

SECOND
EDITION



The Art of
POLICYMAKING

TOOLS, TECHNIQUES,
and PROCESSES
in the **MODERN**
EXECUTIVE BRANCH

GEORGE E. SHAMBAUGH IV
PAUL J. WEINSTEIN JR.

Copyright ©2017 by SAGE Publications, Inc.

This work may not be reproduced or distributed in any form or by any means without express written permission of the publisher.



WHY THE POLICYMAKING PROCESS MATTERS

OBJECTIVE

During the first six months of the William J. Clinton administration in 1993, disorganization, disarray, confusion, and general chaos were the rules rather than the exceptions. For twelve years, Democrats had been absent from the halls of power in the executive branch. A young president and an even younger staff were unfamiliar with the decision procedures and systems within the Executive Office of the President. Faced with a large agenda that included an economic stimulus package, universal health care coverage, welfare reform, anti-crime legislation, and national service, the White House became bogged down and incapable of setting priorities and developing and implementing coherent policies. It took almost a year before the president's staff became proficient in the tools and techniques of the decision-making systems within the administration.

George W. Bush entered office intending to focus on tax breaks and other domestic economic policy issues, but he was thrust into unknown territory when terrorists attacked the World Trade Center and the Pentagon on September 11, 2001. The attacks drove domestic security and foreign policy to the top of the Bush administration's policy agenda. They motivated major land wars in Afghanistan and Iraq as well as an open-ended Global War on Terror. To manage these issues, President Bush had to bring together multiple **stakeholders** in the Department of Defense, the Department of State, and the intelligence community who often disagreed about the best means for achieving his objectives. When conditions on the ground in Iraq deteriorated, the president

and his senior advisors adapted the policymaking process to build support for a policy change—a “surge” of forces—that ran contrary to both congressional and public opinion.

President Barack Obama campaigned on an anti-war agenda, yet he soon faced foreign policy challenges in Afghanistan, Iraq, Syria, and Russia. In addition, while still promoting his signature health care reform, he had to set other economic priorities aside to manage the worst financial crisis to hit the United States since the Great Depression. Like presidents before him, President Obama faced disagreement among his **principals** and stiff opposition from Congress to many of his policy initiatives. In some areas, like trade policy, President Obama used the policymaking process to build a consensus among competing stakeholders.¹ In others, policymaking was concentrated in the hands of a small number of so-called policy czars in the executive branch, some of whom were situated in the existing policy council structures while others were not. Although the administration continues to hold interagency policy meetings, this centralization and tendency to focus on policy crisis management rather than long-range policy planning has raised concerns from some stakeholders over whether these meetings provide useful conduits to the president’s inner circle.²

The experiences of the George H. W. Bush, William J. Clinton, George W. Bush, and Barack H. Obama administrations suggest that presidents often face challenges and opportunities that they did not anticipate. To be successful, they must manage these situations and lead people effectively. Doing so requires them to master the art of policymaking. Our primary objective is to provide students and practitioners with an introduction to the tools and techniques used to make policy in the executive branch of the U.S. government. At a pragmatic level, a basic understanding of the tools of the policymaking trade—including how to write and when to use decision memoranda, how to place an issue on the legislative agenda, how to get policies through the legislative clearance and coordination processes, when and how to use polling during the policymaking process, and how to communicate and market policies—is necessary to function effectively within the executive branch. These tools,

1. James P. Pfiffner, “Decision Making in the Obama White House,” *Presidential Studies Quarterly* 41, 2 (June 2011), pp. 244–262.

2. Mark J. Rozell and Mitchel A. Sollenberger, “Obama’s Executive Branch Czars: The Constitutional Controversy and a Legislative Solution,” *Congress and the Presidency* 39 (2012), pp. 74–99.

techniques, and processes are the primary means by which the policymaking process is initiated, ideas and concerns of policy stakeholders are expressed and debated, and policy options are presented, chosen, and implemented. In addition to enabling the president to acquire the inputs needed to make the best decisions possible, mastering these skills will help drive policies through the process and improve the chances that they will be implemented as desired in a timely manner.

Given time and experience, practitioners and students of policymaking who are offered an opportunity to work in the White House will become familiar with these tools and techniques. As the cases below demonstrate, Presidents William J. Clinton and George W. Bush became more proficient users of the policymaking process over time. This book is intended to accelerate the learning of those who are entering the executive branch from other arenas as well as guide those who are interested in how to develop and implement policy in general.³ It is also intended to further the understanding of students and practitioners of policymaking regarding how stakeholders in the executive branch interact throughout the policymaking process and the impact that their behavior has on the policymaking process itself. Policymaking involves a wide range of actors in a variety of venues. These include Congress, think tanks, interest groups, and many others. We acknowledge that all of these actors and institutions matter, but we will focus on policymaking within the executive branch.

Our book is heavily informed by the insights and experiences of policymakers in the George H. W. Bush, William J. Clinton, George W. Bush, and Barack H. Obama administrations. Like them, new presidents will enter office with specific policy goals and the ambition to reshape the policy process in particular ways.⁴ While presidential management styles differ and the organizational structure of policymaking evolves over time, there has been a high degree of

3. This is particularly important in the White House because few, if any, of the core staff from the previous administration remain when a new president enters office. For a discussion of the difficulties of organizing the White House in a new administration, see Martha Joynt Kumar, "The White House as City Hall: A Tough Place to Organize," *Political Studies Quarterly* 31, 1 (March 2001), pp. 44–55; and John Burke, "Lessons From Past Presidential Transitions: Organization, Management and Decision Making," in *The White House World: Transitions, Organization and Office Operations*, ed. Martha Joynt Kumar and Terry Sullivan (College Station, TX: Texas A&M University Press, 2003), pp. 25–44.

4. For a broader discussion, see B. Guy Peters, *American Public Policy: Promise and Performance* (Thousand Oaks, CA: SAGE, 2012).

consistency in the tools, techniques, and processes of policymaking in the modern executive branch.⁵ Especially when considering the past four administrations, the similarities in tools, techniques, and processes of policymaking far outweigh the differences. Thus, lessons learned from the last four administrations can help current and future policymakers make and implement the best possible policy decisions.

