

The Presidency

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CONTEMPORARY CONNECTION

In 2015, President Obama issued an executive order that changed our diplomatic relationship with Cuba. The order reestablished diplomatic relations with the country, allowed American citizens to travel to Cuba, and allowed more trade between the United States and Cuba. This order was an example of an inherent power of the president to shape foreign policy. This chapter explores the presidency, the make-up of the executive branch, and the many roles the president plays in shaping policy.



The second of four institutions to be covered, the presidency has evolved into the focal point of politics and government in America. It is the political plum for those seeking elected office. The institution plays a predominant role in government having formal and informal relationships with the legislative and judicial branches and the bureaucracy. Other roles that make the president involved more than any other individual or institution in politics and government will be evaluated. Potential conflicts and the reasons why the institution has been criticized for having an arrogance of power are important areas to explore.

This chapter also focuses on the factors that create a successful presidency. It illustrates how, historically, the institution has grown in importance. The constitutional basis of power as well as the manner in which the president has used executive agencies such as the cabinet, the executive office, and the White House staff demonstrates this growth. Additionally, the shared

legislative relationship that the president has with the Congress points to the complex issue of whether the institution has developed into an imperial presidency, a presidency that dominates the political agenda.

Whether or not the president succeeds, to a large extent, depends on the nature of the agenda that is set. The interrelated manner in which the president is able to communicate the agenda with the public, the way the media reports the agenda, and the approval rating of the electorate are factors that define the presidency. As Harry Truman said about the office, "the buck stops here."

QUICK CONSTITUTIONAL REVIEW OF THE PRESIDENCY

- Basis of constitutional power found in Article II
- Must be 35 years old, a natural-born citizen, and a resident of the United States for 14 years
- Chief Executive
- Commander in Chief of the armed forces
- Power to grant pardons
- Power to make treaties
- Power to appoint ambassadors, justices, and other officials
- Power to sign legislation or veto legislation
- Duty to give a State of the Union report
- Election by electoral college
- Definition of term limits, order of succession, and procedures to follow during presidential disability through constitutional amendments
- Informal power based on precedent, custom, and tradition in issuing executive orders, interpreting executive privilege, and creating executive agencies

PRESIDENTIAL SUCCESSION

Presidential disability and succession are defined by the Twenty-Fifth Amendment. It allows the vice president to become acting president after the president's cabinet confirms that the president is disabled. This happened for a short period when Ronald Reagan was undergoing surgery after an assassination attempt.

The amendment also outlines the procedures for selecting a new vice president when that office becomes vacant. When a vacancy occurs, the president nominates a new vice president. Unlike other presidential appointments, both the Senate and House must approve the appointment by a majority vote in each house. This occurred after Nixon's vice president, Spiro Agnew, resigned in 1973. Nixon appointed congressman Gerald Ford as vice president, and both houses of Congress approved his selection. When Nixon resigned in 1974, Ford appointed former Governor of New York, Nelson Rockefeller, and both houses of Congress followed the same procedure and approved Rockefeller as vice president.

Nine presidents have not completed their term of office. By law, after the vice president, the Speaker of the House and the Senate president pro-tempore are next in line. Eight presidents have died in office, and one, Nixon, resigned. After Franklin Roosevelt died, in 1945, a constitutional amendment limiting the term of office to no more than two terms or a maximum of ten years was passed. There has been a growing movement to further limit presidential terms to one six-year term to reduce the amount of time and energy devoted to raising campaign funds and the time it takes to campaign for office.

THE BULLY PULPIT

If you think of the presidents who have been powerful and influential and who have demonstrated leadership, they all have one thing in common. These presidents, such as Theodore Roosevelt, Franklin Roosevelt, John F. Kennedy, and Ronald Reagan, all used the "bully pulpit" to advance their policies and communicate with the American people. The term was coined by Theodore Roosevelt who saw the White House as his bully pulpit to advance his agenda. The bully pulpit is used by presidents to:

- manage a crisis,
- demonstrate leadership,
- announce the appointment of cabinet members and Supreme Court justices,
- set and clarify the national agenda,
- achieve a legislative agenda, and
- announce foreign policy initiatives.

