

The Executive Branch

"The office of the President requires the constitution of an athlete, the patience of a mother, and the endurance of an early Christian....

The President is a superior kind of slave."

—Woodrow Wilson, President 1913–1921

Essential Question: *How does the president use the powers of the executive branch and interact with Congress to implement a policy agenda?*

With the American presidency comes ceremony, custom, and expectation. Presidential institutions, such as the White House, *Air Force One*, and the State of the Union address, are likely familiar to you. Signing ceremonies and photo opportunities with foreign dignitaries are common images. The Constitution lays out the president's job description. He has both formal and informal powers and functions to accomplish a policy agenda. The president interacts with Congress in the lawmaking process, in appointing his administration and filling the judiciary, and in interacting with other countries. Yet since the creation of the office, American citizens have come to expect more and more from the president, while there is a constant push and pull on the office in ultimately defining what a president can do. For example, not long after Donald J. Trump was sworn into office in January 2017, the debate about his powers intensified, and as he tried to move his policy agenda forward, he met with resistance and tension from Congress, the courts, and media, and some protesting citizens. This chapter explores the design of the executive branch, the expansion of the presidency, the process the president uses to choose advisers, and the way he communicates to accomplish goals and the daily responsibilities of the president.

An Enhanced Presidency

The presidency is shaped by Article II, Article I (which covers vetoes), five constitutional amendments, federal law, Supreme Court decisions, customs, and precedents. The framers designed a limited executive office meant to carry out the ideas put into law by Congress. The office, however, has become the seat for a powerful captain of the ship of state, buoyed by support institutions and American expectation.

4. Develop an argument that explains whether term limits for members of Congress would be beneficial or harmful.

In your essay, you must:

- Articulate a defensible claim or thesis that responds to the prompt and establishes a line of reasoning
- Support your claim with at least TWO pieces of accurate and relevant information:
 - ♦ At least ONE piece of evidence must be from one of the following foundational documents:
 - *Federalist No. 51*
 - The Constitution
 - ♦ Use a second piece of evidence from a document from the list above or from your study of Congress
- Use reasoning to explain why your evidence supports your claim/thesis
- Respond to an opposing or alternative perspective using refutation, concession, or rebuttal



WRITING: SUPPORT THE ARGUMENT WITH RELEVANT EVIDENCE

Relevant evidence has a direct connection with the claim. If you can explain how evidence relates to a claim, it is likely relevant. Sometimes evidence that seems relevant on first examination turns out not to be, however. Suppose, for example, you are developing your argument on term limits for members of Congress and you remember that the state of Florida has term limits for its legislature. Is that relevant evidence? Just the fact of it is not. For it to be relevant evidence, you would have to be able to explain what effect the term limits have had on the governance of Florida and how likely those effects would apply to the national government as well.

2. The number of legislative issues in the graph on the previous page was derived from the topics mentioned in unsigned *New York Times* editorials during 33 sessions of Congress. Gridlock was determined by following progress on the issues to see if Congress and/or the president took action. Use the graph to answer the questions.
- (A) Describe the information the data conveys.
 - (B) Describe a trend illustrated in the graphic, and draw a conclusion about the causes of that trend.
 - (C) Explain how gridlock demonstrates a key characteristic of the U.S. government as envisioned by the framers.
3. After the 2000 census, a federal judge drew legislative districts in Texas because Democrats and Republicans could not agree on a map. After gaining power in the elections of 2002, Republicans in the Texas legislature redrew the map in 2003. Plaintiffs sued, arguing that the plan was an unconstitutional partisan gerrymander and violated the equal protection clause and the Voting Rights Act of 1965 by diluting racial minority voting strength. They also believed the mid-decade redistricting was illegal. A three-judge panel ruled that the new map was not unconstitutional, and the case was appealed to the Supreme Court as *League of United Latin American Citizens v. Perry* (2006). The Court ruled that only one of the new districts, District 23, was drawn in violation of Section 2 of the Voting Rights Act, because under the previous redistricting it was a protected majority-minority district of Latinos, but Latinos became a minority of voting age citizens in the newly drawn district. However, the Court also ruled that the legislature could redraw the map at any time as long as they did it at least every ten years. It also ruled that the map was not unconstitutional on the basis of partisan gerrymandering.
- (A) Identify a difference between *League of United Latin American Citizens v. Perry* (2006) and *Shaw v. Reno* (1993).
 - (B) Based on the difference in part A, explain why the ruling on District 23 in *League of United Latin American Citizens v. Perry* is different from the ruling on the “I-85” district in *Shaw v. Reno* (1993).
 - (C) Describe the concern of the Supreme Court about getting into the “political thicket” in relation to the foundational principle of separation of powers.

