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HIDING IN PLAIN SIGHT: THE NEWS MEDIA AND THE POLITICS OF FRAMING THE  
UNILATERAL PRESIDENCY

By

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Beth L. Leech

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## ABSTRACT OF THE DISSERTATION

Hiding in Plain Sight:

The News Media and the Politics of Framing the Unilateral Presidency

By MARK MAJOR

Dissertation Director:

Beth L. Leech

This dissertation explores the dynamic process of traditional print and online news media framing of direct presidential actions. Since President George Washington's Proclamation of Neutrality, the proper scope and exercise of executive unilateral powers are an ongoing debate. With a mere "stroke of the pen," presidents can change the political status quo. However, the legality of unilateral powers remains murky, at best, as the US Constitution is silent about these actions. This research investigates the role of news institutions in bringing attention to these unwritten powers of the presidency, examining the amount of coverage, type of frames that are used, who influences the frames, and whether these frames serve as a substantive check on the unilateral powers of the American presidency. Employing content and textual analyses of more than 1,000 news items and nearly 7,000 quoted sources from the *New York Times*, *Washington Post*, and *USA Today* as well as top online blogs like *Huffington Post*, *Daily Kos*, *Talking Points Memo*, *Townhall*, *Hot Air*, and *Michelle Malkin*, across twelve presidential administrations, it is argued that the framing of direct presidential action is largely favorable to executive power. This is due to presidential sources being treated as more

authoritative than congressional sources and other political actors in the news and a passive political system that is indifferent to presidential unilateral actions. Thus, the news provides cover to the president by normalizing the use of these unwritten powers. However, when the political system pushes back against unitary executive actions, the media responds in kind.

*Dedicated to my parents, Norma Jean and Gerald Major, with love and gratitude.*

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*Without whom...*

All work is social but we never want to share the credit in the title, only in the acknowledgments. I am no different. As a graduate student, I have come to love and loathe the acknowledgements section. Of course, I read them all but most are powerfully boring (with the notable exception of Zaller, 1992). What I find the strangest about most acknowledgements are that families and friends are usually the last to be thanked. For me, my family and friends were the only reason why I survived graduate school and the completion of this dissertation. My family and friends were the ones I confided in to vent my frustrations about my work and academic colleagues (nearly all of whom are insufferable bores). So my first thanks goes to my parents, Gerald and Norma Jean Major, for making all of this possible. I am forever grateful for their unconditional love and encouragement and dedicate this dissertation to them. I hope this research project is a small symbol to show that all of those gray hairs I caused over the years were not in vain! I also owe a debt of gratitude to the best sister in the world, Suzanne Quinley, and the rest of the ever growing Quinley clan.

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As I mentioned, I do not like most academics. In fact, I detest nearly all of them. Dave Andersen is an exception. Dave has been both a friend and mentor. During my time at Rutgers, he always made sure I was not sitting alone at the bar and provided excellent

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I completed this dissertation in the regrettable state of Ohio. Fortunately, I was in a wonderful academic atmosphere in the Department of Political Science at Case Western Reserve University and I thank my students for making that happen.

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## Chapter I

### Introduction: The Unitary Executive and the News Media

*Stroke of the Pen. Law of the Land. Kind of Cool*

- Paul Begala, advisor to President Clinton and CNN pundit<sup>1</sup>

Like it or not, President George W. Bush is a history maker. He stands out as the first president in 175 years to not veto any legislation during a four-year term. Of course, this may have been an unintended consequence of history, as President Bush mostly enjoyed a Republican majority in both chambers of Congress, so a unified government means unified goals. However, Republicans in Congress were not always faithful to the president. A case in point is Senator John McCain's anti-torture amendment to a defense appropriations bill in the wake of the scandal at Abu Ghraib and Guantanamo Bay. At first, the Bush administration announced its displeasure of the amendment and threatened to invoke its veto prerogative. Months later, in a seeming about face, President Bush embraced the defense bill with the amendment that banned torture and signed it into law. The most significant part of the story was the dual act of signing the bill into law while eviscerating the substantive elements of it. This was accomplished through a signing statement, one of the many unilateral powers of the modern American presidency.

The Louisiana Purchase, Peace Corps, integrating the military, Japanese internment camps, atomic bombings of Hiroshima and Nagasaki, affirmative action, National Security Agency, condoning and banning torture, the Bureau of Alcohol, Tobacco, and Firearms, loyalty oaths, and imposing and lifting the "global gag rule" (Mexico City Policy) on international reproductive health organizations are examples of policies derived from direct presidential action. Since President George Washington's

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<sup>1</sup> Begala quoted in Bennet (1998).

Proclamation of Neutrality, the proper scope and exercise of executive unilateral powers are an ongoing debate. The unilateral executive is a crucial but underappreciated feature of the American political system that informs the dynamics of separated institutions sharing powers. In many cases presidents are not burdened with persuasion issues that Neustadt (1960) stressed because they instead rely on unilateral powers (Howell, 2003, 2005; Moe and Howell, 1999; Cooper, 2002, 2005; Mayer, 1999, 2001). These powers often require no persuasion of the public or the legislature and no coalitional majority is needed. While unilateral powers have been a unique part of the executive since the founding, their use has substantially increased in the era of the modern presidency.<sup>2</sup> As Howell (2005) argues, the modern presidency is defined by its propensity and capacity to “go it alone.”<sup>3</sup>

Scholars of the unitary president prefer an institutional focus rather than examining the character traits of the individuals who occupy the Oval Office (Mayer, 2009). Scholarship on the unilateral powers of the presidency is a flourishing field and has resituated traditional claims of presidential power. Much has yet to be examined regarding the way the unilateral executive is presented in the public sphere. Scholars have a great deal to say about presidency-media relations in terms of the traditional legislative approach like passing a bill through Congress. This literature, though, does little to contemplate the incentive structure in the political and media landscape for presidents to

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<sup>2</sup> Though the evolution of presidential unilateralism should not come as much of a surprise to presidential scholars as it is apparent in much of the scholarship in terms of presidential rhetoric (Kernell, 2006; Tulis, 1988), relationship to parties (Milkis, 1993), types and ambitions of presidential candidates (Crenson and Ginsberg, 2007), and political regimes (Skowronek, 1993).

<sup>3</sup> Unilateral powers are defined as “the wide array of public policies that presidents set without Congress” (Howell, 2003, p. xiv). Mayer (2009) defines it as “the different types of administrative and policy changes that the president can initiate on his own without the cooperation, and sometimes over the objections, of Congress or the judiciary” (p. 427).



“go it alone.” Thus, more attention needs to be paid to news coverage of the unilateral path of presidential policymaking. This is the aim of my dissertation.

In his groundbreaking book on the factors that drive and constrain direct presidential actions, *Power without Persuasion*, William Howell (2003) paints media coverage as hostile to the unilateral actions of the Bush administration following the terrorist attacks of September 11<sup>th</sup>. He contends that as a response to President Bush’s unilateral move to create a new court system, denunciations “ricocheted across the nation’s editorial pages” (p. 2). Of course, media coverage of presidential unilateral powers was not the aim of Howell’s inquiry but it begs the question, and presents an empirical question, if coverage and commentary like this is typical. My dissertation serves as a contribution to this area of research.

This dissertation, *Hiding in Plain Sight*, examines newspaper and online news coverage of the unilateral powers of the American presidency. The project explores the dynamic process of traditional print and online news media framing of direct presidential actions. With a mere “stroke of the pen,” presidents can change the political status quo. However, the legality of unilateral powers remains murky, at best, as the US Constitution is silent about these actions. This research investigates the role of the news institutions in bringing attention to these unwritten powers of the presidency, examining the amount of coverage, type of frames that are used, who influences the frames, and whether these frames serve as a substantive check on the unilateral powers of the American presidency. Employing content and textual analyses of the *New York Times*, *Washington Post*, and *USA Today* as well as top online news sites and blogs like *Huffington Post*, *Daily Kos*, *Talking Points Memo*, *Townhall*, *Hot Air*, and *Michelle Malkin*, it is argued that the framing is largely favorable to presidential power. This is due to presidential sources being treated as more

authoritative than congressional sources in the news and a passive political system that is indifferent to presidential unilateral actions. Thus, the news provides cover to the president by normalizing the use of these unwritten powers. However, when the political system pushes back against the unitary executive, the media responds in kind. The remainder of this introductory chapter explains the significance of this inquiry within the context of the existing literature. This is followed by developing a research design and identifying the appropriate data and tools for inquiry. It finishes with an outline of the subsequent chapters and concluding remarks.

### **The Unilateral Presidency and the Political System**

James Madison argued that the legislative branch dominates in a republican form of government. This is only logical because Congress represents the people and, as Madison argues in *Federalist* 49, “the people are the only legitimate foundation of power.” However, there is potential for legislative malfeasance. So as a remedy, Madison, and especially Hamilton, championed an energetic and independent presidency to serve as a check on an encroaching legislature. Of course, Congress was the center of the political system in the Framers’ constitutional design. Still, as Lowi (2009) points out, many of the Framers of the Constitution never considered the prospect of the executive being the most dominant branch (see also Irons, 1999; Shane, 2009).

The office of the executive has developed into the most formidable branch in a system of separated institutions sharing powers. Since the administration of Franklin D. Roosevelt, the political system operates in a “president-centered polity” in which the web of government branches, institutions, and actors revolve around the executive branch (Crenson and Ginsberg, 2007; Genovese, 2013). Though faced with political, electoral, institutional, and constitutional, constraints, the president commands a considerable,

nearly incomprehensible, amount of power. This is of crucial importance and challenges the foundation of checks and balances because in contrast to the other two branches the president, as Thomas Cronin made clear, lacks peers. The literature on presidential unilateral powers support the prominent Anti-Federalist, Cato, warnings against the “vague and inexplicit” nature of Article Two of the Constitution which, according to Moe and Howell (1999), “virtually invites presidential imperialism” (p. 856). It is these very constitutional silences and ambiguities, to paraphrase Richard Pious, that are captured by the presidency.

The unilateral president has long been established and institutionally supported in the realm of foreign policy (Rudalevige, 2005). However, the unitary executive is not only specific to international affairs. Throughout the years, the tools of direct action that were used under the purview of foreign affairs and national emergencies are increasingly aiding the domestic agenda of presidents (Crenson and Ginsberg, 2007; Howell, 2003).

From the founding of the country to the end of Barack Obama’s first term, it is estimated that presidents have issued more than 15,000 executive orders (Peters, 2012).<sup>4</sup> Since the 1930s, approximately 15 to nearly 40 percent of the executive orders issued have a policy component or are deemed “significant” (Howell, 2003; Mayer, 2001; Warber, 2006; see also Mayer and Price, 1999).<sup>5</sup> While the number of executive orders has declined since FDR, scholars find that significant executive orders are on the rise (Howell, 2003). These type of executive orders force Japanese-Americans into

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<sup>4</sup> According to Peters’ estimation, 15,199. Executive order count through end of President Obama’s first term (Peters, 2012).

<sup>5</sup> Defining “significant” orders vary by scholars. Mayer and Price (1999) define it as meeting at least one of six criteria: news media attention, congressional action, scholarly notice, litigation, presidential publicity, and/or creation of a substantive institution (p. 375). Significant or not, Cooper (2002) contends that this misses the larger point that presidents are legislating are their own. This dissertation is informed by Cooper’s argument.

internment camps (EO 9066), seize steel mills (EO 10340), and establish executive offices like the White House Office of Faith-based and Community Initiatives (EO 13199). Warber (2006) finds that more than 60 percent of the orders issued by Carter, Reagan, Bush I, and Clinton were policy-related.

Using data compiled by the Policy Agendas Project, Table 1.1 shows the 19 broad areas that presidents have influenced through executive orders between 1946 and 2012.<sup>6</sup> The data demonstrate that presidents play the role of policymaker in nearly every facet of political life from macroeconomics and civil rights to immigration and space travel. The top three issues regulated through executive orders are 1) government operations, 2) national defense, and 3) international affairs and foreign trade. The latter two should come as no surprise as the “two presidencies” thesis posits that the executive dominates the realm of foreign policy (Wildavsky, 1966; Canes-Wrone, Howell, and Lewis, 2008). A theme that will be constant throughout this dissertation is that the foreign policy president, like the unitary executive, is a practice that is well-grounded in tradition but not in the Constitution (Adler, 2002).

As for government operations, that spans a wide gamut of responsibilities to deal with the giant bureaucratic apparatus under the control of the executive. Many of the orders in this area are benign such as the one from President Johnson ordering all US flags to fly at half-mast to honor the passing of Adlai Stevenson II (EO 11233). But others are not so benign, like Executive Order 13233 issued by President George W. Bush that severely restricted public access to presidential records.

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<sup>6</sup> Count ends on May 21, 2012. The 19 categories originated from the Policy Agendas Project.

**Table 1.1:** *Executive order issue areas, 1946-2012*


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<b><u>Issue</u></b>	<b><u># of Executive Orders</u></b>
Agriculture	39
Banking, finance, and domestic commerce	107
Civil rights, minority issues, and civil liberties	160
<b>Defense</b>	<b>776</b>
Education	47
Energy	92
Environment	75
Foreign trade	167
<b>Government operations</b>	<b>909</b>
Health	74
Housing and Community Development	58
<b>International affairs and Foreign trade</b>	<b>471</b>
Labor, Employment, and Immigration	347
Law, Crime, and Family issues	84
Macroeconomics	92
Public lands and Water management	237
Social welfare	39
Space, Science, Technology, and Communications	83
Transportation	97

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Note: Data and categories compiled from the *Policy Agendas Project* website ([www.policyagendas.org](http://www.policyagendas.org)). As requested by the authors: "The data used here were originally collected by Frank R. Baumgartner and Bryan D. Jones, with the support of National Science Foundation grant numbers SBR 9320922 and 0111611, and were distributed through the Department of Government at the University of Texas at Austin. Neither NSF nor the original collectors of the data bear any responsibility for the analysis reported here" ([www.policyagendas.org/page/how-cite](http://www.policyagendas.org/page/how-cite)).

Executive orders are just one kind of tool that presidents have in their unilateral arsenal. However, these usually receive the most attention in scholarship as executive orders are the most systematically documented form of direct action. In addition to executive orders, signing statements, national security directives, presidential memoranda, presidential proclamations, executive agreements, and presidential directives are other types of unilateral powers.<sup>7</sup> As noted above, presidential direct actions have conceived some of the most formative policies in American political development.

The political and institutional structures invite the unitary executive to seek control of the policy and the process (Mayer, 2009, p. 431). Previous scholarship on unilateral powers, however, shows that presidents face a variety of constraints when deciding to make an end run around the political system, though there is a lack of consensus on how and when those constraints matter. To be sure, the political system is capable of constraining the unilateral presidency (Howell and Kriner, 2007). Howell (2003) argues that the two primary questions that presidents need to ask themselves when contemplating going it alone are 1) what do I want and, equally as important, 2) what can I get away with? (p. 187). Most importantly, presidents must consider the reaction from Congress as unilateral actions may invite political and policy retribution (Deering and Maltzman, 1999; Howell and Kriner, 2007; Waterman, 2009).

Intuitively, it seems logical that presidents are more likely to act alone under periods of divided government but scholarship finds that this is not necessarily the case (Deering and Maltzman, 1999; Howell, 2003, 2005; Mayer, 2009; Waterman, 2009). Presidents are less constrained when faced with a gridlocked Congress with slim majorities or one that refuses to act on issues such as civil rights (Howell, 2003, 2005;

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<sup>7</sup> Gaziano (2001) argues that most of these powers are derivatives of executive orders.

Mayer, 2001). Deering and Maltzman (1999) find that presidents are likely to issue more executive orders when their party holds fewer seats in the Senate. As presidents become less popular they issue more executive orders (Deering and Maltzman, 1999; Mayer, 1999; Mayer and Price, 2002). Howell (2003) finds that presidents will issue executive orders to preempt congressional legislation they deem to be too extreme in order to bring it closer to the executive's policy preferences.

Conventional wisdom tells us that lame-duck presidents are politically irrelevant. Whether it is failure to win reelection or term limits, the incumbent president is merely a White House squatter and fodder for historians. Howell and Mayer (2005) demonstrate that presidents are anything but lame during this period as they still hold a formidable amount of power and influence. Moreover, lame-duck presidents have the means and opportunity to implement last-minute pet projects or stifle the incoming administration's programmatic agenda, especially if the incoming administration is from the opposing party.

There are a variety of factors that contribute to direct presidential action. Independent authority, greater resources like the bureaucratic sector, information asymmetries, discretionary budgets, agenda setting, and lack of collective action burdens are a few reasons why the executive acts alone (Howell, 2003, 2005; Moe and Howell, 1999; Pious, 2007a). Congress also plays a large role in encouraging presidential governance. As Howell puts it, "the notion that a watchful Congress will rise up and snub any president who dares challenge it could hardly be further from the truth" (2003, p. 134). He adds, "far from posing as a potential threat to unilateral power, Congress often appears to be a great promoter" (p. 120). Unlike the presidency, Congress suffers from

free rider problems since individual members lack incentives to preserve its institutional integrity and power. Furthermore, congressional gridlock invites presidential direct action because, as Frances Lee (2010) argues, “a Congress that cannot act cannot respond” (p. 228; see also Moe and Howell, 1999; Howell, 2003, 2005).

Regardless of the conditions constraining Congress to check the executive, the normative role of the media is to patrol and sound alarms for citizens to take action, or at least pressure their representatives to take action (Arnold, 2004; Zaller, 2003). In short, the media can shine some light on unilateral presidential powers regardless of the actions of the two formal branches of government. However, the literature reviewed in the next section finds that news coverage often serves those who govern (i.e. presidents) rather than the governed (i.e. public).

### **The News Media and the Political System**

Democratic theory has long recognized the necessity of a vibrant and independent media for an informed citizenry (Baker, 2006; Dahl, 1998; Habermas, 1989). In addition to normative claims, it is empirically well supported that the news media is important to public deliberation (Page, 1996), representation (Cohen, 1999; Danielian and Page, 1994; Gilens, 1999), participation (Bennett, 1990; Norris, 1996; Prior, 2005; Putnam, 2000; Thorson, 2005; Zaller and Chui, 1996), preferences (Iyengar, 1991; Page and Shapiro, 1992; Zaller, 1992), accountability (Arnold, 2004), and, more broadly, governing (Cook, 1998; Sparrow, 1999). The prestige and high-circulating news media plays a tremendous role in the political system as it is characterized for its gatekeeping, framing, priming, and agenda-setting functions, among others. Thus, major media outlets like the *New York*



*Times* do not necessarily tell you what to think, as Bernard Cohen's oft-quoted maxim goes, but they have significant influence in telling you what to think about.

In a democratic system of separated institutions sharing power, the presidency is a formidable branch and the mass media is central to presidential governance (Bennett, 2012; Bennett, Lawrence, and Livingston, 2007; Cohen, 2008, 2010; Cook, 1998; Kernell, 2006; Kumar, 2003, 2010). While it is clear that the president does not enjoy absolute power in the media, the theoretical and empirical literature demonstrates that the media constructs gradations of power with the president at the top of the structure (see for example, Entman, 2004; Graber, 2010; Miroff, 2006; Moeller, 2004). Thus, presidents have an advantage, though certainly not an absolute one, over other political actors and institutions in influencing media frames.

Due to the adherence to the norms of objectivity, a standard that has been the bedrock of modern American journalism, reporters are heavily dependent on authoritative sources like presidents and members of Congress to report the news (Bennett, 2012; Kaplan, 2006; Gans, 1979; Tuchman, 1978). The relationship between the government, especially presidents, and the news is one of conflict and cooperation (Kumar and Jones, 2005). The cooperative side of the relationship is based on mutual interests between administrations and news organizations. The White House has a vast communication apparatus that subsidizes the information gathering process for journalists. The relationship is also a contentious one because it is the news organizations, not the president, which has the final say over the messages that presidents are trying to convey to the public (Cook, 1998).

## **Frames, Sources, and Presidential News**

The media exerts one of its greatest influences through framing. Frames are an important aspect of news coverage because, as one scholar argues, they highlight the power of text (Entman, 2004; see also Chong and Druckman, 2007; Entman, 1993; Iyengar, 1991). The creation and transmission of political knowledge is a process. Information is the raw form of knowledge; it is frames that provide meaning to knowledge and focuses the message being conveyed (Iyengar, 1991). Patterson and Seib (2005) contend that news stories “would be a buzzing jumble of facts if journalists did not impose meaning on it” (p. 193). Frames are a negotiated product of the competing interests and biases of journalists, government officials, and other political actors (Cook, 1998; Entman, 2004). They are a way to define a problem, evaluate it, and suggest a remedy. News frames make aspects of an event or issue more salient over other equally relevant aspects. The power of the frame is in the details that are highlighted as well as what is omitted (Entman, 2004). In short, frames serve as information organizers. Thus, shaping the frame of an issue is a tremendous source of power because it defines the alternatives (Schattschneider, 1960).

Cohen (2010) correctly argues that we know little about the use of sources in presidential news, but we do know that sources serve as a way to shape the framing of the news. Bennett (1990) finds that journalists tend to “index” the views of those in perceived positions of power (see also Bennett, Lawrence, and Livingston, 2007; Hallin, 1984; Hayes and Guardino, 2010; Howell and Pevehouse, 2007a; Mermin, 1999; Sellers, 2010; Zaller and Chiu, 1996). This is especially relevant in foreign affairs but scholars have found that this also applies to domestic issues (Lawrence, 2000a; Sellers, 2010).

Thus, political actors like presidents and members of Congress have a great deal of influence over framing the news as they are used frequently as sources because of the norms of objective journalism. For example, in their analysis of local and national TV news, and *New York Times* coverage of the debate for invading Iraq, Howell and Pevehouse (2007a) found that members of the Bush administration and Congress appeared in more than 70 percent of the stories (p. 173; see also Hayes and Guardino, 2010). Thus, Congress and presidential administrations play a dominant role in the media as primary definers and framers of the news.

However, this is not a level playing field as journalists also consider the institutional position and influence of potential news sources (Sellers, 2010; Sigal, 1973; Bennett, Lawrence, and Livingston, 2007). Previous research shows that presidents enjoy a more privileged position in the news compared to other political actors like members of Congress (Bennett, 2012; Entman, 2004; Graber, 2010; Sellers, 2010; Sigal, 1973). Presidents conform to various news biases and make it easier for journalists to gather the news (Bennett, 2012; Cook, 1998; Graber, 2010; Kumar, 2003; Maltese, 1994). To use the Howell and Pevehouse (2007a) example again, the Bush administration was quoted in almost one-half of the articles (49.6%) whereas Congress was featured in 21 percent of the articles, less than half compared to the administration (Table 6.1, p. 173). Sellers (2010) show that presidents receive a substantial amount of coverage compared to their party colleagues in Congress even if they are not promoting their party's message as much as Congress. In some cases, presidents are the only source for presidential news. In his analysis of local newspaper coverage, Cohen (2010) found that the president spoke uncontested in 46.8 percent of the sampled articles.

Previous literature tells us that it is difficult for the formal branches of government to constrain the unilateral presidency (Cooper, 2002). Between Congress and the courts, the former is more likely to frustrate direct presidential actions (Moe and Howell, 1999; Howell, 2003). In addition to its formal powers, Congress has a crucial *informal* power: serving as an authoritative source for the news media (Howell and Pevehouse, 2007b). This informal power is important as members of Congress have the potential to counter the assertions of the president and reframe the news story. However, Congress is in a precarious position because they face hostility from the public and the press, sometimes more so than the president (Rozell, 1996; Hibbing and Theiss-Morse, 1995). When members of Congress are featured in president-centered news, they often go negative. One study found that over a 24-year period nearly 80 percent of Congressional sources on the evening news were critical of the president (Baum, 2011).<sup>8</sup>

Recent literature suggests that presidents' face a different media environment and the "golden age" of presidential leadership and media deference is a thing of the past. The current media landscape is more hostile, sensational, interpretive, and less attentive to the presidential news (see Cohen, 2008, 2010). Presidents are no longer afforded the luxury of "going public" on a national scale. Instead, they now must "go local" and narrow their message to partisan publics (Cohen 2010).

Scholarship has much to say about presidency-media relations in terms of the traditional legislative approach (for example, Cohen, 2008; 2010; Kernell, 2006). This literature, however, does little to contemplate the incentive structure in the new political and media landscape to "go it alone." Thus, more attention needs to be paid to the news

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<sup>8</sup> Baum (2011) attributes this to the news media bias towards negativity and sensationalism. He documents that when members of Congress are on a less mediated format (i.e. less journalistic/news organization interference and editing) like Sunday morning talk shows, negativity is less abundant.

covering the administrative path of presidential policymaking.<sup>9</sup> My dissertation seeks to open a new avenue of research on the frames being cultivated and transmitted by the news media about the unitary executive, investigating the frequency of coverage, types of news frames, who shapes those frames, and whether these frames place the unitary executive in its proper constitutional context.

### **Research Design: Data and Methods**

To answer these questions, I use content and textual analyses of media content through a series of case studies as the methods to gather and examine data.<sup>10</sup> Three national newspapers and a variety of online news sites and blogs are examined. The case studies are a diverse selection to highlight variations in coverage that span numerous administrations and different types of unilateral executive power (Gerring, 2006).

The *New York Times*, *Washington Post*, and *USA Today* are investigated as they represent the agenda-setting media given their high circulation rates, prestige, and extensive coverage of national politics.<sup>11</sup> Despite declining circulations, roughly one third of Americans still read newspapers (Pew Center Report, 2012). National papers devote a great deal of resources to covering the president compared to local papers and other forms of media (Cohen, 2010; Peake, 2007). Moreover, the national dailies set the agenda for other mediums like local papers and television (Cohen, 2010; Golan, 2006; Sellers, 2010). The prestige papers also supply the overwhelming majority of content for the

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<sup>9</sup> Two projects have considered the unilateral presidency and the news media, but through a much narrower and different framework. Both projects focus on presidential war powers. Howell and Pevehouse (2007) look at the role of Congress as oppositional news sources for war coverage, using one case study. Closer to my project, Lewis and Rose (2002) examine media commentary on presidential war power authority using one case study.

<sup>10</sup> Coding protocols are provided in detail in the respective chapters.

<sup>11</sup> The print articles are retrieved from the databases of LexisNexis, Access World News, Factiva, ProQuest, and Westlaw. Blog articles are retrieved from their internal search engines and the Google Blogscraper.

blogosphere and online news (Pew Project for Excellence in Journalism, 2010). Thus, to examine the “new media”, one must look to the traditional media. In short, these three elite papers are critical for public knowledge and provide us with a representative sample of the framing of the unitary president in the public sphere.

It is clear that the traditional institutions of news are undergoing an information revolution as the new media is now a staple of the news industry. During this transformative period, this research project would be remiss to ignore the role of the Internet in framing executive power. In addition to examining the prestige press, I am also analyzing the content quality of the top online news sites and blogs. Matthew Hindman (2009) argues that the online public sphere leaves much to be desired, characterizing it as old wine in a new bottle. Despite these problems, scholars like Hindman and Yochai Benkler (2006) imply that the watchdog role may have become reinvigorated in the virtual public sphere since objectivity norms are not as stringent and there is more public collaboration. I examine the top six political blogs in the country. On the Left, the *Daily Kos*, *Talking Points Memo*, and *Huffington Post*, and on the conservative end, *Townhall*, *Michelle Malkin*, and *Hot Air*, are examined. In addition to the analysis of frames, I make a comparative assessment to determine which medium provides better accountability news for the public.

Though the coding schemes vary by chapter, there are two analytical constants throughout this dissertation. First, every chapter is informed by Bennett, Lawrence, and Livingston’s (2007) definition of media independence which is “the capacity to offer timely and sustained news perspectives that challenge dominant government positions when evidence warrants them” (p. 74; see also Entman, 2004, p. 17). Perspectives that

“challenge dominant government positions” are known as counterframes. An important part to this definition is “when evidence warrants them,” meaning that the press should not be cantankerous just for the sake of being defiant and difficult. If there is credible evidence that shows that the government is making false claims or, at the very least, there may be more than one way to view a situation, then it is the obligation of the news media to highlight those different perspectives. Every chapter determines if the news media provided frequent and coherent counterframes to the unitary executive. Counterframes serve as a good indicator of media independence (Bennett, Lawrence, and Livingston, 2007; see also Entman, 2004; Bennett and Serrin, 2005). This is one of the central objectives of “accountability news” (Entman, 2005).

Secondly, the dissertation assesses the types and frequency of sources that are shaping the frames presented in the news. This helps us understand the kinds of political actors that are prominently featured or marginalized in coverage of direct presidential action. I pay particular attention to the competition between administrations and Congress as they are the two primary political actors and institutions relevant to any discussion of unilateral powers (Howell, 2003).<sup>12</sup>

### **Objectives and Outline of Chapters**

The objective of this dissertation is a conservative one. I apply existing theories and methods of political science and political communication to an understudied area of the presidency. Twelve presidents, more than 1,000 news items and nearly 7,000 quoted

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<sup>12</sup> It should be noted that lack of constitutional enumeration does not necessarily make presidential, or governmental, action illegal. It is a beyond a truism that the Constitution is silent on many legitimate powers of government. This dissertation takes issue with inherent powers rather than those that are implied. For a helpful analysis on the distinction between inherent and implied powers, see Fisher, 2007a, 2007b, pp. 13-20, 2011, pp. 5-15 and 247-255.

sources from nine print and online media organizations are content and textually analyzed to shed light on the politics of framing controversial unilateral actions.<sup>13</sup>

My cases are categorized as a “diverse” selection of analyses as they represent a broad range of variation (Gerring, 2006). The cases for analyses highlight different facets of controversial direct presidential actions. These types of actions are significant because they contain a policy component that potentially invites political conflict. Thus, the actions investigated in this dissertation should, at least, according to the previous scholarship, be the most constraining for presidents (Howell, 2003). They include domestic and foreign policy issues, different forms of unilateral power (e.g. executive orders, signing statements, and proclamations), different periods of presidential terms, and cases involving successful actions as well as failed attempts at going it alone. Also, many of these cases demonstrate that the lines between domestic and foreign policy are not so clear. Cohen (2008, 2010), among others, find that national news system has transformed over the last three decades into a less welcoming environment for presidential leadership. Therefore, three cases pay special attention to the controversial unilateral actions of George W. Bush and Barack Obama.

First, an historical examination is in order. The second chapter examines more than 50 years of *New York Times* headline coverage of significant executive orders from President Truman to Clinton (n=231 and 1,596 quoted sources). Stories reported on the front page of the *Times* are considered the most important and help set the national political discourse (Entman, 2012). The chapter demonstrates that executive orders do not garner a great deal of headline attention. When they do make front-page news, they are

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<sup>13</sup> News items, n=1,017 and quoted sources, n=6,988. Media organizations examined include *New York Times*, *USA Today*, *Washington Post*, *Daily Kos*, *Huffington Post*, *Talking Points Memo*, *Townhall*, *Hot Air*, and *Michelle Malkin*.



overwhelmingly framed favorably for presidential power. The administrative aspects of orders are highlighted in coverage rather than calling into question the constitutionality of the unwritten powers. This is due in large part to administration sources being treated more authoritatively than congressional sources. In fact, members of Congress, from the rank-and-file to the Speaker of the House, are marginalized from coverage. The chapter also places executive orders within the context of the broader transformation of presidential news, complicating the findings of previous scholarship.

The remaining chapters are in-depth case studies on the two most recent administrations, George W. Bush and Barack Obama, as they face a more formidable media and political environment, increasing the prospects of the unilateral presidency being framed more critically. Chapter three investigates the *New York Times*, *Washington Post*, and *USA Today* framing of executive power in coverage of Abu Ghraib during the Iraq War (n=402 and 3,187 quoted sources). The “two presidencies” theory posits that presidents are more successful in the area of foreign policy compared to domestic issues (Wildavsky, 1966; Canes-Wrone, Howell, and Lewis, 2008). Previous research leads to the expectation that the news will allow administrations to heavily influence the framing of their unilateral actions in foreign affairs, more so than domestic issues. However, if other political actors vigorously dispute or challenge the unilateral powers of the president, then the framing of coverage will likely change.

Despite the negative coverage of the torture scandal, the unitary executive was not the subject of much critical scrutiny during this period of analysis. A passive political system rears its ugly head in this case as the Republican-majority Congress were not interested in aggressive oversight and the Democratic presidential nominee, Sen. John

Kerry, distanced his campaign from the story. As a result, the establishment media was denied authoritative sources to provide coherent and sustainable counterframes to challenge the Bush administration.

The vast majority of political communication research documents “when the press fails” (Bennett, Lawrence, and Livingston, 2007). The follow-up chapter to Abu Ghraib demonstrates that the media is capable of succeeding and holding the political system accountable (n=105 and 574 quoted sources). The anti-torture amendment offered by Sen. John McCain is the subject of the fourth chapter’s case study and offers a refreshing contrast to the two previous chapters. During this period, the political system started to push back against the Bush administration’s interpretation of unilateral executive power. The news media responded in kind with frequent and salient counterframes that challenged President Bush’s preferred framing of the McCain Amendment.