The book is divided into three parts: In Part I, we identify key players in the executive branch and the roles they perform in the policymaking process. In Part II, we introduce the tools that enable policymakers to communicate with one another. In Part III, we analyze a series of case studies based on real-world situations to demonstrate how the tools are used and how the individuals interact throughout the policymaking process.

Over the years, control over policy development has become increasingly centered in the White House and the policy councils. Consequently, we begin Part I by introducing three White House policy councils—Domestic Policy, National Economic, and National Security (which includes the now-defunct Homeland Security Council)—and describing their chief leadership and management responsibilities.

Chapter 3 focuses on the White House staff. This chapter describes the roles of the various offices in the White House and what their relationships are to one another. It also explains the flow and control of information within the White House. Chapter 4 focuses on the roles and responsibilities of agencies in the policymaking process. It discusses the role of agencies and the White House in the implementation of policy decisions via drafting regulations, filling in the details on legislation submitted by the president to Congress, carrying out presidential decisions presented in executive orders, and other means. Chapter 5 discusses the role of the policy management models utilized by the policy councils and cabinet agencies and their importance in the policymaking process.

Part II introduces the fundamental tools needed to create policy. Chapter 6 presents the decision memorandum. This chapter describes how to write decision and other types of memoranda for senior government officials using the formats developed by the Office of the White House Staff Secretary.

Chapter 7 discusses the importance of the budget and the State of the Union address as policymaking and implementation tools. Because both

5. Charles E. Walcott and Karen M. Hult, "White House Structure and Decision Making: Elaborating the Standard Model," *Presidential Studies Quarterly* 35, 2 (June 2005), pp. 303–318.

are annual processes, they provide a regular mechanism for policymakers to launch new or change existing policies. Chapter 8 discusses the array of authorizing and implementation tools available to policymakers. Policy tools can be broken down into carrots (incentives), sticks (disincentives), and sermons (bully pulpit). Each of these has its strengths and weaknesses. In addition, policy authorization tools—how policies become legally authorized—are a key but often neglected part of the policymaking process.

Chapter 9 discusses the relevance of statements of administration policy (SAPs), legislative referral memoranda (LRMs), and other policymaking facilitators. It explains how administration policy is cleared through the executive branch and the role of the Office of Management and Budget (OMB) in circulating proposals to be adopted as “administration policy.” OMB is where the day-to-day activities of the entire government can be routinely monitored and rendered reasonably accountable. In addition, OMB has the power to clear legislation and major regulations, as well as issue administration positions on various policy matters.

Chapter 10 analyzes polling. Good polling data help policymakers refine, test, and market their policy ideas. Inaccurate or incomplete polling data can doom a good proposal. The chapter describes the role pollsters play in the policymaking process and presents a set of polling do's and don'ts.

Chapter 11 analyzes the art of communicating and marketing policy. In this chapter, we analyze the role of the press and communications office in the policymaking process. We also discuss how to draft press statements, question and answer sheets (Q&As), and “backgrounders” the press office can use to sell a policy agenda to the general public.

Part III examines case studies in three issue areas based on real-world situations. Each case is a step-by-step analysis of an actual executive branch decision as seen through the eyes of a practitioner involved in the policymaking process. The case studies demonstrate how to apply the models, tools, and techniques and how the models that were presented in Part I are used in the policymaking process. The cases include the following:

- **A pressing social policy issue:** welfare reform during the Clinton administration (Chapter 12);
- **Important economic issues across administrations:** the development of President Clinton's economic plan in 1993 (Chapter 13) and

the Simpson-Bowles Commission and the fiscal cliff in 2010–2012 (Chapter 14);

- **Vital national security crises across administrations:** the transition from Desert Shield to Desert Storm in Iraq under the George H. W. Bush administration in 1991 (Chapter 15) and the decision during the George W. Bush administration in 2006 to escalate the war in Iraq through the troop “surge” despite widespread opposition to the war (Chapter 16).

Part IV develops a ten-step policymaking checklist that summarizes the lessons presented in this book. It also presents a series of sample policy scenarios. This unique and special feature enables you to rehearse the tools and techniques provided in the book to hone your policy skills. Each scenario includes maps of the policymaking process that readers can use to check their understanding and application of the tools and techniques they have learned. The fictitious scenarios include the following:

- **An important domestic political issue:** a proposal to ban handheld phone texting in motor vehicles;
- **An international political/military scenario:** the crisis in Ukraine;
- **An important multilateral issue:** a multilateral environmental initiative.

SITUATING THE TOOLS, TECHNIQUES, AND PROCESSES IN THE EXISTING LITERATURE

By focusing on the basic tools of the trade of policymaking, this book provides a unique complement to the plethora of superb textbooks and scholarly studies of the executive branch.⁶ Political scientists and policy analysts have also

6. Prominent texts in the field include George C. Edwards, III and Stephen J. Wayne, *Presidential Leadership: Politics and Policymaking*, 9th edition (New York, NY: Cengage Learning, 2014); Erwin C. Hargrove and Michael Nelson, *Presidents Politics and Policy* (New York, NY: Knopf, 1984); Samuel Kernell, *Going Public*, 4th edition (Washington, DC: The Congressional Quarterly, 2007); Martha Joynt Kumar and Terry Sullivan, eds., *The White House World: Transitions, Organization and Office Operations* (College Station, TX: Texas A&M University Press, 2003); Michael Nelson, *The Presidency and the Political System* (Washington, DC: The Congressional Quarterly, 1997); Richard E. Neustadt, *Presidential Power and the Modern Presidents* (New York, NY: Free Press, 1990); Alexander George and Juliette George, *Presidential Personality and Performance* (Boulder, CO: Westview Press, 1998).

developed a variety of useful frameworks to help practitioners and scholars alike understand the policymaking process.⁷ One classic approach describes the policymaking process as a series of sequential stages—problem identification, policy formulation, adoption, implementation, and evaluation—and categorizes policy actions as they vary from stage to stage.⁸ Another focuses on the impact of the organizational process, bureaucratic politics, and presidential management styles on the policymaking process.⁹ There are also increasingly sophisticated theories that emphasize strategic rationality¹⁰ and

7. For a review of prominent theories of policymaking, see Paul A. Sabatier and Christopher Weible, eds., *Theories of the Policy Process*, 2nd edition (Boulder, CO: Westview Press 2007), pp. 1–17; Kevin Smith and Christopher Larimer, *The Public Policy Theory Primer*, 2nd edition (Boulder, CO: Westview Press, 2013), pp. 1–23; and James P. Pfiffner, “Presidential Decision Making: Rationality, Advisory Systems, and Personality,” *Presidential Studies Quarterly* 35, 2 (2005), pp. 217–228.