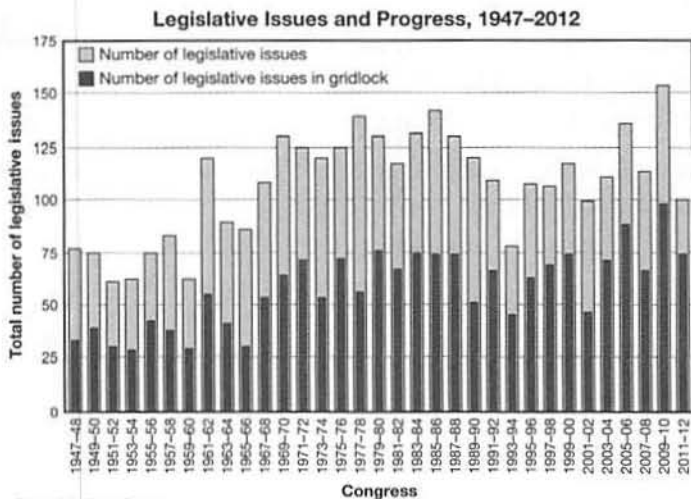
FREE-RESPONSE QUESTIONS

1. “Across the country, heroin and opioid abuse are growing at rapid rates, especially in New Hampshire. In schools, kids are learning to administer anti-overdose medication. That’s how bad the problem is: Police and firefighters, even family and friends, must carry medication like Narcan and know how to use it at a moment’s notice. We must protect them from liability laws that could interfere with emergency treatment. I’m grateful to the Judiciary Committee for helping to remove legal barriers.”

— Representative Frank Guinta (R-NH), author of House of Representatives Bill No. 5048 (H.R. 5048),
April 27, 2016

After reading the scenario, respond to A, B, and C below:

- (A) Describe the power the House Judiciary Committee used to address the concerns outlined by Representative Frank Guinta.
- (B) In the context of the scenario, explain how the House of Representatives followed legislative processes to approach the problem.
- (C) In the context of the scenario, explain how the interactions between the House of Representatives and the Senate would be required to move H.R.5048 into law.



8. A senator realizes a Senate vote on an immigration bill is coming up. The senator examines public opinion polls on the issue and carefully reads her inbox for constituents' views on the bill and the issue. This senator is following which model of representation?
- (A) Trustee
 (B) Politico
 (C) Delegate
 (D) Partisan
9. Which of the following is an accurate comparison of the U.S. House of Representatives and the U.S. Senate?

	HOUSE	SENATE
(A)	Allows filibusters until a majority vote defeats the filibuster	Is a 101-member body, as the vice-president can vote on all bills
(B)	Has committees chaired by members in the minority	Is first in the lawmaking process when it comes to tax law
(C)	Has more rules of procedure to guide its lawmaking process	Has authority over the ratification of treaties with other nations
(D)	Is solely in charge of declaring war	Has the sole power of impeachment

10. Which of the following statements about congressional reapportionment and redistricting is true?
- (A) The federal government redraws district maps every 10 years after each census.
- (B) Districts must be drawn so that, within a state, every person's vote is roughly equal to every other person's vote.
- (C) The Senate, unlike the House, is reapportioned every 20 years.
- (D) States that have no major increase or decrease in population do not draw new district lines every ten years.

