# ANSWERS TO EVERYTHING

## General Summary of work completed to date

*Updated 4/19/2017*

The following presents an overview of the discussions held and results achieved by the local "Answers to Everything" SIG since the group began its weekly Monday meetings in January of 1997. It is intended for individuals who are interested in becoming new participants in our meetings, to help bring you 'up to speed' more quickly than you could by sitting through what would by now be a very lengthy in-person orientation, or by researching and reading all the dozens of reports that have appeared in the L.A. Mensa newsletter.

The Agenda as it currently stands is detailed in this document, along with the main discussions and preliminary decisions which have led to our ultimate conclusions. A shorter 'executive' version of this document is also available, which skips the discussions and preliminary decisions, and focuses only on the Agenda as it currently exists.

**IMPORTANT DISCLAIMER:** The statements appearing in this document represent only the views of the local Answers to Everything SIG and some/all of its constituent members, but they do not constitute opinions held by Mensa (or any of its subsidiary chapters), which holds no institutional opinions on any subject.

The mission of our SIG is to arrive at a comprehensive and non-partisan Agenda comprising solutions to all of the political, economic, and social problems facing America today.

The way that we do our work is to review a pre-constructed outline of around 800 Questions, dealing with all the aspects of our social order that we can think of. Even though the original Outline was prepared in advance, the group may always add or re-arrange questions as it sees fit, and skip others that it finds to be not applicable (usually as a result of certain Answers to prior Questions). This has already been done numerous times, and we anticipate that it will be done many more times in the future; the Outline is intended only as an initial framework to facilitate discussion.

The Outline begins with a few introductory Questions which address the need for taking on the project and the manner in which the effort should best be approached. The main portion of the Outline is divided into three Parts: Part I is for the political Questions, Part II is for the economic Questions, and Part III is for the social Questions. Each Part contains 6-8 Sections dealing with specific areas. Each Part and each Section is constructed to start with general Questions designed to establish some basic and global principles on which we can all agree, and then gradually to introduce more complex and specific issues as we develop the foundation to tackle them.

One other important 'ground rule' that should be remembered when reviewing this document is that all the Answers contained herein are subject to subsequent reconsideration and modification. It has already happened several times that the group looks at a certain Question, notes that the Answer to that Question depends on the Answer to a certain previous Question, and then finds that the Answer to that earlier Question needs to be re-evaluated. In these instances, sometimes the original Answer is upheld, and sometimes an argument is put forward that is

sufficiently compelling to cause the group to overturn the original Answer. When the latter happens, the group also reviews all subsequent Answers that may have been based on the Answer that was changed, and makes further adjustments as appropriate.

With that, here is the longer ‘General Summary’ of what the group has accomplished to date:

**INTRODUCTION**

Question 1

*Do we need to review our existing order at all?*

To address this, we observed that there are three factors which must be assessed in order to determine whether the investment of time and effort into this project is worthwhile, being (a) whether or not we are satisfied with the current political/economic/social order, (b) the extent to which we may be empowered to make changes in the current order, and (c) how badly we want to try to do so. We agreed fairly quickly that -- notwithstanding the fact that there are many things about our current order that we like -- there are yet many areas which could do with drastic and immediate improvement. We also found that, while there are certainly several groups and institutions which have a vested interest in maintaining the *status quo*, there are yet many methods available to us (particularly involving the Internet) to get the public's attention and to galvanize their interest in effecting the necessary improvements in our current order, and that we therefore may have it within our power to arrange to have certain changes made. Finally, we decided that we do want to put in the effort required to develop our Master Agenda, notwithstanding one attendee's observation that it is the "epitome of arrogance" to attempt such a project.

Question 2

*What is the best approach for building our Agenda?*

This took our group quite a bit of time, as we gave consideration to no less than four different approaches. "Plan A" (also called the "top down" or "whole-agenda" approach) was to present an outline of questions in three parts (as discussed above), where each part starts with some basic principles and general global questions, and gradually introduces specific structures and processes that we want to be implemented more locally. We also considered the "bottom up" approach, in which we would concentrate first on local problems and opportunities, moving to consider higher levels only when the lower levels were completely addressed; we rejected this approach because we found that so much of what can or cannot be done at local levels is limited by constraints placed upon them by higher jurisdictions, and that it would therefore be a waste of time to try to fix things at the local level until we first addressed the upper-level constraints. Some consideration was also given to the method (called by some the "band-aid" approach) where we focus only on specific problems in specific areas, instead of building an overall agenda; this was rejected (a) because different people have different initial perceptions as to what constitutes a problem, and (b) because even an institution or practice that is generally accepted as "good" may yet have room for improvement.

The approach which took the most time to evaluate was the so-called "parameter" (or "end back") approach. Instead of first defining the structures and processes of our society, and then stating how we want them all to work, this approach sought to identify all those economic/political/social factors or parameters which describe a "good" society, assign priorities and measurable values to each (e.g., given limited resources, is it more important to achieve a certain crime rate or a certain literacy rate?), and then build an organization that will be in the best posture to accomplish those objectives. The group adopted this approach after it was first introduced in January of 1997, and proceeded to build a list of 93 parameters, grouped into five main categories and multiple sub-categories. The next steps were to prioritize them by assigning "importance values" (1 being most important, 5 least) to each parameter (to give us a better indication of where a revised government organization should be focusing its efforts, given limited resources), and determine an ideal target for each. After attempting this approach for several meetings, though, we ultimately decided (in March of 1997) to abandon it and restore "Plan A", principally because several of the assigned values would be so obvious (why, for example, would we designate an ideal literacy rate of anything less than 100%, or a crime rate of anything higher than zero?), and also because an efficient structure should be flexible enough to accommodate different types of social needs, the establishment of such a structure therefore constituting the best use of our time.

Having finally settled on the "top down" approach of presenting an outline of questions going from basic to specific and from global to local, we then agreed that it is best to group similar topics together, and that it appears to make the most logical sense to address the groups in the order of political, economic, and social.

## PART I - THE POLITICAL ANSWERS

This Part of the Outline has six Sections: Basic Principles, Government Organization, The Election Process, Executive Structure, Legislative Operations, and Judicial Reform.

### SECTION I-A: BASIC PRINCIPLES

In order to be able later to achieve consensus on any complex or controversial topic, we needed to start with a point of common ground, on which everyone could be expected to agree. To do this, we found it necessary to go all the way back to some very basic philosophical questions, beginning with:

Question 3

*Are we even here?*

On this, we acknowledged that it may be technically impossible to disprove the notion that the entire apparent Universe is an illusion, but we found it to be extremely unlikely, and that the decisions that each of us appears to make each day also appear to result in the same feelings of pleasure and pain that we would experience if the Universe actually were real. Therefore, we have accepted as an operating assumption that we do indeed exist.

The next step (Question 3.5 (any question with a decimal was added to the Outline by the group after the discussion sessions began)) was to address the topic of free will. Here, we adopted another operating assumption, being that we do have

freedom of will, regardless of whether or not there are one or more transcendent beings floating around the Universe.

Another important ‘basic principle’ was established in Question 14, being that it is necessary for people to interact, not only because of the current extent of our population, but also because failure to interact with others may tend to result in severe neural dysfunctionalities. This principle is important for the subjects of both rights and government.

**Rights**

Questions 6-13 dealt with various aspects of human rights. After attempting with limited success to come up with robust answers to all of these Questions, it was "tentatively agreed" in June of 1997 to transfer them to Section III-A, on the theory that the topic of rights would be better addressed in the context of a social discussion than a political one. However, we later experienced difficulty in addressing the subsequent political Questions in the absence of a set of findings on human rights, so Questions 6-13 were restored to their original place in the Outline in October of 1997.

Question 6 asked for a general definition of a ‘right’. Even though there has been much literature over the centuries on the topic of rights, it has yet been non-trivial for us to come up with a solid definition of the term; our current working definition is "the freedom to take a certain action, or to receive or enjoy a certain benefit".

We have concurred that there appear to be two basic kinds of rights, being those which apply to all persons, regardless of where or how they choose to live, and those which are negotiated or legislated among members of a particular society. We have agreed to call these ‘natural’ (or ‘fundamental’) rights and ‘civil’ rights, respectively.

Any right -- whether natural or civil -- carries with it the right to waive that right, as freedom of speech carries with it the right to remain silent, and as the right to life carries with it the right to die.

The exercise of a particular right may sometimes imply certain responsibilities. Such responsibilities include generally the responsibility to respect the rights of others. However, they do not always include (if they ever do) a totally reciprocal repayment to society or other benefits providers in exchange for the benefits received. If they did, then there would not be a perceived net benefit in any transaction, and – from our definition above – where there is no benefit there cannot be a right.

Conversely, agreeing to take on certain responsibilities can sometimes entitle one to certain rights.

There was a great deal of discussion over Question 7, on which rights are ‘natural’ and which ‘civil’. Our initial position was that natural rights appear to extend to one's body, mind, property personally created, and any land to which one applies the first constructive labor, and that civil rights apply to all other facets of social interaction. When we brought Questions 6-13 back to Part I in October of 1997, however, we changed our position, and concluded that there are actually no natural rights at all, since any right -- even the right to life -- may (as far as we currently know, anyway) be legitimately abridged by government in certain instances.

This result was confirmed in October 1999, but it was overturned in January 2011. Our present position is that all sentient humans will feel victimized when certain benefits (such as either biological life or mental identity) are taken away against their will and without any provocative action on their part. Or, at least, they would feel that way in the absence of any social programming to the contrary. (While we are generally loath to speculate as to other people's states of mind, we yet feel that this is a safe operating assumption.) This means that there is some inborn nature within humans of all generations to feel this sense of unjust loss under such conditions.

This satisfies our definition of a 'natural right'. We are now holding that any right must be deemed a 'natural right' if we can safely predict that everyone in the world in all cultures and all generations will feel victimized at its usurpation, in the absence of active social programming to the contrary.

(During the course of the 2011 reconsideration, we defined 'victimization' as a 'condition imposed against one's will or by means of deception'.)

One other reason why we previously dismissed the idea of 'natural rights' was because we couldn't robustly identify a source for such thing if indeed it did exist. In the 2011 reconsideration, however, we noted that our inability to identify a source for something like natural rights doesn't necessarily mean that it doesn't exist, for the same statement could be made about the Universe as a whole.

Even though both natural and civil rights can legitimately be adjudicated or even abridged by civil authority under certain conditions, there still is a material difference between the two classes, such that the abridgement of a 'natural right' may require a higher standard of proof, additional procedures, a larger voting majority, etc. This confirms that the ability to abridge does not imply a total absence of natural rights, as we had previously thought.

The same natural rights which apply to humans also apply to all non-humans who possess the three requisite ingredients of sense of self, will, and sense of victimization. (Otherwise, all these natural rights would have had to come into existence suddenly upon the appearance of humans at 11:59 on the geological clock, and this seems counter-intuitive.) In other words, non-human animals have rights, too.

The existence of natural rights does not imply a responsibility on the part of all observers to intervene during an alleged violation. Protection against violation of natural rights is something which creatures can perform voluntarily, either out of simple compassion and/or in hopes that our own rights will likewise be recognized and protected when needed, but intervention is not morally required in every particular instance (if it ever is), particularly when a risk exposure is involved.

In March 2011, we completed the process of asking ourselves again for an entire listing of all 'natural rights', in a new reconsideration of Question 7. As we apply and possibly modify/expand this listing at any time in the future, we shall always have to remember that sometimes the entire global community within a given century was wrong as to such topics as slavery and gender inequality, so we must be careful never to ascribe as a 'natural right' something which only our current generation may think of as being one. It would have to be a truly universal perception, spanning all generations and cultures, at least among all thinking peoples going forward.

With that caution in mind, we have now identified the following as 'natural rights', listed in what we feel is the proper order of precedence, such that in case of conflict or limited resources preference is generally to be accorded to the lower-numbered items over the higher-numbered:

1) ***Sense of self*** – Whether we're talking about actual killing or simply a lobotomy, the knowledge that one exists as a living organism is our most precious possession, even more precious than freedom of will. It is common to virtually all animal species to try to maintain the existence of this gift for as long as we practically can, with only very rare exceptions. Thus, for any second party to come along and try to take that ability away from us – without any mandate or other provocative action on our part – is going to create a sense of violation and victimization among virtually all of us, so we think that it is fair to extrapolate this universal sense as a 'natural right' of which we are all instinctively aware.
2) ***Physical non-abuse*** – Somewhat less precious than the sense of self – but no less common to all animal species – is the need to be as free from physical pain and immobility as we practically can. Thus, we have decided that it is safe to project a universal feeling of victimization at the unprovoked abuse of one's physical body, such as the genital mutilation of women in Afghanistan, and the foot-binding of girls in China.
3) ***Parenthood*** – We have a natural right to reproduce, evidenced by the fact that Nature has provided us with the means to do so very easily. However, the natural right to reproduce carries with it a natural restriction that a population cannot get too high relative to its ecosystem, or else certain unpleasant natural calamities may arise.
We initially felt that a mother has a natural right of ownership/control over the child whom she gestates and delivers, until the child reaches majority (however that condition may be civilly determined), such that the child may not be appropriated without the mother's consent (mother bears being noted in particular for their militant exercise of this right), on the grounds that the mother is the principal 'creator' of that life. However, upon further reflection, we noted that not all biological parents of either gender share the same sense of victimization when their children are removed; some of them are only too happy to give their kids over to adoption or foster care at earliest op, or even to abort them prior to birth. As a result, it's actually <u>not</u> the genetic contributors who have the natural right of parenthood, but rather those persons (whether genetically related or not) who voluntarily commit to the contractual responsibilities of parenthood, for it is <u>they</u> who will very predictably feel a sense of unjust abuse when this child in whom they have invested so much effort and/or financial support is injured or appropriated without a relevant provocative action.
If the parental duties are divided in such a way that there is not one clearly-identifiable primary caregiver and principal decision-maker, and if those multiple caregivers disagree over some decision affecting the child's interests, and if some kind of harm is threatened to the child as a result of their inability to agree, then the case may need to be referred to civil authority for arbitration, but this does not mean that the parental rights in question have somehow degraded from natural to civil; rather, this would constitute one example of our previously-established principle that natural rights may occasionally require civil adjudication.
Whoever the *de facto* parents are, the child still has the same natural right of 'moral protection' against unprovoked physical abuse as anybody else,

and this right needs to be recognized and respected by the child's parents as well as by all other persons.

4) ***Property voluntarily created*** – Inventors and musicians and visual artists often create new works because someone else pays them to do so, and then those works arguably 'belong' to those patrons, a fact which the creators generally will not question. However, anyone who voluntarily creates any new thing (whether it is a physical object/development or whether it is a piece of artwork or other intellectual property) is almost always going to feel a sense of proprietary control over its disposition, and a sense of victimization if anyone tries to take control of said property without proper consideration. For, those things which we create voluntarily represent an exercise of our sense of self, which is defined by our existence and our thoughts and our voluntary actions. If the fruit of such voluntary labor is taken away against our will and without provocative action, then it is an attack on our sense of self, and therefore a violation of our natural rights.
   However, any physical or intellectual property is less valuable than human life, so this natural right is ranked below parenthood. Therefore, if you can take only one thing out of your burning house or onto the helicopter out of the country, take your actual child before you take your sculpture of a child.
5) ***Non-injurious self-determination*** – Virtually all humans and other animals on the planet naturally and instinctively prefer to have at least some measure of freedom over their movements and actions, and generally (although with some occasional exceptions) don't care to be restricted in their movements without due cause. We can therefore interpret freedom of movement as a natural right, but it must have a logical limitation at the injury – or other rights violation – of any of our fellow planetary residents, for a society in which anyone gets to kill or rape or plunder at will is no society at all. In order to keep ourselves free from injury, and thus maximize the quality of our own existence, we agree as a species (and this happens throughout nature, which is why we perceive it as an element of natural rights) to actively discourage injurious actions both by ourselves and among our neighbors.
   To recap the whole principle, every individual has complete control over his/her own life, and over what means he/she will use to survive (for those making that choice) and to maximize the quality of his/her life, except when such choices interfere with the rights of others. We have rephrased this as Resolution #1, that "every individual ought to be able to do anything that he/she wants, provided that such action causes no injury (or immediate threat of injury) to others". In answer to Question 13, we defined "injury" as "compromising a person's ability to do what they would otherwise be physically and legally able to do".
6) ***Biological killing of lower-order animals –*** Higher-order animals (including humans) have a natural right to kill lower-order animals for food, or for a biological necessity unrelated to food. We find evidence for this in the fact that Nature has provided some animal species (including humans) with teeth and the ability to digest meat, and also in the fact that we're seeing this happen in Nature all over the planet.
   However, killing animals for any other reason would fall outside the area of natural rights.

There may be other natural rights which we haven't yet identified, but the items listed above appear to be the most fundamental.

Pet ownership is not a natural right, principally because we don't see voluntary pet ownership (as distinct from essential parasitic/symbiotic relationships) in Nature, so it must fall outside the area of natural rights.

Generalizing from the first paragraph of item #5 above, it appears that all natural rights contain some natural restrictions, in that none of us gets to enjoy any of those natural benefits forever.

Parents and pet owners have a moral responsibility to release their children and pets upon apparent request, unless the parents/owners are judging in good faith with their superior intellects that continued protective custody is actually in the children's/pets' best interests. The same principle applies to trips to the doctor/vet, or any other action which a child/pet may protest, but which is actually in the child/pet's best interests.

It is theoretically possible for some species or populations to possess collectively most (and probably all) of the same natural rights and natural restrictions that apply to individuals, because Nature commits both beneficial and harmful acts to entire species and populations (such as the example of requiring parents to die as soon as they give birth, for the good of the species) as well as to individuals, and also because species can interact with other species just as we all interact with other individuals. However, in order for any species to have natural rights, that species must possess the same requirements -- i.e., sense of self, freedom of will, and a universal sense of victimization when the rights are violated -- as any individual would need, and our observation is that all terrestrial species fail to satisfy all three conditions, with the possible exception of modern humans. Other species may be said to have collective consciousnesses which drive both their common perceptions and their common reactions (based on the behaviors that we observe in certain flocks and schools and colonies and other large animal groups), but we don't see quite enough group awareness on the part of other species to conclude that any of them would feel a collective sense of victimization when any of their alleged natural rights are allegedly threatened, either by Nature or by some other species, although of course such an ability could evolve in some species later.

Human beings may be able to do that now, with their advanced intelligence and electronic social media, but against whom would we ever assert a violation of natural rights, and to whom would we offer such an appeal? We may or may not universally feel that an epidemic disease or oncoming asteroid or other foreseeable natural disaster as being an 'unfair' act on Nature's part *per se*, but we still would be moved to attempt to counteract such effects out of simple self-preservation. However, some time in the future, we might conceivably have some cause of action against an alien species, which case would then need to be referred to an intragalactic body such as the previously-fictional United Federation of Planets.

**Government**

Given from Question 14 that it is necessary for people to interact, we now find that some amount of government is necessary to supervise the interaction, because human rights need to be enforced somehow, and because there will always be some people -- no matter how fair and equitable the socioeconomic structure is -- who will try to take unfair advantage of others, and obtain the benefits of a quality life without putting in their share of the work needed to produce them. Our original

answer to Question 17, then, was a 'yes', that we do need to have some kind of government.

From late July to early September of 2001, we looked at this area again, focusing on the specific topic of human corruption. In particular, we considered whether there may be ways to mitigate human corruption such that the premises relied upon to produce a 'yes' answer to Question 17 would no longer be applicable. We found that promoting wideness of perspective, making people feel important within their society, and keeping sociopolitical operations open may tend to mitigate corruption. However, we also identified several key concerns in this area, being (1) that whoever would be doing the mitigating would themselves be subject to corruption, (2) that people's perceptions of good and evil are relative, (3) that many people instinctively look for the easiest solutions to their personal problems, and (4) that relatively few people would even be aware of the interests of the overall society, much less be willing to subordinate their own personal interests to them.

In seeing if we can yet mitigate human corruption, we found (a) that people have two basic kinds of interests, being direct self-interest and societal interests that may indirectly inure to self-interest; (b) that there will inevitably be some clash between these two sets of interests; (c) that people have a fundamental biological impulse to survive and to maximize the quality of their lives; and (d) that that impulse will frequently/generally give direct self-interests a precedence over any clashing societal interests. We concluded that there will always be some people who will want to advance self-interests at the expense of societal interests, and that this appears to satisfy our working definition of 'corruption'.

However, this principle does not apply if societal interests are being furthered at the expense of one’s natural rights, such as when someone wants to destroy an entire village and kill its uninfected inhabitants in order to stop some disease from spreading. To rephrase: When society is committing or threatening a violation of one’s natural rights, the act of attempting as an individual to assert and protect those natural rights is a natural reaction common to most humans and other animals, and therefore does not constitute an act of corruption.

It was suggested that we should have some organization with sole power to fix/mitigate corruption, but that such organization would need to be monitored by the people, who should have ultimate power to authorize or de-authorize that agency. It was also noted that this is essentially what government is, though it was also agreed that we should be careful about our use of the term "government" in this context, since that buzzword may carry certain undesirable preconceptions about the organization's role, structure, or functionality.

We also found that even a society which did not have corruption would still need a public organization of some kind, whereby decisions to improve everybody's quality of life could get made and implemented. We therefore finally agreed that -- with the retroactive replacement of the word 'government' with the phrase 'public organization' in the text of Question 17 -- neither the answer to Question 17 nor the answer to any subsequent Question needs to be changed at this time.

Question 18 was what the role or scope of such government (or 'public organization') should be in modern society. Initially, opinions ranged from a completely minimalist government, whose powers would be strictly limited to only those necessary to protect individual rights, to a police state that could "control" people whose personality and/or behavior patterns failed to conform sufficiently with the rest of

society.  After extensive discussion, the consensus developed that government at any level must be responsive to the needs and desires of the community at large, or else it defeats the purpose of its own existence.  However, people's needs and desires are bound to be different in different areas of the world, and will also likely change over time.  It is reasonable, then, that there should continue to be multiple governments around the world, each with its own role and scope, to be determined by the people whom those governments serve.

Our answer to Question 18.5 is that if some government passes a law that I think is unfair, excessive, or otherwise inappropriate, then I should be allowed to disobey it, provided that I can demonstrate to a court of competent jurisdiction that I should be exempted from that law, for whatever reason; if I fail to make my case, then I am subject to the same reprisals as any other violator.  In order to reach this conclusion, we also had to treat in advance a couple of additional Questions originally placed later in the Outline; on these points, we concluded (a) that no harmful 'bad act' can properly be excused on the claim of being part of a religious practice, and (b) that judicial review/modification/invalidation of legislation shall be subject to veto by the legislature.  (Details of this process were worked out in June 2013, and appear in Subsection I-F-3 of this outline.)  Thus, if I convince a judge to throw out a certain (allegedly) bad law, the legislature will be given an opportunity (generally within a limited time frame -- again, details appear in I-F-3) to assert its authority and original intent; if they fail to act, or if they uphold the judge's ruling, then the law remains modified/invalidated (and/or goes back on the legislative calendar for formal adjustment), and I go free; if they uphold the original law, then the judgment is overruled, and standard procedure applies.

In Question 19, we considered the possibility of a one-world government, and concurred pretty quickly (in September 1997) that there should not be one single government controlling the entire world, for the reasons already mentioned (in the discussion on Question 18), and also because a single government could easily fall into the hands of corrupt individuals, with no alternative society available to which oppressed people could escape; this result was confirmed in October 1999.
We considered the possibility of a borderless or partially-borderless society, and concluded that governments should continue to have control over specific geographic regions, since there is no motivation for an isolated individual to obey the rules of a distant government, and little or no basis for forming such rules in the first place, in the absence of common geographic issues.  We rejected the idea of drawing new international borders completely from scratch (as being patently unworkable), and accepted the borders that we currently have, allowing any future changes to be recognized by an 'international oversight organization', the features of which we treated in Questions 26-32.

For the purposes of these discussions, a 'country' is defined as a land area with a specific border that has a national government in place to manage its affairs, and that has been recognized by the prevailing 'international oversight organization' (see below).  We also agreed that countries do not need to have any particular minimum size.

**International oversight organizations**

We agree that there should be some sort of 'international oversight organization' (or "I.O.O."), similar to the current United Nations, to serve as a central body for addressing issues affecting the entire world, or large areas of it.

Initially, we felt that any I.O.O. should be of an advisory and diplomatic nature only, and have no actual legislative or enforcement power, lest it turn into a one-world government; our original answers to Questions 27-32 (and others) were based on that conclusion.  We later discovered, however, that this sort of environment was becoming increasingly problematic for us, and we agreed in May of 1999 to formally reconsider and change our answer to Question 26, and allow the I.O.O. to have some limited legislative authority, to protect the rights of one country from being abused by another country (pursuant to Resolution #1A, which is a corollary to Resolution #1 as applied to countries – i.e., "every country ought to be able to do anything that it wants, provided that such action causes no injury (or immediate threat of injury) to any other country"), but with sufficient checks and balances in place to prevent the I.O.O. from effectively becoming too much of a one-world government.  Once this decision was reached, we reviewed all the answers that we had subsequently developed, changing some to accommodate the new answer to Question 26, and finding that others continued to be acceptable as they were.

Our current positions on the remaining I.O.O.-related questions are as follows:  The I.O.O. will have jurisdiction over the entire world, and not just those countries who choose to be members.  The I.O.O. shall not have the power to exclude countries from membership, though they may refrain from recognizing new states that result from the breakup of larger countries (especially if it appears that the country is breaking up solely to increase representation in the I.O.O.); if, however, it appears that a particular detached state is likely to continue to be fully operational as a separate country, then it is in everyone's interest for that new country to be recognized with dispatch.  There should be a neutral territory for I.O.O. headquarters, to minimize the perception or reality of favoritism.

The I.O.O. should comprise three houses, one having a single delegate from each country (as does the current U.N. General Assembly), one with proportional representation based on population (i.e., total population, not number of voters, since some countries may not have any popular elections), and one with proportional representation based on geographic area.  Countries too small to have a delegate of their own in either or both of the latter two houses may combine with neighboring countries to have a regional delegate.  (We have constructed a sample table of 200 delegates for the population-based house, of which the U.S. would have 9.)  All houses will elect their own leaders, and there will be a steering committee to determine which house(s) should review each issue, and an executive committee to decide issues affecting the I.O.O. itself.

Enforcing arm should be staffed by member countries in proportion to their respective military strengths, and may enact reprisals against countries or other organizations crossing a border with military force, or imminently threatening to do so.  (In January 2003, we defined 'crossing a border with military force' as "any attack launched in one country's name against the territory of another country", but we considered in October 2010 that such definition may exclude 'terrorist' organizations or other organizations operating only in their own name, so we are no longer observing this definition.)  Countries with 'terrorist cells' or other internationally-belligerent organizations operating within their borders therefore have a motivation to proactively seek out and suppress them, lest they incur the I.O.O.'s severe displeasure.  Involvement of I.O.O. in alleged violations of human rights shall be limited to alleged violations of 'natural rights', and shall also be limited to making sure that people who wish to leave such a country are permitted to do so.  When airlifting refugees from a hostile national government, the I.O.O. will do what it practically can under the circumstances to rescue pets and unattended children also

(way too many pets got left behind following Hurricane Katrina!! – they are sentient beings, too, and adopted family members whom certain people care about almost as much as they care about their human kids), or any children whose parents explicitly wish for them to be evacuated, but we can't promise that we will always have these resources available in every such instance. In case of limited resources, however, preference should generally be given to rescuing children over rescuing pets.

Funding of I.O.O. operations shall be in proportion to total number of delegates from each country, and I.O.O. debates are to be removed from public view.

Added in February 2003: The I.O.O. may use any of several means to communicate to all people in the world that they exist, and that they are available to transport people out in instances of alleged human rights violations. The I.O.O. should probably rotate any military personnel stationed at local embassies, in order to mitigate the possibility that they'll turn into a renegade independent military force. Helpful if personnel stationed locally are familiar with local language and customs, but not strictly necessary, provided that local diplomatic personnel are.

Added in March 2003: OK to have a central headquarters for the I.O.O., but should also have satellite offices around the world, in case the HQ gets knocked out by military attack. A telecommunication line should be set up to provide quick notification of hostilities or other severe trouble, and the line should be linked to all satellite offices, so that a message that goes to one office gets to all the others.

Also added in March 2003: Since decisions on military retaliation may need to be made before all the delegates in the applicable house(s) have a chance to convene, good to have an 'action committee' for defense, which can make quick decisions that will be subject to ratification or overrule by the full assembly. This 'Defense Committee' should have at least 8 delegates actively participating (so that good-quality decisions get made), but no more than 15 (so that decisions can get made fairly quickly). The 15 total members of the Committee (who are appointed to 6-month terms on a rotational basis) will be divided into five shifts of three delegates each; the five shifts have staggered 5-week schedules, including three consecutive weeks of 'on-call' time (during which the delegates are expected to remain within 15-30 minutes of the committee's headquarters at all times) and two consecutive weeks of 'off-call' time (during which they can go wherever they want, but may still participate in deliberations if they happen to be at hand when the Committee meets). Thus, there will be 9 delegates 'on call' at any one time, and we can still rely on the quorum of 8 in case someone gets stuck in an elevator or something.

**Citizenship**

By far the most complex question that the Answers to Everything SIG has treated thus far has been Question 21, on whether an individual needs to identify himself/herself as being a 'citizen' of a given country, or whether there can/should be such a thing as 'dual citizenship', or whether an individual may be a citizen of no country, or whether we need any kind of citizenship at all.

This question was first taken up in April of 1998, after we completed our first pass through the I.O.O.-related questions, and took 10 months and 14 meetings to finish. In the course of evaluating this question, we came up with a total of 13 possible reasons for which the institution of citizenship might be used, including disease screening, protection in foreign countries, tax revenue, governmental participation, and others. For each of these, we determined either that the stated goal is

potentially destructive, or that it could be met without the institution of citizenship, or that it was invalid for some other reason.

We also came up with a total of 7 possible reasons to eliminate the institution, two of which reasons we invalidated, and three of which we found to be valid and internally consistent. These include (1) that elimination of the institution will improve people's freedom of choice, by allowing them to move about the world more freely, as we currently move about the States, (2) that the institution of citizenship is unfair to non-citizens by arbitrarily locking them out of certain resources and services, and (3) that elimination of the institution will encourage more people to migrate to the most popular countries (as occurred when so many East Germans migrated to West Germany after the Berlin Wall was removed), so that the other governments will have an opportunity to see what systems appear to work best. The other two possible reasons were found to merit further research, but we yet determined that we had enough information at hand to conclude that the institution of citizenship should be eliminated, and we so concluded in February of 1999.

We reviewed the citizenship model in June of 1999, after completing the changes to our answers on international oversight organizations, and found that no changes to the model were needed. (In fact, we noted that the model is even more robust in the presence of an I.O.O. with limited legislative authority.) We considered the question for a third time between November 1999 and March 2000, after a couple of new attendees suggested that some of our findings may have been flawed; again, we found that we did not need to make any adjustments to our model. We looked at it yet a fourth time between January and February of 2002, in response to some new members' concerns over the possibility of zoning ordinances being markedly different on either side of a given border; however, no logical flaw was identified in our original rationales, and no compelling reason was found to overturn our original conclusions, so they continue to stand.

In the course of considering Question 21 the first time, we also reached a preliminary conclusion on a question that was originally scheduled to be taken up as part of Subsection I-D-1; specifically, we agreed that each country -- including the United States -- should have one and only one official language, regardless of what we do with the institution of citizenship.

**Secession and treason**

We originally treated Questions 25-25.7 in April of 1999. When we reviewed our Answers in June of 1999, following our adjustments to the I.O.O. model, we found that no changes were needed. Our finding is that any segment of any jurisdiction may secede from its parent with approval of such action by a 2/3 majority of the seceding group. In this context, "treason" has been defined as any action which is intended to undermine or subvert the existing government by a resident of that jurisdiction, not including the encouragement of secession. Penalties for treason should be among the stiffest available, though we elected not to get more specific than that at this point.

**International relations**

Peaceful transfer of territory between countries may be arranged without I.O.O. approval, if and only if such transfer is consensual among all affected countries. Individual countries may submit border disputes to arbitration by the I.O.O., though localized peaceful negotiations should first be given every chance to succeed.

Multilateral treaties may be enforced by the I.O.O., though we shall require each house that is assigned to consider a particular policy statement to approve same by a 2/3 majority in order for it to carry.  Neither the I.O.O. nor any individual country may incur into another country because it disapproves of that country's form of government.  An individual or consortium may purchase all or part of a country if approved by 2/3 of the affected residents.

Added in February 2003:  In general, a country may react unilaterally to any actual military incursion (including through the introduction of biological weapons) across its border, and/or appeal to the I.O.O. to take appropriate countermeasures.  If there is sufficiently compelling evidence that an attack is immediately imminent (including by a 'terrorist' or other organization acting independently of any particular country), such that there is insufficient time to obtain I.O.O. authorization, a country may act unilaterally to prevent the attack, but they had better be in a position to justify their actions before the I.O.O. later, or else be subject to retaliatory action themselves. Otherwise, such matters should be left up to the adjudication of the I.O.O., which derives its power from the delegates of all the member countries, and which therefore may be subject to de-authorization if it should happen to become overly corrupt.

**American government**

Having addressed all of the Questions in our Outline about politics on a global scale, we began to direct our attention specifically to how we want things to look in America.  To begin with, we addressed the general philosophical question of what sort of country we want to have in America.  Not surprisingly, we agreed to retain many of the elements to which we have become accustomed, including maximum personal freedoms, representative government, equal voting weight for each person (regardless of personal wealth), a free-market economy, and a federal system of government where many functions are devolved down to lower levels (to allow for more variety and improved efficiency).

We also agreed that we want to see more political and fiscal accountability, more enforcement of campaign promises, and less attachment to the idea that America should be the "watchdog" of the world.  Not yet clear on the extent to which government should be involved in providing consumption-based entitlements, but this can be addressed more specifically in future sections; there was favorable preliminary reception, though, to the idea that such matters may be left up to individual States and localities to decide for themselves.

**SECTION I-B:  GOVERNMENT ORGANIZATION**

With that, we began Section I-B of our outline, on Government Organization. Confirmed that we want neither a completely centralized government nor a completely de-centralized one, but rather a federalized government, with different functions assigned to different levels.  No change recommended in existing State boundaries.  To change a State boundary should require a 2/3 majority of the affected populations; to break up a State should also require majority approval of the national legislature.  We introduced and adopted the concept of "subsidiarity", which says that -- in general -- functions should be devolved down to the lowest levels that can adequately manage them.  We then did a preliminary breakdown of which functions should be handled at the national level, which at lower levels, and which at both.

Next, we dealt with a few Questions on Territories, defining which types of areas should be under direct federal control (being national parks (though we probably will reconsider this later, after we do some further research), federal buildings and grounds, the District of Columbia, and any area unable to manage itself as a State), the procedure by which that determination is to be made in specific cases, and what rights (including as to legislative representation) a Territory should and should not have, with certain exceptions for the District of Columbia.