Especially with the 24/7 news cycle covered by the media and social media, a president who knows how to use the bully pulpit has a powerful tool to advance the goals of the administration.

THE CABINET

The cabinet was instituted by George Washington; every administration since his has had one. There have also been unofficial advisors such as Andrew Jackson's so-called Kitchen Cabinet. Cabinet appointees need Senate confirmation and play an extremely influential role in government. There are currently 19 cabinet level positions. Creation or abolition of these agencies needs congressional approval. There have been cabinet name changes such as the change from Secretary of War to Secretary of Defense. Cabinet agencies have been created because national issues such as the environment, energy, and education are placed high on the national agenda. Cabinet-level positions have been expanded to include the Office of Management and Budget, the Director of the Environmental Protection Agency, the Vice President, the United States Trade Representative, the Ambassador to the United Nations, and the Chair of the Council of Economic Advisors. In 2002, the cabinet was expanded to include the Director of Homeland Security. The vice president is a permanent member of the cabinet, too. Cabinet officials have come from all walks of life. They are lawyers, government officials, educators, and business executives. Many cabinet officials are friends and personal associates of the president. Only one, Robert Kennedy, was a relative of the president. That practice was stopped by law. Presidents have used cabinet officials in other capacities. Nixon used his Attorney General as campaign manager. Cabinets are scrutinized by the American public to see whether they represent a cross section of the population. It was only recently that full minority representation in the cabinet became a common practice. To put this issue in perspective, the first woman, Frances Hopkins, was appointed to the cabinet in Franklin Roosevelt's administration. Cabinet nominees have been turned down by the Senate. George Bush's appointment of Texas Senator John Tower was defeated by the Senate as a result of accusations that Tower was a womanizer, had drinking problems, and had potential conflict of interest problems with defense contractors. During his term, President Clinton had trouble gaining approval of cabinet appointees. Zöe Baird was nominated as the first woman Attorney General. However, because of allegations that Baird hired an illegal alien as a nanny, Clinton was forced to withdraw the nomination. The event became known as "Nannygate." Issues facing a president are how much reliance should be placed on the cabinet, whether a cabinet should be permitted to offer differing points of view, and how frequently cabinet meetings should be held. Each cabinet member does administer a bureaucratic agency and is responsible for implementing policy within each area.

The power and influence of the president have evolved and increased as the United States has grown as a world leader.

The growth of the executive departments has also contributed to the increase of presidential power.

After Barack Obama was elected president, he established new "vetting" procedures (reviewing of one's credentials) for his appointees. This procedure included a provision that no former lobbyist could serve in an office that the lobbyist had earlier tried to influence. President Obama's first-term cabinet appointment reflected a "team of rivals" in key positions. He appointed his primary opponent Hillary Clinton as secretary of state and kept Republican Robert Gates as the defense secretary. The rest of the cabinet reflected ethnic and gender diversity. In his second term, some of President Obama's appointments were confirmed with significant Republican opposition. For the first time in Senate history, the secretary of defense appointee was filibustered before gaining Senate approval.

THE EXECUTIVE OFFICE OF THE PRESIDENT

Separate from the cabinet is the executive office of the president. It was created by Franklin Roosevelt in 1939. Today it has four major policymaking bodies:

1. the National Security Council;
2. the Council of Economic Advisors;
3. the Office of Management and Budget; and
4. the Office of National Drug Control Policy.

The National Security Council, chaired by the president, is the lead advisory board in the area of national and international security. The other members of the council include the vice president and secretaries of state and defense as well as the director of the Central Intelligence Agency and the chairman of the Joint Chiefs of Staff. The president's national security advisor is the direct liaison. Even though the function of the council is advisory, under Presidents George W. Bush and Barack Obama, it conducted the warrantless wiretapping program that was very controversial.