8. The **sequential approach**, also known as the “stages heuristic” or “the textbook approach,” was developed by James Anderson, Charles Jones, Gary Brewer, and Peter deLeon. See James E. Anderson, *Public Policymaking: An Introduction* (Boston, MA: Houghton Mifflin, 1990); and Peter deLeon, “The Stages Approach to the Policy Process: What Has it Done? Where is it Going?” in *Theories of the Policy Process*, 2nd edition, eds. Paul Sabatier and Christopher Weible (Boulder, CO: Westview Press, 2014), pp. 19–32. For a critique of this approach, see Paul Sabatier, “Toward Better Theories of the Policy Process,” *PS Political Science and Politics* 24, 2 (June 1991), pp. 147–156.

9. Classics in this tradition include I. M. Destler, *Presidents, Bureaucrats, and Foreign Policy* (Princeton, NJ: Princeton University Press, 1972), and Neustadt, *Presidential Power*. For a review of the organizational process model, the bureaucratic politics model, and the presidential management model, see William Newmann, “Causes of Change in National Security Processes: Carter, Reagan, and Bush Decision Making on Arms Control,” *Presidential Studies Quarterly* 31, 1 (March 2001), pp. 69–103.

10. This includes theories about the source of policymaker preferences as well as rational choice and institutional rational choice theories about how individuals pursue actions that maximize their preferences and interests within a set of institutional constraints. On the former, see Graham Allison and Philip Zelikow, *Essence of Decision: Explaining the Cuban Missile Crisis* (New York, NY: Longman, 1999), and Roger Hilsman with Laura Gaughran and Patricia A. Weitsman, *The Politics of Policymaking in Defense and Foreign Affairs: Conceptual Models and Bureaucratic Politics*, 3rd edition (Englewood Cliffs, NJ: Prentice Hall, 1993). On the latter, see Kenneth Shepsle, *Analyzing Politics* (New York, NY: W. W. Norton, 1997) and Sabatier and Weible, *Theories of the Policy Process*, pp. 25–58. For a critique of rational choice approaches to policy analysis, see Deborah Stone, *Policy, Paradox, and Political Reason* (Glenview, IL: Scott, Foresman and Company, 1988).

the dynamics of individual and collective decision making.¹¹ In a variant of this genre, some scholars argue that bounded rationality and a variety of institutional, informational, and contextual constraints make policymaking “sticky” and prone to periods of punctuated equilibrium.¹² This punctuated equilibrium theory posits that policy change is expected to be incremental in the absence of significant social, political, or related events that break inertia, such as elections, economic crises, or wars.¹³ Others go further to argue that the policymaking process reflects “organized anarchy” more than a rational process of strategic interaction.¹⁴ From this perspective, policy problems and solutions are often ambiguous. Success is difficult to predict because it requires gaining sustained attention and **buy-in** from key stakeholders, and it is often done under significant information and time constraints. Policymaking outcomes reflect the blending of independent streams of problems, potential solutions, participants, and opportunities in what can be characterized as a “garbage can” model of organizational dynamics.¹⁵ From this perspective, policymaking is most likely to be successful when three streams intersect: policy problems come to the attention of policymakers, a policy process is developed and policy proposals are generated, and the political environment (elections, leadership, public opinion, etc.) enable the participants to act.

Combined, the literature provides useful insights into how a wide range of historical, legal, institutional, organizational, psychological, and political factors

11. For example, the Advocacy Coalition Framework developed by Sabatier and Jenkins-Smith focuses on the interaction between advocacy coalitions in the policymaking process. See Paul Sabatier and Hank Jenkins-Smith, *Policy Change and Learning: An Advocacy Coalition Approach* (Boulder, CO: Westview Press, 1993); Sabatier and Weible, *Theories of the Policy Process*, pp. 225–266. In addition, Jeffrey Pressman and Aaron Wildavsky analyze the problems that arise as a result of having multiple participants and perspectives involved in policy implementation. See Jeffrey Pressman and Aaron Wildavsky, *Implementation*, 2nd edition (Berkeley: University of California Press, 1979).

12. Sabatier and Weible, *Theories of the Policy Process*, pp. 183–224.

13. Frank Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics* (Chicago, IL: University of Chicago Press, 1993).

14. For early work in this area, see Michael D. Cohen, James G. March, and Johan P. Olsen, “A Garbage Can Model of Organizational Choice,” *Administrative Science Quarterly* 17, 1 (March 1972), pp. 1–25.

15. John Kingdon, *Agendas, Alternatives, and Public Policy* (Boston, MA: Little Brown, 1984). See also Sabatier and Weible, *Theories of the Policy Process*, pp. 59–104.

affect policymaking in the executive branch.¹⁶ It is, however, relatively silent about the tools and techniques that policymakers in the executive branch use to achieve their ends and on the impact that these have on the process. By highlighting the tools and techniques of policymaking, we do not suggest that the factors emphasized in this diverse literature are unimportant. Indeed, many of these factors rely on or influence the tools, techniques, and processes used by policymakers in the modern executive branch. Rather, we argue that whether one evaluates policymaking through the lens of management styles; bureaucratic or organizational politics; strategically rational individuals acting in the context of institutional and informational constraints; or as the result of the convergence of streams of policy problems, ideas, participants, and opportunities; putting these insights into practice requires a practical understanding of the nuts and bolts of the actual policymaking tools, techniques, and processes at the policymaker's disposal. Mastering the art of policymaking enables stakeholders to lead and manage the policymaking process so that the president receives the best information possible and can generate and implement policies that address long-term strategic goals and adapt to changing circumstances. Our book thus contributes to work by recent scholars by informing these theoretical debates with insights and perceptions of policymakers regarding the role and structure of important institutions and actors within the executive branch.¹⁷

One of the most enduring and broadly recognized characteristics of policymaking since President Franklin D. Roosevelt reasserted the executive branch's role in the policymaking process is the gap between the high public demands and expectations placed on the president and the president's comparatively limited legal, political, and institutional capabilities to meet them.¹⁸ Whether it

16. For a summary of this literature, see George C. Edwards, III and Stephen J. Wayne, "Appendix A: Studying the Presidency," in *Presidential Leadership: Politics and Policy Making*, 9th edition (New York, NY: St. Martin's/Worth, 2014), pp. 487–499.