We then introduced the concepts of Counties and Cities. Counties were defined as essentially regional administrative arms of the State, and Cities were defined as specific geographic areas where (1) certain laws could be enacted regulating (or refraining from regulating) acts and behaviors which have no effect on higher levels, and (2) certain small-scale administrative functions (parks, libraries, etc.) could be managed, without bothering the higher levels. Once this was established, Question 48 called for us to refine our model of which functions should go where, assigning each designated function to either Federal, State, County, or City, or to some combination of these; we also noted, however, that this model is only a recommendation, and that individual States and/or communities may decide how their administrative functions are to be handled, based on their own collective needs and desires.

The last Question in Section I-B was Question 49, on whether we are happy with the basic set-up of the federal government as outlined in the Constitution. Here, we agreed to incorporate the Constitution into our overall model, though we also agreed that there are certain specific elements of the Constitution that we might like to change, when we get to the appropriate Sections of our Outline.

## SECTION I-C: THE ELECTION PROCESS

In July of 1999, we began our review of Section I-C. There are five Subsections in the main part of this Section, being (1) Parties, Apportionment, and Voter Registration, (2) Qualifications for Office, (3) Campaign Reform, (4) Voting and Tallying, and (5) Recall Procedures.

This Section also contained some introductory Questions which treated the general methods by which an individual could be selected to fill a particular position in government. Of all the possible methods (we identified 13), we found popular election, appointment by higher levels, and selection by peer panels to be the most viable. In the course of considering which selection method should apply to which type of function, we adopted Resolution #2A, that "Most or all legislative and senior executive government positions should be filled by individuals elected by the general populace, the will of the majority of the electorate being the best determinant of who should serve in which capacity", and Resolution #2B, that "Most or all subordinate executive government positions should be filled by appointment of higher levels, candidates for such positions to be nominated and/or screened by peer groups as applicable." Each jurisdiction should have a constitution or charter that specifies the actual selection method for each position or class of positions in that jurisdiction; each constitution/charter should also specify the mechanisms by which that document may be amended.

When we reviewed County administrative operations in May of 2006, we found counties to be an exception to the normal process of selecting the head of government: Instead of being elected by the people, the County head should be appointed by the elected legislature.

## Subsection I-C-1: Parties, Apportionment, and Voter Registration

Parties

The first topic in this Subsection was the extent to which political parties may be considered a healthy and viable component of the modern political environment. To address this question, we identified 12 potential purposes for which political parties could be used (including narrowing the selection field for a given office, filling special positions within legislative bodies, and "keeping score" for voter registration and/or actual elections). Of these, we found that eleven of the items on the list are potentially destructive to the political process, and that the potential benefits of the remaining item (being to band together to increase political power) do not outweigh the detrimental effects of the other 11. We therefore adopted Resolution #3, as follows: "Candidates for office may choose to attach themselves to one or more organizations to help with fundraising, publicity, and other such chores, but such affiliations should not appear on any ballot, and should not factor into the filling of any office within any legislature."

Apportionment

Questions 63-69 of our Outline dealt with the process by which the boundaries that define legislative districts are drawn. Our first conclusion here was that State election offices -- and not the Federal government or any political party -- should have control over line-drawing at all levels.

Specifically, we are recommending that each State convene a panel comprising a number of individuals equal to the number of national legislators from that State, and that these be apportioned among the several Counties of the State, according to population. The panel will construct apportionment plans for both State and national representation. The panel will submit their plans to the Governor for approval; if the Governor vetoes any of the plans, the panel may override the veto by a 2/3 vote. State judiciaries may throw out a given plan only if it specifically violates one or more applicable laws, not just because it is allegedly unfair to a particular demographic; however, the laws of a particular State may allow the judiciary to rule on certain limited exceptions to the basic rules.

Guiding principles for drawing the lines should include compactness, simplicity, and similarity of community makeup. Three specific rules tentatively to be imposed on drawing committees include (1) that each district shall have no more than eight line segments (where a river, coastline, or other natural boundary counts as a single line segment), (2) that there shall be no concavity in any district (again, except as dictated by a natural boundary), and (3) that the square of the longest straight-line distance in each district must be less than three times the total area of the district.

Voter registration

Agreed that registration continues to be important even in the absence of political parties, in order to prevent duplication and voter fraud.

Extensive discussion on who should be permitted to register to vote, with final determination as follows: By the chronological age which will be determined in Section III-C (on Education) as being the standard graduation age for primary/high school, all persons shall be entitled to register to vote; younger persons may also

register if they pass a testing requirement on the structure and processes of government. There shall be no chronological age after which the franchise shall be taken away, nor shall we require periodic re-certification after a certain age. The franchise may be taken away as a result of conviction of certain serious crimes, the exact duration of disenfranchisement to be determined by a judge or jury as part of the normal sentencing process. Those with apparent mental illness may vote if they demonstrate minimal awareness by being able to sign the register. One may vote only where one lives as of Election Day, though one may participate in campaigning activities in other precincts. Each eligible voter shall be entitled to the same full voting power as every other eligible voter.

Re-registration shall be required if moving to a different jurisdiction of the government level which maintains voter records (this function was assigned to Counties in September of 2002, so moving to a different County would require re-registration); one may also re-register if moving within the same jurisdiction (i.e., the same County), but an address change can also be engineered by showing proof of new residence when voting, using the standard "provisional ballot" procedure. Proof of current residence shall always be required when registering or re-registering, and every effort shall be made to cross-check and delete previous registrations; better communication shall exist between the Registrar and the Coroner, to facilitate removal of deceased persons from the register.

Voters may be flagged as inactive if they haven't voted within a certain number of elections or years; such individuals may still vote, but only if they show proof of current residency. State legislatures may decide the actual term which has to pass before a voter is declared inactive, but our recommendation is ten years. District apportionment shall be based on population, not on the numbers of registered voters.

**Subsection I-C-2: Qualifications for Office**

We had an unusually productive period in December 2000, and actually completed two full Subsections -- comprising 28 Questions in all -- in a single meeting. The first of these treated the topic of qualifications for office.

We found that the legislative house equivalent to our current House of Representatives should have each representative represent a single small geographical district, but that there should be no residency requirement to serve as a representative; instead, we should let the voters decide who is generally the most qualified candidate. We are also recommending the removal of any minimum or maximum age limit. (The citizenship requirement was already removed in Question 21.) Voters may also choose to elect convicted criminals, provided that they have full disclosure of such information before voting. No new requirements are to be added for government office, our preference being to let the voters in each race decide the best candidate.

We then treated the topic of term limits, and adopted Resolution #4, as follows: "RESOLVED, The imposition of artificial limitations on the number of terms served by any given public official is contrary to the interests of a free electorate, who should have maximum flexibility in choosing their representatives and leaders."

Candidates should not be required to answer questions on topics that do not directly relate to the qualifications for the positions that they seek, and it may be considered inappropriate for such irrelevant questions even to be asked.

## Subsection I-C-3: Campaign Reform

The other Subsection completed in December 2000 treated the process of campaigning for office.

For the duration of the time that we still have political parties (which we agreed in Resolution #3 should be removed from the formal political process), any primaries/caucuses for national office should all be held at the same time. Public funding of campaigns should be eliminated, though government may provide each candidate with minimum exposure by printing their pictures and campaign statements in ballot pamphlets, and by arranging a minimum number of debates in which all candidates may participate. There is to be no limit on campaign contributions, but there shall be a maximum spending limit, and there shall be full disclosure of all contributions and expenditures; the actual limits are to be set by individual jurisdictions, based on the economic and technological conditions extant at the time.

Debate questions may be proffered by anyone, including other candidates; most answers should be spontaneous, though some questions may be provided to all candidates in advance. There shall be no filing fee for entering a campaign, but we found that prospective candidates may be required to collect a certain number of signatures on a petition, as a measure to reduce frivolous candidacies. We later confirmed that gathering signatures on a petition should be the standard method for getting on a ballot.

Each jurisdiction may set its own rules for its own elections, and the federal government in particular shall set and apply uniform rules for national elections. Candidates may generally expend their campaign budget as they see fit, so most/all "equal time" rules currently in force may be discontinued. Perhaps our most important finding as to the campaign process was that no polls or surveys pertaining to an election should be published during -- or at any time prior to -- Election Day, though candidates may contract with a polling service to obtain information for private use, as part of their campaign budget; among other influences, this finding will have a big impact on how people vote.

In June 2001, we went back and enhanced our model of the petition and campaign process, and adopted a provision whereby each jurisdiction would decide what the minimum (L) and maximum (H) numbers of candidates should be for each type of race in that jurisdiction (the top L signature-gatherers automatically being listed on the ballot, with any additional candidates also listed who have gathered a certain number (S) of signatures, until the total number of qualified candidates reaches H, in which case the top H signature-gatherers are listed), and whereby any organization that is discovered to have attempted to 'corner the market' by sponsoring at least L/2 candidates in any election would have all of its candidates disqualified.

In the course of these discussions, we agreed that (1) it is best for each jurisdiction's election office to maintain records of all campaign contributions as part of its normal operations; (2) campaign contributions received in excess of the jurisdiction's designated spending limit should escheat to that jurisdiction's general fund; (3) it is in the public interest for the campaign spending limit to be low; (4) changing the campaign spending limit should be done by referendum or initiative; (5) no payments of any kind should ever be made to incumbent officials, except a government paycheck; (6) we should give the people of each jurisdiction the choice for what L and H should be for each type of office; (7) we should not be separately

averaging all the L and H figures selected by the voters in such a referendum/ initiative, but should rather be selecting the L-H combination that is favored by most of the electorate; (8) our group will not designate any parameters for L and H; (9) the number of signatures acquired by any candidate should not be disclosed until after the deadline for submitting petitions to the election office; and (10) we may be able to use 'digital signatures' to make the verification process easier.

**Subsection I-C-4: Voting and Tallying**

Maximizing voter turnout

The first Question in this Subsection was Question 110, being whether maximizing voter turnout is actually in the public interest, as is frequently asserted by various government officials, civic leaders, and political candidates. To help answer this Question, we agreed on a working definition of 'public interest' as "the set of conditions which will tend to maximize the aggregate quality of life of the residents of a given geographic area". We then concluded that maximization of voter participation is not necessarily in the public interest, but that maximization of willing voter participation is.

It was initially found that a majority of votes actually cast shall be sufficient to establish victory, and that a majority of the entire electorate is generally not needed; this finding was modified in the course of our comparative analysis of voting methods, as described below. Facilitating registration and making actual voting as easy as possible should help to maximize willing voter participation; however, providing prizes, cash payments, or other such incentives to vote is not in the public interest, since many people would vote randomly just to obtain the benefit, and the purpose of the election (being to find out which candidate the electorate finds to be the most qualified) would be defeated.

While considering the topic of referenda and initiatives in November 2010, we determined that popular elections should not be held more frequently than once every two years. If they are held any more frequently (including through the use of 'primaries'), they tend to lose their 'special' nature, and many otherwise-willing voters will sometimes/often stay away from the polls, or else (even worse) they vote with little or no advance research on the issues and candidates. Keeping it at a biennial election cycle will help to maximize willing and informed voter participation, as well as make the process more economical.

Absentee ballots

The use of mailed ballots is to be encouraged (though in-person voting will still be permitted), until electronic voting can be fully implemented. The final weeks before Election Day will include prohibition of campaign ads in broadcast media, to relieve pressure on those casting ballots by mail. All candidates sending out campaign material in the mail shall be required to send out at least one application for mail-in ballots, in order to create a level playing field, and to encourage voting by mail. The announcement of election results shall not be permitted in any area while polls in any other area are still open.

Electronic voting

We identified multiple issues surrounding electronic voting, but found that all such issues should eventually be satisfactorily resolved by continuation of ongoing efforts,

and that we can eventually transition to an environment where votes are cast only by electronic mechanisms.

## Electoral College

The Electoral College is to be discontinued. Instead, we decided in March 2004 that State election officials will communicate statewide results on national elections to the national legislature, which will be responsible for totalling and certifying those results as needed.

## Voting methods

We examined several alternatives to the standard procedure of having each voter vote for only one candidate, with the victory going to whoever receives a plurality of those first-place votes. One of the big reasons that we found this method to be inadequate to continue to serve our needs is that it is subject to the "vote-splitting" problem: Suppose that you have one candidate who has some support among the electorate, but who is actively disliked by the majority (such as a not-so-popular incumbent); then, suppose that you have two or more philosophically-similar candidates opposing that person. The opposition candidates end up splitting the vote against the candidate who is disliked by the majority, so that that candidate ends up with more votes than any one of his/her opponents, and wins the election by plurality.

This problem is solved somewhat by using a "preferential" (a.k.a. "instant run-off" or "virtual run-off") system, in which voters rank all the candidates, and the lowest-ranking candidates are dropped off during the tallying process until one candidate has over 50% of the vote. However, this method turned out to fail a different test: In a highly polarized political environment, where people's first-place choices are approximately evenly divided between two strongly-opposing candidates or factions, the society is generally served best and most peacefully by a centrist candidate acceptable to all sides. We found in our analysis that the "preferential" system fails to produce the centrist candidate as the winner, giving the victory instead to whichever of the polar candidates has a slight edge over the other.

We examined nine other voting methods beside these, against a total of seven criteria of acceptability, including voter understandability and the ability to capture aggregate voter preferences as completely and accurately as possible. As it turned out, exactly one of the methods that we considered survived all of our filters, and we have settled upon that as our voting method of choice. It's a variation of approval voting that we're tentatively calling the 'yes/no/abstain' method.

Under the 'yes/no/abstain' method, each voter may vote 'yes' to approve as many candidate(s) as he/she wishes, and may vote 'no' to disapprove any candidate(s), and may abstain from voting on any candidate with whom he/she doesn't feel sufficiently familiar. Each candidate's 'no' votes are subtracted from his/her 'yes' votes, and the victory goes to the candidate with the highest quantity of (yes - no). Among other advantages, this system gives voters the opportunity to vote against candidates as well as vote for them. It also allows voters to express opinions on as many candidates as they wish, instead of just the one afforded by the current plurality system. And, it satisfactorily addresses both the vote-splitting and polarized-environment problems.

## None of the above

With Question 124.6, we considered incorporating the "none-of-the-above" (NOTA) ballot option into our election model. We found, though, that this option would be meaningful only if it could conceivably result in a new election, which we don't want to see, since knowledge by the voters of any results from the previous election could easily skew the results of a second election. With the fact that write-in votes are not really applicable with the 'yes/no/abstain' voting method that we adopted (and aren't really needed in a zero-party environment, anyway), we concluded that there is really no value to having a NOTA option as part of our model.

**Subsection I-C-5: Recall Procedures**

An official that has been appointed to office shall be subject to removal by the official who made the appointment (or that official's current replacement), subject to the same just-cause requirements as may be applicable in any employer/employee situation, and elected officials may be removed by special recall election. In the case of recall elections, we are not requiring that the initiators establish grounds for recall, though they will probably want to do so on their own. The recall process is to be begun by gathering signatures on a petition (same as for the original election), with each jurisdiction determining -- for each type of office -- how many signatures shall be required to validate the petition. Simple majority of the voting electorate shall be both necessary and sufficient to complete the recall. Very high-level positions (such as President, Governor, etc.) should have separate backup positions (Vice-President, Lt. Governor, etc.). Most/all other elective positions vacated by recall should be filled by the highest-ranking candidate in the previous election that is both willing and able to serve, but should still have a designated order of succession from other positions for when no alternate candidate is available.

## SECTION I-D: EXECUTIVE STRUCTURE

### Guiding principles

The first few Questions in this Section dealt with general points on structuring, appointments, and reporting relationships in executive branches of government at different levels. Among our findings is that the guiding principles which should be observed by government agencies should include responding to the needs and desires of the people being served/governed, and more specifically that their actions should balance the long-term values of a society with its short- and medium-term policies and desires. Motivations for specific agencies to follow these principles can include competition with other jurisdictions, recall or unreelection of senior executives, incentive-based pay and bonuses for employees, and the possibility of firing or other disciplinary action for very poor service.

In March 2004, while reviewing the structure of the Justice Department as part of Question 194, we added a general policy statement that we don't want government to be making any decisions about our actions based on subjective judgments. Rather, anything that they would have us do or not do should first have been approved and codified by the applicable elective legislature.

### Removal from office

Feedback forms should be made available, to get public response on the level of service provided by government agencies and employees. Replacing the concept of tenure in the Civil Service program with protection from arbitrary firing. There

should be no 'probationary period' in government service; once you're accepted for employment, you can be removed only for just cause. Even if a particular official is seen to be performing poorly, we're allowing for the possibility that to remove that official prematurely could cause an even greater disruption than leaving him/her in office.

Above findings summarized in our Resolution #5, as follows: "All government employees -- up to and including the Chief Executives of the United States of America and of each of its constituent States and subsidiary jurisdictions -- shall be subject to possible removal from their positions at any time, for cause relating to the quality of their service, and/or the cost necessary to produce it."

**The Vice-President**

Certain Questions dealing with U.S. Vice-Presidents, Lieutenant Governors of States, etc., which Questions were originally scheduled to be taken up as part of Section I-C-4, were moved in April of 2001 to this portion of Section I-D, and were formally taken up in September of 2001. We find that the Vice-President (or analogous official of a lower jurisdiction) should automatically succeed the President (or analogous local official) upon his/her death during office, and that the President and Vice-President should continue to be elected on the same ticket, even in the absence of political parties.

**Reporting relationships**

All administrative department heads should report first to the Vice-President, Lieutenant Governor, etc., provided that the Fed has a National Security Council that includes the U.S. President, the U.S. Vice-President, and the future equivalents of the current Secretaries of State and Defense.

The Chief Executive of a given jurisdiction may take any unilateral action that is specifically authorized by a legislative provision; he/she may also initiate actions not specifically authorized or prohibited by the Legislature, though such actions are subject to override within 30 days by a simple majority of the Legislature. In order to allow the Legislature to observe and evaluate all such actions, all units in the Executive Branch are to routinely inform the Executive Oversight Committee of the per-State house of all important actions, and copy them on all correspondence, under penalty of removal from office of the individuals responsible for the non-disclosure. See Subsection I-E-3 below for further specific procedures.

Any administrative reorganization that results in elimination of a currently-filled position shall cause the affected employee to be put on 60-day 'priority placement', whereby that individual shall be given preferential consideration for any vacancy existing within that period, and then be granted a severance package if not selected for any of these.

The Legislature should have authority to confirm or overrule the appointments of all department heads and bureau chiefs in the Executive Branch. Again, see Subsection I-E-3 below for specific procedures.

**Question 135**

In October 2002, we finished Question 135, which was to take the functions that we had assigned to different levels of government back in Question 48, and create a

model departmental structure for each level.  As indicated above, the model structures for States and localities are intended only as a default recommendation; those jurisdictions may adjust the structures to suit their particular demographics, topographies, economic potentials, collective political philosophies, etc., etc.

The models for different levels have continued to evolve as we continue to look more closely at other levels, and they may yet be adjusted further as we proceed.  The model structures currently stand as follows, with the individual Departments and Bureaus and Offices being listed in alphabetical order:

**Federal**

Administrative Services
- Accounting & Budget
- Building & Floor Planning
- Infrastructure Maintenance
- Personnel
- Procurement
- Security
- Transportation Services

Defense
- Air Defense
- Intelligence
- Land Defense
- Sea Defense
- Space Defense

Domestic Affairs
- Agriculture
- Arts
- Business & Securities
- Census & Statistics
- Copyrights & Patents
- Domestic Trade
- Electronic Communications
- Language Resources
- National Parks
- Public Information
- Social Services
- Territorial Administration
- Water & Power

Foreign Affairs
- Cultural Exchange
- Diplomatic Relations
- Immigration
- International Trade

Health & Safety
- Disaster Relief
- Environmental & Consumer Protection
- Occupational Safety
- Public Health

Justice
- Criminal Records
- Detention

- General Counsel
- Investigation
- Marshal
- Prosecutor

Science
- Earth & Sea Exploration
- Measurement Standards
- Meteorology
- Research & Development
- Space Exploration

Transportation
- Air Traffic
- Airports & Harbors
- Highways
- Railroads

Treasury
- Asset Management
- Currency & Banking
- Government Payroll & Pensions
- Revenue Collection

In general, we have endeavored to arrange these structures on a more functional basis than what we have now in 'real life', and to replace current agency names with those that indicate more clearly what those people are doing for a living. Specifically, we found that the term 'Secretary of State' means different things in different jurisdictions, so we have eliminated that title. Bureau names in the Department of Defense are phrased in such a way as to emphasize the proper role of those agencies, to help discourage them from exceeding it.

We're creating an Administration Department at all levels of government, since all executive bureaucracies have certain functions that need to be discharged internally, without direct public involvement. Also adding a Science Department at the federal level, in consideration of our increasing reliance on science in modern American culture.

The U.S. Secret Service is broken up into its security function (now divided between the Foreign Affairs and Justice Departments) and its counterfeiting mitigation function (remaining in the Treasury Department). The name "Measurement Standards" replaces the current "Bureau of Weights and Measures", partially to reflect the technical fact that people sometimes measure mass rather than weight (particularly when using the Metric System), and also because weights and masses constitute a subset of measurements in general, and thus don't need to be specified in the agency title. The Bureau of Language Resources will help make it easier for everyone to learn American English, and will monitor the evolution of the language on a continual basis.

In October of 2002, a question was raised as to whether there should continue to be a "Bureau of Indian Affairs", or some other federal agency concerned with Native Americans. Our current position is that all people should be able to move freely in all political jurisdictions, and that they should be able to do anything (including practicing native cultural traditions) that does not injure or endanger other people. We also dislike the idea that persons of any ethnicity should be relegated to limited geographic areas, or receive any other separate treatment. And, we find that the people of any particular community may develop their own legal and social

structures, so long as they don't directly conflict with the laws of higher jurisdictions. Finally, we would have a problem if someone felt that he/she could commit some bad act in a non-reservation area, and then obtain political sanctuary by retreating to a reservation. We therefore see no need for a separate government agency to deal with Native Americans, and we find the existence of such an agency to be antithetical to the ideals of a free and fully-integrated society.

Original model had Postal Service as a bureau of what was then called the Communications & Transportation Department. However, in May of 2004, we addressed our Question 197, and found that postal operations should be managed by private organizations, without government oversight or rate-setting.

Original model had Elections as a bureau of the Justice Department, the idea being to maximize the integrity of the process through oversight by a semi-independent justice-oriented organization. However, in May of 2004, we addressed our Question 200, and found that States and localities can manage elections satisfactorily, and can communicate with one another (through the national Legislature as needed) as to signature verification and vote tabulation for any national elections.

**State**

Administration & Finance
- Accounting
- Investments
- Payroll
- Personnel
- Taxation

Commerce
- Banking
- Consumer Affairs
- Corporations
- Gambling Regulation
- Insurance
- Tourism

Conservation
- Environmental Protection
- Historical Landmarks
- Wilderness Areas

Elections
(no separate bureaus)
Law Enforcement
- Gun Control
- Internal Auditing
- Investigation
- Police
- Prisons & Parole
- Prosecutions

Public Services
- Disaster Relief
- Job Training
- Occupational Safety

Transportation
- Driver's Licenses

- Highway Construction & Maintenance
- Vehicle Registration

Current vision is that disaster relief happens at every level of government. Local jurisdictions are first given the opportunity to provide economic assistance to their own residents in cases of disaster. If a given disaster is spread over a wider area, or if a particular locality has insufficient resources to address the problem internally, the local jurisdiction may appeal to the next higher jurisdiction for any supplemental assistance that it may be willing and able to provide. The higher jurisdiction may also initiate assistance unilaterally, if the executives of that jurisdiction perceive that the lower jurisdiction isn't acting quickly or effectively enough. We reached these determinations over a year before Hurricane Katrina.

**County**

Administration
- Budget & Auditing
- Facilities Management
- Personnel & Payroll
- Taxation

Education
(no separate bureaus)
Environmental Services
- Conservation
- Ecological Restoration
- Fish & Game
- Waste Management
-- Garbage Collection & Removal
-- Recycling
-- Sewage Management

Health & Safety
- Animal Regulation
- Building Permits & Inspections
- Coroner
- Drug & Liquor Regulation
- Fire & Rescue
- Medical Services
- Restaurant Inspections

Parks & Recreation
(no separate bureaus)
Public Assistance
- Child Placement
- Counseling Services
- Disaster Relief
- Entitlements
- Job Placement
- Job Training
- Worker's Compensation

Records & Elections
(no separate bureaus)
Transportation
- Airports
- Harbors
- Public Transportation

- Street & Highway Maintenance
- Traffic Management

Water & Power
(no separate bureaus)

As with disaster relief, environmental protection happens at multiple government levels. Local issues can be addressed locally, while larger-scale issues may need to involve higher jurisdictions. Localities may also appeal to higher jurisdictions for supplemental assistance on local matters, if they find that they don't have enough resources to tackle the problems themselves.

Fire control is now concentrated at the County level, since fires don't recognize municipal boundaries, and since fire control frequently requires the involvement of personnel and equipment based in different Cities.

Education is concentrated at the County level, both to increase administrative efficiency (as per the principle of subsidiarity) and also to prevent poorly-planned curricula from affecting too many students.

Airports and harbors and water-&-power are administered jointly between Counties and the federal government. The Fed coordinates traffic among all major airports and harbors in the country, and makes sure that water and electricity are effectively distributed to all populated areas of the country. Meanwhile, Counties perform the day-to-day management/oversight of their own airports and harbors, and arrange for the distribution of water and electricity to individual homes and businesses.

There is no law enforcement agency at the County level, because we envision Counties as regional administrative arms of the State, and thus do not expect them to create a separate system of laws that need to be enforced. States, Cities, and the federal government can directly enforce the laws that they pass.

The Bureaus of Entitlements and Medical Services may have different sizes in different Counties, according to the level at which the people of each County decide that they wish to have their tax dollars going to provide free economic assistance and health care.

The Bureaus of Traffic Management and Street & Highway Maintenance are concerned with only the unincorporated areas of the County; individual Cities are expected to manage these functions within their designated borders. Public Transportation is a County-wide function, though individual Cities may choose to supplement the County system with their own; same with Parks and Recreation. All other non-administrative County functions apply to the entire County.

As indicated in the introduction to Section I-C, we're currently envisioning Counties to operate on a 'council-manager' system. Under this system, an elective council sets general policy for the County, a County Manager is appointed by the governing council to oversee the administrative operations, and all administrative department heads report directly to the County Manager. No problem, though, if a particular County wishes to have its administrative manager directly elected by the people, or have some other arrangement; the default model of administrative agencies would most likely be unaffected by any such variation.

**Municipal**

Administration
- Facilities Management
- Finance
- Personnel
Cultural Enrichment
- Arts
- Historic Preservation
- Libraries
- Parks
- Special Events
- Tourism
Permits & Licenses
(no separate bureaus)
Public Safety
- Corrections
- Disaster Relief
- Police
Transportation
- Parking Enforcement
- Public Transportation
- Street & Highway Maintenance
- Traffic Management

We expect that each city will probably want to have a City Manager, to whom all administrative department heads would report. The City Manager would also be responsible for communicating with other governmental jurisdictions, particularly in the area of disaster assistance.

We find that we don't need an elections office at the municipal level, if the City Manager (or equivalent position) reports to the County Records & Elections Department as to the positions available, qualifications for office, etc. That Department can then prepare different ballots for different local jurisdictions (as they usually do now), and candidates for all municipal positions can file at the County elections office.

Considered maintaining libraries in a separate Department, but we would like to promote the concept that libraries can be fun and culturally enriching, in the same way as parks and arts programs and special civic events. Decided therefore to make Libraries a Bureau of what we are calling the "Cultural Enrichment Department".

**Subsection I-D-1: Executive Branch of Federal Government**

In October of 2002, we began examining the functionality of all administrative agencies at all four levels of American government, beginning with the Federal. We completed the process -- and Section I-D -- in September of 2006. Happily, Section I-D is by far the largest in the entire Outline, so we are looking forward to no other Section taking nearly that length of time to complete.

For the Federal portion of this process, a few general Questions preceded the agency-specific topics: Department heads should be referred to as 'Director' instead of 'Secretary', since the title is rather more descriptive of that individual's responsibilities. The 'Chief of Staff' shall only supervise the President's personal support team, and shall not have any involvement in executive or political matters,

since the latter are for the President, Vice-President, and Department Directors to deal with.

Extensive discussion about Question 138.2, on the optimal length of term for the U.S. President and Vice-President. We even took a field trip to the local library one evening to research the rationales of the original Constitutional Convention. Decision is that the current 4-year term seems to strike the best balance between being short enough to allow timely replacements without recall, and long enough to give incumbents a fair chance to learn their jobs and implement their agendas.

If the spouse of a Chief Executive is found to be guilty of treason, an investigation should be undertaken to see whether that Chief Executive was unduly influenced by the guilty party. If compelling evidence of such undue influence is found, then action may be initiated to remove that Chief Executive from office; otherwise, no action shall be taken as to that position. In any case, the guilty party should be removed from being able to exert any undue influence in the future.

**Subsubsection I-D-1-a: Department of Foreign Affairs**

The types of peaceful interaction that one country might have with another include trade, tourism, international intelligence on criminals, currency exchange, sharing medical/scientific discoveries, space/geophysical exploration, disaster relief, air/oceanic travel, postal delivery, political protection for travelers, diplomacy, special events (conferences, Olympics, etc.), and student exchange.

It is not reasonable to expect that relations between countries will always remain normal and peaceful, so that such activities could be carried out easily. Thus, it is appropriate to have a separate Department that specializes in maintaining peaceful and constructive relations with other countries.

We will continue to have an ambassador for each country in the world, plus consuls for major cities. Consuls report to ambassadors, who report to District Directors, who report to the Bureau of Diplomatic Relations. Each of these individuals may be appointed in the same way as any government employee could be, by nomination from the immediate higher management level, and with approval from the next higher level. In the case of a particularly sensitive or critical position, even higher levels (up to and including the national legislature) may ask to be involved, also.

Diplomats should generally serve until they retire or their performance is found to be sufficiently unsatisfactory as to warrant removal. They probably don't need to be switched every time that the domestic political administration changes, since continuity is an important element of good ongoing foreign relations.

Embassies and consulates shall continue to be treated as sovereign territory of the countries being represented, to provide safe havens for people traveling abroad who get in any kind of trouble.

The Diplomatic Relations Bureau shall include a unit for providing security services to foreign dignitaries, to relieve that function from the current Secret Service.

Diplomatic immunity

Question 146 asked about the institution of diplomatic immunity. On this topic, we had said in a previous Question that the laws established by any given jurisdiction

should apply to all persons sojourning within their borders, whether they're living there or just passing through. It is therefore expected that people will want to familiarize themselves with such laws before entering that jurisdiction. As expected as this is, it is even more expected for diplomatic personnel, whose job it is to be familiar with the laws and customs of the states with whom they are trying to maintain good relations. Ignorance of the law, then, is definitely not an excuse for diplomatic personnel to violate it.

The only other reason that we could see for wanting to maintain diplomatic immunity is to try to maintain good relations with the countries that sent those diplomats, by not punishing them for their crimes. We find this reason to fail also, though, since it doesn't make a whole lot of sense to maintain good relations with a country whose diplomatic personnel deliberately or negligently violate the laws of the country hosting them. It should be the job of that other country to try to maintain good relations with us, by making sure that their diplomats are respecting our laws and customs, as we should do for those countries to whom we are sending our diplomats.

We therefore find that the institution of diplomatic immunity should be discontinued. No objection to treating arrested/convicted diplomats in special ways, as it would clearly create more problems than it would solve to stick them in the same ratholes as the rest of the random scummy thugs; perhaps have separate VIP detention centers, and/or arrange with the country of origin to withdraw them voluntarily, and/or ask that country's permission to punish them, and/or something else. Whatever specific treatment those individuals get, though, they should most definitely not get away with violating the criminal codes of the host country.

Travel checkpoints

We had discussed intercontinental disease-screening checkpoints in the course of Question 36 (on whether individuals or consortia could buy part or all of a given country), and agreed that we could run criminal background checks simultaneously, at least to check whether there's a 'red flag' registered with international law enforcement agencies that would warrant detention. We now had extensive discussion as to how intense this coverage should be, as we need to balance the rights of those people who have legitimate need to travel internationally without undue delays with the needs of countries like the U.S. who are the targets of terrorist threats. Plus, we still would like to move towards an environment where people can move around the world as easily as we can now move around the States.

Basic plan here is that the traveler's passport number can be run through an international master database, and that he/she can be detained if the check hits a 'red flag' for especially serious criminals/suspects. We should have only the most potentially dangerous people on this database, so that the check can be done by the time that any disease screening is completed. Also OK to have both a 'red flag' and an 'orange flag' (again, if this can be checked fairly quickly for all travelers), the latter indicating that the traveler does not need to be detained immediately, but that the applicable authorities should be notified of his/her whereabouts.

Now, while disease screening generally need happen only on intercontinental travel (since it's the diseases for which the local population has not yet built an immunity that we're trying to capture here), some countries may also want to set up criminal-screening checkpoints at intracontinental border crossings, particularly if they are engaged in hostilities with neighboring countries. While the I.O.O. should be trying to mitigate such situations, we expect that there may yet be times when they won't

be completely successful, and neighboring countries still will have problems with one another. Therefore, while we (and the I.O.O.) can set a general goal of maximum openness for all international borders, it's our finding that any country should yet be allowed to have as much or as little border security as they deem necessary and appropriate.

From an American standpoint, we would rather keep the borders as open as possible, particularly since we don't have any major political problems with our immediate neighbors. Furthermore, we would like to continue America's role as the one place in the world where people can go if they're getting hassled in their own countries. If we find later that immigration or drug traffic constitutes a major problem for us, then we can discuss making heavier border patrol an element of our Agenda. For now, though, we are aiming for a de-emphasis in that area.

Foreign aid

We do not feel that we should be totally isolated from the world. But, neither do we feel that we should indulge in pure altruism towards other countries, at the expense of our own population. Besides, it's logistically easier for any country to divert any supplemental resources to the needy who are closer to home, than to ship them off to the other side of the world.

Therefore, we find that it is OK for the U.S. to send free economic aid to foreign countries, but only after we have first taken care of the hungry and homeless and diseased within our own borders.

Canadian relations

Question 148 considered the feasibility of merging the U.S. with Canada (with the possible exception of Quebec), since there is such similarity in culture, history, language, natural resources, etc., and since a combined larger country might be able to produce more than the two countries could separately.

Whatever structural advantages there may be to such a merger, though, it appears that it would still not be accepted widely enough among the populations of both countries. Specifically, one of our participants revealed that she has some non-Quebeçois Canadian friends who report that they are generally uncomfortable with big governments, and that their culture of trust and openness is seen to be superior to our culture of fear and hyping the bad news on our TV. It is therefore not being added to our Agenda at this time to encourage a Canadian-American merger.