The Council of Economic Advisors consists of individuals who are recognized as leading economists. They are approved by the Senate and help the president prepare the annual Economic Report to Congress. This report outlines the economic state of the nation.

The Office of Management and Budget (OMB) is the largest agency in the executive office. Its director, appointed with the consent of the Senate, is responsible for the preparation of the massive federal budget, which must be submitted to the Congress in January each year. Besides formulating the budget, the OMB oversees congressional appropriations. It is a key agency because it has tremendous policymaking ability based on its budget recommendations. The department is also the president's direct link to other agencies and helps prepare executive orders and presidential budget policy.

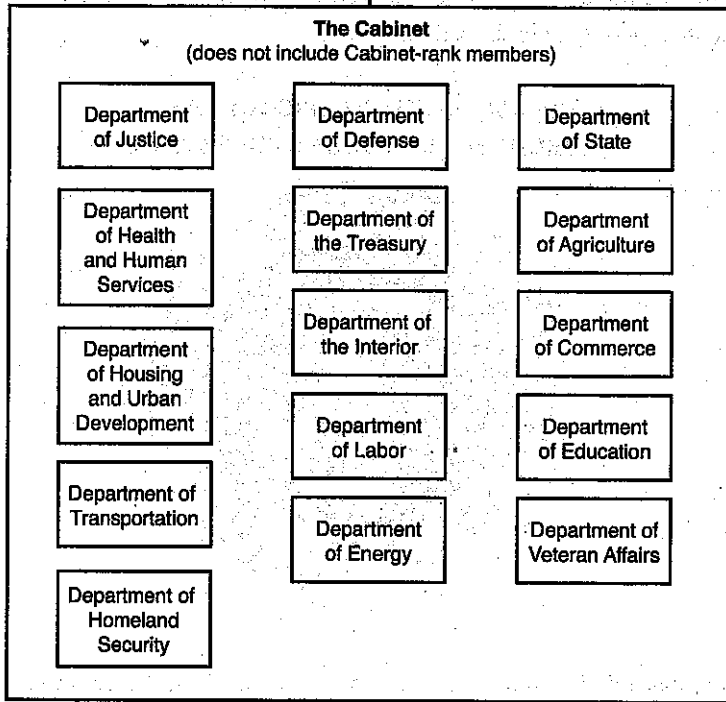
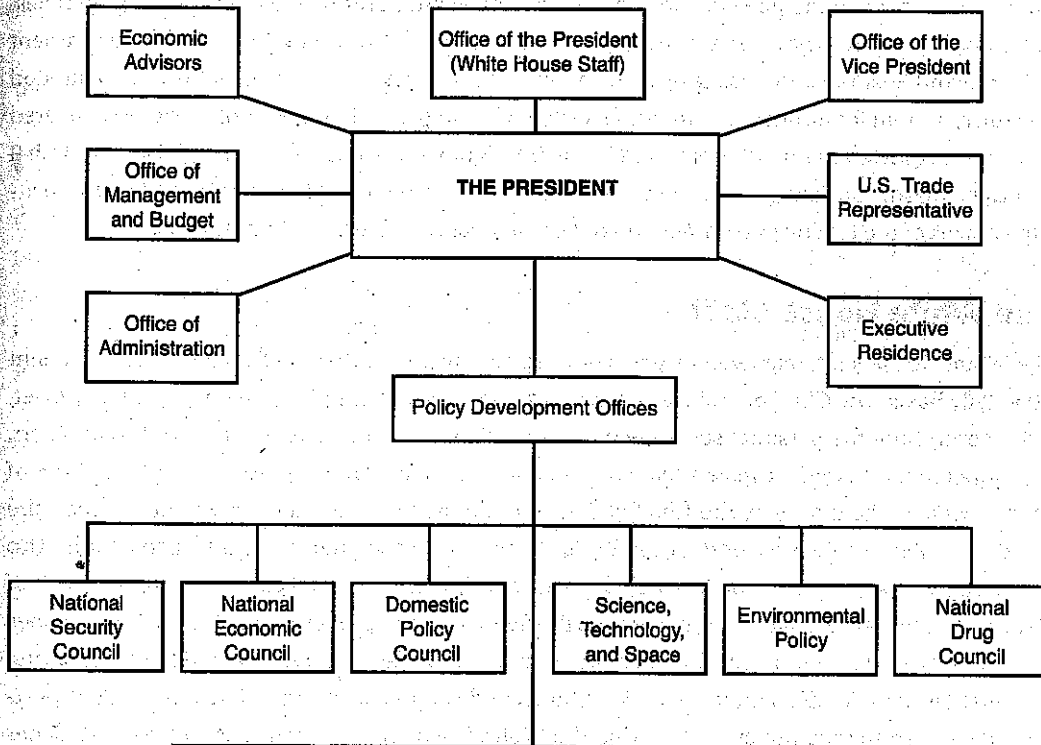
The Office of National Drug Control Policy is a recent addition to the executive office. It is chaired by a director appointed by the president with the consent of the Senate. The head of the agency has been dubbed the nation's drug czar. The responsibility of the agency is to prepare recommendations on how to combat the problem of drug abuse. It also coordinates the policies of other federal agencies in this area. Other departments that exist in the executive office are the Office of Policy Development, the Office of Science and Technology Policy, the Council on Environmental Quality, the Office of Administration, and the Office of the United States Trade Representative.