17. Prominent among these is the Presidency Research Group. The PRG's objective is to provide a detailed job description of some of the most important positions in the White House. Beginning in December 2001 with the publication of guidelines for planning a transition to power for the new president, its findings have been published in *Presidential Studies Quarterly*. Many of these findings are synthesized in Kumar and Sullivan, *The White House World*.

18. See Neustadt, *Presidential Power*; Joseph A. Pika and Norman C. Thomas, "The Presidency Since Mid-Century," *Congress and the Presidency* 19, 1 (Spring 1992), pp. 29–46; Karen M. Hult, "Strengthening Presidential Decision-Making Capacity," *Presidential Studies Quarterly* 30, 1 (March 2000), pp. 27–46. Recent critics of this viewpoint, including Terry Moe and

is due to a honeymoon period of hope or a rally-around-the-flag effect in response to a national trauma or national success, public confidence in the president is often fleeting. For example, the percentage of the American public who have “a great deal” or “quite a lot” of confidence in the president has declined from a high of 72% in 1991 to 29% in 2015.¹⁹ It peaked for President Clinton in 1998 (toward the end of his administration), it peaked for President George W. Bush in 2002 (after 9/11), and it peaked for President Obama in 2010 (in his first term in office). In every case, it declined thereafter (see Box 1-1).

Paradoxically, the president has little direct influence over many of the people whose support and expertise he needs to close the gap and effectively formulate and implement executive branch policy initiatives.²⁰ He also often has to make policy choices that disappoint many of his constituents, raising doubts among supporters while exciting critics. Understanding the tools, techniques, and processes can help policymakers reduce this problem and bridge the performance-expectations gap by leading people and managing policy problems effectively.

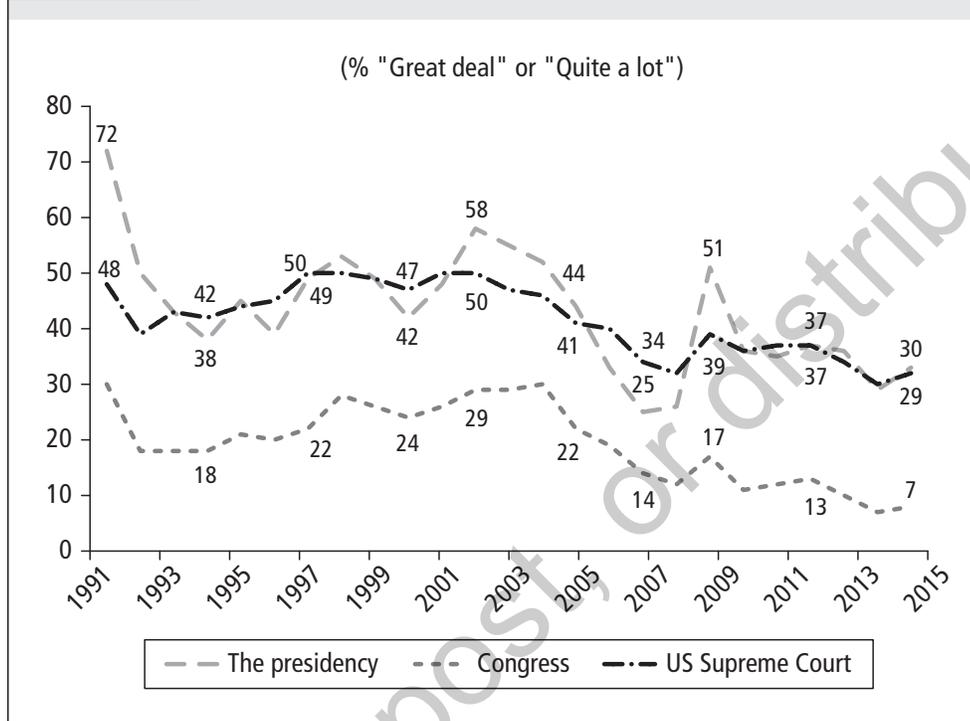
William Howell, argue that modern presidents have a great institutional capacity to act unilaterally and make law on their own. See Terry M. Moe and William G. Howell, “Unilateral Action and Presidential Power: A Theory,” *Presidential Studies Quarterly* 29, 4 (1999), pp. 850–872. Others, including Charles O. Jones, argue that presidents may be able to take advantage of the competition among different units in the federal government to assert influence over the policy agenda. See Charles O. Jones, “Reinventing Leeway: The President and Agenda Certification,” *Presidential Studies Quarterly* 30, 1 (March 2000), pp. 6–26. For some of the potential problems resulting from this gap, see Colin Campbell, *The U.S. Presidency in Crisis: A Comparative Perspective* (New York, NY: Oxford University Press, 1998); Hult, “Strengthening Presidential Decision-Making Capacity,” pp. 27–46; Larry M. Lane, “The Public Administration and the Problem of the Presidency,” in *Refounding Democratic Public Administration: Modern Paradoxes, Postmodern Challenges*, ed. Gary L. Wamsley and James F. Wolf (Thousand Oaks, CA: SAGE, 1996); and Paul C. Light, *Thickening Government: Federal Hierarchy and the Diffusion of Accountability* (Washington, DC: Brookings Institution, 1995).

19. Public confidence in Congress declined from 30% in 1991 to 7% in 2014. See GALLUP Politics, “Americans Losing Confidence in All Branches of U.S. Gov’t: Confidence hits six-year low for presidency; record lows for Supreme Court, Congress,” last modified June 30, 2014, accessed May 29, 2015, <http://www.gallup.com/poll/171992/americans-losing-confidence-branches-gov.aspx>.