The case study in the fifth chapter incorporates the blogosphere into the analysis by comparing and contrasting coverage of President Obama’s We Can’t Wait campaign in print and online (n=279 and 1,631 quoted sources). The unilateral powers of the American presidency were front and center during the 2012 election but the political system and the news media were not interested in making this a critical issue. While the three national papers produced status-quo coverage, this chapter finds that one subset of the media – conservative blogs – were the only critical voice against the unilateral powers of the Obama administration. Furthermore, it is argued that the blogosphere is a resurgence of a significant period of American political development: the party press. Moreover, the top blogs do not significantly widen the spectrum of debate in media

discourse. Instead, they reflect the consensus and divisions within and between the two dominant political parties in the United States.

Two themes emerge from the data. First, the news media, for the most part, reflects the spectrum of debate in Washington (Bennett, 1990). If there is a broad consensus on an issue, then the media will devote little coverage to it. However, a divisive debate over an issue like the McCain Amendment banning torture will be thoroughly covered by the news because there is a lack of consensus in the political system. *New York Times* journalist and editor Max Frankel drove this point home when he said that the national press like the *Times* are, “an Establishment institution, and whenever your natural constituency changes, then naturally you will too” (quoted in Hallin, 1984, p. 21).

More crucially, the news media will rarely engage in enterprise reporting regardless of whether there is credible and sufficient evidence that warrants it. If political elites in Washington are quiet or non-responsive to the president’s framing of an issue, then the burden is placed on journalists to challenge the White House (Entman, 2004). However, as Steven Weisman of the *New York Times* pointed out, “Journalists are never going to fill the vacuum left by a weak political opposition” (Weisman quoted in Cunningham, 2003). As long-time NBC anchor, Tom Brokaw, said regarding the poor pre-invasion coverage of Iraq (coverage that prominently featured the Bush administration perspective despite flimsy or non-existent evidence), “Congress voted overwhelmingly to approve the war—and we had to reflect that” (Brokaw quoted in Bennett, 2012). Therefore, the lack of media coverage and challenging frames lead me to the conclusion that the political system is largely indifferent to presidential direct actions.

## Conclusion

The title of this dissertation alludes to the main argument in the following pages, that the news media often downplays the enormity of presidential direct actions. It is as if many of these unilateral powers are uncontroversial and firmly grounded in the Constitution. The problem is that there is no explicit constitutional grant of authority (Burrows, 2010; Howell, 2003). The news media do not devote a great deal of attention to these controversial unwritten powers and when they do, the focus is on the administrative features of direct presidential action rather than highlighting the troubling gray areas of these powers. Thus, allowing the unilateral powers of the presidency to hide in plain sight.

The importance of this research is that it explores some of the foundations of American democracy including the presidency, Congress, the media, political accountability, as well as the proper balance of separation of powers and democratic responsiveness. The news media matters because the way issues are framed affects public opinion and policymaking (Baumgartner and Jones, 1994; Baumgartner, Linn, and Boydston, 2009; Iyengar, 1991). As Walter Lippmann (1920) put it long ago, "...the newspaper is in all literalness the bible of democracy, the book out of which a people determines its conduct" (p. 47). More broadly, this dissertation asks how well the news media covers an important aspect of our constitutional order. The project synthesizes the literatures on presidential direct action, the news media, framing, and will compel scholars to reconsider the role of the executive and the media in the theory and practice of democracy.

## Chapter II

### Headlining Presidential Power:

#### *New York Times* Front-Page Coverage of Executive Orders from Truman to Clinton

*I wish the press helped the American people understand better what the president of the United States does...The president is an agenda-setter...But as head of government, he is not very well understood.*

- Condoleezza Rice<sup>1</sup>

The goal of this chapter is to understand the politics of framing unilateral powers in the news by examining more than fifty years of *New York Times* front-page coverage of executive orders across ten presidential administrations. It investigates the role of the media in bringing attention to these unwritten powers of the presidency, examining the amount of coverage, type of frames that are used, who influences the frames, and whether these frames serve as a substantive check on the unilateral powers of the American presidency. The central question guiding this research asks whether media frames help presidents hide in plain sight when they act unilaterally or whether the news serves as a critical check on what Louis Fisher (2002) calls “constitutional violence” committed by presidents. Another significant feature of this research identifies patterns and trends in reporting, as the news media has gone through significant changes over the course of this 50-year period of analysis. Thus, it clarifies whether front-page coverage of executive orders corresponds with existing scholarship on the broader transformation of the presidential news system (see Cohen, 2008).

### Transformation of the News Media

The previous introductory chapter established the importance of news frames, sources, and the role of political actors, especially presidents and Congress, in this dynamic process. This section provides a brief description of the changing media

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<sup>1</sup> Rice and Kralev (2000, p. 87).

landscape and its impact on presidential politics. During the 50-year period of analysis in this chapter, the news media has gone through dramatic changes. Cohen (2008; 2010) and others (for example Baum, 2011; Baum and Kernell, 1999; Clayman et al. 2010; Farnsworth and Lichter, 2011; Hallin, 1992; Hamilton, 2004; Patterson, 1993, 2000, 2002) have documented the transformation of the mass news system and its implications for presidential leadership.

The 1950s through the late 1970s marked the “golden age” for presidential news as presidents enjoyed a captive audience when they went public (Baum and Kernell, 1999; Prior, 2005). The golden age also stands out for its deferential reporting as most establishment news organizations took government officials at their word and rarely went out of their way to undermine the president in particular and the government more generally. Overall, the media landscape was hospitable for the chief executive.

The “new media” era – referring mainly to the Internet and cable news – is a different story. Advancements in media technology and declining trust in public institutions changed the relationship between the president and the media (Cohen, 2008; Clayman et al., 2010). The new media era is characterized by increasing economic pressures for most news organizations, a high-choice media environment for consumers, more competition for news organizations, fragmented audiences, declining readership and trust, higher frequency of negative, sensational, and interpretative reporting, and a decline in presidential news (Bennett, 2012; Cohen, 2008, 2010; Farnsworth and Lichter, 2011; Hamilton, 2004; Ladd, 2011; Patterson, 1993, 2000, 2002; Prior, 2005). Furthermore, the high-choice media landscape allows the public to tune out of politics (Prior, 2005). Cohen (2008) shows that presidents garner less coverage and receive more

negative than positive coverage in the new media era. Overall, the onset of the new media era is more inhospitable for presidents (Baum, 2011).<sup>2</sup>

### **Research design**

Executive orders are used as a proxy for other unilateral powers as they are the easiest to document, among other reasons.<sup>3</sup> The *New York Times* was chosen as it has long been considered the authoritative source for political news, especially national politics, and front-page stories often set the agenda for political actors and other news organizations (Sellers, 2010). Furthermore, numerous studies use coverage from the *Times* as a proxy for news reporting across the country (see Baumgartner, De Boef, and Boydston, 2008; Entman, 2012).

First, all quoted sources were coded.<sup>4</sup> As already noted, sources influence the frames in the article and those who are used as sources have an advantage in shaping the frames of direct presidential actions. The frequency and placement of the sources were also coded as an indicator of source dominance. Furthermore, I counted the number of articles that granted the president, press secretary, or text of an executive order the first quote on the front-page as well articles that only relied on administration sources.<sup>5</sup>

Previous literature tells us that presidents will be used as sources more prominently and

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<sup>2</sup> Few studies have looked at long-term coverage of Congress; one exception is Rozell (1996a). He identifies different “eras” of coverage. Rozell characterizes post-war Congress as the era of “neglect” because the press was enamored with presidential power. An era of “discovery” marked the mid-1960s through the 70s as Congress was undergoing institutional changes and passing landmark legislation. An era of “cynicism” is the description for late-70s up through the present. His study does not compare it to presidential coverage or the transformation of the news media but his typology does coincide with much of the literature on the presidential news system.

<sup>3</sup> Executive orders have been systematically documented since the mid-1930s and many other unilateral powers are derivatives of executive orders (see Gaziano, 2001).

<sup>4</sup> The paragraph was the unit of analysis for sources. If one person had numerous sentences in a paragraph, then that person was counted once. However, if three people were quoted in one paragraph, then they all were counted individually.

<sup>5</sup> Sometimes the first quote would not appear until the article continued on one of the back-pages. If the first quote appeared on any page except the first, then it was not counted.

frequently compared to members of Congress and other political actors. Given that administration sources are often positive or helpful to the president's policy point of view, we can expect that administrations will play a large role in the framing of the articles and coverage of executive orders will be positive.

Executive orders are in large part a legislative act without the legislature. Thus, it is imperative to understand the role Congress plays in framing the coverage of presidential unilateral actions. If a member of Congress was quoted, I determined the tone of the comment. If the comment was negative, then I also took account if the quote appeared on the front-page. This is important because an article that starts with a quote from a member of Congress (or other political actors) that criticizes the actions of a president has a radically different frame from an article that includes a critical quote buried in the middle of the paper. For example, an article covering President Eisenhower's controversial order on classified national security data highlights how the framing on the front page can be dramatically different to the framing that continues on the back pages (Leviero, 1953). The front page barely gives a hint that many officials are critical of Eisenhower's new plan. Instead, it gives the Attorney General space to praise the new executive order and bash former President Truman's classification system. The story continues with critics of the new system but they are relegated to page 11 (Leviero, 1953). We should expect that presidents and their top advisors will be used more as sources compared to members of Congress. If Baum (2011) is correct, then we should anticipate quotes from members of Congress to be critical, especially in the "new media" era.



The articles were coded for framing constitutional aspects of executive orders. Despite their use since the founding, executive orders remain questionable because the Constitution is silent about these powers. I coded for any references of constitutional or congressional authority for the executive action because, regardless of its ambiguity, the authorization justifying the act is often cited in executive orders.<sup>6</sup> Furthermore, journalists are often provided with a copy of the order and the *Times* will often print passages of the order. Next, any explicit challenges to the legality or legitimacy of the orders were coded.<sup>7</sup> This is important because constitutional challenges serve as counterframes to the administration's preferred version of events. Furthermore, if evidence warrants it, then it is an obligation of an independent press to provide those counterframes (Bennett, Lawrence, and Livingston, 2007). Putting the executive orders within the context of the Constitution was also considered. This did not include explicit challenges to the executive act, rather, just a way to provide the reader with a frame of reference. These are referred to as "constitutional notes" and include things like funding protocols, lack of Congressional oversight, or executive orders overturning previous executive orders.<sup>8</sup>

Previous scholarship is not much of a guide as there is little research on the framing of executive orders, especially its constitutionality. In one study that is somewhat related to this project, Lewis and Rose (2002) examined news coverage of presidential unilateralism over wars. They found that the war power authority was rarely discussed in the news. Using the 1991 Gulf War as a case study, just a small fraction of the articles

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<sup>6</sup> For example, "He [President Truman] acted under Section 206 of the Taft-Hartley act, which provides for Presidential action when a strike threatens to reach emergency proportions" (Leviero, 1950).

<sup>7</sup> For example, "Arthur C. Helton, director of the refugee project of the Lawyers Committee for Human Rights, called Mr. Bush's order a "gross violation of international law" (Wines, 1992).

<sup>8</sup> For example, "The new order, like its predecessor, has the force of law" (Miller, 1981).

actually discussed the constitutionality of the power to declare war, a Constitutional prerogative solely for Congress. I anticipate a similar outcome, that the constitutional aspects of executive orders will not garner a great deal of attention from the news media.

I also examine the overall tone of the article to determine whether the executive action was framed as favorable, mixed, or negative. This categorization scheme is somewhat different from other works that examine the media and the presidency. Previous scholarship makes a distinction between positive and descriptive/neutral articles as there is a great deal of the latter (Grossman and Kumar, 1981; Cohen, 2010). In contrast, I consider purely descriptive articles as positive because the presidency is one of the most powerful institutions and demand a great deal of attention. If the article is descriptive, then it is not making any value judgments and essentially siding with the status-quo of power; essentially describing the president's actions as normal. Presenting the mundane administrative aspects of executive orders certainly does no harm to presidential leadership. In fact, highlighting the administrative features downplays the tremendous and controversial power that the president is wielding. Using the post-Watergate period as a line of demarcation, we should expect that headline articles of executive orders will be more negative and comparatively fewer (Cohen, 2008; Clayman et. al, 2010). Moreover, in the new media era of reporting, we should anticipate presidents losing control over the framing of the issue as journalists will take a larger role in interpreting the events and presidents will be used less frequently as sources (Patterson, 1993, 2002; Hallin, 1992).

Finally, I coded the articles for using procedural or substantive frames. Substantive frames situate the issue or event in a broader context whereas procedural

frames focus on the immediacy of the event or issue (Iyengar, 1991; Entman, 2004). Procedural frames are synonymous with the “just the facts, ma’am” style of reporting and descriptive articles use mostly procedural frames. I expect the majority of the articles to be of a procedural nature as they are front-page articles that adhere to the strictest of objective standards. However, we should anticipate a rise in articles with substantive frames for the more recent presidents since reporting has become more interpretive (Farnsworth and Lichter, 2011; Patterson, 1994; Hallin, 1992).

## **Findings and Discussion**

### *Trends in Quantity, Frequency of Reporting, and Type of Executive Order coverage*

Fifty years of *New York Times* front-page coverage of executive orders from Truman through Clinton yielded 231 articles.<sup>9</sup> According to Warber (2006), the ten presidents issued 3,274 executive orders between 1948 and 2001.<sup>10</sup> Table 2.1 shows the total number of executive orders issued by each administration and the number of headline articles they received. Overall, approximately 7 percent of all executive orders made the front-page of the *New York Times* (see also Howell, 2005).<sup>11</sup> News items that make the front-page of the *Times* are deemed the most important and shape the national political dialogue as well as influence the coverage of other news outlets like local media.

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<sup>9</sup> The articles I coded are from a dataset generously provided by William Howell (2005). This dataset contains all “significant” executive orders issued from 1945-2001 and whether or not they received front-page coverage in the *Times* (for his criteria of “significant” orders, see p. 430). I examine coverage starting in 1948 (Truman’s election year) through January 2001 at the end of Clinton’s second term. I also examine non-significant orders that received headline coverage (e.g. President Johnson ordering American flags to be at half-mast to honor the death of Winston Churchill).

<sup>10</sup> The period is 1948 through the end of the Clinton administration, January 20<sup>th</sup>, 2001 (Warber, 2006, Appendix A, p. 148 and Appendix B, p. 151).

<sup>11</sup> To be fair, occasionally an article would cover multiple orders, so this percentage is slightly lower than the actual number of executive orders that received headline coverage. Also, there were on occasion multiple articles in one day for some of the more dramatic executive orders.

More crucially, the front page is often the only page that many citizens browse for their political information.

**Table 2.1:** *Executive orders and Front-page articles*

Administration	Headline Articles	Total # of Executive Orders	% of Executive orders on Front-Page
Truman	44	507	9%
Eisenhower	47	482	10%
Kennedy	26	214	12%
Johnson	23	325	7%
Nixon	29	346	8%
Ford	6	169	4%
Carter	8	320	3%
Reagan	21	381	6%
Bush	8	166	5%
Clinton	19	364	5%
<b>Total</b>	<b>231</b>	<b>3,274</b>	<b>7%</b>

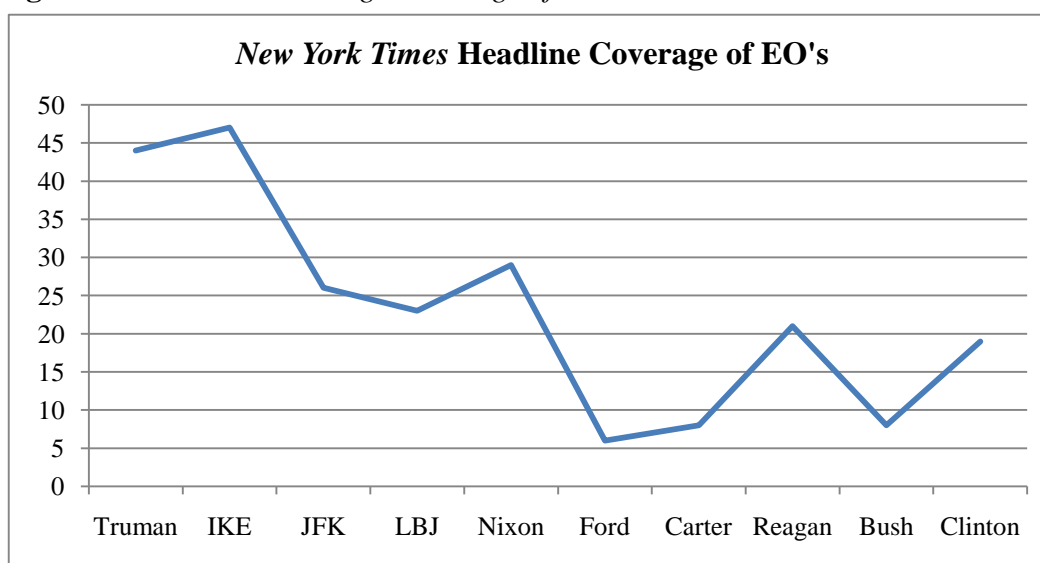
Note: Number of executive orders calculated from Appendix A, p. 148 and Appendix B, p. 151 of Warber (2006).

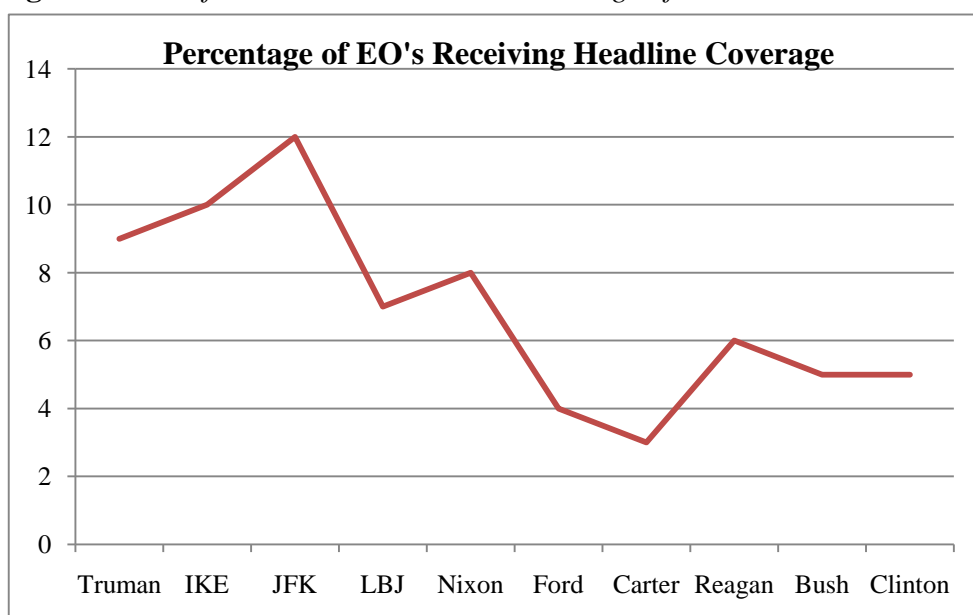
As for types of orders that received coverage, two-thirds (67%) of the articles reported on executive orders that deal with domestic issues whereas less than 20 percent of the coverage dealt with foreign policy, an area that the chief executive dominates and the focus of many significant executive orders (Mayer, 2001; Canes-Wrone, Howell, and Lewis, 2008; Lewis and Rose, 2002; Wildavsky, 1966). Part of the problem may be due to the fact that presidents are more likely to issue classified national security directives for war and international policy.

Figure 2.1 shows an overall decrease in the executive orders that made *New York Times* headline coverage during the 50-year coverage period. Postwar presidents through the Vietnam era were more likely to have their executive orders receive headline coverage compared to their successors of the last thirty years. Presidents Truman and Eisenhower account for nearly 40 percent of coverage of the ten presidents in this

analysis while Presidents Reagan, Bush, and Clinton account for about 21 percent of the coverage. As evidenced by Figure 2.2, the percentage of executive orders that made headline news peaked at 12 percent under President Kennedy and ebbed with President Carter at three percent. This is problematic as the representation and reality of executive orders become different. The reader is given the impression that the issuance of executive orders declined when in fact they dramatically increased under some administrations like Carter's.

**Figure 2.1:** Times *Front-Page Coverage of Executive Orders*



**Figure 2.2:** % of Executive Orders on Front-Page of New York Times

*Sources: Frequency and Dominance*

I identified 31 different types of sources that included presidents, academics, interest groups, department secretaries, and members of Congress. I assumed that presidents would be used as a source more frequently than members of Congress but the findings exceeded expectations. There were a total of 1,596 quoted sources in this sample with presidents receiving 31 percent of all quotes compared to just 9 percent for Congress.<sup>12</sup> Presidents as individuals were quoted 493 times compared to Congress's 138. No other source came close to being used as much as the president. Fifty percent of the articles quoted the president at least once.

Though half of the articles did not use the president as a source, it is important to put this into context. For one, the absence of the president does not translate into members of Congress taking up the other half of the articles as authoritative sources (see below). Secondly, the president relies on vast communication apparatus that serves as an

<sup>12</sup> All percentages are rounded.

adjunct to the president's voice (Maltese, 1994; Kumar, 2010). If we factor in the texts of executive orders and press secretaries as sources that reflect the presidents' views, then presidents jump to 747 or 47 percent of the total number of sources. Adding advisors, department secretaries, and other top White House officials, then administration quotes account for 1,116 quotes or 70 percent of the total number of sources. At least one administration member was quoted in 87 percent of the articles. Thus, as Table 2.2 shows, it was rare to find an article that did not have at least one source close to the president. More importantly, it was rare for administration sources to talk negatively about the unilateral actions of the president.

**Table 2.2: Administration Sources**

	Admn. sources	Total sources	Admn. % of Total
Truman	241	355	68%
Eisenhower	180	251	72%
Kennedy	76	94	81%
Johnson	119	161	74%
Nixon	156	189	83%
Ford	29	37	78%
Carter	36	63	57%
Reagan	139	208	67%
Bush	55	77	71%
Clinton	85	161	53%
<b>Total</b>	<b>1,116</b>	<b>1,596</b>	<b>70%</b>

According to Table 2.3, presidents were given the power to set the tone of the article since slightly less than a majority (45%) of the news items featured the president, the text of an executive order, or press secretary on the front page with the first quote in the article. Overall, 38 percent of the articles relied solely on administration sources, meaning that Congress, interest groups, businesses, and other important political actors were not featured in nearly 40 percent of the news articles. It is important to recall that

the other 62 percent of articles did not preclude administration sources as at least one member of an administration was quoted in more than 200 of the 231 articles (201/231).

The findings suggest that the *New York Times* provided presidents and their administrations with a great deal of influence over the framing of their own unilateral actions (see Table 2.6).

**Table 2.3: Presidential/Congressional Source Dominance**

	Admn-only Articles	Con-only Articles	Admn First Quote	Con First Quote
Truman (n=44)	15 (34%)	1 (2%)	15 (34%)	2 (5%)
Eisenhower (n=47)	19 (40%)	1 (2%)	22 (47%)	1 (2%)
Kennedy (n=26)	14 (54%)	0	14 (54%)	0
Johnson (n=23)	11 (48%)	1 (4%)	11 (48%)	0
Nixon (n=29)	17 (59%)	0	16 (55%)	0
Ford (n=6)	2 (33%)	1 (17%)	2 (33%)	0
Carter (n=8)	3 (38%)	0	4 (50%)	1 (13%)
Reagan (n=21)	3 (14%)	1 (5%)	10 (48%)	0
Bush (n=8)	1 (13%)	0	1 (13%)	0
Clinton (n=19)	2 (11%)	1 (5%)	10 (53%)	2 (11%)
<b>Total</b>	<b>87 (38%)</b>	<b>6 (3%)*</b> <b>(t value: -10.06)</b>	<b>105 (45%)</b>	<b>6 (3%)*</b> <b>(t value: 12.37)</b>

(% of total news articles by administration and total count, n=231)

Please note that if the first quote did not appear on the front page, then it was disqualified as a first quote.

\*p<.001 level (2-tailed)

Please note that Paired sample T tests are used throughout this dissertation unless noted otherwise.

**Table 2.4: Congressional sources**

	House of Reps (HR Negative)		Senate (Sen Neg)		Total (Total Neg)	
Truman	18	(10)	19	(10)	37	(20)
Eisenhower	6	(1)	5	(0)	11	(1)
Kennedy	0	(0)	0	(0)	0	(0)
Johnson	0	(0)	2	(0)	2	(0)
Nixon	8	(2)	3	(1)	11	(3)
Ford	2	(2)	4	(2)	6	(4)
Carter	2	(1)	9	(2)	11	(3)
Reagan	11	(9)	23	(6)	34	(15)
Bush	1	(1)	3	(2)	4	(3)
Clinton	7	(1)	15	(2)	22	(3)
<b>Total</b>	<b>55</b>	<b>(27)</b>	<b>83</b>	<b>(25)</b>	<b>138</b>	<b>(52)*</b>

\*Difference between congressional and negative congressional sources is significant at p<.001 level (2-tailed), t value: 4.86.



As Tables 2.3 - 2.5 demonstrate, it was rare to find a member of Congress with the first quote or an article relying solely on the first branch of government. The source and framing competition between the president and Congress is best characterized as a one-sided pummeling. When it comes to covering direct presidential action, Congress is virtually non-existent. Quotes from members of Congress were featured in 50 articles or just 22 percent of the total items. Only six of the 231 articles (or three percent) relied solely on members of Congress or granted them the first quote on the front page. Overall, for every one quote from Congress there were 8.1 quotes from presidents (see Table 2.5). Starting with the House of Representatives, rank-and-file members of the House were not featured in 94 percent of the articles. House chairpersons or leaders were quoted in approximately 5 percent of the news items and the Speaker was used as a source in a total of six articles.

**Table 2.5: Presidential vs. Congressional sources**

	Administration	Congress	President to Congress Ratio
Truman	241	37	6.5 to 1
Eisenhower	180	11	16.4 to 1
Kennedy	76	0	---
Johnson	119	2	59.5 to 1
Nixon	156	11	14.2 to 1
Ford	29	6	4.8 to 1
Carter	36	11	3.3 to 1
Reagan	139	34	4.1 to 1
Bush	55	4	13.75 to 1
Clinton	85	22	3.9 to 1
<b>Total</b>	<b>1,116</b>	<b>138</b>	<b>8.1 to 1*</b>

\*p< .001 level (2-tailed), t value: 13.36.

Senators were more likely to be quoted compared to their House counterparts, 83 to 55 quotes, respectively. This is due to their seeming institutional prestige, greater representative responsibilities, individual power, and smaller, more manageable size,

especially for journalists (Baker, 2001). Rank-and-file Senators were more successful than their House counterparts in getting quoted as they made up nearly 75 percent (73%) of the Senate's total count and four percent of the total amount of quotes. The House rank-and-file had only 26 quotes throughout the 50-year period of headline executive order coverage, half of them were featured in just one administration.

There was also an absence of top Congressional leadership. A Senate majority leader was quoted only once throughout this 50-year period of coverage of ten administrations and chairpersons and other top leaders were used as sources in only five percent of the articles. The top spot in the House and third in line to the Oval Office, the Speaker, made up only 5 percent of the quotes from Congress. This is all the more surprising as the positions of Speaker and Senate Majority Leader have been filled by formidable (and not media shy) personalities like Tip O'Neil, Lyndon B. Johnson, Newt Gingrich, Carl Albert, and Sam Rayburn.

As Table 2.4 also shows, Congress had a combined total of 138 quotes during coverage of ten administrations. Thirty-eight percent of the quotes were coded as negative. However, only 10 percent of those negative quotes made it on the front page of the *New York Times*. In other words, only five of the 52 critical comments were deemed newsworthy for page one.<sup>13</sup> Thus, in addition to heavy reliance on administration sources, the *Times* shielded presidents from critical coverage by burying negative quotes from Congress on the inside or jump pages.

The data also implies that many of the articles were framed from the presidents' point-of-view rather than from the perspective of the legislative branch. President Truman's controversial steel mills seizure executive order serves as just one example of

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<sup>13</sup> Difference between page one and back page quotes significant at  $p < .001$  level (2-tailed),  $t$  value: 4.40.

this type of coverage (Egan, 1952). The framing of the article would have been drastically different if Ohio Senator John W. Bricker's criticisms of the seizure were placed on page one instead of at the bottom of page 16. Bricker derided the executive order as "a perversion, a distortion of the law" and believed the administration was determined "to break down private enterprise." Instead, Truman is given the first quote in the story asserting that his seizure order was issued "in the public interest." While the piece is certainly not absent of criticisms, most of them were addressed with rebuttals from the president. The president is quoted 19 times throughout the news item while Senator Bricker is quoted twice at the end (in paragraph 42 and 44) of the 46-paragraph story.

#### *Constitutional Challenges and Other Frames*

Overall, more than 90 percent of the articles did not feature any constitutional challenges to the unwritten presidential powers of executive orders. That is, the overwhelming majority of the articles failed to provide the reader with any sense of the controversial nature of unilateral actions. As for the articles that did challenge presidential prerogatives, half of those objection frames were featured on the front-page of the *New York Times*. Looking at particular presidents, constitutional challenges never surpassed 25 percent of the coverage. Table 2.6 shows that President Truman, somewhat of an outlier among what I call the "imperial" presidents (see below), had the second highest amount of challenges but then there is a steady decline for the next six administrations. The news, however, becomes more adversarial starting with President Reagan. This should not be overstated because executive orders were overwhelmingly

framed favorable to presidents by not raising constitutional issues to these unwritten powers.

Due to the lack of substantive challenges and absence of congressional criticism, it should come as no surprise that the great majority of articles were framed favorably. From Truman to Clinton, 91 percent of the coverage presented executive orders in a positive light. In addition to the lack of constitutional challenge frames, 75 percent of the articles in this analysis failed to mention the authorization for executive orders. It is as if presidents going it alone are part of the natural constitutional order. The *New York Times* takes for granted that the tradition of presidential unilateralism is synonymous with legality and lack of controversy.

**Table 2.6: Constitutional Frames**

	<b>Authority</b>	<b>Challenge</b>	<b>Note</b>
Truman (n=44)	16 (36%)	8 (18%)	4 (9%)
Eisenhower (n=47)	10 (21%)	4 (9%)	10 (21%)
Kennedy (n=26)	8 (31%)	2 (8%)	5 (19%)
Johnson (n=23)	6 (26%)	0	2 (9%)
Nixon (n=29)	6 (21%)	0	7 (24%)
Ford (n=6)	1 (17%)	0	2 (33%)
Carter (n=8)	3 (38%)	0	2 (25%)
Reagan (n=21)	3 (14%)	3 (14%)	10 (48%)
Bush (n=8)	1 (13%)	2 (25%)	2 (25%)
Clinton (n=19)	3 (16%)	3 (16%)	4 (21%)
<b>Total</b>	<b>57 (25%)</b>	<b>22 (10%)</b>	<b>48 (21%)</b>

For an explanation of these frames, see the discussion above on page 27.  
(% of total news articles by administration and total count, n=231)

Though there were few substantive critiques of unilateral executive power on the front-page of the *New York Times*, the constitutional considerations were not entirely ignored. More than one-fifth of the articles placed the executive orders within a constitutional context. These articles highlighted various constitutional aspects of

unilateral power like noting that executive orders having the full force of the law. To be clear, these were benign references and not critical to the administrations' preferred frames.

One of the least surprising findings in the data is that the vast majority of items were of a procedural nature. Procedural frames are synonymous with the “just the facts, ma’am” style of reporting (Entman, 2004). A great deal of these articles highlighted the administrative features of executive orders without reflecting on the legal, ethical, and policy implications of the order or situating it within a broader context. As will be discussed below, substantive frames become more prominent with Reagan, Bush, and Clinton but still remain in the minority.

### **Presidents and Coverage: Individuals and Eras**

The following section examines and categorizes these ten presidencies into different political and media eras. The first five presidents are best characterized as “imperial” presidents as they largely enjoyed a deferential news media and Congress (Crenson and Ginsberg, 2008; Rudalevige, 2005). The evidence indicates that the latter five operate in a different political and media environment. Presidents Ford and Carter are categorized “imperiled” presidents as there are signs of changing relations between presidents, the media, and the political system. The last three presidents in the analysis – Reagan, Bush I, and Clinton – mark the transition into a more hostile “new media” era. *The Golden Age of the Imperial Presidency: Truman, Eisenhower, Kennedy, Johnson, and Nixon*

The first five administrations in this analysis did not face an adversarial press when it came to front-page coverage of executive orders. Overall, 45 percent of the

articles provided the Truman, Eisenhower, Kennedy, Johnson, and Nixon administration with a great deal of leverage over the framing of executive orders by granting them the first quote on page one and only featuring administration sources (see Table 2.7). Approximately 93 percent (158/169) of the items framed the executive orders positively. The combined coverage of these five presidents yielded only 14 articles out of 169 that challenged the legitimacy of direct president action. In other words, more than 90 percent of the articles failed to highlight the constitutional ambiguities that are executive orders.