The Office of Homeland Security is the latest addition to the cabinet. Created after the terrorist attacks of September 11, 2001, the Office of Homeland Security is responsible for protecting the United States against future attacks. Each agency is responsible directly to the president and makes policy recommendations appropriate to each area.

In the summer of 2004, the 9/11 presidential commission held hearings and issued a report that recommended the creation of a new National Counterterrorism Center headed by the director of

The Executive Departments

The White House and the Executive Office of the President



Independent Regulatory Agencies

national intelligence. After much political in-fighting in the Republican-controlled House of Representatives, the bill, which was supported by a majority of Democrats, passed both houses in a lame-duck session of Congress. The law signed by President George W. Bush created a new counterterrorism center with a director appointed by the president and confirmed by the Senate. This director was given broad powers and coordinates intelligence among the many existing agencies. This new director and the agency also has the major responsibility of working with the Department of Homeland Security and becoming a link between federal and state agencies. The law expanded a security system for airlines, expanded security technology to other areas not previously covered such as transportation threats, ports, and illegal immigrants. The law also set up a Privacy and Civil Liberties Board, consisting of private citizens appointed by the president, ensuring that the security policies of the federal government do not breach the civil liberties of Americans.

The White House Staff

The White House staff, managed by the White House Chief of Staff, directly advises the president on a daily basis. The Chief of Staff, according to some critics, has an inordinate amount of power, often controlling the personal schedule of the president. Nixon's Chief of Staff, H. R. Haldeman, kept a personal diary. It revealed the close relationship between the president and his Chief of Staff as well as the influence the Chief of Staff plays in policy formation. Other staff include the more than 600 people who work at the White House, from the chef to the advance people who make travel arrangements. The key staff departments include the political offices of the Office of Communications, Legislative Affairs, Political Affairs, and Intergovernmental Affairs. It includes the support services of Scheduling, Personnel, and Secret Service and the policy offices of the National Security Affairs, Domestic Policy Affairs, and cabinet secretaries. Each plays an important role in formulating policy and making the White House run smoothly. The first lady has her own office and staff as does the vice president.

THE SEAL OF THE OFFICE OF THE PRESIDENT OF THE UNITED STATES



The role of the nation's first lady has been defined by each of the president's wives. Hillary Rodham Clinton was given the responsibility of chairing the Health Care Reform Task Force and moved from the traditional office in the White House reserved for the first lady to the working wing of the White House where other White House staff members work. After the efforts to get a comprehensive health care bill failed, Mrs. Clinton took on a more traditional role as the country's first lady. This role continued during Clinton's second administration. During the Whitewa-

ter investigation, Mrs. Clinton testified before a Grand Jury. Charges were not brought against her. Using the theme of her book *It Takes a Village to Raise a Child*, Mrs. Clinton continued to be an advocate for children's causes. Mrs. Clinton also became the only first lady to seek elective office. She was elected to the Senate in 2000 by the voters of New York and was a presidential candidate in 2008 and 2016.