20. Stephen J. Wayne, G. Calvin MacKenzie, David M. O’Brien, and Richard L. Cole, *The Politics of American Government*, 3rd edition (New York, NY: St. Martin’s/Worth, 1999), p. 498. See also Hult, “Strengthening Presidential Decision-Making Capacity,” pp. 27–46; Terry M. Moe, “The Politicized Presidency,” in *The New Directions in American Politics*, ed. John Chudd and Paul Peterson (Washington, DC: Brookings Institution, 1985); and Bert A. Rockman, *The Leadership Question* (New York, NY: Praeger, 1984).

BOX 1-1

Americans' Level of Confidence in the Three Branches of Government



Source: Gallup, "Americans Losing Confidence in All Branches of U.S. Gov't," June 30, 2014. Copyright © 2014 Gallup, Inc. All rights reserved. The content is used with permission; however, Gallup retains all rights of republication. Updated data are available online at <http://www.gallup.com/poll/1597/confidence-institutions.aspx>.

PROMOTING PRESIDENTIAL LEADERSHIP AND MANAGEMENT THROUGH THE POLICYMAKING PROCESS

The president is the leader of the country and its chief policymaker. As President Truman argued in his farewell address in 1953, "The President—whoever he is—has to decide. He can't pass the buck to anybody. No one else can do the deciding for him. That's his job."²¹ The art of policymaking is the art of leading people and managing problems using a process that enables the president to make and implement the best possible decisions for the nation.

21. For a photograph of "The Buck Stops Here" sign on President Truman's desk in the Oval Office, see the Truman Library online at <http://www.trumanlibrary.org/buckstop.htm>.

Used effectively, the tools, techniques, and processes of policymaking enable and enhance the president's ability—and the abilities of those he charges with the responsibility to act—to lead the policymaking process by performing at least three critical roles:

1. Promoting the president's agenda

The White House staff and policy councils are custodians of the president's initiatives and are responsible for driving them through the policymaking process. This requires a working knowledge of the roles of the policy councils, key policymakers within the White House staff, and the agencies and departments of the executive branch.

2. Acting as an honest broker among competing stakeholders

The White House staff and policy councils are also conduits to the president for the multiple stakeholders throughout the executive branch. An honest broker process is one that enables stakeholders to participate and be heard by the president.²² At a minimum, this increases the level of consultation and reduces biases inherent in decision making in small groups of people. It also builds consensus and generates higher levels of political support among stakeholders even when the policies chosen do not reflect each stakeholder's views. This is especially important when the context changes and/or stakeholders' disagreements about the problems, policy solutions, or politics at hand persist.

3. Incubating new ideas

The White House staff and policy councils are responsible for making sure that the president has the best information possible before making a policy decision. Different stakeholders will offer different perspectives, insights, and information. Giving the president access to the resulting ideas will generate better-articulated and better-vetted policies. Decisions taken without inclusive deliberations are prone to individual or group biases and are less well-considered.²³

22. John P. Burke, "The Neutral/Honest Broker Role in Foreign-Policy Decision Making: A Reassessment." *Presidential Studies Quarterly*, 35, 2 (2005), pp. 229–258; and John P. Burke, *Honest Broker? The National Security Advisor and Presidential Decision Making* (College Station, TX: Texas A&M University Press, 2009).

23. James P. Pfiffner, "The Contemporary Presidency: Decision Making in the Bush White House," *Presidential Studies Quarterly*, 39, 2 (2009), pp. 363–384.

An effective process can also help the president manage policymaking and policy implementation. It does so by providing three functions:

1. Staffing the president

The White House staff and policy councils prepare memos, vet his or her speeches, conduct policy briefings, and organize his or her daily schedule. To be effective, they need a working knowledge of legislative clearance and coordination procedures and the ability to communicate and market policy. As former National Security Advisor Stephen Hadley noted, “Serving as the National Security Advisor is a great and important job, but it is ultimately a staff position.”²⁴

2. Coordinating the agencies and departments within the Executive Office of the President

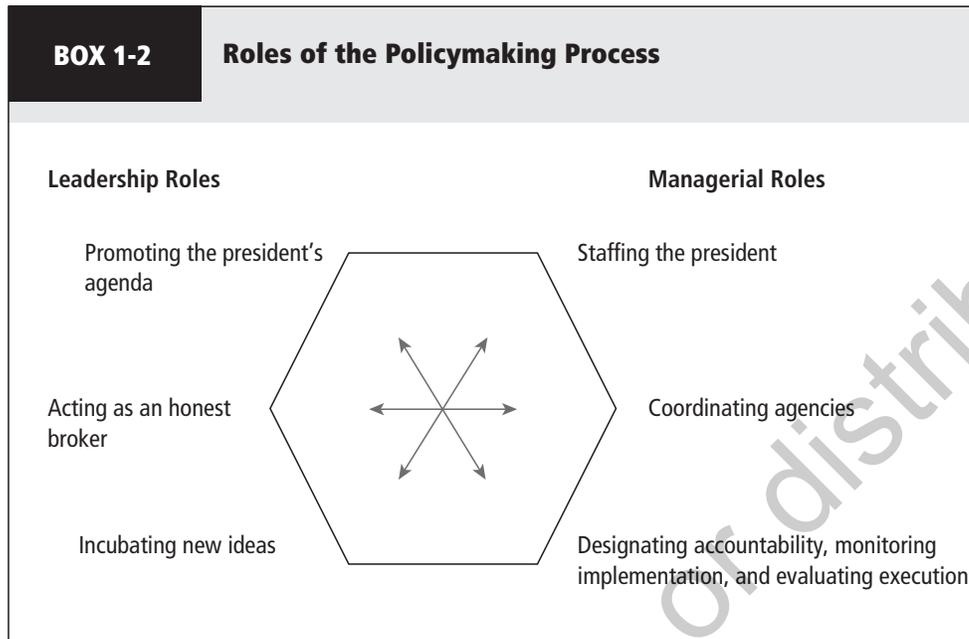
This may involve arranging meetings and briefings among the highest levels of commissioned officers who work directly for the president. They include the assistants to the president (principals), the deputy assistants to the president (deputies), and the special assistants to the president (specials). It may also include coordinating stakeholders in other departments and agencies such as the Department of Defense, Department of State, and Central Intelligence Agency.

