

Current Events in American Politics

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Week 3

Disclaimer

- Topics over the next 4 weeks may upset you. You have a right to feel and believe whatever you want.
- **It is okay to disagree with someone. It is not okay to be disrespectful.**
- This class focuses on how our system of government is supposed to operate, consider where it is failing to meet the ideal laid out by the framers, and consider the off-cycle November election results.
 - Please send me topic ideas for weeks 2 & 4!!

Information

- Most government organizations within the US fall under FOIA (law signed in 1967). States have additional protections/rules. SC has the “sunshine law”
- 9 exemptions that can stop information:
 - 1: Information that is classified to protect national security.
 - 2: Information related solely to the internal personnel rules and practices of an agency.
 - 3: Information that is prohibited from disclosure by another federal law.
 - 4: Trade secrets or commercial or financial information that is confidential or privileged.
 - 6: Information that, if disclosed, would invade another individual’s personal privacy.
 - 8: Information that concerns the supervision of financial institutions.
 - 9: Geological information on wells.

(<https://www.foia.gov/faq.html>) <https://www.foia.gov/foia-statute.html>

Problematic ones today:

5: Privileged communications within or between agencies inc. Attorney-Client Privilege & Presidential Communications Privilege

7: Information compiled for law enforcement purposes that:

- Could reasonably be expected to interfere with enforcement proceedings
- Would deprive a person of a right to a fair trial or an impartial adjudication
- Could reasonably be expected to constitute an unwarranted invasion of personal privacy
- Could reasonably be expected to disclose the identity of a confidential source
- Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law
- Could reasonably be expected to endanger the life or physical safety of any individual

President's ability to avoid FOIA requests

Executive privilege protects confidential communications for candid advice, preventing intrusion from Congress and courts, based on separation of powers.

FOIA Exemption 5: This exemption allows agencies to withhold certain "inter-agency or intra-agency" documents that would normally be privileged in civil discovery, including deliberative process and attorney-client privileges, which overlap with executive privilege.

Presidential Records Act (PRA): For former presidents, records go to the National Archives (NARA).

- The PRA allows public access via FOIA five years after the administration ends.
- Former presidents can invoke privilege to restrict access for up to 12 years.
- Congress and courts can seek "special access" to these restricted records.

<https://www.archives.gov/foia/foia-guide> ; <https://www.archives.gov/presidential-libraries/laws/1978-act.html>

ICE/DHS etc.

- Technically subject to FIOA, but can reject requests based on #1, 6, & 7
- IF a claim is denied have 3 options:
 1. Appeal the denial within the agency's system
 2. Negotiate with agency on how to revise request/narrow request etc.
 3. Litigate- sue for wrongful withholding of information under FOIA law

<https://www.dhs.gov/foia-exemptions>

<https://foia.state.gov/request/Appeals2.aspx>

East Wing- The big issue

- National Historic Preservation Act (NHPA) of 1966: Establishes a process for historic preservation reviews, requiring consideration of alternatives and impacts
 - According to Section 107 three buildings and their grounds are exempt from the Section 106 review process: the White House, the US Capitol and the US Supreme Court building.

Other relevant laws

- National Capital Planning Act: Governs federal construction projects in the D.C. area and generally requires approval for demolition and construction.
- Environmental Protection Agency (EPA) Regulations: Cover proper inspection, monitoring, abatement, and disposal of hazardous materials, such as asbestos, found in older buildings.
- Occupational Safety and Health Administration (OSHA) Standards: Mandate workplace safety measures, including proper protective gear and dust control, during demolition.
- 41 CFR § 102-74.380: Prohibits improper disposal of waste, destruction of property, and creation of hazards on federal property.

Who the 'players' are:

- The White House- obviously
- National Capital Planning Commission (NCPC): Oversees federal projects; their approval jurisdiction was a point of contention.
- Commission of Fine Arts: Also involved in reviewing projects affecting the area's appearance.
- National Trust for Historic Preservation: A Congressional-created nonprofit that advocates for preservation and urged a pause in demolition.
- Asbestos Disease Awareness Organization (ADAO): Pressed for compliance with asbestos regulations.
- National Park Service (NPS): Supervises historical components and is involved in the project.

Private funding?

- All donations are technically being made to a non-profit organization (the Trust for the National Mall) and will be tax-deductible
(<https://fortune.com/2025/10/26/37-white-house-ballroom-donors-funding-300-million-build-tech-ceos-trump/>)
- Many argue there are violations of the Anti-Deficiency Act-
 - accepting private funds from corporations and individuals with business before the government could violate the Anti-Deficiency Act
 - A federal law that generally prohibits the executive branch from accepting voluntary services or gifts unless specifically authorized by Congress. This law protects Congress's constitutional "power of the purse".
 - BUT was already 'violated' if this were the case by accepting the new Air Force 1
- Several members of Congress have introduced legislation to reassert oversight of the project

National Guard to Cities-

- **The National Emergencies Act of 1976 (NEA):** Provides a formal procedure for presidents to declare a national emergency & 6 mo. checks by Congress to verify emergency still exists
- When invoked unlocks over 120 statutory powers scattered throughout the U.S. Code.
- A president can access authorities covering matters from military composition to communication control and freezing assets.
- <https://www.congress.gov/crs-product/R46567>
- **Insurrection Act (1807)** - <https://www.brennancenter.org/our-work/research-reports/guide-invocations-insurrection-act> As of 2022 used 30 times (used in 1992 LA)
- **32 U.S.C. § 502(f)** - [https://www.lawfaremedia.org/article/section-502\(f\)-is-not-a-blank-check](https://www.lawfaremedia.org/article/section-502(f)-is-not-a-blank-check)