There were a total of 61 quotes from Congress during these five administrations; the majority of the quotes were during the Truman and Eisenhower presidencies (48 quotes). A considerable minority of the Congressional quotes were negative (44%) but only four of them made it on the front page of the *Times*. Moreover, it was only during the Truman administration that negative comments for members of Congress would be featured on the front page of the *New York Times* during the five presidencies of the imperial era.

Congress was barely given a voice during most of these administrations. They were quoted a mere 13 times during the three presidencies of Kennedy, Johnson, and Nixon. This is an odd finding given that all three of these presidents served in both the House and Senate. The *Times* used the House of Representatives eight times and two of the quotes were negative. Members of the Senate were quoted five times and one of them was negative. (Nixon had the most congressional sources – all for the House and 3 of the 5 for the Senate, all negative comments directed at Nixon).<sup>14</sup> The three negative quotes concerning executive orders that were printed in the *Times* during this 13-year period were placed on the back pages.

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<sup>14</sup> Surprisingly, all the negativity was pre-Watergate.

### *Harry Truman*

President Truman is somewhat of an outlier among the imperial presidents. His coverage fits the trends found in the “new media” presidents (see below). His administration has a substantial amount of negative and substantive articles. In addition, his administration features the highest amount of Congressional coverage among all ten presidents. Nearly one-fifth (18%) of the articles featured constitutional challenges, the second highest among all presidents. However, we find a steady decline in articles with challenges for the next six presidents (see Table 2.7).

There are plenty of indicators that place Truman firmly within the category of imperial presidents. There were a total of 355 quoted sources and nearly 30 percent of them came from President Truman (28%). Truman, his executive orders, and press secretary were quoted a total of 146 times and his administration accounted for 68 percent of all sources. More than one-third (34%) of the articles featured sources only from the Truman administration and 19 of the 44 articles (43%) gave its first quote on the front-page to Truman, his executive order, or press secretary, allowing them to shape the frame of the article. The vast majority of articles (91%) framed President Truman’s unilateral actions in a positive light.

Congress as an institution paled in comparison. A mere two percent of the items relied solely on congressional sources and five percent provided a member of Congress with the first quote on the front page. During Truman coverage, Congress consisted of roughly 10 percent of the source pool. To put this in perspective, while this is the highest amount of congressional representation among the ten presidents, the texts of Truman’s executive orders were quoted as many times as members of Congress. The House

accounted for 18 sources and the Senate was used 19 times for commentary. More than half of quotes from Congress were negative comments (54%), also the highest among the ten presidents. However, only one-fifth those negative quotes (4/20) made it on to the front-page. What is more, these four are the only negative quotes to appear on the front page for the next six presidents. Despite congressional sources already paling in comparison to the administration, the data find a sharp reduction in their frequency during the course of the next three administrations.

### *Dwight D. Eisenhower*

Compared to Truman, President Eisenhower was rarely quoted. He was used as a source about one-third of the time compared to Truman with 34 quotes. There were a total number of 251 quotes with Eisenhower making up only 14 percent of them. However, this should not be viewed as the Eisenhower administration faring poorly in source competition and coverage. First, we find a significant spike in the use of his press secretary, showing up 54 times throughout his coverage period. (This is probably due to Eisenhower's incapacitation while in office). Second, Ike, the text of his executive orders, and press secretaries were used as sources 126 times and adding other top White House advisors and department officials the number increases to 72 percent of all sources. Eisenhower's quote ratio to Congress is more typical than Truman's among the imperial presidents. As Table 2.3 demonstrates, for every one quote coming from a member of Congress, Eisenhower had 16.4 quotes.

Nearly 80 percent of the articles failed to mention the constitutional or congressional authorization for President Eisenhower's unilateral actions. Forty percent of the Eisenhower articles only quoted members of his administration and nearly half of



the articles (47%) provided the first quote of the article to Eisenhower, his executive order, or press secretary. The Eisenhower administration enjoyed favorable coverage as only three of the 47 articles had mixed or negatively framed his executive orders.

The first branch of government, on the other hand, was marginalized from coverage. Eleven quotes came from members of Congress (six from the House and five from the Senate) during Eisenhower's eight years in office, accounting for only 4 percent of the sources. The Senate Majority Leader was not used once as a source. Furthermore, only one of the comments was negative and failed to appear on the front page. One article granted a member of Congress the first quote on the front page and relied solely on the first branch for sources.

#### *John F. Kennedy*

Truman and Eisenhower enjoyed a deferential press but the next three presidents truly exemplified the imperial era. The Kennedy administration dominated coverage, accounting for 81 percent of the sources, the second highest among the presidents. President Kennedy was quoted 40 times out of a possible 94 quotes, which was 43 percent of all comments. More than half (54%) of the headline articles covering Kennedy's executive orders only quoted from administration sources. The same number of articles provided Kennedy with the first quote on the front-page. As a result, his administration largely influenced the framing of their executive orders as only one article (1/26) was framed negatively. As for Congress, not a single member of either chamber was used as a source.

By nature of executive orders, presidents are active. The frames highlighted throughout coverage shows presidents as vigorously upholding the law and social order

such as intervening in labor disputes that were frequent during the 40s, 50s, and 60s; a Cold Warrior such as Truman implementing loyalty oaths to clear out any communist infiltration; chief administrator implementing a variety of policies; steward of the economy; fact-finder and problem solver as all presidents established commissions, and Commander in Chief.

Another prominent frame is that presidents are first-movers on policy. But this is problematic because it presents the executive as the sole operator of the federal government. In some instances, presidents are given undue credit for identifying a new policy issue. In addition, the *Times* give the impression that the administration is coaxing a reluctant legislature to take action, despite Congress taking the initiative on issues prior to the executive. For example, the first paragraph of an article covering President Kennedy's executive order establishing a committee on juvenile crime states the following:

President Kennedy urged Congress today to initiate a 'total attack' on the growing menace of juvenile delinquency.

The piece goes on to explain the president's different initiatives, using Kennedy as the only source, as well as details of the committee membership. The reader is led to believe that President Kennedy has identified a public policy problem and has a variety of proposals to deal with the problem. However, the second to last paragraph states:

The proposals generally are in line with those made by the Senate Juvenile Delinquency subcommittee, which for several years has conducted youth crime studies. As an outgrowth of its latest hearings, the Senate last month passed legislation authorizing \$5,000,000 a year for four years to fight delinquency along the lines suggested today by the President (Shuster, 1961).

The first-mover frame in this piece is factually inaccurate. Not only is the article giving credit to President Kennedy for an issue that Congress has already been tackling, it is

framed as if the president was making Congress aware of this issue and urging them to take action.

### *Lyndon B. Johnson*

President Johnson was used as a source more frequently than Congress as he accounts for nearly half of the sources (48%). He was quoted 78 times throughout the 23 articles covering his executive orders compared to the two quotes that Congress received in just one article. President Johnson, his executive orders, and press secretary accounted for 96 sources or 60 percent of the total. His administration made up 119 of the 161 quotes, accounting for nearly three-fourths of all quotes (74%). More than a quarter of the front-page articles (26% or 6/23) made reference to the constitutional or congressional authorization that Johnson used to justify his executive orders. Like previous administrations, nearly half of the articles (11/23 or 48%) relied only on the White House for quotes. The same number applies to the president receiving the first quote on page one. None of the articles on the front-page made any constitutional challenge to the Johnson's orders. Johnson, like his predecessor, also enjoyed the positive framing of the executive orders on the front-page as only one of the 23 items could be characterized as mixed. Furthermore, only two of the articles placed the coverage within the context of the constitutional system. Despite Johnson's rich history as a formidable leader in Congress, the first branch was essentially shut out from the coverage. The *New York Times* featured two quotes from the Senate in one article and neither of them were critical of Johnson's unilateral actions. Not a single member of the House of Representatives was featured during Johnson's tenure.

### *Richard Nixon*

Despite Watergate being held up as a case study in adversarial journalism, President Nixon largely enjoyed favorable press coverage (Greenberg, 2003). Nixon represented the height of the imperial presidency as evidenced in the framing of his unilateral actions. For example, of the 189 quotes in this coverage, 83 percent came from his administration, the highest among the ten presidents (156). Fifty-nine percent of the articles (17/29) covering Nixon's executive orders relied solely on his administration for quotes and a fair majority of the items (55%) gave his administration the first quote on the front page. Not a single article constitutionally challenged the executive actions while only six of the articles (21%) cited the authorization for the executive orders. Finally, all but two of the articles (93%) framed the executive orders in a positive light.

As for members of Congress, they accounted for 11 of the quotes in the Nixon coverage, only three of which were negative. None of the negative quotes appeared on the front page of the *Times*. Furthermore, not a single news item granted a member of Congress the first quote or only used this branch for sources.

### *Imperiled and the New Media Presidents: Ford, Carter, Reagan, Bush, and Clinton*

The end of Nixon's presidency is a watershed moment in American political development. The fall of Nixon, in conjunction with the revelations of presidential imperialism, especially in the arena of foreign policy, led to what conventional wisdom calls the era of the imperiled presidency (Rudalevige, 2005; Savage, 2007). The brief period of the imperiled presidency saw a resurgence of congressional activism and oversight of the executive branch, an attempt by Congress to place constraints on presidential power. This also characterized by a steady downward shift in public trust of

the presidency (and most government institutions) and a change in the relationship between the press and the president. A deferential press was on the decline. As Clayman et al (2010) put it, “reporters had initially been complicit in presidential deceptions on major issues of public importance, but subsequently contributed to their exposure” (p. 230). We start to find indications of a more adversarial press in this era.

The five presidents associated with wars and higher public trust received 332 quotes in the *Times*. The succeeding five presidents would not fare as well as they enjoyed slightly less than half of the number of quotes with 161. Extending the count to press secretaries and executive orders the trend continues with the imperial presidents and their adjuncts used as 533 sources versus 214 quotes from the imperiled and new media presidents. Administration sources from the five imperial presidents accounted for 772, or 48 percent, of all sources whereas the latter five administration sources made up only 22 percent of the total with 344 quotes. Looking at administration sources alone, the imperial period accounts for 69 percent of those sources. In fact, Reagan, Bush, and Clinton have the lowest percentages of administration-only sources. In terms of significance, Table 2.7 demonstrates that using an Independent-samples T Test the two eras were statistically distinguished by the decline of administration-only articles, and members of Congress have more of a presence in the new media age compared to the first five presidents, 14 percent and 6 percent, respectively. Furthermore, Congress is more negative in the new media era and this translates into a higher proportion of mixed and negative articles for the latter five administrations. Finally, interpretative and substantive articles are more prominent in the new media age of journalism.

### *Gerald Ford*

The Ford presidency starts a brief period when Congress attempted to rein in presidential power as evidenced by the Church Committee unveiling covert operations to undermine foreign regimes (often democratic ones), and the establishment of policies like FISA (Rudalevige, 2005; Savage, 2007; Crenson and Ginsberg, 2008). This post-Watergate period also sees a more adversarial press. Compared to Nixon, who enjoyed source and framing supremacy, there is some evidence to support both of these claim. For example, only 33 percent of Ford's coverage gave him the first quote on the front page or only cited his administration. We also find a sharp drop in president to Congress quotes ratio with 4.8 to 1 whereas his immediate predecessor, Richard Nixon, enjoyed a 14.2 to 1 quoted source ratio with Congress. President Ford also had the third highest amount of critical quotes from Congress. However, there are similarities with previous administrations. For example, not one of the articles makes any substantive challenges to the constitutionality of the executive orders.

As for Congress, it still played second fiddle to the executive branch as members of Congress made up six of the 37 total quotes. The Ford administration, in contrast, made up 78 percent of the sources. Though the majority of congressional quotes were negative (4), the third highest among all of the presidents, none of them were worthy enough for the *Times*' front page. Five of the six quotes came from rank-and-file representatives and senators. The speaker of the House, House chairs and leadership were not used as sources, nor was the Senate majority leader.

**Table 2.7: Imperial presidencies vs. New Media presidencies**

	<b>Imperial (n=169)</b>	<b>New Media (n=62)</b>
Admn. sources	772 (74%)	344 (63%) (t value: -1.40)
Admn. first quote	78 (46%)	27 (44%) (t value: .67)
Admn. only articles	76 (45%)	11 (18%)** (t value: 3.89)
Congress sources	61 (6%)	77 (14%)** (t value: -3.97)
Negative Con. Sources	24 (2%)	28 (5%)* (t value: -2.53)
Challenges	14 (8%)	8 (13%) (t value: -1.06)
Mixed/Negative Items	11 (7%)	10 (16%)** (t value: -3.49)
Substantive Items	18 (11%)	18 (29%)* (t value: -3.07)

(% of total sources for Imperial sources n=1050, New media sources n=546)

\*p< .05 level (2-tailed)

\*\*p< .001 level (2-tailed)

### *Jimmy Carter*

Based on the number of executive orders alone, Carter was a busy president as he issued 320 executive orders, an especially high number considering that he was a one-term president. However, only eight articles covering his executive orders made front-page news. Carter is also associated with the era of the imperiled presidency but coverage only partially reflects this period. On the one hand, the Carter administration made up 57 percent of all the sources, the second lowest among the ten presidents. In addition, Carter had the lowest president to Congress source ratio among the ten presidents with 3.3 to 1.

On the other hand, Carter, like his three predecessors, did not face any constitutional challenges in the *Times* and just one of his articles are framed negatively.

Thirty-eight percent of the news pieces featured administration-only sources and half of the articles featured Carter as the first source on the front page of the *Times*. Members of Congress accounted for 11 of the quotes, 17 percent of the total. Three of comments were negative and not on the front page. The top two leadership positions in Congress – Speaker of the House and Senate Majority Leader – were not featured in coverage.

*Ronald Reagan and the New Media Era*

The era of the new media is a critical juncture in reporting as the data show a spike in negative and interpretive reporting. According to Table 2.8, the three presidents of the new media era have eight negative articles compared to the six negative articles for the five preceding presidents. There are seven substantive articles for the presidencies of Kennedy through Carter whereas the number more than doubles for the new media presidents to 16.

The House of Representatives was used as a source 19 times during the three presidencies of the “new media” era. The majority of the quotes from the House were negative (11 or 58%) but only one of them made it on the headline page of the *Times* during the Reagan presidency. As for the Senate, they were featured as sources 41 times but less than one-quarter of the quotes were negative (24% or 10). Despite the rise in negativity, the coverage still favored presidents as criticism was muted for executive orders.



**Table 2.8: Mixed, Negative, and Substantive Articles**

	# of Mixed or Negative Articles	# of Substantive Articles
Truman	4	10
Eisenhower	3	3
JFK	1	2
LBJ	1	2
Nixon	2	1
Ford	1	1
Carter	1	1
Reagan	5	8
Bush	2	3
Clinton	1	5
<b>Total</b>	<b>21 (9%)*</b>	<b>36 (16%)**</b>

(% of total articles, n=231)

\*Difference between Imperial and New Media eras significant at p<.002 level (2-tailed), t value: -3.07

\*\*Difference between Imperial and New Media eras significant at p<.001 level (2-tailed), t value: -3.85

The shift toward negativity and less deference in reporting that start to appear with Ford and Carter come to fruition in the Reagan presidency as the data show a marked difference in coverage. While the majority of coverage was favorable to his executive orders, there exists a higher frequency of negative and interpretive articles. The Reagan administration had the largest number of mixed or negative articles (5) and the second highest number of substantive pieces (8). Only 14 percent of news articles relied solely on his administration for quotes, the third lowest among all ten presidents. Compared to Eisenhower, the last administration with two full terms, the data demonstrates that front-page coverage of Reagan's executive orders drop by more than half from 47 to 21 news items. I also found an increase in constitutional challenges compared to Reagan's four predecessors. The *Times* did not make note of any challenges in their coverage of Johnson through Carter but challenges increase to nearly 15 percent of the articles for the Reagan administration, a trend that persists for the next two presidents. The administration was successful on some fronts as 67 percent of the sources

came from the Reagan administration, 48 percent of the news items gave Reagan the first front-page quote, and the vast majority of articles were positively framed.

Congress fared better in coverage as it had 34 quotes or 16 percent of the total, the second highest among the ten presidents. The Reagan administration also had the second highest number of negative sources from Congress. Reagan had the third lowest ratio of president to Congress quotes with 4.1 to 1. Rank-and-file House members were quoted once in two articles. One of those quotes were negative but not worthy of the front page. House chairpersons and other leaders fared better than the rank-and-file as they accounted for seven quotes, all of them negative but only one made it on the front page. Reagan was one of the two presidents to have a negative quote from Congress on the front page of the *Times*. The Speaker of the House made it back into coverage after being absent during the Ford and Carter administrations with a quote in two articles. One of the quotes was negative but, like most negative quotes from members of Congress, not featured on the front page of the *Times*.

Rank-and-file members of the Senate were used as sources more frequently than their counterparts in the House. They accounted for 13 quotes, five of them negative but none of the negative comments made it on to the page one of the *Times*. The Senate Majority Leader was not used as a source during Reagan's two-terms as president. Senate chairpersons and other leadership were used ten times for sources but only one of the quotes was negative and failed to make the headline page.

#### *George H.W. Bush*

Despite being one of the most qualified candidates to sit in the Oval Office, Bush lacked the savvy and persona of Ronald Reagan, especially dealing with the media

(Rozell, 1996b). Bush lived in the shadow of Reagan and this proved detrimental to his administration as the media was undergoing a transformative shift. One-quarter of the news articles included a constitutional challenge to Bush's unilateral actions, the highest among all of the presidents, and the same percentage framed his executive orders in a mixed or negative light. Only one article gave Bush the first quote on the front page, the lowest among all of the presidents. Bush is the second lowest among all presidents with 13 percent of the news items featuring administration-only sources. However, his administration accounted for 71 percent of all sources (55/77), the highest among new media presidents.

In the area of the legislative branch sources, his coverage was similar to other presidents. Rank-and-file members of the House were featured once with a negative quote but that failed to make page one while their Senate colleagues had three quotes in two articles. Two of the quotes were negative but neither worthy of being on the front-page of the *Times*. House and Senate committee chairs and leadership were not used as sources during Bush's four years in office.

### *Bill Clinton*

President Clinton, like Reagan and Bush before him, faced a relatively adversarial media. Clinton ranks as the lowest among all presidents for administration-only quotes (11%). His administration accounted for just over half (53%) of all of the sources, again, the lowest among the ten presidents. He also had the second lowest ratio between presidents to congressional sources. Clinton was the third highest among the presidents with 16 percent of articles disputing the constitutionality of his executive orders. Despite governing during the solidification of the new media era, the framing of his executive

orders were overwhelmingly positive (95%) and the president received the first quote on the front page in the majority of articles (53%).

While Clinton had the third highest amount of congressional sources, only 3 of the 22 quotes from Congress were negative. The House of Representatives were used a total of seven times, split 4-3 between the leadership and rank-and-file respectively, with only one of them negative. The Senate had 15 quotes during Clinton's two-terms as president. The three negative quotes from members of Congress failed to make the headline page.

### **Conclusion: The Normalization of “Constitutional Violence”**

Across the ten administrations, the data overwhelmingly shows that the *New York Times* has done a poor job of framing unilateral presidential power because the critical components are stripped away or marginalized in the coverage. In short, the news media normalizes what Fisher (2002) calls “constitutional violence.” This type of violence shows disregard for the proper role of checks and balances in a system of separated institutions as presidents will do what is politically convenient rather than what is constitutionally authorized. There are few critical challenges to this particular power and it was rare for the articles to put the executive orders within the framework of the Constitution dealing with issues like checks and balances and the proper branch that should be legislating. Compared to Congress, the ten administrations in this analysis dominated the source pool and heavily influenced the framing of executive orders, resulting in favorable coverage of their actions.

As noted above, the indexing model tells us that journalists tend to “index” the views of those in perceived positions of power. More crucially, the spectrum of debate

widens as officials in positions of power face a point of contention over an issue (Bennett, 1990; Bennett, Lawrence, and Livingston, 2007). Using the indexing model to inform the data, then *New York Times* headline coverage tells us that there are a few presidential orders that are newsworthy because Congress and other prominent political actors do not find these actions to be problematic. In other words, the primacy of the presidency in this area of reporting means that Congress is largely compliant with the unilateral actions of the executive and the media coverage reflects this political apathy. The lack of negativity also highlights the normalization of presidential governance.

This brings us back to the political system. Howell (2003) finds that Congress has a better success rate at promoting unilateral actions of the executive rather than challenging them. In fact, since 1972, “less than 3 percent of the executive orders issued by presidents received any measure of critical attention” from the legislative branch (p. 113). In the post-WWII era, Congress has proposed 46 bills to amend or overturn an executive order and only four have passed (pp. 113-116). Howell concludes that “Congress rarely uses the legislative process to overturn the president, and when Congress does, it almost always fails” (p. 117). Therefore, congressional inaction or codifying direct presidential power should be viewed as an indicator of support. In this sense, Congress is not indifferent but rather uses direct presidential action as a tool of its own.

It is plausible that the lack of congressional sources was due to the internal culture of Congress. During the period that coincided with the imperial presidency, Congress was “an inside game for inside players” (Malecha and Reagan, 2012, p. 33). It was frowned upon, and considered irresponsible, to publicize legislative proceedings with the press.

For Congress, the media was “never an integral part of their overall governing style” (Malecha and Reagan, 2012, p. 44). In fact, it was not until 1977 and 1986 that the House and Senate, respectively, opened up their doors for the proceedings to be broadcasted to the public. As Malecha and Reagan (2012) point out, only three percent of House members, and less than 40 percent of the Senate, had a full-time press aide in the 87<sup>th</sup> Congress (1961-62) (pp. 49-50). It was not until 1983 that two-thirds of the House, and 95 percent of the Senate, employed staff to deal with the media. Now, nearly every member of Congress has at least one staff member designated to handle public relations (pp. 52-56).

Looking at the data, this argument may explain the higher frequency of congressional sources during the post-imperial presidency era. There were 61 quotes from members of Congress during the imperial presidency era whereas the imperiled and new media presidents had 77 quotes from members of Congress (see Table 2.7). Regardless, presidents and their administrations overshadowed Congress in both eras.

A few content and source biases were persistent throughout the coverage. First, most of the articles were framed from the administrations’ point-of-view. Congress was marginalized from coverage as they were not used frequently as sources and rarely shaped the framing of executive orders. For example, while nearly 40 percent of the quotes from members of Congress were negative, most of them were not prominently featured. As noted above, only five of the 52 negative quotes from Congress appeared on page one. Furthermore, it happened only to Presidents Truman and Reagan. In this sense, the news undermined the informal power of Congress to constrain the president by potentially reshaping the frame of the issue (Howell and Pevehouse, 2007). As noted

earlier, previous literature tells us that journalists factor the institutional influence of political players, naturally placing the president at the top of the power pyramid (Entman, 2004; Sellers, 2010). However, this courtesy is not afforded to other powerful players like the Speaker of the House, Senate Majority Leader, and other congressional leaders.

Allowing administration sources to dominate coverage translates into a failure of counterframes. Absent an action that divides the administration, it is unlikely that White House officials will provide frames that are contrary to the president's preferred version of events. Moreover, executive orders that were met with criticism often gave the administration the upper hand in leading the terms of the debate by placing their quotes on the front page and framing the issue from the president's point-of-view.

As for the transformation of the news media, the findings in this chapter partially confirm existing scholarship on the changing tone of the news, that presidential news has declined and has become more independent, negative, and interpretive (Cohen, 2008; 2010). The presidents in the new media era were used less frequently as sources and faced more critical coverage. However, the negativity should not be overstated as the data demonstrates that the overwhelming majority of news items were favorable to presidents' unilateral actions. Furthermore, if media independence is defined as "the capacity to offer timely and sustained news perspectives that challenge dominant government positions when evidence warrants them," then coverage of executive orders leave much to be desired (Bennett, Lawrence, and Livingston, 2007, p. 74; see also Entman, 2004). While presidential news may be negative on the whole, as Cohen (2008) persuasively documented, this does not apply to headline coverage of executive orders. Additionally,

though news conferences became a hostile environment for presidents, as Clayman et al. (2010) shows, aggressive questions do not necessarily translate into critical coverage.

The data and analysis presented here leads to the conclusion that the news media neither invigorates the public sphere nor provides a constraining force on the unitary executive. Like Congress, the news media aides and abets the unilateral actions of the presidency by failing to provide coherent and sustainable counterframes. Presidents are allowed to shape the framing of executive orders on the prominent page of the most prestigious newspaper in the United States. In addition, if the *New York Times* is doing a poor job of covering the unilateral actions of the presidency, then it is highly unlikely that any other mass media outlets are doing a better one (Entman, 2012). Presidents need not worry about an adversarial press when it comes to issuing executive orders because this analysis demonstrates that when presidents exercise this unwritten power, they have an ally in the press.



### Chapter III

#### Torturing Unilateralism: The Case of Abu Ghraib

*Well when the president does it that means that it is not illegal.*

- President Richard Nixon

The epigraph comes from the famous Frost-Nixon interviews in which President Nixon asserted that it was legitimate for the chief executive to invoke prerogative, extra-constitutional powers if it is in the best interest of the country. Some may shrug off Nixon's assertion as the bygone era of the "imperial presidency." One could plausibly argue the congressional resurgence of the 1970s placed sufficient constraints on the unilateral actions of the executive. However, the actions of most post-Watergate presidents tell a different story. This chapter demonstrates that Nixon's candid remark is in tune with the political and news media reality of American power.

This chapter investigates newspaper framing of unilateral executive power as it relates to torture and abuse at Abu Ghraib. The events that unfolded at Abu Ghraib can be traced to the unilateral policies of the Bush administration. Though the Bush administration did not dominate news coverage in terms of sources, the chapter shows that the media does not need to rely on administrations to protect and encourage unilateral presidential power. In fact, the news media is in large part following the lead of a broken political system that relies on, or at the very least is indifferent to, presidential unilateralism, especially during times of war.

Direct presidential action during war and conflict is commonplace throughout American political development (Whittington and Carpenter, 2003). Congress and the judiciary often defer to the war-time executive, leaving few checks on the president and allowing them to expand the powers of the office well beyond the period of the conflict

(Pious, 2007a). The proper role of the executive in foreign policy has long been debated, dating back to the great Madison-Hamilton divide over President Washington's unilateral Neutrality Proclamation. Madison favored a limited and constrained role for the presidency while Hamilton championed a more robust and unfettered executive. "Whatever the Framers' true intent," states Andrew Rudalevige, "the Hamiltonian position won out over time" (2006, p. 507). Still, the prerogative president is not above the law, at least in theory.

### **Abu Ghraib: Background**

Located just outside of Baghdad, Abu Ghraib is the infamous prison of the Saddam Hussein-era known for torture and executions of dissidents, among others. Soon after the US-led invasion of Iraq in 2003, Abu Ghraib was converted to an American military prison. According to the Red Cross, most prisoners of Abu Ghraib were innocent civilians, including minors, picked up from random military sweeps (Hersh, 2004a). Furthermore, the majority of the detainees were deemed by American authorities to be of low intelligence value for the ongoing war on terrorism (Hersh, 2004b).

Abu Ghraib did not become part of the American public discourse until April 28<sup>th</sup>, 2004 when *60 Minutes II* broke a story including graphic photos depicting American soldiers torturing and abusing prison detainees.<sup>1</sup> Just hours before the segment aired, Deputy Solicitor General Paul Clement was assuring the justices of the Supreme Court during the *Hamdi* and *Padilla* oral arguments that the executive branch does not engage in torture (Fisher, 2009; Mayer, 2008). "The United States is a signatory to conventions that prohibit torture and that sort of thing," argued Clement, "and the United States is going to honor its treaty obligations." Clement added, "It's also the judgment of those

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<sup>1</sup> CBS initially held the story for two weeks at the personal request of General Richard Myers.

involved in this process that the last thing you want to do is torture somebody or try to do something along those lines” (Savage, 2007, p. 189).

One investigation that occurred shortly before the media blitz was conducted by Major General Taguba. The “Taguba Report,” of which portions were leaked to the press, found that in late 2003 “numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted on several detainees” (Taguba, p. 16). The immediate perpetrators identified included members of the 372<sup>nd</sup> Military Police Company, US intelligence organizations, and private contractors working with the military. The allegations “were substantiated by detailed witness statements and the discovery of extremely graphic photographic evidence” (Taguba, p. 16). The photographs were part of a “dehumanizing interrogation process” in the attempt to soften the detainees for actionable intelligence (Hersh, 2004b).

According to the Taguba Report, the abusive acts included “punching, slapping, and kicking detainees”; “[f]orcibly arranging detainees in various sexually explicit positions for photographing”; keeping detainees “naked for several days at a time”; “[f]orcing groups of male detainees to masturbate themselves while being photographed and videotaped”; [a]rranging naked male detainees in a pile and then jumping on them”; using un-muzzled military dogs “to intimidate and frighten detainees”; forcing a hooded detainee to stand on a box, attaching wires to various parts of his body, including his penis, and then threatening him that if he fell off he would be electrocuted; “[b]reaking chemical lights and pouring the phosphoric liquid on detainees”; “[t]hreatening detainees with a charged 9mm pistol”; “[s]odomizing a detainee with a chemical light and perhaps

a broom stick” (Taguba, pp. 16-17). Taguba concluded that the soldiers “committed egregious acts and grave breaches of international law” (p. 50).

Taguba found that these “systemic problems” were a result of a “lack of clear standards, proficiency, and leadership” (Taguba, p. 6). In addition to the failure of leadership, Taguba attributed the abuse to certain “psychological factors” including cultural differences, the prison’s poor quality of life and working conditions, and “the real presence of mortal danger over an extended time period” (p. 43).

Despite repeated warnings of abuse from international humanitarian groups like the Red Cross, senior-level members of the Bush administration claimed to be unaware of the crimes. The allegations were immediately denounced as, according to Secretary of Defense Rumsfeld, “fundamentally un-American” (quoted in Hersh, 2004b). President Bush in his first public comments on Abu Ghraib said he had a “deep disgust that those prisoners were treated the way they were treated.” He added that the treatment of prisoners at Abu Ghraib “does not reflect the nature of the American people.” Furthermore, “those few people who did that do not reflect the nature of the men and women we’ve sent overseas” (Bush, 2004). The administration was adamant in contending that the torture at Abu Ghraib was a consequence of a few low-level, rogue soldiers. Moreover, those actions did not reflect the overall objectives and tactics of the Iraq War or the larger war on terror.

### **International Law and Human Rights**

The violations of international law and human rights are a central component to Abu Ghraib. The United States has a mixed history with international humanitarian law conventions. On the one hand, the US has advanced human rights by being a major

player in the creation of the United Nations and crafting and codifying treaties like the Geneva Conventions. On the other hand, the United States is notorious for undermining human rights throughout the world (see, for example, Human Rights Watch, 2012). As official policy, the United States government considers torture a war crime in both international and domestic law. Furthermore, the US is signatory to international treaties that prohibit torture. The prohibition of torture is, according to a memo written by Deputy Attorney General James B. Comey after the fallout from Abu Ghraib, “reflected in our criminal law...; international agreements, exemplified by the United Nations Convention Against Torture...; customary international law; centuries of Anglo-American law; and the longstanding policy of the United States, repeatedly and recently reaffirmed by the President” (quoted in Fisher, 2009, p. 339).

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), of which the United States is a signatory, defines torture as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (cited in Elsea, 2004).<sup>2</sup>

Based on the variety of treaties, conventions, and laws that the United States is a signatory, torture is unequivocally prohibited (Elsea, 2005). However, the administration’s policy on prisoner treatment and interrogation violated every level of the

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<sup>2</sup> US legislation implementing CAT defines torture as “an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control” (Elsea, 2005, p. 14).

law including constitutional law, criminal law, international law, and military law. The military verified more than 600 cases of abuse and, according to the Army, at least 27 detainees died during 2002-2004, most likely the result of torture (Pious, 2007b, p. 67).

Prisoners are afforded protections under international humanitarian laws like the Geneva Conventions, customary international law like Common Article 3 of the Geneva Conventions, US law, and US military protocols (Elsea, 2005). The Geneva Conventions calls for the humane treatment of all persons, regardless of status. The Geneva Conventions categorizes different statuses of persons (e.g. prisoner of war [POW], noncombatant, etc.) and the determination of status is based on a competent tribunal (Elsea, 2005).<sup>3</sup> Until that tribunal, the person must be treated as a POW. Civilians also must be treated humanely at all times. The US military code reiterates the Geneva Conventions by clearly prohibiting torture and ordering the humane treatment of all prisoners, again, regardless of status. These protections were denied to most captives at Abu Ghraib.

