This carefulness is more commonly known as deterrence. While not specific to US policy on Taiwan, deterrence sits at the core of the US's stance on Taiwan, which dates as far back as the late 1970s.

Deterrence, however, isn't the issue this article wishes to show as inefficient. In fact, it is in the very title of the strategy which I argue should be employed. Rather, it is the route taken by the US in the name of deterrence, that being the policy of strategic ambiguity. Strategic ambiguity is, as the name suggests, a policy that allows the US to neither support nor deny support to Taiwan. The US did at one point maintain a defense contract with Taiwan (1954- 1979), something which stemmed from its commitment up until the late 70s to support the Republic of China's military, which fled to the island in the mid-50s following its defeat by the then infant PRC. In the previously

mentioned Taiwan Revision Act of 1979, the US shifted and has since refused to acknowledge Taiwan as a sovereign state and submitted that the PRC is “the one sole government of China,”⁸ thus creating the “One China” policy, while simultaneously creating an informal relationship with Taiwan, supplying the state with defense weapons. These conditions persist today and are problematic; arming the military of a sovereign state you refuse to recognize to defend itself from the nation you do recognize, to me, is paradoxical. And for years, that’s exactly what the US has been going for.

The US maintains it will defend Taiwan if it falls victim to invasion by China, however, it has historically refrained from making any outright promises of defense, hence the term strategic ambiguity. The thought process is that the US’s display of uncertainty simultaneously deters China from invasion while also holding Taiwan back from any reckless political moves. And for the last few decades, this tactic has seemed to ward off a full-scale PRC invasion. That’s not to say the mainland hasn’t employed its own tactics, most of which are focused on bending the rest of the world’s arm into a lack of support for Taiwan through inflammatory threats.

But here’s where ambiguity policy starts to stretch thin and show through: Aside from threats, the US’s focus on convincing China to avoid extreme conflict, such as full-scale invasion, has allowed the PRC to work inside a grey zone, which the Brookings Institute describes as “coercive actions below the threshold of armed conflict.”⁹ And that zone is getting blacker as the weeks go on, with China operating surveillance missions closer and closer to Taiwanese airspace, as well as performing military drills with the intention of invasion.

The Indo-Pacific and the world sit at a crossroads, as US policy on Taiwan is largely in the air. It’s clear that China’s desire for reunification with Taiwan is coming to a boiling point, while Taiwanese nationalism is at an all-time high, as 62% of the island's citizens identify solely as Taiwanese.¹⁰ Further, Taiwan has grown wary of US support for its independence, and as of this writing, may too be at the cliff’s edge, with Taiwanese officials fearing the US's removal of troops from the Indo-Pacific to bolster forces in the Middle East and its focus on the War with Iran may give China the perfect opening to “exercise influence.”¹¹

Enter trilateral defense, a strategy which originally stems from the joint efforts of the US, Japan, and Australia, then known as trilateral deterrence, and was used as a mechanism mainly for the North Korean nuclear threat, but also to aid East Asian security more generally.¹² In the past, this was a strategy of nuclear deterrence, being that three countries with nuclear warheads would pressure a smaller nation that also had such capabilities, with the aim of deterring that nation from the use

prospect of nuclear war. Trilateral defense, or trilateral alliance architecture, is most notably in current use by the US-Japan-ROK alliance to combat the North Korean threat, which is a pact that forms but a small part of the growing “spider-web” of alliances in the Indo-Pacific.⁷ Essentially, the trilateral alliance architecture is this: a recognized three-way agreement to show dominance to or uphold the defense of a territory threatened by a major power, which is maintained by a signed deal (i.e., the 2023 Camp David summit between the US, Japan, and South Korea) and continued joint-military exercises and communication.¹³ In the case of this article, that territory, or state, is Taiwan, and the alliance is that of Japan, the Philippines, and the US.

Such a strategy trumps ambiguity, as the fact of the matter is that the US will be committing to the defense of Taiwan, something which the region needs. With a new policy of “strategic clarity,” found in the verbal commitment of the trilateral alliance, the US would be showing China that it will, in fact, defend Taiwan if the PRC makes any extreme moves outside of the status quo, which both protects US interests and maintains order in the Indo-Pacific. This, as opposed to strategic ambiguity, which is beginning to crumble and is only enabling China to tighten its grip around Taiwan, seems much better. If you need further reasoning for why Taiwan-China relations remaining stable is vital for the US, consider its reliance on Taiwan for nearly 90%¹⁴ of the world’s superconductor and advanced-chip export, of which the US is one of the largest importers, as a viable cause for assured protection.

III. Conclusion: The Necessary Alliance

It is my own opinion that a US-Japan-Philippines alliance would be the best positioned for a defensive strategy in the hopes of deterring China from further escalation on the Taiwan strait. As previously stated, the US and Philippines have continued to increase a joint presence in the region, and the Trump administration has upheld communication with Japan. During the Biden administration, a “new trilateral age” had begun to prosper,¹⁵ with the three nations beginning to introduce Chinese countermeasures in the form of joint operations and shared infrastructure. While it is unclear whether President Trump will maintain this strategic alliance, his administration has used wording in multiple documents and briefings that suggest the US's policy of ambiguity may be on the chopping block.¹⁶ While Mr. Trump is known to have a distaste for China, it is unwise to assume he would implement a similar strategy to that of the Biden Administration; however, not unlikely. Meanwhile, President of the PRC, Xi Jinping, has been waging an ongoing internal war⁷ on his

military officials, in specific purging multiple top-ranking individuals who previously stood as barriers to a possible invasion of Taiwan. It is the hope of mine, and I am sure millions in Taiwan, that a sturdier strategy, such as a trilateral alliance, is introduced so that conflict may be avoided. So, to finalize the sentiment of this article, I present this statement:

Strategic ambiguity remains the U.S. policy toward Taiwan, but its time has passed, and Taiwan relations now depend on the institutionalization of trilateral alliance architecture among the United States, Japan, and the Philippines, transforming a Taiwan contingency from a bilateral gamble into a coalition problem for Beijing – a strategy once considered politically and strategically untenable.

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Brennan and Forms of Epistocracy vs. the Demographic Objection

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This paper focuses on James Brennan's response to the Demographic Objection against epistocracy. As a proponent of epistocracy, Brennan believes that those that are knowledgeable should rule, though the exact form of government may vary.² Since this will nearly always involve restricting some people from being able to influence their government, a frequently raised objection is that the interest of certain demographics will be neglected, largely due to systemic bias.² This is known as the Demographic Objection. I will be addressing Brennan's arguments in response to the objection. I disagree with Brennan that objection requires both tenets that he names. This will lead me to a revised form of the objection. I will evaluate each form of epistocracy that he proposes to see if it is possible for it to avoid a revised Demographic Objection and thus perform better than democracy. I will argue that the revised objection can be used to show that most forms of epistocracy will lead to a similar level of bias as democracy does today. Ultimately it seems that only one form of epistocracy, the simulated oracle, has the potential to avoid a revised Demographic Objection, giving it a possibility of performing better than democracy.