**Subsubsection I-D-1-b: Department of Defense**

We do want to maintain a standing armed force for defensive purposes, but we should not initiate military attacks against any other countries for any reason, whether to expand our territory, or to retaliate against a trade embargo, or (as previously identified) because we disapprove of someone else's form of government, or for any other reason. We may (and should) participate in I.O.O.-sanctioned campaigns against countries who have initiated hostilites with other countries, and we may (and should) defend ourselves and our allies when directly attacked, but that generally should be the full extent of our military involvement.

Question 152 asked specifically whether we should accede to the preferences of those who feel that the U.S. should be the world's 'policeman'. We observed that

this perception is largely based on current conditions, including a 1-house I.O.O. with little actual legislative authority or enforcement power, the absence of a global policy against military aggression, and only limited assistance to refugees who wish to escape from alleged human rights violations. Once we have all the elements of our Agenda in place, it will not be necessary for the U.S. to act as the world's 'policeman', if it ever was.

Military service should never be compulsory, either for a minimum term of service (Question 154) or even in case of a defensive war (Question 155), since the insufficiency of volunteer forces should send a signal that the country is not that interested in pursuing a particular war, or in maintaining an excessively military environment in peacetime. OK to provide incentives for service if desired, but ultimately keep it voluntary. We considered the alleged economic advantages of war, but noted that some of these may be illusory and/or short-lived.

Only restrictions permissible on who may serve are (1) the physical capability to perform jobs in Service, (2) passing a psychological evaluation, (3) not belonging to any organization that has expressed ill will toward the U.S., and (4) an intelligence level above some designated minimum. As long as the same entrance standards (e.g., height, weight, age) are applied equally to all recruits, there is no valid reason to deny induction on the basis of either gender or sexual preference. If there are any individuals who have a problem working with people of different genders or sexual preferences, these should be screened out up front, but we shouldn't deny an entire class of willing volunteers the opportunity to serve, since experience has shown the majority of all soldiers to be very professional when on duty, and also because we may be in short supply of able volunteers one day.

Pregnant women in Service should be re-assigned as needed to duties which are not hazardous or physically over-strenuous, and should be given a healthy maternity leave when the time comes. In no wise should they be discharged from Service as a result of getting pregnant.

Extensive discussion on Question 159, as to how we should arrange barracks and latrine assignments, given the admission of soldiers of all combinations of gender and gender preference. The group has no problem with shared barracks, nor with non-shower latrine activity, but shower facilities proved more problematic. Reasons in favor of relaxed showering restrictions include that soldiers ought to get accustomed to how conditions may be in the field, that we have already decided in favor of equal treatment for all genders and orientations, that the same orders that would communicate to a gay man that he shouldn't be harassing other men (including by staring) should also work for straight men harassing women, that shared nudity becomes far less eventful when it is not prohibited, and that people wouldn't sign up for the military in the first place if they didn't feel that they could control their urges as needed. Reasons against relaxed showering restrictions include that soldiers should feel comfortable whenever they can, that segregation by gender is fairly practical even if segregation by orientation isn't, and that the same standards which enable unisex arrangements in the 'real world' might not apply in the closer and lengthier confines of military service. Multiple alternatives to separate shower facilities were considered, including video surveillance and in-person monitoring, to mitigate staring and other harassment (even though the surveillance/ monitoring would itself be a form of staring). The compromise finally achieved was to try different arrangements in different military units, to see which approaches work best and worst.

We do wish to continue to have an agency to gather intelligence on other countries, including by covert mechanisms as needed. This agency can/should be part of the Department of Defense, and we find that it is absolutely not necessary to have a separate department for 'homeland security'.

**Subsubsection I-D-1-c: Department of the Treasury**

Confirmed that this department will cover Asset Management, Currency & Banking, Government Payroll & Pensions, and Revenue Collection. Other questions of an economic nature are to be evaluated in Part II of our Outline.

We do want to maintain ample acreage for forests, both as a strategic reserve for lumber and also to help replenish our regional oxygen supply. OK for some forest land to be sold or leased to private commercial organizations, with the recommendation that it is in their long-term economic interest to maintain sustainability, particularly since renewal of timber resources can take some 20-50 years. However, in the case that this recommendation is not universally observed by private enterprise, we want to continue to keep some forest land in the custody of the federal government, specifically the Bureau of Asset Management. Again, more specific policies in this area will be considered in Part II.

**Subsubsection I-D-1-d: Bureau of Environmental & Consumer Protection**

There are some environmental issues that are large enough in scope (particularly those involving the atmosphere) as to warrant the attention of the federal government, which can have a sufficiently broad representation of the entire area to make adequately-informed decisions, whereas other issues are so small in scope that that they can/should be handled by smaller localities, without giving the Fed more to do than they already need to have. We are therefore finding that there should be an agency at the national level to treat environmental issues, but that similar agencies should also exist at more local levels of government. We're also finding, though, that environmental issues often dovetail with issues involving consumers of products, so the federal agency will consider both types of issues concurrently.

In considering the scope of this agency, we found that the needs of businesses, consumers, and the environment are all valid and important, and that they often interrelate. We therefore need to have an ongoing policy that will adequately provide for these sometimes-competing interests to all be served justly. Since we also find, though, that such policymaking is probably more appropriate for legislative bodies than administrative ones, we are suggesting that there be a legislative committee that will give continual attention to maintaining a harmonious balance among businesses, consumers, and the environment. (In October of 2010, we actually provided for such a commitee to exist within each house of the federal legislature; see Subsection I-E-3 below.) With this proviso, we're upholding the original name of the administrative agency, since most of what they will be doing will be enacting and enforcing regulations to provide protection to both consumers and the environment, within whatever parameters are designated by the applicable legislative committee.

Some specific functions that can be discharged by this administrative agency include ecosystem oversight, air quality, safety of food products, accuracy of packaging labels, and seismic monitoring. On this last element, we're suggesting that the E&CP Bureau might desire to produce small artificial earthquakes in order to prevent larger

ones; if so, they need to consult with the Earth & Sea Exploration Bureau of the Science Department, probably in the form of taking testimony in a public hearing.

Government should not be mandating fluoridation of drinking water, even if it can be shown to be a public benefit, since individuals should have choice over what chemicals they put in their bodies. However, local governments may arrange for chlorination or other treatment that may be needed to make water sufficiently potable.

Government emphasis on species preservation should be limited to preventing significant population depletions that would cause an unhealthy shift in the ecosystem balance. If, however, a given species is already so severely depleted that only a few specimens exist in controlled environments, then it may not present a significant environmental impact if that particular species did happen to die out. Therefore, there is not an overriding public interest in preserving that species, and any such efforts that individuals may wish to exert along these lines should be managed by private organizations.

**Subsubsection I-D-1-e: Department of Science**

Not all scientific and technical research needs to be conducted or coordinated by government, and some can still be managed privately. However, since this society is becoming increasingly science-dependent, we do see it as a responsibility of a progressive government to be conducting and/or coordinating and/or funding more of this research, and we are recommending that all such activities be managed through a central federal agency.

Briefly considered the idea of making this a completely separate branch of government, instead of an agency of the Executive Branch. Found pretty quickly that reporting relationships, communication, accountability, and leader selection could be very fuzzy if we were to go that route, so we dismissed the concept, and are sticking with the original model.

**Subsubsection I-D-1-f: Agriculture, Transportation, Energy, Labor, Commerce**

We found in Question 170 that we do not need to have a separate Cabinet-level department for each of these functions, and that they can be either segmented into different other Departments, or else dismissed from the federal Executive Branch entirely.

Considered possibility that all of these functions could be merged into a single Commerce Department (since they all have commercial implications), and noted that this was the original plan before the group built our model structure in Question 135. On reviewing that model again at this time, though, we didn't find anything so manifestly wrong with it as to warrant moving things around again, so we're sticking with that structure for the present.

**Subsubsubsection I-D-1-f-i: Bureau of Agriculture**

General mission of this agency should be to maximize the quantity and quality of our agricultural output. Monitoring of production levels, to give growers a better idea of where they should be concentrating their efforts, could be handled through private associations, but we find that the public interest is better served by having impartial

government employees conducting this research, so that's an appropriate fit for the Bureau of Agriculture.

This agency can also monitor safety of agricultural processes, and humane treatment of livestock, while the Bureau of Environmental & Consumer Protection would concentrate on the safety of already-packaged food products. All other functions of the current Department of Agriculture are either discontinued or assigned elsewhere. Any such monitoring of safety or livestock treatment should be conducted in accordance with specific written standards established by the elective Legislature, and not on the basis of subjective judgments on the part of federal regulators.

The only reason that we could see why we would want government to be in the business of paying farmers not to grow certain items would be to provide incentive for them to concentrate on those crops which are in shorter supply. However, these decisions can be made by growers directly, after simple inspection of free-market price levels for different crops, so government intervention and spending are probably not needed here. Besides, we suspect that this practice could lead to widespread bribery, and we're not prepared to tolerate that, so we're strongly recommending that it never be done.

**Subsubsubsection I-D-1-f-ii: Bureau of Electronic Communications**

Any monitoring and/or restriction of electronic communication content should be managed at the federal level, since these communications cross State boundaries all the time.

In considering the extent of such monitoring and/or restriction, we would generally like as much freedom as we can accommodate, but we're still willing to be sensitive to the needs of those individuals who find certain types of material to be offensive.

Agreed to have a rating system and warnings for images of violence, since impressionable individuals of all ages might be inclined to copy the violent actions that they see portrayed on television and film. Images of sex and nudity are not nearly as potentially harmful, particularly if we do a better job in educating kids about these areas. Still, we're willing to allow a similar system of ratings and warnings, for those parents and other people who still want them (due to the possibility these acts may yet be copycatted by pre-pubescents, even with improvements in our educational system), though we don't want the ratings so specific as to require taking up a whole screen before each show.

TV ratings currently exist for consumption of virtually all intoxicating substances. We can see a value in continuing such ratings for the harder intoxicants, but drinking alcohol and smoking marijuana are comparatively common practices, with those practitioners not requiring any televised protrayals to encourage them to continue. We are therefore suggesting that these images can be dropped from the list of those which are to be given any advance notification.

We do not wish to see an outright ban on the utterance of certain vocabulary words on radio. However, we acknowledge that some words may be generally intended for the purpose of shocking or provoking people, and that it is reasonable for parents and others to want to know that these words may be coming up in the course of a given broadcast. OK, then, to determine by Census questions which expressions should be restricted, and to require radio broadcasters to have periodic announcements on whether any of these expressions are expected to appear in their

programming.  Fill-in-the-blank is a better format for such questions than leading people by asking yes-or-no on a pre-written list.

In general, we feel that the current 'mood of the country' can best be determined through the use of polling questions on the periodic Census.  These questions can tell us which categories of audiovisual images are to have ratings and/or warnings applied to them, as well as which specific images should be subject to these.

Internet sites should be subject to the same anti-libel rules as all other media.  Pop-up ads and spam e-mail's are seen (by Questions 13 (our definition of 'injury') and 38 (as to maximum personal freedoms)) to constitute an invasion of personal space for any individual who has not specifically opted in (using the sellers' websites) to allow such solicitations, though we see that it may be a while yet before hack-resistant technology is developed to enforce restrictions reliably.  There should be restrictions against propagating computer viruses, and parents should be able to block websites on the basis of selected keywords.  No further Internet regulation beyond this, since we don't want to stifle the creativity that this tool has demonstrated.

**Subsubsubsection I-D-1-f-iii:  Bureau of Domestic Trade**

Confirmed earlier concept that this agency will be concerned primarily with the effective distribution of goods within this country, while international trade will be controlled (as needed) within the Department of Foreign Affairs.

As a guiding principle, we want to make sure that internal trade is not overregulated at the expense of free enterprise, lest we end up with a state of tyranny.  Beyond this, the topic of exactly what this agency will be doing will be treated in Question 461; if we find at that time that domestic trade can be allowed to proceed without government oversight, then we will be able to remove this Bureau from our model structure.

**Subsubsubsection I-D-1-f-iv:  Bureau of Water & Power**

There should be a federal agency concerned with energy, whose primary functions are to make sure that we are producing and/or importing enough water and energy to meet our needs, that it is effectively distributed around the country, that safety in production and distribution is maintained at all times, and that we are continually exploring new technologies.  Water quality is to be managed by local authorities, and jurisdictional disputes among countries should be adjudicated by the I.O.O.

This bureau would also administer dams which are involved in widespread water redistribution and/or hydroelectric production.  Smaller dams operated for regional flood control purposes can be maintained by local authorities, though the Fed may step in if it is found that local mismanagement is presenting an imminent and serious threat to public safety.  To prevent the national government from exerting too much control over states and localities, in our federalized subsidiarity-based structure, we are requiring that the Bureau of Water & Power obtain approval from the Bureau of Disaster Relief before engaging in such intervention, and also that they notify the applicable committee in the Legislature of their planned actions.  (In October 2010, we designated that such notification should be made to all three 'Economic & Environmental Affairs' committees.)  This will give the Legislative Branch the opportunity to check the power and activity of the Executive, while not requiring

localities living in hazardous conditions to wait for full legislative approval before any action is taken.

Any planning by the Water & Power Bureau as to distributing water from a given water source should take into account the ecological impact to the locality.  It is expected that the Bureau will conduct informational hearings as needed before any major construction, and take into sincere consideration the stated needs and concerns of the affected local entities.

**Subsubsubsection I-D-1-f-v:  Bureau of International Trade**

We should have no tariffs or other such restrictions on foreign trade, since such practices tend to increase prices domestically, ultimately harming the American consumer.  Only exception is that the same federal safety and accuracy standards that apply to goods manufactured within this country shall apply equally to imported goods.

We may theoretically want to impose trade barriers against countries with whom we have some political or philosophical difference, but we are recommending against such actions, both because we might be penalizing our own people by the non-importation of commodities that they find valuable, and also because there's always the possibility of such temporary actions becoming permanent, and we find that such developments would generally create more problems than they might possibly be solving.

**Subsubsubsection I-D-1-f-vi:  Labor**

We found that there should be labor laws, which would be enforced by the applicable law enforcement agencies, but that there are no labor-related administrative functions that need to be dealt with within the federal Executive Branch at all, except as to the collection of certain statistics, which can/should be managed by the Bureau of Census & Statistics.

**Subsubsubsection I-D-1-f-vii:  Transportation**

Transportation functions to be handled within the federal Department of Transportation include interstate highways, major bridges (including possible certification of engineers), air traffic control, rail traffic control, security for interstate transportation, land appropriations, regulations on transported goods, pilot/conductor training, satellite control for the Global Positioning System, highway maps, safety regulations on individual vehicles, and future space transportation.  This agency should not be involved in ferries, research & development, auto traffic control, measurement standards for gas pumps, time zone definitions, or auto emission controls.

Some safety regulations such as seat belts and helmets may possibly be enacted at the national level, both to increase efficiency of the regulatory process and to mitigate corruption by regulatory officials.  However, the Fed may also allow some regulations to be enacted and administered more locally, to allow for different communities to have different preferences as to the degree and types of regulations that they desire to have.

Bureau of Highways

The Fed generally has no business either specifically approving or specifically forbidding construction of a highway that does not cross any State border, unless there is a demonstrable environmental impact upon a neighboring State, or unless the highway is planned to cut through a national park or other federally-owned land. Two or more States may pool their resources to create highways crossing State boundaries, without any involvement from the Fed. The Fed should not be able to mandate speed limits on any highway in any State, one reason being that something that needs to be mandated generally shouldn't be, and another reason being that such regulations would not affect all areas equally; they can provide recommendations to States and localities if there is another national energy shortage, but that's it.

Bureau of Air Traffic

Regardless of what we later conclude as to labor and unions and striking, air traffic controllers should not be permitted to go on strike, even with advance notice, there being too great a threat to public safety and economic stability. Any work-related issues that these employees may have can be addressed through the Bureau of Personnel and (if necessary) the Judicial Branch.

Any complaints still remaining after these processes can generally be dismissed as cases of overall fairness being subordinated to self-interest. Such employees who continue to complain after due process has been rendered have a potential conflict of interest that is so severe as to seriously compromise our trust in their performance, and we should actively consider immediate termination, rather than endanger the public by allowing them to do any further controlling work. Of course, any air traffic controller who walks off his/her job while planes are in the air, particularly without arranging for adequate coverage, is presenting an immediate and serious threat to public safety, enough that he/she should be subject to criminal prosecution and whatever punishments may be forthcoming.

**Subsubsection I-D-1-g: Department of Justice**

There should be some federal agencies concerned with the enforcement of federal laws, and we have adopted the name 'Department of Justice' to cover all these.

Currently, the office of the Attorney General oversees the prosecution of federal crimes, and the office of the Solicitor General is responsible for appearances in federal civil court on behalf of the United States. The Solicitor General's office may also file *amicus curiae* briefs in federal criminal court, and the Attorney General is responsible for bureaucratic oversight of the entire Department of Justice. We see that these titles are not adequately descriptive of the responsibilities of those jobs, so we are designating that the 'Chief Prosecutor' shall be the head over the Prosecutor's Bureau, that the functions of the Solicitor General be given to a staff position that we are calling 'United States General Counsel', that the General Counsel would not have any significant bureaucratic oversight, that both the Chief Prosecutor and the General Counsel shall report directly to the Director of Justice, and that we are discontinuing the use of the expressions 'Attorney General' and 'Solicitor General' at the federal level.

Because the position of Director of Justice requires a strong legal focus, and because it has two high-level attorney positions (i.e., Chief Prosecutor and General Counsel) reporting directly to it, we are requiring that any candidate for that position possess

the same academic credentials as any other attorney, though we are not designating at this time any additional requirements on legal licensing or experience.

OK for this department to maintain a database of information that can be used for checking the backgrounds of those applying for certain high-profile jobs such as police officer or air traffic controller. However, this database should be strictly limited to actual criminal convictions, and should not include what anybody had for dinner or what people purchase on their credit cards or what books that they check out of the library or what videos they rent or what Internet sites they visit. There should be a legislative committee charged with providing oversight over such areas as information collection, both specifically to make sure that no unauthorized information is being collected and generally to make sure that the agencies of the Executive Branch are not abusing their authority.

The Marshall's Office shall include a unit for providing security services to domestic VIP's, to relieve that function from the current Secret Service.

Confirmed while researching Question 342 in March 2017 that the United States Sentencing Commission should continue to exist, "as a permanent agency to monitor sentencing practices in the federal courts", as described in its Guidelines Manual (2016 ed.), because it is expected "that continuing research, experience, and analysis will result in modifications and revisions to the guidelines through submission of amendments to Congress." The Commission was created by the Sentencing Reform Act of 1984 as an independent agency of the Judicial Branch, but we are not convinced that this is the most appropriate placement. Seems like a better distribution of 'checks and balances' if the Judiciary provides input into the process by issuing rulings and occasional departures from the standard guidelines, the Executive conducts administrative review of the ruling and departures in order to form recommendations for guideline revisions, and the Legislature considers the recommendations for formal adoption as indicated, thus providing qualified feedback to the Judiciary to help inform their future decisions, continuing the same process indefinitely. If the Judiciary is creating guidelines to inform its own decisions, even through a nominally-independent commission, or if it simply appears to be doing so, than at the very least it is a bad look. We therefore are recommending that it be reassigned to the Department of Justice.

**Subsubsection I-D-1-h: Other non-administrative Executive operations**

As previously suggested, there should be a periodic Census, and we agree to keep the period at ten years. We will require universal participation as to certain minimum questions (name, age, gender, and residential location), with non-compliers subject to criminal penalty and/or a visit by a Field Enumerator. The form can also include non-binding polling questions, particularly as to broadcast standards (both visual images and vocabulary), to gauge the current mood of the country.

The primary function of the Bureau of Measurement Standards (formerly "Weights & Measures") shall be to spot-check the accuracy of newly-manufactured measuring instruments. Generally, we should not change 'weight' to 'mass' in our general conversational usage, unless and until we change in earnest to the metric system.

We initially decided against having an office at the Federal level to clarify rules and standards for language, feeling instead that any such clarifying should be conducted within the private sector, with any specific authoritative entities being designated by legislation if desired. Even with this finding, we agreed that there should be exactly

one language with which every American should be expected to be familiar, and that there also should be exactly one 'official language' for purposes of all internal and external government communications. (We find that such designation does not constitute a violation of the Constitutional provision of free speech.) We codified this latter finding in our Resolution #6, reading: "For government purposes, American English shall be considered the official language of the United States. Such resolution shall not preclude the use of other languages in private situations." However, since we found that the designation of an 'official language' does logically imply a standard vocabulary and pronunciation (though we want to make sure not to impose upon individual liberties or eradicate valuable cultural diversities), we ended up changing our position about entrusting the oversight function to the private sector, determining instead that a government office probably would be needed to make this system work. This agency (the "Bureau of Language Services", reporting to the Domestic Affairs Department) shall communicate its standards by publication of one or more books (some hardbound and some paperback, according to demand and usage), with periodic updates to reflect the continuing evolution of the language. These books can be purchased by individuals, schools, libraries, etc., with some/all of the receipts going to offset the costs of production, so this is not expected to be too severe of a strain on Federal funds.

There shall be an office at the Federal level for emergency relief in case of natural disaster. (In our current model, the bureau reports to the Health & Safety Department.) This office shall generally supplement local efforts on request, and shall step in unilaterally only when it is clearly evident that state and local authorities have been incapacitated to the point of not being able to respond effectively themselves. For the record, we reached this finding over a year before Hurricane Katrina.

We do want to have an agency for Copyrights & Patents, and it may reside as a bureau within the Domestic Affairs Department. We would like for the offices to be financially self-sustaining, **if** the volume of new intellectual-property applications is high enough that application fees can cover both unit costs and overhead costs, and still be reasonable, but we acknowledge that funding by tax dollars may be needed if this is not the case. Copyrights are to remain valid for 50 years or the lifetime of the author, whichever is longer, with no option for renewal, except that the lifetime option will apply only if the author of record is one or more natural persons. Patents are to remain valid for 10 years, with a one-time option to renew for another 10 years, upon payment of the applicable additional fee.

Of all possible strategies, the optimal general approach to the homelessness problem is to help these folks reintegrate into society. The reintegration process should at least minimally be managed by government, and supplemented by private charitable efforts. Toward this end, the Fed shall create a network of help/orientation centers that will provide voluntary 'one-stop shopping' for housing, food, banking, mail, lockers, office services, job training/referral, career/financial counseling, language/ literacy education, medicine and disease screening, psychological/ substance rehabilitation, shelter from abusive family members, hospice care, and several other services, so that homeless people and others can get their focus while they arrange their next steps. Usage of these centers shall be encouraged but not mandated. No alcohol or other drugs are to be permitted within the centers. Free birth-control devices and counseling should be available, in order to mitigate against unwanted pregnancies. Centers can have free laundry and broadcast TV and some other low-scale 'creature comforts', to encourage people to hang out who would benefit from using these facilities, but we also want to keep the scale low enough to discourage

people from hanging out too long. We should plan for having as many as one center for every 50,000 of population, generally concentrated in the urban areas, and with regional and district administration as may be needed. This function will be managed by the Social Services Bureau of the Domestic Affairs Department, and may be the only function performed by that agency.

**Subsection I-D-2: Executive Branches of State Governments**

These next three Subsections were treated on a free-form basis, with no specific Questions composed in advance. Rather, we simply reviewed the executive structure that we assembled in Question 135, and addressed issues suggested by those agency names, and/or other issues that arose during previous deliberations.

Although we didn't always reach our findings in this same order, for ease of reference we are here presenting our findings in the same sequence as that in which the supervising agencies are listed in the introduction to Section I-D.

Where there are no specifications listed for a particular agency, we are generally allowing the applicable jurisdiction to establish and implement its own functionality preferences, though we reserve the option to add further recommendations later on as we think of them.

Commerce - Consumer Affairs

The state Consumer Affairs Bureau should check for false advertising, including by periodically spot-checking gas pumps for false calibrations.

Commerce - Corporations

OK to continue to have non-profit corporations, and for them to be regulated as needed by the Corporations Bureau of the Commerce Department.

Commerce - Insurance

Our standard Resolution #2B protocol shall apply to insurance commissioners; i.e., they shall be appointed by their bureaucratic higher-ups, being the Commerce Department head and the state Chief Executive, after nomination and/or screening by peer panels as applicable.

Taking position against 'redlining' by auto insurance companies, even for comprehensive coverage, based on the arguments that the maximum loss amount for a given type of car is not dependent on geographic location, and that people have much more control over the type of car that they buy than over their area of residence or the overall loss experience in that area. Taking position in favor of mandatory auto-liability coverage, based on the arguments that people should be able to recover from loss that is not their fault, and that the State should not be penalized by having to advance claim payments, even if later reimbursed by the parties at fault; however, allowing self-insurance under certain strict conditions, and allowing premium discounts when drivers show a clean record for a long-enough period of time.

Elections

As determined in Subsection I-C-1, each State election office shall have control over apportionment line-drawing at all levels.

As determined in Subsection I-C-3, each State election office should monitor all campaign contributions, and arrange for contributions received in excess of the designated spending limit to escheat to the State's general fund.

Law Enforcement - Police

We should have stricter enforcement of the law requiring use of signals when turning or changing lanes. Said enforcement can include private citizens submitting video evidence to the police, as that technology becomes more widely available.

All cops should be required to obey prevailing traffic laws when not in active pursuit. This can be helped by citizens capturing violations on video.

Law Enforcement - Prisons & Parole

Prisoners should not be allowed to commit acts upon other prisoners (assault, rape, extortion, etc.) that they would not be permitted to do in the 'outside world'.

Prisoners with light records may work off part/all of their sentences by cleaning highways, but not the hard-core repeat offenders who would need more extensive supervision.

Transportation - Driver's Licenses

In keeping with our previous designation of an 'official language' for purposes of government communication, and the creation of a Federal agency to monitor and standardize it, a minimum understanding of American English shall be required in order to obtain a driver's license, beyond that which is required to pass any written exam on the 'rules of the road', so an additional test shall be administered on language facility.

Transportation - Highway Construction & Maintenance

Good to have heavier-dotted lines between highway lanes that will shortly be going in different directions. Off-ramps should always precede on-ramps, so that there is no cross-traffic between vehicles merging on and those merging off. An on-ramp generally should not be merging with the previous far-right lane, but rather should stay as its own separate lane until the next off-ramp, to mitigate the slowing and dangerous 'funnel effect' of squeezing more lanes of traffic into fewer lanes, the exception being when you are far enough away from urban centers that lane reductions can happen safely and without significant impact on traffic flow.

Arrows on highway signs should point to those and only those lanes that will actually get drivers to the indicated destinations, no more and no less. Good to have electric highway signs for traffic conditions, 'amber alerts', etc., but we should watch to make sure that we're not thereby creating more traffic problems than we're solving, as people slow down to read the signs.

As noted above, prisoners with light records may work off part/all of their sentences by cleaning highways, but not the hard-core repeat offenders who would need more extensive supervision.

Whenever anyone works on the side of the highway, the nearest lane should be blocked off for safety.  There should be no cleaning or construction activity during rush hour.

Transportation - Vehicle Registration

Smog certification is to be handled by the Vehicle Registration Bureau of the Transportation Department, but overall car safety is to be controlled as needed by the Environmental & Consumer Protection Bureau of the federal Health & Safety Department.

SUV's present a safety hazard and inconvenience for people who drive conventional cars and can't see through/around them, so we agree that States may impose whatever registration surcharges they wish on SUV owners, to compensate the general public.

**Subsection I-D-3:  Executive Branch of County Governments**

Environmental Services - Fish & Game

Those involved with fishing and hunting should be required to prevent overdepletion, and counties should share information with other counties and states as needed, to show migrations and population-change patterns.

Health & Safety - Animal Regulation

Animal Regulation should pick up and spay strays.

Health & Safety - Coroner

The county Coroner's Bureau performs all processing of deceased bodies, including seeing to the disposition of any personal assets.  Good to use DNA and other technologies to identify unknown deceaseds prior to cremation.  Hospitals should be reporting all deaths to the Coroner's Bureau.

Health & Safety - Fire & Rescue

Users should not be required to pay for emergency services except when necessitated by their direct and deliberate action (arson, e.g.).  Counties may contract with private companies to provide fire and/or paramedic and/or ambulance services, but also should reserve the right to perform those services directly if privatization proves too expensive or otherwise problematic.

Health & Safety - Medical Services

Good to minimize administrative operations in health departments, but records databases should network with those in other counties and states, so that emergency patients can be treated even if they don't have their files handy. However, these records should include only the most pertinent information, and nothing which would compromise an individual's privacy.

Public Assistance - Job Placement

The county Job Placement Bureau can offer voluntary job-switching service between current employees, to allow workers performing similar jobs in each other's geographic areas to change places, in order to reduce commuting times and traffic volume.

Transportation - Airports

Since we find it unreasonable to expect airports to adjust their flight paths after their runways have been constructed, landowners should be constrained from building multi-unit residential developments in known flight paths, but individual landowners may build single-unit dwellings in flight paths if they wish.

Water & Power

Utility allowances can be provided to people who sign a statement certifying financial need.

**Subsection I-D-4: Executive Branch of Municipal Governments**

Administration - Finance

In June of 2006, we considered an idea that had first been suggested within our group in 1999, to allow municipalities to bill foreign nations when individuals from those nations travel within those municipalities, but we ended up rejecting the concept.

Cultural Enrichment - Libraries

Good to have public lending libraries with free Internet access, but they should not be permitted or required to ban/censor actually-published works, and we don't the want the Government having access to records as to what books individuals check out. Generally opposed to all provisions of the Patriot Act.

Cultural Enrichment - Parks

People should be allowed to play softball on designated softball fields without advance reservations or permits, when the fields haven't already been reserved by pre-payment.

Especially stiff fines should apply for littering in parks or other recreational areas. Triple the regular littering fine when throwing out a lit cigarette anywhere.

Communities may decide to enact certain regulations on the use of public facilities, but we generally prefer to have minimal regulation and maximum freedoms.

Permits & Licenses

City planners/developers should generally try to spread housing and jobs out to a larger number of smaller towns, in the interests of general improvement in quality of life through decentralization.

Zoning OK.

Good to have business licensing, for a variety of purposes.

Public Safety - Police

Once the federal help/orientation centers for homeless and other disadvantaged individuals are operational, local communities may enact tougher laws against actively accosting or threatening the public, but should leave alone 'passive panhandling' and other non-harmful/non-threatening activities.

As noted in Subsection I-D-2, we should have stricter enforcement of the law requiring use of signals when turning or changing lanes. Said enforcement can include private citizens submitting video evidence to the police, as that technology becomes more widely available.

Also as noted in Subsection I-D-2, all cops should be required to obey prevailing traffic laws when not in active pursuit. This can be helped by citizens capturing violations on video. Parking-enforcement personnel also should obey parking restrictions.

Police budgets can be partially funded by criminal fines, particularly in the area of special capital projects, but not entirely, since not all criminal activity is easily redressable by fines alone. Where applicable, fines should be set at a given percentage of inflicted or threatened damage; we are suggesting 300% of damage for actual harm, and 150% of the estimated amount of harm in case of threat.

No hand-held cellphone use while driving.

Transportation - Parking Enforcement

Paint red any curb area where you don't want people parking, rather than making people guess rules or estimate distances.

Transportation - Street & Highway Maintenance

As noted above, triple the regular littering fine when throwing out a lit cigarette anywhere.

There should be a 'pothole hotline', to help the City determine prioritization of repair.

Limit heights of curbs.

Transportation - Traffic Management

Speed bumps should be left up to local preferences, and there should be well-advertised public hearings to determine this, each time that installation of speed bumps is contemplated.

Shouldn't have to stop at two red lights in a row, unless absolutely necessary. Good to have traffic light sensors, but they shouldn't work when someone has gone past the limit line. Motorcycles should be allowed to proceed after coming to a complete stop. Dumping push-buttons for pedestrians at traffic signals.

**SECTION I-E: LEGISLATIVE OPERATIONS**

Based on our findings in previous Sections, the national Legislature will have at least these functions assigned to it:

- To consider vetos of so-called 'judicial review' of previously-passed legislation;
- To decide (majority vote) whether an existing State is to be broken up;
- To approve and codify all applicable restrictions on individual and corporate behaviors, except where better to defer such judgments to lower jurisdictions;
- To authorize and/or prohibit actions of the Chief Executive, and to override (must be within 30 days) any unilateral action of the Chief Executive;
- To confirm or overrule the appointments of all department heads and bureau chiefs in the Executive Branch;
- To establish and maintain policies (through an applicably-designated committee) that provide harmonious balance among the needs of businesses, consumers, and the environment;
- To establish binding written standards for agricultural safety and livestock treatment;
- To receive notifications when the Bureau of Water & Power is intervening in the administration of local flood-control dams, and to override such decisions as appropriate;
- To ensure that information gathered by the Department of Justice on non-criminals is not overly invasive;
- To total and certify the results from States as to national elections.

In addition to whatever functions are managed and decisions made by the national Legislature, we agree that there definitely should be national propositions on national ballots, so that the public can directly trump the Legislature on certain topics, one of these possibly being the designation of what should be the country's "official language".

Actual Questions in this Section are arranged in seven Subsections, to approximate the flow of legislation through the process. These seven Subsections are Basic Structure, Introduction of New Business, Committees, Amendments, Debate and Voting, Veto, and Miscellaneous.

### Subsection I-E-1: Basic Structure

While some people might prefer the efficiency of a 'benevolent dictator', and whereas the present system of periodically rotating legislators does create a certain amount of inconsistency, we yet feel that it is best overall to have at least the major policies of a society decided by an assembly of popularly-elected legislators. For, there are no guarantees (as we have observed in history) that even the dictators who start out as benevolent will stay that way, plus the inconsistency in our present system is actually a good thing, since it allows people to override the wishes of an 'entrenched hegemony' who may not be willing to acknowledge that they made mistakes in their original decisions. Meanwhile, direct democracy is not effective for large societies, which have so many issues of such complexity that it requires full-time attention to be able to vote in a sufficiently-informed manner, so the votes would tend to be skewed towards those segments of the population who already are well-off enough to be able to devote that amount of attention.

Agree that it's good for larger jurisdictions to have more than one house in their legislatures, since the complexity and scope of the issues is such that it's more prudent to make sure that a given piece of legislation passes through multiple separate fora independently before it is adopted, to make us that much more

confident in the robustness of the outcome. (It could be faster if we allow houses to specialize, but you may lose the benefit of multiple reviews, plus you would need a macro 'steering committee', same as at the international level, to decide which bills go where, and this could be both dilatory and unduly influenceable by political motivations.) However, it is yet possible that certain special pieces of legislation may be able to be managed effectively without going through every single house.

