## The American Presidency
### (or, *What do We Know and How do We Know it?*)

Before we start, I want to make a few things clear: First, no one in this class (or any other that I teach) will be penalized, rewarded, or otherwise evaluated based on ideology, partisanship, political views, vote preferences, or anything other than the requirements set out below and in course assignments. Second, a key component of an education is developing the ability to distinguish between *statements of fact and evidence* and *interpretations* about what those facts mean. Third, a statement, interpretation, or idea that goes against your priors, or even one that you find offensive, is not by definition a personal attack; the ability to listen, engage, respond, and counterargue in this situation is an essential element of becoming a critical thinker.[1]

Remember why you're here: "Whatever may be limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found."

Thank you for coming to my TED talk.

Now, let's get on with it.

## I. Course Description
There is no such thing as a bad time to study the American presidency.  But some eras are better than others.  We are almost 3 years into the most unconventional presidency in American history, with a president who gleefully flouts the norms of governing and behavior that have structured the office since George Washington.

To his supporters, this is not a bug, but a feature, and they rejoice in his contempt for what they insist is a corrupt D.C. establishment.  If elites (or Democrats, or liberals, or millennials, or [name of group here]) are against it, Trump's base is for it.

But after three years, there are clear costs to this pattern of norm-repudiation that are complicating the president's efforts to reshape government. Some examples: historically high cabinet and White House turnover;[2] multiple nominees who have withdrawn after inadequate vetting;[3] chaotic White House staff processes;[4] policies that appear and disappear on presidential whim;[5] and a popularity level that

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[1] If you are interested, Professor Emeritus Donald Downs and I set out some thoughts about this in 2006; https://badgerherald.com/opinion/2006/02/20/the-freedom-to-offen/.

[2] Kathryn Dunn Tenpas, "Tracking Turnover in the Trump Administration," *Brookings Institution*, August 2019, https://www.brookings.edu/research/tracking-turnover-in-the-trump-administration/.

[3] Andrew Restuccia, "Moore is Just the Latest Casualty of Trump's Nomination Process," *Politico*, May 2, 2019. https://www.politico.com/story/2019/05/02/trump-nomination-stephen-moore-1300075.

[4] Nancy Cook and Andrew Restuccia, "Mueller Paints Damning Portrait of Dysfunctional Trump White House," *Politico*, April 18, 2019, https://www.politico.com/story/2019/04/18/mueller-report-trump-administration-1282651.

[5] On August 15, 2019, the *Wall Street Journal* reported that Trump was interested in purchasing Greenland. When the Danish government made it clear that Greenland was not for sale, Trump

has been underwater since February 2017 and has rarely cracked 50% in any poll (though it also has shown more stability than any other president's approval ratings).[6]

As we head into the 2020 presidential election, a record number of Democratic candidates are running (a high of 25 as of August 2019 depending on who you count, a number that exceeds the then-record 17 Republican contenders in the 2016 cycle; since then few candidates have dropped out).[7]

Throughout the course, we will focus on three fundamental questions about the President's role as formal head of the executive branch of government and head of state, but also as the focal point of public attention:

(1) What are the sources of presidential power? In Harry Truman's formulation, presidential power is little more than convincing other people that what the president wants from them is in fact what they should want in order to further their own interests. Presidents sits atop a vast bureaucracy, filled with actors whose interests will not always coincide with theirs. Presidents must continually bargain with members of Congress, each of whom has his or her own independent base of political support. And, as every president learns, public evaluations can be fickle.

On the other hand, presidents retain substantial amounts of constitutional and statutory authority. They have can act almost at will with respect to war powers and foreign affairs. We will investigate the importance of these formal and informal sources of presidential power and devote considerable attention to the historical development of this power, examining key presidencies and eras in close detail.