Domestically, the War Crimes Act of 1996, passed by Republican majorities in Congress, makes it illegal for an American, civilian or military, to commit “grave breaches” of the Geneva Conventions including torture. Punishment may include the death penalty. “But if the administration can substitute its own definition of torture or inhuman treatment under the conventions,” argues Richard Pious (2007b), “the law becomes a nullity” (p. 69).<sup>4</sup>

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<sup>3</sup> The status matters because certain categories forfeit rights. Certain combatants like spies and saboteurs lose the right to communicate with family members. Regardless, they are still afforded most rights and privileges and must be treated humanely.

<sup>4</sup> Amendments 5, 8, and 14 of the US Constitution are also applicable as Senate ratification of CAT and the International Covenant on Civil and Political Rights viewed these treaties through the lens of these three amendments (Elsea, 2005, pp. 12-13).

### **“My dear Mr. President”: The Office of Legal Counsel<sup>5</sup>**

The Office of Legal Counsel (OLC), housed in the Justice Department, provides the controlling interpretation of presidential administration's view on the Constitution and proper authority of the president. The OLC is one of the most important offices for the unitary presidency because it reviews all executive orders and other unilateral initiatives (Gaziano, 2001). Thus, if the OLC says it is legal, then it is legal. This is problematic because administration officials were defining the legality of their own actions. Bush administration lawyers essentially took the “sole organ” doctrine – the notion that the executive represents the only legitimate actor in international affairs – to its most extreme end and declared that no laws may constrain a wartime president.<sup>6</sup> The argument becomes circular. The Bush administration justifies its actions based on the authority of the president but the scope of the authority is based on their own broad definitions. And since war time authority for the president is absolute, then congressional interference is illegitimate (Rudalevige, 2009).

Well before the terrorist attacks, the Bush administration advocated for expanding the prerogative powers of the presidency. For example, upon taking office, Alberto Gonzales, the head of the White House Counsel's Office assigned his legal team two tasks 1) find conservative judicial nominees for the bench and 2) “to be vigilant about seizing any opportunity to expand presidential power” (Savage, 2007, p. 73). Soon after September 11<sup>th</sup>, the Bush administration's legal team, led by David Addington, John Yoo, Timothy Flanigan, and Jim Haynes, among others, set forth to dramatically expand presidential power (Savage, 2007; Mayer, 2008; Shane, 2009). Mayer (2008) argues that

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<sup>5</sup> The Office of Legal Counsel, which reviews all draft executive orders and proclamations, uses this salutation dating back to the 19<sup>th</sup> century in all of their formal letters to the president (Gaziano, 2001).

<sup>6</sup> For a political history of the ill-informed sole organ doctrine, see Fisher (2007c).

Bush's legal team championed a "new paradigm" that sought unbridled executive power. This process included "making torture the official law of the land in all but name" (Mayer, 2008, p. 8).

The advocacy of the unitary executive was spearheaded by Vice-President Cheney. Cheney's advocacy for a strong, robust unitary executive was a continuing theme throughout his career, even as a member of Congress (Savage, 2006, 2007; Mayer, 2008). Cheney perceived the office of the presidency as imperiled since the fallout from Watergate. As a member of the House during the Iran-Contra scandal, Cheney commissioned his assistant, David Addington, to write what would be known as the Minority Report which absolved President Reagan of any wrongdoing and provided a blueprint for unfettered executive power. As Vice President, Cheney would refer journalists to the Minority Report if they wanted to understand his views about executive power in a system of checks and balances (Savage, 2007).<sup>7</sup>

Following the terrorist attacks on September 11, 2001 the Bush administration, including Secretary Rumsfeld, publicly declared its contempt for the Geneva Conventions. In a February 2002 directive, Bush declared that "none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan *or elsewhere throughout the world*" (emphasis mine). Members of al Qaeda, the Taliban, and associated forces were

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<sup>7</sup> To be fair, there was resistance within the administration as not every official agreed that the president had the power to ignore and undermine international law. For example, the Navy's general counsel, Alberto Mora, wrote a draft memo to the Pentagon's general counsel, Jim Haynes, advising that Secretary Rumsfeld signed off on an interrogation policy that was "unlawful and unworthy of the military services." Furthermore, he noted that these policies "constituted, at a minimum, cruel and unusual treatment and, at worst, torture" (Savage, 2007, p. 179). The Bush administration received ample warning from inside the administration and from outside groups like the Red Cross that these policies constituted war crimes (see Mayer, 2008, p. 165, 185, 201, 204, 219-237).



deemed “unlawful enemy combatants” as solely determined the president.<sup>8</sup> This set the stage for torture.

The infamous Bybee memo (2002) is indicative of the administration’s legal and policy mentality about presidential power, human rights, and international law.<sup>9</sup> Working on the assumption that the president is given the “primary responsibility” and power to “ensure the security” of the country and that the Commander-in-Chief clause is “an affirmative grant of authority to the President,” the head of the OLC, Jay Bybee, in a memo to White House counsel, Alberto Gonzales, redefined torture as it relates to international law (p. 37). Bybee asserted that CAT only prohibited the “extreme acts” of torture. As Bybee put it, “The victim must experience intense pain or suffering of the kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result” (p. 13). Bybee asserted that any statute “would be unconstitutional if it impermissibly encroached on the President’s constitutional power to conduct a military campaign.” Furthermore, because he is the Commander-in-Chief, President Bush “has the constitutional authority to order interrogations of enemy combatants to gain intelligence information concerning the military plans of the enemy.” Thus, “any effort to apply [CAT] in a manner that interferes with the President’s direction of such core war matters as the detention and interrogation of enemy combatants thus would be unconstitutional” (p. 31). Bybee also claims that his contentions are constitutionally fortified by the Supreme Court as they recognize that “the

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<sup>8</sup> This finding is also reaffirmed in Executive Order 13440 – Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Agency, July 20, 2007.

<sup>9</sup> The memo was largely written by John Yoo but signed off by Bybee.

President enjoys complete discretion in the exercise of his Commander-in-Chief authority and in conducting operations against hostile forces” (p. 33). According to Bybee, “In order to respect the President’s inherent constitutional authority to manage a military campaign against al Qaeda and its allies...[CAT] must be construed as not applying to interrogations undertaken pursuant to his Commander-in-Chief’s authority” (34). In Bybee’s view, neither Congress nor the Courts may interfere in the actions of a wartime president.<sup>10</sup> The administration’s view of executive power and torture was so expansive and unrestrained that John Yoo, one of the administration’s main legal architects for the prerogative powers of the executive, found it permissible for the president to crush the genitals of a detainee’s child (Mayer, 2008, p. 153). This faction of the Bush administration took Nixon’s maxim to heart.

At the urging of the president, Defense Secretary Rumsfeld wanted the “gloves to come off” and ordered his staff to take greater risks in intelligence gathering. Rumsfeld, based on the OLC and Pentagon’s recommendations, signed off on a list of coercive interrogation techniques, many which were banned by international law. Another problem was, as Charlie Savage (2007) puts it, “there were no binding laws and treaties about torture anymore—the only limit was the judgment and goodwill of executive branch officials” (p. 181).

The evidence was clear that well before the Abu Ghraib revelations torture was not a consequence of a few bad apples. Rather, the practice of torture occurred in a “worldwide constellation of detention centers” including, among others, Iraq,

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<sup>10</sup> The administration also reasoned that CAT only prohibited torture on American soil so Iraq was fair game (Savage, 2007, p. 213, 367n. 9, 368n. 10).

Afghanistan, and Guantanamo Bay in which more than 9,000 people were held overseas by US authorities (Priest and Stephens, 2004).<sup>11</sup> As Priest and Stephens (2004) put it:

In fact, every aspect of this new universe – including maintenance of covert airlines to fly prisoners from place to place, interrogation rules and legal justification for holding foreigners without due process afforded most U.S. citizens – has been developed by military or CIA lawyers, vetted by Justice Department’s Office of Legal Counsel and, depending on the particular issue, approved by White House general counsel’s office or the president himself.

It is no accident that the torture methods used at Guantanamo Bay and other “black sites” around the world showed up in the graphic pictures at Abu Ghraib. Moreover, as previously discussed, various legal memos inside the administration specifically sought to protect President Bush and top-level officials from legal recourse from the policies they were pursuing. In fact, administration officials advocated for retroactive immunity because they knew that they were breaking the law (Mayer, 2008).

### **Research Design**

This chapter determines if the leading agenda-setting American dailies were sufficiently independent enough to reconcile the representation and reality of the Bush administration’s framing of Abu Ghraib on human rights, international law, and, most importantly, unilateral executive power.<sup>12</sup> Building on the work of Bennett, Lawrence, and Livingston’s (2007) findings that the term “torture” was not used frequently in Abu Ghraib reporting, this chapter examines the first month of the *New York Times*, *Washington Post*, and *USA Today*’s coverage of Abu Ghraib to understand the framing of the unitary executive.

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<sup>11</sup> For more documentary evidence of torture, see Bennett, Lawrence and Livingston (2007, pp. 84-89, 199-204).

<sup>12</sup> Coverage period: April 29, 2004 – May 29, 2004. LexisNexis search term: “Abu Ghraib”. All news items in section A of the papers were considered (i.e. straight news articles, op/eds, etc.). However, Letters to the Editor were excluded.

There was a sufficient amount of credible, authoritative evidence that showed that the Bush administration's framing of what unfolded at Abu Ghraib was suspect (Mayer, 2008). The main objective is to assess the types of counterframes that were cultivated in coverage. To meet this goal, I looked at critiques of executive power, the frequency and valence of the term torture, assignments of blame for Abu Ghraib, and the sources involved in the construction of these frames and counterframes. The following is a brief explanation of each coding protocol.

First, I examined critiques of executive power, especially direct presidential actions. These could be in the form of abstract issues like a meditation on the proper role of the executive in a system of separated powers or direct criticisms of President Bush. Any discussion about the exercise of presidential power that had a negative connotation was coded as a critique.<sup>13</sup>

As a corollary to an explicit critique of executive power, I looked at the individuals, institutions, or policies that were assigned blame for Abu Ghraib. More specifically, I determined if the blame supported the administration's preferred frame of "a few bad apples" or if the buck stopped with President Bush, Defense Secretary Donald Rumsfeld, and other top-level officials and advisors who advocated for torture. Guilt had to be explicitly assigned to someone for what happened at Abu Ghraib for it to count as blame.<sup>14</sup>

Abu Ghraib is, ultimately, an international law and human rights story. I code for any frames dealing with human rights and international law. References to human rights

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<sup>13</sup> For example, "Again and again, President Bush has made clear his view that law must bend to what he regards as necessity" (Lewis, 2004).

<sup>14</sup> An example of low-level blame: "But the more than 1,000 military police and soldiers here are aware of the fallout, Miller said. 'They're hurt,' he said. 'They know this pall has been cast because of a small number of people'" (Michaels, 2004).

and international law were coded into three categories: 1) no references, 2) passing references, and 3) explicit references. “No reference” items are ones that give no consideration to international law and human rights. “Passing references” include any mention of a human rights organization or international humanitarian law treaties like the Geneva Conventions but provide no explanation or context.<sup>15</sup> “Explicit references” provide context to human rights and international law as it relates to the crimes and violations at Abu Ghraib.<sup>16</sup> This frame is also related to executive power because it flies in the face of the Bush administration’s policy.

Also, expanding on Bennett, Lawrence, and Livingston’s work (2007), I coded the frequency and use of the term “torture.” The first month provides the most stringent test of media independence and critical counterframes as the term “torture” was one term that was undesired by the administration as they did not want to be linked to the policy.<sup>17</sup> Furthermore, if torture appeared most prominently during this period, then it is possible that the administration was also unable to dull the critical edge of the press, especially towards executive power. Moreover, I determine if the term is applied to US actors. In other words, I determined if agency was assigned to American actors.<sup>18</sup> Related, I looked at the *New York Times* pictorial representation of Abu Ghraib. I accounted for the total

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<sup>15</sup> For example, “Sen. Richard J. Durbin (D-Ill.) said at a May 12 hearing that some of those techniques went ‘far beyond the Geneva Conventions.’ Defense Secretary Donald H. Rumsfeld countered that they all had been approved by Pentagon lawyers” (Higham, Stephens, and White, 2004).

<sup>16</sup> For example, “Under the 1949 Geneva Conventions, detainees of any description are entitled to humane treatment” (Willing, 2004). Please note that the article is the unit of analysis so if an item contains five passing references to international law and one explicit reference to international law, then the item is coded as explicit reference.

<sup>17</sup> Bennett, Lawrence, and Livingston (2007) found that the label “torture” appeared most prominently in the initial two weeks of the Abu Ghraib story breaking (p. 95).

<sup>18</sup> American actors/groups making denials of torture are counted as not applied to US. For example, “The CIA has told Congress that it does not engage in torture as a tactic of interrogation” (Priest and Stephens, 2004).

number of featured photos, how many of them were torture-related, and if any of the numerous photos of torture made the front-page of the news.

As in the previous chapter, I also coded every source in the news items to determine who is influencing the framing of coverage. One difference, however, is that Abu Ghraib also represents an event-driven story. In an age where everyone is seemingly a journalist due to advancements in portable technology and the blogosphere, stories have the potential to be defined beyond the traditional confines of an elite consensus (Livingston and Bennett, 2003). In other words, the Bush administration and other political elites did not have complete control over the story. (Although CBS did sit on the story for two weeks at the request of the military). Thus, the sensational photographs that accompanied the allegations make it possible that the news frames were more critical during the initial outbreak of the story as administration officials and other political elites were unable to define the event as it unfolded.

Despite the changes in technology and the rise in event-driven news, previous research finds that official elite sources are still central to reporting (Livingston and Bennett, 2003). Bennett, Lawrence, and Livingston (2007) find that this rule also applies to coverage of Abu Ghraib. However, their findings are based on the use of the term “torture” rather than looking at the type of sources that were featured in the news. In this sense, they do not consider if the source pool opened up as Abu Ghraib unfolded. This chapter will look at the most frequently used sources during the first two weeks of coverage. Regardless, coding sources will help determine if Abu Ghraib supports previous literature or is an exception to the rule of event-driven news.

## Findings and Discussion

As Table 3.1 shows, coverage yielded 402 news items and the three papers quoted a total of 3,187 sources throughout the month-long period of analysis. I identified 44 different sources ranging from President Bush to Oprah Winfrey though the majority of quotes came from authoritative “official” sources like the president, members of Congress, and military officials. The leaked Taguba Report was quoted extensively. The report was quoted 151 times and accounted for five percent of the total amount of the sources. In fact, the report was quoted more times than President Bush in all three papers.<sup>19</sup> Additionally, the report helped set the tone for the coverage. Taguba was not allowed to investigate any person higher ranking than him, thus, ensuring that top military and civilian command would be shielded from inquiry. What is more, violations of international law were referenced but not central to the report.

**Table 3.1: Abu Ghraib Distribution**

	Articles	Editorials	Total News Items	Total Sources
<i>NYT</i>	125	31	156	1,376
<i>USA</i>	53	14	67	372
<i>WPost</i>	135	44	179	1,439
<b>Total</b>	<b>313</b>	<b>89</b>	<b>402</b>	<b>3,187</b>

According to Tables 3.2 – 3.4, administration sources fared better than congressional sources.<sup>20</sup> However, the disparities between the two branches were not as staggering compared to the findings in the previous chapter. President Bush was quoted 118 times or four percent of the total during the month-long coverage. Adding top

<sup>19</sup> Report vs. Bush: *NYT* - 66 to 57; *USA* 15 to 13; *WPost* 70 to 48.

<sup>20</sup> The difference is significant at  $p < .01$  level (2-tailed),  $n=402$ ,  $t$  value: 2.63.

advisors, department secretaries, deputies, and White House officials, the Bush administration accounted for 488 of the quotes or 15 percent of the total. Combined, the president and his administration ranked among the top resource for quotes during the first month of coverage.

**Table 3.2: Bush administration Sources – Abu Ghraib**

	<b>President Bush</b>	<b>Bush Administration</b>	<b>Total</b>
<i>NYT</i>	57	127	184
<i>USA</i>	13	41	54
<i>WPost</i>	48	202	250
<b>Total</b>	<b>118 (4%)</b>	<b>370 (12%)</b>	<b>488 (15%)</b>

(% of total sources, n=3,187)

**Table 3.3: Congressional Sources – Abu Ghraib**

	<b>House of Representatives</b>	<b>Senate</b>	<b>Total</b>
<i>NYT</i>	16	100	116
<i>USA</i>	6	42	48
<i>WPost</i>	40	127	167
<b>Total</b>	<b>62 (2%)</b>	<b>269 (8%)*</b>	<b>331 (10%)</b>

(% of total sources, n=3,187)

\*Difference between House and Senate sources significant at p<.001 level (2-tailed), t value: -5.51.

**Table 3.4: Abu Ghraib Source Dominance**

	<b>Admn Only items</b>	<b>Con Only Items</b>	<b>Admn First Quote</b>	<b>Con First Quote</b>
<i>NYT</i>	9	2	32	11
<i>USA</i>	6	3	18	6
<i>WPost</i>	9	7	38	18
<b>Total</b>	<b>24 (6%)</b>	<b>12 (3%)*</b>	<b>88 (22%)</b>	<b>35 (9%)**</b>

Note: Since he was acting in the capacity of the Democratic presidential candidate, Senator John Kerry was excluded from the Congress count.

(% of total items, n=402)

\*p<.05 level (2-tailed), t value: 2.01

\*\*p<.001 level (2-tailed), t value: 5.19



Congress accounted for ten percent of the total with 331 quotes. While it is not more than the administration at large, congressional quotes more than doubled that of President Bush's total. The Senate alone had more quotes than the president. As usual, the Senate overshadowed House sources, 269 and 62, respectively. The prominence of congressional sources may indicate that coverage will be critical. However, as I will discuss below, this is not the case.

There were more administration-only items than Congress-only items, 24 and 12, respectively. The administration more than doubled in first-quote items compared to Congress, 88 to 35. However, the administration's first quote tally is somewhat misleading because many came from critical editorials that quote the administration as a set-up for criticism.

Excluding the administration, the military command was quoted the most frequently in all three papers with 446 quotes or 14 percent of the total.<sup>21</sup> An examination of the top five most used sources confirm what many scholars have documented in previous research: the homogeneity among national news (Cook, 1998; Entman, 2006; Sparrow, 1999). The institutional norms of journalism result in a predictability of content and sources. The top five sources account for nearly half of the total amount of quotes (49%). As Table 3.5 demonstrates, three of the top five sources are the same across the three dailies. They include military command, the Senate, and the administration. The other frequent sources were shared by two of the three papers. The *USA Today* stood alone for having academics among its top five sources.

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<sup>21</sup> Military command is coded as a single group. Suspects and their lawyers, friends, and family combined were quoted more than military command, accounting for 18 percent of the total.

Those that are absent from the top five is more telling and shows a lack of initiative for enterprising journalism. International law and human rights groups like the Red Cross, Amnesty International, and Human Rights Watch, among others were easily accessible and would have been appropriate to frame the coverage. The United Nations would also have been relevant to this coverage. Though they were among the top five in the *USA Today*, academics, especially political science and constitutional scholars, should have been a more frequent source. It is noteworthy, however, that a chamber of Congress was cited more than the president.

As for the theory of event-driven news, the source pool did not open up significantly for non-elites. As Table 3.6 shows, during the first two weeks of coverage victims, suspects, and Iraqi civilians were among the top five sources. Two of these three groups are central to the coverage so it makes sense that they would be included. Of course, the three papers could have ignored these non-elite groups so it is significant that there were included. However, the administration overshadowed most of the other sources.

**Table 3.5: Abu Ghraib Top Five Sources**

	<i>NYT</i>	<i>USA</i>	<i>WPost</i>
Military command	1	1	1
Senate	4-t	3	4
Suspects	2		2
Academics		4	
Taguba Report		5	
Sus. Lawyer/Family	3	2	3
Victims	4-t		5
<i>Administration</i>	2	1	1

**Table 3.6: Top Five Sources during First Two Weeks of Coverage**

<i>Top 5 Sources during First Week</i> (rank)			
	<i>NYT</i>	<i>WPost</i>	<i>USA</i>
Sus. Lawyer/Family		1	
Military Command	2	2	3
Taguba Report	3	3	
Victims	1	4	
Senate		5-t	4
State Department		5-t	
Kerry			1
Bush			2
Iraqi civilians			5
Media	4		
Suspects	5		
<i>Administration</i>	<i>5</i>	<i>2</i>	<i>1</i>
<i>Top 5 Sources during Second week</i> (rank)			
	<i>NYT</i>	<i>WPost</i>	<i>USA</i>
Senate	1	1	2-t
Military Command	2-t	2	2-t
Sus. Lawyer/Family		3	1-t
Rumsfeld		4	
Suspect	2-t	5	
Academic			1-t
US civilians			3-t
Former military			3-t
Victims	4		
<i>Administration</i>	<i>1</i>	<i>1</i>	<i>2</i>

## Executive Power

President Harry Truman famously said that the buck stops with the president, but coverage of Abu Ghraib tells a different story. The unitary executive in particular and presidential power more generally were not subject to intense scrutiny during this period of coverage. Seventy-five percent of the news items (303/402) failed to provide any substantive critique of executive power. Despite policies setting the condition for torture and evading international law being crafted at the highest levels of the administration, the three major papers did not highlight the problematic of direct presidential action central to coverage.

The first editorial from the *New York Times* (“Abuse at Abu Ghraib”, 2004) is emblematic of the subsequent coverage by not raising issues of unchecked executive power. Instead, it uses President Bush as the traditional ceremonial head of state by stating that “President Bush spoke for all Americans of conscience” by denouncing the abuses shown the leaked photographs. Moreover, without any evidence, it parroted the administration’s preferred narrative of a few bad apples by declaring that the president “rightly observed that the behavior of a few soldiers did not reflect the values of most troops or the American people.” The final line pays lip service to the fact that the soldiers being charged with crimes were probably scapegoats for their superiors and urged Bush to conduct a thorough investigation of the military command.

Related to this type of coverage is a May 4<sup>th</sup> item from the *Times* including a chart titled (assumably without any irony) “Blurring Lines in Chain of Command” showing “the chain of command at the time of the abuses” (Shanker and Filkins, 2004). The problem, however, is that it only identifies the military command, rather than the higher civilian authority like the president and top officials at the Pentagon. According to the *Times*, the chain of command started with General Abizaid instead of President Bush and Secretary Rumsfeld. This is an important oversight because top military commanders take their orders from President Bush and Secretary Rumsfeld; the latter are designing the policies to be executed by the former.

As evidenced by Table 3.7, presidential power was not entirely absent as one-fourth of the news items highlighted the troubling aspects of the Bush administration’s exercise of executive power. Though not frequent, the papers provided some excellent and stinging critiques of the Bush administration and executive power. However, the

unitary executive was only implicit in the coverage.<sup>22</sup> Table 3.7 also shows many critiques of executive power were found in the op/ed pages of the papers, where the norms of objectivity do not apply (Entman, 2004; Bennett, Lawrence, and Livingston, 2007). A little more than half (52%) of the editorial items contained critiques of executive power whereas just 17 percent of the news section had presidential power counterframes.

According to Table 3.8, the most common counterframe to the unitary executive was the administration's disdain for international law and human rights. The administration was derided for setting aside international humanitarian protocols for the war on terror and the Iraq War, during a time when these conventions were needed the most. Many of the editorials rightly did not hold back. For example, a *Post* editorial provided context for the events that unfolded at Abu Ghraib and incorporating another common critique: the Bush administration set the conditions for torture.

The foundation for the crimes at Abu Ghraib was laid out more than two years ago, when Mr. Rumsfeld instituted a system of holding detainees from Afghanistan not only incommunicado, without charge, and without legal process, but without any meaningful oversight mechanism at all. Brushing off this violation of the Geneva Conventions, Mr. Rumsfeld maintained that the system was necessary to extract important intelligence. But it was also an invitation to abuses – and reports of those abuses have been appearing since at least December 2002, when a *Post* story reported on harsh 'stress and duress' interrogation techniques bordering on physical torture ("A System of Abuse", 2004).

**Table 3.7: Abu Ghraib News Items with Critiques of Executive Power (EP)**

	Items w/ Critiques of EP	Articles	Op/eds
<i>NYT</i>	36	16	20
<i>USA</i>	15	10	5
<i>WPost</i>	48	27	21
<b>Total</b>	<b>99 (25%)</b>	<b>53 (17%)</b>	<b>46 (52%)</b>

(% of total items, n=402)

<sup>22</sup> For example, a ProQuest search during this month-long period of analysis in the *New York Times* for "unitary executive" and variations thereof yielded no articles.

Anthony Lewis, writing in the *New York Times*, chastised the Bush administration for advocating “a culture of low regard for the law, of respecting the law only when it is convenient” (Lewis, 2004). “Again and again,” Lewis charged, “President Bush has made clear his view that law must bend to what he regards as necessity.” The president’s definition of national security “trumps our commitment to international law.” And at home, according to Lewis, “The Constitution must yield to novel infringements on American freedom.” Harkening back to Justice Louis Brandeis’s famous warning about the contagiousness of crime, Lewis asserted that the administration’s contempt for the law “invites every man to become a law unto himself.”

**Table 3.8:** *Types of Critiques of Executive Power – Abu Ghraib*

	<i>NYT</i>	<i>USA</i>	<i>WPOST</i>	<b>TOTAL</b>
<b>Disdain for Int. Law &amp; Human Rights</b>	8	2	22	<b>32</b>
<b>Checks and Balances</b>	7	6	13	<b>26</b>
<b>Fallout from Abu Ghraib</b>	11	4	10	<b>25</b>
<b>Torture</b>	8	3	14	<b>25</b>
<b>Poor planning</b>	12	4	9	<b>25</b>
<b>Anti-Rule of Law</b>	5	0	5	<b>10</b>
<b>Ignored warnings of torture</b>	4	2	3	<b>9</b>
<b>No Apology</b>	2	0	4	<b>6</b>
<b>Other</b>	2	0	0	<b>2</b>
<b>Total</b>	<b>59</b>	<b>21</b>	<b>80</b>	<b>160</b>

The papers also held President Bush accountable for Abu Ghraib by ignoring pleas from human rights groups to investigate the mistreatment of detainees. According to a *New York Times* masthead editorial:

President Bush said he had been kept in the dark about the pictures of the Abu Ghraib abuse until they were broadcast on CBS last week. But if Mr. Bush was unaware, it was only of the fact that there were pictures. We now know that he and senior administration officials were told months ago of concerns about the severe mistreatment of detainees in Iraq. The administration has shown little interest in addressing these problems, and there has been little political will elsewhere to pressure the Pentagon to clean up its act. That must now change (“The Military Archipelago”, 2004).

The second most frequent criticism was the undermining of checks and balances in a system of separated powers. The Bush administration was derided by the media for not sharing information with Congress. This critique was targeted at Rumsfeld in particular for failing to inform Congress about Abu Ghraib. “With the administration’s familiar disdain for public disclosure,” as a *New York Times* masthead editorial put it, “the Pentagon did not share the report with Congress until it was forced to do so...” (“The Torture Photos”, 2004). However, the majority of the time this critique was raised was in the context of the scandal about the scandal. In other words, members of Congress were scandalized that a scandal was hidden from them but they had no intention of substantively dealing with the substance of the scandal. It was also related to another critique of executive power; the inability to handle the fallout from the scandal. A paragraph from a *Washington Post* item encapsulates these two related critiques.

Rumsfeld’s testimony marked a personal struggle to salvage his job and retain the confidence of a Congress upset that he neglected to give it advance notice of the photographs and an internal Army investigation before many of the pictures and findings were unearthed by news organizations. The Pentagon leader’s dramatic appearance on Capitol Hill also came as part of a larger administration drive to quell the uproar (Graham, 2004).

Other frequent condemnations included the administration’s poor planning of the Iraq War in general. Despite these strong critiques of the Bush administration, they were infrequent throughout the month-long period of coverage and failed to sustain frequent and salient counterframes. The careful reader would find, to use Entman’s term (2004),

“scattered morsels” of counterframes but the overwhelming majority of items did not make the prerogative powers of the presidency a central feature of coverage.

### **International law and Human Rights Frames**

It is plausible to contend that the events at Abu Ghraib violated established norms of human rights and international law. However, Table 3.9 demonstrates that 224 of the 402 news items made no reference to international law and human rights. More than half of the articles (56%) did not frame Abu Ghraib as a human rights issue. Moreover, international law received no mention in the majority of the articles.

**Table 3.9:** *Abu Ghraib International Law and Human Rights Frames*

	None*	Passing Reference	Explicit Reference
<i>NYT</i>	85	27	44
<i>USA</i>	37	15	15
<i>WPost</i>	102	30	47
<b>Total</b>	<b>224 (56%)</b>	<b>72 (18%)</b>	<b>106 (26%)</b>

\*Bush administration's preferred frame.  
(% of total items, n=402)

Less than half (44%) of the news items made passing or explicit references to human rights and international law. Just slightly more than one-quarter (26%) of the items made explicit references to international law and human rights. In other words, these articles provided context like explaining provisions of the Geneva Conventions. Less than a fifth (18%) of the pieces made passing references to international law and human rights. So while it is promising that this issue was given consideration in the major newspapers, it was not situated within proper context like explaining why international law and human rights were relevant to Abu Ghraib. This is not entirely surprising given that international law and human rights organizations accounted for just three percent of



the total number of sources with 111 quotes. These groups would have provided an authoritative account of the proper role of international law and the Bush administration's attempt at circumventing it.

**Table 3.10: Abu Ghraib Suspects and Victims Sources**

	Suspects	Sus. Family, etc	Victims	Vics. Family	Total
<i>NYT</i>	149	109	100	4	362
<i>USA</i>	12	43	11	1	67
<i>WPost</i>	145	130	77	5	357
<b>Total</b>		<b>588 (18%)</b>		<b>198 (6%)*</b>	<b>786 (25%)</b>

(% of total sources, n=3,187)

\*Difference between suspects and victims significant at p<.001 level (2-tailed), t value: -4.18.

Another factor dulling the human rights and international law frame, as Table 3.10 shows, is that the perpetrators and their lawyers, friends, and family were relied on nearly three times as much as compared to those who were being tortured. The suspects and their lawyers, family and friends were cited 588 times or 18 percent of the total whereas the victims and their families were used just 198 times. It should also be noted that the fact that victims were featured eliminates the argument that they were featured less because of the lack of access to them.

The term “war crimes” was mentioned 14 times in 12 of the 402 news items.<sup>23</sup> War crimes were barely featured throughout the pages of the top three national papers and the issue was rarely directed at President Bush or top administration officials. Furthermore, impeachment was referenced only five times throughout this period of analysis and not directed at President Bush.

<sup>23</sup> War crimes were uttered 17 times but three of them were in reference to the crimes of Saddam Hussein.

## Torture: US and Them

During the first thirty days of coverage, the word “torture” was uttered 359 times in the three national papers. However, torture as a term was explicitly applied to US actors and institutions on 129 or 36 percent of those occasions.<sup>24</sup> Knowingly or not, the agenda-setting papers constructed subtle but powerful barriers between the crimes designed and committed by American policymakers and the seeming more heinous crimes of others (see also Bennett, Lawrence, and Livingston, 2007). For example, the first article by the *Times* to document the allegations of torture provide detailed descriptions of the humiliating acts the detained Iraqis had to endure. Near the end of the column, the article provides context to the situation:

At the Abu Ghraib prison, where the photographs were taken, American forces have been holding hundreds of Iraqis since the American-led invasion of Iraq. The prison is infamous as a site where Saddam Hussein tortured prisoners while he was in power (Risen, 2004).

Another example comes from the *New York Times*’ first editorial. The editorial staff draws a line of demarcation, in the same sentence, by asserting that “[t]he *abuses* by Americans apparently occurred at the Abu Ghraib prison, a notorious center of *torture* and executions under Saddam Hussein” (“Abuses at Abu Ghraib”, 2004; emphasis mine). The subtly is powerful but telling: Americans only abuse, others torture. Moreover, it took the *New York Times* more than three weeks to refer to those who were subjected to torture as victims (Meyers, 2004). In most cases, they were described as detainees, Iraqis, criminals, or prisoners.

Even when the American media reported the reactions of the foreign media, there was a buffer between abuse and torture. For example, a May 5<sup>th</sup> piece from the *Times*

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<sup>24</sup> The difference between the use of the term torture and applying the term to American actors is significant at  $p < .001$  level (2-tailed),  $t$  value: 5.32.

summarized stories from various papers throughout the world. Three papers were highlighted in the news item – *Al Wafd*, an Egyptian paper, Paris’s *Le Monde*, and the London-based Arab paper, *Al Quds al Arabi*. All three papers used the term torture in their headlines to describe what occurred at Abu Ghraib. And yet, the *Times* caption read: “On a Baghdad street, papers carried front-page articles on the *abuse* of Iraqi prisoners by American guards” (MacFarquhar, 2004; emphasis mine).