First Lady Michelle Obama followed Laura Bush's model and used her influence by taking up the causes of preventing childhood obesity and working with veterans and their families.

PRESIDENTIAL POWERS

Besides the constitutional authority delegated to the president, the nation's chief executive also has indirect roles. These duties such as chief legislator, head of party, chief of state, and chief diplomat truly define the scope of the presidency. Depending upon the skills of the person in office, the power of the presidency will increase or decrease. Each role has a direct relationship with either a political institution or governmental policymaking body. The skills and ability to use these roles result in a shared power relationship.

The president as chief legislator develops legislative skills and a shared relationship with Congress. In developing a legislative agenda, the president sets priorities and works closely with members of Congress. Three contrasting presidents—Johnson, Carter, and Clinton—developed different styles in this area. Johnson, having the experience as Senate Majority Leader, already had the skills of working with Congress when he assumed the office after Kennedy's assassination. He was able to achieve a great deal of success with his Great Society programs. Carter, coming from the Georgia governorship, was unable to work with congressional leaders and did not implement his agenda. Clinton, although a former governor, used his support staff and developed a working relationship with his own party leaders who held a majority in each house. For the first three years of his presidency, he was able to push through significant legislation including the Family and Medical Leave Act, a National Service Program, Americorp, and the Crime Bill. The fact that Democrats held a majority was a key factor in whether the president's legislative agenda was completed. George H. W. Bush, who as a Republican, had to work with the Democratic majority, and used a veto 45 times successfully.

When George W. Bush was elected president in 2000, he initially had to work with a divided Congress. After the 2002 midterm election, the Republicans controlled both houses of Congress, and Bush was able to push his legislative agenda through Congress and pursue his foreign policy goals in Iraq and Afghanistan. Bush, working with the Democrats, signed a major tax bill decreasing the tax rates; he also passed the No Child Left Behind legislation that helped reform the nation's schools. After the 2006 midterm election, Bush had to deal with Democratic majorities in the House and Senate. Legislative victories decreased and he faced mounting criticism for the Iraq War. When Barack Obama was elected in 2008, he was able to use his political capital to pass a historic bill reforming the nation's healthcare system.

The president not only has separate powers and inherent powers but also has shared powers with the other government and political institutions.

The Veto

The veto is a primary tool used by the president to influence Congress to meet his agenda priorities. Historically there have been over 1,454 regular vetoes and fewer than 200 have been overridden by Congress. The presidents who have exercised the most vetoes were Franklin Roosevelt (372), Grover Cleveland (304), and Harry Truman (180).

Pocket Veto

Another form of veto a president can use is the pocket veto. This occurs if the president does not sign a bill within ten days and the Congress adjourns within the ten days. This tactic has been used over a thousand times. One of the reasons why the pocket veto is used is that very often there is a rush to pass legislation at the time of planned recesses. One of the issues surrounding the veto is the attempt by some presidents to obtain a line item veto. Many times Congress will attach riders or amendments to bills. These riders, often in the form of appropriations, sometimes have nothing to do with the intent of the bill itself and are often considered to be pork barrel legislation. It becomes a means of forcing the president to accept legislation he would normally veto.

Appointments

According to the Congressional Research Service, "The responsibility for populating top positions in the executive and judicial branches of government is one the Senate and the President share. The President nominates an individual, the Senate may confirm him, and the President would then present him with a signed commission. The Constitution divided the responsibility for choosing those who would run the federal government by granting the President the power of appointment and the Senate the power of advice and consent." When the Senate refuses to act on a presidential appointment, presidents have waited for the Senate to adjourn for three days or more. The president would then use what is called a "recess appointment," which bypasses the Senate for one year. This method has been challenged, and the Supreme Court ruled that recess appointments made by the president are unconstitutional, even if the Senate only convenes in a pro forma session—opening and adjourning without doing any other business. Members of the president's White House staff such as the chief of staff and press secretary do not have to go through the confirmation process.