Many constitutional grants are ambiguous, or have never been definitively interpreted. And some questions of presidential power are difficult to answer in the abstract, because they involves powers that have never been definitively interpreted, or raise novel question that have not come up before. We will consider one: the question of the prerogative power, or the inherent authority to go outside the Constitution (or even violate it) in order to achieve a higher goal, such as saving the Republic. But there are others.

Are there practical limits to a president's ability to use emergency powers delegated by Congress? Can the president order U.S. companies to leave China? End birthright citizenship via unilateral action? Can presidents pardon themselves, or pardon subordinate officials for carrying out illegal orders? Can presidents ignore congressional subpoenas? Is the Emoluments Clause enforceable by federal courts? Are Checks and Balances merely "parchment barriers" in the face of a president who refuses to acknowledge them?

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cancelled a planned state visit to Denmark. https://twitter.com/realDonaldTrump/status/1163961882945970176.

[6] "How Popular is Donald Trump?" FiveThirtyEight, https://projects.fivethirtyeight.com/trump-approval-ratings/. "President Trump Job Approval," Real Clear Politics, https://www.realclearpolitics.com/epolls/other/president_trump_job_approval-6179.html. Jeffrey M. Jones, "Trump Approval More Stable than Approval for Prior Presidents," *Gallup* December 21, 2018. https://news.gallup.com/opinion/polling-matters/245567/trump-approval-stable-approval-prior-presidents.aspx.

[7] Kirsten Gillibrand, John Hickenlooper, Jay Inslee, Seth Moulton, and Eric Swalwell.

(2) How are presidents elected? The presidential election process is long, complex, and difficult to navigate (and it doesn't always produce what most people think are particularly strong candidates). Some critics contend that the process is flawed, because presidential campaign skills have little to do with presidential governing skills. Others argue that the election process deters quality leaders from seeking the office; historian James Bryce made the same argument in 1888. We will investigate presidential primaries, the politics of getting to the convention, the general election campaign, and the relationship between the politics of campaigning and the politics of governance.

We will pay close attention to the 2016 election, because of how unusual it was. Among other things, there is no question that Russia was actively using social media and other strategies intended to influence the outcome, as well as conducting cyberattacks on election infrastructure.[8] With few exceptions, presidents have emerged from existing political networks and have links to other political elites. There are some who did not (Andrew Jackson comes to mind), but Trump is the first president to have no previous government or military experience.

We will also consider what is occurring as we head into the 2020 cycle. While many of the record number of Democratic candidates have zero chance of winning the nomination absent a Bruce-Willis-and-Ben-Affleck-in-Armageddon-sized asteroid hitting the earth (sorry, Marianne Williamson, Bill de Blasio, Michael Bennet, Andrew Yang, Amy Klobuchar, Tom Steyer, Tulsi Gabbard, John Delaney, and Tim Ryan fans, but them's the facts), the large number of candidates complicates the task of forecasting and may have downstream effects as the nominee attempts to unify the party going into the general election.

There are also rumblings of an nascent internal Republican challenge to Trump's renomination; former Congressman Joe Walsh (R-IL) announced in August, joining former Governor William Weld (R-MA). Such efforts are rare and almost never succeed: Pat Buchanan in 1992 and Ted Kennedy in 1980 are the last two meaningful intraparty challenges, and Chester Arthur in 1884 was the last incumbent to be denied nomination.[9] However, they can signal vulnerability; both Carter and George H.W. Bush went on to lose in November (as did Gerald Ford, who faced a challenge from Ronald Reagan in 1976).

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[8] Department of Justice, Office of the Special Counsel, *Report on The Investigation into Russian Interference in the 2016 Presidential Election* (Mueller Repot), April 2019; Intelligence Community Assessment, *Assessing Russian Activities and Intentions in Recent U.S. Elections*, Office of the Director of National Intelligence, ICA 2017-01D, January 6, 2017; Senate Select Committee on Intelligence, *Summary of Initial Findings on Intelligence Community Assessment*, July 3, 2017; Senate Select Committee on Intelligence, *Report on Russian Active Measures Campaign and Interference in the 2016 Election*, *Volume I: Russian Efforts Against Election Infrastructure*. Report 116-XX, July 25, 2019.