Commentators also tried to minimize the significance of American transgressions by claiming that other countries are worse than us. As conservative *Post* columnist, Charles Krauthammer (2004), put it:

Let’s be clear. The things we have learned so far about Abu Ghraib are not, by far, the worst atrocities committed in war. Indeed, they pale in comparison with what Arab insurgents have done to captured Westerners, and what Saddam Hussein did to his own people.

On the same day, the *Post*’s “balance” to Krauthammer was David Ignatius (2004) who, while not dismissing the cruel torture at Abu Ghraib, simply wanted to note “that there are other Americans here.” Despite illegally invading and occupying another country, these “other Americans” are fighting the good fight. While admitting that there is “a darker side of the American character,” Ignatius prefers to highlight the “family snapshots that we Americans like to carry around in our mental wallets – showing a good and generous people who want to only help the world.”

In addition to the terminology, the visual representation of torture was misleading. The *New York Times* featured 129 photos or illustrations in their coverage of Abu Ghraib.<sup>25</sup> However, only 21 of those photos, or 16 percent of the total, showed pictures of torture at Abu Ghraib. Moreover, four of the 21 photos were on the front page of the *Times*. Most of the pictorial presentation featured the president, Secretary of Defense, or

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<sup>25</sup> Research databases do not archive photos from the *USA Today* and *Washington Post*.

the suspects (and their family members) directly involved in the torture. One picture shows the many facial and hand gestures of Donald Rumsfeld, instead of depicting the many stress positions he signed-off on.

### **Blame**

The findings from Table 3.11 reveal that the papers (and the political system) wanted some kind of accountability for what happened. Blame was assigned to at least one individual, group, or organization for what occurred at Abu Ghraib in the majority of news items. Only thirteen percent (54 out of 402) of the articles and editorials did not place blame on anyone for the transgressions at Abu Ghraib.

At first glance, it seems promising that nearly half (45%) of the news items explicitly held those in positions of power responsible for what transpired at Abu Ghraib. 180 of the 402 news items blamed President Bush, Secretary Rumsfeld, or military commanders for the torturing of innocent victims at Abu Ghraib. A closer look at the data, however, shows that this is a fleeting promise.

First, President Bush was implicated in just 26 of the 402 news items. In other words, a mere six percent of the items placed responsibility on Bush's hands for the torture at Abu Ghraib, providing further evidence that little consideration was given to the unilateral actions of the Bush administration. Harry Truman's old adage that the "buck stops" with the president rang hollow for the news media as the overwhelming majority of news items failed to implicate the Commander in Chief of the military. Secretary of Defense Donald Rumsfeld was also largely shielded from responsibility. Eight percent of the items blamed Rumsfeld for the transgressions at Abu Ghraib. This is

all the more surprising given that Rumsfeld publically accepted blame for what occurred at Abu Ghraib.

Thirty percent of the items went beyond the perpetrators directly involved by blaming higher-level authorities. Though “higher level” is a broad category including any ambiguous blame that implicated that torture was not a mere product a few bad apples, the overwhelming majority of the “higher level” items kept it within the confines of the leadership at Abu Ghraib. While nearly a third of the articles assigned responsibility at the command level, in most cases, they failed to directly implicate the civilian authorities and the top military brass. A typical “higher level” blame item included a statement from one of the suspect’s lawyers claiming that they were ordered to soften up the detainees and would not have done so unless ordered by their direct commanders. The bottom line is those who were responsible for crafting the policies were not held responsible.

Despite credible evidence to the contrary, the news media parroted the preferred frame of the Bush administration (and most of the political system). More than three-quarters (76%) of the items explicitly blamed a few bad apples. 305 of the 402 news pieces found that the responsibility was not systemic or a product of the unitary president but rather the result of a handful of rogue soldiers. It was typical to find an article that noted those being charged for the crimes but failed to inquire who ordered the soldiers to torture innocent civilians. It is difficult to provide and sustain counterframes of unilateral presidential power if the president is rarely considered the problem.<sup>26</sup>

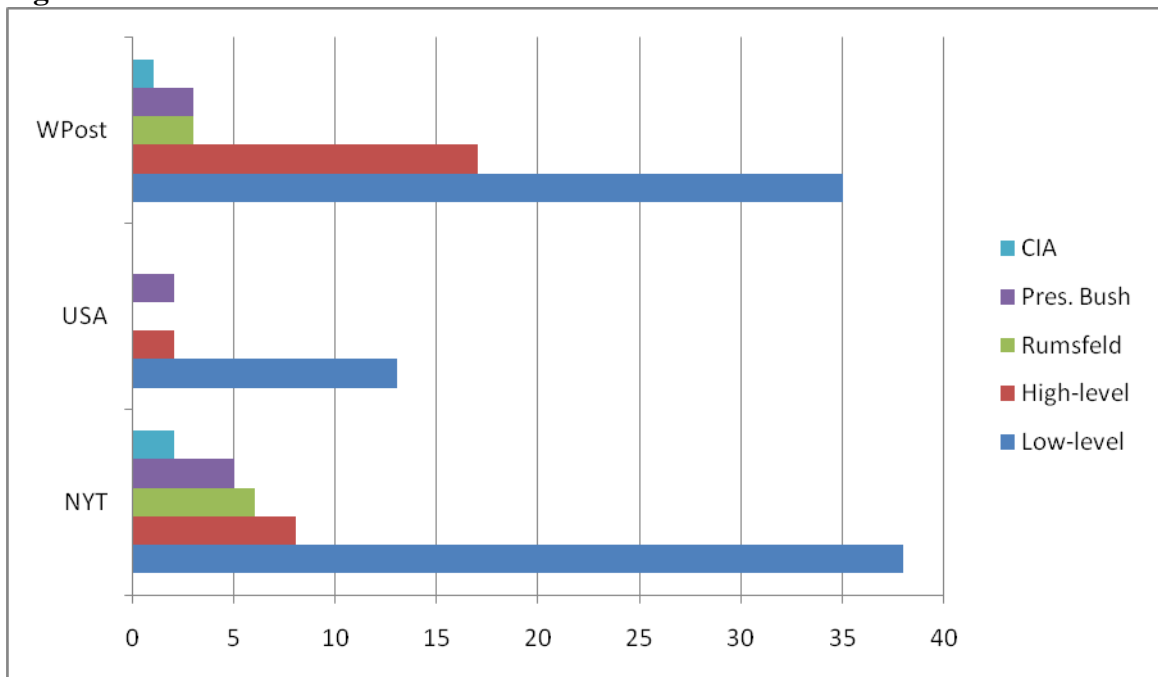
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<sup>26</sup> The CIA (10), British soldiers (6), Congress (4), FBI (1), Jordan (1), and Syria (1) were also blamed for torture.

**Table 3.11:** *Blame for Abu Ghraib*

	None	Pres. Bush	Rumsfeld	High-level	Low-level*	Other
<i>NYT</i>	22	10	15	44	120	14
<i>USA</i>	13	5	5	14	48	1
<i>WPost</i>	19	11	13	63	137	8
<b>Total</b>	<b>54 (10%)</b>	<b>26 (5%)</b>	<b>33 (6%)</b>	<b>121 (22%)</b>	<b>305 (57%)</b>	<b>23 (4%)</b>

\*Administration's preferred frame  
 (% of total blame count, n=562)

**Figure 3.1:** *First Blame*

Many of the articles and editorials did not hold just one group or individual responsible as the news would make multiple censures in one piece. However, the three papers framed the transgressions as the product of a single group or individual as only 34 percent of the articles (135/402) made multiple censures. According to Figure 3.A, the majority of the items attempted to simplify the situation by holding one group (low-level soldiers) or individual (President Bush) responsible for Abu Ghraib. Most of the pieces

failed to demonstrate that many levels of the political system were culpable for torture as a public policy. This included the Bush administration for establishing the policy, Congress for not exercising vigorous oversight, and the execution of torture policy by the CIA and top military command. Further examination shows that soldiers took the hit in items that assigned multiple blames. Of the 135 items that made multiple censures, 64 percent of them (86/135) blamed the low-level soldiers first. High-level command was given the first censure in 27 of the articles whereas Bush and Rumsfeld were first blamed in a combined 19 pieces.<sup>27</sup>

### **Game Framing Abu Ghraib**

Within the first week of coverage, the news resorted to its familiar “game frame” style of reporting (Lawrence, 2000b; Bennett, Lawrence, and Livingston, 2007). Highlighting the “game” of the event means the conversation centered less on the criminal and moral implications of torture as public policy and more on the political fortunes of Defense Secretary Rumsfeld in particular and the electoral fortunes of the Bush administration more generally. Much of the focus was on Rumsfeld but it often was in the context of the presidential election. For example, “Rumsfeld’s resignation would provide an opening to Sen. John Kerry (D-Mass.). [White House officials] said Bush’s popularity rests on his personal characteristics, including steadfastness and loyalty, and said that could be undermined if he abandoned Rumsfeld” (Allen and White, 2004).

The focus became whether or not Rumsfeld would resign. The counterframe that developed out of the game coverage was the call for Rumsfeld’s resignation. Rumsfeld’s resignation was championed mostly by Democrats and a few reluctant Republicans. To be clear, news coverage of demands that the Defense Secretary resigns is not entirely

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<sup>27</sup> The CIA was blamed first in three of the items.

unjust; it is a legitimate part of the reporting, especially since many policymakers in Washington were making this claim. The problem, however, is that the Rumsfeld resignation frame *consumed* coverage and, as a result, the substantive issue at hand – torture – was placed on the backburner.

Representative Tom Cole’s characterization of Abu Ghraib – the “Pearl Harbor of PR” – guided the game frame coverage (quoted in Dowd, 2004). The focus is on Rumsfeld and the Bush administration’s efforts at damage control and weathering the storm from the fallout; little priority is given to holding the perpetrators accountable, preventing another Abu Ghraib, and eliminating torture as a public policy. One sentence perfectly captures the game frame style of coverage and commentary: “It’s unclear whether embattled Secretary of Defense Donald H. Rumsfeld can weather the storm over treatment of Iraqi prisoners in Abu Ghraib prison” (Kamen, 2004). Thus, the focus is not on the morality or criminality of inflicting physical and psychological pain on another human being, but rather it is on whether one of the main architect’s of those policies will remain popular within the administration and keep his job. A sampling of headlines and sub-headlines during this period demonstrates the persistence of the game frame:

“Capitol Hill Sees the Flip Side of a Powerful Warrior”<sup>28</sup>

Rumsfeld’s time “absorbed” by abuse scandal; Defense secretary says he won’t quit as long as he is effective at his job<sup>29</sup>

Rumsfeld Is Too Valuable to Lose, Say Cheney, Rice<sup>30</sup>

Bush Lauds Rumsfeld For Doing “Superb Job”<sup>31</sup>

Criticism of Rumsfeld Intensifies, But President Says His Job Is Safe<sup>32</sup>

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<sup>28</sup> Von Drehle, 2004

<sup>29</sup> Diamond, 2004

<sup>30</sup> Allen and White, 2004

<sup>31</sup> Allen and Graham, 2004

<sup>32</sup> Graham and Von Drehle, 2004



Rumsfeld Preserves Bearing, But Weighs Ability to Serve<sup>33</sup>

Rumsfeld Faces Lawmakers; Questioning on prison scandal may be heated<sup>34</sup>

President Backs His Defense Chief In Show of Unity<sup>35</sup>

[Rumsfeld] Tells Congress He Won't Quit Just to Quell Political Furor<sup>36</sup>

Lawmakers Split on Rumsfeld Resignation<sup>37</sup>

Rather than focusing on the appropriate punishment for Rumsfeld, op/ed columnist Al Kamen (2004) took the game frame to the extreme end of the spectrum by speculating on Rumsfeld's potential replacements. Kamen asserted that one possible pick would be Rumsfeld's deputy, Paul Wolfowitz, to take over as interim director and "that has the virtue of avoiding a Senate confirmation fight until after Election Day." "The greatest political coup," according to Kamen, "would be to induce Sen. John McCain (R-Ariz.) to take the job." No mention that McCain was a victim of torture; instead, it is the "greatest political coup" because the Bush administration hates McCain. Secretary of State Colin Powell was also a consideration for Kamen but he is quickly dismissed because "there's a 'too cute' factor at work there." The amazing part to all of this is that the game frame has become normalized in political commentary that one of the prestigious national papers dedicated ink and column space to allow a columnist to discuss unfounded theories on an issue of little consequence.

In a column titled, "A World of Hurt," Maureen Dowd (2004), one of the seeming liberal columnists for the *Times*, weighed in on whether Rumsfeld could weather the storm. The title had nothing to do with the hurt and pain inflicted on innocent Iraqis, instead it was a line taken from Senator Lindsey Graham during a committee hearing on

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<sup>33</sup> Bumiller, 2004

<sup>34</sup> Drinkard, Moniz, and Diamond, 2004

<sup>35</sup> Stevenson and Hulse, 2004

<sup>36</sup> Shanker and Schmitt, 2004

<sup>37</sup> Smith, 2004

what Abu Ghraib was doing to America. According to Dowd, Rumsfeld is “a black belt at Washington infighting” and he “knew the aggrieved lawmakers were most interested in an apology for not keeping them in the loop.”

Despite the calls for his dismissal, all was right in the world because one anonymous White House official said that Secretary Rumsfeld was “rock solid” with the president (Allen and White, 2004). Still, according to Senator John Cornyn (R-Texas), Rumsfeld was “feeling frustrated that all of his time was being absorbed” by the scandal. “This is all I’m doing,” Rumsfeld allegedly complained to a group of Republican senators (Diamond, 2004). Rumsfeld “stopped reading newspapers” to deal with the scandal. He told a group of troops during a visit to Iraq, “You’ve got to keep your sanity somehow. I’m a survivor.” (White, May 14 2004).

### **Negative but Not Critical: A Broken Political System**

Though the Bush administration and nearly every political actor inside of Washington would have preferred that news ignored the story, the media rarely were critical of the policy at hand. To be sure, coverage was negative but not *critical*, that is, it focused on the superficial aspects of the event rather than the substantive elements. Moreover, this is also an indictment of the political system as the failures of the press usually are a product of a broken political system because the news media is a reflecting the sentiments of the Beltway (Bennett, Lawrence, and Livingston, 2007).

During periods of unified government, oversight is less important as the majority party will act more like foot soldiers for the president’s programmatic agenda rather than an independent and co-equal branch of government (Mann and Ornstein, 2006; Ornstein and Mann, 2006; Howell and Pevehouse, 2007a; Howell and Pevehouse, 2007b). Bush

enjoyed unified government for six of his eight years as president. Abu Ghraib coincided with a Republican-controlled Congress, so oversight was not high on the agenda as it was frowned upon to highlight a situation that would put the president and his party in a bad light. For the few Republicans who felt that investigations were necessary, like Senator John Warner (R-Va.), they faced pressure from their colleagues to back-off because it was embarrassing to the administration. At one point, Warner's chairmanship of the Senate Armed Services Committee was threatened to be stripped by his Republican colleagues if he kept pursuing oversight hearings (Mahler, 2008). Senator Lindsey Graham (R-SC) believed that the Bush administration "came up with a pretty aggressive, bordering on bizarre, theory of inherent authority that had no boundaries." He added, "As they saw it, the other two branches of government were basically neutered in the time of war" (quoted in Mahler, 2008). Despite their misgivings, they ultimately caved to the administration's demands. Though a series of committee hearings were held during the month of May, it was mostly for show and process rather than substance.<sup>38</sup>

One senator in particular exemplified this lack of concern for oversight: Senator James Inhofe of Oklahoma. During an oversight hearing that was spurred on by the fallout from Abu Ghraib, Inhofe proclaimed to speak for many on the committee that were "more outraged by the outrage than...by the treatment" (Shapiro, 2004). Regardless of the fact that the overwhelming majority of the detainees were innocent, he viewed them as "murderers...terrorists...insurgents." Inhofe asserted that "Many of them probably have American blood on their hands." And for this reason, Inhofe could not contemplate why Congress and the media are "so concerned about the treatment of those

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<sup>38</sup> Committee hearings during the 108<sup>th</sup> Congress included the Senate Armed Services Committee, Senate Select Committee on Intelligence, Senate Foreign Relations Committee, House Select Committee on Intelligence, and House Armed Services Committee.

individuals.” Inhofe was most angered at the “many humanitarian do-gooders right now crawling all over these prisons, looking for human-rights violations, while our troops, our heroes, are fighting and dying.”

Like their Republican counterparts, many Democrats were not too interested in holding the administration accountable as evidenced by John Kerry, Massachusetts junior Senator and 2004 Democratic presidential candidate. A *Washington Post* article from two weeks after the scandal became public captured the problem.

Since the pictures of the abused prisoners were plastered on television screens worldwide, Kerry has carefully avoided talking about the issue, for the most part. The candidate has held only one news conference in the past 3 1/2 weeks, in part to limit questions about Iraq. On Tuesday, he brushed aside several questions about the prisoners. (VandeHei, 2004)

Part of Kerry’s media-avoidance strategy was to deny Republicans and the Bush administration the chance to paint him as an anti-war candidate who did not support the troops. The strategy failed as the Republican Party pounced on Kerry the moment he publically discussed Abu Ghraib. In fact, Kerry and his presidential campaign staff were quoted just 60 times throughout the first month of coverage. Kerry kept his focus on health care reform during this period and, in effect, denied the news media and the public an authoritative oppositional source to provide a counterframe to the Bush administration. Kerry even distanced himself from some Democrats like Senator Ted Kennedy who were, in Kerry’s eyes, too critical of the administration.

## **Conclusion**

Days following the September 11<sup>th</sup> terrorist attacks, long-time CIA counterterrorism official, Cofer Black, proudly proclaimed that the “gloves off” policies being crafted by the Bush administration would have consequences, “We’ll all probably be prosecuted” he allegedly said (Mayer, 2008, p. 41). The analysis of this chapter shows

that Black was both literally and figuratively wrong. Top-level Bush administration officials were not prosecuted in the court of law or in the court of public opinion. If the news media is supposed to, as the oft-quoted maxim goes, “afflict the comfortable and comfort the afflicted,” then that fell on deaf ears for the major media organizations reviewed in this chapter.

Reflecting on news coverage of Abu Ghraib, journalist James Risen asserted that President Bush “was an absent figure.” Risen adds, “It was as if the interrogation policies were developed in a presidential vacuum” (2006, p. 24). The absence of the prerogative executive was one of the critical failures of the news media. Overall, coverage failed to scrutinize the unitary executive and the media did not provide frequent and sustainable counterframes to the Bush administration’s framing of Abu Ghraib. The unilateral powers of the president were not front and central to coverage. The media largely accepted the claim that torture at Abu Ghraib was the result of a few rotten apples. International law and human rights failed to be a prominent frame in the majority of the news items. While the reporting was negative, it was not critical of unilateral presidential power. This case is yet another example of the media allowing presidents to hide in plain sight.

Yet coverage was not entirely the fault of the news media. As the previous chapters contend, news frames largely reflect the political system’s indifference (or timidity) to unilateral presidential power, especially during times of war. With the Democrats in the minority in Congress, the Republicans not wanting to embarrass the party or the president, and the Democratic presidential nominee censoring himself over this issue, the news media was denied legitimate and authoritative voices to activate sustainable counterframes. In the op/ed section where objectivity is not the norm, the

papers were more likely to be critical of the executive power exercised by the Bush administration. However, in light of an abundance of evidence to warrant it, just a slight majority of the editorial's featured counterframes. This shows that the editorial boards of the establishment press are taking cues from the political system.

In light of this evidence, it is odd that Defense Secretary Rumsfeld "stopped reading newspapers" as he and his boss were shielded from most of the blame. It appears that the abundance of criminality did not lead to outrage or accountability but to, as Pious (2007b) put it, "a lowering of expectations, a numbing of the public to revelations of lawbreaking, and a renormalization downward about the expectation of governmental adherence to the rule of law" (p. 90). In the end, the political system and the news media adhered to President Nixon's maxim that the criminal actions of the executive are never illegal.

## Chapter IV

### Unilateralism, Tortured: The McCain Amendment and Signing Statements

*...he shall take Care that the Laws be faithfully executed*

- Article II, US Constitution

This chapter looks at coverage of the debate surrounding McCain's Anti-Torture Amendment and the signing statement used by the Bush administration to eviscerate that amendment. This period of analysis is unique for a number of reasons. First, it stands out as being the first time for many Americans that the term "signing statement" enters the public sphere. Second, the floodgates of criticism opened up during this period. The culmination of torture at Abu Ghraib, secret prisons throughout the world<sup>1</sup>, domestic spying, extraordinary rendition, setting aside the Geneva Conventions, indefinite detention at Guantanamo Bay without judicial review, and general uneasiness about the Iraq War prompted the political system to pushback against the robust, expansive presidential power of the Bush administration. In contrast to Abu Ghraib, politicians were not timid about expressing their reservations and frustrations about Bush administration policies. The news media responded in kind as authoritative, oppositional voices opened up during this period. This was all the more dramatic because many of those oppositional sources were from President Bush's party. While most of this dissertation, and political communication research for that matter, illustrates "when the press fails" (Bennett, Lawrence, and Livingston, 2007), this chapter demonstrates that the media has the capacity to succeed.

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<sup>1</sup> Dana Priest and colleagues exposed American black sites all throughout the world in a series of reports that started in 2004 (Priest and Stephens, 2004). Strangely, it did not become a political priority until 2005 with her follow-up piece exposing some of the countries involved in the black site system.

This time the news media did not adhere to the Bush administration's preferred framing of the McCain Amendment. Instead, the three papers provided coherent and salient counterframes for its readers that were independent of the administration. The president, however, got the last laugh because the media and the political system went back to its comfort zone of deference to the unitary executive as the issuance of the signing statement did not merit a great deal of coverage. Regardless, this chapter is a noteworthy exception to the rule of covering presidential unilateral powers.

### **McCain Amendment: Background**

More than a year following the scandal at Abu Ghraib, Senator John McCain (R-AZ.), along with co-sponsors Sens. Warner (R-VA.) and Graham (R-SC.), introduced an amendment to a defense appropriations bill that banned torture.<sup>2</sup> The amendment reads: "No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment." It also reestablished the US Army Field Manual on Intelligence Interrogation as the binding authority for all soldiers. For Senator McCain, the amendment was "pretty simple and straight-forward." While collecting intelligence is "obvious," McCain asserted on the Senate floor, that "the intelligence we collect must be reliable and acquired humanely, under clear standards understood by all our fighting men and women." "To do differently," he argued, "would not only offend our values as Americans but undermine our war effort, because abuse of prisoners harms, not helps, in the war on terror" (Congressional Record, 2005).

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<sup>2</sup> The appropriations bill was titled: Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006. McCain's amendment would be cited as "Title X" in the appropriations bill.



Senate Majority Leader Bill Frist, at the request of the Bush administration, pulled the defense bill off the floor in order to avoid embarrassing the president and the party. President Bush threatened that he would invoke his veto power if the amendment was included in the bill, the first time in his presidency. The administration and the Republican Congress also risked carrying the burden of not passing a National Defense Authorization Act for the first time in 45 years (White and Babington, 2005). McCain reintroduced the amendment in October of 2005 and in a stunning rebuke to the Bush administration, the Senate approved the amendment 90-9, with 46 of 55 Senate Republicans voting in favor.

The McCain Amendment was not the only bill that President Bush found distasteful. There were also other pieces of legislation that were confronting the policies of the Bush administration. For example, there was a proposal that called for a 9/11-like commission to investigate the crimes at Abu Ghraib and other prison sites throughout the globe. Another bill prohibited any funds that would encourage torture. A sordid bill, sponsored by Senator Graham, allowed coerced testimony into judicial hearings, a first for Congress (Pious, 2007). The bill also limited cases that could be heard by the judiciary.

At first, the Bush administration tried to kill the McCain Amendment by threatening to veto the defense bill. When that failed, the administration sought exemptions from the amendment, specifically for the CIA. The negotiations were first led by Vice President Cheney and then by National Security Advisor Stephen Hadley. Finally, the administration tried to get the House from keeping the amendment out of conference committee negotiations (McCain's amendment was not in the House bill). All

were failed attempts as McCain and the rest of Congress stiffened their stance against the president. In addition, McCain assembled written support for the amendment from high-ranking, retired military officials, including Colin Powell. After months of futile negotiations between the White House and McCain, the administration finally caved in to accepting the amendment. The bill was signed on December 30, 2005.

Then, on the same day that evening, President Bush quietly issued a signing statement for the defense appropriations bill. The section pertaining to the McCain Amendment reads:

The executive branch shall construe Title X [the McCain Amendment] in Division A of the Act, relating to detainees, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judicial power, which will assist in achieving the shared objective of the Congress and the President, evidenced in Title X, of protecting the American people from further terrorist attacks (Bush, 2005).

In laymen's terms, the Bush administration declared that they will keep torturing people if they deem it necessary for the national security of the United States. In doing so, President Bush nullified the months and months of work, energy, and negotiations on the part of Senator McCain as well as the legislative intent of Congress.<sup>3</sup> A senior administration official told the *Boston Globe* that the president was reserving the right to ignore the statute on the grounds of national security. As the official put it:

Of course the president has the obligation to follow this law, [but] he also has the obligation to defend and protect the country as the commander in chief, and he will have to square those two responsibilities in each case...We are not expecting that those two responsibilities will come into conflict, but it's possible that they will (Savage, 2006a).

### **Signing Statement**

The Congressional Research Service defines signing statements as the following:

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<sup>3</sup> The signing statement's reference to judicial power is a response to another amendment that was attached to the defense appropriations bill. This amendment, sponsored by Sens. Graham and Levin (D-Mi.), sought to restrict the court filings of Guantanamo Bay prisoners' to one review of their enemy combatant status. The amendment, however, only applied to future cases, not pending ones. The Bush administration, according to the signing statement, interpreted the amendment as applying to all cases (see White, 2006).

Presidential signing statements are official pronouncements issued by the President contemporaneously to the signing of a bill into law that, in addition to commenting on the law generally, have been used to forward the President's interpretation of the statutory language; to assert constitutional objections to the provisions contained therein; and, concordantly, to announce that the provisions of the law will be administered in a manner that comports with the Administration's conception of the President's constitutional prerogatives (Halstead, 2007, p. 1).

Signing statements are written commentaries issued by presidents at the signing of a bill.

Most signing statements are benign, serving as rhetorical victory laps or admonishments to opponents of the bill. The more substantive, political statements can influence the implementation, trajectory, and enforcement of the law.<sup>4</sup> Political and constitutional signing statements provide the president's interpretation of the law and instruct executive branch officials on the proper implementation of the law, regardless of congressional intent.

Signing statements defy our civics class understanding of the process of making legislation. These statements are politically provocative because they essentially serve as a mechanism to line-item veto bills while denying Congress its constitutional prerogative to override a presidential veto (Cooper, 2002; 2005). The American Bar Association has dismissed signing statements as "contrary to the rule of law and our constitutional separation of powers" (ABA, 2006, p. 5).

The Reagan administration is credited with modernizing the signing statement into a substantive political tool (Cooper, 2002, 2005; Kelley, 2006, 2007; Halstead, 2007). According to Kelley (2007), "It was the Reagan administration that began to use the signing statement, among other devices, in a strategic manner to protect the prerogatives of the presidency or to advance administration policy preferences" (p. 739).

The administration also wanted to use it to influence the judiciary. Reagan's attorney

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<sup>4</sup> Kelley (2006) distinguishes signing statements into three categories 1) rhetorical 2) constitutional and 3) political. The focus of this chapter is on the later two types of signing statements.

general, Edwin Meese, wanted “to make sure that judges knew what the president’s understanding of the law was, and not just Congress” (Kelley, 2007, p. 741).

Samuel Alito, then deputy assistant attorney general in the OLC, wrote in a memorandum that the “primary objective is to ensure that presidential signing statements assume their rightful place in the interpretation of legislation” as a way to “increase the power of the executive to shape the law” (Liptak, 2006, p. A11). Moreover, “the president’s understanding of a bill should be just as important as that of Congress” (Lane, 2006, p. A14). Alito anticipated that “Congress is likely to resent the fact that the president will get in the last word on questions of interpretation” (Lee, 2006, p. A11).

Like most unilateral powers of the presidency, signing statements are not explicitly recognized in the Constitution. Presidents, however, claim that signing statements are inherently based in the Constitution as an extension of the “Take Care” and “Oath” clauses of Article II (Halstead, 2007). Since presidents are obligated to take care that the laws of the land are faithfully executed while also swearing an oath to uphold the US Constitution, it follows that it is only permissible to implement legal and constitutional laws. Thus, it is the president’s prerogative and duty to ignore or selectively implement the laws passed by Congress.

Though the Reagan administration modernized it, signing statements have a rich tradition in American political development. President Monroe was the first to issue a signing statement, citing constitutional objections to a provision in a military appropriations bill that appointed military officers without the president’s input (Kelley, 2007). President Jackson and his successors would revive the act but it was rarely used and some presidents would later apologize for using it (Halstead, 2007). Since 1986,

signing statements are published as part of the legislative history section in the *US Code Congressional and Administrative News* as well as the President's *Public Papers* and *Weekly Compilation of Presidential Documents* (Kelley, 2007).

More recently, both Republican and Democratic presidents have made aggressive use of the signing statement. On average, presidents issue signing statements for 20 percent of the bills they sign into law (Kelley, 2007). President Reagan raised constitutional or political objections in 34 percent of his 250 signing statements. Nearly half (47%) of President George H.W. Bush's 228 signing statements challenged certain provisions signed into law. Although President Clinton issued close to 400 signing statements (381), the most among the five most recent presidents, only 18 percent of the statements raised political or constitutional objections. President George W. Bush issued 161 signing statements during his eight year in office with 78 percent of his signing statements challenging more than 1,000 provisions of laws. The Bush administration is historic for challenging the most laws than all past presidents combined (Halstead, 2007; Kelley, 2007).

In his analysis of Bush's first-term signing statements, Cooper (2005) finds that the administration's top two primary reasons for rejecting specific provisions were 1) "power to supervise the unitary executive" and 2) "exclusive power over foreign affairs" (p. 522). Furthermore, this is not "empty language," according to Cooper, instead it is "a serious effort to reinterpret the scope of executive power and the limits to congressional authority" (p. 531). As discussed in the previous chapter, the Bush administration was emphatic on expanding and protecting the powers of the executive branch. The Bush

administration viewed the McCain Amendment as an assault on its executive prerogatives, specifically in these two areas.

### **Research design**

The coverage period is the first day the amendment was introduced, July 24, 2005, through the end of January of 2006. The signing statement was issued at the end of 2005 but I allow for an extra month given the holiday season and the confirmation hearings of Samuel Alito, one of the architects of the giving signing statements some political muscle (Cooper, 2005). The coding protocol is the same as the previous chapter on Abu Ghraib.<sup>5</sup> Thus, critiques of executive power, international law and human rights frames, blame, torture, and sources are all coded. The only additional factor I code is whether or not the president's position is featured in the items. To put another way, I take into account if the media explains why the administration opposes McCain's amendment to the defense appropriations bill.

### **Analysis and Discussion**

This period of analysis is strikingly different compared to the Abu Ghraib coverage. For one, it did not result in as much coverage as Abu Ghraib. As Table 4.1 shows, the coverage yielded 105 news items, roughly a quarter of the items compared to the previous chapter. Another thing that stands out is that editorials account for nearly half of the news items which, as I will discuss below, contributes to a higher frequency of counterframes.

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<sup>5</sup> Search terms: "McCain", "McCain" AND "Amendment", "McCain" AND "Torture", "McCain" AND "Interrogation", "McCain" AND "Bush", "McCain" AND "Cheney", "Torture Amendment", "Anti-Torture Amendment". The most successful search term was "McCain" AND "Torture".

**Table 4.1: McCain Amendment Distribution**

	Articles	Editorials	Total News Items	Total Sources
<i>NYT</i>	25	16	41	249
<i>USA</i>	10	7	17	79
<i>WPost</i>	22	25	47	246
<b>Total</b>	<b>57</b>	<b>48</b>	<b>105</b>	<b>574</b>

I identified 36 different sources with a total of 574 quotes in the three papers. The legislative and executive branches of government accounted for 66 percent of the total amount of sources. President Bush has less than ten percent (9%) of all quotes. Adding his administration, the total increases to 29 percent of the total number of quotes. However, as Tables 4.2 and 4.3 demonstrate, there is a striking difference compared to the other chapters; this is the first time that congressional sources trumped the administration, 211 to 166. Congress accounted for 37 percent of the sources whereas the Bush administration made up less than 30 percent of the total amount.<sup>6</sup> Furthermore, as evidenced by Table 4.4, Congress had three times more news items that relied solely on them than the administration for quotes and Congress was able to set the frame of the news items more than the administration with first-quote items. Congress trumping the president serves as one indicator that coverage will not be the same compared to the previous chapters.

<sup>6</sup> However, the difference between Bush administration and Congress sources is not statistically significant. The difference between President Bush and the Senate is statistically significant at  $p < .01$  level (2-tailed),  $t$  value: -2.970.