photos would dominate news websites. The press corps' response revealed a unique relationship between the president and the press. An Associated Press photographer issued an op-ed criticizing the "Orwellian Practice," claiming that the White House "has systematically tried to bypass the media by releasing a sanitized visual record of his activities through official photographs and videos, at the expense of independent journalistic access." The president's press secretary, Jay Carney, found himself bombarded with complaints at his next press conference. "Our problem is access," said correspondent Ann Compton. "You can put out a million pictures a day from the White House photographer, but you bar photos [from Air Force One]." Correspondent Brianna Kieler declared, "Anyone here can tell you, that there's less access than under the Bush Administration." Journalists were chafed because the practice resembles the media strategies of dictators in countries with no free press, ultra cautious and even controlling about how their leaders are portrayed. This issue raised serious concerns for transparency.

In addition to embracing the Internet and new media, Obama made efforts to appear as a guest on late night comedy shows and unique Internet broadcasts. Obama's grand attempts to shape his image and get the citizenry to know him led the *New York Times* to call him "Obama the Omnipresent."

Twitter in Chief Within his first year in office, President Trump became well known for the use of his Twitter feed to speak directly to the nation. Shortly before taking office, Trump tweeted: "I use Social Media not because I like to, but because it is the only way to fight a VERY dishonest and unfair "press," now often referred to as Fake News Media. Phony and non-existent "sources" are being used more often than ever. Many stories & reports a pure fiction!"

All presidents have a somewhat adversarial relationship with the press, but Trump goes further than most presidents have by disparaging journalists and referring to mainstream media outlets as "fake news." He has broken established presidential communication norms repeatedly, publicly questioned the legitimacy of judges, publicly denounced his own justice department, and tweeted his views on foreign policy without consulting with his advisors.



THINK AS A POLITICAL SCIENTIST: EVALUATE THE PRESIDENT'S CABINET

Presidents—and all officials—face big questions every day. Before they can begin to answer such questions, they need to establish *how* to answer them. What are the possible methods and techniques for gathering information and evidence necessary to answer a question? Are there existing studies to research, or should a new study be undertaken? If a new study, how can it be set up to yield appropriate and accurate information? Or should expert opinion be sought? After identifying the various ways to pursue an inquiry, decision-makers must then evaluate those approaches to determine which method or combination of methods will yield the best results.

Students of political science follow the same general approach for identifying and evaluating methods, techniques, and evidence for the inquiries they pursue.

Practice: Suppose you have identified the following inquiry for research: What does the current president's Cabinet reveal about the policy agenda of the president's administration? Before you can begin to answer that, you need to determine the best methods and techniques for finding answers to that question. Begin with some preliminary research by going to the web page of the president's Cabinet at www.whitehouse.gov/administration/cabinet. Select two or three Cabinet secretaries and follow the links to their respective departments. Read their biographies and ask yourself some basic questions: When were they appointed? What line of work were they in before serving the president and heading a department? Did they serve in government or in the private sector? What recent actions have they taken?

Then ask yourself what else you need to know to answer your research inquiry: What do these leaders reveal about the president's administration? Identify several paths to pursue to answer that question. Evaluate them and determine the best approach for gathering the information you need. In a paragraph, summarize the research plan you believe would be most appropriate for addressing your inquiry.



Source: White House Flickr Feed

On May 1, 2011, in the White House Situation Room, President Obama (second from left) and Vice President Joe Biden (far left), along with members of the president's cabinet, including Secretary of State Hillary Rodham Clinton (second from right, seated), Secretary of Defense Robert Gates (far right), and members of the national security team, watched a live feed from Navy SEAL helmet cameras as the mission to kill or capture al-Qaeda founder Osama bin Laden unfolded. Bin Laden was killed in the mission.

REFLECT ON THE ESSENTIAL QUESTION

Essential Question: *How does the president use the powers of the executive branch and interact with Congress to implement a policy agenda?*
On a separate paper, complete a chart like the one below to gather details to answer that question.