[9] Both Lyndon Johnson (1968) and Harry Truman (1952) dropped out after unexpectedly strong showings by challengers (Eugene McCarthy and Estes Kefauver, respectively). Their withdrawals were more a realization of a likely November loss.

(3) How do presidents govern?  This may seem obvious, akin to asking how fish swim or birds fly (the easiest answer is, well, that's just what they do), but it no longer is.  It is perhaps the key question about presidential behavior.

Where does Trump fit into this picture?  His presidency poses questions that we have never faced before and presents challenges to what we think we know.  Trump is dismissive of traditional governing practices and famously uninterested in policy details. From what we can observe, there are no meaningful policy processes in the West Wing. The White House no longer has press briefings, and Trump's leadership strategy consists largely of tweets and rallies in front of enthusiastic supporters.

Every modern president has tried to use campaign-type techniques to generate support for their policies.  It rarely works, in part because the two tasks – campaigning and governing –are vastly different. Can you recall an instance where a president overcame congressional or public opposition by making a public appeal?

We will consider in some detail questions of presidential leadership, how presidents have tried to act as head of *state* (the national leader of an entire populace), and what it means that Trump does not seem to embrace that role.

## II. Course Readings
You should purchase the following anywhere you can get a good deal:

George C. Edwards, III, Kenneth R. Mayer, and Stephen J. Wayne, *Presidential Leadership: Politics and Policy Making*, 10th edition. (Lanham, MD: Roman & Littlefield, 2018).   Hereafter *EMW*.
Michael Nelson, ed., *The Presidency and the Political System* 11th edition (New York: Sage/CQ Press, 2018).

I will also assign other readings which will be posted on Canvas. The reading load is moderate, and at times the assignments can be demanding. It is important that you stay current, because I guarantee that you will not be able reel everything in two days before the exams.

You are also required to read a national newspaper of record, either in paper or online. The *New York Times, Wall Street Journal*, and the *Washington Post* are the easiest to get here, and discounted student subscriptions are available. Television news and major media web sites are not an adequate substitute.

## III. Credit and Grade Components
This course is 4 credits, reflecting 150 minutes of lecture and 50 minutes of section each week over approximately 15 weeks.  The expectation is that you will spend a minimum of 8 hours each week outside of class on reading, studying, section assignments, and other forms of preparation.

Your grade will be based on the following: a final (30%), a two midterms (20% for the 6 week, 25% for the 12 week), and section attendance and participation (25%).

There will be two midterms, a take home 6-week due on October 10th, and a take home 12-week due on November 26th.  The final exam will be a take home exam, due at 5:05 pm on December 18th.

## IV. Important Policies

1. The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin state statutes (36.12), and UW-Madison policy require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility.

   If you have a McBurney VISA, please check in with me at the beginning of the semester so we can ensure that appropriate accommodations are in place.

2. Please use your wisc.edu email address when you communicate with me or Tim. We cannot respond to non-university email accounts.

3. Tim and I will always be willing to talk with you about your exam and assignment grades, explain how we evaluated your work, and suggest ways for you to improve your performance. We do our best to be fair and consistent in our grading. However, we do not haggle over grades or points, or provide extra credit assignments. Period. Barring clerical error, grades are final.

## V. Discussion Sections

The TA for this course is Timothy Williams (tvwilliams3@wisc.edu), a Ph.D. candidate in the political science department. His office hours are Wed, 11am-12pm in 122 North Hall.

| DIS302: | T, 11:00-11:50AM, 216 Ingraham |
| DIS303: | T, 2:25-3:15PM, 6113 Social Science |
| DIS304: | R, 9:55-10:45AM, 4322 Social Science |

Section attendance is required, and your participation (as well as some specific exercises assigned in section) will be 25% of your grade. The sections are a critical part of the course: they are a useful way to stay current with the class material, and are also a good place to seek help if you have questions. Tim will provide more information in in section.