I. Introduction

I will begin by providing necessary background information on these arguments. James Brennan makes his argument for epistocracy in his influential book, *Against Democracy*. In this book, he formulates his argument for epistocracy by presenting it as a solution for the failures of democracy. His main critiques of democracy are plentiful. First, Brennan says that the general public fails to sufficiently educate themselves to weigh in on policy decisions. Second, he argues deliberative democracy is not productive, and that the individual vote matters so little that it negates any empowerment gained in the political process. Third, he argues that democracy does not symbolize respect for all people. All of this results in an incompetent democracy. Brennan's main argument is that democracy is clearly failing on account of discriminatory legislation being passed, statistically low education levels for the average voter, and that the conditions needed for wisdom to be produced by

the collective are not being met. Brennan's arguments against democracy are designed to dispose the reader of their romantic views of democracy, such as to those who believe it is representative of our fundamental respect for each other and that it ensures the protection of all people. He successfully takes down such idealized notions and emphasizes the tremendous damage being done by incompetent voters, tracing many of our current problems to this source. He takes this further by arguing that instead of seeking to reform democracy, we would be better served by dismantling it entirely. He argues that many of the goals of democracy would be met if we handed over governance to an epistocratic body, made up of the most knowledgeable, intelligent, and educated among us. While controversial, Brennan's view importantly highlights the many issues that are undeniably present in our government and presents a rational alternative.

II. Background

Before evaluating the arguments, it is important to understand how Brennan defines the knowledge level needed for one to join an epistocratic body. In several forms of epistocracy, there is an exam that is given to all citizens that determines the ability to vote.² In this case, Brennan argues that the content of the exam should be limited to basic social-scientific facts that are indisputable.² He wants to assess the average person's grasp of the kind of knowledge that he argues is essential to making a worthwhile vote. Brennan defines a good vote as an informed one, meaning that one is acting most similarly to how an expert in the field would act.² Later in the chapter, Brennan does acknowledge that there are possible flaws with this proposal. Primarily, people disagree about what qualifies as competent, meaning what degree of knowledge a voter must possess could vary between people.² Brennan doesn't believe that this discrepancy signals that competence has no objective definition, just that we haven't been able to determine it.² The issue he identifies is that in defining competence objectively, we as a society would have to select one person or group of people to decide classifications.² This is problematic because it leaves people vulnerable to bias.² He later introduces possible solutions to deal with this issue.² It is important to acknowledge that Brennan defines competence as an objective measure that is correlated to the level of social-scientific knowledge any one person has. It is also important to acknowledge that he believes that there may be issues implementing this that are similar to the consequences of the demographic objection, which is that manipulation could occur that disenfranchises historically underrepresented peoples. But this is not reason enough to halt transitions to epistocracy. These nuanced issues can be solved.

III. Analysis

Next, I will explain the Demographic Objection point made by Brennan. Brennan begins by outlining why he feels that epistocracy would resolve the challenges of government better than democracy. He reminds us that the requirement that he must meet is not that epistocracy be perfect, but that it should perform better than the status quo – democracy. One frequently raised objection by the proponents of democracy is the Demographic Objection. They argue that epistocracy would not be able to avoid and may even make worse the prevalent issue of socioeconomic and racial biases. Brennan shapes the Demographic Objection as follows: due to the existing structural bias, specific groups of people such as people of color or low socioeconomic status will be prevented from obtaining power in the epistocracy because they lack the requisite knowledge to pass civil exams exam. This claim is strengthened with evidence from a previous chapter by Brennan, showing that the average American possesses alarmingly little knowledge about the basics of government, such as not being able to name congressional candidates in their district.² This will lead to unequal and disproportionate representation among the epistocrats, as only those who are privileged enough to access education will be able to join an epistocratic body. The objection claims that this would result in some groups' interests being prioritized over others. Due to a lack of appropriate representation across demographic lines caused by omnipresent structural inequalities, the objection asserts that we would still have a situation where the government would be advancing the interests of one group over another under epistocracy. If this were the case, then epistocracy would not meet the requirement of being better than democracy and as such should not be implemented. Epistocracy prioritizes political knowledge; the Demographic Objection argues that we can't do this at the expense of demographic representation.

I will now explain how Brennan responds to the Demographic Objection. Brennan argues that the Demographic Objection has two main requirements. The first one is that it assumes that voters will always vote for their own self-interest or that of their demographic group. Second is that those that lack political knowledge due to structural disadvantage are capable of voting for their own self-interest and would do so if given the chance. In both cases, he argues that the evidence he presented in an earlier chapter shows that both claims are empirically false. In the first case, he claims that voters prioritize the national good rather than themselves. In the second case, he believes that the disadvantaged citizens lack the political knowledge to be able to determine how to correctly vote to

achieve their desired outcome. This is what I will address later. He concludes his response by saying, “let’s treat the disease, not the symptoms.” Ultimately, he claims that a group of epistocrats that have the necessary political knowledge will perform better even if they do not proportionately represent the people because they would be in a position to recognize and change flawed systems.

Now, I will discuss what I believe to be at issue in Brennan’s reply to the Demographic Objection. I am not convinced that the second assumption Brennan names is in fact required by all forms of the Demographic Objection. In the basic form of epistocracy where the main structural change is that there is a test that citizens must pass to vote, it is highly likely that the group of people elevated to status of being able to vote would not be representative of the actual population. If there are issues where even among informed and technically competent voters their views vary across demographic lines, then the Demographic Objection is still relevant at this second stage. Without assuming that the historically disadvantaged citizens know enough to vote in their own self-interest, we still see that the Demographic Objection can present a problem at this later stage of epistocracy, after the test. Therefore, I believe that the Demographic Objection doesn’t require the second assumption as Brennan argues that it does, with the consequence that it may still pose a problem for various forms of epistocracy. This means that there is a secondary form of the objection to which epistocracy is still vulnerable. I will refer to this as the revised demographic objection and will now evaluate Brennan’s forms of epistocracy against it.

First, I will evaluate restricted suffrage. In this form of epistocracy, a competency test would be administered to the entire population and only the knowledgeable would pass.² The problem becomes clear quite quickly. Due to structural inequality, the epistocratic body would not be representative of the population and as such is vulnerable to unintentionally suppressing the interests of marginalized groups. I will illustrate this point further by providing data. For example, there are 21% of black women that achieve a bachelor’s degree by age 29, compared with 39% of white women.¹ If we correlate education with higher levels of political knowledge, which Brennan certainly seems to, then we can see that there is a possibility to disproportionately elect a large number of white women that could vote in a legislative body under epistocracy. Due to people’s experiences, which are heavily influenced by their backgrounds, it seems conceivable that these two groups would disagree about the best course of action, even if they have the same level of political knowledge. The educated black women would not be able to adequately advocate for the black interest due to the inordinate number of educated white women. Brennan does provide evidence that says that well-informed

people tend to have systematically different beliefs than poorly informed people, which he believes supports his claim that differences in demographic representation would not be significant.² But in his analysis of this data, he admits that this comes after it is corrected for demographic influence. This means that while informed people may agree on some policies regardless of demographic lines, their demographic background still influences them. This means we cannot eliminate the likely possibility that two informed epistocrats of different backgrounds would still disagree on a policy. This means that restricted suffrage is highly vulnerable to the revised Demographic Objection.

In the case of plural voting, it is very similar to restricted suffrage, which means it faces similar issues regarding the revised Demographic Objection. In restricted suffrage, voting is exclusive to those that pass an exam.² This is not always true in plural voting. One form that Brennan highlights, which comes from Mill, proposes that everyone gets a vote, but those that pass an exam or demonstrate competence in another form are given more votes, meaning that their votes are weighted more heavily.² Mill did not rely on the exam alone to demonstrate competence, but is using a similar definition of competence as Brennan and proposed that those with advanced degrees could be given weighted votes.² We can quite easily see how this would pose problems. Advanced degrees are highly correlated with race, as I demonstrated previously. This means that Mill's version of plural voting falls victim to the same consequence as Brennan's restricted suffrage – the interest of underrepresented groups would continue to be disproportionately suppressed. Plural voting does not adequately resolve the issue of representation after the exam because it still allows for disproportionate representation in the epistocratic body by using a similarly flawed method of demonstrating competence.