**Table 4.2:** *Bush administration Sources – McCain Amendment*

	<b>President Bush</b>	<b>Bush Administration</b>	<b>Total</b>
<i>NYT</i>	26	50	76
<i>USA</i>	7	8	15
<i>WPost</i>	19	56	75
<b>Total</b>	<b>52 (10%)</b>	<b>114 (20%)</b>	<b>166 (29%)</b>

(% of total sources, n=574)

**Table 4.3:** *Congressional Sources – McCain Amendment*

	<b>House of Representatives</b>	<b>Senate</b>	<b>Total</b>
<i>NYT</i>	14	73	84
<i>USA</i>	13	21	34
<i>WPost</i>	13	80	93
<b>Total</b>	<b>40 (7%)</b>	<b>174 (30%)*</b>	<b>211 (37%)</b>

(% of total sources, n=574)

\*p<.001 level (2-tailed), t value: -4.01.

**Table 4.4:** *McCain Amendment Source Dominance*

	<b>Admn-only items</b>	<b>Con-only items</b>	<b>Admn First Quote</b>	<b>Con. First Quote</b>
<i>NYT</i>	2	5	11	13
<i>USA</i>	0	3	5	6
<i>WPost</i>	3	8	14	18
<b>Total</b>	<b>5 (5%)</b>	<b>16 (15%)*</b>	<b>30 (29%)</b>	<b>37 (35%)</b>

(% of total items, n=105)

\*p<.05 level (2-tailed), t value: -2.46.

## Blame

The majority of news items (53%), strangely, did not blame any individual or institution for what happened at Abu Ghraib. Blame was based on explicitly assigning guilt for torture at Abu Ghraib so this may have been due to debating the McCain amendment in the abstract instead of associating it with Abu Ghraib. However, a crucial difference compared to the Abu Ghraib coverage is that more responsibility was applied



to President Bush and his administration. As Table 4.5 demonstrates, just five percent of the Abu Ghraib news items blamed President Bush for torture, it now jumped to more than a quarter (27%) of all of the items during coverage of the McCain Amendment.

**Table 4.5: *Blame for Torture***

	<i>NYT</i>	<i>USA</i>	<i>WPost</i>	<b>Total</b>
<b>None</b>	24	10	22	<b>56 (53%)</b>
<b>Pres. Bush</b>	10	2	16	<b>28 (27%)</b>
<b>Rumsfeld</b>	2	0	3	<b>5 (5%)</b>
<b>CIA</b>	3	0	9	<b>12 (11%)</b>
<b>Military Command</b>	2	0	2	<b>4 (4%)</b>
<b>High-level</b>	2	2	3	<b>7 (7%)</b>
<b>Low-level*</b>	4	7	11	<b>22 (21%)</b>
<b>Other</b>	1	0	0	<b>1</b>

(% of total blame in news items, n=105)

Another difference is that more items blamed the president rather than to the administration's preferred frame: blaming a few bad apples. During coverage of Abu Ghraib, nearly 60 percent of the items (57%) blamed low-level soldiers for torture but that number significantly drops to 21 percent during McCain coverage. The CIA was also increasingly targeted for accountability by the news media as they were the primary executing culprits.

### **International Law, Human Rights, and Torture**

Frames dealing with international law and human rights increased while the political system debated the merits of McCain's amendment. Recall that during Abu Ghraib coverage, the majority of the items (56%) did not use any international law or human rights frames; the administration's preferred frame. According to Tables 4.6 and

4.7, during this period only a plurality of items (40%) failed to invoke human rights or international law frames.

**Table 4.6:** *McCain Amendment International Law and Human Rights Frames*

	None*	Passing Reference	Explicit Reference
<i>NYT</i>	19	10	12
<i>USA</i>	6	6	5
<i>WPost</i>	17	10	20
<b>Total</b>	<b>42 (40%)</b>	<b>26 (25%)</b>	<b>37 (35%)</b>

\*Bush administration's preferred frame.  
(% of total items, n=105)

**Table 4.7:** *Comparing Coverage of International Law and Human Rights*

	None*	Passing Reference	Explicit Reference
Abu Ghraib	56%	18%	26%
McCain Amendment	40%	25%	35%

\*Bush administration's preferred frame.

Coverage of the McCain Amendment saw a marked improvement in frames regarding human rights and international law as both passing and explicit references increased compared to Abu Ghraib coverage. As will be discussed below, international law and human rights were prominent in counterframing Bush's executive power.<sup>7</sup>

<sup>7</sup> The term "war crimes" was uttered three times with one of them applying directly to the Bush administration.

**Table 4.8: Torture – Term and Headlines**

	<b>Torture</b>	<b>US Torture</b>	<b>Abu Ghraib Headlines</b>	<b>McCain Headlines</b>
<i>NYT</i>	174	48	4	10
<i>USA</i>	71	20	1	5
<i>WPost</i>	207	74	3	16
<b>Total</b>	<b>452</b>	<b>142 (31%)*</b>	<b>9 (2%)</b>	<b>31 (30%)</b>

(% of total torture count, n=452)

\*p<.001 level (2-tailed), t value: 9.78.

According to Table 4.8, “torture” was mentioned 452 times in the three national papers. However, it was associated with American actors and institutions on 142 of those occasions or just 31 percent of the time.<sup>8</sup> Though torture was still minimized not to reflect poorly on the US, it was used much more frequently in some areas than it was during Abu Ghraib coverage. In fact, the term was used more frequently in the headlines and sub-headlines. Torture was used a mere two percent of the time in Abu Ghraib headlines but jumps dramatically to nearly a third (30%) in coverage of the McCain Amendment. The use of the term torture in headlines was more in both actual numbers and proportion to the total amount of news items. The sample of headlines and sub-headlines during this period of coverage are illuminating not only for the use of the term but for its stinging criticism directed at the Bush administration.

Vice President for Torture<sup>9</sup>

Torture, Shaming Us All<sup>10</sup>

Central Torture Agency?<sup>11</sup>

Director for Torture<sup>12</sup>

<sup>8</sup> Overall, torture was associated less with American actors in McCain coverage compared to Abu Ghraib coverage, 31 percent and 36 percent, respectively.

<sup>9</sup> “Vice President for Torture” 2005.

<sup>10</sup> Cohen, 2005.

<sup>11</sup> Smith, 2005.

<sup>12</sup> “Director for Torture”, 2005.

Torture, American-Style<sup>13</sup>

Clueless about torture<sup>14</sup>

Legalized Torture, Reloaded<sup>15</sup>

“We Do Not Torture” and Other Funny Stories<sup>16</sup>

Torturing The Facts<sup>17</sup>

Ban Torture. Period.<sup>18</sup>

The higher frequencies of congressional sources, assigning responsibility and blame on the Bush administration, framing the coverage through the lens of human rights and international law, and associating torture with Bush administration policies are all indicators that executive power was negatively framed throughout this period of coverage. Executive power was critically covered for the first time. Moreover, the counterframes for presidential power overwhelmed the Bush administration’s preferred version of events.

### **Executive Power and Presidential Position**

As noted above, this period of coverage stands out the most for its critical coverage of presidential power. For example, Table 4.9 shows that two of every three news items had at least one critique of presidential power. More than half of the news articles and more than 80 percent of the editorials provided sustainable counterframes to the administration’s version of events. Thus, it was easier for the reader to find differing perspectives from the Bush administration, especially compared to Abu Ghraib coverage.

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<sup>13</sup> Luban, 2005.

<sup>14</sup> “Clueless about Torture”, 2005.

<sup>15</sup> “Legalized Torture, Reloaded”, 2005.

<sup>16</sup> Rich, 2005.

<sup>17</sup> Dowd, 2005.

<sup>18</sup> “Ban Torture. Period”, 2005.

**Table 4.9:** *McCain Amendment News Items with Critiques of Executive Power*

	Articles	Op/eds	Total Items
<i>NYT</i>	13	16	29
<i>USA</i>	2	4	6
<i>WPost</i>	15	20	35
<b>Total</b>	<b>30 (53%)</b>	<b>40 (83%)</b>	<b>70 (67%)</b>

(% of total news items, n=105)

**Table 4.10:** *Types of Critiques of Executive Power – McCain Amendment*

	<i>NYT</i>	<i>USA</i>	<i>WPOST</i>	<b>TOTAL</b>
<b>Torture</b>	19	1	23	<b>43</b>
<b>Opposing McCain Amendment</b>	17	3	14	<b>34</b>
<b>Disdain for Int. Law and Human Rights</b>	6	0	13	<b>19</b>
<b>Checks and Balances</b>	6	2	10	<b>18</b>
<b>Rule of Law</b>	5	0	9	<b>14</b>
<b>Secret Prisons</b>	1	3	8	<b>12</b>
<b>Lack of Accountability for Abu Ghraib</b>	5	0	3	<b>8</b>
<b>Domestic Spying</b>	4	0	3	<b>7</b>
<b>Poor Handling of Iraq War</b>	3	1	1	<b>5</b>
<b>Signing Statements</b>	3	0	0	<b>3</b>

Nearly three-quarters of the *New York Times* (71%) and *Washington Post* items (74%) contained at least one critique of executive power. What is more, every *New York Times* editorial and 80 percent of the *Washington Post* editorials contained criticisms of presidential power. While only a third of *USA Today* items had a critique, it was more compared its Abu Ghraib coverage. Like the coverage at Abu Ghraib, editorials were more likely to provide counterframes than straight news articles. However, this time both

a majority of straight news and editorial items included counterframes independent of the Bush administration.

According to Table 4.10, the three most frequent criticisms of the Bush administration were 1) creating the conditions for torture and/or trying to legalize torture; 2) opposing the McCain Amendment; and 3) undermining international law and human rights. During this period, the gloves came off. The coverage painted Bush administration policies as if they were, as one *Post* columnist put it, “Out of a bad spy novel” (Robinson, 2005). Overall, as *Times* columnist Bob Herbert (2005) declared, the Bush administration “has shown no qualms about trampling the fundamental tenets of a free, open and democratic society.”

The news media condemned the administration for establishing the conditions for torture as well as opposing the McCain Amendment, a measure that all three editorial boards enthusiastically supported. “If upheld,” the *Post* argued, “Mr. McCain’s amendment would curtail, at last, the policy of abuse adopted by the Bush administration for detainees in the war on terrorism.” Adding international law and human rights into the equation, the *Post* editorial asserted that the amendment “would mandate an end to the hundreds of cases of torture and inhumane treatment, many of them qualifying as war crimes, that have been documented by the International Red Cross and the Army itself at Guantanamo Bay, Cuba, and in Afghanistan and Iraq, and elsewhere.” The *Post* claimed that the McCain Amendment “gives President Bush a chance at least to amend the record of abuse that will blot his legacy.” And yet, according to the *Post*, “Mr. Bush is not inclined to accept this chance.” Despite overwhelming support for the amendment from a broad spectrum of the political system, “the president stubbornly digs his dishonorable

hole deeper” by trying to kill the bill. The *Post* editorial concluded by putting the unitary executive on trial:

Let’s be clear: Mr. Bush is proposing to use the first veto of his presidency on a defense bill needed to fund military operations in Iraq and Afghanistan so that he can preserve the prerogative to subject detainees to cruel, inhuman and degrading treatment. In effect, he threatens to declare to the world his administration’s moral bankruptcy (“End the Abuse”, 2005).

Many of the pieces rightly singled out Vice President Cheney for his role in attempting to squash the amendment as well as his incredible influence in the administration.

Commenting on the defense appropriations bill being stalled, Rep. Steny Hoyer, (D-Md.) told reporters that Vice President Cheney “wants to continue the option of torture as a national policy, and therefore the defense bill hasn’t moved” (Schmitt and Sanger, 2005).

The *New York Times*, in a masthead editorial derisively titled “Mr. Cheney’s Imperial Presidency” (2005), noted that the “wrenching events” of Vietnam, Watergate, and Iran-Contra were viewed by most Americans as a sign that “the presidency had become too powerful, secretive and dismissive.” For Vice President Cheney, however, he “looked at the same events and fretted that the presidency was not powerful enough, and too vulnerable to inspection and calls for accountability.”

*Washington Post* columnist Richard Cohen (2005) described Vice President Cheney as “indomitably shameless.” Considering everything the vice president got wrong about the run-up to the Iraq War, argues Cohen, one would think that “the man would have sought the contemplative life and retreated to some swell retirement community.” On the contrary, according to Cohen, Cheney “not only perseveres, he has become the unashamed lobbyist for torture.” Another *Post* editorial (“Vice President for Torture”, 2005) claimed that Vice President Cheney’s legacy is that he “will be remembered as the vice president who campaigned for torture.”

Congress was also not spared. Many of the items correctly pointed out that violating checks and balances does not rest solely on the executive branch since it is more a process of aiding and abetting. Moreover, Congress has tools like power of the purse, oversight, and impeachment, to check the unilateral presidency. A *USA Today* editorial opened with an observation that when the president makes his State of the Union address, Bush “will undoubtedly receive a standing ovation from the assembled members of Congress.” However, according to *USA Today*, those same members of Congress “might as well be on their knees with their foreheads bowed to the floor, prostrating themselves as a gesture of their fecklessness in exercising their constitutional role as a separation and equal branch of government.” The *USA Today* attributes their subservience to what Norman Ornstein calls “battered Congress syndrome” in which “lawmakers, like abused spouses, become so accustomed to mistreatment that they can’t imagine anything different and no longer resist.” The editorial concludes:

Bush is hardly the first president to grab for more power. Most do. But he is the first in a long time to have had such a compliant, even incurious Congress. For abdicating their constitutional responsibility, the clapping members you’ll see tonight [at the State of the Union] don’t deserve any applause for themselves (“Battered Congress syndrome”, 2006).

The *Times* (“Playing With Fire”, 2005) also found it to be a “relief” that the Senate was “finally getting around to doing the job it so shamefully refused to do” following the 9/11 attacks: “requiring the administration to follow the law and the Geneva Conventions in dealing with prisoners taken by the military and intelligence operatives.”

Though they were in the minority, the media also derided Senate Democrats for not taking a firmer stance against the Bush administration. Arguing that there is “no more important issue before the country and Congress,” the *Washington Post* (“Rebellion Against Abuse”, 2005) asserted that “advocates of decency and common sense seem to



have meager support for the Democratic Party.” While Senate Democrats staged legislative stunts to debate prewar intelligence on Iraq, “they have taken no such dramatic stand against the CIA’s abuses of foreign prisoners.” Moreover, “Democratic support has been faltering” in the conference committee considering McCain’s anti-torture amendment. “While Democrats grandstand about a war debate that took place three years ago,” the *Post* warned, “the Bush administration’s champions of torture are quietly working to preserve policies whose reversal ought to be an urgent priority.”

The news media also wanted accountability. The *Times* (“Binding the Hands of Torturers”, 2005) asserted that in addition to blocking the McCain Amendment, the Bush administration “continues to block any serious investigation on the abuse, torture and murder of prisoners.” The *Times* also encouraged Congress to support a 9/11-like commission, one that is “truly bipartisan and independent” and “armed with subpoena power” (“Biding the Hands of Torturers”, 2005) to “finally give Americans the truth about how the administration’s prison policies led to out-of-control camps like Guantanamo Bay and Abu Ghraib.” (“Abu Ghraib Unresolved”, 2005) Placing an independent commission within the context of the McCain Amendment, the *Times* added:

...no amount of concern about terrorism gives it [the Bush administration] the power to detain innocent people or brutalize even those who are guilty. That is why this nation has laws, courts and judges. We can never be sure any new laws will be enforced until we know the truth about how the old ones were swept aside.

Though coverage was overwhelmingly against him, President Bush did not entirely lose out in the framing competition. In addition to minimal and mixed coverage over the signing statement (discussed below), the Bush administration’s position on the McCain Amendment was featured in 79 percent of the news items (see Table 4.11). It was typical of coverage to include statements like “Mr. Cheney warned three senior Republicans on

the Armed Services Committee that their legislation [the McCain Amendment] would interfere with the president's authority and his ability to protect Americans against terrorist attacks" (Schmitt, 2005). It is clear, however, that featuring the administration's position was more for "balance" as it did not overwhelm the salient counterframes.

**Table 4.11:** *News Items with Bush administration's position*

	Featured	Not Featured
<i>NYT</i>	31	10
<i>USA</i>	14	3
<i>WPost</i>	38	9
<b>Total</b>	<b>83 (79%)</b>	<b>22 (21%)</b>

(% of total news items, n=105)

### Coverage Post-Signing Statement

Bush's signing statement to the defense appropriations bill did merit some coverage. According to Table 4.12, approximately ten percent of the news items were dedicated to the Bush's signing statement in particular or signing statements in general.<sup>19</sup> It is likely that the reason why the signing statement to McCain's Amendment did not elicit a great deal of coverage was due to the statement being issued right before the New Year on December 30<sup>th</sup>. It is also noteworthy that Congress's response was, at best, tepid. Sens. McCain and Warner issued the following joint press release statement:

We believe the President understands Congress's intent in passing by very large majorities legislation governing the treatment of detainees included in the 2006 Department of Defense Appropriations and Authorization bills. The Congress declined when asked by administration officials to include a presidential waiver of the restrictions included in our legislation. Our Committee intends through strict oversight to monitor the Administration's implementation of the new law (Warner and McCain, 2006).

<sup>19</sup> There were a total of twelve items but one of them did not focus on the signing statement. However, it was a full throated critique of executive power (see *USA Today* editorial, 1/31/2006).

The statement is diplomatic, not wanting to start another political fight with the administration. There is no stinging criticism of the Bush administration for even raising the specter of non-compliance and there are only assurances that oversight will be exercised rather than calling for a special hearing.

**Table 5.12:** *Post-Signing Statement Coverage*

	Challenge	Alito's role	McCain and Alito	McCain only	Defense
<i>NYT</i>	3/3	3/3	3/3	0/3	0/3
<i>USA</i>	0/2	0/2	0/2	0/2	1/2
<i>WPost</i>	7/7	3/7	2/7	3/7	0/7
<b>Total</b>	<b>83%</b>	<b>50%</b>	<b>42%</b>	<b>25%</b>	<b>8%</b>

(n=12)

It was not until a full two weeks after the signing statement was issued that the media started to take notice.<sup>20</sup> The Supreme Court confirmation hearings of Samuel Alito prompted most of the reporting as the political system made signing statements an issue during the hearings. Senate Democrats on the Judiciary Committee raised questions regarding Alito's role in strengthening the signing statement for presidential power.

Coverage of the signing statement was decidedly mixed. There were some hostile editorials reacting to Bush's signing statement and many of the news articles pointed out how this power can be provocative to the political system. On the one hand, none of the coverage would be worthy of front-page news for all three papers. Only half of the news items, however, made note of Bush's recent challenge to the McCain Amendment. Less

<sup>20</sup> The *Washington Post* issued two pieces just after the New Year. The first was on Samuel Alito's role in developing the signing statement but failed to link it to the McCain Amendment (see Lee, 2006). The second item was about Senator Levin's objection to Bush's signing statement regarding his amendment co-sponsored with Senator Graham. Again, it failed to link it to McCain's amendment.

A notable exception to the signing statement coverage was the enterprising reporting of Charlie Savage (2006a, 2006b, 2007). He would go on to earn a Pulitzer Prize in 2007 for his outstanding coverage. At the time, Savage was working for the *Boston Globe* so it did not elicit the kind of attention if it was published in Savage's current employer, the *New York Times*.

than half of the items made a connection between Alito and McCain. One quarter of the news pieces focused solely on the McCain Amendment. On the other hand, the majority of items (83%) did make some type of constitutional objection to signing statements in general or McCain's amendment in particular. It was typical for the articles to point out that the legality of signing statements are "largely untested" (Bumiller, 2006).

The *USA Today* featured something rare during this period of coverage; a defense of the president's signing statement. An editorial from Robert McCallum (2006), an associate attorney general in the Justice Department, defended the use of this unilateral power. Framed in the context of national security and safety, McCallum made little of the signing statement, claiming all of the fuss was much ado about nothing and it is typical of presidential action upon signing a piece of legislation. McCallum stated that the president "issued a statement that he would interpret the law consistent with his constitutional authority." However, "The recent claim by some that this reflects intent to 'ignore' the law is wrong."

The amendment reflects the president's – and our nation's – policies and values, the president is fully committed to executing it faithfully. Because the Constitution gives the president authority over wartime and foreign affairs, however, presidents often have issued similar signing statements when Congress legislates in these areas. Nothing different happened here (McCallum, 2006).

Like most of the coverage during this period, the editorials put the unitary executive at the front and center of coverage. Three of the five editorials came out against the signing statement. The *Times* declared that the signing statement was evidence of "The Imperial Presidency at Work" (2006). According to the *Times*, one would think that Senator McCain "would have learned by now that you cannot deal in good faith with a White House that does not act in good faith." Despite striking a bargain "to restore the rule of law to American prison camps" the Bush administration "tossed them aside at the first

opportunity.” For Bush, he “seems to see no limit to his imperial presidency,” according to the *Times*, as evidenced by President Bush issuance of the “constitutionally ludicrous ‘signing statement’ on the McCain bill.”

The message: Whatever Congress intended the law to say, he intended to ignore it on the pretext the commander in chief is above the law. That twisted reasoning is what led to the legalized torture policies, not to mention the domestic spying program.

The *Times* urged Congress “to curtail Mr. Bush’s expansion of power” and stop “the unilateral rewriting of more than 200 years of tradition and law by one president embarked on an ideological crusade.” Similarly, the *Washington Post* (“Unchecked Abuse”, 2006) called on Sens. McCain and Warner to follow through on their promise of strict oversight of implementing the anti-torture provision. “Without aggressive monitoring,” the *Post* argued, “illegal abuse of foreign prisoners in the custody of the United States is likely to continue.”

## **Conclusion**

Overall, coverage of the McCain Amendment was critical of unitary executive power. The majority of the news items provided salient and consistent counterframes to challenge the Bush administration’s version of events. As noted above, this period of analysis is in stark contrast to the Abu Ghraib reporting. Unlike the previous chapter, the news media, and the political system, rejected Nixon’s maxim that all presidential actions are legal. The focus of the coverage was more on making the Bush administration accountable for the mess at Abu Ghraib and other prison centers throughout the world. There were more international law and human rights frames, more assignments of blame directed at President Bush and top-level advisors, and a great deal of criticism of the unitary presidency.

The critical coverage is due in large part to the news media taking cues from the political system pushing back against the unitary presidency. The news media did not allow, for the most part, the unilateral presidency to hide in plain sight this time because the political system was not indifferent to direct presidential action. Congress, specifically Senate Republicans, responded with pieces of legislation that directly confronted the Bush administration's expansive exercise of presidential power. However, the end of this coverage reverted back to the political status quo: deference to presidential unilateral powers. Regardless, this chapter demonstrates that the press is capable of providing a crucial check on the unitary executive.

## Chapter V

### Going It E-lone:

#### Framing Obama's We Can't Wait in the Traditional and Networked Public Spheres

*#WeCantWait to make @BarackObama a one-term president.*

- Tweet from Reince Priebus, Chairman of the Republican National Committee.

The previous chapters have examined newspaper framing of the unilateral powers of numerous presidents. The final chapter of this dissertation includes online blogs into the analysis by examining media framing of President Obama's "We Can't Wait" unilateral executive actions in the traditional and networked public sphere during the 2012 campaign. It also compares the quality of framing presidential unilateral powers between the traditional papers and the "networked public sphere" (Benkler, 2006).

We have a good understanding of the structure of the networked public sphere as well as the partisan and consumption habits of its readers (Adamic and Glance, 2005; Benkler, 2006; Shaw and Benkler, 2012; Davis, 2009; Hindman, 2009; Hoffman, 2006; Kerbel, 2009; Nie et. al, 2010; Lawrence, Sides, and Farrell, 2010; Pole, 2010; Schlozman, Verba, and Brady, 2010). However, there is a dearth of scholarship on the content it actually produces, that is, the *output* of the new media. Another important aim of this chapter is to shed some light on this understudied area of the networked public sphere as it relates to framing direct presidential actions.

#### We Can't Wait

Elections, congressional gridlock, and low public approval ratings invite increased executive unilateral actions (Howell, 2005; Mayer, 1999, 2009; Mayer and Price, 2002). The American political landscape of 2012 found all three of these factors in play. Since peace, prosperity, and moderation informs the approval ratings of presidents (Zaller, 2001), Obama feared he would be blamed for a stagnant economy. As a result,

President Obama made his unilateral powers central to the 2012 campaign. Late last year, as the president pleaded with a recalcitrant Congress to pass his American Jobs Act, he also warned, "...we can't wait for an increasingly dysfunctional Congress to do its job. Where they won't act, I will." At a campaign rally in Cleveland, Ohio, President Obama (2012) elaborated on this warning:

I've said before that I will continue to look for every opportunity to work with Congress to move this country forward and create jobs. That means putting construction workers back on the job repairing our roads and bridges. That means keeping teachers in the classrooms and cops and firefighters on the streets. That means helping small businesses get ahead. These are ideas that have support from Democrats, Republicans and Independents. And I want to work with Congress to get them done.

But when Congress refuses to act and as a result hurts our economy and puts people at risk, I have an obligation as President to do what I can without them. I have an obligation to act on behalf of the American people. I will not stand by while a minority in the Senate puts party ideology ahead of the people they were elected to serve. Not when so much is at stake. Not at this make-or-break moment for the middle class.

The idea of We Can't Wait came to fruition during the Fall of 2011. Realizing that urging Congress to pass his 447 billion dollar jobs bill was in vain, President Obama turned inward. During a White House strategy meeting, President Obama, according to one news account, argued that his administration "needed to more aggressively use executive power to govern in the face of Congressional obstructionism" (Savage, 2012). Every We Can't Wait unilateral action served as a substitute for legislative proposals that Congress refused to move on; with the objective of highlighting congressional gridlock and crass partisanship that pervades the political system (Savage, 2012).

Where politicians stand are often contingent on where they are sitting. For then-Senator and candidate Obama, he was a vocal critical of the Bush administration's frequent end-runs around Congress (Savage, 2012). But now as the president, and facing a Congress that was increasingly obstinate in its refusal to legislate as well as an election



just around the corner, Obama started to view these unilateral power tools as more of an asset as evidenced by the We Can't Wait campaign.

### **The New Media era and the presidency<sup>1</sup>**

The current media landscape is a transformative one. Between the doomsday scenarios and the utopian declarations, the emerging scholarship on the networked public sphere shows that there are promises and perils, just like the traditional media (Adamic and Glance, 2005; Benkler, 2006; Hargittai, Gallo, and Kane, 2008; Wallsten, 2007). And with changes comes continuity. The networked public sphere has been lauded for its democratic capacities but it also leaves much to be desired. In an age where everyone has the capacity to be a journalist because blogs lower the transaction costs of gathering and disseminating the news on a mass scale, Hindman (2009) demonstrates the limitations of this theory. For one, there is a crucial difference between those who have voice and those who are heard. For Hindman, the networked public sphere is old wine in a new bottle in that there is a high concentration of audience share among a handful of blogs and these bloggers do not represent some revolutionary crop of journalists but rather the same elite that dominated the traditional news outlets (see also Davis, 2009). Others, like Benkler (2006), demonstrate that the networked public sphere as a qualitatively different media structure that is more democratic and egalitarian compared to traditional news organizations. Blogs are central to the new media environment.

Blogs are a decentralized medium with a distinct ideological perspective on politics and news production and dissemination are just one of its many objectives (Pole, 2010). While data is unavailable on the number of political blogs, there are at least 184 million blogs worldwide and 25 million in the United States (Pole, 2010, p. 11).

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<sup>1</sup> See also the discussion in Chapter 2.

However, as noted above, only a small handful of them receive the overwhelmingly majority of the audience share (Hindman, 2009). Blogs have not replaced traditional media outlets nor are they as revolutionary as some early prognostications suggest (Davis, 2009; Hindman, 2009). On the contrary, most blogs are heavily dependent on the establishment press for content because many blogs are “linkers” rather than “thinkers.” In other words, blogs link to other news sites rather than engaging in long-form journalism (Shaw and Benkler, 2012). Regardless, over the last decade blogs have become a legitimate part of the news media as party conventions and the White House provide some bloggers with press credentials. The establishment media have supplemented their websites with blogs and many prominent bloggers like Brian Stetler and Nate Silver, for example, now write exclusively for the traditional press, in their case the *New York Times*. In fact, Davis (2009) suggests that blogs are developing into online versions of the traditional media.

While some scholars contend that blogs are rarely influential in setting the national discourse compared to the establishment press (Entman, 2012), blogs do, however, expand and challenge the gatekeeping function of the traditional media. They also have the capacity to reframe the dominant discourse. A point that needs to be underscored is that the majority of online consumers are not interested in the Michelle Malkin or Markos Moulitsas of the world; instead, they are more concerned with the likes of Sasha Grey or Mark Zuckerberg. In other words, porn and social media sites like Facebook attract an incredibly larger audience compared to political and news blogs (Hindman, 2009). The majority of Americans are still getting their news from the traditional media and blogs are read by a small audience.

Presidents and other political actors face an increasing polarized, hostile, and an all together qualitatively different media environment (Baum, 2011; Baum and Groeling, 2008; Delli Carpini and Williams, 2011; Sobieraj and Berry, 2011). Presidents can no longer rely on a differential press and a mass, captive audience (Cohen, 2008; 2010). The political system has adapted to the changing media since the Howard Dean insurgent campaign of 2004 highlighted the effectiveness of the Internet for fundraising and organizing through blogs (Hindman, 2009). Just four years later, 14 of the 17 presidential candidates in 2008 had a blog supplement to their campaign websites and Barack Obama would go on to raise 500 million dollars online (Pole, 2010). Many members of Congress have blogs on their websites now, allowing them to speak directly to constituents and explain their decision making on a vote, something that would not usually be afforded to most Congress members in the traditional press (Pole, 2010).

The executive branch, already with an extensive communication apparatus, is now fortified with blogs. For example, one is just a click away to learn about the recent activities of the Department of Transportation by reading Ray LaHood's *The Fast Lane*, the official blog of the Secretary of Transportation (fastlane.dot.gov). We Can't Wait also comes with its own website (<http://www.whitehouse.gov/economy/jobs/we-cant-wait>) to highlight the unilateral initiatives of the Obama administration. It also allows users to help publicize We Can't Wait by posting the initiatives on Twitter.

### **Research Design**

In addition to the *New York Times*, *USA Today*, and *Washington Post*, I employed a content and textual analysis of the *Daily Kos*, *Huffington Post*, *Talking Points Memo*, *Townhall*, *Hot Air*, and *Michelle Malkin*. According to the Blogosphere Authority Index

(BAI), these six online outlets are the most popular blogs among the left and right.<sup>2</sup> The search yielded 163 news items with the vast majority coming from the blogs.

The period of analysis is one year from October 24, 2011, the start of the We Can't Wait campaign through October 24, 2012.<sup>3</sup> President Obama has taken 44 executive actions under the We Can't Wait campaign including renovating infrastructure, mortgage refinancing, broadband construction, manufacturing and renewable energy initiatives, combating domestic violence in the workplace, funding Alzheimer's research, veteran education services, and government transparency. The president issued a total of 41 executive orders during this one-year period of analysis; some of them under the banner of We Can't Wait (see Table A5.12 below for details).<sup>4</sup>

Much of the coding protocol is similar to the second chapter. I code for all sources and also consider if the Obama administration or Congress are given the first quote in the news item. I also assess if there are any constitutional objections and constitutional notes.<sup>5</sup> In addition, I consider if the authority for these executive actions are cited in the news items.<sup>6</sup> An additional coding protocol to We Can't Wait coverage is examining

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<sup>2</sup> These are based on the BAI rankings of February 2012 before BAI went offline. *Ace of Spades HQ* is the third most popular conservative site but is excluded because it had no internal search engine and the Google Blogscraper yielded one item. *Michelle Malkin* is a reliable replacement because it is the fourth most popular conservative blog in the BAI and has been among the most popular blogs (both left and right) for nearly a decade. For how the BAI is calculated, see Karpf (2008; 2009) and <http://www.blogosphereauthorityindex.com/>.

<sup>3</sup> The last executive action under We Can't Wait was October 1<sup>st</sup>, 2012. Print items were retrieved from LexisNexis Academic and blog items from Google Blogsearch and the blogs internal search engines, using the search term for both print and online: "we can\* wait" AND "Obama".

<sup>4</sup> There were a combined total of 315 presidential actions including executive orders, memorandums, notices, and letters; the majority of them were benign presidential proclamations like the one declared on March 1<sup>st</sup> of this year recognizing Irish-American Heritage Month.

<sup>5</sup> An example of a constitutional objection: "Republican leaders have called the president an imperial leader who has washed his hands of the democratic process" (Nakamura, 2012). An example of a constitutional note: "The orders allow the president to take initiative, but there are severe limits. The president cannot appropriate funds by executive order. Any order he issues can be erased by the Congress, the courts, or by a later executive order" (Jackson, 2011).