## VI. Old Man Yells at Internet

You probably rely heavily on a laptop or tablet to take notes in class. What you probably don't realize is that this is a suboptimal educational strategy. Students who take notes longhand retain and understand more *and get higher grades* than students who use laptops, mostly because when you use a laptop you put more effort into transcribing everything verbatim than trying to understand what the speaker is saying (and research shows the laptop is the problem). Taking notes longhand forces you to process and analyze as you go. The evidence has become indisputable,[10] and the distraction element is impossible to ignore. Few people can resist the temptation to check email, shoot a text about how boring Article II is, or drop in on Instagram, Snapchat, Facebook, Twitter, ESPN, or whatever site is your favorite. You may think you can multitask, but you can't. What's even more compelling: when you use a laptop or go online during class*, you distract and lower the performance of everyone sitting around you*.

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[10] Cindy May, "Students are Better Off without a Laptop in the Classroom," *Scientific American*, July 11, 2017. F. Sana et al, "Laptop Multitasking Hinders Classroom Learning for Both Users and Nearby Peers," *Computers & Education*, March 2013. P. Mueller and D. Oppenheimer, "The Pen is Mightier than the Keyboard: Advantages of Longhand over Laptop Note Taking," *Psychological Science*, April 2014.

So, I am banning laptop and tablet use in this class. You must take notes longhand. I intend to post full lecture notes prior to every class so you can print them out and use them as a template.

> **HOWEVER, I understand that some of you may have a legitimate educational reason to use a laptop to take notes. There are a variety of circumstances that can justify this, but rather than specify what those are I will leave it to your judgment. You get the final say on whether or not you have a legitimate reason. The only condition is that if you decide that you will use a laptop in either lecture or section (or both), you must use it exclusively for note taking (and not multitasking or surfing) and you must notify me and Tim in an in-person meeting of your decision.**

I will also ask you to put away your phones and other electronic devices at the beginning of lecture unless you are using them to take notes as outlined above. Going offline will seem impossible at first, and your friends may worry that you have fallen into a well when you don't respond immediately to their text messages. But I assure you that you will not actually die from disconnecting, even though it might feel that way initially. You may even come to realize that you aren't paying attention in class when you are online, and that you don't *really* need to know what's up with the *Westworld* map, or whether a *Friends* reboot will actually happen. At least not right this second.

Remember what the Dalai Lama says (or probably would say) about this kind of thing: *if you're here, be here.*

## VII. Some web sites that will be useful:

The American Presidency Project (website run out of UC Santa Barbara)

Lawfare blog

The Take Care blog

Mischiefs of Faction blog

The Miller Center for Public Affairs, University of Virginia

The White House Transition Project

Links to Presidential Libraries, National Archives

The National Security Archive, The George Washington University

List of Presidential Vetoes, U.S. Senate

**Schedule**

NOTE: I have not assigned specific dates here, in part because how much time we spend on each section will depend on what happens in the coming months and weeks.  However, every Thursday I will set the schedule for the following week, and provide specific details about which readings we will cover in lecture and section.

## Part I: Introduction. - Studying the presidency, and the nature of the office.  Historical patterns

- Overview

Readings:      *EMW*, chapter 1

Ragsdale, "Studying the Presidency: Why Presidents Need Political Scientists," *The Presidency and the Political System*, chapter 2.

John Dickerson, "The Hardest Job in The World: What if the Problem Isn't the President, It's the Presidency?" *The Atlantic*, May 2018.


- Constitutional Origins and Historical Development; Formal Powers

Readings:      *EMW,* chapter 2

Jeffrey Tulis, "The Two Constitutional Presidencies," *The Presidency and the Political System*, chapter 1.