The next form of epistocracy I will evaluate against the revised Demographic Objection is the enfranchisement lottery. Brennan uses the form as proposed by Claudio Lopez-Guerra, which involves a twostep process.² First, he argues that the entire population should be disenfranchised by having their vote taken away.² Next, he would take a random but representative sample of the population, which is designed to combat issues of disproportionate representation in the epistocratic body.² This group would be subject to an education process to ensure their competence.² Brennan does acknowledge that the education process could influence voters and introduce bias, which I agree is a potential issue.² He also argues that the education process would be more difficult than finding competent voters, which I agree is also likely.² However, there is a more obvious issue with the enfranchisement lottery that Brennan does not introduce. In Lopez-Guerra's system, not everyone is guaranteed to become equally competent, possibly due to the difficulties in the education process or

their own lack of capability. Even if he starts with a representative sample of the population, it may not stay that way, because some historically privileged groups may become more capable than others. In which case it is victim to the revised Demographic Objection in the same way as restricted suffrage or plural voting. Even if everyone did become equally competent, the possibility for bias being introduced is still highly problematic as it could skew the body towards advocating the interest of one group over another. The issue here is that Lopez-Guerra does not solve the issue of disproportionate representation in the epistocratic body or create an environment with less socio-economic and racial bias than democracy.

Brennan also introduces the concept of universal suffrage with an epistocratic body that could veto proposals. In this form of epistocracy, everyone would be able to vote, and their votes would all be weighted the same.² There would be an epistocratic council, access to which is heavily restricted, that could veto any proposed legislation as it sees fit.² Brennan himself acknowledges that this is not dissimilar to forms of democracy as an example of the epistocratic body with veto can be seen in the US Supreme Court.² Access to the Supreme Court is so heavily restricted and is clearly tied to privileged status. Among the 60 justices that have served over the past hundred and twenty years, 40 of them went to law schools that were ranked 25 or higher nationally.⁴ Additionally, every justice in the past 50 years had a connection to an elite American institution in some way.³ Attending a highly ranked law school or being connected to one is heavily correlated to racial and socio-economic privilege. Of students at top 20 law schools, more than three-quarters of the students came from the economic top 25% of the population.⁵ As for the racial diversity of law schools broadly, Black students consistently receive fewer offers of admission than their white counterparts, and students of color receive fewer and smaller scholarships. With higher competence being tied to education through Brennan's threshold of socio-scientific knowledge, the Supreme Court does not avoid the revised Demographic Objection, as it is not proportionately representative of the electorate. It seems that any form of epistocratic council would have to involve an appropriately informed and proportionately representative group. It is possible that if this were the case, an epistocratic council could be a compromise between democracy and epistocracy, but the status quo does not inspire confidence in this possibility.

The final form of epistocracy that Brennan introduces is the one that I believe has the best possibility to avoid the revised Demographic Objection; the simulated oracle. Brennan likens this to Pythia, the ancient Greek oracle.² The ancients recognized her as imperfect but significantly more

knowledgeable and capable than themselves and so always followed her recommendation.² As a form of epistocracy, Brennan proposes that every citizen would be allowed to express their political preference in a sort of survey, where they also take an exam that measures competence and records personal data about their demographic.² This data would be aggregated and then made public.² A prediction of what a fully informed public would want would be made by aggregating preference data.² The survey would give the results of what fully informed people from all demographic groups would want in terms of policy. The simulated oracle would take the preference of the informed members of a demographic group and scale it up to their proportional weight relative to the rest of the population before giving a verdict. For example, if informed white people support universal healthcare, then the oracle would take the white preference into account as in favor of universal healthcare. This would be weighed against the preferences of other groups before rendering a final decision. We, as a society, would act on what the oracle decided. This form of epistocracy seems like it has the most potential to avoid the revised Demographic Objection because it would result in decisions being made by an informed *and* representative population. In all other cases, we have seen competence prioritized over other proportionate representation. The simulated oracle is the closest to guaranteeing both.

IV. Conclusion

In this essay, I have evaluated all forms of epistocracy that Brennan proposes. I have shown that for almost all forms of epistocracy, the revised Demographic Objection holds. These forms of epistocracy prioritize political knowledge over proportionate representation, which would result in the interests of many groups being disregarded or undervalued, as they do not meet the knowledge requirements, often due to systemic bias. However, one form of epistocracy, the simulated oracle, seems not to prioritize an informed epistocratic body over demographic representation. It allows us to have the benefits of an informed group in power but not at the expense of marginalization. The representation in the case of the simulated oracle is proportional to the population, based on pure numbers. While our representational democracy aims to do so as well, it is undeniable that socioeconomic and racial bias are interrelated and widespread. In this case, it seems that the simulated oracle would be able to outperform the status quo, which consistently disregards advocates of marginalized groups. Therefore, it is the one form of epistocracy that I believe avoids the revised Demographic Objection and meets Brennan's standard of performing better than democracy.

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The Exclusion of Classical Musicians from Streaming Revenue

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This paper examines how legal and contractual frameworks within the music industry exclude classical musicians from earning streaming revenue. It explains how public domain compositions, paired with work-for-hire agreements, concentrate copyright ownership in the hands of labels and orchestral management rather than performers. By comparing this structure to the film industry's system of residual payments, a possible alternative is presented for compensating ongoing artistic labor.

I. Introduction

In the 21st century, streaming services have become a standardized way to consume art and media. Platforms such as Spotify, Apple Music or YouTube Music have dominated the music streaming industry. Yet, how do classical musicians fit into these interfaces? There are a multitude of recordings by acclaimed orchestras on said platforms, yet the musicians who take part in these recordings often receive little to no ongoing financial compensation for their work. In an era where copyright laws define who owns and profits from music, this raises the question: Is this system fair, or should there be a change to how it works? One might be inclined to believe no, as classical musicians are excluded from streaming revenue due to copyright ownership structures, work-for-hire contracts, and the absence of widely negotiated residual systems that would recognize their performances as ongoing labor.

II. Argument

The process of artists and labels normally profiting through streaming services begins with the artist and a label drawing up contracts about their collaboration process, monetary agreements, and most importantly, arrangements regarding composition and master recording copyright. Composition copyright refers to the musical work itself, including melody, harmony, lyrics and arrangement rights.

On the other hand, the master recording copyright only covers the final recording produced. In many traditional recording contracts, labels often control the master recording while the artist themselves controls the composition copyright (Druckman). The contract that binds the owners of the copyright, paired with U.S.C. § 106 which states: “The owner of copyright... has the exclusive rights to... reproduce... distribute... perform... and display the copyrighted work...” (Cornell Law School) would lead to the owners then uploading the music on the streaming services to monetize.