For a country as large as America, we think that it's best to have three houses in the Legislature, one with a certain number of delegates per State, one with a delegate for each n of population, and a third with representation based on geographic area, same as the I.O.O. (We find that some large States with low populations and high natural resources may not have a sufficiently-influential voice in the present structure; as a result, we have created policies that effectively rape those areas to our collective long-term detriment.) The same arrangement might be best for at least the largest States, while smaller and/or more homogeneous States may be able to do with two houses or even just one, but we agree to let each State decide for itself. The issues to be decided by counties and cities are usually narrow enough in scope that those jurisdictions can each manage capably with just a single house in their legislatures.

For the population-based house, if we assign a population of n to each delegate, then the total number of delegates will fluctuate with the population, and that number would then usually not be easily fractionalized (to facilitate calculation of the number of votes needed to pass a particular measure), so better to set a fixed number. The values of 300 and 450 were tempting, but we feel that a total of 600 delegates would make the districts small enough that gerrymandering would become more difficult.

States may exercise their own options as to whether the delegate positions assigned to them in the per-population house shall be filled by geographic district, by proportional representation, by at-large elections, or by some other means. However they do it, though, the delegates must be popularly elected, and any geographic district must conform to the rules that we established in Question 69.

We initially agreed (in November 2006) to have the same number of delegates in the per-area house as in the per-State house, in order to balance their respective influences, and we set that number at (the number of States x 2), which currently would give delegates in the per-area house districts of about 200x200sqmi to represent, but in October/November 2010 we changed our position such that the per-area house would serve as the 'middle' house, and thus should have a number of delegates somewhere between the 100 of the current U.S. Senate and the 600 of the per-population house.

One reason for having a 'middle' house is to have a hierarchy that can help with navigation of new bills, as well as to allow representatives a more gradual path of advancement. Another reason is that some people might associate the number of delegates with the relative importance or prominence of a given house, and they might wonder why we didn't have a per-area house in the original Constitutional model if it was important enough to have a delegate count as low as (or lower than) that of the U.S. Senate, and they further might wonder why it's necessary to have such a 3rd house at all if it is so unimportant as to have a delegate count as high as (or higher than) that of the per-population house. If we can show that this 3rd house is more of a balancing influence between the 'upper' and 'lower' houses, by having both the delegate count and the term length (see below) fall somewhere in the

middle, then that might be more understandable to more people. Yet another reason for not tying the delegacy of the per-area house to that of the per-State house is that we don't want to have to re-norm the districts of the per-area house if we are merely changing the number of States within the same geographic area.

The per-State house may continue to have 2 delegates per State.

We initially felt that the per-area house should assign a certain number of delegates to each State based on their relative areas, with each State deciding for itself whether to elect delegates from specific geographic regions (in which case the States would draw the district lines themselves), or by an at-large election, or in some other way. (Delegates' votes would still be counted separately in all houses, and not combined into blocs supposedly representing entire States.) However, in the course of the 2010 reconsideration, we reasoned that it would be better to base the districts on actual geographic area, rather than according to State boundaries, because it is the geographic area that the delegates are supposed to be representing, and because we would like to reduce the impact of State politics on the process. Also better to have national uniformity in determining representation within a national legislature.

To determine the exact number of districts in the per-area house, we looked at several map models of how the districts might appear depending on their ordinary dimensions. We wanted a model that produces a number of delegates somewhere between 100 and 600, but we also want one where the districts are large enough to motivate the delegates to emphasize broader needs over local interests, but not so large as to disallow certain regional variations from being voiced. The model which appears best to us has ordinary districts of 2° wide x 2° tall within the 48 contiguous States, bounded by odd meridians (since our model using even meridians produced a higher number of non-ordinary districts, particularly in the Southeast), with 1 delegate defined for each of the District of Columbia (see below) and Hawaii, and enough delegates assigned to Alaska to produce a total number of delegates equal to 240, which is easily divisible by 3, 4, or 5 for voting purposes.

We considered whether to shape the boundaries of ordinary per-area districts according to smooth lines of latitude and longitude, or according to ZIP-code boundaries. It was argued that people might be able to identify their own districts more easily if they were based on ZIP code, but we eventually found that such a system would just complicate things to no great advantage. Besides, the whole idea of the per-area house is to allow the needs of certain geographic areas to be voiced, and it seems to defeat this purpose if we allow a district to contain a 'peninsula' surrounded by another district.

Territories generally should not get the same level of representation as ordinary States, because they are being administered directly by the Fed, but we feel that the people who live in those territories should get the same level of representation as any other American national, so they get to participate equivalently in the population-based house. However, the per-State and per-area houses will continue to involve only actual States, except that the District of Columbia shall have a minimum of one delegate in the per-area house by definition, since they operating as a territory because of our direction and not out of local inability/unwillingness to self-administer.

Members of the federal per-State house (i.e., equivalent of current U.S. Senate) shall have 6-year terms, with approximately one-third being elected every 2 years.

Members of the federal per-area house shall have 4-year terms, with approximately half being elected every 2 years. Members of the federal population-based house (i.e., equivalent of current House of Representatives) shall have 2-year terms, with the entire house being elected every 2 years.

Mid-term vacancies shall be filled by the highest-ranking candidates from the previous elections who accept within the first 10 days of eligibility, failure to thus accept enabling the next-higher-ranking candidates to become eligible for 10 days, and so on, a special election ensuing if no candidate from the previous election accepts.

There should be no change in representation amounts for a given State between decennial censuses.

There should continue to be a Chairman of each House, even with advanced technologies. This position shall be elected by all delegates in the House, using the 'yes/no/abstain' method. (See Subsection I-C-4.) The first ballot is open, and goes to subsequent ballot only in case of a tie among all candidates, in which case subsequent ballots are limited to candidates with previous experience in that House, unless all candidates are equally experienced/inexperienced, in which case subsequent ballots are limited to the half who enjoyed the largest margin of victory over the next higher-ranking opponents in their most recent elections.

In case of foreseen temporary absence by the incumbent Chairman of the House, that Chairman can designate a replacement. In case of unforeseen temporary absence, the House shall conduct an election for a *pro tem* Chairman.

Any election (either permanent or *pro tem*) for Chairman of any federal House shall be conducted by the 'Custodian of Congress', a position filled by Congressional appointment that remains filled even after Congressional adjournment, until it is actively re-filled by new Congressional appointment. The 'Custodian of Congress' also has the ongoing responsibility of managing all staff (clerical, legal, logistical, janitorial, etc.) who work for Congress as a whole.

Disqualification of a delegate from his/her membership in a particular house without a recall vote from that delegate's constituency must be grounded upon some alleged gross misconduct, and shall require a motion passed by a simple majority of that house, directing that a tribunal of that jurisdiction's supreme judicial assembly convene to conduct an impartial review of the case, their approval being necessary to complete the termination.

**Subsection I-E-2: Introduction of New Business**

The authors of any bill should designate at least one standing or special committee to review the bill (see Subsection I-E-3 below), and may be motivated to designate additional committees, both to appease them and also to increase the likelihood of some committee finding that the bill should be voted on by the full assembly. However, designating too many committees could also increase the number of recommendations against it, and/or delay the process, so we don't want to go overboard.

The bill should then go to a 'Bill Assignment Committee' of the house in which the bill originated. (We originally referred to this group by the current name of 'Steering Committee', but we later determined that 'Bill Assignment' is more clearly descriptive

of what the group actually does.) The Bill Assignment Committee may then recommend one or more additional committees to evaluate the bill, as appropriate. The bill is then read to the full assembly, who will then have the option to add or change or delete any committee assignments, so that the Bill Assignment Committee does not end up getting vested with too much power. The bill then goes to the duly-designated committees for actual evaluation.

**Subsection I-E-3: Committees**

We agree that legislative houses generally should have smaller groups of delegates organized into 'committees' for the purposes of performing detailed evaluation of certain items of business.

Determination of which committees should exist within a given house should be left up to the entire membership of that house, and shall not be subject to veto by that jurisdiction's chief executive.

Committee names generally should reflect clearly and unambiguously what those committees actually do. In particular, any 'Rules Committee' should be only working on the assembly's general operating procedures, and should not have anything to do with any piece of ordinary legislation. Also, there should not be any such thing as a 'Ways & Means Committee'.

Committees shall be unlimited in membership, and each delegate shall have his/her choice of up to 3 committees to join. If membership in a particular committee ever drops to zero, that committee is automatically disbanded, with all records automatically going to the Custodian of Congress (or corresponding local authority) for disposition as applicable.

A committee may pass a non-binding motion to ask one of its members to resign, whereas a binding vote to terminate a particular delegate's membership in a particular committee may be passed by a 2/3 majority of the full house.

As originally suggested during Question 132, there should be a mechansim in Congress to evaluate any and all actions taken unilaterally within the Executive Branch, and to overturn any such action within 30 days. This responsibility should reside within an 'Executive Oversight Committee' within the per-State house alone, both because it's easier for one house to do something within 30 days than for all three, and also because we are contemplating the per-State house as having the fewest delegates, meaning that those delegates would generally be representing larger constituencies, and must therefore have had more experience in and knowledge of national issues and personalities in order to have gotten elected to those 'higher' positions in the first place. The Executive Oversight Committee continually reviews all unilateral actions of the Executive Branch (generally through notifications from all units in the Executive Branch, but also upon its own investigations, including as to excessive information collection, as described in Subsubsection I-D-1-g), and may recommend by a simple majority that a particular action be reviewed by the full per-State house, who may reverse such action by a 2/3 majority within 30 days of the original action; otherwise, the action stands approved. If the Executive Oversight Committee learns of a significant action being taken by the Executive without prompt notification to the Legislative, the Committee may recommend disciplinary actions against the individuals responsible for the non-disclosure, up to and including removal from office, any such disciplinary actions requiring ratification by the full per-State house.

This Executive Oversight Committee will also be the body which evaluates appointments of all department heads and bureau chiefs within the Executive Branch. Any appointment approved by a simple majority of this committee is passed with no further action required; any appointment which fails to achieve a simple majority is referred to the entire per-State house (in order to reduce the likelihood that a given appointment is blocked merely for political or personal reasons), where it can be irrevocably overturned by a 2/3 majority, but otherwise passes. There shall be no fixed time constraint imposed on the evaluation of new executive appointments (for, we don't want a maniac getting appointed because the per-State house genuinely had more important things to do within a given time frame than consider that one appointment), but we are suggesting that the matter be given as high a priority as practical (which is why the appointment is to be considered within only the one house), for the positions are to be left vacant until appointment is confirmed. Principal reason that the position is left vacant until full confirmation is that we typically require multiple levels of approval before allowing anyone to assume a position within the corporate sector.

As originally suggested during Question 165, we do want to have an 'Economic & Environmental Affairs Committee' in each of the 3 houses of the federal legislature (or just the per-area house at the very least, since they usually will be the most severely impacted by any decision affecting large portions of our national environment), to evaluate any issue involving either businesses and/or consumers and/or the environment, and to make sure that the needs of all three segments are properly balanced. (We put 'Economic' before 'Environment' to show that environment is important, but not necessarily the most important element of the triad.)

As originally suggested during Question 180, we do want there to be a mechanism for determining whether a particular State is failing to fulfill its ongoing obligations and needs to be converted back into a Territory. However, this hopefully will be so infrequent an occurrence that we don't need a standing committee for it, and we really would rather not have one, since each delegate may serve on a maximum of 3 committees, and we feel that each of these committees should have a fairly full calendar. Rather, we should convene a special committee for this function when necessary.

The Custodian of Congress can open sessions of federal committees, either personally or more likely through a duly-designated deputy. That individual can conduct elections for committee chairs. Such elections shall be open to all committee members, and be decided through the 'yes/no/abstain' method.

Any vote taken by a committee shall be based on the number of ballots cast, not on the total number of voting and non-voting members of the committee.

Committees generally should not have authority to kill a bill outright, but rather should only evaluate and report to the full assembly. However, if all committees assigned to evaluate a bill are recommending against it, then the bill may die directly, without taking up any more of the full assembly's time.

Once all assigned committees have evaluated a given bill, and if at least one committee is recommending that the bill be reported back to the full assembly for further consideration, it is directed to that house's Bill Assignment Committee, which then generally decides the sequence in which all items reported back from

committees are to be taken up by the full assembly, in order to try to get the more time-sensitive issues dispatched first.

**Subsection I-E-4: Amendments**

We dislike the fact that it's currently so easy to attach provisions which are not in the least bit germane to the bills to which they are being attached. We therefore agreed to require a 3/5 majority of the full house in order to attach any amendment to any bill, in order to give the proponents of any non-germane provisions a greater motivation to introduce those provisions in the form of a separate bill.

We are also providing that the language of the amendment motion routinely include that the proposed amendment is germane to the previous motion. We understand that 'good' politicians won't need such a reminder, and that 'bad' politicians won't care about it, but we yet feel that a routine reminder continually reinforces the point that independent items of business generally should be handled independently.

Amendments made by other houses after a bill has passed one house tend to slow the process down, compared with simply approving or rejecting a given bill in the form in which it is passed by the original house. Further, reliance upon a joint 'conference committee' to hammer out any lingering disagreements appears to us to cause more problems than it solves. However, some amount of negotiation among houses is helpful for getting good amendments approved, and good legislation enacted, so it probably is better to allow amendments to happen in the other houses, but just streamline the process.

We therefore established procedure for allowing amendments to be offered and evaluated by all the different houses, as follows: Any bill that has been amended as applicable and approved within a 1st house goes to a 2nd house only. The 2nd house offers any further amendments of its own, and the bill goes back to the 1st house. If the 1st house approves all amendments offered by the 2nd house, then the entire bill goes a single document to the 3rd house. If the 1st house rejects any amendments offered by the 2nd house, then the bill goes to the 3rd house as two documents, one being the bill with any amendments agreed upon by both houses, and the other being a list of 'pending amendments', any of which get locked into the bill if they are approved by the 3rd house (for that constitutes approval by 2 out of the 3 houses). In either case, the 3rd house gets to offer further amendments of its own, which likewise must be approved by at least one other house in order to get locked into the bill.

Basically, each house gets to offer amendments, and any amendments are considered by both other houses as applicable, and attached to the bill if approved by 2 out of the 3 houses.

Any amendment offered by any house to a bill that it receives from another house shall require 3/5 approval, same as in the initial house.

We initially set a certain procedure for the sequences in which the bills would through the houses, but we have a modification suggestion pending. The suggested modification depends on what number of delegates we finally decide upon for the per-area house: If we do decide upon a number that is somewhere between those of the per-State and per-population houses, then we would like to make sure that each new bill approved by a given house should be directed automatically to the 'lowest'

house (i.e., the house with the highest number of total delegates) which has not already seen it, in order to relieve the higher houses of some of the burden of addressing new bills, and to allow them to concentrate more on larger-picture issues such as the unilateral actions of the Executive Branch.

**Subsection I-E-5: Debate and Voting**

Houses and committees may generally set their own debate procedures, but we want all formal proceedings to be televised.

Houses and committees should clock attendance, including attendance by teleconference, and allow remote voting if the delegate has been personally or electronically present for at least 75% of the debate (i.e., enough to allow a fairly balanced view of all sides of the argument, but still allowing for bathroom breaks or other urgent business), but not otherwise.

Houses and committees must have at least 50% of their memberships present (either in person or electronically) for a quorum in order to call a session to order, but business may continue during the session as normal if attendance falls below quorum at any time prior to adjournment. This way, it would be impossible for an unethically-small number of delegates to assert by themselves that a session is in order, and then they attempt to undo any and all previous resolutions ever made by the house, but neither are we making it too difficult to get business transacted when it needs to be. And, if attendance during a properly-called session ever needs to fall below that quorum level, the departing delegates would be in a position to realize that their departure would be causing the below-quorum condition, and so they would be in a position to ask for adjournment before they leave, and then the full assembly present would have the opportunity to decide whether it is more important to get the pending business transacted immediately or to wait until a broader cross-section of delegates again becomes available.

Good to set time limits for actual voting, and to enforce them strictly. We are tempted to allow excuses for sudden illness, stuck elevator, abduction, or some other severe and unforeseen problem, but any such mechanism would be subject to abuse for political purposes, and any vote to allow/reject such excuse would likely mirror the sentiment on the bill being voted on, so that would be useless. Best to just set your time limits, enforce them strictly, and have done with it.

Ordinary bills and motions shall require a simple majority for passage. This includes the budget, so that we don’t experience the problems which California did for a long time in getting its own budget enacted in a timely manner. However, certain special items of business (in addition to those mentioned above) shall require a higher majority: One of these shall be a required 2/3 majority for reversal of any action within 24 months after original enactment; it’s true that an intervening election could show some shift in national sentiment, but we don’t want to make it too easy to shift policies and procedures back and forth too quickly, particularly in a polarized political environment; better to allow at least a little time to allow a new action to have the intended effect, although a 2/3 majority will still work if that many delegates are convinced that a particular action really does need more immediate reversal. Other items requiring a 2/3 majority shall be premature termination or change of any multi-year scientific or infrastructural project (although duly-appointed managers may make changes within their established scopes of authority), and any appropriation in excess of budget.

**Subsection I-E-6: Veto**

We generally do want the Executive Branch (as represented by the Chief Executive) to have some veto authority over the Legislative, in order to provide a counter-balance against Legislative oversight of the Executive. However, we also want the Legislature to be able to override a veto, because we don't want too much power vested in a solitary individual, particularly one who had limited or zero involvement with the development of the proposed legislation in question.

We considered whether a bill needs to go to the Chief Executive at all if it has already received the legislative votes that would be needed in order to override a veto, and we said yes, because a significant number of legislators might change their yes votes once they've learned that the Chief Executive opposes the bill so strongly, so the President ought to be able to require a second vote even if the first vote was very high.

We also approve the use of partial veto (sometimes known as 'line-item veto', although that term is less inclusive of the different types of partial vetos that are actually possible), in order to allow good measures to get enacted without bad amendments, but the Legislature must have the authority to override such a partial veto, in order to prevent a bill from going through which no longer makes sense with certain elements removed.

We considered why a partial (or 'line-item') veto hasn't been enacted before now if it is such a good idea, and surmise that it's been largely because legislators have tended to selfishly block any such change that shifts power away from them to any degree.

As to specific procedure, the President shall have 30 days to either enact the bill directly by signature, or actively veto all or part of it. If taking no action, then the bill is enacted automatically. For, you don't want to allow a bill to be stayed indefinitely while the Executive sits on it, and so you want it going through if the President fails within a certain period of time to indicate a strenuous objection. However, you also want to allow the President to execute the bill immediately, both to create the public perception of taking affirmative action and also to get the bill enacted that much more quickly.

Currently, though, if the President fails to act within a certain timeframe, it is considered a 'pocket veto', and the bill dies automatically. But, we want the bill to go through if it has gone through all that process, and if the President has failed to indicate a strenuous objection.

A timeframe of 10 days is too narrow, because you want to allow the President some realistic opportunity to fit this item in with his/her remaining schedule. A timeframe of 30 days is satisfactory, and is consistent with the Executive Oversight Committee's window for overturning Executive action.

A veto by the President does not fall within the scope of Executive actions which may be stayed through the Executive Oversight Committee, since it is not so much an Executive action as it is an Executive review of a Legislative action. Therefore, the Executive Oversight Committee does not get to have any involvement in the veto process.

After a full veto, the house in which the bill originated has 24 months in which to override the veto by a 2/3 vote, or else the bill dies, and any extant proponents would have to start the process all over from scratch.

We considered having the bill go through all 3 houses again, but we feel that the process would take too long, and could be impossible in many cases, and besides one house should be able to represent the combined Legislature if all 3 houses have already agreed on what got sent to the President, so more expedient to let one house have authority to override the veto unilaterally. We also considered letting the 'upper house' handle all such vetos, with the idea that the lower houses are generally more concerned with new items of legislation, and also because any such controversy between the Branches is generally going to be 'big picture' enough to merit the attention of the upper house, but we reasoned that the house where the bill originated is most likely to contain the delegates who know most about the item and who can argue about it most sincerely and passionately, so that's where the game should be happening.

We also looked at whether we should have any time limit at all for responding to a full veto, since it might not really hurt anything if they override on a bill that had been vetoed several years earlier. However, we felt that one house can represent the entire Legislature in an override only if the personnel in all houses are still essentially the same as those who approved the bill in the first place, and so a fresh approval from all houses might need to be sought if too much time has passed since the original veto. (In other words, the proponents shouldn't be allowed to exploit a procedural shortcut later that they were unable to exploit earlier because the bill in question was too contentious.) Conversely, though, we wouldn't want a good measure to be penalized because it happens to be vetoed near the end of a legislative term, so we will allow 24 months for the override in any case, after which the proponents must start the entire process over again if an override hasn't been effected within that time.

In consideration of the option of partial veto, we considered allowing the authors of the bill to designate that certain provisions of the bill are inextricably tied together, such that one portion couldn't be vetoed without also vetoing the other portion(s), the idea being that it shouldn't be possible for a bill to go through to enactment if an approved portion is directly dependent on a portion which got vetoed. However, we found that it would be too easy for the Legislature to abuse this process, by designating that the entire bill is one big portion, which therefore couldn't be partially vetoed in any way. This would have the effect of denying the Executive the option of partial veto, and would then allow the Legislature to resume its old tricks of forcing bad measures to go through by attaching them as amendments to good measures, or by attaching good measures to them as amendments.

However, we still want to make sure that no bill goes through to enactment which doesn't make sense, which could easily happen if someone executes a partial veto who is not familiar enough with all the interdependencies existing within the bill as originally passed. We are therefore allowing the Legislature to block a bill from enactment that has been partially vetoed, for whatever reasons the Legislature may have.

Thus, after a partial veto, the approved portions of the bill go into effect in 30 days (not earlier, not later), unless the house of origination first passes a motion by simple majority to block enactment of the bill in its current partially-vetoed state. (We don't wish to require a higher vote level, since they're just saying that the item should be

held while they do other stuff with it, and we want to make it easy to block an unworkable bill.)  After passage of such a motion, the house of origination can unilaterally override the partial veto by a 2/3 vote, in which case the entire bill goes into effect immediately, without any further action required by the Executive or any other house.  Or, the house may take no action for 24 months, in which case the entire bill dies.  Final option, the house may pass one or more amendments to the bill by simple majority, in order to get it into a more approvable condition.

The reason that we're requiring only a simple majority to approve amendments to a partially-vetoed bill is because we're hoping and presuming that it's basically a good bill, otherwise it would have been vetoed in its entirety, and we therefore want to make it easier to get through by fast-passing whatever adjustments may be needed in order to get it into a more approvable shape.

However, any amendments passed within the house of origination following a veto effectively cause a new bill to be created, and so after it leaves the house of origination it must be approved by all the other houses in the normal sequence, and with the normal voting requirements (including a simple majority for approving the bill without amendment, and a 3/5 majority for any amendments added outside the house of origination), before it can again be referred to the President, at which time the normal veto cycle starts over as normal.

**Subsection I-E-7:  Miscellaneous**

Referenda and Initiatives

Referenda and initiatives are to be allowed at both the State and national levels (partly because we sometimes genuinely want to know what the people are thinking, in a manner more reliable than 'scientific sampling', and also in order to make the people feel more like active participants in the decision-making process, and make them less likely to foment a violent revolution), but only for measures which have first been addressed and defeated by the applicable Legislature.  We make this restriction for a number of reasons.  One is that we are hiring professional legislators to do the lawmaking job for us, and we feel that they generally are able to do that job more effectively than we can, and so they generally should be allowed to do so, although we also want a 'work-around' process for enacting measures with which the Legislature may have a conflict of interest (such as salary cutting, district reassignment, campaign rule changes, etc.).  Another is that we find that ordinary voters often can be unduly swayed by slick marketing campaigns, partly because they don't always have a quick and reliable way of distinguishing the good propositions from the bad; limiting propositions to previously-defeated bills creates a clear presumption in favor of popular defeat (with the people generally knowing in advance the reasons why the measures were originally defeated in the Legislature), but still allows the people to override the Legislature when they really want to.  This process also prevents voters from getting overly-inundated with propositions, while at the same time obviating the need for some hopefully-but-not-necessarily-impartial entity to decide subjectively whether a given measure 'deserves' to be placed on the initiative ballot by reason of alleged conflict of legislative interest.

An initiative measure can be placed on the legislative calendar directly upon acquisition of a designated minimum of voter signatures, and goes on the next biennial ballot automatically if it fails to achieve legislative approval.  We considered that an initiative measure would be generated in the first place only if no legislator is willing to sponsor it as an ordinary bill, and that the measure probably would not

achieve a majority approval if it is that unpopular among the legislators. However, we also allowed for the possibility that some legislators may be willing to give their support to a measure if it has gone through the processes of external drafting and acquisition of voter signatures. We also considered requiring the proponents to gather signatures a second time in order to get the measure on the popular ballot, or else requiring a higher level of signatures in the first pass in order to get it on the ballot automatically upon legislative defeat, but we felt that achieving a certain number of voter signatures for legislative calendaring the first time should merit an automatic 'double-check' by the people if the Legislature initially disapproves it.

A measure originating in the Legislature and failing to achieve approval can be referred to popular vote either by a 1/3 vote of the Legislature within 30 days (we feel that a 1/4 vote would be too easy, and that a 2/5 vote would be too hard for a measure which is unable to achieve a simple majority vote on its own), or by a designated number of voter signatures within 24 months. (That makes this a 'popular reverse veto': It is 'popular' because the people have the option to override a legislative decision; it is a 'reverse veto' because a regular veto cancels a bill which has been passed by the Legislature, whereas this action enacts a bill which the Legislature has defeated.) But, why not allow the Legislature to refer any unvoted items to popular election that they wish? Because they sometimes might abuse the process by referring measures which actually serve certain special interests that the general public might not notice, or on which they might feel too afraid to take a public stance, but that is what we want them to do, so we want them to take a legislative vote first.

Any referendum or initiative shall require a 3/5 popular majority for approval. We observe that it's generally too difficult to achieve a 2/3 vote either for or against any measure for that to be deemed a reasonable requirement, but we do want it higher than 50%, in order to make the point clear to the people that they are considering a legislative override, and to establish more clearly that this is something that most of the people really want.

Constitutional provisions

Most of the provisions established up to this point in Section I-E (including the Bill Assignment and Executive Oversight Committees) ought to be in the U.S. Constitution, and not left up to 'Congressional caprice', but specific discretionary details such as supplemental committees and call-to-order times and time limits for voting on motions may be left up to Congress to decide and adjust as it sees fit.

Constitutional amendments should not be simply left up to Congress to decide, because an assembly can't bind a future assembly, and because a big part of the reason for having a Constitution is to place limitations on how the Legislature operates. They also can't be left up to the Chief Executive, because that would give one branch too much power over how the other branch operates. Current practice of according ratification authority to 3/4 of the States (through either their Legislatures or special conventions, as dictated by Congress) creates an inequity of influence between large and small States, same as with the Electoral College. Since it is the people of the nation who are ultimately being affected by the Constitutional structure, wherever they live, it is they who should have approval authority over any amendments.

We like a 3/4 majority of the popular vote as being both necessary and sufficient to ratify a Constitutional amendment, both because we want it to be difficult (lest we

get too many changes back and forth) but still achievable, and also because it might an easier sell if the required proportion is the same as we currently apply to the States.

Congressional agencies

We may continue to have certain agencies under the direct authority of Congress, as opposed to anyone in the Executive Branch, since it helps with the overall checks and balances. Such agencies may include the future equivalents of the current Congressional Budget Office and the current Library of Congress.

We agree to have a ‘middle management’ position known as the ‘Custodian of Congress’, who shall have direct authority over all these agencies, in order to help manage their budgets and ensure their operational compliance with Congressional mandates. As previously identified, the Custodian of Congress shall also be responsible (either personally or through a deputy) for opening sessions of Congressional houses and committees, and for supervising their initial internal elections, and for receiving and managing all records of disbanded Congressional committees.

National days and weeks and months

We observe that many private individuals and organizations attempt to promote their pet causes by proclaiming some particular time period as “National <something> Day” or “National <something> Week” or “National <something> Month”, without having obtained the endorsement of the national Legislature or any other governmental office of applicable jurisdiction. We find this practice to be misleading and in some cases even fraudulent, so we examined what we might be able to do about it.

First idea was to figure out how to stop people from inappropriately using the “National” expressions, but we’d rather not create a whole new set of laws and criminal penalties which might be used to unjustly punish those who are sincerely trying to raise awareness or funding for legitimate causes.

In the absence of such laws and criminal penalties, we probably cannot stop people from invoking these expressions on their own authority, but maybe that’s good, because some of these trends are most productive and most socially redeeming when they come from grass-roots efforts, rather than relying on an overworked and possibly-undercaring Congress.

At the same time, however, we do want to distinguish between the “National” time periods which are designated unofficially within the private sector from those which are designated officially by proper officials of the U.S. Government. We therefore figured it most practical to allow the “National” expressions to be used with impunity by the private sector, and instead create some other expression to distinguish the ‘official’ time periods from the unofficial.

We considered the use of the adjective ‘official’, but find that it sometimes is abused also, and in any case still doesn’t clearly indicate who supposedly made it official. We find it more effective for the expression to clearly indicate the source, so it should be “Congressional <something> Day/Week/Month” if it is mandated by Congress, and “Presidential <something> Day/Week/Month” if it’s coming from the President’s office.

Between these two choices, we lean very heavily in favor of allowing only Congress to make such designations officially. The President is far too visible a position, and must necessarily be more image-conscious than most/all other political figures in the country, so he/she could be much more easily susceptible to political or media pressures to dispense these supposedly 'official' expressions, so they therefore lose a lot of impact and value when bestowed.

Conversely, if a measure manages to make its way through all 3 houses of Congress, and especially if it does so before the particular week/month to be celebrated, it must be pretty important and pretty meaningful, so best to let Congress be the only federal entity who may officially designate any particular time period as meriting national attention toward any particular cause or other purpose.

Lobbyism

We're agreed in principle that it's generally OK for individuals and organizations to attempt to educate and persuade legislators regarding various pending proposals, including by the threat (either express or implied) of withholding electoral support if the legislators end up going the other way. However, we do not wish for there to be any bribery, either immediate or deferred, either monetary or 'in kind', either directly to their legislators or to their families or to their alma maters or even to their favorite charities.

And, we perceive that most of society shares our distasteful view of such unethical practices, and agrees that it's a problem, so that's good. It therefore ought to be pretty easy for us as a society to identify and prosecute most/all of such wrongdoings when they happen, right?

But, lobbyism still happens, and it happens broadly and deeply and openly. It happens most prevalently at the highest levels of government. One of our group identified online that there are 15,000 lobbyists known to be operating in Brussels alone, owing to the increased centralization of the European Union.

If it happens so much, and if we as a society dislike it so much, why is it still happening?? We need to figure out the cause of the problem before we can settle upon a solution strategy.

Is it just because we the people are too powerless to stop legislators from doing whatever they want? Or, maybe our supposedly-independent prosecutors and judiciaries don't give it a sufficiently high priority? Or, maybe the supposedly-independent prosecutors and judiciaries are on the take themselves? Or, is it simply because the only people who get to actually make the laws are the very ones whom we are seeking to limit through those laws, and they therefore have a conflict of interest that will prevent the really tough anti-lobbying laws from ever getting enacted in the first place? Or maybe some combination?

The Answers to Everything SIG has already identified a few improvements in our system that can help to mitigate the influence of lobbyists. These include decentralization of many of our functions and authorities (in contrast to the current EU), removal of political parties from the formal electoral and legislative processes, and several changes to our standard campaign structure. However, all these improvements combined can only partially mitigate lobbyism, not totally eradicate it.

What further can we as a society do, then, at either the national or international levels? In order to figure that out, we need to know why we still have so many lobbyists in the first place: Just where exactly are we currently failing?

First, it should be remembered that not all lobbyists are bribers.  Still, we want to discourage the perception and reality of anyone attempting to influence the outcome of proposed legislation illegitimately, so we think it best to eliminate the official position of 'registered lobbyist'.

Next, we want to make sure that people have legitimate avenues for getting their viewpoints expressed to legislators, so we encourage the use of 'speakers bureaus' comprising experts who can be asked to testify before legislative committees when applicable topics are being considered.  In addition, legislators who support or oppose particular bills may invite representatives of civilian organizations to openly present their perspectives during committee evaluation.  And, of course, individual constituents may always express themselves to their own elected representatives through any practical means available.

Any other means utilized to attempt to influence the outcome of proposed legislation should be deemed suspect and open to investigation, including through the participation of civilian-watchdog groups and the 'sting' operations of official law-enforcement agencies, which should be bumped up as needed whenever there is a continued perception of ongoing legislative bribery.  However, we should always make sure not to allow guilty parties to escape prosecution through 'entrapment', i.e., by exerting so much pressure on them that they are induced to commit acts which they might not otherwise have ever contemplated.

The Judicial Branch should be motivated to prosecute genuine offenders actively, and we find that such motivation can be enhanced through elimination of appointive judicial positions and of lifetime tenure for judges at any level, so that incumbent judges seeking re-election will be motivated to look for high-profile 'collars' that they can brag about during their campaigns.

We considered the additional punitive practice of disqualifying some/all descendants of guilty legislators from ever serving in any legislature themselves, the idea being that a particular legislator might be less inclined to resort to bribery if there were also a possible punitive impact against his/her family, but we ruled against it:  Not all children resemble the values and practices of their parents, and we find it unfair to punish the children for the sins of their parents.  Further, we suspect that many legislators who are so narcissistic as to allow themselves to be corrupted by bribery are not going to care all that much about the potential impact on even their immediate families.  We are therefore hoping that the other measures discussed above will be collectively sufficient to surround the problem.

Antiquated laws

We are currently discussing the problem of antiquated laws being allowed to remain on the books too long.  Examples of such laws which we find to be ridiculous are (1) that it is still against the law in New Orleans to tie an alligator to a fire hydrant, and (2) that minors in Glendale CA not on their own property are required to be within arm's-length of a 21+-year-old adult after 10pm.

We have agreed in principle that laws passed by any governmental jurisdiction should automatically expire after a certain point, unless affirmatively renewed by the Legislature, as should all other laws and judicial decisions and criminal convictions based explicitly (either directly or indirectly) upon them.

Legislative systems can print out automated lists of expiring laws.  Graduating law students can be assigned the task of evaluating such laws, as an apprenticeship process.

Anyone doing prison time for violating a now-invalid law shall no longer be required to do time for it, although we will continue to leave the conviction on the historical record, since we are not saying that the law always was invalid, only that it is no longer applicable.

We are now considering what timeframe shall be required before the automatic expiration of any law. Initial discussions placed it somewhere between 19-75 years.