Marc Landy and Sidney M. Milkis, "The Presidency in History," *The Presidency and the Political System*, chapter 4


Primary Documents
*Federalist* 67, 70, 71, 72.
Joseph Story, *Commentaries on the Constitution*, sections 1485-1486.
George Washington Inaugural Address, April 30, 1789.


- Legitimacy, Norms, and Institutional Robustness

Readings:      Julia R. Azari and Jennifer K. Smith, "Unwritten Rules: Informal Institutions in Established Democracies," *PS: Political Science and Politics,* March 2012.

Charles R. Kesler, "Breaking Norms Will Renew Democracy, Not Ruin It," *New York Times*, August 23, 2018.

Andrew C. McCarthy, "May the President Ban Commerce with China. . . by Tweet?" *National Review*, August 26, 2019.


- Constitutional Crises and Worst-Case Scenarios

Readings:      Michale Nelson, "The Firing, Retiring, and Expiring of Presidents: Impeachment, Disability, Resignation, and Death: From the Constitutional Convention to Donald Trump," *The Presidency and the Political System*, chapter 20.

Jacob T. Levy, "A Metastasizing Crisis: Executive Authority and the Crumbling of the Separation of Powers," Niskanen Center, August 7, 2019.

## Part II: The Politics of Presidential Elections

- Nominations and Presidential Primaries

Readings:    *EMW*, ch. 3

Lara Brown, "The Presidency and the Nominating Process," *The Presidency and the Political System*, chapter 7

-The General Election and the Electoral College

Readings:    *EMW*, chapter 4

George C. Edwards, III, "The Faulty Premises of the Electoral College," *The Presidency and the Political System*, chapter 10

*Baca et al. v. Colorado Department of State* (5th Circuit Appeals Court decision on faithless electors), selections.

*Federalist* 68

-The 2016 Election

Readings:    Peter D. Hart, Corrie Junt, and Annie Norbitz, "Understanding Trump's Voters: How He Pulled it Off and What Lies Ahead," *2016: The Voice of the Voters*. Annenberg Public Policy Center, December 13, 2016.

Kevin Baker, "What Trump Got Right About American Democracy," *New Republic*, December 2016.

Kathy Cramer, "How Rural Resentment Helps Explain the Surprising Victory of Donald Trump," *The Monkey Cage*, November 13, 2016.

United States Senate, Select Committee on Intelligence, *Report on Russian Active Measures in the 2016 U.S. Election*, July 2019, pp. 1-5.

United States Department of Justice, Office of Special Counsel, *Report on the Investigation Into Russian Interference in the 2016 Presidential Election*, Volume I (pp. 1-11), Volume II (pp. 1-8)

-Gearing Up for 2020

Readings:    David Byler, "What Early Polls Can – and Can't Tell you About Who Will Be the Democratic Nominee," *Washington Post*, August 16, 2019.

Perry Bacon, Jr., "Should We Take These Early General Election Polls Serious? $#!% No!" *FiveThirtyEight*, June 14, 2019.

Kenneth Wink, "Forecasting Models and the Presidential Vote," *Political Science Quarterly* 134:193-216 (Summer 2019).

Dan McLaughlin, "A Squeaker in 2020? Not Likely" *National Review*, August 26, 2019.

Question: Is it possible to forecast with any confidence who will win the Democratic nomination?

Andrew J. Dowdle, Randall E. Atkins, Karen Sebold, and Jarred Cuellar, "Forecasting Presidential Nominations in 2016: #WePredictedClintonANDTrump," *PS: Political Science and Politics*, October 2016, pp. 691-695.

Five Thirty Eight, *The 2020 Democratic Primary*

https://www.opensecrets.org/2020-presidential-race

- Is this any Way to Pick a President?

Readings:    James Bryce, "Why Great Men are Not Chosen President," chapter 8 in *The American Commonwealth* (originally published 1888).