The main difference for classical music recordings is that the composition copyright has expired and entered the public domain. According to 17 U.S.C. § 302(a), “Copyright in a work created on or after January 1, 1978, subsists from its creation and... endures for a term consisting of the life of the author and 70 years after the author’s death” (Cornell Law School), most music from standard classical repertoire would have already entered the public domain in the year 2026. As noted above, composition copyright is often the only aspect that belongs to the artist. Since that does not exist in most cases with classical recordings, master recording copyright holders, being the orchestral management and the label typically hold full control over the copyright and they compensate musicians financially under the legal term of “work for hire.” Musicians that play in these recordings are usually part of the orchestra in the first place, hired the same way any other company hires an employee, or treated as independent contractors if additional musicians are needed. Although some of these recording sessions take place in a studio session, it is still common practice to have these recorded during live performances. In 17 U.S.C. § 201(b) that outlines Ownership of Copyright, it states: “In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright” (Cornell Law School). From a legal standpoint, the musicians are effectively treated as contract laborers during the recording and in order to accept payment, they give up ownership of the recording.

In the end, regardless of how many listens the recording gets, all musicians involved have no legal claim to the revenue. Currently, the American Federation of Musicians of the United States and Canada (AFM), who represent over 70,000 musicians in North America, is one of the only organizations fighting to negotiate fair wages, proper ownership and better benefits for musicians in America. However, that is not the case for all related art forms. Drawing a quick comparison to the film industry, the Screen Actors Guild–American Federation of Television and Radio Artists (SAG-

AFTRA) and, prior to its rebrand, the Screen Actors Guild (SAG) protect the way film actors receive payment. In 1953, SAG realized that actors were not being compensated for the repeated use of their performances. Regardless of how many times a film was aired, the actors were only paid once. An agreement was made that same year with motion picture producers to promise residuals to actors. This allowed actors to receive continuous compensation when their works were shown beyond pre-negotiated terms, hence considered “ongoing labor.” This agreement then evolved alongside advancements in the way movies are shared to the public: in the 1970s with the popularization of DVDs, VHS tapes and cable TV reruns, and in the 2010s with the introduction of streaming services. This agreement was even extended to recorded productions of Broadway musicals and theatrical productions (SAG - AFTRA). Even though U.S. labor laws do not clearly define the term “ongoing labor,” unions and representatives bargaining for such treatment are protected under the 29 U.S.C. § 157 and 29 U.S.C. § 159(a), and refusal to bargain is unlawful, though employers are not required to agree to the specific terms, in accordance with 29 U.S.C. § 158(a)(5) (Cornell Law School). The existence of residuals in the film industry demonstrates that the inclusion of classical musicians from streaming revenue is not impossible, but rather similar protections have not been widely or effectively negotiated by the AFM in the context of classical recordings.

Inspired by the film industry, the music industry could implement a similar legal protection system that could protect and compensate musicians. If more light were shed on this issue, the AFM would be pushed to come up with a system that could recognize musicians financially every time their recordings are being streamed, broadcast, or reused in any way. In fact, such systems already exist in film and television scoring, where musicians are compensated through secondary market payments. Secondary market payments are residuals that are paid to musicians, orchestrators and music preparation personnel when a film or television show is reused in "secondary" markets such as streaming services, DVD/Blu-ray discs, airline exhibitions and airs on cable TV, after its initial release. The Film Musicians Secondary Markets Fund is the organization in charge of regulating and releasing such funds (FMSMF). This proves that an ongoing compensation for musicians is not only feasible, but already in effect in a different part of the industry. Using this as an outline, the same could be applied towards classical music recordings. Implementing this system would only redefine the way the industry works on contracts, but not necessarily alter the nature of the work itself, legally recognizing that classical music recordings have value within the digital marketplace and can generate revenue indefinitely for musicians.

III. Conclusion

In today's digital age, technology has evolved how classical music is distributed and consumed. However, the legal protection of classical musicians is out of date. As seen through the structure of copyright law, contractual agreements and labor protections, classical musicians are placed in a disadvantageous position where their contributions are treated as one-time labor rather than an ongoing work. Without a change to the way classical musicians are compensated for their contributions in producing recordings, they will continue to be excluded from the long-term value their performances generate, reinforcing the system's norm of excluding those who bring the music to life. If streaming defines the future of music consumption, then it is worth questioning whether the law should continue to overlook the very musicians who sustain it.

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Addressing Overdose Through Harm Reduction: A Policy Approach to Health Equity

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Amid rising overdose deaths driven by fentanyl and polysubstance use, this paper evaluates harm reduction as an equity-oriented public health policy response. Using epidemiological data, existing harm reduction literature, and a local case study from Rochester, New York, the analysis highlights how stigma and criminalization shape both overdose risk and policy implementation. The paper argues for formal policy support of harm reduction as a necessary strategy to reduce preventable deaths and health disparities.

I. Background

The United States continues to face an escalating overdose crisis, driven largely by fentanyl and other synthetic opioids, cocaine, alcohol, and polysubstance use. Healthy People 2030 is a federal initiative led by the U.S. Department of Health and Human Services that sets science-based objectives to improve the health of Americans over the next decade. It identifies preventing substance use disorders and reducing overdose deaths as a national priority, making harm reduction strategies central to public health goals.¹⁰ Nationally, overdose deaths surpassed 100,000 annually in recent years, reflecting the scale of this crisis across the U.S. population¹. This makes overdose prevention one of the most urgent challenges in public health.

Harm reduction refers to a set of public health policies and practices designed to minimize the negative health, social, and legal consequences associated with substance use, without requiring abstinence as a condition for care.² Rather than focusing on eliminating drug use, harm reduction emphasizes pragmatic, evidence-based interventions that reduce immediate risk and promote dignity, autonomy, and engagement with health services. This approach challenges traditional zero-tolerance models by meeting people where they are. Examples include syringe service programs (providing sterile needles to prevent infections like HIV and hepatitis C), naloxone distribution (a medication that

reverses opioid overdoses), fentanyl/xylazine test strips, and managed alcohol programs. Internationally and nationally, harm reduction is recognized as an evidence-based strategy that saves lives. The Cochrane Review on managed alcohol programs notes that while more research is needed, early evidence suggests that these programs improve treatment engagement, reduce risky drinking practices, and enhance social functioning.⁷ These findings align with Healthy People 2030’s focus on expanding harm reduction access as a way to reduce overdose mortality and improve health equity.

II. Localizing the Overdose Crisis: Evidence from Monroe County

In Monroe County, a small county in northern New York where Rochester is located, this crisis is particularly severe. Overdose deaths increased from 346 in 2021 to 512 in 2023, a nearly 50% rise in just two years⁶. This surge reflects the dangers of fentanyl (present in more than 83% of cases) and the prevalence of polysubstance use, with most overdose cases involving a combination of opioids, cocaine, alcohol, or benzodiazepines.⁶ In Rochester, the overdose crisis reflects deep inequities. In 2023, Black residents represented nearly 40% of overdose deaths while making up just 16.5% of Monroe County’s population. Men were nearly three times more likely than women to die from overdose, and victims ranged in age from under 20 to 85 years, showing that substance use affects people across all stages of life.⁶

Year	Total Deaths	Median Age (range)	Gender (%)	Race/Ethnicity (% of overdose deaths)	% Hispanic (any race)	Key Substances Present
2021	346	~47 (<20–80+)	Male: 74% Female: 26%	White: 65.9% Black: 31.5% Asian: <1% Other: 1%	~9.5%	Fentanyl: 83% Cocaine: 70%
2022	406	~49 (<20–83)	Male: 74% Female: 26%	White: 63% Black: 35% Asian: 1% Other: 1%	~10%	Fentanyl: 83% Cocaine: 73%

2023	512	50 (<20–85)	Male: 74.2% Female: 25.8%	White: 59.0% Black: 39.6% Asian: 1.0% Other: 0.4%	10.4%	Fentanyl: 83.4% Cocaine: 77.7% Alcohol: 31% Xylazine: 14.1%
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Figure 1: Overdose Deaths in Monroe County, 2021–2023

The patterns in Figure 1 show that the overdose crisis in Monroe County is deeply intertwined with broader social determinants of health. The disparities by age, race, and gender suggest that overdose is not simply the result of individual behavior but is shaped by structural inequities and environmental conditions. For example, the data reveal that overdose deaths disproportionately affect Black residents, who make up a much larger share of deaths compared to their share of the county population. This overrepresentation reflects the cumulative effects of systemic racism and unequal access to health services and safe environments. Similarly, the consistently high proportion of men among overdose victims highlights the ways that gendered patterns of drug use and barriers to care place certain groups at greater risk.