3. Designating accountability and monitoring implementation and evaluating execution

This oversight function involves making sure that the president’s initiatives are implemented as directed in a timely manner. Once the president has made a decision and set a strategy, the appropriate policy council needs to break it down, determine which agencies are responsible for the tasks, when they are due, who has the lead, and who is accountable. Without oversight and a sense of urgency, daily demands will likely swamp policy changes and the policy may never come to fruition.

The combination of these leadership and managerial roles creates a hexagon of responsibilities, reflected in Box 1-2. Although all White House staff and policy councils serve these roles, the relative weight given to each role varies as a function of the president’s management style and the management styles of

24. Stephen Hadley (former national security advisor), interview with the author, January 12, 2015.



the president's chief of staff, the assistant to the president who directs the policy council in question, and the directors of other agencies and departments in the executive branch. The relative weight also varies with the specificity, urgency, and general nature of the situation at hand. Some principals in some circumstances emphasize the honest broker and policy incubator roles, while in different circumstances they or others in their position may choose to delegate responsibility to a particular department or agency and place greater emphasis on implementing the president's policies. The relative importance of different roles played by the National Security Council, for example, varies significantly over time.²⁵ Some national security advisors, like Bundy, Scowcroft, and Hadley, emphasized the managerial roles of overseeing policy accountability, implementation, and execution.²⁶ Some, like Lake and Hadley, acted more like honest brokers when incubating policy ideas; some, like Brzezinski, took a more assertive position when confronting others with competing perspectives. Still others, like Rice, sought to organize the policymaking process rather than impose views or encourage others do so.²⁷ Thus, different

25. Burke, "The Neutral/Honest Broker," pp. 229–258; Burke, *Honest Broker?*

26. Ivo H. Daalder and Irving M. Destler, *In the Shadow of the Oval Office: Profiles of the National Security Advisers and the Presidents They Served—From JFK to George W. Bush* (New York, NY: Simon and Schuster, 2009), p. 9.

27. Daalder and Destler, *In the Shadow of the Oval Office*, pp. 257, 281.

policy councils may find themselves in different locations within the hexagon at different times throughout a particular administration.

THE IMPORTANCE OF PROCEDURAL LEGITIMACY IN BUILDING POLICY SUPPORT

The process of molding an idea into a policy within the executive branch involves the collective action of a wide range of individuals, policy councils, agencies, and departments who have a stake in its outcome. The majority of these executive branch stakeholders share some common policy goals most of the time. Indeed, the degree of compatibility of the goals among executive branch members is likely to be much greater than the degree of compatibility between those in the executive branch and those in the legislative or judicial branches.²⁸ As noted above, policy problems and policy solutions can be ambiguous. Existing policies may also need to be adapted to changing circumstances. Consequently, while the majority of the individuals, policy councils, agencies, and departments within the executive branch share some common goals most of the time, they may (and often do) disagree about the relative importance of bringing one issue versus another to the president's attention.

Even if there is agreement that something must be done on a particular issue, stakeholders in the executive branch often disagree about precisely what the specific objectives of an administration's policy response should be or how best to achieve those objectives. For example, in 1993, President Clinton's policymaking team did not agree on the relative merits of pursuing welfare versus health care reform and, even when welfare reform eventually was given priority, the Domestic Policy Council and the Department of Health and Human Services did not agree on the structure that welfare reform policy should take. In 2006, President Bush's foreign policy team disagreed on how best to fight the war in Iraq. National Security Advisor Stephen Hadley argued for a "surge" of troops, Secretary of State Rice expressed concerns that a surge was not viable, and General Casey argued that the existing "stand up [Iraqi forces], stand down [U.S. forces]" policy should be continued. In 2010, senior members of the Obama administration disagreed on how best to manage the economy and deficit reduction. Senior economic advisor

28. The division of powers and preferences into these the executive, legislative, and judicial branches were, of course, part of the system of checks and balances established by the original framers of the Constitution to keep any one group from gaining pervasive influence over another. For a discussion of policymakers and the policy environment, see James Anderson, *Public Policymaking: An Introduction* (Boston, MA: Houghton Mifflin, 1990), pp. 41–76.

Lawrence Summers and Treasury Secretary Timothy Geithner favored continued economic stimulus while others, including former budget director Peter Orszag and political advisers David Axelrod and David Plouffe, favored deficit reduction.²⁹ Thus, regardless of administration, the policymaking environment is often characterized by multiple groups with common and competing viewpoints vying to influence the form and content of policy ideas. To complicate matters further, power and responsibility are distributed unevenly and tend to shift among these groups over time and across issues.³⁰

At the same time, there are powerful incentives for these groups to **strain toward agreement** and reach a collective solution to the problems at hand.³¹ Policymakers have shared ideas, especially about the importance and role of the executive branch in policymaking. Most also recognize that their integrity as policymakers and the integrity of the system as a whole lie in the ability to function and respond to the problem at hand.

The president has a strong incentive to create buy-in among his team. Above all, presidents want to be right. If a trusted advisor does not agree with a chosen policy, something likely needs to be reconsidered. Presidents also want to avoid splits among their senior advisors. Even if the disagreements do not become public, they can raise concerns about access to the president and biases in the information he receives. This matters because these stakeholders are also likely to play a critical role in advocating the president's policy, shepherding that policy through the process, and monitoring its implementation. All of these functions will be better done if those involved are convinced that the policy is appropriate.

In such a complex environment, it is often difficult to achieve a general consensus about a particular policy goal or the best means to achieve that goal. All else equal, however, stakeholders are more likely to support the formulation, adoption, and implementation of a particular policy when accountability is clear and multiple stakeholders are able to voice their policy ideas and concerns. When accountability is unclear or the tools fail to provide an effective means for

29. Jackie Calmes, "Obama's Deficit Dilemma," *New York Times*, February 27, 2012, <http://www.nytimes.com/2012/02/27/us/politics/obamas-unacknowledged-debt-to-bowles-simpson-plan.html>.