<sup>6</sup> An example of authority: "As Robert Kuttner put it: 'Under the Dodd-Frank Act, they have a huge amount of executive power to press banks to give relief to people with underwater mortgages'" (Huffington,

blame. The central premise of *We Can't Wait* is that Congress was unable or unwilling to help revive the economy due to its polarization. I determine which actors (e.g. President Obama), organizations (e.g. Republican Party), and/or institutions (e.g. Congress) are blamed for the political gridlock, poor economy, and “forcing” the president to act alone.<sup>7</sup> This also helps determine whether or not the Obama administration was successful in controlling the media framing of their executive actions.

Coding blogs are more complicated than newspapers. The content and textual analyses glosses over significant qualitative differences in the structures and practices of these blogs (Karpf, 2008; Shaw and Benkler, 2012). Furthermore, to examine the blogosphere is an exercise in obsolescence as the networked public sphere continues to develop and innovate as a medium for political information (Dahlgren, 2001; Karpf, 2008; 2009; 2012). I am only interested in the text in the blog post, so there is no focus on the text and frames provided in the hyperlinks. Considering that blogs heavily rely on the establishment media for content, I expect the media to be a prominent source.

## **Findings and Discussion**

One of the most striking and curious findings about *We Can't Wait* was the ambivalent treatment it received by the Obama administration in the 2012 campaign. Table 5.1 shows that the first six months saw more energy in the *We Can't Wait* campaign as 33 of the 44 initiatives were announced. During this period, the administration stuck to its goal of announcing one initiative per week (Savage, 2012). By April of 2012, however, *We Can't Wait* became less of a centerpiece for the

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2011). I also include incorrect citations of authority. For example, “But the Constitution allows a president to protect the nation’s interest from a Congress in rebellion” (Jackson, 2011).

<sup>7</sup> For example, one *Daily Kos* headline reads, “‘We Can’t Wait’: Obama to use executive authority to boost economy as Republicans dither on jobs” (Lewison, 2011). This would be coded as blaming Republicans. An item may have multiple assignments of blame.

administration because only 11 executive actions were announced in the last seven months of the campaign.

The marketing of We Can't Wait added to this ambivalence. For one, only a handful of swing states were targeted. The majority of the initiatives were announced at the White House as ten of the 44 We Can't Wait initiatives were announced outside of the Beltway, see Table 5.1. Seven of the nine states that received a We Can't Wait announcement were crucial swing states like Ohio, Nevada, Florida, and Pennsylvania. However, Ohio was the only state that was subject to more than one We Can't Wait announcement. The Obama administration seemed to have cast a wide net because 29 of the 50 states were targeted for programs and Ohio received the most attention with six initiatives. It seems strange that the administration did not take advantage of the opportunity to target more swing states and draw more of a contrast between the president and Congress.

Considering that the initiatives were derivatives of Obama's failed jobs bill, the majority of the actions dealt with the theme of job growth. Other prominent themes included the environment, infrastructure, education, and health care. The administration did not pay a great deal of attention to some coveted electoral groups. Women, senior citizens, homeowners, small business, and veterans were not prominent in the We Can't Wait campaign.

It is also interesting to note what was excluded from We Can't Wait. Though President Obama issued a memorandum to combat and prevent domestic violence in the federal workplace, the administration refused to issue an executive order to prohibit discrimination against sexual orientation in the workplace, much to the

chagrin of the LGBT community.<sup>8</sup> Also, the Dream Act “prosecutorial discretion” executive action of not deporting certain undocumented immigrants, crucial for the Latino vote, was not considered to be part of the economic agenda.

### **Print coverage**

Overall, news coverage of We Can’t Wait was a mixed bag for presidential power and reflected the ambivalence of the Obama campaign. First, We Can’t Wait did not generate a considerable amount of coverage as there are only 36 print news items throughout the entire year, and these are likely to be read by a larger audience compared to the blogosphere.<sup>9</sup> This amounts to less than one article per executive action, a finding not entirely surprising as presidents’ garner less coverage in the new media era (Cohen, 2008). Thirteen of the 44 executive actions under We Can’t Wait were covered among the three national papers. Adding in the blogosphere, the coverage increases to 22, or 50 percent, of the initiatives. Less than a fifth of the items related to We Can’t Wait were deemed worthy enough for headline coverage in the traditional papers.

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<sup>8</sup> This was part of the Employment Non-Discrimination Act (ENDA).

<sup>9</sup> Due to the lack of print items covering We Can’t Wait, I also included a search for “executive orders” during the same period of analysis. See Appendix A for details and results.

**Table 5.1: We Can't Wait Executive Actions**

<b>Date</b>	<b>Action</b>	<b>Political Demographics (Announced)</b>
1) 10/24/11	Project Rebuild: New rules for mortgage rates*	Homeowners (NV)
2) 10/25/11	Community Health Center challenge*	Veterans
3) 10/26/11	College loan affordability*	Education, Youth (CO)
4) 10/28/11	(PM) Commercializing federal research and BusinessUSA	Small business
5) 10/31/11	(EO) Prescription drug shortages*	Seniors
6) 11/01/11	(PP) Fort Monroe National Monument	Jobs, VA
7) 11/02/11	Expedite transportation projects	Infrastructure
8) 11/07/11	Veteran unemployment*	Veterans
9) 11/08/11	Rule change to Head Start*	Education (PA)
10) 11/09/11	(EO) Cut waste in fed. gov.	Small gov.
11) 11/14/11	Health care innovation challenge*	Health care
12) 11/15/11	Cut waste in Medicare and Medicaid*	Health care, Small gov.
13) 11/16/11	Fuel economy standards	Environment, Oil dependency
14) 11/28/11	(PM) Improving fed. record management*	Open gov.
15) 11/30/11	Health care electronic records and info. tech.	Health care (OH)
16) 12/02/11	Energy efficient upgrades to buildings*	Green energy, Environment
17) 12/05/11	Biofuels (largest in fed. history)	Green energy (Iowa)
18) 12/08/11	Startup America partnership	Small business
19) 12/15/11	Fair Pay for Homecare Workers*	Health care, Jobs
20) 12/16/11	Race to the Top-Early Learning Challenge	Education, CA, DE, DC, MD, MA, MN, NC, OH, RI
21) 1/04/12	Richard Cordray recess appt. to CFPB*	Consumers, Seniors (OH)
22) 1/05/12	Summer Jobs+*	Youth, Jobs
23) 1/11/12	Insourcing initiatives	Jobs, CA, AB, NC, OR
24) 1/19/12	Tourism initiative*	Jobs (FL)
25) 2/07/12	Alzheimer's research	Seniors
26) 2/09/12	Waivers for NCLB*	Education, CO, FL, GA, IN, KY, MA, MN, NJ, OK, TN
27) 2/17/12	Promoting Manufacturing and Exports	Jobs, (WA)
28) 2/21/12	(PM) Rural economy initiatives	Jobs, Agriculture
29) 2/23/12	Consumer Privacy Bill of Rights*	Consumers, Technology
30) 3/06/12	Cutting fees on gov.-backed mortgages*	Homeowners, Veterans
31) 3/08/12	Ethics.gov	Open gov.
32) 3/09/12	Pilot program to boost manufacturing innovation*	Jobs (VA)
33) 3/22/12	(EO) Infrastructure permits	Jobs, Open gov., Small gov., Environment
34) 4/12/12	Do Not Pay tool	Open gov., Small gov.
35) 4/18/12	(PM) Preventing domestic violence in workplace	Women, Jobs, Health care
36) 4/26/12	(EO) Predatory student loan lenders to veterans*	Veterans, Education (GA)
37) 6/14/12	(EO) Broadband construction	Rural, Technology, TN, OH, SC, WA
38) 7/19/12	5 Port Projects (EO from March)*	Infrastructure, Jobs, FL, NY, NJ, SC, GA
39) 7/29/12	Atlanta Terminal Project (EO from March)	Infrastructure, Jobs, GA
40) 8/07/12	Renewable Energy Projects (EO from March)*	Green energy, Jobs, AZ, CA, NV, WY
41) 8/16/12	NAMII (Private-Public manufacturing project)	Jobs, Technology, OH, PA, WV
42) 8/17/12	Infrastructure projects*	Infrastructure, Jobs
43) 9/21/12	Infrastructure projects (EO from March)	Infrastructure, Jobs, CA
44) 10/01/12	Infrastructure projects (EO from March)	Infrastructure, Jobs, OH, MN

EO – Executive Order, PP – Presidential Proclamation, PM – Presidential Memorandum

Political demographics are based on key words and states listed in the We Can't Wait press releases.

\*Reported by at least one of the nine print and online media outlets.



**Table 5.2:** *We Can't Wait* print news items distribution

	Articles	Op/eds	Total items
<i>NYT</i>	13	0	13
<i>USA</i>	4	0	4
<i>WPost</i>	14	5	19
<b>Total</b>	<b>31</b>	<b>5</b>	<b>36</b>

## Sources

As Tables 5.3 and 5.4 demonstrate, the Obama administration did fare better in the areas that we have become accustomed to in this dissertation. For example, I identified 29 different types of sources and of the 222 sources quoted in the coverage of *We Can't Wait*, the president alone made-up slightly more than a fifth of the total (21%). Factoring other administration sources, it increases to nearly 40 percent of the total. Congress, on the other hand, accounted for only 14 percent of the source pool.<sup>10</sup> The Obama administration was given the first quote in 64 percent of the news items whereas Congress was not afforded this luxury. Though the three papers relied solely on administration sources in just three of the news items, it was still more than the zero Congress-only items.

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<sup>10</sup> It should be noted that this is the first instance where the House of Representatives received more quotes than the Senate, 21 and 11, respectively. This is likely due to the House majority being part of the opposition party to the president.

**Table 5.3: Administration and Congressional Sources in Print Coverage**

	Pres. Obama	Administration	Congress		Total Sources
			HR	Sen.	
<i>NYT</i>	24	45	15	4	87
<i>USA</i>	2	6	1	2	21
<i>WPost</i>	21	36	5	5	114
<b>Total</b>	<b>47 (21%)</b>	<b>87 (39%)</b>	<b>32 (14%)*</b>		<b>222</b>

(% of total sources, n=222)

\*Difference between Obama administration and Congress is statistically significant at p<.001 level (2-tailed), t value: 3.87.

**Table 5.4: Print Source Dominance**

	Admn. Only	Con. Only	Admn. First quote	Con First Quote
<i>NYT</i>	1	0	11	0
<i>USA</i>	1	0	4	0
<i>WPost</i>	1	0	8	0
<b>Total</b>	<b>3 (8%)</b>	<b>0*</b>	<b>23 (64%)</b>	<b>0**</b>

(% of total items, n=36)

\*p<.1 level (2-tailed), t value: 1.78

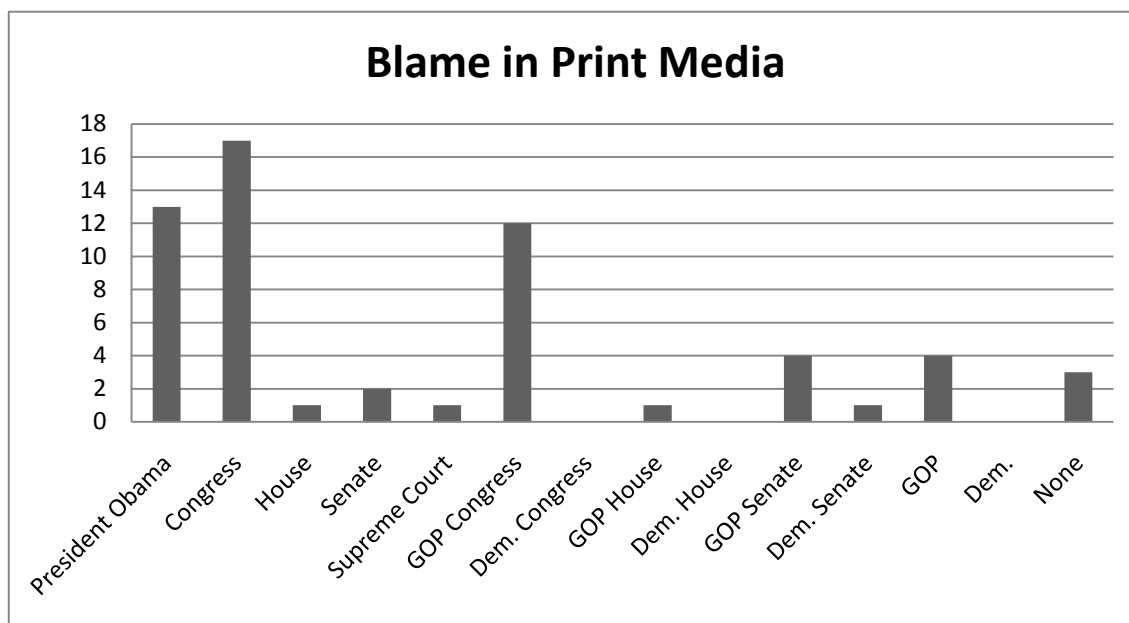
\*\*p<.001 level (2-tailed), t value: 7.87

## Print Blame

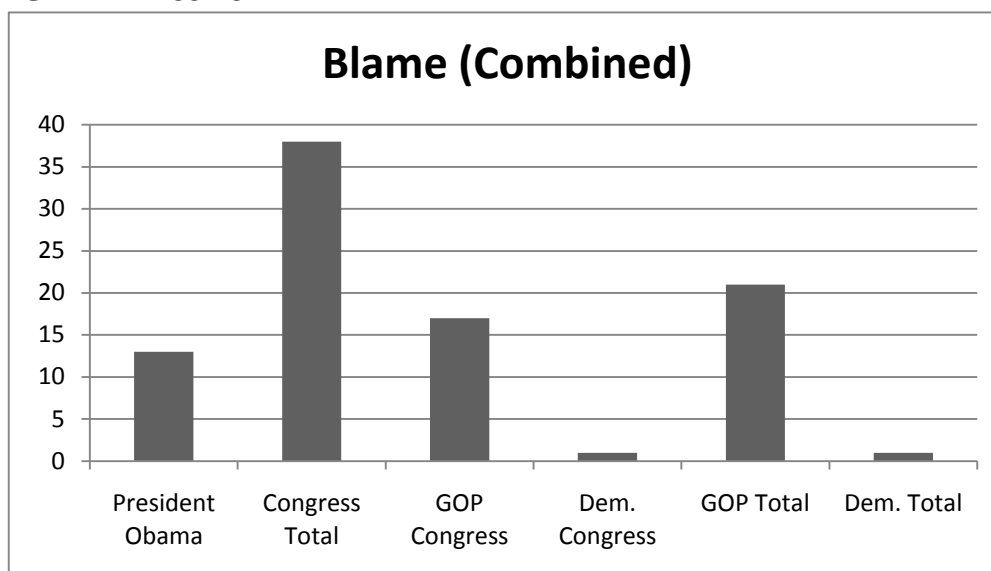
The central message of We Can't Wait that the Obama administration was attempting to convey failed to resonate in the print media frames. According to Figure 5.1, President Obama received the second highest amount of the blame for the political gridlock and poor economy. This was due in large part to a cohesive Republican counterframe that the president and Democrats in Congress failed to act on the handful of jobs bills already passed in the House. This is all the more impressive considering that congressional sources paled in comparison to the administration. However, when the blame is aggregated, that is, combining blame scores into smaller, cohesive groups, the president fared better as Congress and the Republicans took the biggest hit. Compared to

the president, Congress received more than double the amount of blame for the current political and economic environment (see Figure 5.2).

**Figure 5.1:** *Institutions and Actors Blamed for Political Gridlock and Poor Economy*



**Figure 5.2:** *Aggregated Blame in Print Media*



## Constitutional Objections in Print

Table 5.5 shows that less than a third of the news items in the three establishment papers raised any constitutional objections to President Obama's unilateral initiatives. The can be attributed to the strong presence of administration officials as sources. Though the papers did a better job by placing 42 percent of the items covering We Can't Wait executive actions within a benign context of the Constitution, only 14 percent of the articles cited the authority for Obama's unilateral initiatives.

**Table 5.5:** *Constitutional Frames in print news*

	Challenges	Notes	Authority
<i>NYT</i>	2	6	2
<i>USA</i>	1	3	1
<i>WPost</i>	7	6	2
<b>Total</b>	<b>10 (28%)</b>	<b>15 (42%)</b>	<b>5 (14%)</b>

(% of total items, n=36)

**Table 5.6:** *Types of Constitutional Objections in print news*

	<i>NYT</i>	<i>USA</i>	<i>WPost</i>	<b>Total</b>
Undermining Congress	2	0	3	<b>5</b>
Imperial President	1	0	3	<b>4</b>
Unlawful Recess Appointments	1	0	3	<b>4</b>
Checks and Balances	1	0	3	<b>4</b>
Unconstitutional	0	1	1	<b>2</b>
Selectively Upholds Cons.	0	0	1	<b>1</b>

According to Table 5.6, the most frequent criticism of Obama's We Can't Wait was that his executive actions were undermining the legislative authority of Congress. Other critiques were that We Can't Wait served as another indicator of an imperial president and the actions were undermining the Constitutional order of separation of powers and checks and balances. Nearly all of these criticisms were raised by the

opposition party or by conservative columnists like George Will in the *Washington Post*. This should serve as an indicator for the type of coverage to expect from the conservative blogs. While President Obama was largely protected from scrutiny by the traditional press, this was not the case in the blogosphere.

### Blog Coverage

This section examines blog coverage of We Can't Wait and compares its quality to the establishment press. Coverage in the blogosphere was more frequent, vibrant, and critical compared to the traditional print media. The six online outlets yielded 127 news items, see Table 5.7. Though the number of blogs analyzed in this chapter are double that of the national papers, the top three liberal (conservative) blogs alone provided nearly double the coverage.

**Table 5.7: Online Distribution**

	News Items
<b>Left</b>	
<i>Daily Kos</i>	23
<i>Huffington Post</i>	33
<i>Talking Points Memo</i>	7
<b>Left Total</b>	<b>63</b>
<b>Right</b>	
<i>Townhall</i>	37
<i>Hot Air</i>	15
<i>Michelle Malkin</i>	12
<b>Right Total</b>	<b>64</b>
<b>Total</b>	<b>127</b>

### Online Sources

President Obama and Congress nearly went head-to-head as sources in the blogosphere with the president having a slight advantage (Table 5.8). Congress and the

president alone accounted for nearly one quarter of the sources for blogs. However, factoring in top White House officials, department secretaries, and other top advisors, quotes from the Obama administration greatly overshadow congressional sources. In other areas of the politics of sources, it is not a competition. According to Table 5.9, nearly ten percent of the blog items featured administration-only sources and more than one-quarter of them provided the administration with the first quote. Less than ten percent of the items featured the first quote from a member of Congress and just one of the 127 news items from the blogs had Congress-only quotes. As I will discuss below, a crucial difference between the traditional press and blogs is that winning the source competition does not necessarily translate into positive coverage for the president.

**Table 5.8: Administration and Congressional Sources Online**

	Pres. Obama	Obama Admn.	Congress	Total Sources
<b>Left</b>				
<i>Daily Kos</i>	15	30	13	143
<i>Huffington Post</i>	30	73	31	233
<i>Talking Points Memo</i>	3	11	3	25
<b>Left Total</b>	<b>48 (12%)</b>	<b>114 (28%)</b>	<b>47 (12%)</b>	<b>401</b>
<b>Right</b>				
<i>Townhall</i>	25	37	21	158
<i>Hot Air</i>	11	20	4	80
<i>Michelle Malkin</i>	5	17	1	51
<b>Right Total</b>	<b>41 (14%)</b>	<b>74 (26%)</b>	<b>26 (9%)</b>	<b>289</b>
<b>Total</b>	<b>89 (13%)</b>	<b>188 (27%)</b>	<b>73 (11%)*</b>	<b>690</b>

(Left total, % of total Left blog sources, n=401)

(Right total, % of total Right blog sources, n=289)

(Grand total, % of total sources, n=690)

\*Difference between Obama administration and Congress statistically significant at  $p < .001$  level (2-tailed), t value: 3.83.

**Table 5.9: Source Dominance Online**

	Admn. Only	Con Only	Admn First	Congress First
<b>Left</b>				
<i>Daily Kos</i>	4	0	7	2
<i>Huffington Post</i>	3	1	10	3
<i>Talking Points Memo</i>	2	0	3	1
<b>Left Total</b>	<b>9 (14%)</b>	<b>1</b>	<b>20 (32%)</b>	<b>6 (10%)</b>
<b>Right</b>				
<i>Townhall</i>	3	0	7	3
<i>Hot Air</i>	0	0	0	0
<i>Michelle Malkin</i>	0	0	9	1
<b>Right Total</b>	<b>3 (5%)</b>	<b>0</b>	<b>16 (25%)</b>	<b>4 (6%)</b>
<b>Total</b>	<b>12 (9%)</b>	<b>1*</b>	<b>36 (28%)</b>	<b>10 (8%)**</b>

(Left total, % of Left blog items, n=63)

(Right total, % of Right blog items, n=64)

(Grand total, % of total news items, n=127)

\*p<.005 level (2-tailed), t value: 3.16.

\*\*p<.001 level (2-tailed), t value: 3.96.

### **Blogs: The Media is the Messenger**

A qualitative distinction between traditional papers and the blogs is that the latter relies a great deal on the former (Davis, 2009). Moreover, this dependence is not reciprocal. Looking at Table 5.10, the media provided 30 percent of the sources in the blogs coverage of *We Can't Wait*. Liberal blogs relied less on the media sources than the conservative blogs, 23 and 37 percent respectively but provided more hyperlinks than their conservative counterparts. More than 550 hyperlinks were featured throughout year-long period of coverage with an average of five hyperlinks per article linking to traditional media outlets, YouTube videos, White House website, and previous blog posts. Overall, these findings complicate previous scholarship that contends that blogs on the Right are more likely to link than liberal blogs (Shaw and Benkler, 2012).

**Table 5.10: Media as Online Source and Hyperlinking**

	Media	Hyperlinks	Avg. # of Links per Article
<b>Left</b>			
<i>Daily Kos</i>	51	160	7
<i>Talking Points Memo</i>	1	13	2
<i>Huffington Post</i>	47	119	4
<b>Left Total</b>	<b>92 (23%)</b>	<b>292</b>	<b>4</b>
<b>Right</b>			
<i>Townhall</i>	41	97	3
<i>Hot Air</i>	40	72	5
<i>Michelle Malkin</i>	27	95	8
<b>Right Total</b>	<b>108 (37%)</b>	<b>264</b>	<b>5</b>
<b>Total</b>	<b>207 (30%)</b>	<b>556</b>	<b>5</b>

(Left total, % of total Left sources, n=401)

(Right total, % of total Right sources, n=289)

(Grand total, % of total sources, n=690)

One of the virtues of the networked public sphere is the potential to be an information-rich environment as it does not face finite amount of space issues like newspapers. Hyperlinking helps with adding context because it lowers the level of mediation. For example, online news can link or paste an entire Supreme Court opinion whereas a newspaper, in most cases, will describe and quote a few sentences from that opinion.

Often, blogs can be parasitic, contributing little original content to an item. Consider this *Daily Kos* item with a total of eight paragraphs. The first paragraph is three original prefatory sentences followed by four paragraphs copy and pasted from another blog. That is followed by another original sentence to set-up another copy and pasted paragraph from another blog and then ended with one sentence (Climate Hawks, 2012). To be fair, there is a great deal of original reporting from these blogs. However, it is mostly secondary in that these journalists are not performing traditional duties like attending White House briefings or talking to sources.



## **Toward a New Party Press**

Coverage of *We Can't Wait* in the blogosphere indicates a resurgence of a rich tradition in the American media: the party press.<sup>11</sup> Party papers dominated the media landscape for more than a century and served as the mouthpiece for a particular political party, cause, faction, or individual (Kaplan, 2006; McGerr, 1986; Rubin, 1981; Schudson, 1978; Schudson and Tift, 2005). The sponsored papers were not expected to be a neutral source of information or to provide both sides of a story. Regardless of formal affiliation with a party, as Zaller (2003) notes, “newspapers often functioned as partisan cheerleaders—boosting their candidates and lambasting those of the opposition, crowing about victories and wailing over defeats” (p. 113). It was not unusual for a Republican-leaning paper to completely ignore the actions and agenda of the other party and vice versa. Moreover, the party papers served a more fragmented and polarized audience than blogs do today (Althaus, 2011).

Save for the op/ed section, it is rare to find activism in the traditional press. In contrast, advocacy is thriving on partisan blogs. The new media era represents a decline of the trustee-style of journalism like the traditional national papers and the rise of an advocacy-style of news. For conservatives, the emphasis was on pushing the Obama administration to green light the Keystone XL pipeline whereas liberals were focused on the president to issue an ENDA executive order. Joan McCarter, as she reported in the *Daily Kos* on the recess appointment of Richard Cordray to the Consumer Financial

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<sup>11</sup> Surprisingly, many scholars of the new media have failed to make this connection. Pole (2010) does associate blogs with the penny press but does not draw the connection to the sponsored press. Some media historians have placed the new media era within the proper context of the party press (see Baughman, 2011). It is best to characterize blogs as a hybrid of the party press and the penny press because blogs are explicitly partisan like the party press but, like the penny press, they have challenged the reigning business model of the news and are more accessible to the mass public rather than an elite audience like the party press.

Protection Bureau, also invited her readers to thank the president for the appointment with an email; hyperlinked was a *Daily Kos* campaign form letter to President Obama.

The top blogs did not provide a new voice for the mass public. Instead, they reflected a slightly wider spectrum of the elite. For the most part, these blogs were reflecting the party line as well as divisions within it. On the conservative side, bloggers were parroting the same talking points as Speaker John Boehner arguing that the House has passed a plethora of jobs bills and criticizing President Obama for making end-runs around Congress. Similar to Speaker Boehner who found it “laughable” that President Obama was making end-runs around Congress, the objections asserted in the right-wing blogs were all talk but no follow-through on action. It is safe to say that for all of the constitutional objections coming from the conservative blogs, there probably was not as much intense focus on the US Constitution during the Bush administration.

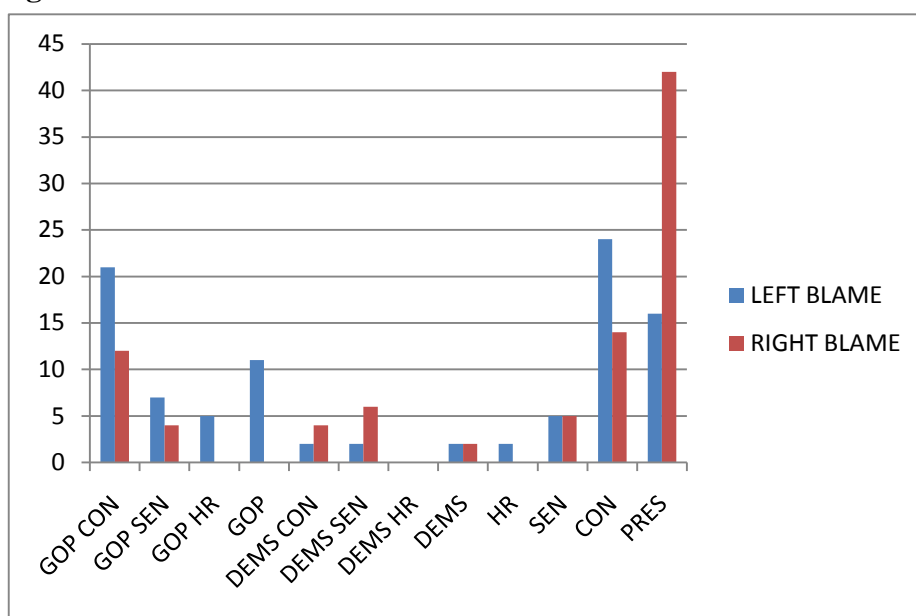
The liberal sphere was highlighting the divisions within the Democratic Party. Liberal bloggers were vexed that the president would not issue an executive order banning sexual orientation discrimination in the workplace (ENDA) when prominent party members like former Speaker and Rep. Nancy Pelosi argued it was long overdue. Moreover, members and a few departments within the Obama administration already signed-off on the merits of such an order.

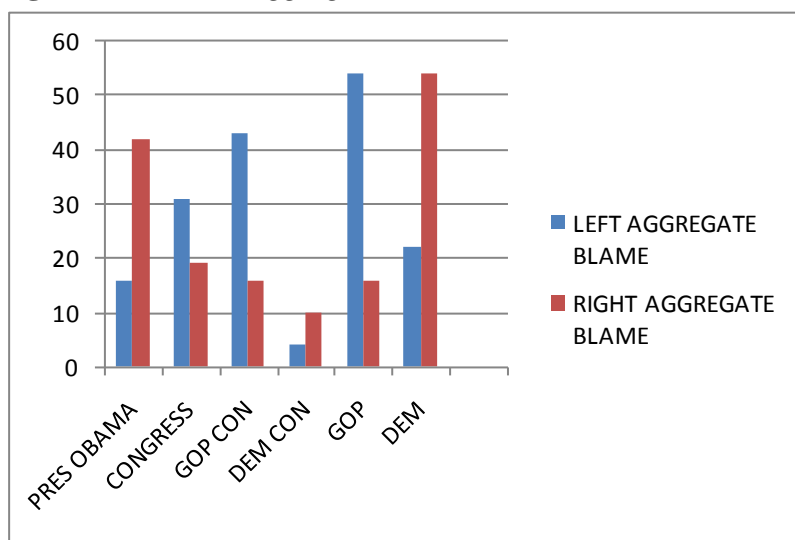
### **Online Blame**

Previous scholarship shows that editorial choices in the blogosphere are informed through a partisan lens resulting in conservative (liberal) blogs selecting and highlighting stories that are favorable to Republicans (Democrats) or embarrassing to Democrats (Republicans) (Baum and Groeling, 2008). This analysis confirms previous scholarship

because the assignment of blame for political gridlock and the poor economy is largely along party lines, see figures 5.3 and 5.4. For the liberal blogs, while President Obama is anything but perfect, it is the obstructionist Republicans that are keeping the economy stagnant and paralyzing Washington. On the other side of the blogosphere aisle, there is a conservative consensus that a healthier economy and political system requires regime change at home. Aggregating the blame into eight categories, Republicans are Public Enemy #1 in the liberal blogosphere whereas Democrats are Satan's handmaiden in the mind of the conservative blogger.

**Figure 5.3:** *Online Blame*



**Figure 5.4:** *Online Aggregate Blame*

### Online Constitutional Objections

The liberal blogosphere were not as concerned about the constitutional implications of presidential direct action compared the blogs on the right. Moreover, the objections in the conservative blogosphere were more frequent, intense, and diverse compared to the liberal blogs. As Tables 5.11 and 5.12 show, nearly 60 percent of the conservative news items (58%) contained at least one constitutional objection whereas less than one-quarter of the left blogs raised any constitutional critiques of unilateral executive power. Only in Right-leaning blogs would one be exposed to criticisms that President Obama was abusing his war powers or that he selectively upholds the Constitution. Collectively, the partisan blogs did a better job than the traditional media in raising constitutional objections to presidential direct action, 41 percent and 28 percent, respectively.

One theme that resonated in the conservative blogosphere was that Obama was not acting like a president but rather a king. The right-wing extended the imperial

presidency frame by painting Obama as a monarch. It was the fourth most frequent frame among conservative bloggers. For example, David Limbaugh (2011) asserted that the president is not “America’s king” and it is for that reason why “the Framers deliberately placed safeguards in our system to prevent such capricious executive action.”

Portnoy (2012) claimed that in the real world, news headlines would read, “President Obama to Issue Executive Order Making Him Lord and Master of All He Surveys.” While recognizing that no such headline exists, given the president’s “penchant for exceeding the bounds of his authority, don’t be surprised to see one between now and Election Day.” Portnoy argued that as a former constitutional scholar, President Obama, “of all people should be aware of the limits that the Constitution places on the executive branch. Short of a vague grant of ‘executive power’ in Article II and a directive further down that the president ‘take Care that the Laws be faithfully executed,’ the Constitution is silent on executive orders.” *This is the first out of the more than 1,000 news items reviewed in this dissertation that explicitly makes the point that unilateral powers are not enumerated in the Constitution.* He also noted that candidate Obama was quite critical of the Bush administration in regards to their exercise of executive power.

Michelle Malkin (2011b) writing in her own blog vividly painted Obama’s We Can’t Wait initiatives as an “orgy of executive orders” circumventing the constitutional order. In another piece Malkin (2011a) argued that

“President Obama couldn’t wait to trample over the legislative process again. This week, he issued his 98<sup>th</sup> executive order on an irresistibly exploitable policy issue: prescription drug shortages. Soon, ‘One a Day’ won’t just be a multivitamin. It’ll be the rate of White House administrative fiats.”

Malkin concluded by doing what many conservatives did as a response to We Can’t Wait; co-opted the phrase established by the administration: “Unfortunately, the only

cure for Team Obama’s overdose of toxic demagoguery lies at the ballot box. We can’t wait.”