The presence of fentanyl in the overwhelming majority of cases, as well as the frequent co-involvement of cocaine, alcohol, and emerging substances like xylazine, underscores how the changing and unpredictable drug supply drives risk. These trends point to the urgency of harm reduction approaches that provide tools for safer use. Against this backdrop, Trillium Harm Reduction, based in Rochester, New York, plays a critical role in providing lifesaving services, support, and dignity to individuals and families affected by substance use.

III. Trillium Harm Reduction as a Community-Based Response

The mission of the Harm Reduction Services provided by Trillium Health, a community health center based in Rochester, is to be “safe, anonymous, non-judgmental⁹. This means every individual who enters their doors is treated with dignity, respect, and compassion. The organization operates as a hub for people who use drugs, their families, and the broader Rochester community. At Trillium, harm reduction extends beyond just a theoretical framework and is utilized as an everyday practice. Staff and volunteers provide essential tools, such as naloxone kits, fentanyl/xylazine test strips, syringe services, and connect clients to broader health and housing resources. Trillium promotes a stigma-free environment, which is vital for reaching those who are hesitant or fearful of

engaging with traditional health systems. Most importantly, clients are not required or expected to stop using substances in order to receive care, which allows Trillium to engage with a much larger demographic of users. Clients include individuals experiencing homelessness, long-term substance use, or unstable housing. Many are navigating complex barriers such as structural racism, trauma, or poverty that put them at higher risk for overdose. By offering a confidential and judgment-free space, Trillium allows clients to feel respected and supported, whether they are seeking immediate overdose prevention tools or longer-term pathways into treatment.

Trillium Harm Reduction's work exemplifies a broader shift in U.S. public health policy, moving away from criminalization and abstinence-only approaches toward harm reduction as a recognized best practice. Harm reduction acknowledges that substance use is shaped by the social determinants of health rather than individual behavior alone. By reducing the immediate harms associated with drug use, programs like Trillium also create opportunities for long-term healing and reintegration into the community. Policy support is critical to sustaining and expanding this work. Local and state governments can amplify Trillium's impact by expanding funding for naloxone distribution and fentanyl and xylazine test strips, supporting legislation that legalizes and protects syringe exchange programs, investing in managed alcohol and housing-first programs for people at the highest risk, and integrating harm reduction into mainstream healthcare and public health systems. Such policies align closely with Healthy People 2030 objectives and have the potential to reduce health inequities, prevent avoidable deaths, and decrease long-term healthcare costs. Supporting Trillium Harm Reduction ultimately means supporting a vision of Rochester where overdose deaths decline, stigma diminishes, and people who use drugs are seen as valued members of the community. Trillium's mission ensures that more lives will be saved and more individuals will have the chance to pursue treatment.

IV. Theoretical and Empirical Foundations of Harm Reduction

Building on the national and local context of the overdose crisis and Trillium Harm Reduction's mission to provide nonjudgmental care, it is important to situate this work within the broader body of public health research on harm reduction. While Trillium's approach is grounded in community practice, it is also strongly supported by a growing literature that frames harm reduction as an evidence-based, ethical, and equity-oriented intervention. In "Harm Reduction Principles for

Healthcare Setting,” author Mary Hawk outlines six key principles that guide harm reduction in healthcare: humanism, pragmatism, individualism, autonomy, incrementalism, and accountability without termination. These principles encourage providers to develop interpersonal relationships with the people they help, assisting in the acknowledgement that progress oftentimes happens gradually. Hawk and colleagues found that when providers adopt these principles, patients show greater trust and engagement, even if they are not ready to stop using substances². Trillium Harm Reduction reflects this approach through its commitment to being stigma-free and nonjudgmental. Staff respect each client’s autonomy and focus on immediate safety rather than abstinence, showing that harm reduction can create both trust and better health outcomes long term.

Research also highlights that harm reduction is most effective when led by communities themselves. Jill Owczarzak and others examined street-based peer outreach workers in Baltimore and found that peers viewed harm reduction not only as a survival tool but also as a way to rebuild dignity in communities stigmatized by drug use. Because these workers had personal lived experiences, they were able to connect with clients in ways traditional providers could not⁸. These relationships transformed harm reduction from a clinical service into a shared process of care. Trillium takes a similar approach, extending its work beyond the walls of the facility and into the community. Staff members regularly engage in off-site outreach, distributing harm reduction kits, warm clothing, blankets, and food throughout Rochester. These efforts exemplify meeting people where they are, both physically and emotionally. Many staff members are deeply rooted in the neighborhoods they serve, often recognizing clients on the street by name. This familiarity allows Trillium to create ongoing relationships that extend beyond service transactions. By combining on-site services with off-site engagement, Trillium reinforces the idea that harm reduction is not confined to a program or building, but is a living practice that thrives through connection and community involvement. Research provides further evidence for the effectiveness of harm reduction interventions through Levenson et al.’s systematic review of supervised injection facilities, “Supervised Injection Facilities as Harm Reduction: A Systematic Review”. The authors found that these facilities consistently reduced overdose deaths and the transmission of infectious diseases without increasing drug use or community crime. They also reported that people who used supervised injection sites were more likely to engage with healthcare and pursue treatment options⁴. These findings show how safe, accessible spaces can serve as an essential bridge between marginalized individuals and formal systems of care. Although Trillium does not operate a supervised consumption site, the underlying principle is the

same. The organization's harm reduction hub serves as a safe, nonjudgmental space where people can access sterile syringes, naloxone, and testing materials while also building relationships with staff who can connect them to additional resources, such as supervised injection sites in Rochester, if that's what they need. The focus is not solely on reducing overdose risk, but on creating a welcoming environment where clients feel comfortable returning and receiving care long-term.

However, it's important to note that research shows that not all groups have equal access to these services. Katrina Milaney's research, "A scoping review of opioid harm reduction interventions for equity-deserving populations," reveals that opioid harm reduction programs are often underdeveloped for women, racialized communities, and Indigenous peoples. They argue that equity must be central to harm reduction policy, as systemic racism and stigma continue to limit access to care⁵. This finding is especially relevant to Monroe County, where overdose rates among Black residents remain disproportionately high. Trillium's open-door policy, emphasis on anonymity, and active outreach efforts allow it to reach individuals who might otherwise avoid healthcare systems out of fear or mistrust. In this way, the organization reflects what Milaney and colleagues describe as an equity-oriented model that actively challenges exclusion through accessibility and respect.