Legislative Vetoes

Attempts at legislative vetoes of presidential actions have been declared unconstitutional by the Supreme Court. In *INS v Chadha* (1983) the Court ruled that "we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution." Congress does have oversight responsibilities over the intelligence agencies through committee hearings.

In 1994 both houses of Congress passed a line item veto law, which President Clinton signed. Taking effect in 1997, the purpose of the line item veto was to let the president strike individual items from the 13 major appropriations bills submitted by Congress that he considered wasteful spending. The goal of the law was to prevent Congress from increasing appropriations with pork. The law was brought to the Supreme Court and was declared unconstitutional as an illegal expansion of the president's veto power.

Party Leader

As party leader, the president is the only nationally-elected official. Other party leaders such as the Speaker of the House and the majority and minority leaders of the Senate and House are elected by their own parties. In this role, the president has much influence in setting his agenda, especially if he is a member of the majority party. Many times the president will make the argument to the congressional party leaders that their support will "make or break" the presidency. This kind of pressure was put on the Democratic Party when Bill Clinton lobbied for the passage

of his first budget. Another key action the president can take to send a message to Congress is to impound funds. By this act the president refuses to release appropriated funds to executive agencies. President Nixon used this practice to curb congressional spending. Congress retaliated by passing the 1974 Congressional Budget and Impoundment Act, which set limits on this practice and set up an independent Congressional Budget Office. This act was significant in shifting the checks and balances scale to Congress. Even though he does not directly have the power to appoint congressmen to committees, the president certainly can influence a party member by promising to support pet legislation of the congressman in return for voting in favor of legislation supported by the president.

Executive Privilege

The president has interpreted the Constitution to allow for executive privilege, the ability of the president to protect personal material. Because the definition of executive privilege is not written, President Nixon in trying to apply this to his Watergate tapes did not succeed in protecting the tapes from a congressional committee investigating potential obstruction of justice charges.

Inherent Power

Besides the delegated powers listed at the beginning of the chapter, the president has an implied power unique to the three branches—an inherent power to make policy without the approval of Congress. This power is derived from the chief-executive clause in the Constitution and the defined power of the president as commander-in-chief. The policy directives can come in the form of executive orders and executive actions, as well as making foreign policy decisions that involve the commitment of troops and weapons to foreign countries. Congress has pushed back on these powers by taking the president to court and passing the War Powers Act.

National Security

Another area of potential conflict between the president and Congress is that of national security. As chief diplomat, the president has the delegated constitutional authority of commander in chief of the armed forces, the person who can make treaties with other nations and appoint ambassadors to nations that are recognized. With treaties and appointments, Congress has a built in check—the Senate must approve treaties by a two-thirds margin and approve presidential appointments by a majority vote. Such significant treaties as the 1962 Nuclear Test Ban Treaty and the 2010 Strategic Arms Limitation Treaty are good examples of the president working closely with the Congress.

Foreign Policy

Who are the players and participants in this aspect of public policy? Constitutionally we have already identified the key players:

- President—in Article II, as commander in chief of the armed forces and chief diplomat, having the power to appoint ambassadors and negotiate treaties.
- Congress—in Article I, having the power to declare war, support and maintain an armed force through appropriations, as well as approve foreign aid allocations; the Senate has the power to approve appointments and must ratify treaties.