Following is a breakdown of the arguments offered for and against the options considered:

- 19 years: Jefferson's argument, expressed in a letter written to Madison on 6-Sep-1789 (ref. "The Earth Belongs to the Living"), theorizing that all laws and contracts and debts and constitutional provisions and other inter-human transactions naturally expire with each new generation, which he calculated at the time to be 19 years, using primitive mortality tables and math which we find to be highly questionable. We do concur (notwithstanding Madison's objection) that a borrower has no moral right to devolve his debt upon his heirs, meaning that a lender who is unable to recover his entire principal upon liquidation of a decedent borrower's assets must be out the unrecoverable portion, this being part of a lender's cost of doing business, which is partly why he gets to charge interest. We can also go with government contracts and certain other transactions expiring on a more expedited basis. However, we find that most laws and constitutional provisions should stay in place for longer periods of time, possibly in some cases until affirmatively repealed, so that a society is not required to reinvent itself every 19 years, and so that we can enjoy a greater level of continuity and stability in our society, including the ability to participate in long-term contracts such as mortgages and pensions and life insurance. Jefferson is explicitly trying to discourage government borrowing with his 19-year term for expiring everything, but he also explicitly allows for society to create inheritance protocols for itself, which means that they should also be able to create other constitutional provisions as well which should be harder to overturn than by a simple majority of living electors, meaning that Jefferson's supposedly-universal 19-year expiration is not universal at all. Besides, constitutions are not intended to be binding restrictions upon future generations (who always have the option to modify or scrap them whenever they wish, hopefully by a due process in order to maintain The Peace, although other means have been employed in history); rather, they are one generation's gift to the future, by providing them with a default political structure which obviates the necessity for each new generation to reinvent itself if it doesn't want to, same as a house which we build for the use of future generations, but which those future generations always have the option to modify or scrap if they wish. (His underlying suggestion to limit the national debt may be a good one, though, but that will need to be examined in Part II, specifically Questions 409 and 409.5.)
- 30 years: Possible advantage in compelling every actual generation to evaluate everything (average generation is still less than 30 years, according to multiple sources, including ancestry.com), but still creates too much instability in society, same as when the Supreme Court makes decisions which they can overturn in 30 years when the personal and political climate of the panel have changed. If total reevaluation of

everything happens too frequently, then it drastically devalues those lives sacrificed so that we could enjoy a certain way of life in this country. Also makes each constitutional convention much less eventful and meaningful if you do it every 30 years, and voters and legislators will eventually stop caring about the results, which is the same reason that we gave in Section I-C for not holding popular elections more often than every two years. Also places too much pressure on legislative calendars, which are often overfilled with new business as it is.

- 50 years: Initially thought still to be too short, because some individual legislators might prefer for their laws to last at least for the remainder of their lives, although we concur that is unreasonable for a legislator to expect that his law will necessarily stay on the books for his lifetime without reevaluation. There is a temptation to want the instigating legislators to still be alive to help inform the renewal debate, and therefore to schedule the renewal debate sooner rather than later, but we hope that the arguments of the instigating legislators as presented in the original debate are properly preserved for review, meaning that we should be able to do without their physical presence if we have to. Also equals two generations of 25 years, and is close to the middle of the actively-considered range of 19-75 years.
- 60 years: A satisfactory compromise among all those factors arguing for longer or shorter timeframes, but it's not quite as much of a 'round number' as 50 years, since it is not integrally divisible by 25, so there is no particular singularity which recommends it above the more easily memorable 50 years.
- 75 years: Initially thought to be just right, but eventually shortened. Allows for continuity and stability. Also allows legislators to have greater impact on their kids' lives as well as their own. This timeframe has been used for keeping copyrights in the property of the author's estate after death, in recognition of the fact that people create things such as music and legislation in order to affect their heirs' benefits in addition to their own, so it acceptable to have a general timeframe longer than the life expectancy of the originating legislator if we want to. Longer timeframes are also good because we want legislators thinking in terms of the effects of their actions beyond their own lifetimes. However, ultimately rejected because it would have meant that we couldn't have had the forced reevaluation of New Deal policies until 2008, whereas a more expedited review might have saved us a lot of major economic problems that we are facing here in the 21st century.
- 100 years: Agreed by all in the group to be too long.

We therefore finally settled upon 50 years as the standard time for non-constitutional laws to expire automatically unless affirmatively renewed by the Legislature.

We agree that government contracts with corporations should be much shorter. One reason is so that we can force ourselves to look more frequently for any unpredicted environmental impact, especially in those instances where the victims of such negative impact are unaware of it. Another reason is so that we can force ourselves to go through a new bidding process, and thus possibly save expense and/or improve quality. We have therefore settled on 25 years as the maximum term for any government contract with a private corporation. One reason for that specific timeframe is that it is exactly half of the standard term which we have determined for all non-constitutional laws. Another is that we can envision some infrastructure

projects or project phases legitimately needing to last more than 20 years, but not more than 25. After the term expires (can be less than 25 years, but not longer), the contract must be re-opened to new bidding if the activity is ongoing after that time.

Whatever timeframes a given jurisdiction sets as its own actual defaults for different classes of transactions, legislators always have the option of designating a shorter expiration period for particular items of legislation, but never longer.

Considered establishing different timeframes for different government levels, but our current feeling is that this probably would just complicate things needlessly. We are therefore recommending the above timeframes for all government levels.

A 40% affirmative vote shall be sufficient to renew a law or contract within 24 months before its scheduled expiration. We concluded this figure because renewing an existing law should be easier than passing it the first time, since we want the actions to be distinct, and also since we should be giving a presumption in favor of the judgment of the legislators who originally constructed it, overturning it later only when we definitely find (by a vote of 60% or higher, in this case) that it is no longer applicable in contemporary society. However, it shouldn't be too easy to renew it, because the whole idea here is that we want to be able to clean the books of laws which shouldn't be there any longer, so 40% it is.

The reason that we do not allow the lighter renewal requirement prior to the 24-month window before scheduled expiration is because, if we did allow it earlier, then a faction of between 40-50% could force renewal of a law which is actively opposed by 50-60% of the assembly, assuming that only 50% is required to rescind a law after the initial 24-month trial period.

The renewal period should commence immediately upon enactment of the renewal motion. One reason why it should commence immediately is that a new law generally should have an immediate effective date, unless it would cause too much of a disruption in private society (such as if we changed tax or overtime laws), and renewing an existing law would cause no such disruption, so we may as well make it immediate. Another reason is that having the renewal period start with the original expiration date would allow legislatures to renew a given law early in their term, and thus in effect have the renewal last for 52 years instead of 50, which would be in excess of their authority.

The renewal period should be equal to the original period. There might be an advantage to renew old laws more frequently than every 50 years, since they may have a higher chance of becoming antiquated as they get older. However, having to review every single law more often than once every 50 years would place too much pressure on legislative calendars. Besides, a law which has survived for 500 years shouldn't have to be reviewed every 25, and again the legislature can always overturn a law that is causing a specific problem.

## SECTION I-F: JUDICIAL REFORM

### Subsection I-F-1: Basic Functions of a Judiciary

We do need some kind of judiciary, to help assess whether anyone's rights have been violated, and to recommend/order specific responsive action as appropriate when that does happen.

Before considering any specific structures or procedures that should apply to an ideal judiciary, we allowed ourselves to compile a set of basic philosophical principles that should govern those decisions. The first set of basic principles comes from our previous findings, particularly in the area of rights, viz.:

1) There are two basic kinds of rights, being 'natural' and 'civil'.
2) There are at least 6 actual natural rights, and maybe more besides.
3) Any right carries with it the right to waive that right.
4) Rights carry responsibilities to respect the rights of others.
5) Every individual has complete control over his/her own life, and over what means he/she will use to survive (if making that choice) and to maximize his/her quality of life, except when interfering with the rights of others.
6) Resolution #1: "Every individual ought to be able to do anything that he/she wants, provided that such action causes no injury (or immediate threat of injury) to others", where 'injury' is defined as 'compromising a person's ability to do what they would otherwise be physically and legally able to do.

From these principles, we now derive the following:

7) The purpose of justice is to achieve balance among different people's rights.
8) The achievement of balance among different people's rights is a never-ending process which will always require some amount of subjective judgment.
9) There therefore is no such thing as 'absolute justice'. It's all relative and subjective.

In defense of #8, we observe that even a case of straight theft or embezzlement is not completely redressed by return of the stolen property: The victim may be presumed to have suffered considerable stress and loss of time as a result of having to deal with the problem, so some additional level of compensation would be needed in order to achieve a proper balance. The form and/or amount of such additional compensation would need to be assessed by human judges on a case-by-case basis, based on whatever considerations they deem appropriate.

**Subsection I-F-2: Judiciary Structure**

Each governmental jurisdiction from international to municipal should have its own judiciary to adjudicate and enforce the laws of that jurisdiction. For, since each level is setting its own laws, legal minds at each level are most familiar with how those laws were intended to be applied, and so are in the best position to determine whether a particular action or behavior constitutes a violation of either criminal law or civil procedure. Therefore, best to have separate judiciaries, each concentrating on alleged violations of laws and civil procedures passed by the government of that jurisdiction, rather than have either the I.O.O. or any separate global body try to manage the task of justice unitarily for the entire world.

However, some situations may yet warrant the interaction of multiple judiciaries, either laterally or vertically or both. Such situations may possibly include when someone commits a 'bad act' that affects people in multiple States simultaneously, or when someone commits separate bad acts in multiple jurisdictions, or when an judgment at a lower jurisdiction needs to be overruled by a higher jurisdiction. In such cases, we might want to involve some higher level, but we may not necessarily wish to exclude the lower jurisdictions from participating in the prosecution as they normally would.

Assignment of 'bad acts'

Bad acts to be initially overseen by the "International Oversight Organization" (or "I.O.O." for short, pending the selection of an actual organization name later on) should include, but not necessarily be limited to:

1) Crossing a national border with military force;
2) Environmental disasters – caused by either willful intent or negligence – affecting either international territory and/or multiple Countries simultaneously;
3) Crossing a national border with a known infectious disease;
4) Violation of international treaties;
5) Institutionalized slavery;
6) Genocide; and,
7) Widespread physical mutilation.

Notes as to #4:

- Prosecution is to be initiated only upon complaint from one of the parties to the treaty. Otherwise, there shall be no policing.

Notes as to #5 and #6:

- While we are generally trying to respect the SIG's previous finding that we should not have a one-world government (or too much of one, anyway…), and that we should have multiple sovereign nations with maximum flexibility to decide their own laws and criminal procedures (since we generally don't want the I.O.O. taking sides when there is significant division among the global population as to what does and does not constitute a 'bad act', lest it then become too much of a one-world government), and while we recognize in particular that slavery and genocide have both been accepted policies within certain societies in human history, yet we feel that we are on good ground in acknowledging and institutionalizing a more recent trend among global society of non-toleration of such practices.
- We don't necessarily want to adjudicate individual cases of alleged slavery or alleged murder at the global level, because we want to leave the I.O.O. focusing on only the big cases, but we can use our global resources to go after government officials and private 'ringleaders' who commit these atrocities on a large-enough scale as to warrant international intervention.
- In addition to recognition of the human race's historical trend toward zero-tolerance of slavery and genocide, there also are two practical reasons why we should include genocide and institutionalized slavery in our list of bad acts to be initially adjudicated by the I.O.O. One reason is that remaining consistent with our general policy of helping refugees to escape a hostile government requires in the case of slavery that we do more than just hold the door open for people to escape; we would have to actually go onto people's private properties to take the victims out by force, and to do that should require a specific finding that these are bad acts which should receive remedial treatment beyond the normal policy of simply helping refugees to escape. The other reason is that we waste a lot of human life and material resources if we require ourselves to go into

a given country several times in order to help victims and potential victims to escape that country's pro-slavery and/or pro-genocide policies; at some point, it becomes a practical necessity to remove the offending leaders from being in a position from which they can order and facilitate such policies; we should therefore take actual adjudicative action at some point, possibly to include removal from power, incarceration, criminal trial, and maybe even execution, so we should specify in this listing that these bad acts will be adjudicated more actively than most ordinary alleged violations of human rights.

Notes as to #7:

- It was harder to add this to the list, because it's harder to adjudicate on either an individual level (a government doctor can always testify (maybe truthfully, maybe not) that the mutilation was intended to stop some big epidemic disease or something) or a national level (since it may be harder sometimes to identify any commonality among a large number of alleged individual abuses). Because of this, we want to add a couple of checks to the adjudication process. Basically, the I.O.O. can determine (either through a particularly high vote count (80%?), and/or through approval by multiple houses, and/or through various other mechanisms) that a particular case of alleged widespread abuse is so egregiously obvious that it warrants immediate remedial action. But, it can also decide (either by specific resolution, and/or if it receives a lesser but still-high vote count (65%?), or through some other mechanism) that it appears that something bad may be happening, but for some reason (insufficient evidence? geopolitical scope too narrow? lack of consensus as to relative badness? recent elections?) we don't want to directly intervene just yet, but we are yet now resolving a recommendation that the country in question look more closely at whatever is allegedly going on, or else the I.O.O. may undertake a second reading of the charge later on, and may possibly take more direct responsive action at that time. That way, we give ourselves the option of immediate action when it's really needed, but we also restrict the I.O.O. from acting when global opinion is more divided.

We don't want to add too many more items to this list, because we don't want to give a global judiciary too much to do, lest it become too much of a one-world government.

One of the advantages of the tricameral structure that we have adopted for the I.O.O. is that we now have 3 avenues of complaint against alleged violation of international policies, useful in case one of the 3 houses happens to get 'bought off' or otherwise unduly manipulated.

Bad acts to be initially overseen by the Federal judiciary should include, but not necessarily be limited to:

1) Environmental disasters confined within a Country, but affecting more than one State;
2) Violation of interstate covenants;
3) Crossing a State border with a known infectious disease, if (and this applies generally to all levels) there is documentation that the patient was officially notified by an attending physician or public health agency of

competent jurisdiction that he/she was being quarantined and served with a specific travel restriction which in this case required staying within the State;

4) Crossing a State border while under a State-imposed restriction to stay within the State border for some fixed duration, such as a parole restriction following a conviction of sexual predation; and,
5) Crossing a national border without going through all internal requirements.

Notes as to #4:

- The Federal prosecution in such a case would be limited to the actual border crossing, and neither treat the original criminal conviction nor consider at this time whether the subject's presence in the other State either causes an actual problem or presents an actual threat of a problem. The State found – presumably through a 'due process', although we concede that such proceedings do not always produce perfect results, and we'll discuss that more later – that this subject is presumed to be a threat until some time period has passed and/or some other condition is fulfilled, only after which we will trust him again to travel freely. In the meantime, the Fed should generally respect that judgment by the State, and immediately place in Federal custody anyone who violates a legitimate State-imposed restriction against traveling out of State, and limit the Fed's original prosecutory efforts to that particular 'bad act' of crossing a State border without proper authorization.
- Criminal conviction is not required for such a restriction to apply, and an arrest warrant or bail ruling may be sufficient, but – as with the infectious diesases – the subject must have known about the restriction before he/she can be prosecuted for an alleged violation of it. A warrant issued but not served is insufficient for such a prosecution to be validly applicable.

Notes as to #5:

- The restriction applies to both entering and exiting. We will naturally have a concern if someone appears within our borders without authorization, for such an individual may be a spy or terrorist or other threat of some kind. But, we also must be concerned about anyone who leaves surreptitiously, without going through all our checkpoints or without producing all required documents or whatever, for such an individual may be carrying state documents or state secrets or some other property that he's not supposed to have, or else he may be threatening some other kind of harm to us from outside.
- In such a case, would it be sufficient to simply say that the individual in question just doesn't get to return? No, we feel that we need an actual 'bad act' prosecution, because the subject may not be intending to return anyway, but may yet be presenting a serious threat.
- But, what if the subject's intentions are peaceful and honorable, but he simply feels (and maybe he's right) that the Country's exit restrictions are too severe? In that case, it is possible that the Country in question may thus qualify as a 'hostile government' for the purposes of our previous finding of situations which may trigger I.O.O. involvement. If so, then the subject would have the option to go to any of the multiple inland presences which the I.O.O. presumably will have within each Country, especially if -- as we envision -- each of the 3 houses of the I.O.O. will

have its own independent network of field offices around the world, again so that people have multiple avenues for attracting the I.O.O.'s attention. The local I.O.O. office could then adjudicate whether the Country's exit restrictions actually are too restrictive and hostile, in which case they could assist with the subject's escape, as previously established, but not otherwise.

- If a particular subject leaves the Country on his own, anyway, without going through the Country's exit procedures, and without a finding from the I.O.O. that such restrictions are unduly oppressive, then the Country of origin has a legitimate concern, which should merit the attention of other jurisdictions as applicable.
- This sort of 'bad act' theoretically could qualify for original handling by the I.O.O., since it involves interaction among multiple Countries, but such an assignment could easily result in the I.O.O. getting overly inundated with such cases. Best therefore for each Country to pursue such cases at its own level, hopefully with the reciprocal cooperation of neighboring Countries, just as with ordinary extradition, and then to notify the I.O.O. only when it appears that a particular case is serious enough to either definitely or possibly require their attention.

Bad acts to be initially overseen by State judiciaries should include and be limited to:

1) Interactions among Counties; and
2) Interactions among Cities in multiple Counties.

Notes as to State judiciaries generally:

- Even if a particular law governing individual behavior is passed by the State legislature, it still makes more sense for initial adjudication at a more local level, for two main reasons: (1) The lower levels already have administrative structures in place to try cases for other types of individual bad acts (i.e., where the option to legislate has been deferred to the more local levels), so no need to create a separate bureaucracy at the State level for that type of case. (2) Trying at the local level makes it easier to perform local investigations, jury visits, etc.

Bad acts to be initially overseen by municipal judiciaries should include only violations of any laws/ordinances passed by the Cities themselves.

Notes as to municipal judiciaries generally:

- The reason why municipal judiciaries should not be having anything to do with bad acts legislated above the municipal level is because the County judiciary must already be able to govern such acts for the unincorporated areas of the County, so no need to create a separate structure for those types of cases at the municipal level. Best to let Cities specialize in their own particular issues.

Bad acts to be initially overseen by County judiciaries should include anything not specifically assigned to any other level, including disputes involving multiple Cities within the same County.

Better to combine criminal judiciaries and civil judiciaries into one single structure, in order to allow judges and lawyers to switch off who can.

Funding

Generally, judiciaries shall be funded by a mix of civic support (so that government can still provide oversight and mitigate costs) and fees supplied by the losing parties (to provide them with some disincentive against frivolous prosecutions). Prevailing parties shall not be required to cover any legal fees or court costs on their own, except any expenses which are duly found to be in excess of what was necessary and reasonable for litigating the case.

One way to make lawyers more accountable and keep them from overbilling their clients is to require them to submit their bills to the court for approval, along with justifications for hours billed significantly in excess of the industry standard for similarly-complex cases, with the amount actually billed to the client subject to modification by the court. The court may even elect to impose a penalty to any attorney who appears to be trying deliberately to overbill the client.

Also, in order to encourage lawyers to bill below industry standards whenever they can, we recommend a rule requiring that the judges pass the bills as submitted (not as ultimately approved, so that the attorneys who wish to remain competitive in the public eye have a motivation to not pad their bills), and the corresponding numbers of hours of court time in all those cases, to some public and/or private agency(ies), who would maintain online databases of how many hours different attorneys tend to bill as a function of court time required, as well as win/loss figures, so that individuals shopping for lawyers have not only hourly rates but also efficiency ratings and relative competence to consider.

We realize that these measures mean a partial ‘deprivatization’ of the legal industry, which may run counter to the American ideal, and constitute an exception to the free-market principles which we identified during Question 38, but we feel that it is warranted in this instance, because an attorney once engaged effectively becomes a monopoly which gets to charge whatever it wants. However, attorneys are not monopolies if potential clients have good and reliable information about the performance and billing practices of all lawyers before any are selected. Our suggestions therefore actually promote fair competition and truly free enterprise.

What if an individual who can afford only one cheap attorney goes up against a big corporation who can hire a whole bunch of good ones? We don’t want the individual to have to pay a blank check for all the corporation’s lawyers even if the individual loses the case, nor do we want the big corporation to use their legal resources as a scare tactic to discourage a legitimate prosecution. We could try to institute a ‘usual-and-customary’ procedure as they do with Medicare billing, but we hesitate to do so, for there is still too much waste and fraud in the healthcare industry for us to feel very comfortable with this approach. Better to set a general cap for what the losing party has to pay in opponent’s legal fees.

Various possibilities were considered as to what the amount of that cap should be. Considered setting it equal to the lesser of the two totals of legal charges incurred by the two parties, the idea being that any big corporation or other prevailing party who uses up more legal fees than that should be expected to absorb the financial costs of this their corporate decision. However, this argument fails because it assumes that whichever party is paying more in legal fees is necessarily paying an excess, and this will not always be so.

Also considered a proposal from a certain paper published by the Manhattan Institute for Policy Research (ref. *http://www.manhattan-institute.org/html/cjr_11.htm*), recommending that the loser should pay to the winner the lesser of (actual fees) or (30% of the difference between the final judgment and the last written offer of settlement tendered within 60 days of the initial complaint). However, we found it flawed in a number of dimensions, primarily in its introduction of arbitrary figures for winning probability and attorney fees. The conclusion might have been correct, but another rationale would be needed in order to get to it.

Considered the singularity of a penalty amount equal to the average of the two attorneys' fees, so that the prevailing party gets a higher award if the case is really tough and required both lawyers to put in a lot of hours legitimately, and so that both parties have a motivation to limit their legal costs in case they lose. However, the problem here -- as with any other figure less than the prevailing party's legitimate legal costs -- is that the prevailing party still is not made whole, let alone compensated for his/her time and trouble.

More generally, we found that any formula based on either of the attorneys' actually-billed fees is fatally flawed on its face, because all such figures are unreliable, since it is so easy for lawyers to pad their bills in legitimate-looking ways.

Also failing was the option to levy a flat fee upon the loser, to cover a 'reasonable' amount of attorney fees and inconvenience on the part of the winner. Problem here is that cases vary so widely in complexity that such an amount would be totally random, and in most cases either too high or too low.

Rather, we found that a much more reliable indicator of how complex a particular case actually was is how much of the court's time it required, since judges have multiple motivations to hurry cases along whenever they can, maybe because they want to be able to move on to the next case, or get some golf in, or whatever. We therefore propose as our 'Answer to Everything' that a graph be prepared of hours actually billed by winning and losing attorneys as functions of hours logged by the court, and that a formula be constructed to show the average/reasonable number of billable hours for each case requiring a given number of court hours, possibly with a deduction factor to allow for assumed padding in the sampled bills, and then charge to the losing party on that basis.

Whatever formula is actually used, we again should allow that the judge may find a specific reason to modify this principle in the actual damage computation. If the judge's corruption unduly influenced this damage computation, then that is an element which can be considered during appeal.

Appeal

OK to appeal cases to higher jurisdictions when deliberate judicial misconduct or honest procedural error is suspected. We considered having the first level be final, as they have done in baseball for many years, but we're observing a greater popular demand in many sports for appeals through 'instant replay', and more generally we are concerned with the possibility of greater corruption when there is no opportunity for appeal at all. Also considered possibility of lateral appeal to a neighboring jurisdiction who at least would have a first-hand familiarity with handling those types of cases on a primary basis, so they might be in a better position to assess whether there has been "judicial misconduct or procedural error"; however, the County next door might not have a whole lot of motivation to handle our crappy cases as well as

those originating there, besides which there would be no basis for determining whether a conflicting assessment from a neighboring County ought to trump the original disposition, unless you appeal to a higher level to referee. Further, it is arguably a part of the mission of the inclusive higher jurisdiction to make sure that things are running smoothly within all its subordinate jurisdictions, which we find reasonably includes treating certain lower cases on an appellate basis.

Appeal may be initiated by either party, even in a criminal proceeding, but the appellant must show good cause before any further action is actually taken on the case. Considered multiple alternatives here as well:

- One possibility was to appeal all cases automatically (as suggested in the 5th season of "L.A. Law", and as also happens in 'real life' with capital convictions), in the hopes of saving the time involved in initiating an appeal. However, we identified multiple reasons against it, namely: (1) The time and resources saved probably would not completely offset the time and resources spent in those retrials not specifically requested by either party. (2) No other advantage is seen which would offset the imbalance of time and resources. (3) Cases are stressful and arduous enough for the principals and witnesses without having them always go through the entire trial process twice. (4) If it's too complicated or time-consuming to initiate appeals, then we can fix that problem more easily than by trying all cases twice.
- Another possibility was to allow appeals only when initiated by either party, but to accept the appeals automatically. Rehnqvist says that this approach would clog up the system, and impose too much more of a financial and logistical burden.
- The other alternative that we considered was what we are doing now in the U.S.A., namely to require a compelling statement as to why the appeal is being requested, but to entertain such requests only from a losing defendant. An argument in favor of this approach is that an individual criminal defendant is going up against the D.A.'s office and the Police department and the rest of the Government, with all their money and staffing and crime labs and other resources, and that we might want to create a more balanced and just playing field by giving the benefit of the doubt to the underdog defendant wherever we can, and by granting some offsetting strategic advantages to the defendant, including by giving all appeal rights to the defendant only. (Of course, this argument does not apply in civil cases.) However, there often will be living victims of the crime in question, and their needs for justice are just as important as the defendant's right to fair treatment. If corruption or some other major problem unduly influences a criminal proceeding, then justice still demands that the case be handled properly, even if that means the allowance of what we have come to call 'double jeopardy'.

In order to minimize time and stress for actually-innocent defendants, we want to make extra-sure that prosecutors have a really solid basis for claiming corruption or procedural error.

If the appellate court upholds a particular claim, then the case generally is re-tried in the original jurisdiction (since, again, the local judges generally know the local laws and customs and judicial precedents best), but with a new judge, and with investigation of the original judge as applicable (especially upon repeated

accusations of corruption). However, there may be exceptions where the case is re-tried on a *de novo* basis at the appellate level, particularly if an extensive pattern of error and/or corruption is suspected to exist within an entire lower jurisdiction, or if the originating jurisdiction has only one judge in it.

The appellant may take a case to the 2$^{nd}$-higher level, either if the primary-level appellate court refuses to hear it, or if the case loses at trial in the appellate court. However, the appellant must file an additional brief to the secondary-level appellate court showing why the primary-level appellate court was either corrupt or honestly erroneous in its treatment of the case (not just the simple fact that the appellate court disagreed with the appellant), with some affirmative evidence of such allegation.

If the case still fails at the 2$^{nd}$-higher level, then the appellant may take the case to additional higher levels without limit. However, in order to discourage frivolous filings, and also to offset the costs of treating appeal, each appeal (from the 1$^{st}$ on up) will require the appellant to deposit a filing/processing fee (in an amount to be decided by each jurisdiction, but probably to go up with higher levels of appeal) in an escrow account held by the court. The appellant forfeits the fee to the court if the appeal is rejected, or if the case loses in re-trial, but it is returned to the appellant if the appellant ultimately prevails, in which case the corresponding fee is levied upon the losing party as a fine. This way, the originally-prevailing parties are not required to provide escrow funding before we know that they're actually going to be losing.

We considered dividing each jurisdiction's judiciary between one structure for original cases and a separate structure for considering and treating appeals from lower jurisdictions. However, we do not find any really compelling reason to do so (not that much benefit seen in streamlining through specialization, and law clerks can provide research on the different jurisdictions as needed without requiring a given judge to keep all that information in his/her head, especially given that most appellate cases will actually be tried at the original level), and therefore in the interests of administrative simplicity we are recommending that the judges of each jurisdiction above the municipal level be knowledgeable enough about the laws and trial procedures of all subordinate jurisdictions to be able to field appeals from them.

Timeframes

Good to require a relatively short timeframe during which appeal case must be initiated in order for us to entertain it, so that the courts and the winning principal and other interested parties may know that they can get on with their lives if the appeal hasn't been filed by a certain date. However, we don't want the timeframe to be too short, since the losing party may need time to solicit and engage and familiarize a new attorney. We think that a 30-day timeframe satisfactorily balances both these needs.

We also want to have a timeframe by which the government is expected to issue an initial response to the appellant, that either we'll entertain your appeal formally, or else we're rejecting it immediately. Given the other cases all the judges will already have in front of them, we think that a 45-day guideline is reasonable for this step. If there are not enough judges on staff to allow this to happen, then install more judges.

Both new cases and appeals should come to trial within 3-6 months after initial acceptance by the court, or else adjust judiciary staffing levels accordingly. If it takes longer than that, then people die or forget things, evidence gets lost or compromised, people's lives continue to get disrupted. However, if for some reason a particular trial (either original or appeal) needs to start earlier or later than this general target, then the case shall remain alive without penalty to either litigant.

Lawyers

In Question 302.3, we considered whether there is any way that we can do without lawyers, as has been suggested in numerous works of fiction, including in Shakespeare. As cathartic or otherwise appealing as the concept may appear to some, we yet find that such a society would be very unadvisable. Especially with the ever-growing complexity of our society, we find that we need to be guided by the analyses of specialists in legal interpretations, as well as experts who can help us craft new laws as needed. Besides, it is often helpful to for someone to be in a position to advocate for a given litigant who is detached enough from the case personally to be able to manage the legalities of the case with a greater level of objectivity. The legal process can also be dispatched more efficiently if it utilizes individuals who are conversant with prevailing laws and legal procedures.

In Question 302.4, we considered whether there is a better alternative to the classic adversarial system to which most Americans have become accustomed. We considered the Question separately for different types of cases (civil, criminal, administrative, etc.), and have found in favor of employment of the adversarial system for all types of cases, in order to allow the civil rights to be upheld of lay defendants who are not particularly conversant with the relevant laws and/or who may not be able to present arguments which are both logical and persuasive.

However, we also feel that it is good in criminal cases for there to be a group of objective analysts -- who are not advocating for either conviction or acquittal -- to be focusing on figuring out the facts of a given case before the actual trial process, as grand juries typically do now, except that in the current environment grand juries generally focus on whether there is enough evidence to bind over a particular suspect for trial, whereas we are recommending that they try to assemble a complete set of facts. We feel that this group of judges should operate in an 'inquisitorial' environment, where they decide what witnesses to call, what questions to ask, etc., without any lawyers present to try to influence their decisions unduly with skilled rhetoric.

Their preliminary review could help lawyers and judges to decide whether an actual adversarial trial is indicated, in which case they issue an 'indictment'. (In the current environment, it is the prosecutor's call as to whether to seek an indictment from a grand jury or a ruling of a pre-trial judge that a trial is indicated, depending on which appears to be more expedient at the time.) It is during that trial that the defendant and defendant's counsel will have the opportunity to refute the evidence and attempt to establish that a different scenario actually occurred.

For civil cases, society does not have an interest in initiating a preliminary inquisitorial fact-finding phase, since it is only one individual's decision that a legal proceeding is needed, so that party should be getting his/her facts through previous mechanisms, as people do now. For the actual trial process itself (which we do want to keep as a public service, lest people be motivated to find justice in their own distasteful ways), our previous reasons for needing lawyers continue to apply, viz.:

Many litigants will not want to speak before a judge/tribunal/jury, and many of those who do will be lousy at it, making the process take way too long.  Best to keep civil as we now have it.

Same for administrative, probate, and any other current or future area of law where one party has a dispute with or complaint against some second party:  Whoever it is that you are trying to convince of your position, it is generally better and faster to have a trained and experienced advocate presenting that case than the actual parties.  The recommended environment therefore is basically the same as what we have now, except modifying the current inquisitorial element in criminal cases.

Plea-bargaining should be used only for sentencing purposes, and not to get in the way of our finding out the actual facts of a case.

Attorneys should not be blamed for losses when justice is done, but rather only when verdicts are overturned on appeal.  We state this in order to mitigate the prosecutor's motivation to win at all costs.

Regardless of whether a given jurisdiction's system is adversarial or inquisitorial or some hybrid, we still would like for an early step to be in place where the attorneys summarize the facts and trial elements that the parties agree on (the stipulations), and the points on which they do not (the issues), as routinely happens in most/all areas of law.

In Question 302.5, we looked at what additional deterrents – if any – we want to implement in order to better ensure that ethical practices are followed by lawyers. There are both financial and non-financial elements to this goal.

Among the non-financial elements, we are suggesting that future litigants expect their lawyers to provide them -- at the time that the retainer is paid -- with a 'letter of engagement', stating as much as the lawyer may happen to know at that preliminary stage about what strategy is expected to be followed, and how much and what work is expected to be achieved for the amount of the retainer.

We are also recommending a market expectation of periodic statements to clients, showing the amount of retainer used so far, and what work was done for that amount.  Amended agreements can be executed during the progress of the case, as the lawyer learns more about the available options.

In general, a combination of State bar associations and private watchdog agencies/ websites should be sufficient to police lawyers' adherence to non-financial ethical practices.  State bar associations do some self-policing now, and that's good, but we may not always be able to trust all of them to go all the way.  To pick up any slack, we can rely on private watchdog agencies such as the Better Business Bureau (BBB), and websites such as Yelp, to allow customers to post satisfaction ratings and narrative descriptions of their experiences.

**Subsection I-F-3:  Judicial Review of Legislation**

To expand a bit upon the opening paragraph of Section I-F, we generally agree that legislatures and judiciaries should be separate branches which should be doing separate things.  In particular, we find that the basic function of a Legislature is to pass laws affecting the society that it represents, while the basic function of a Judiciary is to evaluate whether or not a particular action violates such laws, or else

violates someone's rights in a way not specifically covered by established laws. However, notwithstanding the generally separate nature of these two branches, it is yet appropriate for them to have some interaction.

One way in which we find it appropriate for the two branches to interact is in the area of 'judicial review', a power which was assumed by the U.S. Supreme Court in the case of *Marbury v. Madison* (1820), under which power the Supreme Court entitled itself to throw out any given law passed by Congress if in the Court's opinion it violates the U.S. Constitution.

In our opinion, the Judiciary generally may indeed get to find that some lower law violates some higher law, but that power should be specified in that society's constitution, and not just assumed by the Judiciary.

Even at that, though, history has shown that we cannot always rely even on a simple majority of the Supreme Court to make this assessment correctly. Therefore, in order to confine such instances to the actual obvious contradictions on which pretty much everyone can agree, we now recommend requiring a 4/5 majority of the prevailing judicial assembly panel as a condition for such a ruling (which would mean 8 out of the 9 members of the current U.S. Supreme Court), allowing for the occasional random crackpot or political lackey who might filibuster and block every good thing for no good reason.

As a further check against the abuse of judicial power, we re-introduced during this June 2013 treatment a concept which we first brought up in November 1998, viz., that a society's Legislature should generally be considered as higher than the Judiciary, since they provide much broader representation of the popular will. For this reason, the Legislature should have the opportunity to override any attempt by a judge or judiciary panel to throw out a law for allegedly being 'unconstitutional'.

We next decided upon the specifics of this "Legislative Counter-Review" at the Federal level, viz.: We probably don't need to go through all 3 houses of the national Legislature, because we don't want to burden their calendar any more than we need to, and because this sort of thing doesn't necessarily affect either population-based constituencies or area-based constituencies any more than it affects the country as a whole. Could go with the highest house in all instances, but better to go through the house in which the bill originated, since they would probably have done most of the research work on it, and therefore should generally be in the best position to assess its legality. We don't want to rely on any Legislative committee, because the whole idea of referring it back to the Legislature is to get the opinion of a broader representation, so the vote should be taken of the entire house. Requiring the same majority level (2/3) to override a Judicial veto as we have now in overriding an Executive veto, consistent, easy to remember.