V. Practice-Based Insights from a Harm Reduction Setting

Together, these studies show that harm reduction succeeds when it is relational, inclusive, and community-based. The literature mirrors what I've seen firsthand as an intern at Trillium. During my internship, I observed several moments that captured how harm reduction is practiced in real life. One such moment occurred during a routine syringe exchange. A client came in, greeted me warmly, and asked for clean syringes. A staff member brought him to the back room, where I was able to observe the exchange. The interaction felt natural and equal, like a conversation between two people who knew each other and shared mutual trust. They sat together at the same table, looking eye to eye in a way that emphasized respect instead of hierarchy. They discussed supplies openly, without shame or judgment. When the client left, he stopped to talk to my supervisor, addressing her by name, catching up about life outside of Trillium. It was clear he felt comfortable and safe in that space. This encounter captured what Hawk et al. describe as the principles of humanism and autonomy². The care he received emphasized respect and placed the power in the hands of the client. What struck me most was that engagement itself was the intervention. The environment, tone, and respect shown by the

staff made it possible for the client to return and stay connected to care.

Another example that stands out to me was when I shadowed my supervisor using a vein reader. A vein reader is a device that helps clients identify safe injection sites on their body by projecting a map of their veins onto the machine. From there, staff can draw on their skin and mark the safest places for them to inject. The woman who came in had a very specific set of circumstances: she preferred to inject only in the veins on her upper thighs or vaginal area, so the marks wouldn't be visible to others. Rather than questioning or judging her choices, my supervisor used the vein reader to help her find safe access points that fit her preferences. This moment demonstrated harm reduction's principle of individualism and autonomy. Every person's experience, body, and needs are different. Trillium recognizes this, allowing clients to maintain control over their decisions. Instead of imposing a single definition of what care looks like, Trillium's staff worked collaboratively with the client to find a solution that made her feel both comfortable and empowered. What connects these examples is the consistent way Trillium centers care on the client. Every interaction I've observed begins with a choice: a greeting of "Hello, what can we do for *you* today?" or questions like "What kind of syringes do *you* need?" and "Would *you* like any kits?" These small but intentional phrases place power in the hands of the client, making them active participants in their own health decisions. These moments became the foundation for how I started to understand harm reduction on a deeper level. What I initially saw as individual examples of respectful care eventually revealed themselves as part of a much larger pattern. Trillium's approach is not defined by isolated interventions, but by a consistent practice that places power and autonomy in the hands of the clients. Together, these interactions illustrate how harm reduction at Trillium operates through relational care. Whether through individualized services like vein mapping or through everyday exchanges, Trillium, as well as other Harm Reduction institutions, consistently centers the lived experiences of the people it serves.

VI. A Push for Policy Support

The evidence presented in this paper, alongside my own experiences, underscores that harm reduction is not a marginal or experimental response to the overdose crisis, but a well-supported public health strategy that warrants sustained policy backing. At both the national and local levels, overdose deaths continue to rise despite decades of punitive, abstinence-only approaches. In Monroe County, the rapid increase in overdose mortality demonstrates the limitations of criminalization-

focused responses and highlights the need for interventions that reduce immediate risk while addressing structural inequities.

Research consistently shows that harm reduction interventions reduce overdose deaths and infectious disease transmission without increasing drug use or crime. Importantly, public opinion data challenges the assumption that harm reduction lacks political feasibility. In a U.S.-based study examining public support for federal funding of harm reduction strategies, Kulesza et al. found that a majority of respondents expressed support for needle and syringe programs and supervised injection facilities when these interventions were framed as evidence-based and lifesaving. Their study, “Correlates of Public Support Toward Federal Funding for Harm Reduction Strategies,” further demonstrated that support was strongly associated with lower levels of stigma toward people who inject drugs and a belief that individuals who use drugs deserve help rather than punishment³. Similarly, a large population survey conducted in Canada by Wild et al. reinforces these findings. In “Public Support for Harm Reduction: A Population Survey of Canadian Adults,” the authors found majority public support for several harm reduction interventions, including naloxone distribution, drug checking, needle distribution, and supervised drug consumption services¹¹. Their analysis shows that personal familiarity with and reduced social distance of people who use drugs significantly increased individuals’ support for harm reduction policy. Together, these studies suggest that opposition to harm reduction is not fixed, but shaped by stigma and political framing. Community-based organizations such as Trillium Harm Reduction illustrate how policy support can translate evidence into practice. Trillium’s low-threshold, nonjudgmental model aligns with the core principles identified in the harm reduction literature, while also addressing racial and socioeconomic inequities that characterize the overdose crisis in Rochester. However, organizations like Trillium operate within fragile policy environments, often reliant on limited funding streams and subject to shifting political priorities. Without explicit legal protections and stable public investment, the reach and sustainability of harm reduction services remain constrained.

Policy support for harm reduction should therefore move beyond rhetorical endorsement and toward concrete institutionalization. At the state and local level, this includes expanding dedicated funding for naloxone distribution and drug checking technologies; removing legal barriers to syringe service programs; supporting managed alcohol and housing-first models for individuals at highest risk; and formally integrating harm reduction services into public health and healthcare systems. At the federal level, aligning drug policy with Healthy People 2030 objectives requires reframing substance

use as a public health issue rather than a moral or criminal failing. Evidence from both U.S. and Canadian contexts suggests that policies grounded in public health, rather than punishment, not only save lives but also reduce long-term healthcare and criminal justice costs.

As the overdose crisis continues to evolve, jurisdictions that invest in harm reduction infrastructure will be better positioned to reduce mortality, address health inequities, and build pathways to care for people who use drugs. Trillium Harm Reduction offers a local model of what is possible when policy, evidence, and community-based practice align. Scaling such efforts through formal policy support is a necessary step toward a more effective and equitable response to the overdose crisis.

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Do Prosecutors Respond to Fiscal Pressures from Local Governments?

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This article is an empirical insight into arguments made by Stuntz (2011), who argues that fiscal pressures on law-enforcing institutions will incentivize prosecutors to convict low-cost charges in response to budget constraints¹. Such analysis is necessary to analyze institutional structures that could solidify disparities between minority and nonminority imprisonment.

I. Introduction

In Virginia, discretion is explicitly assigned to the role of commonwealth attorneys (district attorneys) in the Code of Virginia §15.2-1627.1⁷. This kind of discretion may respond to the fiscal pressures from local governments and enforce low-cost felony charges when attorney funding begins to depend on local funds after exceeding expenditures past state aid. I also consider that prosecutors may feel incentivized to produce low-cost felony charges due to the possibility of higher state funding given by a staffing formula that can influence how much prosecutorial resources each county may receive by the state each year⁵. My analysis uses Virginia's circuit court cases from 2010 to 2020¹, and annual fiscal documentation for each locality of Virginia provided by the State in those same years². With this, I formulate a multivariate linear regression with charge severity as the dependent variable. I then visualize my analysis of the possible relationship between the amount that attorneys depend on the county to spend from local budgets, and what kinds of charges are output the following year between minority and non-minority groups. My results showed that there is no significance in the correlation between localities over-spending their state aid and the kinds of charges that defendants are facing in both racial groups in their respective circuit courts.