30. For a discussion of different aspects of fragmentation within the executive branch, see Roger Porter, *Presidential Decision Making* (Cambridge, UK: Cambridge University Press, 1980), pp. 11–25.

31. Roger Hilsman et al., *The Politics of Policymaking in Defense and Foreign Affairs*, pp. 80–81; Warner Schilling, "The Politics of National Defense: Fiscal 1960," in *Strategy, Politics and Defense Budgets*, ed. Warner R. Schilling, Paul Y. Hammond, and Glenn H. Snyder (New York, NY: Columbia University Press, 1962), p. 23; and Stone, *Policy, Paradox, and Political Reason*, p. 7.

those with opposing viewpoints to participate in policy development, disgruntled stakeholders tend to circumvent the process and use other means—such as leaking information to the media, circumventing or ignoring bureaucratic hierarchies, and attempting to contact the president (or the decision makers responsible for policy development) directly—to promote their objectives.³² Such activity undermines the policymaking process because it tends to present the president (or the decision makers responsible for policy development) with a biased view of the issue at hand, and it often sparks similar retaliatory action by others who do not share that view.³³ This wastes time, sends signals of uncertainty to Congress, and may result in the public reducing their willingness to support executive actions.³⁴ The end result may be an ill-considered policy or, more likely, political deadlock and a decline in the president's reputation in Washington and his prestige with the general public. While it is certainly true that the existence of an accountable and representative policymaking process does not guarantee that the final policy decision will be the best of all possible decisions, it increases the probability that the decisions made will reflect the input and evaluation of a variety of competing values and objectives; this, in turn, increases the likelihood that the policy will be supported and adopted.³⁵

An effective policymaking process can increase **procedural legitimacy** by coordinating relevant agencies and departments, assigning accountability, and monitoring implementation. It can also increase buy-in by serving as an honest broker among competing stakeholders and acting as an incubator of ideas for the president. Sociological, legal, and policy studies suggest the perceived legitimacy of the tools, techniques, and procedures of complex decision-making processes have a significant impact on the willingness of people to take part in the decision-making process. It also affects their willingness to implement or comply with a

32. In the words of Albert O. Hirschman, the ability to voice one's concerns tends to be associated with increased loyalty, while the inability to do so is associated with a tendency to exit. Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, MA: Harvard University Press, 1970).

33. In political science jargon, the failure of the chief decision maker to weigh all options in an unbiased manner reduces his or her ability to act in a fully rational manner.

34. Richard Neustadt, one of the most influential scholars of the presidency, argues that the president's power to lead is greatly affected by his reputation for competency in Washington and his prestige with the general public. In support of this contention, George Edwards found that popular presidents received more congressional support regardless of party affiliation. George C. Edwards III, *At the Margins* (New Haven, CT: Yale University Press, 1989), p. 124; Neustadt, *Presidential Power*.

35. Porter, *Presidential Decision Making*, p. 1.

given policy. For example, in a 1984–1985 survey of 2,379 people who were involved with the U.S. legal system, Tom Tyler found that perceptions of procedural legitimacy had a significant impact on how people evaluated the decisions made and the decision-making processes used by politicians, the courts, and the police.³⁶ He found that the more “fair” and “appropriate” the procedures were perceived to be, the more people were willing to accept and comply with a particular interpretation of the law, even when the outcome was undesirable. The perception of procedural legitimacy mattered more when the issues were contentious and less when they were not, more when compliance with a given set of procedures or rules was voluntary than when it was enforced, and far more when the participants valued a particular outcome highly versus when they did not (regardless of whether or not the decision was favorable). Consistent with this finding, studies of international law suggest that even in the absence of a central authority or viable enforcement mechanism in international politics, nation-states are likely to accept and conform to international rules and norms when they perceive them to have a high degree of legitimacy.³⁷ Conversely, when international rules and norms are not considered to be legitimate, compliance decreases substantially.

Political scientists have argued, further, that the political significance of legitimacy is one of the most fundamental components of political interaction. For example, Alan Lamborn argues that how people will react to a particular set of policy outcomes in a political context will vary depending on the importance they attach to creating or sustaining legitimate relationships, their beliefs about legitimate procedures and outcomes, and their perceptions of how legitimate their existing relationships are.³⁸ Consistent with individuals’ perceptions of the law discussed above, Lamborn argues that the political importance of the legitimacy of a specific policy outcome and the legitimacy of the policy process from which it evolved is inversely related: the lower the legitimacy of an outcome, the greater the political significance of perceived procedural legitimacy.³⁹ If people place a high value on sustaining legitimate relationships (as competing policymakers in the executive branch do when they “strain toward agreement” on collective decisions)

36. Tom Tyler, *Why People Obey the Law* (New Haven, CT: Yale University Press, 1990), p. 105.

37. International legal scholars emphasize the importance of legitimacy as a property of a rule or rule-making institution, which itself exerts a pull toward compliance. See Thomas Franck, *The Power of Legitimacy Among Nations* (Oxford, UK: Oxford University Press, 1990), p. 25.

38. Alan Lamborn, “Theory and the Politics of World Politics,” *International Studies Quarterly* 41 (1997), pp. 187–214.

39. The converse is also true.

and their relationships are perceived to be legitimate, then they are more likely to accept outcomes that adversely affect their short-term policy preferences.⁴⁰

Given the importance of legitimacy to the policymaking process, it is important to understand how policymakers define fair or legitimate procedures. Some take an instrumental view and argue that “fairness” may be defined in terms of the policy outcome and the degree to which the outcome reflects the specific interests of particular policymakers. The ends, thus, justify and motivate the means. Others take an institutional perspective and argue that legitimacy may be explained in terms of the specific institutional process of action, defined in terms of rules about how laws are made, how decision makers are chosen, and how public participation is achieved.⁴¹ In support of the second of these two viewpoints, Tyler’s statistical study suggests that people actually value the ability to obtain a particular outcome less than the opportunity to present their arguments, be listened to, and have their views considered by those responsible for policy development.⁴² The study also found that perceptions of legitimacy and fairness were linked to judgments about the neutrality of the chief decision maker and the unbiased nature of the decision-making process. Individuals who felt that they played a role in the decision-making process and that the process was unbiased or neutral were more accepting of the outcome, regardless of what the outcome was. People who felt that the process was biased or that their views were not being considered by those responsible for policy development were more apt to exit the formal decision-making process and evade its decisions.