**Part III: Presidential Governing -- Managing the Affairs of State, and Getting What You Want**

- Campaigning is not Governing, and other Cautionary Tales
Readings:        Martha Joynt Kumar, "Getting Ready for Day One: Taking Advantage of the
                Opportunities and Minimizing the Hazards of a Presidential Transition," Pu*blic
                Administration Review*, July/August 2008.
                David Lewis, Patrick Bernhard, and Emily You, "President Trump as Manager:
                Reflections on the First Year," *Presidential Studies Quarterly* 48:480-501
                (September 2018)
                The White House Transition Project

- The President and the Public and the Media; the rise of the "Public Presidency"
Readings:        *EMW*, ch. 5-7
                Marjorie Randon Hershey, "The Presidency and the Media: The Case of Donald
                        Trump," *The Presidency and the Political System*, chapter 10
                Ezra Klein, "The Unpersuaded – Who Listens to a President?" *The New Yorker*, March
                        19, 2012.
                Julia Azari, "Trump is Bad at Being Mourner-in-Chief.  Why does it Matter?"
                        *Mischiefs of Faction*, August 15, 2019.

                Here are some interesting examples:
                FDR's March 12, 1933 Fireside Chat
                Ronald Reagan's July 27,1981 Tax Speech
                The official White House Twitter feed
                Donald Trump's Twitter feed

- The Presidency as an institution: The White House Office; organizational problems, managing the
        Executive Branch

Readings:        *EMW*, ch 8
                John Burke, "The Institutional Presidency," *The Presidency and the Political System*,
                        chapter 13
                Kathryn Dunn Tenpas, Elaine Kamarck, and Nicholas W. Zeppos, *Tracking Turnover
                        in the Trump Administration*, Brookings Institution, December 20, 2018.
                Chris Whipple, "One *Hell* of a Chief of Staff," in *The Gatekeepers: How the White
                        House Chiefs of Staff Define Every Presidency* (New York: Crown, 2017).

- Decision making in the White House
Readings:        *EMW*, ch. 9
                Peter Baker and Maggie Haberman, "For Trump, 'a War Every Day,' Waged
                        Increasingly Alone," *New York Times*, December 22, 2018.
                Dana Milbank, "Obama's Advisors Go Too Easy on Him," *Washington Post*,
                        November 11, 2014.

**Part IV: Governing in a "Separated System." Relations with other governmental actors.**
- Energy in the Executive:  The question of initiative, from unilateral action to the prerogative
Readings:       Andrew Rudalevige, "The Presidency and Unilateral Powers: A Taxonomy," *The Presidency and the Political System*, chapter 17

- relations with Congress and the Separation of Powers
Readings:       *EMW*, ch. 11
                Matthew Dickinson, "The President and Congress," *The Presidency and the Political System*, chapter 15

- relations with the Judiciary
Readings:       *EMW*, ch. 12
                David Yalof, "The President and the Judiciary," *The Presidency and the Political System*, chapter 16

- The President as Head of the Executive Branch
Readings:       *EMW*, ch. 10
                David Lewis and Terry Moe, "The President and the Bureaucracy," *The Presidency and the Political System*, chapter 14

**Part V: Public Policies (note: we may skip this section, depending on events)**
- Domestic and Economic Policy
Readings:       *EMW*, ch. 12
                Roger Porter, "Presidential Power and Public Policy," *The Presidency and the Political System*, chapter 18

- Foreign Policy and War Powers
Readings:       *EMW*, ch. 14
                Andrew Polsky, "The Presidency at War: The Window of Agency in Wartime Presidential Leadership," *The Presidency and the Political System*, chapter 19
                Scott R. Anderson, "When Does the President Think He Can Go to War With Iran?" *Lawfare Blog*, June 24, 2019.

**Part VI: Summing it All Up.**
- Assessing presidential leadership
Readings        Jack Goldsmith, "Will Donald Trump Destroy the Presidency?" *Atlantic Monthly*, October 2017
                Paul Quirk, "Presidential Competence," *The Presidency and the Political System*, chapter 5