II. Background

In the United States, imprisonment rates for Black populations remain significantly higher

than those of White populations, and this overrepresentation of minority groups in punishment systems continues to remain true in the United States. Previous research has suggested that such overrepresentation may be, in part, a result of the ‘*selectivity*’ necessary for deciding which defendants will be facing convictions ⁴. This logic is present in Stuntz (2011), who provides an answer to how there could be millions of felonies annually, despite the number of felony convictions being small in proportion. He contends that, because the justice system can not financially support the conviction of all major crimes, it must contain the price to convict into a smaller fraction of serious crimes ⁴. He makes the contention that the financial burden felony convictions impose on the justice system is a reason why ‘*selectivity*’ is necessary to determine a smaller fraction of felony convictions ⁴. That, “The criminals who pay the highest price for their crimes will be those who are most cheaply caught and convicted” ⁴.

Virginia district attorneys and their circuit courts provide an opportunity to test Stuntz's claim at an empirical level. This is because district attorneys in Virginia are prone to facing fiscal incentives from the state to produce larger numbers of felony charges. This is through a staffing formula that can influence the amount of funding the state grants to each locality for its district courts (Vera Institute). The Staff Funding Formula is formulated: $((3\text{-Yr AVG felony defendants} + 3\text{-Yr AVG sentencing events)}) / (\text{Office size})$ by the Virginia Association of Commonwealth's Attorneys, and recommended to the compensation board ⁵. In addition, Virginia is one of the 39 states in the U.S. where prosecutors in local governments are directly elected by local voters, exhibiting a potential for prosecutors to practice discretion under possible electoral pressures. In both cases of the electoral and fiscal opportunities that exist, prosecutors in Virginia may practice discretion in their decisions. This can contribute to the kinds of felony and misdemeanor charges courts make a ruling on, due to the lack of authority within the states to review the kinds of charges they are deciding.

For this paper, I will focus on the fiscal pressures that may exist and incentivize cheap and quick convictions. In Virginia, localities report expenditures on the district attorneys that are oftentimes greater or less than the amount of state aid they depend on. With this information, the State may generate fiscal pressure on district attorneys when local courts' spending on prosecution exceeds state aid and becomes a financial burden to the local government. It is not known how prosecutors would respond to these pressures when there is no authority within the states to review prosecution decisions on what charges they are putting out. So I ask the question: will fiscal

constraints in Virginia influence prosecutorial discretion in their decision-making power, and how so?

On one hand, there are costs to the kinds of indictments brought to court from the time it takes to pursue investigation and complete the necessary labs for prosecution. These different kinds of charges vary in costs, and can even depend on what is considered necessary to prosecute. On the other hand, there can be benefits for prosecutors from this discretion where private preferences can be projected from electoral pressures onto the sentencing types of their convictions.³ With the potential costs and benefits that may come from their discretionary control, prosecutors must decide which charges to pursue, given a budget limited by staffing, time, etc.

Based on the prior research, I hypothesize that larger fiscal pressures from the state will contribute to a larger proportion of low-cost felony prosecutions annually due to concerns of budget constraints. I theorize that district attorneys plan on having a greater proportion of low-cost indictments when past years exhibit the county or city spending beyond the state-aid designated for prosecution. This includes spending from their own limited pool of resources. This is based on the assumption that more severe charges are less costly to indict, as opposed to minor charges. It expects that when budget pressures are high, prosecutors will seek to prosecute less severe charges on average. I would argue that these proportions of low-cost indictments will have a greater impact on minority defendants than non-minority defendants.

Before addressing the potential interaction between county expenditures and the fiscal constraints it may impose on their district attorneys, I verify with the court dataset utilized for this analysis that there is racial overrepresentation and disproportion in the convictions and the actual prison days defendants are serving. *Figure 1* represents the annual average, median, standard deviation, minimum, and maximum for the years defendants in each racial group (minority and non-minority) have served. *Figure 2* represents the same analysis, but instead, the convictions in years that prosecutors have attempted to convict defendants with in court.

Group:	Mean	Median	Std. Deviation	Minimum	Maximum
Non-Minority	0.70	0.65	0.38	0	5.07
Racial Minority	0.88	0.81	0.65	0	10.29

Figure 1

Group:	Mean	Median	Std. Deviation	Minimum	Maximum
Non-Minority	11.61	10.84	4.13	1.62	30.15
Racial Minority	13.49	12.46	5.72	0.06	40.02

Figure 2

III. Methodology

To the main article's examination, I look at 114 localities based on their completeness in court case data from Virginia's Supreme Court and budget documents from the Auditors of Public Accounts by the State, both of which from fiscal years from 2010-2020 (starting July 1st, 2010 and ending June 30th, 2021). For each locality I define these variables in our dataset:

- *county_responsibility* → $(\text{Expenditure-State})/\text{Expenditure}$
- *change_county_responsibility* → $\text{county_responsibility-lag}(\text{county responsibility})$
- *mean_severity* → the mean of either *prison_days* or *convict_case_severity*
- *change_severity* → $(\text{lead}(\text{mean_severity})-\text{mean_severity})/\text{mean}(\text{severity})$
- *fiscal_year* → the fiscal year of the indictments and budget document
- *minority* → dummy, coded as yes or no
- *lag_resp* → $\text{lag_resp} = \text{lag}(\text{county_responsibility}, \text{order_by} = \text{fiscal_year})$
- *locality_type* → locality is the name of the county/city, and type designates the locality as a city or county (e.g. *name_county* or *name_city*).
- *prison_days* → amount of days defendant actually spends in prison
- *convict_case_severity* → severity of charges sought at conviction

In our first regression model, I set the mean of *prison_days* equal to our dependent variable *mean_severity*, and divide this variable by 365 to represent years in the data set, set equal to the variable name: *mean_severity_years*. This is to model what had actually happened to the defendants, and look at the existing relationship of how county spending is practically applied to the amount of prison days defendants face.

I group by locality, type and minority to mutate a new variable, *lag_resp*, set equal to $\text{lag}(\text{county_responsibility}, \text{order_by} = \text{fiscal_year})$ which represents the outcome as a function of the past year. This helps determine the causation from the previous year's amount in *county_responsibility*, and how that may affect the year after charge severity (by the average of *prison_days*). I then utilize a multivariate linear regression to predict outcomes of the dependent variable, *mean_severity_years* with the following regressors: *lag_resp*, *minority*, the interaction between *lag_resp * minority*, the factor of *fiscal_year*, and *locality_type*. This displays the interaction without general year fluctuations, allowing me to isolate the effect of county responsibility and minority status independent of time trends. This regression model also includes *minority* as an interaction term to test differences in effects on county responsibility in the previous year, based on charge severity in the following year, between minority and non-minority groups.

Then, I form a plot that visualizes the rates at which the proportion of change in county responsibility from the previous year is in relationship with the proportion of the average annual prison days in the year after. This plot calculates the x-axis with the variable *change_county_responsibility* with $(\text{county_responsibility}) - \text{lag}(\text{county_responsibility})$, since $\text{lag}()$ will give us the previous year values. This plot displayed the y-axis with the variable *change_severity* with $(\text{lead}(\text{mean_severity}) - \text{mean_severity}) / \text{mean_severity}$ since $\text{lead}()$ would give us the forward looking change, the year following the previous. All values plotted resemble a percent value. This plot essentially shows how changes in county responsibility from one year to the next are related to the average prison days (severity) in the following year.

I then repeat the same procedure with the variable *mean_severity* representing the mean of a different variable from *prison_days*, called *convict_case_severity* which will tell us not what actually happened to defendants, but what convictions the prosecutors were trying to prosecute for each defendant, and the number of days in prison that a defendant would be charged for if convicted by the output of the prosecutor.