If no reversal action is undertaken by a certain time, then shall we consider the original law upheld, or the judicial veto? The first option is more stable, plus we might not want things to happen by default simply because the Legislature had more important things to do before the deadline. On the other hand, if no action is taken by a certain time, it could be construed that the Legislature did not harbor a strenuous enough objection to the judicial veto, but again that fails if they actually did have more urgent business. However, since it is the Legislature's law, they want it to be upheld, so they will not have a motivation to initiate a motion to sustain the judicial action; rather, they will only want to act to override it. Therefore, the Legislature needs to take affirmative action to override a judicial veto, otherwise the

judicial veto stands. They have 60 days in which to do it, or else they need to start the process over.

In order to prevent any initiative or referendum from being overridden after passage for allegedly being unconstitutional, best to have it officially reviewed before voting, with the results of the official review appearing in the official ballot literature. If there is found to be an obvious conflict with any higher law within that civic jurisdiction, then the proposition does not fail automatically, for it should be the people who are in charge, not the constitution. Rather, the proponents would need to include in the ballot the exact changes which would need to be made in the higher law concurrently in order to accommodate the proposed measure. Then, if the proposition receives a simple majority of popular approval, then all the specified legal changes are adopted together.

If a new initiative or referendum obviously violates an applicable law established within a higher civic level (e.g., if Alabama says that slavery is okay, but the U.S. Constitution says no), then the initiative/referendum is out immediately. The only way that it can get enacted is through a change in the higher jurisdiction's law, such as by the constitutional amendment process or by national initiative/referendum. Any judge at either level gets to state that the lower law violates the higher law.

No governmental entity should be in a position to invalidate any initiative or referendum for any reason other than obvious violation of an applicable higher law, especially not if the measure is allegedly bad for some moral reason: We did not elect these people as moral judges, we elected them as legal judges, and we do not accord to them the power to substitute their moral judgment for that of a population ten million times larger.

While legislatures are presumed to be better at making laws than judiciaries, yet a society's existing laws may not cover every scenario, so sometimes a decision has to be made on a quick basis, without going through the whole legislative process. However, if the Legislature does ever have a particular hangup about any decision made by a judge in that jurisdiction, then they can always make a priority of passing a law to specify their contrary intent. Therefore, no specific procedural adjustment needed here: Judiciaries at any civic level may continue to make informal laws independently of the Legislature, wherever the current law is silent on a particular point at trial. Such decisions may continue to be cited as precedents in future legal cases, until such time (if any) that the Legislature for that jurisdiction ever adopts a formal law covering that point.

Any new law should apply retroactively. Any individual who has had to pay fines based on the previous law should have those fines refunded with interest. Any individual who ever faced incarceration based on the previous law should be released if still incarcerated, and should be recompensed at some flat rate by the applicable government for each year of imprisonment, in order to at least partially offset the injustice of being punished without any actual criminal intent. The amount of compensation should account for the fact that the prisoner did receive room and board and some amenities, but also the fact that he/she probably would have enjoyed a higher income and standard of living on the outside.

Granted that applying new standards retroactively could be seen as a double-standard if not also applying more severe measures retroactively when laws get stricter. However, the difference is well explained by remembering the key principle

that systems of government should generally benefit the individual to the maximum practical extent.

**Subsection I-F-4:  Bad Acts**

Because people should be able to do whatever they want if not injuring or threatening injury to others (including recreational drugs if not going out and driving and endangering other people), they should not be held accountable for any such acts.  However, many laws prohibiting such acts continue to exist in different jurisdictions, including outside America.  A lot of those objections appear to have basis in religion, so at some point we will need to convince the religious organizations to which the lawmakers belong that their previous paradigms need to be adjusted.  We acknowledge this for a tough challenge, but we likely will yet need address it, because simply posting the finished Agenda on some website may not be sufficient.

If a given alleged 'bad act' affects more than one jurisdiction, then it should be tried only once, by the lowest jurisdiction which encompasses all those affected, because we do not want different judiciaries trying the same case and possibly coming up with different conclusions as to facts and culpability.

If a given alleged 'bad act' has impact within only one jurisdiction, then it generally still should be tried only once, because we generally agree with the principle opposing 'double jeopardy', and do not want defendants who have been found 'not guilty' to have to live in perpetual fear that some other judge or jury might someday come along who will want to find them guilty on the basis of the same set of facts.  However, guilty people should not be ignored because we did not have sufficient evidence at the first trial to achieve conviction, so generally allowing new trial if new compelling evidence emerges after initial acquittal; we just need to remember that both physical and testimonial evidence can degrade over time, so statutes of limitations can generally apply as jurisdictions see fit at any given stage of history, such that evidence can be dismissed if it does not emerge until after a certain amount of time has passed after the alleged commission.

Generally agreeing that it is not good for a defendant to be charged separately under multiple laws which a jurisdiction may have that are similar but not identical.  We generally should pick one law of which the defendant is allegedly in principal violation, and prosecute on that basis, unless it can be demonstrated that the concurrent violation of certain additional laws makes the alleged 'bad act' even worse than it would have been otherwise.  One example is that forcible rape of a minor is worse than either consensual sex with a minor or forcible rape of an adult, so heavier penalties would be appropriate for the combined 'bad act'.

The 'Nuremberg question'

This is a bit tougher:  If a military officer (commissioned or non-commissioned) orders a subordinate to do something that is viewed by the international community as a 'war crime', then who should be held responsbile for that act?  A civilian employee (such as a quality-control inspector who is ordered to release products known to be in violation of established specifications) generally has the option to look for and accept new work, but military personnel do not always have the right to resign or work someplace else.

Originally agreed in discussion that officers should be held accountable for the orders which they issue, and that subordinates should be held accountable for only those acts which they commit in excess of orders.  On the other hand, this may not go far enough, because certain people following certain orders exactly maybe should have been expected to disobey those orders and take whatever consequences may apply, but then that's pretty easy to say when you're just sitting around the coffee table wearing civilian clothes.  The Himmler example of initiating specific measures in excess of Hitler's general extermination order may be good as far as it goes, but agreeing that even if Hitler had specified every step to be undertaken in the extermination process, then Himmler and all other subordinates should have been morally expected to disobey, even though Hitler (and especially Stalin) would almost certainly have had them killed for doing so, and probably their families too.

We considered declaring this a 'not applicable', on the presumption that we can somehow successfully create the previously-described environment in which wars do not happen at all.  However, we noted that certain such atrocities can be committed by military and paramilitary personnel even when their country is not nominally at war, so we do not properly get to avoid the Question with 'not applicable', rather we still need to confront it.

The situation is similar to a cilivian hiring a hitman to kill someone, but this example is not completely on-point either, because both those civilians are aware that there is a law against the act, and because their relationship is voluntary.

The situation is different between when the alleged 'war crime' violates some specific international statute, and when it instead violates some 'universal human morality'. For the former, we can treat the two participants in basically the same way as we do any crime where two or more people are involved, because we may safely presume (mayn't we?) that both participants knew or should have known that the applicable international law existed, because we previously stated (in our answer to Question 26 as revised in May 1999) that the prevailing international oversight organization ("i.o.o.") should have only limited legislative authority, so hopefully it will not be establishing a bunch of minute specifics which would require soldiers to be lawyers.

For the aspect where international law has not yet specifically covered the act in question, we claim that any act which is so clearly bad that it can be "viewed by the international community" as a 'war crime' should be perceived as such by all soldiers involved in it, and therefore that all those soldiers should have some measure of responsibility for it.  If something is only a borderline 'war crime', then we should not be so eager to try to address it as such.

Any subordinate soldier participating in a 'war crime' should have some measure of responsibility for it, because we don't want that person coming back and claiming that he was "just following orders" and that he therefore should be incurring no penalty.  We also cannot simply assume a threat of serious reprisal against the subordinate or his family, although the possibility may always exist.  However, his penalty can be partially mitigated if it can be shown at trial that he had strong individual reason to expect an unusually-serious reprisal for disobeying, either by direct statement from the officers or by observing what happens to others in the same unit under the same conditions.

The commander also has a level of responsibility, again whether there are specific international statutes being violated or not, because you should never be able to evade punishment by either paying or coercing someone else to do your dirty work

for you.  The basic answer to the 'Nuremberg question' therefore is that the penalties for any 'war crimes' should be apportioned among all participants, according to their relative levels of participation.

If we are talking about an alleged 'war crime' which does not violate a specific international law (such as was the case at Nuremberg, because we didn't previously think that anybody would ever actually do stuff like that, so we never bothered to create an international law to prohibit it), then part of what can be established at trial is whether the alleged bad acts are so atrocious that they can be considered as 'war crimes', meaning that we can basically enact the laws retroactively, and try the alleged criminals as though the laws had always existed.  Maybe that can be a general definition of a 'war crime', meaning something which is so atrocious that we will treat it as a legal violation even though it was not already codified into international law.

Insofar as the 'war crimes' tribunal cannot be fully trusted to decide all the above elements correctly, there can be an appeal to higher levels of international court, all the way up to the full i.o.o. or some combination of its houses, so that in the end there ought to be little doubt as to whether a certain alleged bad act is retroactively enforceable as a 'war crime'.

**Subsection I-F-5:  Arrest**

We asked ourselves in April 2016 whether we should require all police officers to be uniformed, and all their police cars to be clearly marked, before they may detain or arrest a person.  We had a participant from France on that occasion, who reported that some police cars there are known as *banalisé* and are unmarked, but they may put a police light on top of the car when making an arrest.  Their officers may also be un-uniformed.  These officers may not arrest someone for a mild infraction such as simple speeding, and generally would not bother, because they have more important problems to solve.  The system seems to work pretty well, because the un-uniformed police in unmarked cars can respond more quickly to prevent serious crimes and catch the criminals red-handed, which they might not be able to do otherwise.  Meanwhile, the ordinary citizen who breaks only small laws (if any) does not need to live in perpetual fear of being arrested for minor offenses, relieving a big concern expressed during the session about this type of environment.  Therefore allowing the practice in America under the same conditions.

It seems obvious to us that probable cause should be duly established before anyone gets arrested for anything, but the practice of arresting people without charge has happened many times in many countries for many centuries, including within America for several years after 9/11, when people were arrested simply because they looked Muslim and might therefore have been terrorists.  Our visitor from France in 2016 reported being held in Customs in San Francisco for nearly two hours simply because he was from France, where some other terrorist activity had recently occurred.  The SIG participants present at the time agreed that this is a problem, and that we would like to see it stopped, but wondered how we might convince the people who think (and apparently have thought for centuries) that the practice is acceptable.  Our finding is that allowing a 'police state' in which undereducated officers get to harass people with limited legal justification can lead to such a degree of abuse (even if unintentioned) that we would be creating a worse environment for the entire society than we would have had otherwise.  We hope that this argument will persuade societies and police departments to accept additional procedural steps

as the price for allowing the society's people to live without fearing the police more than they did the criminals.

[We reached this point of our Agenda development in 2016. Beginning in January 2017, being the 20th anniversary of the commencement of our SIG's operations, we effectuated a reduction of our quorum requirement from two to one, in order to increase the frequency of our meetings, even if it means a concomitant reduction in quality. Reconsideration protocols and all other operating rules continue to apply.]

Question 313.5

*If a 'bad act' is committed in one jurisdiction, and then the perpetrator flees to another jurisdiction, is it appropriate for law-enforcement officers from the first jurisdiction to travel to the second jurisdiction for apprehension, or should we rely on some sort of extradition procedure?*

We can see where we would want to prevent environments where officers designated with police powers in one jurisdiction are (or feel) authorized to act with such powers everywhere in the world. Not only would it be morally improper to assert police power beyond one's authorized jurisdiction, it also would be logistically difficult to expect every individual or local jurisdiction to be able to authoritatively confirm the officer's local police ID.

On the other hand, we don't want criminals to be able to escape apprehension simply by crossing a border into a neighboring city. We therefore must be able to enter the other jurisdiction to make the arrest, or else we must be able to prevail upon the local police to perform the arrest, or else we must be able to appeal for intervention to the lowest jurisdiction which comprises all the affected local jurisdictions.

Either of the latter two options would require some amount of additional time, which can be a problem, because time is often 'of the essence' in securing an apprehension while the suspect's whereabouts are still known, such as when he is being pursued by a police vehicle.

We therefore generally should permit police vehicles to continue their pursuits across municipal lines, as well as allow detectives to cross borders as needed. However, such actions are subject to limitation by local authorities as applicable, both to control the police actions of others, and because they are not authorities if they can't exercise authority.

Therefore, to the extent that it is practical to do so, police officers should try to radio neighboring cities whenever pursuits cross their borders. Then, the local authorities can decide whether to allow the continued pursuit, to take over the pursuit themselves, to work out some kind of joint operation, or else to put a stop to all further action.

If it is impractical to notify the local authorities when a police pursuit enters their territory, then we generally should allow the pursuit to continue, but the locals will have an opportunity later to establish whether the alien officers somehow acted improperly while in their domains, in which case any arrest occurring within that territory can be overturned.

Even in such a case, however, either disputing city may appeal their position to the lowest jurisdiction which comprises both lower jurisdictions, and from there up as appropriate.

In order to help prevent such disputes, cities which have not already done so should negotiate standard policies and procedures with their neighbors. The specifics may vary according to the changing needs and desires and resources and limitations of the affected parties, but generally we are going for a balance between swift apprehension of strongly-suspected criminals and avoiding abuse of police authority.

Question 313.6

*What kind of policy shall we establish as to extradition between jurisdictions at various levels, including internationally?*

This also is a bit of a 'sticky wicket': We want to be able to pursue strongly-suspected criminals vigorously, and to capture them wherever they are. However, as in 313.5, we don't want police officers to be acting with unlimited authority everywhere in the world. Perhaps more importantly, we don't want to impinge upon the right of national sovereignty, when it comes to deciding whether a given individual should be released to the government of another country.

Therefore, while all of us who don't want total anarchy do want at least some provision for crossing borders when necessary for the apprehension of alleged serious criminals, yet we should stay within the general boundaries of our Basic Principle of national sovereignty.

The alternative is to allow all such cases to be appealed to the i.o.o. ('international oversight organization' -- see Section I-A), and we cannot imagine that we would want to put them in the business of adjudicating thousands of new criminal cases every week, when they have so many more important isses to address.

Further, if a given country asserts that a certain refugee should be permitted to reside within its domains, we would not want the i.o.o. to come in and try to take him by force, because then we no longer have national sovereignty, and then we become beholden to a one-world government which cannot be depended upon to use its unbounded police powers for the greater good of humanity, which is a big reason why we have sovereign nations in the first place, to allow different peoples the opportunity to live under different governmental systems with different levels of commitment to human morality.

Therefore, as with 313.5, we should allow each country to decide whether to protect or release an individual who is wanted for criminal prosecution by another country. Below the level of 'country', jurisdictions can likewise make tentative decisions as to extradition, but those decisions can be appealed to the next higher level.

Nations often will want to have reciprocity arrangements with one another, but it should not be considered or treated as a requirement. A given country may generally want to act as a 'safe harbor' for all refugees, or they may decide that some individuals may be extradited but that certain other individuals should be protected, or they may want to pursue criminal proceedings of their own, or they may want to try to work out a trade for somebody who is being held in the other country. The different reasons for a given country's given actions should be respected for their sovereignty, but of course you don't have to like them, and you

certainly have it within your province to engage in diplomatic or economic sanctions against a country whom you feel to be unduly uncooperative in the handling of alleged criminals.

Question 313.7

*What happens if a solitary ‘bad act’ simultaneously affects multiple jurisdictions at the same level, especially if the applicable laws in those jurisdictions differ?*

Examples are if you explode a bomb or start a fire on the border of two cities, or if you hack the computers of multiple cities at once, or if you go on a drunk drive which causes damage in different cities.

In any case, we do not want to take the time to try the facts independently in two or more different jurisdictions. (It’s wasteful if the two trials produce the same result, and it’s troubling if the results are different.) The case therefore needs to be treated by the lowest jurisdiction which comprises all those affected. The applicable body will assess the facts to determine the amount of damage which is payable to the different affected jurisdictions, and any other applicable penalties.

Question 314

*Is it appropriate for a statute of limitations to apply to certain types of crimes, such that no individual may be arrested and/or convicted after a certain number of years have passed following the alleged crime?*

Yes, since any evidence which could tend to support the arrestee’s guilt would be sketchy at best, and trying to make a case from such skimpy evidence is unfair to the defendant. Besides, even if the defendant did it, and has not been convicted of repeats of the same offense in the interim, then he does not appear to be subject to recidivism, so punishment would be redundant.

**Subsection I-F-6: Investigation**

Question 315

*Shall standards continue to be maintained for the gathering of evidence, and if so then what general principles shall be observed in the establishment of such standards?*

The first part of this Question is so obviously a ‘yes’ that we are no longer sure that it belongs in the same Outline which asks if we are even here, but at least we need not worry about arguments against this our Answer.

It is the second element which is potentially tricky, because it calls for us to set boundaries between our desire for privacy and the need of investigators to obtain evidence. The following listing therefore may not be complete, but it comprises the main points which we have ideated to date, and we will be very happy if they are all indefinitely maintained.

We have experienced environments -- both in America and elsewhere -- in which policemen and detectives and other government officials enter at will into private homes and businesses in order to obtain information or physical evidence or personal arrests, in the theoretical name of ‘justice’, but without any proper judicial process.

We can continue having that kind of environment if we really want, but the historical trend (especially in America) has been for individuals and communities and nations to move away from such 'bully' tactics whenever they have the opportunity. Further, one of the Basic Values which we adopted for America in our Answer 38 is maximum personal liberty, which we cannot have if the police have unlimited power to do whatever they want.

We therefore are recommending (no big surprise here) the continuation of the environment where we insist that a due judicial process be followed whenever we are asking for any limitation upon anyone's personal liberties. Specifically, before we enter a private home or business in order to conduct criminal investigations or any other kind of police activity, we require that the police agencies involved should obtain a warrant, by convincing a duly educated and selected judge not associated with those agencies that the cause is sufficiently valid.

The warrants should not be granted on the basis of suspicion or accusation alone, because in that case the step of judicial approval is redundant. There should be some kind of initial evidence or 'probable cause' which the judge must evaluate, in order to determine that an additional investigation is indicated, even if it involves in certain specified forms the deprivation of certain specified individual liberties.

We officially decry any kind of torture as a means of obtaining confessions or accusations or other 'evidence': Not only do we find the practice to be excessively harsh, and inconsistent with our Basic Value of individual liberty, but the 'evidence' thus obtained is often unreliable, because the subject has such a strong motivation to lie in order to stop the torture.

Obviously, as we learned in the Simpson case and elsewhere, we should do our best to preserve the physical and chemical integrity of all physical and chemical evidence, and to make sure that the analysis trail can be clearly reconstructed, because you never know how thorough the judge and jury and defense counsel are going to be.

Finally, we don't want any individuals detained, nor to have their persons or cars or homes or other belongings searched, on the basis of 'racial profiling'. With our increasing (but still woefully incomplete) national tolerance for all racial and ethnic groups, and with increasing global interaction through our advancing communication technologies, we need to be getting away from the idea that a given individual 'doesn't fit the neighborhood' because he/she is (or appears to be) a member of some particular racial or ethnic group. Anybody can be anywhere, get used to it, and don't you dare any longer target individuals for criminal suspicion on the basis of general appearance alone. For, until we finally get away from that practice, we can never be a truly civil society, let alone an enlightened one, and we would not deserve to provide any kind of moral or political leadership to the rest of the world.

Question 316

*If certain evidence is obtained illegally, shall the suspect/defendant be freed with the charges dropped, or shall the case continue with evidence suppressed, or shall the evidence be admitted anyway?*

It's tough to go along completely with a recommendation to count all evidence, even if we also visit punishment upon those who gathered the evidence illegally, because our impulse from recent practice is to suppress all illegal evidence. However, as stated in Answer 315, we need to find a balance between gathering evidence and

rights of privacy. In this case, we need to remember that the primary objective of the entire investigatorial exercise is to figure out 'whodunit'. If some key element of evidence clearly establishes 'whodunit', and if that fact cannot be reliably established without it, then we should not deny ourselves the opportunity to set the public record straight.

In any case, we do agree that officers who obtain evidence illegally should be disciplined and/or removed from investigatorial duty, to be adjudged on a case-by-case basis, depending on (among other factors) whether the violation was willful (a 'flagrant foul') or inadvertent.

Although we generally should allow the illegal evidence to be heard, in order to fulfill our primary objective of figuring out 'whodunit', it is not necessary for a guilty defendant to receive the same level of punishment as he might have if all the evidence had been obtained illegally. To the contrary, it occurs to us that the violation of one's personal rights should count for an offset (usually partial, but possibly full) against whatever punishment would ordinarily have been indicated in that case. This step accomplishes a number of things, including simple vindication of individual rights, possible reinforcement of the perpetrator's faith in the non-criminal functionality of our society, and an additional counter-incentive on the part of officers to obtain information illegally when there are legal alternatives.

**Subsection I-F-7: The Trial**

Question 317

*Shall we continue to make it part of the standard procedure to have a hearing wherein a defendant is asked to declare whether or not he committed the alleged crime?*

Yes. If the defendant did it and is willing to own up to it, then the declaration saves us a whole bunch of time and effort and expense. If the defendant did it and is not willing to own up to it, then it would be good to get his denial on the record, in order to help the court decide whether additional punishment is indicated for making the government go through the trial process.

This principle is expressed in §3E, "Acceptance of Responsibility", of the United States Sentencing Guidelines (2016 ed.), providing a decrease of 2 offense levels if the defendant clearly accepts responsibility for the offense, and of 1 additional level if the base level is 16 or higher, and if the defendant provides timely notification to authorities of his intent to plead guilty, "thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources effectively".

If the defendant did not do it, then it would be good to allow him to make the statement on the record, hopefully in the presence of a defense advocate who can take the government to task later if they elect to try the case and then fail to obtain conviction. Also, the official denial will tell the police and the D.A.'s office that they should take the opportunity to look at all the evidence again, and to make a firmer decision as to whether they want to dismiss the case or roll the dice with a trial.

Question 318

*In such a hearing, what is to prevent a defendant who really committed the act from saying that he did not do it, in the hopes that sufficient evidence might not be produced, or that his lawyers might use some clever tricks to obtain an acquittal?*

If a defendant is guilty, then he should own up to it, take his punishment, and let's move on. If a guilty party pleads 'not guilty', then it starts out being a waste of time and taxpayers' money to go through a trial. Further, the very real possibility that a guilty defendant could actually go free as a result of legal chicanery reveals a flaw in the system, that we need to correct. Correction comes from imposing an additional penalty on any defendant who pleads 'not guilty' and then is later found to be guilty, as punishment for lying in court, and for wasting time and money to establish his guilt when he already (presumably) knew that he was guilty.

Lawyers counseling their clients should take this into account when determining the appropriate plea. If this is put into practice, then we'll probably see a lot fewer trials, and so justice for those who are falsely accused will be speedier.

Question 319

*Shall defendants who choose to go to trial have the option, in either criminal or civil cases, to have their decision rendered by a judge or by a jury?*

Yes, we imagine so. Even with a defense advocate, it's basically one individual against the combined powers of the Police and the D.A.'s office and the Judiciary. We do not have accurate judgments -- and therefore do not have justice -- if those combined powers are permitted to do whatever they want. The true facts can be found only if all parties have equal opportunity to review everything critically. Defendants therefore should be accorded every reasonable opportunity to make sure that their cases are adjudicated according to their wishes and the advice of their defense advocates, and generally should be accorded every right and every 'benefit of the doubt' which we can practically provide.

Sometimes, you want your case adjudicated by an educated professional jurist, who hopefully is bureaucratically independent of both the Police and the D.A.'s office, and who hopefully is free of any other motivation to judge the case unfairly. Other times, you might prefer to go with a jury, maybe because you generally distrust judges, or maybe because you want to get the input of multiple individuals evaluating the evidence together, or maybe because you simply feel that 'ordinary' people might be more sympathetic to your situation than a degreed professional jurist. Whichever way you prefer to go (and, it may be different for different types of cases, or at different times of your life), you generally (if not always) should be allowed your preference, not simply on moral grounds, but also so that you do not have a valid excuse to formally challenge the outcome later.

Question 320

*Shall we continue to keep standard jury sizes at 12, or shall we pick another number?*

While we did not see an immediate reason when we began this discussion to change from current practice, yet a big feature of this whole Project is to start with seven billion people running around randomly, and then to figure out what to do with them.

Because nobody who was present at the time of this Question's introduction had a background in the science of jury construction and selection (except for when the subject came up in a few episodes of *L.A. Law*), we figured it best to perform some online research on the history of our current system, and on any theories currently out there for possible change.

We started by searching on the phrase 'jury size', and found an article which referred to the 6th and 14th Amendments of the U.S. Constitution, and which also suggested that 12-person juries were found by the Supreme Court to be a "historical accident" dating back to the 1300's, which we thought would be interesting if true. However, the article also noted that 6-person juries have also been used.

Further research (both online and in Anastaplo's book 'The Amendments to the Constitution') showed that the right of jury is established for criminal cases in the 6th Amendment (although already provided in Article III, Section 2), and for civil cases in the 7th Amendment. Neither amendment mentions size of jury.

There is no direct reference to juries in the 14th Amendment, but it mentions due process generally.

A jury of 6 was declared constitutionally acceptable by the U.S. Supreme Court in the case of *Williams v. Florida* (1970). The Supreme Court ruled against Georgia's 5-person criminal juries in the case of *Ballew v. Georgia* (1978). In *Burch v. Louisiana* (1979), they allowed Louisiana's 6-person juries, but required unanimity if the jury size is that small.

Clearly, then, this issue has given rise to different interpretations and preferences in different jurisdictions at different times.

According to the federal Rules of Civil Procedure, Title VI (Trials), Rule 48, a jury must have between 6-12 members, and must issue unanimous verdicts unless the parties agree otherwise.

Justice Harry Blackmun's opinion in *Ballew* notes that smaller juries are less likely "to make critical contributions necessary for the solution of a given problem", and also less likely "to overcome the biases of its members to obtain an accurate result."

*Ballew* goes on to cite 'Nagel and Neef' as being somehow related to certain statistical studies which found that incorrect convictions (Type I error) increase with diminishing jury size, and that incorrect acquittals (Type II error) increase with increasing jury size. They weighted Type I as being 10 times more significant than Type II, and concluded that the optimal jury size is between 6-8. We decided to place this citation on our list for more thorough research.

In the meantime, we read further in *Ballew* that reducing from 12 to 6 produces "substantial" financial benefits, but little savings in *voir dire* or other elements of court time.

Everybody on the Court seemed to agree that a jury of only 5 cannot be sufficiently representative of the community to be fair under the 6th and 14th Amendments, especially for "serious offenses", although standards can be different between Federal and State, and among different States, and between Civil and Criminal.

Justice Lewis Powell disagreed with Blackmun's "heavy reliance on numerology derived from statistical studies" which were not "subjected to the traditional testing mechanisms of the adversary process."

We found an interesting article by Dana McKenzie for the online publication *Slate* on "What's the Best Jury Size?". The article cites Jeff Suzuki, a mathematician at Brooklyn College, who concluded that 6-0 and 10-2 convictions should be held unconstitutional, and that the Supreme Court should reconsider the allowability of 6-person juries.

In *Apodaca v. Oregon* (1972), 8 of the 9 Supreme Court justices agreed that Federal and State juries should have the same quota for conviction, but couldn't agree on what that quota should be, and split 4-4 on whether to require unanimity. Justice Powell believed that Federal juries should be unanimous, but that States could experiment with non-unanimous verdicts.

We have not found any argument supporting juries larger than 12, and it appears that 12 is established in common law.

At this point in our research, we began to feel that we probably need to gradate jury sizes according to the relative severity of the alleged offenses.

We found an article from 3/23/2012 in 'Inside Science', edited by Chris Gorski, asserting that 12-person juries date back to AD 725, when the Welsh king Morgan of Gia-Morgan decided upon that number in order to link the judge and jury with Jesus and the 12 Apostles. The article also references Suzuki of Brooklyn College, who pointed out that "the Supreme Court is making these decisions basically on an intuitive basis."

Suzuki apparently has been trying to build estimates of false convictions by counting how many verdicts are later overturned, which was one of our first thoughts, and which we were surprised not to find receiving greater mention in the other sources, but this article makes the good point that many of the overturns have more to do with new technology (such as DNA testing) than with the size of the original jury. Still, we imagine that a count could be taken of cases which were overturned simply on the basis of appeal or other secondary review, as opposed to by the introduction of new exculpatory evidence.

Where space and finance and the interest may exist, jurisdictions may want to experiment with having certain trials witnessed by multiple juries concurrently, with some jury sizes being the same for control purposes and some jury sizes being different, and then we might get a better handle on how much of the distinction is based on jury size versus other factors.

Another consideration which seems important to us is whether the jury is simply being asked to 'try the facts' of the case, or whether they are also being asked to 'represent the community' in terms of assessing the relative acceptability of the established actions.

'Nagel and Neef' refers to a certain article in the *Washington University Law Review*, Vol. 1975, Issue 4, pp. 933 *et seq.*, titled "Deductive Modeling to Determine an Optimum Jury Size and Fraction Required to Convict". The authors were Stuart S. Nagel, Professor of Political Science at the University of Illinois, and Marian Neef, then a Ph.D. candidate in that department. The article states in its first footnote that

it is based on a longer paper presented in the workshop on "Science and Technology in Criminal Justice" at the 1975 annual meeting of the American Society for Public Administration.

The article referred to a paper by Zeiser & Diamond in the *University of Chicago Law Review*, where they offered the same suggestion that we have offered above, namely to have criminal cases decided simultaneously by 12-person and 6-person juries. However, their 'flavor' was that the decision of only one jury would be binding, so that either the non-binding jury wouldn't take its job seriously, or else randomizing the binding between the two juries without telling them might constitute a deprivation of the defendant's rights.

The article also referred to a study by Professors H. Kalven & H. Zeisel of the University of Chicago, finding that 12-person juries deciding unanimously convict in 64% of the cases brought before them. They then compare other models with this rate, as though it were an ideal to be matched by any other model, and therefore as though any model not delivering that rate must be bad. We currently are not sure that we go along with that premise.

By the time that we started getting into Section II on "Basic Data and Assumptions", where they started to define some special symbols to reflect various concepts (such as $PAC_{N-1/N}$ to refer to the probability of an 'average defendant' (whatever that means) begin convicted with an N-person jury where N-1 jurors are sufficient to convict), we were beginning to feel Justice Powell's concern about the "numerology" of this approach.

Further reading showed that they were making a lot of assumptions without satisfactory up-front support, such as on p.942 of the Volume 1975: "We will say, for the sake of discussion, that 40 percent of innocent defendants are convicted…." Why don't they just say for the sake of discussion that the rate is 0 percent, and then we can all go on to something else?

The next paragraph similarly claims that "Seventy percent can be used for discussion" of the probability of convicting a truly-guilty defendant.

It occurred to us at this point in our reading that the conviction rate previously determined from Kalven/Zeisel may not continue to hold true if we institute our rules about additional penalties going tot guilty defendants who plead 'not guilty', and about reduced penalties for defendants convicted with illegally-obtained evidence. We therefore should not be continuing to seek equality with that standard in any alternative model.

Section II-C begins with a statement that "We now must make some [additional] assumptions", so the conclusions (whenever we once get to them) are becoming less and less credible. In particular, they are assuming that only 5% of defendants are actually innocent, which we find to be an unreliably small estimate.

We were continuing to hope at this point in our reading that we could get to a discussion of how often verdicts are overturned for jury error, although this would tell us only half the story, because double-jeopardy prevents an acquitted defendant from being retried on the same charge.

However, we do acknowledge their qualitative point on p.946 that “When jury size is reduced, unanimity becomes easier to obtain, causing the risk of wrongful conviction to increase while the risk of failing to convict a guilty defendant decreases.”

Their table points to a jury size of 6.7 (rounded to 7) as having the greatest balance between correct convictions and correct acquittals, but again those figures are based on a lot of untenable assumptions.

Their footnote #21 actually introduces natural logarithms into the process, and we are having a really hard time accepting the applicability of a logarithm function here.

From their p.954, “we simply do not know” the overall impact of changing jury sizes or voting requirements upon the psychosocial interactions among jurors, making us wonder what the heck we are doing here studying this paper.

Their footnote #30 (which required three pages to express) criticizes several other mathematical jury-size models for various alleged deficiencies, showing again at least that the subject is non-trivial even for ‘experts’.

We began at this point to consider different jury sizes for different steps in the trial process, such as starting with a smaller jury in the initial trial, and then moving to a higher level if a successful appeal results in a retrial. On the other hand, a retrial usually results from some kind of defect in the presentation of the case, and not from irregularities within the jury, unless it is a hung jury.

Only in Section V of the Nagel/Neef paper do they begin to look at how changes in some of the underlying assumptions could change their “reasonably complete model of jury behavior”: If they knew that the assumptions needed to be changed, then why introduce them in the first place, instead of what the assumptions should have been? Or, if the underlying numbers needed to fall within a certain range, then say that, and use those figures to produce your range of conclusions, but don’t state your conclusion first and then change your assumptions.

We do agree with the point on their p.963, “that the choice of an optimum jury size depends heavily on the assumption made about the proportion of truly guilty defendants among all defendants who receive jury trials.”

Section V spends more time justifying the original assumptions than showing how the assumptions could be different, but they do often acknowledge that the assumptions may need to be different, hopefully to be refined on the basis of “further empirical research”.

According to their p.970, “the most important predictive characteristic of a juror is his propensity to convict”, which “We know from the Kalven and Zeisel data” to be a factor of 0.677, but we have not seen by this point anything about standard deviation of the result, so we must allow for the possibility that there could be a big difference between the figure resulting from their sample data and the ‘true’ factor, if there is such a thing. However, we have to believe on a qualitative basis that different people are going to react differently to how the evidence and arguments are presented at different trials: For example, you may generally have a higher propensity to convict than I do, but you also may be more persuadable than I am on the basis of what happens in court or in the jury room. In other words, different jurors may have different levels of ‘elasticity’ among their respective average propensities to convict, so it probably is ‘statistically suspect’ to exponentiate that

one average factor by the number of jury members, without allowing for individual variations in the average factor, and without allowing for differences in individual 'elasticity' in their propensity to convict based on what happens during the trial.

We finally began in p.971 to see about how far from the 0.677 aggregate average an individual jury might fall in its collective propensity to convict. Specifically, they appear to be communicating to us a standard deviation of 0.098, such that 50% of all juries wil lbe in the range of 0.579-0.775, which to us seems like a pretty big variation to be coming up with such precise conclusions as 6.7 members in the optimally-sized jury.