Through the bureaucratic agencies of the executive branch and the oversight responsibilities of Congress, specific policy is made. The president relies on two key cabinet departments for advice—the State Department and the Defense Department, both of which are run by civilians. He also relies

on the National Security Advisor (a staff position), and the Directors of the National Intelligence, CIA, FBI, and Homeland Security. The secretary of defense, formerly called the secretary of war, is second to the president in directing military affairs. The agency is directly in charge of the massive defense budget and the three major branches of the military. Direct military command is under the leadership of the joint chiefs of staff. It is made up of representatives of each of the military services and chaired by a presidential appointee, also a member of the military. During the Gulf War, General Colin Powell was a visible key player giving valuable advice to President George H. W. Bush and Secretary of Defense Dick Cheney. In 1995, after his autobiography, *My American Journey*, was published, he was urged to run for president as a result of his leadership during the Gulf War.

The secretary of state heads the diplomatic arm of the executive branch and supervises a department with well over 24,000 people, including 8,000 foreign service officers. There are specialists in such areas as Middle East affairs, and the department includes the many ambassadors who are the country's chief spokesmen abroad. Presidents appoint to the position of secretary of state someone on whom they can closely rely and who can map out a successful foreign policy. Some, like John Foster Dulles, Eisenhower's secretary of state, have played a major role. Dulles endorsed the policy of brinkmanship—going close to the edge of an all-out war in order to contain communism. President Clinton appointed the first woman Secretary of State, Madeline Albright, at the start of his second term.

The National Security Act of 1947 established the National Security Council as an executive-level department. It created as its head the national security advisor. One of the most notable people to head the agency was Henry Kissinger, who served under Presidents Nixon and Ford. Kissinger laid the foundation of Nixon's policy to end the Vietnam War and handled the delicate negotiations that led to Nixon's historic visit to China. Condoleezza Rice became a key national security advisor to George W. Bush during his administration. She was appointed and confirmed as the first African-American woman to serve as Secretary of State during Bush's second term. Barack Obama appointed Hillary Clinton, the former First Lady, as his first Secretary of State.

Other agencies that are an integral part of the foreign policy arena include:

- The Immigration and Naturalization Service—deals with those people trying to seek residence in the United States from other countries. It is the agency charged with enforcing immigration policy. At times, it becomes embroiled in controversial issues such as when they had to enforce the executive order made by President Obama allowing children of undocumented immigrants to achieve status.
- The Central Intelligence Agency—created by Congress in 1947 and works under the direction of the National Security Council. Its director has the responsibility of:
 - coordinating the gathering of information related to foreign affairs and national defense for the other federal agencies
 - analyzing and evaluating this information
 - reporting to the president and National Security Council

Besides information reporting, the agency has also conducted covert activities abroad and at times has been criticized for some of its actions. When the Iran-Contra affair was investigated by Congress, it became apparent that the CIA helped coordinate the illegal arms for hostages negotiations.

- The United States Information Agency—acts as the propaganda arm of the United States. It uses the Voice of America shortwave radio station to inform other countries' populations of U.S. policies abroad.
- The United States Arms Control and Disarmament Agency—maintains responsibility for negotiations, participation, and implementation of treaties dealing with disarmament. It

has focused its attention on monitoring nuclear test ban treaties, the Strategic Arms Reduction Treaty (START), and the Strategic Arms Limitation Talks (SALT), which resulted in the Intermediate Range Nuclear Force (INF) Treaty in 1988. It also has oversight regarding the Chemical Weapons Treaty ratified by the Senate in 1997.

■ **The Selective Service System**—maintains responsibility for coordinating and raising an army. Even though the draft has been used since the Civil War, the first national draft occurred in 1917 as a result of the Selective Service Act and was renewed again in 1940, prior to the United States' entry into World War II. During the Vietnam War it was a source of controversy. Its critics maintained that draft policy favored those who could gain a deferment by attending college, resulting in many lower- and middle-class young men being sent to Vietnam. Since President Nixon established an all-volunteer military, the Selective Service has existed on a standby basis, administering a registration requirement that takes effect when young men reach the age of 18.