IV. Results & Discussion

The regression for the initial regression model with actual prison time defendants have faced, *Figure 3*, shows the very bottom of the $\text{stargazer}()$ model. Below is the tabled relationship between past county responsibility and actual prison time served in years. The interaction term

lag_resp:minorityYes has a small negative coefficient (-0.143) and is not statistically significant, which would suggest that the county responsibility from a prior year will not create a meaningful difference on the kinds of charges that minority defendants will face. The same analysis proves true for non-minority defendants as well.

<i>Lag_resp:minority:Yes</i>	-0.143 (0.113)
Constant	0.932*** (0.117)
Observations	2,284
R2	0.272
Adjusted R2	0.230
Residual Std. Error	0.473 (df = 2156)
F statistic	6.357*** (df = 127; 2156)
Note:	*p<0.1; **p<0.05; ***p<0.01

Figure 3

Furthermore, *Figure 4* plots the relationship between fiscal year-to-year changes in local government responsibility and the subsequent change in average charge severity between minority groups. Each point represents a percent change for the given locality and fiscal year in the dataset. Both general trends depict a very small negative slope, suggesting that as local government responsibility increases, the average severity of sentences tends to decrease the following year. However, the amount of noise and weak clustering of data around the line suggests no strong evidence, and can not be interpreted as a meaningful negative association between the axes as there is.

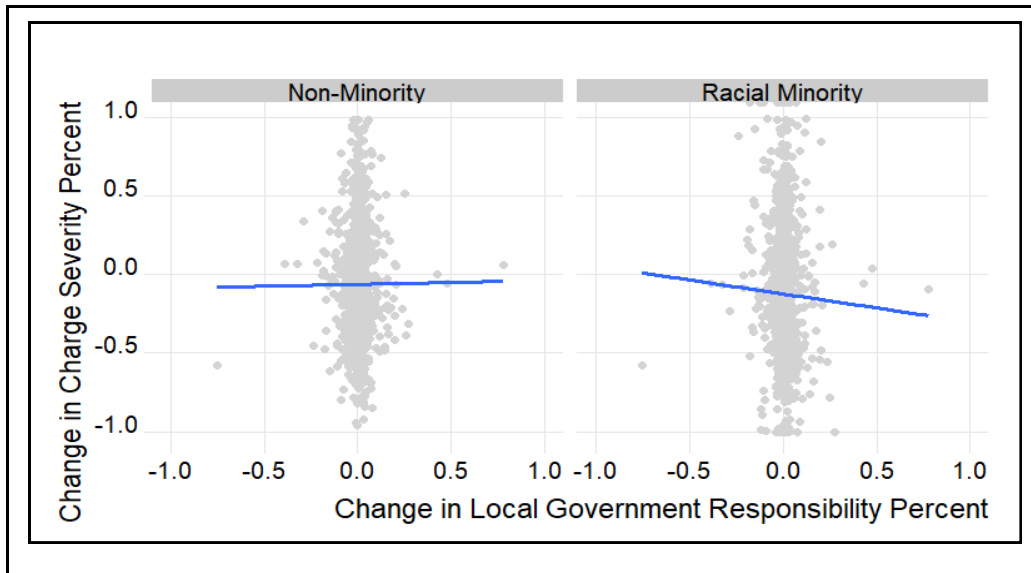


Figure 4

The results from the replicated analysis with the variable *mean_severity* representing the *convict_case_severity* variable, depicts similar outcomes in the regression table and plot as seen in Figure 5 and Figure 6. The coefficient for *lag_resp:minorityYes* in Figure 5 remains as a statistically insignificant negative value, meaning that change in county responsibility does not have a meaningful affect to the severity of convictions prosecutors pursue against both racial groups. Additionally, while the plot in Figure 6 may depict a slightly stronger native association in both racial groups, the overall relationship remains weak.

<i>Lag_resp:minority:Yes</i>	-1.1465 (0.998)
Constant	16.270*** (1.034)
Observations	2,276
R2	0.363
Adjusted R2	0.325
Residual Std. Error	4.177 (df = 2148)
F statistic	9.632*** (df = 127; 2148)
Note:	*p<0.1; **p<0.05; ***p<0.01

Figure 5

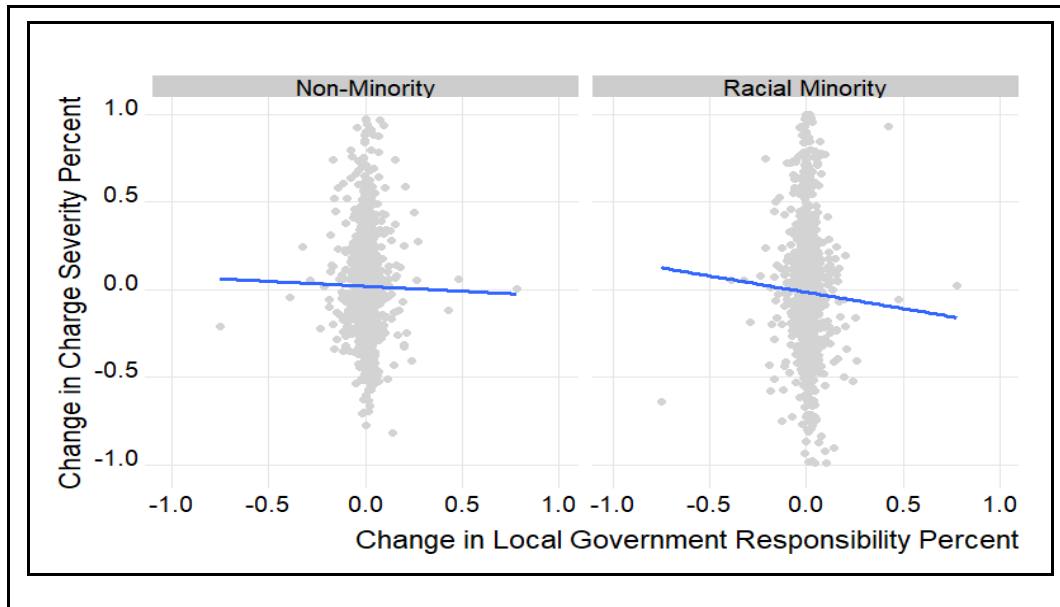


Figure 6

V. Conclusion

I can conclude in response to Stuntz arguments on prosecutorial sentencing possibly being affected by financial constraints, when considering current empirical analysis can show that there is little correlation between the two in the State of Virginia, and their circuit courts. Our hypothesis was that Virginian decentralized nature in prosecutorial discretion would open the door to greater vulnerability to listen to possible fiscal pressures. However, Virginia does not significantly show this possible correlation. Rather, while data analysis shows a difference in charge severity and fluctuations over time, the over-spending of the state budget that feeds from local funds does not seem to be a contributing factor. It is important to note that while the correlation between county responsibility and the severity by days of an indictment, the proportion of severity between racial groups remains an issue in the United States. Charges prosecutors are convicting on may shape the existing disparity between racial groups that are incarcerated, contributing to current day overrepresentation of minorities that are imprisoned, however the case of Virginia's circuit courts, state aid on their commonwealth attorneys, and local expenditures does not seem to be an incentivizing factor.

For future research, it may be necessary to reconsider the assumptions in which this existing research is utilized. Charges with less prison days would be quicker and cheaper is an implicit assumption this analysis depended deeply upon. Future research may look to find the

exact time it would take for a conviction and quantify that as a value to represent whether there are, or are not, greater amounts of quick and cheap charges when there are larger amounts of county responsibility.

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