It was suggested in p.973 that it may be unconstitutional to vary jury size according to the type of crime, "except for very gross classifications, such as felonies versus misdemeanors", but it does not positively assert that conclusion. We find it hard to imagine that a gradation of jury sizes according to predictable factors could truly be unconstitutional (notwithstanding any current legal opinions to the contrary), since neither the original Constitution nor any of its pre-2017 amendments mentions jury size in any way.

There was a Section VI on 'Variations on the Basic Model', and a Section VIII on 'Conclusions', but no Section VII, so maybe it was considered unlucky, like the 13th floor in a hotel, or else perhaps -- for all their fancy symbologies and formulas and tables and graphs -- they yet ended up being lousy counters.

In any case, their section on 'Conclusions' states: "Because the empirical premises of our model have not been tested, we cannot definitively state how much effect jury size or the fraction required to convict has on the jury's reliability or accuracy." It took them 42 pages to reach that inconclusive conclusion.

They asserted on p.976 that "a 10/12 rule will always result in a higher probability of the innocent being convicted than a 6/6 rule", but that seemed pretty intuitive, and again did not require 40+ pages of analysis.

However, per p.978, "the model is capable of providing insights into the effects of different jury sizes and different fractions required to convict," for whatever good that does us.

Having finally finished with the Nagel/Neef paper, our next step was to look up any scholarly support or criticism of the model, and any more recent thought which may more reliably inform our response to Questions 320 *et seq*. However, our online search of the top 100 entries associated with the expression "Nagel and Neef" yielded only repeated historical references to the original citation, other papers produced by either or both, or biographical information.

Without any scholarly commentary easily available to help inform our discussion, we have come to rely upon our previous findings, standing by the position that the whole approach of the Nagel & Neef paper was bullshit, although we again acknowledge the general point that we should get more empirical data about jury performance under different combinations of jury size and voting requirements, although we should do it in a manner not discussed in their text.

We figure that we can get some good empirical data about jury accuracy if we ask each judge to record -- after the jury retires for deliberation, but before it returns

with a result -- what he/she thinks the verdict ought to be, on the basis of the evidence presented. We can then compare their non-binding opinions with the actual jury verdicts, and then we can see what the variances are like with different combinations of jury size and voting requirement.

Mind you, a large variance would not necessarily mean that the juries were usually wrong, because we cannot always depend on the judge's judgment, which is why we have jury trials in the first place. However, if the variances tend to lessen as we approach a particular jury size and/or voting requirement, then we can have more confidence that those levels are generally the most reliable.

Data collection should factor in judicial bias by separately tracking the results for judges who previously worked as prosecutors and as defenders and in the civil courts. We can also factor in years of experience on the bench, the types of verdicts reached (convicted/liable versus acquitted/nonliable), State or region (we may actually want different jury sizes and/or voting requirements in different States or regions), civil or criminal case (we may want different jury sizes and/or voting requirements for different types of cases), and other variables. However, it is the overall combined rate which we suspect would be the most interesting to us.

We asked a practicing attorney not a current member of our group, who reported that such data currently are not being collected. We need to confirm this from additional sources.

Assuming that these data are not being collected currently, we are suggesting that we can effectively compel judges to render these non-binding opinions by posting the summary results on a public website, where the total of such non-binding opinions would need to equal the total number of jury trials conducted within a given time period by each judge. Probably better for this website to track results on an annual basis than monthly, because some trials take a lot of court time over several weeks, so a monthly count probably would not be very indicative of the court's overall workload.

In any case, the secured module of that website could track the number of times when the opinions of the judge were different from the jury verdicts, and then we could collate the data according to our various variables.

When we do start to collect and collate such data, we are suggesting that a much cleaner and simpler notation than that used in the Nagel/Neef paper would be that which is observable in the example of "12-11-10", where "12" refers to the overall jury size, "11" refers to the number of votes needed to find in favor of conviction or liability, and "10" refers to the number of votes needed to find in favor of acquittal or nonliability. It should be much easier this way to categorize various cases according to their jury sizes and voting requirements, and then to break things down further according to the other variables listed above.

In the meantime, on the basis of the very low apparent impetus within our society to even experiment with juries larger than 12 (although certain tables in the Nagel/Neef paper went as high as 15), and on the basis of the Supreme Court findings (we are not seeing any reason to substitute any alternative judgment) that 5 is too small, we are suggesting -- at least temporarily, while we collect more empirical data -- that we gradate standard jury sizes from 6-12 according to the relative severities of the alleged offenses: Because wrongful convictions apparently increase with smaller juries, we should makes sure that only lighter crimes get tried by smaller juries.

Conversely, because wrongful acquittals apparently increase with larger juries, and because we would rather free the guilty than punish the innocent, we should recommend that we use larger jury sizes for heavier crimes.

We also considered that we should allow the standard jury size for a given alleged offense to be overridden by the defendant, because the whole ideas of allowing the defendant to choose between judge and jury are (1) to accord every practical offsetting advantage to the defendant, and (2) to preclude a convicted defendant from citing the trial format as an excuse to appeal the conviction. We can offer to defendants and their lawyers the general tendency points about wrongful convictions and wrongful acquittals, but they may have different expectations based upon what has been happening recently within their region, and so they may want to try to 'buck the trend'. If so, then perhaps we should let them, provided that they stay within the 6-12 range, again at least until we get better empirical data on jury behavior as compared with judicial expectations, and again provided that they may not use the trial format which they selected as an excuse to appeal the verdict.

Question 321

*Shall we continue to require a unanimous jury verdict in criminal cases, or choice of unanimous for 'guilty' or some other number for 'not guilty', or some other set-up?*

Generally, our finding from Answer 320 applies here, that we really can't predict the optimal combination of jury size and voting requirement until we get much more empirical data on different combinations in different states/regions, as well as overall, and broken down by various additional factors which may prove relevant and useful in the analysis.

However, we can add a general point here that we probably should be thinking more in terms of allowing verdicts to be decided even with one dissenting vote, and maybe with dissenting votes of two or more for lighter cases. Idea here is that a biased juror may occasionally filter through the *voir dire* process, and could consistently vote for either conviction or acquittal just on general principle, independently of the facts of the case, and we don't want justice to be derailed just because some of our citizens (in the generic sense of that term) feel compelled to play unfairly.

On the other hand, the classic teleplay "12 Angry Men" dramatized what happens when an initial jury vote is 11-1 in favor of conviction, and the requirement of unanimity gives the lone dissenter the opportunity to sway all the other jurors to his side. Those types of cases can occur, and we similarly do not want justice to be derailed because non-unanimous juries arrive too quickly at the wrong decision.

On the previous hand, though, if we can't get a unanimous vote on the Supreme Court, then how can we expect unanimity among ordinary people? Answer here is because we have had unanimous verdicts before, so we know that it is possible. However, it is also true that we have had a lot of hung juries in cases which might have been decided accurately and more quickly if we had allowed a non-unanimous verdict to stand.

Final argument, though, needs to come from our Basic Principle that the defendant's rights must be safeguarded above all other considerations, again because he is so far outnumbered by the various civil authorities who are eager to prosecute him. If even one juror holds out in favor of acquittal, then there must be enough 'reasonable doubt' to allow for acquittal, unless the prosecution can somehow show that a

particular juror was 'unreasonable'. On the other hand, the prosecuting attorney found that juror to be reasonable when she was empaneled, so you probably don't get to claim later that she is unreasonable, just because she disagreed with your case.

Therefore, even if the empirical data tend to show more similarity between judicial opinions and actual jury verdicts where conviction could still happen with one dissenting vote, we yet suggest on a purely philosophical level that unanimity must be required in order to convict someone, but that acquittals may happen with one or more dissenting votes, depending upon analysis of the empirical data.

Question 322

*What do we feel is the best minimum number of jury votes to use in civil cases?*

Before we can discuss this Question, we need to make an important distinction in our terms:

When we speak here of 'civil cases', we refer specifically to the class of legal actions where one party claims to have been damaged by another party, in a manner which does not strictly violate any current prevailing law.

This definition has not always been observed in current real life, however: We all know of one famous instance in particular, where a certain celebrity defendant was acquitted of murder in his criminal trial, but later found liable for 'wrongful death' in a subsequent civil trial, where the voting requirement was much more lenient, and where the slightly-different phrasing of the charge supposedly obviated double-jeopardy protections. We find that a separate civil trial for 'wrongful death' or any other such charge does indeed count as a second trial on the same accusation, and that it should have been prohibited in a jurisdiction which constitutionally disallows double jeopardy.

If we were to allow civil trials to basically double as criminal trials, especially for 'wrongful death', then we should accord the defendant the same rights to which he was entitled in the criminal case, particularly the requirement of unanimous jury agreement as a condition of liability. As it is, because we are disallowing any such shenanigans in our model, we can focus the discussion on cases matching our definition stated above.

Under this definition, we are talking about cases where the alleged actions allegedly caused damage without violating any specific statute. The case therefore is going to require not just a finding of 'whodunit', but also some level of value judgment on the part of the jury.

For, even if there is stipulation between the parties on the sequence of events (or if that can be deduced by the jurors as triers of the facts), and even if it is clearly established that damage was caused, and even if it is also clearly established that the stipulated actions directly caused the stipulated damage, the jury still must consider (unless that part of the decision is being devolved to the judge) how willful or negligent the defendant's actions were, and therefore how much of a penalty should be imposed on top of any strict economic remediation as a means of 'teaching him a lesson'.

Those sorts of value judgments are very hard to find unanimously among 12 randomly-selected (or even pre-screened) jurors, as evidenced by all the arguments which we encounter and witness in so many aspects of our daily lives. We can't even agree on balls and strikes all the time, so how can we always be expected to agree on exactly how much Joe should pay to Jane for his willful or negligent non-criminal actions?

Even though we currently have a 9-3 standard in California, and even though we do not yet have enough empirical data to conclude that this is non-optimal for civil cases conducted in this State, we yet are tentatively recommending a 10-2 standard: More generally, civil verdicts could be decided with as many as two dissenting votes, but not with as many as three. Idea here is that you are eliminating the high scorer and low scorer from the decision, same as they have done for many years at the Olympic level of Figure Skating and Gymnastics.

Once you eliminate the two outliers, we suspect that a preponderance of the remainder generally should provide a fairly-reliable indicator of the 'true' merits and demerits of the case, but again we are willing to be outspoken by a sufficiently-large sampling of empirical data.

Question 323

*Shall all citizens be required to serve periodically on juries, or should there be some restrictions as to who shall serve, or shall we set up a system of professional jurors?*

This is another tough one, so we just gotta work the problem:

There is a temptation to require jury service of all citizens as a condition of continued civil protection, same as the concept which we have often heard (and which we also have seen in history) that a term of military service should be required of all citizens. We found in Answer 154 that we should not require people to serve in the military who do not wish to, since we should be listening if a large number of people are telling us that they don't want to do that.

Similarly, if some people simply do not possess the temperament or willingness to serve as a juror even once in their lives, then we do both them and our peaceful society a disservice by sticking a bayonet in their backs in order to compel their nominal participation.

Jury service therefore should be invitational, not compulsory. We should market it as an opportunity to let your voice be heard within 'the system', and to have a direct impact on the administration of justice in your community. We also should make the experience interesting and non-obnoxious for them, so that they will not try to dodge it as much as people have in the past. We also should provide a reasonable stipend for their time, and not require them to pay for parking.

Young people wanting to make their minimal civic statement should be allowed priority access to the jury pool. After that, access should be allowed to as many people as would like to keep serving, even if it's all the time. Priority should be given to those who have served on fewer juries, in order to diversify access to 'the system', but vacancies may be filled by full-time jurors who may be retired or between screenplay sales or something, and who have the spare time and willingness to use it for the civic good.

The stipend should not be so high as to be able to serve as a living wage, so no we don't want there to be 'professional jurors' who contribute nothing toward society beyond their judgments about the actions of others.

If the jury pool still ends up being too small even with all the local retirees and would-be screenwriters sitting on juries on a full-time basis, then this is where you need to consider incentivizing the jury experience better, or else allowing smaller juries for certain types of cases (and, make sure to keep those stats for the different jury sizes), or both.

In any case, no, make it invitational, not compulsory.

The 'black book' (containing preliminary notes compiled for many of the different Questions back in the 1990's) does make a good point that an acrimonious experience between two jurors in one case could make things difficult if they serve together in a subsequent case. We therefore should make it a requirement that prospective jurors disclose during selection if they recall having served with anyone else on the panel of prospective jurors, and then let the court decide based on the specific considerations whether or not they should be allowed to sit together again.

The 'black book' makes another good point that it would be very hard to establish and maintain qualifications for serving as 'professional jurors', so best to avoid that whole trip.

Question 324

*If service is to be compulsory, then what happens when an individual prefers not to serve, for whatever reason? Is he not likely to make statements in* voir dire *that will result in his excusal in each case, or to otherwise gum up the works?*

Not applicable. Established in Answer 323 that we would rather have fewer jurors in the available pool than force the inclusion of people who really don't want to be there, and this is one of the reasons why.

Question 325

*As to making jury service non-compulsory, might not the pool of prospective jurors be so low that those who do serve will be serving so often that they will be the equivalent of professional jurors, creating the same problems that would exist if we were to set up such a system directly?*

Also addressed in Answer 323. Being a full-time juror is not the same as being a professional juror, because you still are receiving only a modest stipend to cover transportation and meals and a little something for your time. It's not supposed to be enough to pay your rent.

Question 326

*How do we make jury service more interesting and rewarding, and less obnoxious?*

Mostly agreeing with the 'black book', but a couple of exceptions:

We do agree that we should raise the fees at least slightly, that we should not pay for mileage on only a one-way basis, and that we should make parking easier. We also

agree that we should reduce the extensive time spent waiting around in the hallways, by scheduling *voir dire* hearings more sequentially within a given building, so that the necessary pool can be smaller, and so that those who are there can be going to more hearings. We also agree that we should streamline *voir dire* hearings by asking the entire panel first if there are any occupations, past similar crimes, or other disqualifying factors represented among them.

We disagreed with the 'black book' suggestion of streamlining evidentiary hearings conducted outside the jury's presence, by imposing time limits on lawyer speeches. We find instead that sometimes lawyers need the extra time, and that the rights of their clients should not be compromised simply for juror convenience.

We also disagreed with the 'black book' suggestion of streamlining the actual trial by discouraging lawyers from picking at every single little point, and asking ten minutes' worth of questions just to admit a single slide into evidence. It is true that we don't want to sit around for days and days listening to evidence being introduced which may not be needed, but we also don't want to limit the attorneys' ability to introduce evidence simply for time reasons.

On this latter point, we considered that maybe we could speed things up by allowing the prosecutor to present only part of the evidence up front, and then the jury can have an opportunity to render a speedy conviction and wrap up early. If the jury comes back and says no we're not convinced yet, then the prosecutor could present more of the supplemental evidence, or perhaps all of it.

Such a system might end up being too cumbersome to be net-desirable, so it is floated only as an idea at this point: If a particular community is having trouble attracting jurors, then this question might be included in a survey of what factors tend to be keeping prospective jurors away. If enough of them suggest breaking up the trial into primary and supplemental phases, then jurisdictions can experiment with that format and see how it goes.

Question 327

*Are there ways that we can improve the speed of* voir dire*, and/or improve the quality of the jury selected?*

We really liked what the 'black book' had to say: Current method is to pick a panel of 12+ people, ask them a bunch of questions, and let the lawyers take turns excusing them. As each excused juror is replaced, more of the same questions are asked, and the lawyers continue to alternate in their excusing, until they end up with a panel that both lawyers can live with. Problems with this approach are (1) that it's very time-consuming, even in the normal case, but especially if one or more prospective jurors are missing when the rest of the panel is ready to proceed with *voir dire*; and (2) and that lawyers are basically rolling the dice that no other prospective jurors remaining in the pool might be even better for their causes than the ones which they are settling for, possibly resulting in an inaccurate verdict, which would be contrary to the public interest.

We therefore need to have all potential jurors answer at least one basic set of questions before they ever enter a courtroom, and possibly additional sets crafted by the lawyers for certain additional cases, and then the lawyers can select a narrower pool to question further in person, until each lawyer has a list of all those jurors

whom she would accept, and then we compare the lists to see how many names appear on both.

- If the number of names appearing on both lists is exactly equal to the number of jurors and alternates needed, then those jurors are sworn, and the case moves forward immediately.

- If the number of names appearing on both lists is greater than the number of jurors and alternates needed, then all other prospective jurors may be excused immediately, and a negotiation session can begin to narrow down the field to the required number. Possible method could be for each lawyer to rank the jurors in order of desirability, from first to last, and then those prospects with the lowest combined score are sworn in, with the remainder excused. Alternate selection could be used instead, as long as the process is quick, so that potential jurors are not sitting around for too long getting bored and wishing that they had never volunteered for jury service.

- If the number of names appearing on both lists is less than the required number, then those jurors are sworn, and the remainder are chosen from among those appearing on only one of the lists. Possible method could be for the lawyers to take turns choosing the least odious persons from each other's lists, until the required number is met. Alternate selection could be used instead to nominate additional prospects from each lawyer's own list, with the opposing lawyer allowed a certain number of peremptory challenges, similar to the current system. In either case, if an odd number of additional jurors is needed, then a convention could be set in place to give the prosecution the first choice (since they are the ones bringing the charge, and seeking to have it substantiated by jury analysis), or perhaps the parties could agree on designating an additional alternate in order to equalize the remainder of the selection process.

Question 328

*How shall we deal with the reality that many lawyers like to pick jurors in such a way that the overall makeup is 'demographically balanced', and not by individual compatibility with the case?*

The group found disagreement here with the ideas suggested in the 'black book', which proposed that we should try to eliminate any form of 'racial balancing' in jury selection, in order to help get us all the faster to the point where race is no longer used as a factor to make any kind of decisions about anything.

While we are sympathetic to this suggestion, yet we have seen what happens when no such standards are in place. As much as we would like for it to be so, and as much improvement as we have made so far in our society, and as much as we hope that maybe we can get there someday, we must regretfully acknowledge that our society is not yet fully ready to retire the 'affirmative actions' which are necessary to re-train our minds away from the paradigm of allowing any decisions on anything to be made on the basis of race.

Further, a big reason why the Supreme Court rejected a 5-person jury in *Ballew v. Georgia* (1978) was that it was seen to be too difficult "to overcome the biases of its members". Generally, we want to be satisfied that the jury is representative of the community, especially in civil cases where a greater level of value judgment of the indicated actions is needed. It follows that we cannot have true representation of

such a diverse society as ours if we do not have inclusion of the various ethnicities and cultural traditions which we find in our society.

Therefore, the Answer to the Question as phrased is that we should 'embrace it'.

Question 328.2

*Are there any other specifications which we wish to make as to opening statements, introduction of evidence, questioning of witnesses, closing arguments, instruction of the jury on the law, presence of cameras in court, jury deliberation, and/or anything else about the trial proceeding?*

As we saw in the Simpson case, it is okay to have cameras in the courtroom, broadcasting on local public-service channels, in order to allow more public oversight of the judicial process, without requiring citizens (again in the generic sense of that term) to contribute to traffic and parking congestions by physically driving to the courthouse. We need only make sure that the juror faces and identities are always concealed, so that they may feel free to do their jobs without fear of reprisal.

No other issues are immediately coming to mind that we have not already covered.

**Subsection I-F-8: Punishment**

Question 329

*Assuming that an individual actually commits what society agrees or perceives to be a 'bad act', is it appropriate for such person to claim either leniency or full innocence on the basis of permanent or temporary insanity?*

Leniency perhaps, but not innocence, except possibly in the most extreme circumstances.

We apparently have liked to think that there are 'sane criminals' and 'insane criminals', such that the 'sane' ones can be found guilty and sentenced to prison and/or some other form of punishment, whereas the 'insane' ones can be found 'innocent by reason of insanity' and thereby excused from any punitive action.

Our group finds, however, that anybody who commits an act which he knows to be harmful to one or more others does so either because he can't distinguish right from wrong, or else he can make the distinction but is either unwilling or unable to edit his actions in such a way as never to injure or threaten injury to others. Because very similar (if not identical) phrasings have been used to describe the set of 'insane' criminals who have been receiving different verdicts and different dispositions, we claim that <u>any</u> individual who can control his own actions at all must possess some level of 'insanity' if he performs any knowingly-harmful acts.

We concede that some individuals are so neurologically disordered that they have little or no control over their own actions, and that they therefore cannot be held to be 'guilty' -- in terms of possessing advance criminal intent -- when someone gets shot or stabbed or burned because the subject was allowed access to a gun or knife or lighter without supervision. We presume, however, that any such individuals are going to be identified and properly diagnosed and held in protective custody, without any possibility of access to weapons or other dangerous objects, and that they therefore will not ever have occasion to commit such a harmful act.

That leaves us with the set of people who have been found to possess sufficient mental fitness that they are allowed to move about society more or less freely. That finding should be officially changed, however, in our group's opinion, if any such individual commits a harmful-to-others act with the apparent knowledge that it was going to be harmful to others. That individual must have some level of mental disorder (for, we find that there are many levels of mental disorder, not just 'sane' and 'insane'), and therefore must be kept away from the general public until such time (if any) that the disorder can be sufficiently relieved.

In any case, regardless of how 'insane' the perpetrator was at the time of the offense, we don't want to call him 'innocent' if his actions did actually cause the alleged harm, because that might imply to some people that he had no part whatsoever in the action in question, and that we therefore should be seeking the perpetrator elsewhere, whereas in fact his actions did precipitate the alleged harm, so the official finding shoud make it clear that there was causation between his actions and the alleged harm.

We therefore recommend that -- at least for some defendants, if not for everyone -- we should get in the habit of referring to the basic findings as 'causative' and 'not causative', as opposed to 'guilty' and either 'not guilty' or 'innocent'. Using the expressions 'causative' and 'not causative' makes it clear that we are focusing on the 'whodunit' aspect of the case, so that we can at least settle clearly whose actions had the greatest impact on the alleged harm.

Once we establish causation, we can then advance to the further finding of whether the defendant was 'guilty', in terms of possessing a knowledge of his harmful action, or whether his brain was so far gone that he had no idea about his having caused harm to anyone.

We can then consider the disposition of the defendant's case in that context: Those whose brains really are damaged beyond repair can be placed within the safe environments that they need, with little or nothing in the way of punitive actions which would have no constructive effect, which yes we would characterize as a form of 'leniency'. Conversely, those whose minds might still be receptive to rehabilitation can have some other set of dispositions imposed which hopefully are likely to result in their being allowed eventually to resume life within ordinary society.

Question 330

*But, we hold it as a right that a defendant must be able to face his accusers, and to participate in his own defense: If he is so insane that he is not competent to stand trial, then should the charge be dismissed?*

If an individual is 'incompetent to stand trial' under the current application of that expression, then that doesn't mean that the trial should not be taking place. To the contrary, we still want to make sure that we know 'whodunit', because knowing the sequence of events is in the public interest (which is why we have public judiciaries in the first place, subsidized by the civic fund), and we still want to use the adversarial process as a means of maximizing the reliability of the finding. We therefore should not allow the defendant's alleged mental unfitness to obviate our legal ability to determine the facts of the case.

Regardless of whether the defendant is 'fit' or 'unfit' according to whoever's definition, yet he should always be allowed to be present at the trial, just in case he is able to perceive more than we think that he can. He should not be drugged or otherwise actively hampered from participating to the extent that he normally can. He also should be represented by a public defender who has special training in acting on the behalf of defendants who cannot contribute actively to their own defenses.

Question 331

*Is it appropriate, then, to find a defendant 'innocent by reason of insanity'?*

No, not temporary insanity, and not permanent insanity. We will allow 'non-guilty by reason of insanity' if his brain is seriously damaged ('non-guilty' being better than 'not guilty' because the entire phrase 'not guilty by reason of insanity' is ambiguous between 'not guilty, by reason of insanity' (which is what they probably mean) and 'not [guilty by reason of insanity]' (meaning that he could still be guilty for some other reason)), meaning again that he is incapable of forming a criminal intent, but then such conditions generally don't apply on a 'temporary' basis, so we are not allowing such a thing as 'temporary insanity' to exist.

In any case, even if the defendant is totally insane, and therefore 'non-guilty' for that reason, yet we should find that he was 'causative', so that at least we can close the case without ambiguity.

Question 332

*Is it appropriate to find a defendant 'guilty by reason of insanity'?*

Not really, even though the 'black book' suggested that it might be okay. Our finding is that anyone who is 'guilty' of anything possesses by definition the mental capacity to form a criminal intent, and that anyone who is willing and able to proceed with such criminal action must possess some level of 'insanity'. In other words, anyone who is truly 'guilty' at all is 'guilty by reason of insanity', so the expression is redundant at the very least, and is also dangerously misleading, because it may imply to some that the defendant should receive some lighter sentence than is actually proper under the indicated conditions.

Question 333

*What happens if a defendant is acquitted in a criminal proceeding, and later sued in a civil proceeding for the same alleged act?*

Theory here has been that different standards of doubt apply, and/or that different numbers of juror votes are necessary, and that the second proceeding therefore does not constitute 'double jeopardy'. However, we found in Answer 322 that such duplicate proceedings should never be allowed to happen. For, how could you be 'liable' if you are 'not guilty'?

Question 334

*Suppose that the sequence of events has been determined in a given case, and that the defendant has been found to be in violation of the law or good conduct: What then is to be done?*

Technically, it depends:  Simply being in violation of the law is not necessarily a bad thing, for we found in Answer 18.5 that individuals should be allowed to disobey laws if they can show in court that those laws are generally bad, or that they are generally good but for some other reason should not apply in the present case.  Also, the phrase 'good conduct' can mean many different things to many different people, and can cover 'fluffy' topics such as table manners or tie patterns, where no real harm is being inflicted, such that remediation can often be accomplished by simple counseling, failing which we would need to decide between simple acceptance of the variation or an exclusion from the social group in question.

What we are really talking about, then, is the type of situation where someone has been injured or threatened with injury, and where the perpetrator appears to have known in advance that his actions were likely to cause harm.

Generally in such cases, we don't want petty crimes to be punished by execution or long imprisonment, as has happened in some of our past cultures, because we do not wish to live in perpetual fear that the slightest violation of the slightest law might get us nailed for life.  This means that where possible we would like to get the convict back into ordinary society as expeditiously as we can do so without severely endangering the public safety.

Specifics generally should be left up to the court, because every case is different and every defendant is different.  Generally, though, we want to aim for the easiest path which gets the convict back into society.  Maybe it is just a warning or a counseling session, or maybe a small fine in addition to any strict compensatory restitution.  If the case is more serious, and/or if the defendant has committed the act again after such lighter treatments have already been attempted, then we may need some heavier forms of punishment in order to get the perpetrator's attention, and motivate him to change his behavior if only out of fear of punishment, if not simply for the good of society.

Question 335

*What if the allegedly-injured party claims damages for 'pain and suffering', or some other intangible quantity?*

All actions requiring any type of punitive response must have caused 'pain and suffering' to somebody, or else we would not be bothering to prosecute them in our model, which (as articulated at the beginning of Subsection I-F-4) does not consider an act to be a 'bad act' if it does not cause injury or the threat of injury to others.  It therefore is redundant to claim 'pain and suffering' as an adjunct to the primary accusation.  Rather, the court should basically assume that 'pain and suffering' is a component of whatever 'bad act' is being alleged, and should set the disposition accordingly.

Question 336

*What manner and extent of limits shall we place on 'pain and suffering' damages?*

This is a very subjective area, where the standards might need to vary by region and/or over time.  For, stealing a bottle of water from someone trying to cross the Mojave Desert on foot is more serious than it would be at a picnic where dozens of other water bottles are present.  Also, crimes such as identity theft can become more serious over time as different technologies get created which can create more risk for

damage, or may become less serious over time as greater safeguarding mechanisms get developed.

Generally, though, we want to make sure that no judge having a really bad day is allowed to hang someone for jaywalking, and we also want to make sure that judges (and juries, for that matter) are not allowed to impose 'pain and suffering' damages which are greatly in excess of the amounts which have been charged for similar offenses in that jurisdiction within the recent past. In other words, allow judicial precedent to set effective limits upon 'pain and suffering' damages, and encourage defense attorneys to be sufficiently familiar with such local parameters that they can argue against an allegedly-excessive judgment, and/or appeal it to a higher court.

Question 337

*Should the payment of any such non-fiscal recovery (as well as court costs) constitute the full extent of 'punitive damages', since the guilty party is now paying more than he illegally obtained, or should there be some punitive measures on top of that?*

Punitive damage may need to come in some form other than monetary, because the super-rich likely will not be moved much even by a monetary fine excessively higher than the usual local standard.

Question 338

*Why do/should we have punishment?*

This topic was preliminarily addressed in the course of looking at Question 287, where we observed that the threat of punishment is not a 100%-effective deterrent, that an environment of punishment does not completely alleviate people's freedom from fear (although it may help some), that non-punitive alternatives may sometimes accomplish the same objectives, and that it must be up to the Judiciary to assess the most appropriate disposition of any particular case.

Returning to the present Question as phrased: We need for punishment to be inflicted upon the perpetrator in at least some instances, so that the threat of punishment will carry some meaningful value as a potential/partial deterrent. We need to keep the threat of punishment available as a potential/partial deterrent because history has shown us repeatedly all over the world -- and still does so every day, as can be verified trivially by reviewing the court dockets of any large city on nearly any court day -- that some people who had healthy home lives and a quality primary education and a wholesome religious influence still grow up to commit acts which they know are likely to cause or threaten injury to others. The problem can be helped further by counseling sessions (such as traffic school, or the group talks after one's first DUI), and also by warnings which can go on one's record temporarily until a sufficient period of time has passed without repetition. However, we have seen time and again that these measures taken together are not sufficient to alleviate everyone's willingness to commit knowingly-injurious acts.

We further recognize that this condition is likely to continue to exist to at least some nonzero extent, even if/after we implement all the measures which this Plan intends for a more prosperous and equitable society. Some people are still going to have neurological aberrations (possibly from genetics, possibly from a physical trauma occurring either before or after birth) which might not respond constructively to

normal education and social conditioning, but which may in some cases respond to punishment or the threat of punishment. Also, some people (especially children, but clearly some adults also) may have brains which are basically 'normal' in their physical functionality, but which are yet able to 'learn' about proper behavior only through punitive conditioning. (If I am made to stand in the corner enough times, eventually I get the message that I need to be modifying my actions.) Finally, some people with normal brain functioning and normal learning abilities may have had some bad interpersonal experiences in their lives which make them feel like lashing out with one or more injurious acts, as if to punish the rest of the world for their individual problems.

When punishment and the threat of punishment become unnecessary, we will rejoice. For the foreseeable future, however, we expect that punitive conditioning will sometimes be needed to mitigate the occurrence of injurious acts, even in our improved societal model.

Interesting footnote to this discussion, from our subsequent research into Question 342: The "Guidelines Manual" (2016 ed.) put out by the United States Sentencing Commission included a treatment on pp.4-5 on the purpose of criminal punishment. There apparently was a philosophical dispute within the Commission between the 'just deserts' principle of scaling punishment "to the offender's culpability and resulting harms", and the 'crime control' principle of lessening the likelihood of future crime by either deterrence or incapacitation. Turned out that they found the debate to be irrelevant "because in most sentencing decisions the application of either philosophy will produce the same or similar results."

Question 339

*Do we agree with the basic concept that it is possible for punishment of a given bad act to be excessive, and that excessive punishment should be avoided?*

This clearly is a matter of judgment, because numerous past cultures have routinely inflicted punishments which some of us today find excessive: *Les Miserables* was all about a guy who received a 5-year prison sentence for stealing a loaf of bread. *Shogun* illustrated a time and place where the slightest contradiction of the orders and expectations of one's feudal superior was held to be just cause for immediate execution. *Roots* showed that it was commonplace -- even in supposedly-enlightened America -- for an individual to be horsewhipped simply for not answering to his newly-given name.

It is the same as with a lot of what many of us now consider to be 'fundamental rights' (including some enumerated in the U.N.'s 'Universal Declaration of Human Rights'), but which were not always recognized as such in all places at all times of history.

Is it therefore acceptable for a society today to impose punitive measures which the rest of us find to be excessive? Yes and no: Answer 19 holds that we should not have a one-world government, and that nations generally get to do within their own borders anything which does not create any injury or threat of injury to any other nation, so that's the 'yes' part.

The 'no' part is that our society has progressed to a point far beyond those societies from centuries ago: People at those times often had nowhere else to go, no way to get anywhere else even if they had a secure destination, and sometimes no

knowledge that alternative social constructs were even possible. By contrast, our TV and our Internet have managed to reach nearly all inhabited places on the globe. Our coverage has shown repeated instances of internal revolutions against rich and powerful tyrants (Egypt and Iraq and Libya being recent big examples), so they know that it is possible to do. Anyone ruling or seeking to rule a nation is therefore strongly advised not to be excessive in your punishments, because if you are then the risk of your forcible removal from power is much higher now than it was in earlier centuries.

Question 340

*Should additional action focus on rehabilitation, forced removal from the occasion, deterrence of the individual, deterrence of the general public, or some combination?*

As previously discussed, all cases are different, and all defendants are different. Further, the characteristics of one defendant can change over time, sometimes from simple differences in life circumstances, but certainly in the number of harmful acts already tallied up in one's criminal record. We therefore need an impartial and objective official, with a strong knowledge of corresponding legal precedent, to adjudicate the case and decide upon an appropriate disposition, whatever combination of forms that may take, provided that the treatment is consistent with recent similar cases in that locality.

Generally, though, we want to have as little disruption as we can in our normal social functioning: Those of us who have been conditioned to respect human life don't want the conscience burden of taking human lives any more than we really need to, and all of us who are not super-rich don't want the economic and logistical burdens of crowding our prisons more than actually necessary. As often as we safely can, then, we want to get people back in ordinary society, functioning as productive citizens and taxpayers. Whether that can happen through simple counselings and warnings, or whether some form of punitive action is needed first, must be adjudicated on a case-by-case basis, with a general aim of striking a balance between leniency and the public safety.

Question 341

*If it is possible to make the victim completely whole, and still cover court costs and/or police overhead, should any additional damages be levied?*

Again, will depend on the circumstances: For one example, we noted in Answer 337 that the super-rich criminals are not likely to be deterred very much by the prospect of simply making their victims whole and covering court costs. They might just see that as the simple 'cost of doing business', so they may need some additional judgments in order to 'get their attention'.

In other cases, you might be dealing with an individual who is not out just for money, but to commit some violent act simply for the purpose of acting out some pent-up aggressions, which also are not likely to go away simply because restitution has been made to previous victims, so sometimes some stronger measures are going to be needed to at least try to rehabilitate the individual, and in the meantime to keep society protected from the mentally unwell.

Finally, we also need to consider the set of unsuccessful criminal attempts: If I attempt to shoot you, and if I miss simply because I happen to be a lousy shot, then

you have not been physically injured at all.  Maybe you experience some emotional shakeup from the attempt, but a few bucks of compensatory damage probably will make that better.  In any case, we probably should not stop there if we want to discourage any future attempts, either from me or from society at large, so we generally do want to be prepared to impose additional damages as an attempted deterrent against repeated harmful behavior.