Formal and Informal Powers

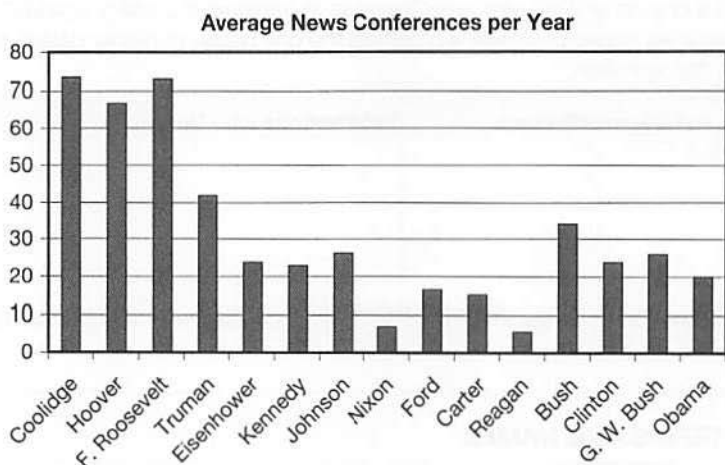
Interactions with Congress

KEY TERMS AND NAMES

ambassadors/132	imperial presidency/123	stewardship theory/125
bully pulpit/129	inherent powers/122	Twelfth Amendment/128
Cabinet/139	lame duck period/126	Twentieth Amendment/126
chief of staff/141	line-item veto/130	Twenty-Second Amendment/126
commander in chief,/130	National Security Council/141	Twenty-Third Amendment/128
executive agreement/132	pocket veto/130	Twenty-Fifth Amendment/127
Executive Office of the President (EOP)/141	Presidential Succession Act (1947)/127	veto/129
executive order/135	recess appointments/138	War Powers Act (1973)/131
executive privilege/136	signing statements/136	White House staff/141
honeymoon period/126	State of the Union/125	
impeachment/122		

MULTIPLE-CHOICE QUESTIONS

Questions 1 and 2 refer to the graph below.



Source: *The American Presidency Project*

- Which of the following statements is supported by the data in the chart?
 - Coolidge, Hoover, and Roosevelt were the first to take advantage of televised news conferences.
 - The average number of press conferences per year varies from administration to administration.
 - Among presidents depicted in the graph, Presidents Nixon and Reagan were the harshest on reporters and the press.
 - Presidents who gave more press conferences had higher approval ratings.
- Which of the following is a potential cause of the trend illustrated in the bar graph with the presidents after Truman?
 - As more media platforms have become common, presidents have steadily increased their number of news conferences.
 - Recent presidents may be trying to control the information people receive so they have limited press conferences.
 - Presidents Nixon and Reagan held fewer press conferences because they were both elected to only one term.
 - Press conferences are a product of the television era.

Questions 3 and 4 refer to the following passage.

The President will be elected to four years and is re-eligible as often as the people of the United States think him worthy of their confidence . . . we must conclude that the permanency of the President's four-year term is less dangerous than a three-year term for the top official in a single state. The president of the United States can be impeached, tried, and, on conviction of bribery, or other high crimes or misdemeanors, removed from office. Afterwards he would be liable to prosecution and punishment in the ordinary course of law.

—Alexander Hamilton, *Federalist No. 69*, 1788

3. Which of the following statements best summarizes the author's argument?
 - (A) A president's potential danger is limited because he can serve only a limited number of terms.
 - (B) People are protected from a dangerous president by elections every four years and a process the legislature can undertake.
 - (C) Congress can imprison the president as any other citizen for crimes.
 - (D) An impeached president is forcibly removed from office.

4. Which amendment to the Constitution has made some of the argument in the passage above moot?
 - (A) Twenty-Second Amendment
 - (B) Twelfth Amendment
 - (C) Twentieth Amendment
 - (D) Twenty-Fifth Amendment

5. Which of the following is true regarding the impeachment process?
 - (A) The House can impeach, but the Supreme Court determines if the impeachment is warranted.
 - (B) The vice president and a majority of the Cabinet can impeach a president.
 - (C) Impeachment requires such serious wrongdoing that no president has been impeached.
 - (D) The House can impeach a president and the Senate can remove a president on conviction of bribery or other high crimes and misdemeanors.