These findings have important implications for policymaking in the executive branch. Policymakers in the executive branch often negotiate over highly contentious and politically volatile issues, they generally act voluntarily rather than being compelled to do so, and they often have a high stake in particular outcomes. Consequently, based on the survey results, one would expect procedural legitimacy to matter greatly to policymakers in the executive branch. The policymaking process is, thus, likely to be evaluated in terms of how it operates

40. Lamborn, “Theory and the Politics of World Politics,” p. 193.

41. This view builds on Max Weber’s conception of legitimacy in terms of a specific process. See Franck, *The Power of Legitimacy*, p. 17. Legitimacy is conventionally defined as a belief on the part of citizens that the current government represents a proper form of government and a willingness on the part of those citizens to accept the decrees of the government as legal and authoritative. See Peters, *American Public Policy*, p. 95; Michael Kraft and Scott R. Furlong, *Public Policy: Politics, Analysis, and Alternatives*, 4th edition (Thousand Oaks, CA: SAGE, 2013), pp. 97–98.

42. Tyler, *Why People Obey the Law*, p. 163.

as well as by what it produces. Effective operation involves management—using the appropriate tools of the trade, managing the agencies and departments, assigning accountability, and overseeing implementation—as well as leadership—serving as an honest broker among competing stakeholders and serving as an effective incubator of ideas for the president. Extending this beyond the executive branch, Michael Kraft and Scott R. Furlong argue that this process of legitimation is important for virtually all policy initiatives:

A careful assessment of any policy analyses or other technical studies might be part of this process of discussion and debate. So too might public participation through public meetings, hearings, and citizen advisory bodies, or endorsement by respected community or national leaders. Sometimes lawmakers call on cultural elites, athletes, and other celebrities to convince the public of the worthiness of the issue under consideration. . . . Policies that are adopted without such legitimation face serious hurdles. They may well fail to command public support, affected interest groups may oppose them or even challenge them in court, and their implementation could be adversely affected.⁴³

We, thus, join prominent scholars and practitioners and define legitimacy in terms of how things are done (i.e., whether proper procedures are used) as well as what is actually being done.⁴⁴ As noted by Thomas Franck, for example, fairness of any legal system will be judged

first by the degree to which the rules satisfy the participant's expectations of justifiable distribution of costs and benefits [substance], and secondly, by the extent to which the rules are made and applied in accordance with what the participants perceive as the right process [procedure].⁴⁵

Perceptions of the right process will be greatest when policymakers believe that “decisions about the distributive and other entitlements will be made by those duly authorized and in accordance with procedures which protect against corrupt, arbitrary, or idiosyncratic decision-making or decision-executing.”⁴⁶

43. Kraft and Furlong, *Public Policy*, pp. 97–98.

44. Anderson, *Public Policymaking*, p. 110.

45. Thomas M. Franck, *Fairness in International Law and Institutions* (Oxford, UK: Clarendon Press, 1995), p. 7.

46. Franck, *Fairness in International Law*, p. 7.

Procedural legitimacy is important in a variety of places including the administrative process, the legislative process, the regulatory process, the courts, and direct democracy.⁴⁷ Many of the rules and procedures of the policy-making process are codified in the Constitution, determined by Congress, or specified in executive orders or other legal processes. When policymaking is conducted outside of established rules and procedures, its legitimacy is likely to be questioned. At the same time, however, acting within the bounds of one's legal authority is not sufficient to guarantee that the process will be perceived as legitimate. Indeed, as James Anderson argues, "Some actions of government, even when within the legal or constitutional authority of officials, may not be regarded as legitimate because they depart too far from prevailing notions of what is acceptable."⁴⁸ Many Americans, for example, considered the use of torture and inhumane treatment at Abu Ghraib prison in Baghdad during the second Iraq War to be illegitimate, even though Deputy Assistant U.S. Attorney General John Yoo wrote memos justifying the military interrogation of alien unlawful combatants.⁴⁹

One of the hallmarks of an effective political process is that it enables the president to make potentially controversial decisions with the best available input so mistakes can be avoided. While the perception that the policymaking process is legitimate can help buffer decision makers who deliver undesirable outcomes, the perception that the process is corrupt can undermine support for the decision and decision makers, even if the policy itself is ultimately popular.⁵⁰

CONCLUSION

The ability of all executive branch policymakers to navigate and manage the policymaking process is complicated by the fact that ideas for a particular policy may come from virtually any source—members of the president's staff, executive agencies and departments, Congress, the media, academic scholars, special interest groups, and more.⁵¹ All of these groups provide input and compete to influence the ideas, information, and proposals presented for the

47. Peters, *American Public Policy*, p. 96.

48. Anderson, *Public Policymaking*, p. 110.

49. ACLU, "Memo Regarding the Torture and Military Interrogation of Alien Unlawful Combatants Held Outside the United States," last modified March 14, 2003, accessed May 29, 2015, https://www.aclu.org/files/pdfs/safefree/yoo_army_torture_memo.pdf.

50. Tyler, *Why People Obey the Law*, p. 106.

51. Smith and Larimer, *The Public Policy Theory Primer*, pp. 73–97.

policy issue at hand. Paradoxically, the president has little direct influence over many of the people whose support and expertise he needs to formulate and implement executive branch policy initiatives effectively.

The art of policymaking is the art of leading people and managing problems using a process that enables the president to make and implement the best possible decisions for the nation. When used appropriately, the tools, techniques, and processes of policymaking can help the president and his principals lead the people on his team and manage the policy problems effectively. Using the tools, techniques, and processes appropriately also increases procedural legitimacy. This, in turn, increases that likelihood that all stakeholders will accept and support a given policy throughout its development and implementation.

Key Terms

Buy-in

Principals

Procedural legitimacy

Sequential approach

Stakeholders

Strain toward agreement

Review Questions

1. Discuss three ways in which the tools and techniques of policymaking affect the policymaking process.
2. Name six ways that the policymaking process can assist the president.
3. Why does procedural legitimacy matter?