Nat'l Guard to Cities

- The guard can be sent to protect federal property and to ensure federal laws being followed.
 - CANNOT act as 'civil policing' - would be in violation of the **Posse Comitatus Act of 1878**- prohibits military use for civilian policing
 - Unless Congress approved in emergency situations, natural disasters etc.
- MANY examples throughout history of national guard being sent to cities/ states to protect property and enforce the law. Even over the objection of the governor of the state (only happened 3 times)
 - Think Little Rock 9 in 1957
 - 1992 LA riots, every natural disaster etc.
 - Airports post 9-11
- While deployed MUST still respect constitutional rights of citizens AND follow court orders

Deportation to foreign countries

- Several deportation mechanisms
(<https://www.law.cornell.edu/wex/deportation>)
 1. Standard Removal proceedings
 2. Expedited removal- no court hearing- just a DHS official decision
 3. Administrative Removal- variant of expedited- for anyone convicted of a felony
 4. Voluntary/self-deportation- can choose to leave on own- being given \$1,000 as reward right now
- Issue at hand right now is #2
- Most deportees sent via plane to 'home country' (paid via US taxpayers)
BUT home country can refuse to take them back.
- US currently has agreements with several foreign countries to take immigrants from 'other' countries (Rwanda, El Salvador, South Sudan, Panama, Costa Rica, Eswatini etc.)
<https://www.theguardian.com/world/equatorial-guinea>

US Court Case

- *DHS v DVD- June 2025*
 - Gives DHS authority to deport to 3rd countries FOR NOW
 - Is only an emergency ruling- issue has not filed its way fully through the courts (<https://www.scotusblog.com/cases/case-files/department-of-homeland-security-v-d-v/>)
 - Many concerns and questions still being asked in the courtrooms
- Big questions include:
 - Right of deportee to challenge deportation order
 - Right to request another country option or appeal to their home country
- Will see this issue in the courts again as big issue works its way up.

Drug Boats

- The bombing of drug boats in international waters is more an international law issue than anything domestic
- UN CHARTER-
 - members of the UN shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state in any manner inconsistent with the purposes of the UN.
 - There's an exception- Article 51: "Nothing in the present charter shall impair the inherent right of individual or collective self-defense ...if an armed attack occurs." (<https://legal.un.org/repertory/art51.shtml>)
- US is NOT a signer/member of the International Criminal Court (ICC) (<https://www.coalitionfortheicc.org/country/united-states>)

- The question- Do the cartels actions justify seeing them as aggressors in a 'war'?
 - Administration argues YES, thus force is justified
 - They have paramilitary power, cause large scale destruction, unbalance government authority, are well organized etc.
 - Many argue no- their goal is money not power/control of a territory
- Interesting comparisons with Duterte of the Philippines.
 - International Criminal Court issued a secret arrest warrant b/c of his policy of exterminating drug traffickers. Charges are murder & crimes against humanity
 - Indictment in the arrest warrant refers to 19 persons, allegedly drug pushers or thieves, killed before he became president, and then 24 persons, allegedly criminals, drug pushers and thieves or drug users, killed by or under the supervision of members of the Philippines law enforcement whilst Mr. Duterte was president.
 - https://apnews.com/article/rodrigo-duterte-international-criminal-court-philippines-jurisdiction-73a15f594e8901270f7665a1d4a205c8?utm_source=copy&utm_medium=share

SNAP Benefits in the Courts

- USDA has contingency funds set up by Congress that are ‘independent’ of the Anti-deficiency Act rules**
 - Can use it to pay SNAP benefits according to legal experts and some Courts but USDA says funds should be reserved for “natural disasters and other emergencies”
- Cost would be about \$4 billion to fully fund SNAP for November
 - Money goes to the states who then distribute it. Some states supplement what the feds provide and others don’t.
 - Is a classic block grant setup
- Court fight has made it to US Supreme Court
 - Administration arguing inability to ‘get money back’ is real or potential harm if courts rule emergency fund ISN’T allowed to be used for SNAP
- Current Status: Ruling requiring USDA to distribute funds is on hold while arguments continue in court
- <https://www.scotusblog.com/2025/11/trump-administration-urges-supreme-court-to-pause-ruling-on-november-snap-payments/>

Republic



Democracy

Origin Of The Word

The word republic is derived from the Latin phrase *res publica*, which translates to 'the public thing'.

The word democracy has its origin in the Greek words: *dēmos* means 'people' and *karatos* means 'rule'.

Origin Of The System

It originated in Rome in around 500 BC.

It has its roots in Athens (Greece), dating back to 508 BC.

Legislation

The law-making power vests with the elected representatives.

The law-making power vests with the majority.

Binding On The Government

There are bindings on the government as minority interests are fiercely protected.

There are no bindings on the government, and the majority is free to exercise its will on the minority.

Vesting Of The Power

The power vests with the individual citizens.

The power vests with the whole population.

Protection Of The Rights

The Constitution protects the rights of the minority.

The rights of the minority can be violated by the will of the majority.

Direct democracy – think ballot initiatives, prop 50 in CA a recent example

Representative democracy - broad term for any system where people elect delegates to make decisions on their behalf

A **republic** specifically refers to a form of government that is not a monarchy and has an elected or nominated head of state, with power limited by law, usually a constitution.

THANKS FOR A GREAT CLASS!

If you had questions I didn't get to you are always welcome to email me.

Email me if you want the slides (specify all, or which weeks)

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In your “grade sheet” recommend future classes you want me to teach or do again