DEFENSE POLICY

The defense budget has a tremendous impact on the economy of the United States. Many times in our history Congress has debated "guns versus butter." And now that the Cold War is over and the country is facing such a large deficit, the pressure to reduce the size of the military establishment is even greater. The proponents of a scaled-down defense point to the fact that we don't need to deploy as many forces throughout the world as we did in the past. They claim that retraining military personnel could be accomplished and that many industries that are defense-oriented could redirect their resources to other areas. Critics argue that, because the United States is the last remaining superpower, we must maintain a strong defense posture. They also doubt that defense industries can easily move away from defense if contracts are cut. This, they argue, would increase the unemployment rate.

Defense policies are closely tied to the foreign policy goals of the nation. Thus national security and vital national interests are two of the overriding objectives in developing a defense budget and operation. As the country saw during the Gulf War, weaponry is an important part of the defense strategy. Both conventional and nuclear weapons for offensive and deterrent purposes play a significant part in the overall defense budget. In the past 25 years, it has also become obvious that as we develop and maintain weapons, we have also entered into agreements to destroy a good part of our nuclear arsenal.

The question of how much is enough has always been part of the policy agenda debate. The so-called military-industrial complex has argued that a strong defense will ensure the future security of the United States. On the other hand, the pressure to adjust to a non-cold-war world has resulted in a serious effort to reduce the scope of the defense budget.

The defense policy of the United States is caught between the past practice of developing a powerful nuclear deterrent and an uncertain future of budgetary reductions. And yet, providing for the common defense is a primary goal of the government.

War Powers Act

However, it is the war-making power of the president that has caused the most problems. Since the Vietnam War, Congress has become concerned with the president's unilateral commitment of American troops. The Congress responded by passing the War Powers Act in 1973, overriding a Nixon veto. This act states that a president can commit the military only after a declaration of war by the Congress or by specific authorization by Congress, if there is a national emergency or if the use of force is in the national interest of the United States. Once troops are sent, the president is required to keep the Congress informed about the action within 48 hours and must stop the

commitment of troops after 60 days. Congress has the leverage of withholding military funding to force the president to comply. This act has been compared to a legislative veto. The proponents of this measure point to such military action as Reagan's invasion of Grenada, Bush's Panama invasion, and Clinton's Somalia and Bosnia policies as examples of why it is necessary for Congress to have authority. Opponents of this measure point to the fact that only the president has the complete knowledge of what foreign policy actions can really have an impact on the national security of the United States. The issue has never been resolved by the courts, and the legislation remains on the books.

Pardon Power

The president's influence over the judiciary comes from his power to appoint Supreme Court justices and grant pardons and reprieves. Most judicial appointments are made after checking the appointment with the Senator of the state the appointee comes from. This kind of "senatorial courtesy" often guarantees the acceptance of the appointment. The difference between a pardon and a reprieve is that a reprieve is a postponement of a sentence and a pardon forgives the crime and frees the person from legal culpability. One of the most controversial pardons came in 1974 when Gerald Ford pardoned Richard Nixon, who had been named as an unindicted co-conspirator in the Watergate scandal. An instance when the Court told the president he went too far was the Supreme Court decision in *Nixon v United States* (1974). The Court told Richard Nixon he must turn over the Watergate tapes and rejected his argument of executive privilege. An extension of the pardoning power is the power of amnesty. For instance, in 1977 Jimmy Carter granted a blanket amnesty to Vietnam War draft evaders who fled to Canada. President Clinton was criticized after announcing over 100 pardons in the last hours of his presidency.

Taken in total, the scope of presidential power raises the issue of whether the office has turned into what historian Arthur M. Schlesinger characterized as the imperial presidency. Looking at the manner in which Johnson and Nixon used presidential power, Schlesinger concluded that "power was so expanded and misused by 1972 that it threatened our Constitutional system." Even if one assumes that a president must use his power, especially in wartime, the question still remains how much power of the president should go unchecked by the other branches of government. It is a question that is still being debated today. In fact, there are proponents of the imperial presidency who feel that the president must exercise both delegated and inferred powers with the cooperation of the other institutions of government for the best interests of the country.