6. Which of the following may the president do to limit the power of Congress?
- (A) The president can veto particular items or language in a bill while passing the remainder of the bill.
 - (B) The president can veto a congressional bill that has passed the House and Senate.
 - (C) The president can refuse to spend money that Congress has appropriated.
 - (D) The president can impeach selected members of Congress.

Questions 7 through 9 refer to the passage below.

... Some of those who have entered the United States through our immigration system have proved to be threats to our national security. Since 2001, hundreds of persons born abroad have been convicted of terrorism-related crimes in the United States. . . . the unrestricted entry into the United States of nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen would be detrimental to the interests of the United States. I therefore direct that the entry into the United States of nationals of those six countries be suspended for 90 days from the effective date of this order, subject to the limitations, waivers, and exceptions set forth . . .

—President Donald Trump, Executive Order, March 6, 2017

7. Which type of power did President Trump exert in issuing this executive order?
- (A) Reserved
 - (B) Formal
 - (C) Informal
 - (D) Constitutional
8. Which of the following describes President Trump's perspective in the executive order?
- (A) The talents immigrants bring to the United States outweigh the risk of terrorism.
 - (B) Foreign nationals of all religions may enter the United States.
 - (C) People who have already immigrated from the named countries may be untrustworthy.
 - (D) A person's nationality is just one of many influences on behavior.

9. With which statement would supporters of this executive order most likely agree?
- (A) The president should signal that refugees are welcome in the United States.
- (B) The president should make developing world alliances his top foreign policy priority.
- (C) The president should make protecting the nation from foreign terrorism a top priority.
- (D) The president should limit immigration regardless of any immigrant's religious identity.
10. Which of the following is an accurate comparison of changes in the scope of the presidency?

	Earlier Presidents	Later Presidents
(A)	Early presidents tended to execute the laws passed by the legislature and serve no more than two terms.	Abraham Lincoln stayed within traditional bounds of the presidency to avoid fomenting regional tensions.
(B)	Teddy Roosevelt's stewardship theory greatly expanded the scope of the presidency.	Modern presidents have scaled back since Teddy Roosevelt to a scope more like that of Washington.
(C)	Times of national stability led to a contraction in presidential scope under James Buchanan.	Times of crisis such as during the Great Depression led to the expansion of the president's powers under Franklin D. Roosevelt.
(D)	The imperial presidency started with James Madison.	The imperial presidency reached its peak with Andrew Jackson.

FREE-RESPONSE QUESTIONS

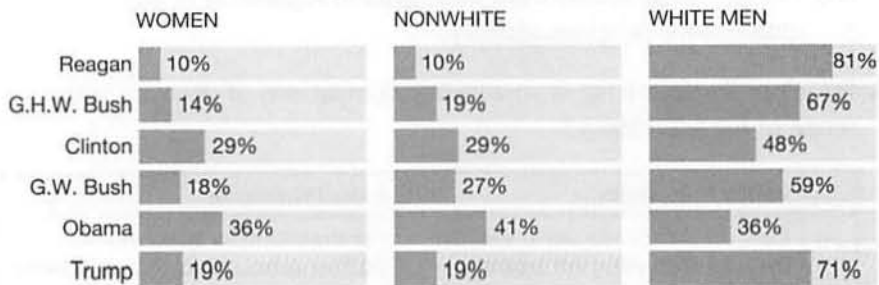
1. "This morning [Homeland Security] Secretary Napolitano announced new actions my administration will take to mend our Nation's immigration policy to make it more fair, more efficient, and more just, specifically for [young people. These] young people . . . study in our schools, they play in our neighborhoods, they're friends with our kids, they pledge allegiance to our flag. They are Americans in their heart, in their minds, in every single way but one: on paper. They were brought to this country by their parents . . . and often have no idea that they're undocumented . . . Over the next few months, eligible individuals who do not present a risk to national security or public safety will be able to request temporary relief from deportation proceedings and apply for work authorization."