Question 342

*Suppose that actual fiscal loss and non-fiscal damages have been determined in a case with multiple defendants found guilty under due process:  Should each defendant be required to pay the full amount, or should the amount of damage be apportioned among them?*

If the injury is simply economic, then (as the 'black book' describes) it would constitute excessive punishment to require each participant to pay the same amount of damage as he would if he had committed the act all by himself.  And, again, we generally want to avoid excessive punishment, because at some point it can lead to civil unrest, because the people now are not as tolerant of government actions as they used to be.

If the case results in a physical injury of some kind, then our preliminary intuitive feel was similarly that the punishment should be distributed among the multiple participants, in proportion to their respective levels of participation.  However, we recognized that every attendee present during Session 190 was a professional accountant, who was accustomed to 'amortizing' liability among multiple sources when applicable.  We therefore figured that we should think more about how we could convince non-accountant's to change their minds if needed, or about whether it is we who need to change our minds.  Good next step would be to find where the alternative doctrine is documented which calls for all participants to receive the same sentences as their solitary counterparts, and the putative logical justification for that doctrine.

This has not been so easy to find.  We therefore consulted a lawyer between sessions, who suggested that we review the 'elements of crime'.

According to wisegeek.com, the four key components of a crime are intent, conduct, concurrence and causation:

- Intent (Latin '*mens rea*' = 'guilty mind') requires clarity that the defendant wanted in advance to commit the crime, and that the defendant possessed the mental capacity to form such intent.  However, they included a curious example of an intended robber who hits and kills a pedestrian with his car on the way to the robbery, stating that he cannot be convicted of murder because he had no advance intent to kill anyone, but they went on to assert that he can still be convicted of manslaughter, which is still a crime even though advance intent did not exist, so their definition is already fuzzy.
- Conduct ('*actus reus*' = 'guilty act') requires actual action to carry out the intent.
- Concurrence requires a connection between the intent and the conduct, although there may be a separation in time.
- Causation requires that the combination of intent and conduct led to the crime.  Here they used the same hypothetical example which we put to the outside lawyer, about a would-be assassin who fires his gun but misses his target, in which

case intent and conduct are present, but not causation. Here again, though, the shooter can be charged with attempted murder, which is still a crime even with no causation of harm.

However, Wikipedia (which was not our primary source!) concurred with this summary, but acknowledged that causation is an element of only some crimes. It also stated that omission of an act can also constitute the basis for criminal liability.

Mecklenburgdwi.com left out concurrence, but included 'social harm' as a required element. However, that website was for an attorney practicing in North Carolina, where the standards may be different.

Markedbyteachers.com asserted that the four elements are a law, an offender, a target or victim, and a place.

Answers.yahoo.com suggested that the three required elements are motive, intent, and execution.

Criminal.lawyers.com defined only two types of crimes, being felonies (generally punishable by more than one year of imprisonment) and misdemeanors (generally punishable by less than one year of imprisonment), stating nothing immediately about infractions. However, it also noted that a new 'model penal code' (allegedly adopted by approximately 22 States as of Session 191) recognizes four degrees of crime, not inclusive of lesser criminal actions such as offenses and violations.

This last website went on to assert that there are only two elements required of crimes other than 'strict liability' crimes, and that those two elements are 'guilty mind' and 'guilty act'.

We were generally seeing a lot of variation in the approaches taken by different sources, so we did not seem to have a universal definition which might have been helpful to us.

Even if there were such a universal definition, however, it was not clear from any of the consulted sources how their answer would inform our Question.

We next looked up 'sentencing guidelines', and found through Wikipedia an easily-verifiable citation that a document known as the 'federal sentencing guidelines' was created by the 'United States Sentencing Commission', which was created in 1984 by the Sentencing Reform Act, which sought to alleviate disparities which were observed in the existing sentencing system.

The article went on to describe that the two main factors used to determine sentencing are the conduct associated with the offense, and the defendant's criminal history. There were 43 offense levels at the time that we performed this research during Session 191, but proposals apparently were underway to reduce this number.

Section 5K1.1 of the United States Sentencing Guidelines (2012 ed.) showed that "Substantial weight should be given to the government's evaluation of the extent of the defendant's assistance, particularly where the extent and value of the assistance are difficult to ascertain." This tells us that the U.S. Government officially does recommend the reduction of sentencing according to a defendant's partial involvement in the crime in question. However, it did not go so far as to specifically allocate the aggregate sentence to the multiple defendants proportionally.

A total of 24 grounds for departure from the basic standards were listed, but none of these related to a case involving multiple defendants.

We next looked up 'multiple defendants', hoping for a more on-point discussion.

Justia.com gave the standard post-trial instruction from judge to jury, but most other citations that we could find related to civil cases, including torts and patents and product liability. One citation discussed multiple defendants being indicted for an alleged drug-trafficking conspiracy, but conspiracy by itself -- while potentially actionable -- is too difficult to apportion to fall easily within this Question.

A paper written in 1979 by Prof. Peter W. Tague of the Georgetown University Law Center posited that there is an inherent conflict of interest in having one attorney represent multiple defendants in a criminal case, but our Question would continue to hold even if each of the multiple defendants had separate counsel.

We also saw some citations (including model jury instructions) where each of multiple defendants are being charged with exactly the same crime, or with completely different charges in a single trial. It was hard to find anything on a single action which required multiple different participations, no one of which would have been a possible crime on its own.

Thomasvalonzo.com was a site for an attorney practicing in Louisiana, and stated that he would often seek to sever his client's trial from those of the co-defendant's of the same crime, generally because evidence brought against other co-defendant's (including the testimony of other co-defendant's) could taint his client's case.

We finally went back and downloaded the complete United States Sentencing Guidelines document (2016 ed.), with the aim to review it offline for any treatment of our Question which we could not find in the Wiki coverage of that document.

The entire document ran 628 pages, and it appeared from review of the Table of Contents that Chapter 3, Part B, "Role in the Offense", beginning on p.363, probably would address our main topic, but we still read through the first part of the document for general knowledge and curiosity.

We noted with interest from p.2 that the sentencing range set by a particular court must be narrow, with the maximum of the range exceeding the minimum by less than the greater of 25% or six months, per 28 U.S.C. §994(b)(2), sounding good to us.

Also noted on p.2 that the United States Sentencing Commission "is established as a permanent agency to monitor sentencing practices in the federal courts", because it is expected "that continuing research, experience, and analysis will result in modifications and revisions to the guidelines through submission of amendments to Congress." We agree that this is a useful function, and that we should allow this agency to continue to exist within our model Department of Justice.

We really like the writing in §1A1.3, "The Basic Approach", where they discuss the historical problems which Congress sought to remedy by enacting clearer sentencing guidelines, and the ongoing challenge to maintain balance between uniformity (similar sentences for similar types of crimes) and proportionality (adjusting for

specific variations) without making the entire system too complex to possibly manage.

We completed reading of Chapter 1, Part A, "Introduction and Authority", in Session 192. Fun stuff. We really like what the Commission has done and is doing, we feel that they definitely are on the right track, and we especially like that they recognize that keeping the guidelines workable and relevant is an ongoing process of continued monitoring and analysis. We have here caught the Government doing something right.

We completed our review of the document in Session 193. We particularly also like the 'recipe' approach expressed in the beginning of Chapter 1, Part B (of two), "General Application Principles", prescribing certain steps to be taken in a certain sequence. We found it good that one of the listed downward adjustments is for the defendant's acceptance of responsibility, which is our Answer 317 in reverse.

We do not particularly like their application note 3(B), allowing that multiple adjustments from different aspects of a single criminal act generally are to be "applied cumulatively", such as the adjustments for 'bodily injury' and 'official victim' if one shoots a police officer during a robbery. We concur that an upward adjustment may be indicated for such 'special circumstances', but in our opinion it is excessive for the sentencing to proceed as though the two outcomes resulted from two completely separate acts. However, they do also allow that there may be specific instructions to the contrary within the specific guidelines.

Pertaining specifically to Question 342, §1B2.3(a)(1)(B) allows that a defendant is accountable for the conduct of others if it was:

(i) within the scope of the jointly undertaken criminal activity;
(ii) in furtherance of that criminal activity; and
(iii) reasonably foreseeable in connection with that criminal activity.

This makes it seem as though I can be accountable for their actions, and they can be accountable for mine, so the total sentence associated with the crimes is basically multiplied by the number of individuals who participate to even the slightest degree, as long as such participation falls within these definitions.

This seems intuitively excessive and unfair to us, but we resolved to keep reading to to see whether further discussion within the document might explain this position.

One example which they gave is when two defendants agree to commit a robbery, and one of them assaults and injures a victim during the act. They claimed that the second defendant is accountable for the assault as well as the robbery, even if he advised against it. This does not seem fair and just to us.

Another example which they gave is when ten defendants are charged with offloading one ton of illegal substances from a ship. They claimed that each of the ten defendants should be charged as though he personally offloaded the entire shipment, because he "aided and abetted" the offloading of the entire shipment by being personally involved with a portion of it. Again, we are seeing no logical or moral justification for this principle.

They extended this example by applying principle (iii) above, that the existence of one ton of contraband was "reasonably foreseeable" because importation by ship often involves large quantities. We found this reasoning to be rather tenuous,

because sometimes small quantities get transported by ship, especially if one is seeking to avoid detection. Whether the defendant is doing a lot of damage by bringing in a lot of contraband, or doing a smaller amount of damage by bringing in a smaller amount, should be taken into consideration by the court, in our current opinion.

Another example which they gave is the getaway driver in a bank robbery in which a teller is assaulted and injured. They claimed that the getaway driver is accountable for the assault and injury as well as the robbery itself, because again it was "reasonably foreseeable" under the circumstances. They seemed to be merely stating that it is so, and not assembling much of a logical defense.

Another example which they gave is two defendants conspiring to sell fraudulent stocks. They each derived a different amount of money from the scheme, but under the stated principle each must be treated as though he was responsible for the combined amount of the fraudulent income. This goes against our intuitive feeling in the initial element of this discussion, being that economic loss should be allocated proportionately among the multiple defendants according to their respective gains.

§1B1.10 establishes that a prison sentence should reduced if the sentencing guideline is reduced after a defendant was sentenced to a longer term. We agree with this principle.

Chapter 2 of the Guidelines Manual, "Offense Conduct", deals with all specific varieties of criminal activity, for which we generally are content to defer to the guidelines as periodically updated, absent any specific question or complaint coming from any source in the future, because again we generally like the entire systematic approach that they are taking in this document, although so far we do disagree with one of their general principles.

However, we are tending to feel that their collection of 43 "base offense levels" (such that first-degree murder is rated 43, second-degree murder is rated 38, voluntary manslaughter is rated 29, and involuntary manslaughter is rated 12) might be a little too elaborate even for our group's collective taste, but again we are generally content to defer judgment to the Commission and the Legislature to refine the guidelines over time as they deem fit in their professional legal judgments.

We found it interesting that they devoted over 6 pages to a 'drug quantity table' which assigns 17 different 'base offense levels' from 6-38 to different specific quantities of different specific drugs. They do the same thing with a wide variety of 'precursor chemicals'.

We also found it interesting that treason gets a rating of 43 if it is tantamount to waging war against the United States, which action seems to us to be far more serious than a 'simple' first-degree murder receiving the same rate.

Upon skimming ahead to Chapter 3, "Adjustments", we saw that they advocated increasing the offense rate by 3 levels if it is a 'hate crime'.

We looked very closely at §3B, "Role in the Offense", beginning on page 371. We can see an upward adjustment for a defendant who was an organizer as well as a participant. Good that the offense level can be reduced between 2-4 levels if the defendant's participation was "minimal" or "minor". Various other upward

adjustments are detailed for certain specific extra-bad elements, such as abuse of a position of trust, or involvement of a minor.

§3D, "Multiple Counts", provides detailed rules for determining the overall sentence range when a given criminal act violates multiple different sections of the Code, so we found it good that these are not always simply added together cumulatively, although again the formulaic structure is so elaborate that we must wonder whether it really fits our human experience, so we probably would not oppose a simplification, but neither are we specifically recommending it.

We did not see anything in Chapter 3 to explain or justify the principle that a defendant participating in only a portion of the criminal act is to be treated as though he committed the whole thing.  Absent such explanation, we must hold with our intuitive finding that this is a significant flaw in an otherwise-excellent system of sentencing guidelines.

Chapter 4 discusses "Criminal History and Criminal Livelihood", beyond the scope of Question 342, but we skimmed it anyway.  It results in the designation of one of 6 categories of criminal history.

Chapter 5 is "Determining the Sentence", beginning on page 427.  It begins with a 'sentencing table' providing a range of months of imprisonment for each combination of the 43 offense levels and 6 criminal-history categories.  For purposes of this table, adjusted offense levels ending at less than 1 are treated as 1, and adjusted offense levels ending at greater than 43 are treated as 43.  Certain 'zones' in the sentencing table allow for probation under certain additional conditions.

§5E1.5 provides that the "costs of prosecution shall be imposed on a defendant as required by statute."  We agree with this general principle.

§5E1.7 discusses "shock incarceration", which blessedly refers not to electric shock, but rather "to a highly regimented schedule [of training and discipline and ceremony] characteristic of military basic training".

Cool that they have an appendix which lists numerous specific sections of the United States Code being violated, according to title and section number, along with the guidelines section(s) relating to each.  They also have an alphabetic index of subjects and where they are specifically discussed within the document.

Upon completing our review of the entire 628-page document, we still are not persuaded to change our position on Question 342.

However, we also have had feedback from the legal community that a straight allocation of the standard sentence range among all multiple participants would also be bad, because it might not present a sufficient deterrent to alleviate our collective fear of criminal activity to a satisfactory degree.  We therefore agreed in Session 194 that we can bump up each defendant's apportioned offense level by an appropriate increment (we think 2 points in the current 43-level model) to address the conspiracy element in addition to the actual offense.  For, crimes committed singly often come about as the result of temporary pressures without thorough evaluation of the moral and legal consequences of the actions, whereas a crime executed with multiple participants clearly involved a deliberate process of advance thought, with an almost-certain knowledge among the group that the planned action constituted a

legal violation (which is why they needed to get together to plan it in the first place), so we cannot properly be as lenient with them as we might want to be for a solitary defendant who was just having a really bad day.

Therefore, do apportion the offense level according to the role taken in the offense, but then adjust upward by a couple of points to address the conspiracy element of the crime.

Question 343

*Suppose that actual fiscal loss is determined, and that an appropriate level is set for any non-fiscal damage in a particular case: What then happens if the guilty/liable party does not have the monetary resources to make full recovery?*

If punishment were only monetary, then it clearly would be too easy for a destitute individual to commit a crime and then claim freedom from punishment because he had no resources to pay the fine. Wealthier individuals also have been able in some cases to avoid having to pay monetary judgments because they had been successful in hiding their incomes and/or assets from attachment. We therefore need to be able to extract in some other manner the retribution which is properly due both to the direct victim(s) and to society generally.

Imprisonment may help with the societal retribution, and may provide some partial comfort to the direct victim(s), but such victims and their families (especially in the case of wrongful death) might not feel fully retributed with imprisonment alone: They may need some monetary compensation for their pain and suffering, as well as coverage of their funeral costs, uninsured medical costs, any rise in insurance premiums resulting from the incident, psychological counseling, and/or lost income. If the defendant is monetarily unwilling or unable to provide the appropriate amount of monetary restitution, then should the victim(s) be required to go through the rest of their lives with no financial help at all?

We think not. Therefore, depending on budgetary availability within each locality, we are suggesting that a revolving fund be maintained for victim recovery, as a supplement to private insurance and whatever can be successfully extracted from the defendant. A portion of each locality's taxes would basically serve as an insurance premium being kept in the fund, and disbursed as appropriate by local officials, who for electoral purposes would be motivated to maintain a healthy balance between liberal disbursements and conservative fund maintenance. In order to alleviate the need for excessive disbursements, localities would generally have increased motivation to provide adequate police protection, in order to mitigate the likelihood of such crimes happening in the first place. The disbursement would be our way of saying as a society that we didn't do a sufficient job of protecting you from crime, so here's something from our public coffer to help make up for it, insofar as the perpetrator is unwilling or unable to subsidize the appropriate recovery total completely.

At that point, because we are paying some or all of what the perpetrator should have paid, he then basically owes the money to us, and needs to make up for it sooner or later, one way or another, including by community service or other productive labor.

Same principle applies to a litterer who causes a flat tire, society needing to cover the costs of towing, parts, and labor because we failed to keep the streets and

highways sufficiently clean, so we need to increase taxes to cover the increased maintenance cost, giving taxpayers a motivation to litter less.

Question 344

*If we imprison somebody, do we have an obligation to keep him reasonably well-fed, comfortable, and protected from crime?*

If we're not going to kill him outright, because we feel that it would be morally improper under the circumstances, then it also would be morally improper to simply toss his body into a dungeon with little or no further care. It might even be morally worse, because the convict is then experiencing the suffering in addition to simply having his freedom of life terminated. One of the major improvements which we have made in our society (including during the French Revolution) has been the improvement in prison conditions, so we don't want to go backward in this important area.

Besides, to maintain inhumane prison conditions sends the wrong message to convicts, potential convicts, and society generally, being that it must be morally accepted within our current society for some people to restrain other people by force, and to make them live in destitute and unhealthful conditions. That is the opposite of the message which we should be sending: We do not want people making other people live in unsanitary conditions, so we should not be setting an example of such bad behavior by committing it ourselves.

Also, it defeats one of the central purposes of punishment as described in Answer 338, being to provide mental training to the convict to enable him to return to society as a peaceful and productive citizen. For, if we are not actively working him toward societal reintroduction, then we have little reason to keep him alive at all. Conversely, if we are actively trying to work him toward societal reintroduction, then we need to make sure that he emerges from prison reasonably well-fed, and not carrying any disease which he did not possess upon initial incarceration, as well as being set up with living quarters and employment upon release as current local conditions allow.

We also have a very big problem with conditions prevailing in many American prisons today, being that prisoners are effectively allowed to commit serious crimes upon other prisoners, including assault, rape, and extortion. If we do not want these actions happening within our ordinary society, then it would be hypocritical of us to allow them within our prisons. As with the issue of maintaining sanitary conditions for the individuals entrusted to our public care, it sends the wrong message to everyone if acts are allowed to occur within prisons which we seek to prohibit everywhere else.

We should allow the press to observe prison conditions routinely, including by gallery over cafeterias and workrooms and exercise areas (possibly showers also, but that might be too creepy, maybe in selected facilities only), so that they can report directly on any fights or rapes or other problems, which reports if sufficiently negative will tell the public that they need to get rid of the wardens and guards, who therefore have a motivation to keep the peace.

We are reminded of the "L.A. Law" episode where the controversial talk-show host (played by J.T. Walsh) argued in favor of maintaining poor living conditions within prisons, on the grounds that the prisoners are there to be punished, and that if

people don't want to live in those conditions then they simply shouldn't get sent to prison.  The failure of that argument lies on a couple of levels:

First, not all prisoners should be treated alike, because people are in there for different types of crimes, they have different levels of historical recidivism, and some may have been legitimately unaware that they were committing a crime (such as the drunk driver who sincerely thought that he was okay to drive, and then fell asleep at the wheel before getting into an accident).  We might be able to argue for worse prison conditions for serious criminals and repeat offenders, but the 'lighter' criminals -- who committed lower-level offenses for only the first time -- should not be treated so harshly.

Second, the argument fails because it overlooks a key reason for having punishment, being to retrain the individual not to commit crimes anymore:  If he is allowed to commit such crimes in prison, and if others are allowed to commit crimes upon him, then that continues to be the only world that he knows, and the only way that he can get along is simply by continuing the same criminal pattern as everyone else only better, and he will never learn how to behave in the way that we want everybody to behave.

It may give us a momentary feeling of satisfaction for being able to say "take that" by sentencing a convicted defendant to rot in an unsafe and unsanitary dungeon with little food and little water and little protection from other prisoners, and maybe some of those folks actually deserve such treatment, but in any case we may with that strategy be causing more problems than we're solving, so each jurisdiction should consider very carefully how much deterioration they are ever willing to allow in their prisons.

Now, that said, we are willing to consider a systematic gradation in the conditions prevailing among different prisons in the country.  The 'minimum security' prisons should be made available to those first-time convicts guilty of lesser crimes.  They may serve out their entire terms in those locations as long as they avoid escape attempts and otherwise maintain good behavior.  If they attempt to escape (whether successfully or not), or if they commit any additional bad acts while in prison, or if their initial crimes were more serious, or if they commit new bad acts after having been released from prison earlier, then they should be assigned instead to other prisons with stiffer security, lousier food, less medical care, lighter internal protections, more difficult labor requirements, and other inferior conditions.

They can keep getting 'sent down' to worse levels if they continue to demonstrate bad behavior, down to and possibly including Hell.  Correspondingly, if they are already assigned to lower levels, and demonstrate good behavior for a sufficient period of time, then they can be eligible for 'promotion' to a lighter-grade prison, as a 'reward' to help encourage the kind of behavior which we ideally want to see in all our citizens and all our prisoners.

One other possibility which we might consider is deportation to an insular penal colony, as has happened before within our global history:  Drop them off, and let them fend for themselves.  If it's so important for them to live in a society without laws, where the biggest and strongest and fastest get their way, then let them have it.  If they can make it back to organized society on their own devices, then let them, and maybe they'll think twice about committing another crime and risking going through the whole process all over again.

They might therefore be more liable to gain a much greater appreciation for organized societies which can create food and bandages and textiles and other creature-comforts which they had probably taken for granted before.

If we go this way, then should we have separate islands for convicts of different bio-genders, or do we want to allow/encourage heterosexual interaction and species propagation? Maybe have at least one island for all men, at least one island for all women, and at least one for co-ed. Convict could have choice of either single-gender or co-ed, subject to overrule by the court upon sufficient grounds. However, we are presently leaning away from the idea of allowing prisoners to reproduce, because whatever mental aberrations originally caused/allowed their criminal behavior could be passed on genetically, in which case we would not be doing any favors to the human species.

In any case, we generally are leaning away from the whole idea of deportation to an insular penal colony: With our advanced technologies, it is much easier now than in previous centuries for outsiders to smuggle supplies onto the islands, or to help the prisoners to escape. Even if they escape on their own using only primitive technologies, and make it back to organized society before we have confirmed that they are sufficiently fit, then they might be inclined to exact revenge upon other people for their experiences, so we are presently thinking that the strategy would be too unsafe for the rest of us. Probably better to keep them in smaller confined spaces where we can monitor their actions far more closely, and provide them with the direct training which they would need for eventual peaceful reintroduction into ordinary society.

Question 345

*By what criteria shall a particular jurisdiction determine the appropriate number of years of imprisonment?*

We again are satisfied with the general approach taken by the United States Sentencing Commission, to maintain a single set of standard prison terms to be applied on a nationwide basis, allowing different 'offense levels' for different types of crimes and different criminal histories, and receiving continual feedback from the Judicial and Legislative communities within our country as to what specific ranges for imprisonment appear to be more appropriate or less appropriate for different types of situations.

We see possible opportunities for improvement, including possibly reducing the number of base levels from the current 43, and in any case treating first-degree murder as being less serious than waging war against the United States. However, we are content with allowing the process to continue to produce tactical improvements to the system on an ongoing basis, subject to the specific suggestions which we offered in the course of Answer 342.

Question 346

*When a Legislature sets ranges for imprisonment, to what extent should the Judiciary be able to 'review' that legislation, and strike it down as being excessive and/or a violation of the Constitution?*

The Constitution does not specifically state when punishment is excessive. It merely states that punishment in a particular case should not be far in excess of the social

standards of the day.  Those standards may be determined or codified by elected Legislatures, because we select them in order to represent us in creating and modifying laws according to our evolving collective preference.

If the Judiciary of a given jurisdiction feels that the Legislature's setting of imprisonment ranges is inappropriate, then it should not be able to strike them down, since in many cases (including at the Supreme Court level in our current model) it is not elected by society, and therefore does not represent society.  They are there to exercise their professional legal judgments to determine (among other things) when a lower law appears to violate a higher law.

When that happens, their role under our Answer 18.5 is to officially notify the offending Legislature of the discrepancy, so that the Legislature can either modify the legislation or appeal the ruling to higher authority, because even people with law degrees can see the same set of circumstances differently.

If the Legislature is under-responsive, then where appropriate the Judiciary may also call for a referendum, so that a popular vote may either ratify or overturn the Legislature's action, and in any case so that the public can be more keenly aware of the legal disagreement between the branches, which awareness may inform their electoral decisions later.

In particular, we again like the general system created by the United States Sentencing Commission and approbated by the Supreme Court, although we again prefer that the Commission be reassigned to the Executive Branch, so that all three branches have input into the process.

Question 347

*Suppose that a person commits one or more bad acts, and that he has been found guilty/liable in due process, and that he has completely exhausted his monetary resources in making partial compensation to his victims, and that it has been determined that no amount of community service or forced labor will completely compensate society for its share of the debt load, and that some amount of jail time has been prescribed as alternative punishment:  What if the amount of such jail time (that is, adding up the minima of judicially established ranges) is significantly more than the criminal's remaining life span?*

There are three scenarios to be considered here.  One is where someone has committed many bad acts without ever being caught and tried until now.  Second is where someone has been captured and incarcerated, but then escapes from prison before completing all his terms (which is a 'bad act' in itself, because recapturing him consumes a lot of public resources, and because the public is threatened in the meantime), and probably then commits additional crimes after that.  Third is where someone remains in prison but commits multiple additional bad acts while there.

In the first scenario, there may be an outside chance in some circumstances that the perpetrator was not completely aware that all his various actions were illegal or injurious, in which case a simple counseling might be sufficient.  In other cases, some amount of prison time may still be indicated, as an aid toward retraining the convict's brain to refrain from such bad acts in the future, at least from fear of further punishment if not for sheer moral rectitude.

In still other cases, especially in certain 'war crimes' situations or extensive serial murders, the psychological evidence may indicate that no amount of retraining will ever make this individual a peaceful and productive citizen. If this really is the fact, then we have little motivation to keep him alive, not only because he is compounding his original evil by forcing society to pay for his livelihood, but also because he presents a deleterious influence on other prisoners whom we do have hope of redeeming to normal status at some point.

Trick there is that we are relying on psychological evidence alone here, which may not be sufficiently compelling to justify the termination of the perpetrator's life. We therefore want to be really sure, and give the perpetrator every practical opportunity that we can to allow him to demonstrate that he will somehow eventually mend his ways to the point where his future contributions to society will at least offset the societal resources which he would consume by continuing to live.

If he still flunks all his chances, then at some point it should be permissible to terminate his life, before he has an opportunity to cause any further damage, but that decision should require the concurrence of at least two separate trials with different judges and different juries.

Second scenario is easier, because he already has had some prison time to allow him to 'think about what he did', and to realize that his bad behavior justly warranted punitive action. If he then demonstrates by escaping that he is not willing to take his mental medicine by sitting out the time that he justly deserves to put in, then clearly the previous treatment did not sufficiently work, so we should try sterner punishments (i.e., worse prison conditions) as an expedited means of 'getting his attention', as described in Answer 344.

If he commits additional bad acts during his period of escape, then that could be a simple result of the fact that he did not complete his mental retraining, so demotion to the lower-level prison might still be sufficient to 'bring him around' eventually, so this probably would not be sufficient to warrant the termination of his life.

Third scenario is when he has committed so many bad acts after initial incarceration (possibly including escape attempts) that he has already gotten demoted to the worst prison level yet conceived by Man, and still shows himself to be a net-destructive presence in our society. In this case, we have both the moral right and the moral duty to terminate his life, again once the same decision is reached in at least two separate formal evaluations. Any right-to-life which he may ever have possessed (whether naturally or civilly granted) has been effectively waived by his repeated destructive acts, and by his unwillingness/inability to respond to any means of corrective treatment. That being the case, society no longer has any moral obligation to help keep him alive, and it should not be required to exhaust any further resources to do so. It might be inhumane to simply allow him to starve, though (even with all his past bad acts), so probably best to terminate his life actively, with whatever final dignities (last meal, visit from a priest, etc.) the local jurisdiction finds to be appropriate under the circumstances.

Question 348

*Shall such an individual be committed to prison for the balance of his life?*

The only time that we should be committing anyone to life in prison is if he is both willing and able to do some offsetting good while there, maybe community service,

maybe some productive manual labor, maybe providing teaching or counseling to other prisoners, maybe something else.

The offsetting good would need to be enough to offset both the original bad that he committed and the continued societal costs of keeping him alive and comfortable and protected while in prison. However, the premise of Question 347 is that his combined bad acts already cost more than he could possibly make up in the form of productive work, so it does not make logical sense to keep him in prison, especially during conditions of prison overcrowding, which we certainly had when this Question was considered in 2017, and in other recent years.

As stated in Answer 347, we are sympathetic to the moral desire not to take other people's lives without their consent, for we actively decry that practice when it is committed by individuals or non-civic groups acting unilaterally. However, this individual has clearly waived his right to live in a civil society by his repeated bad acts committed even after some amount of incarceration, so he either refused to accept corrective treatment, or else was neurologically unable to do so. In either case, he does not deserve to be kept alive at all, and we do not deserve to keep paying for his livelihood, especially not when we have so many innocent people starving in our own neighborhoods, and all over the world.

Therefore, as loath as some of us might be to execute others, yet at some point in some cases we need to simply acknowledge that this guy is a lost cause, and to basically 'write off' the asset before our losses get any worse.

Of course, we should provide him with as many warnings as we can, as well as initial education during the primary stages that being bad enough often enough can get you executed as well as merely imprisoned. And, again, his case should be evaluated independently by at least two separate panels, possibly more if required by the corresponding jurisdiction.

Question 349

*If an individual has waived his right to live, including by the commission of multiple serious anti-social acts, is it in the interest of society to continue to keep him alive?*

No, as already addressed in Answer 348.

Question 350

*Should the termination of his life be passive or active?*

Active, as already addressed in Answer 347.

Question 351

*If allowing that multiple crimes can result in the forfeit of one's own life, what is the maximum penalty that we should be able to levy on any one single crime?*

This is another area where we depart from the United States Sentencing Commission and their 'Guidelines Manual', which prescribes sentences of up to life-in-prison for selected single crimes. We feel that such extensive sentences should be imposed only if someone is guilty of multiple crimes, because we always want to give any first-offender the option of rehabilitating while in prison, so that at some point he can

re-enter society as a peaceful and productive citizen, and eventually make up for his bad acts a lot faster than he could do in prison. It is only when he receives such chances for rehabilitation and flunks them that his cumulative sentences should approach or exceed his maximum life expectancy.

We also allow for the very real possibility of wrongful conviction, for we occasionally hear on the news (as we did for Marco Contreras in March 2017) that someone gets released after up to 20 years had passed before the authorities realized that someone else did it. Hopefully such miscarriages of justice decrease over time, with our advancing technologies in analyzing DNA and other crime-scene chemicals, but we must still allow for the possibility until it is once demonstrated to our collective social satisfaction that it never possibly will happen ever again, which may never be the case.

Combining these factors, we imagine that 20 years is the maximum sentence which should be imposed for any one criminal act. It is long enough to hopefully facilitate deterrence, but it is short enough that someone sitting out the entire sentence without further incident might possibly have time left in his life to more completely make up for what he did, and conclude his life on the plus side of the moral ledger. It is also short enough that we have not committed too grave of a sin by convicting somebody incorrectly, because he still might then have enough life left to net-enjoy the experience, especially with whatever compensation we give him for his trouble.

Question 352

*Given that life termination may not be inflicted for any one crime, no matter how heinous, due to the possibility of error, what number of years shall we set as a minimum, beyond which an accumulation of sentence minima shall constitute a waiver of the criminal's right to live, permitting the active termination of his life?*

We find in our current situation that the criminal should be allowed to remain in prison if his current age plus the minima of all remaining sentences (i.e., his 'earliest release age') is less than 200 years, but that his life should be terminated actively if the sum exceeds that level. We realize that it might sound/seem illogical to impose either a single or a cumulative sentence which requires the perpetrator to live longer than anyone since Noah has ever lived. However, we again are allowing for the possibility that some of the convictions were wrongful, so some years might need to get dropped off at some point. Also, we recognize that life expectancies are on the increase, such that people may be living to age 150 routinely by the time that the perpetrator reaches age 100.

We possibly could have an 'earliest release age' of more than 200 years, but if it gets too high then we make it near-certain that the convict has exceeded any foreseeable life expectancy even when allowing for the possibility of wrongful convictions, so then we would be back to housing and feeding this evil person for life, which we feel per the previous Answers does not make logical or moral or economic sense.

Our current standard of 200 years is based upon our current life expectancies, which show 72,197 centenarians living in the United States during 2014 (according to a report from the Centers of Disease Control and Prevention), out of an estimated total American population of 318 million (according to the U.S. Census Bureau), for a margin of a little over 2 one-hundredths of one percent. When that same percentage of the population is alive beyond some significantly-higher age down the road,

society should consider multiplying that higher maximum age by two, in order to arrive at a revised ‘earliest release age’ before we start considering life termination.

Question 353

*Shall anyone found to be in excess of such minimum be granted the right of automatic appeal, as currently done in capital cases?*

Definitely yes, definitely appeal, definitely make double-sure that each of those previous convictions was valid.  Our consciences may be heavy enough in some cases when we determine that we need to execute anyone, and we don’t want/need to compound our moral mud-wrestling by fretting about whether any of the convictions were invalid which helped to add up to the minimum cutoff which the individual appeared to exceed.

However, the ‘black book’ of preliminary ideations reminds us that the presumption of innocence need no longer apply, because the individual was already found causative/guilty under due process, so it is safe to presume his guilt in a retrial, and to require active evidence of innocence in order to overturn the previous verdict, unless the proper court decides that an exception is indicated in a particular case.

The following agenda elements remain to be addressed by the group:

**PART II - THE ECONOMIC ANSWERS**

**SECTION II-A:  BASIC PRINCIPLES**
**SECTION II-B:  GOVERNMENT SPENDING**
**SECTION II-C:  TAXES**
**SECTION II-D:  INDUSTRIAL PRODUCTION & DISTRIBUTION**
**SECTION II-E:  LABOR**
**SECTION II-F:  TRADE**
**SECTION II-G:  INDIVIDUALS AND FAMILIES**

**PART III - THE SOCIAL ANSWERS**

**SECTION III-A:  BASIC PRINCIPLES**
**SECTION III-B:  MARRIAGE AND FAMILY LIFE**
**SECTION III-C:  EDUCATION**
**SECTION III-D:  SOCIAL DEREGULATION**
**SECTION III-E:  SPORTS AND GAMES**
**SECTION III-F:  LANGUAGE**
**SECTION III-G:  RACES, RELIGIONS, AND OTHER GROUPS**
**SECTION III-H:  THE ANSWERS TO EVERYTHING ELSE**