—President Barack Obama, June 15, 2012

After reading the above passage, respond to A, B, and C on the next page:

- (A) Describe the presidential power exhibited in the announced policy.
- (B) In the context of the scenario, explain how the use of the power described in part A can be affected by interactions between the president and Congress.
- (C) In the context of the scenario, explain how the interaction between the president and Congress can be affected by the media.

Makeup of Recent Presidential Cabinets



Notes

— The 22 Cabinet-level positions in the Obama administration (not counting the Vice President) are held constant across all five administrations, except for the Department of Homeland Security, which wasn't established until 2002. We have counted Tom Ridge, the first DHS secretary, as an initial pick for George W. Bush.

— Census Bureau classifications were used for race. Hispanics are counted as nonwhite.

Credit: Meg Anderson, Danielle Kurtzleben and Alejandra Salazar/NPR

2. Use the information graphic to answer the following questions.
 - (A) Identify the demographic most represented in presidential cabinets.
 - (B) Describe a difference in the demographic makeup of presidential cabinets, as illustrated in the information graphic, and draw a conclusion about that difference.
 - (C) Explain how the makeup of the presidential cabinet as shown in the information graphic demonstrates the principle of presidential leadership of the executive branch.

3. When Menachem Zivotofsky was born in Jerusalem in 2002 to U.S. citizen parents, the United States regarded Jerusalem as neutral territory. In its effort to treat Jerusalem as part of Israel, President George W. Bush signed the Foreign Relations Authorization Act (FRRA) in 2002. Part of that Act specified that the birth certificate and passport of U.S. citizens born in Jerusalem could list Israel as their place of birth, if desired. Menachem's parents asked that their son's place of birth be listed as "Jerusalem, Israel" but the State Department refused and would only agree to the neutral "Jerusalem" as the birth

location. Zivotofsky's family sued the State Department in response. After a series of lower court decisions, the case reached the U.S. Supreme Court as *Zivotofsky v. John Kerry, Secretary of State*. The question the Court considered was whether that part of the FARRA that recognized Jerusalem as part of Israel took away the power of the president to decide if and how to recognize foreign nations. The Court held that the clause in Article II that empowers the president to receive foreign ambassadors and implies the power to recognize nations conflicts with that part of the FARRA requiring that Jerusalem be treated as part of Israel and was therefore unconstitutional.

- (A) Identify the constitutional principle that is common to both *Zivotofsky v. Kerry* and *Marbury v. Madison* (1803). (See page 199.)
- (B) Based on the constitutional principle identified in part A, explain a difference in the impact on interactions between the branches of government in *Zivotofsky v. Kerry* and *Marbury v. Madison*.
- (C) Describe an action the president could have taken to limit Congress from assuming a foreign relations power constitutionally granted to the president.

4. Develop an argument that explains whether or not the powers of the presidency as executed since the Great Depression have made the presidency a dangerous office.

In your essay, you must:

- Articulate a defensible claim or thesis that responds to the prompt and establishes a line of reasoning
- Support your claim with at least TWO pieces of accurate and relevant information:
 - ♦ At least ONE piece of evidence must be from one of the following foundational documents:
 - *Federalist No. 70*
 - Article II of the Constitution
 - ♦ Use a second piece of evidence from another foundational document from the list above or from your study of the presidency
- Use reasoning to explain why your evidence supports your claim/thesis
- Respond to an opposing or alternative perspective using refutation, concession, or rebuttal



WRITING: USE DISCIPLINARY CONVENTIONS

Use the style conventions of political science when answering your questions. For example, Supreme Court cases are italicized when they appear in print. If you are writing by hand, underline them. Use a small *v.* with a period for “versus.” When citing a constitutional provision, name the parts in order (Article I, Section 8, for example), or describe it in enough detail so it will be easily understood (the Fourteenth Amendment’s equal protection clause, for example, or the Fourteenth Amendment’s due process clause).



Source: *Official White House Photo by Shealah Craighead*

President Donald Trump delivered his first State of the Union address in January 2018.