Compared to traditional papers, the blogosphere preferred a more vicious, pedestrian, and populous tone. For example, Derek Hunter (2012) on *Townhall* argued that Obama’s recess appointment of Richard Cordray was to “justify his dictatorial desires.” He added, “The thing about totalitarians is they’re never content. No amount of power is enough. They’re like those junkies addicted to meth on *Intervention* – only with better teeth.”

**Table 5.11:** *Constitutional Frames Online*

	Authority	Objections	Note
<b>Left</b>			
<i>Daily Kos</i>	2	5	9
<i>Talking Points Memo</i>	1	2	1
<i>Huffington Post</i>	6	8	8
<b>Left total</b>	<b>9 (14%)</b>	<b>15 (24%)</b>	<b>18 (29%)</b>
<b>Right</b>			
<i>Townhall</i>	2	20	12
<i>Hot Air</i>	1	9	6
<i>Michelle Malkin</i>	0	8	3
<b>Right total</b>	<b>3 (5%)</b>	<b>37 (58%)</b>	<b>21 (33%)</b>
<b>Total</b>	<b>12 (9%)</b>	<b>52 (41%)</b>	<b>39 (31%)</b>

(Left total, % of total Left blog items, n=63)

(Right total, % of total Right blog items, n=64)

(Grand total, % of total news items, n=127)

**Table 5.12:** *Types of Constitutional Objections Online*

	<i>Daily Kos</i>	<i>Talking Points Memo</i>	<i>Huffington Post</i>	<b>Total</b>
<b>Left</b>				
Undermines Congress	0	1	4	<b>5</b>
Recess Appointment	3	0	0	<b>3</b>
Burdensome/Red Tape	1	1	1	<b>3</b>
Unconstitutional	1	0	2	<b>3</b>
Checks and Balances	1	0	2	<b>3</b>
Imperial	1	0	1	<b>2</b>
Political	0	1	0	<b>1</b>
Ineffective	0	0	1	<b>1</b>
	<i>Townhall</i>	<i>Hot Air</i>	<i>Michelle Malkin</i>	<b>Total</b>
<b>Right</b>				
Undermines Congress	7	3	3	<b>13</b>
Unconstitutional	11	1	1	<b>13</b>
Burdensome/Red Tape	6	4	2	<b>12</b>
King/Imperial	6	2	3	<b>11</b>
Checks and Balances	6	1	1	<b>8</b>
Recess Appointments	4	1	3	<b>8</b>
Acting Unilaterally	3	2	1	<b>6</b>
Political	2	3	0	<b>5</b>
Ineffective	0	3	0	<b>3</b>
Abusing War Power	2	1	0	<b>3</b>
Selectively Upholds Cons.	1	0	0	<b>1</b>

Conservative blogs were less likely to cite the authority for the president's unilateral initiatives because it was their contention that the administration lacked the authority in the first place. Regardless, less than ten percent of the items cited the authority in all six blogs. Also, slightly less than one-third of the blog posts placed We Can't Wait within the context of the Constitution. In these two areas, the blogosphere, overall, was less likely to place the direct actions within a constitutional context and cite the authorization for these unilateral powers compared to the traditional press.

As noted above, liberals were relatively quiet about raising constitutional objections to the We Can't Wait executive initiatives. Former Democratic presidential candidate, Gary Hart (2012), confronted this partisan silence surrounding Obama's

unilateral use of executive power. Arguing in the *Huffington Post* Hart highlighted the hypocrisy of liberals for not criticizing Obama for his unilateral actions when less than four years ago the Left was chastising the Bush administration for similar actions. While the president's actions may be expedient and welcoming, Hart warned progressives that the accumulation of power by any president is dangerous.

### **Conclusion: The More Things Change, the More They Stay the Same**

Ultimately the problem for the political system is best captured in an *Associated Press* piece reprinted in full and without commentary on the *Huffington Post*:

Obama has adopted an election-year theme of 'we can't wait' for Republicans to act on nominations and major proposals like his latest jobs plan. Republicans have to consider how their argument that the president is violating Constitutional checks and balances plays against Obama's stump speeches characterizing them as obstructionists (Margasak, 2012).

Politicians must weigh popularity with constitutionality. Potential violations to the constitutional order are placed in the same category as where one stands on clean coal and any other political issue of the day. This problem did not receive a great deal of treatment in the overall media landscape despite the unitary executive being central to the 2012 campaign.

This chapter demonstrated that despite having the theory and practice of presidential direct action front and center during a polarizing and heavily covered election, the news media, overall, failed to provide coherent and sustainable counterframes. The chapter also argued that the blogosphere is a resurgence of the 19<sup>th</sup> century party press. Only one subset of the media, the conservative blogosphere, challenged the Obama administration's framing of We Can't Wait but this is read by a small audience that already despised the president. In addition, the top partisan blogs do little to widen the gatekeeping function of the traditional media. Instead, new media



outlets are reflecting the consensus and divisions within the two dominant political parties. Despite a rapidly changing media environment filled with an abundance of information, news organizations, once again, allowed the president to hide in plain sight by ignoring the critical and controversial features of the unitary executive.

## Appendix to Chapter 5: Print coverage of Executive Orders

Broadening our horizon to coverage of executive orders yielded 116 items, bringing the combined print total of executive orders and We Can't Wait to 152 news items, see Table A5.1. These news items included any discussion of the term “executive order” during the one year period of We Can't Wait so past, present, or proposed executive orders issued by President Obama as well as previous executive orders issued by other presidents were included in the analysis.

Though this analysis only focuses on one year of executive orders, it allows for revisiting and expanding on some of the findings in the second chapter. The sole focus in that chapter was the frequency and quality of coverage of significant executive orders that made the front-page of the *New York Times*. This appendix applies those standards established by Howell (2005) to the three national papers.<sup>12</sup> In addition, it assesses what is covered on the inside pages of the elite press. The results are, at best, mixed.

**Table A5.1: Distribution**

	We Can't Wait	Executive Order	Total
<i>NYT</i>	13	39	52
<i>USA</i>	4	17	21
<i>WPost</i>	19	60	79
<b>Total</b>	<b>36</b>	<b>116</b>	<b>152</b>

Search Period: 10/24/11 – 10/24/12

On the positive side, the three papers kept readers abreast of the majority of current or proposed executive actions. For example, Table A5.2 shows that 71 percent of the orders issued by President Obama were covered by at least one of the three outlets.

<sup>12</sup> In addition to being featured on page one of the *New York Times*, the executive order must be covered within six months of issuance for it to be deemed significant (Howell, 2005).

However, just three of the orders covered in all of the national papers. Furthermore, less than 40 percent of the news items dealt with issued executive orders during the period of analysis in question. President Obama issued 41 executive orders during this one-year period but only two of those orders met Howell's standards for what is considered significant. If I loosen the standards to page one items mentioning executive orders issued during 2011, then I still find that the new media era applies to the current administration as only five percent of the items were deemed worthy enough for the front page of the three national papers. Moreover, any utterance of executive order on the front page of the *New York Times*, *Washington Post*, and *USA Today* yielded only 11 percent of the total news items.

**Table A5.2:** *Executive order (EO) and unilateral power (UP) coverage trends*

	<i>NYT</i>	<i>USA</i>	<i>WPost</i>	<b>Total</b>
<b>Current EO news items</b>	14	5	24	<b>43 (37%)</b>
<b>Actual Current EOs covered</b>	11	4	14	<b>29 (71%)*</b>
<b>Front-page coverage of Current EO</b>	0	0	2	<b>2 (2%)</b>
<b>Front-page coverage of EOs</b>	7	0	6	<b>13 (11%)</b>
<b>Current UP coverage</b>	24	12	37	<b>73 (63%)**</b>
<b>Non-2011 EO coverage</b>	8	3	8	<b>19 (16%)</b>
<b>Proposed EO coverage</b>	4	2	13	<b>19 (16%)</b>

Current EO refers to executive orders issued between Oct. 24, 2011 and Oct. 24, 2012.

(% of total items, n=116). Three items mentioned non-specific executive orders.

\*(% of total Current EOs, n=41). Factoring in coverage of the same EOs, then it drops to 16 or 39 percent of EOs covered by the three national papers.

\*\*Assuming that these UPs are considered executive orders. The total is misleading as it does not take into account the hundreds of unilateral actions initiated during this period of analysis.

Moving beyond the headline page and extending coverage to other unilateral powers that are mistakenly referred to as executive orders then a healthy majority of the news items (63%) provide up-to-date coverage of the unitary executive. In other words,

more than 60 percent of the pieces reported on unilateral actions taken between October 24, 2011 and October 24, 2012. For example, the Dream Act unilateral initiative received extensive coverage as close to one-fifth of the items were devoted to this controversial action (18%). Though this was not a result of an executive order but rather an extension of an existing policy of “prosecutorial discretion,” it was referred to as the former. In fact, of the three papers only one item in the *Washington Post* made note of the fact that it was not an executive order (Wallsten, 2012). What is stranger, eight items were published in the *Post* after this correction but still referred to the policy as an executive order.<sup>13</sup>

Table A5.3 finds that, similar to We Can’t Wait coverage, the Obama administration towered over congressional sources. President Obama alone accounted for more than 10 percent of the sources and his administration made up more than 30 percent of the 719 total quotes in this coverage. Congress, in contrast, encompassed only seven percent of the source pool. The Obama administration also dominated Congress, as Table A5.4 demonstrates, in terms of administration-only items and framing the coverage. More than ten percent of the news items contained administration-only sources and close to 40 percent of the items consisted of the first quote coming from the Obama administration. There were no Congress-only items and a mere four percent of pieces contained the first quote from a member of Congress.

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<sup>13</sup> Mayer and Price (2002) also found that the press often incorrectly referred to other forms of unilateral powers as “executive orders” (p. 374n.6).

**Table A5.3: Sources in Executive Order Print Coverage**

	Pres. Obama	Obama Administration	Congress		Total Sources
			House	Senate	
<i>NYT</i>	35	116	9	21	330
<i>USA</i>	6	9	2	0	66
<i>WPost</i>	46	108	8	9	323
<b>Total</b>	<b>87 (12%)</b>	<b>233 (32%)</b>	<b>19</b>	<b>30</b>	<b>719</b>
			<b>(7%)*</b>		

(% of total sources, n=719)

\*p&lt;.001 level (2-tailed), t value: 4.07

**Table A5.4: Source Dominance in Executive Order Coverage**

	Admn. First Quote	Con First Quote	Admn. Only	Con. Only
<i>NYT</i>	16	2	4	0
<i>USA</i>	3	0	2	0
<i>WPost</i>	24	3	8	0
<b>Total</b>	<b>43(37%)</b>	<b>5 (4%)*</b>	<b>14 (12%)</b>	<b>0*</b>

(% of total items, n=116)

\*p&lt;.001 level (2-tailed), first quote t value: 6.35, admn/con only t value: 3.97

**Table A5.5: Interest Groups and other Non-Political Actors/Institutions as Sources**

	Interest Group	Other Non-Political	Obama Administration
<i>NYT</i>	23	97	116
<i>USA</i>	29	42	9
<i>WPost</i>	39	111	108
<b>Total</b>	<b>91 (13%)</b>	<b>250 (35%)</b>	<b>233 (32%)</b>

(% of total sources, n=719)

The trends about the frequency and dominance of administration sources being treated more authoritatively than Congress are similar to the previous chapters. However, one new trend emerges from this coverage: interest groups as a dominant source. In the new media era, presidents gain less traction over their news worthiness and their actions are more mediated. As Table A5.5 shows, there were more quotes coming from advocacy groups than President Obama. More than a third of all quotes came from actors and organizations outside of the formal branches of government. The strong presence of

interest groups during this period of coverage highlights the ubiquity of unilateral powers in the political system. Most of the interest groups were advocating for President Obama to issue executive powers, specifically in the areas of workplace discrimination, cyber-security, and immigration. There was little discussion over the constitutional issues of the president acting alone.

**Table A5.6:** *Constitutional Frames of Executive Orders*

	Authority	Objections	Note
<i>NYT</i>	1	9	15
<i>USA</i>	1	8	3
<i>WPost</i>	5	15	14
<b>Total</b>	<b>7 (6%)</b>	<b>32 (28%)</b>	<b>32 (28%)</b>

(% of total news items, n=116)

**Table A5.7:** *Types of Constitutional Objections in Coverage of Executive Orders (EO)*

	<i>NYT</i>	<i>USA</i>	<i>WPost</i>	<b>Total</b>
Unconstitutional	2	3	5	<b>10</b>
Short-term fix/Ineffective	3	2	4	<b>9</b>
Undermines Congress	3	2	3	<b>8</b>
Political	2	2	3	<b>7</b>
Imperial Presidency	1	0	2	<b>3</b>
Selectively Upholds Cons.	0	1	2	<b>3</b>
Burdensome Regulations	1	2	0	<b>3</b>
Separation of Powers	0	1	1	<b>2</b>
Acting Unilaterally	0	0	2	<b>2</b>
Violates IL/HR	1	0	0	<b>1</b>
Neoliberal (Deregulatory)	0	1	0	<b>1</b>

Table A5.6 shows the dearth of criticism regarding executive orders. Far less than one-third of the news items contained any hint of constitutionalism concerning President Obama's unilateral powers. For those that did encompass critique, the emphasis was on the illegality or unconstitutionality of the actions as well the ineffectiveness of the executive orders (see Table A5.7). Other assessments included that the executive orders undermined Congress and that they were a tool of political patronage rather than fundamentally fixing a problem (e.g. immigration). Overall, executive orders were infrequently and poorly covered.

Tables A5.8 – A5.11 (below) combine the We Can't Wait and executive order coverage. Congressional sources pale in comparison to the Obama administration. The Obama administration encompass roughly one-third of all sources compared to less than ten percent for members of Congress. There are more than 10 percent of news items that contain administration-only sources and 43 percent of the items grant the first-quote to the White House. Congress is given that privilege in only three percent of the items and there are no Congress-only articles throughout this one-year coverage period. Overall, constitutional objections to presidential direct actions are rare as less than 30 percent of the 152 news items contain any substantive critique and 31 percent of the items are placed within the context of the Constitution. Furthermore, the authorization for these actions receives even less consideration among the three national papers. The findings discussed in the second chapter also apply to Obama coverage because though the new media era is a more difficult landscape for presidents but coverage of their unilateral powers seems to be the exception.

**Table A5.8: Print Sources in *We Can't Wait* and Executive Orders**

	President Obama	Admn.	House	Senate	Total Sources
<i>NYT</i>	59	161	24	25	417
<i>USA</i>	8	15	3	2	87
<i>WPost</i>	67	144	13	14	437
<b>Total</b>	<b>134 (14%)</b>	<b>320 (34%)</b>	<b>40</b>	<b>41</b>	<b>941</b>
			<b>(9%)*</b>		

(% of total sources, n=941)

\*Difference between administration and congressional sources significant at p<.001 level (2-tailed), t value: 5.04.

**Table A5.9: Source Dominance in *WCW* and *EO***

	Admn. Only	Con Only	Admn. First Quote	Congress First Quote
<i>NYT</i>	5	0	27	2
<i>USA</i>	3	0	7	0
<i>WPost</i>	9	0	32	3
<b>Total</b>	<b>17 (11%)</b>	<b>0*</b>	<b>66 (43%)</b>	<b>5 (3%)*</b>

(% of total print items, n=152)

\*p<.001 level (2-tailed), admn/con only t value: 4.36, first quote t value: 8.91.

**Table A5.10: Constitutional Frames in *WCW* and *EO***

	Objections	Notes	Authority
<i>NYT</i>	11	21	3
<i>USA</i>	9	6	2
<i>WPost</i>	22	20	7
<b>Total</b>	<b>42 (28%)</b>	<b>47 (31%)</b>	<b>12 (8%)</b>

(% of total print items, n=152)

**Table A5.11: Types of Constitutional Objections in *WCW* and *EO***

	<i>NYT</i>	<i>USA</i>	<i>WPost</i>	<b>Total</b>
Undermines Congress	5	2	6	13
Unconstitutional	2	4	6	12
Short-term fix/Ineffective	3	2	4	9
Imperial Presidency	2	0	5	7
Political	2	2	3	7
Separation of Powers	1	1	4	6
Unlawful Recess Appointments	1	0	3	4
Burdensome Regulations	1	2	0	3
Acting Unilaterally	0	0	2	2
Violation of				
International law/Human rights	1	0	0	1
Neoliberal (Deregulatory)	0	1	0	1



**Table A5.12:** *Executive Orders Issued - October 24, 2011 and October 24, 2012*

	<b>Date</b>	<b>EO #</b>	<b>Title</b>
1)	10/31/2011	13588	Reducing Prescription Drug Shortages*+
2)	11/09/2011	13589	Promoting Efficient Spending*+
3)	11/20/2011	13590	Authorizing the Imposition of Certain Sanctions With Respect to the Provision of Goods, Services, Technology, or Support for Iran's Energy and Petrochemical Sectors
4)	11/23/2011	13591	Continuance of Certain Federal Advisory Committees
5)	12/02/2011	13592	Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities
6)	12/13/2011	13593	2011 Amendments to the Manual for Courts-Martial, United States
7)	12/19/2011	13594	Adjustments of Certain Rates of Pay
8)	12/19/2011	13595	Instituting a National Action Plan on Women, Peace, and Security
9)	12/19/2011	13596	Amendments to Executive Orders 12131 and 13539
10)	1/19/2012	13597	Establishing Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness*^\$
11)	1/27/2012	13598	Assignment of Functions Relating to Certain Promotion and Appointment Actions in the Armed Forces
12)	2/05/2012	13599	Blocking Property of the Government of Iran and Iranian Financial Institutions^#
13)	2/09/2012	13600	Establishing the President's Global Development Council
14)	2/28/2012	13601	Establishment of the Interagency Trade Enforcement Center
15)	3/15/2012	13602	Establishing a White House Council on Strong Cities, Strong Communities
16)	3/16/2012	13603	National Defense Resources Preparedness

17)	3/22/2012	13604	Improving Performance of Federal Permitting and Review of Infrastructure Projects*^#
18)	4/13/2012	13605	Supporting Safe and Responsible Development of Unconventional Domestic Natural Gas Resources#
19)	4/22/2012	13606	Blocking the Property and Suspending Entry into the United States of Certain Persons With Respect to Grave Human Rights Abuses by the Governments of Iran and Syria Via Information Technology^#
20)	4/27/2012	13607	Establishing Principles of Excellences for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members*+
21)	5/01/2012	13608	Prohibiting Certain Transactions With and Suspending Entry Into the United States of Foreign Sanctions Evaders With Respect to Iran and Syria
22)	5/01/2012	13609	Promoting International Regulatory Cooperation
23)	5/10/2012	13610	Identifying and Reducing Regulatory Burdens^#
24)	5/16/2012	13611	Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen^#
25)	5/21/2012	13612	Providing an Order of Succession Within the Department of Agriculture
26)	5/21/2012	13613	Providing an Order of Succession Within the Department of Commerce
27)	5/21/2012	13614	Providing an Order of Succession Within the Environmental Protection Agency
28)	5/21/2012	13615	Providing an Order of Succession Within the Office of Management and Budget
29)	6/14/2012	13616	Accelerating Broadband Infrastructure Deployment*
30)	6/25/2012	13617	Blocking Property of the Government of the Russian Federation Relating to the Disposition of Highly Enriched Uranium Extracted From Nuclear Weapons#
31)	7/06/2012	13618	Assignments of National Security and Emergency Preparedness Communications Functions

32)	7/11/2012	13619	Blocking Property of Persons Threatening the Peace, Security, or Stabilization of Burma#
33)	7/20/2012	13620	Taking Additional Steps To Address the National Emergency With Respect to Somalia
34)	7/26/2012	13621	White House Initiatives on Educational Excellence for African Americans
35)	7/30/2012	13622	Authorizing Additional Sanctions With Respect to Iran^#
36)	8/10/2012	13623	Preventing and Responding to Violence Against Women and Girls Globally#
37)	8/30/2012	13624	Accelerating Investments in Industrial Energy Efficiency
38)	8/31/2012	13625	Improving Access to Mental Health Services for Veterans, Service Members, and Military Families#
39)	9/10/2012	13626	Gulf Coast Ecosystem Restoration
40)	9/25/2012	13627	Strengthening Protections Against Trafficking in Persons in Federal Contracts^
41)	10/09/2012	13628	Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran

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\*Part of the We Can't Wait campaign

+Covered by all three print media outlets

^Covered by *New York Times*

#Covered by *Washington Post*

\$Covered by *USA Today*

Data compiled from the White House website - <http://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders> - and *The American Presidency Project* - <http://www.presidency.ucsb.edu/index.php>

## Chapter VI

### **Conclusion: The Unitary Presidency, News Media, and Constitutional Violence**

*Taken by and large, the history of the Presidency is a history of aggrandizement*  
- Edward S. Corwin

This dissertation has investigated the role of the media in bringing attention to some of the unwritten unilateral powers of the presidency, examining the amount of coverage, type of frames that are used, who influences the frames, and whether these frames serve as a substantive check on the unilateral powers of the American presidency. The data from the previous chapters demonstrate that the unitary executive does not garner a great deal of coverage. The coverage that is generated offers limited counterframing of direct presidential action because many of the critical elements are eliminated or marginalized. This is a result of administration sources being featured more prominently compared to congressional sources and, equally important, a political system that is indifferent to, and dependent on, executive unilateral actions. However, when Congress and the rest of the political system exert its constitutional prerogatives against the president, the media responds and reflects this decisive pushback against executive power. The remainder of this chapter provides a recap of the findings from the case studies and suggestions for future research as well as some concluding thoughts.

The second chapter showed that the political and media status-quo of direct presidential action is one of uncontroversial indifference as evidenced by just seven percent of the more than 3,000 executive orders issued over a 50-year period made it on to the front page of the *New York Times*. The vast majority of the front-page articles (90%) did not contain any constitutional objections to the executive orders. The ten presidents alone were quoted significantly more than Congress. What is more,

administrations' made up the overwhelming majority of the source pool. Members of Congress were rarely used as sources nor were their quotes prominently featured in the coverage. For every one quote from a member of Congress there were eight from a presidential administration.

The chapter also examined coverage of the unitary executive in the context of the changing news environment. There were differences in coverage between the first five "imperial" administrations compared to the latter five "imperiled" and "new media" presidencies. For example, presidents like Reagan, Bush, and Clinton faced a more challenging press as they were quoted less than their predecessors and had the lowest percentages of administration-only articles. However, other indicators showed that little changed throughout the 50-years of coverage. For example, their administrations accounted for more than half to 78 percent of the source pool and the vast majority of their executive orders did not face any critical scrutiny from the *Times*. Though the present-day media landscape is more inhospitable to presidents, the data shows that unilateral powers are exempted from this trend. Overall, the findings suggest that the *New York Times* provided presidents and their administrations with a great deal of influence over the framing of their own unilateral actions.

Chapter three demonstrated that the game of crime and scandal at Abu Ghraib generated more attention than the legal, ethical, and moral implications of domestic and international criminality. The unitary executive in particular and presidential power more generally were not subjected to intense scrutiny during this period of coverage. Three-quarters of the items failed to provide any substantive critique of executive power. Despite policies of torture being crafted at the highest levels of the administration, the

three major papers did not highlight the problematic aspects of direct presidential action. Much of the coverage adhered to the Bush administration's version of what unfolded at Abu Ghraib. Most of the blame was deflected from the administration and leveled at a "few bad apples" and international law and human rights failed to become a prominent frame,

This time, the source disparity between the president and Congress was not as extreme. The administration accounted for 15 percent of the total amount of sources while Congress made up 10 percent of the quotes. In fact, Congress was quoted more than President Bush. However, the greater presence of Congress did not result in more critical coverage. The lack of opposition in Congress placed the burden on the news media to produce counterframes. While there were some harsh criticisms, especially in the editorial sections of the papers, they were infrequent throughout the month-long period of analysis and failed to be sustainable and salient in the national discourse. Overall, coverage was negative but not critical and insulated the unitary executive from critical examination.

The fourth chapter investigated McCain's anti-torture amendment and demonstrated that the news and the political system are capable of standing up to the unitary executive by providing rich and salient counterframes. Congress, specifically Senate Republicans, responded with a piece of legislation that directly confronted the Bush administration's expansive exercise of presidential power. During this period, Congressional sources were treated more authoritatively compared to the Bush administration. Congress accounted for close to 40 percent of the sources whereas the Bush administration made up less than 30 percent of the total amount. What is more,

Congress had three times more news items that relied solely on them than the administration for quotes and Congress was able to set the frame of the news items more than the administration with first-quote news items. More than one-quarter of the pieces blamed President Bush for the torture at Abu Ghraib, a significant increase compared to the findings in the previous chapter. Torture was used a mere two percent of the time in Abu Ghraib headlines but it jumped to 30 percent in coverage of the McCain Amendment. Equally as important, international law and human rights were prominent in counterframing Bush's unilateral executive power. Since Congress was ready to push back against the Bush administration's interpretation of the unitary executive, this widened the spectrum of legitimate controversy as evidenced by two-thirds of the news items containing at least one critique of executive power. In this sense, direct presidential actions emerged from the shadows of national discourse.

The final case study investigated President Obama's embrace of going it alone during the 2012 presidential election, comparing press and blog coverage. The establishment press was not too interested in President Obama's unilateral initiatives as *We Can't Wait* generated little coverage. Throughout the one-year period of analysis, just 36 print items between the three national papers were devoted to the campaign. The papers reverted back to their usual style of reporting as evidenced by the Obama administration accounting for nearly 40 percent of the sources and less than one-third of the news items raising any constitutional objections.

The fifth chapter also showed that coverage was more vibrant in the networked public sphere. Among the six blogs, coverage was more frequent and critical. More than 40 percent of the blogosphere items placed *We Can't Wait* in a critical constitutional

context. Much of this was informed through the lens of partisanship as nearly 60 percent of the conservative blogs constitutionally challenged the merits of We Can't Wait whereas less than one-quarter of the items from the liberal blogs made similar critiques. Moreover, liberal blogs overwhelmingly blamed Republicans for the poor economy and the political gridlock while the conservative blogosphere viewed President Obama and the Democrats as the culprits. It showed that the party press has resurged in the networked public sphere.

It is true that the media occupies a contradictory position in the social structure, allowing news organizations to act independently by challenging the frames of power, as some scholars contend (Althaus, 2003; Entman, 2004; Kumar, 2007). However, this is just not the case most the time. It is argued in this dissertation, and well supported with evidence, that the media often sides with, and defers to, power. The importance and size of the presidency has grown exponentially, more so than when Corwin made the observation at the beginning of this chapter more than 50 years ago (Howell, 2003, p. 10). The central assertion of this dissertation is that the news media contributes to the aggrandizement of executive power. Though presidents face a formidable media landscape, the findings in this dissertation contend that their unilateral powers operate above the fray of the news media and political system. Despite leveraging massive power, the unitary executive hides in plain sight in the public sphere.

Despite opening up a new area of research on the unitary presidency, the arguments presented in this dissertation are nothing new. In fact, it is an argument that traces back nearly 100 years ago to Walter Lippmann (1922). He argued that the news media is “no substitute for institutions” (p. 364). The quality of the news, Lippmann



argued, “is an index of its social organization. The better the institutions, the more all interests concerned are formally represented, the more issues are disentangled, the more objective criteria are introduced, the more perfectly an affair can be presented as news” (p. 363). It is first and foremost the responsibility of the political system to enforce the constitutional design of checks and balances. “At its best,” Lippmann adds, “the press is a servant and guardian of institutions; at its worst it is a means by which a few exploit social disorganization to their own ends” (pp. 363-364). To paraphrase Habermas, discourses do not do the governing and the decision making, they only guide them (1992). In other words, the media is not a sufficient institution to hold politicians directly accountable but they can serve as a crucial supplement. It takes assertive and independent legislative and judiciary branches to challenge the unitary executive as well as an engaged public that is willing to hold all three accountable.

It is plausible that the arguments presented in this dissertation are irrelevant because the unitary executive is the backbone of the modern presidency and essential to the functioning of our political system. After all, the United States is, according to one scholar, a “presidential nation” (Genovese, 2013) filled with, according to another, “presidency worshipers” (Riley, 1999, p. 5). Legal scholar, Noah Feldman (2006), writing in the aftermath of the McCain Amendment, emphasizes this point:

The stakes of the debate could hardly be higher: nothing is more basic to the operation of a constitutional government than the way it allocates power. Yet in an important sense, the debate is already long over. By historical standards, even the Bush administration’s critics subscribe to the idea of a pre-eminent president. Administrative agencies at the president’s command are widely understood to be responsible for everything from disaster relief to drug approval to imposing clean-air standards; and the president can unleash shock and awe on his own initiative. Such “presidentialism” seems completely normal to most Americans, since it is the only arrangement most of us have ever known (p.52).

A related argument is that this project fails to examine the good that comes out of presidential direct actions. Some have documented the perils while others have

investigated the promises of a hyper-independent executive (see Shane, 2009; Posner and Vermeule, 2010). In some situations, presidents have advanced democratic rights in areas where Congress was adamantly opposed (e.g. civil rights). On the other hand, the independent actions of presidents have been obstacles to furthering human rights and democratic norms (e.g. FDR's internment of Japanese Americans and Bush administration torture policies).<sup>1</sup> Equally as objectionable, it is argued, is when presidents' do not act when it is in their capacity to advance political and social equality (Blight and Scharfstein, 2012; Riley, 1999).

While I am sympathetic to these arguments they miss the point of this project. Our political system eventually needs to come to terms with the implications of presidents legislating without the legislative branch. The merits (or lack thereof) of the president picking up the slack for a gridlocked Congress and acting when others would not are beside the point. It is my contention that just a sliver of the unilateral presidency is presented in the public sphere and it is a disservice to the public that more sides of direct presidential actions are left out of coverage.

### **Future Research**

Considering that this is the first book-length study of media framing of unilateral executive power, as always, more research is necessary. More mediums and case studies are a good start, especially in the blogosphere. As Jamieson and Cappella (2008) argue, "History sides with the notion that one-sided partisan communication produces engagement" (p. 242). The partisan blogs have the capacity to reinvigorate the political

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<sup>1</sup> For some, like John Yoo, it is not a matter of principle but politics. Yoo, author of the many sordid post-9/11 memos, has been notorious for forcefully defending the prerogative powers of the Bush administration but, curiously, finds it objectionable when the Obama administration acts in similar fashion (Egelko, 2012). This is typical in the op/ed sections of newspapers and the partisan blogosphere.

system, as the party press of the past did, and bring the unilateral presidency to the forefront of the political agenda.

Future research also needs to incorporate the role of the judiciary in the dynamic process of framing unilateral powers. Research needs to examine the way court cases that have challenged direct president actions are framed in coverage. Like Congress, the courts do not frequently pushback against the unitary executive (Howell, 2003). However, there have been some cases like *Youngstown v. Sawyer* and, more recently, *Hamdi v. Rumsfeld*, that serve as significant setbacks to unilateral executive power.

There is much to be done in the area of media effects, public opinion, and political psychology. Now that we have a good mapping of the news frames used in unitary executive coverage, the next step is to understand how these frames shape public opinion. Media effects research is only valuable if the experiments and the data are based on actually existing frames.

Considering that Congress plays a central role in framing the news, another avenue of research in need of exploration is the legislative and media strategies used by members of Congress to constrain or support direct presidential action. To date, scholars have failed to ask what members of Congress think about presidential direct actions, let alone their communication strategies.<sup>2</sup> It is fundamental that political scientists “touch the bones” of the political system and talk directly to the actors involved in the political process. Of course, this should also be extended to news organizations.

Future research also needs to avoid some of the pitfalls that plague much of the previous scholarship on the American presidency: contributing to the aggrandizement of

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<sup>2</sup> Patrick Sellers (2010) has recently provided some innovative research at Congress communication strategies but not in the area of unilateral powers (see also Malecha and Reagan, 2012).

the executive. Louis Fisher (2012) has argued that for too long scholars have been engaging in the ill-informed construction of an idealized presidency. Revered scholars like Richard Neustadt examine presidential politics through the lens of “action, vigor, decisiveness, initiative, energy, and personal power.” The problem, Fisher contends, is that absent from these analyses are “constitutional checks, separation of powers, federalism, sources of authority, and the ends to which power is put” (p. 24). Fisher also puts academia on notice. “The fault,” he argues, “is not merely in the deficiencies of their research but in the willingness of the academic profession to tolerate their work for such a long time and to extend repeated and undeserved praise” (p. 29).

### **Revisiting Constitutional Violence**

During his first term, President Obama issued 147 executive orders, covering the entire gamut of issues and policies such as education standards, reproductive rights, torture, labor rights, pharmaceutical drugs, government transparency, and, most recently, a task force to deal with the aftermath of Hurricane Sandy (Peters, 2012). This number does not include the countless amounts of other unilateral actions all done from the convenience of the Oval Office, and all without the expressed consent of the Constitution. This is at the heart of what Fisher (2002) calls “constitutional violence.” There is little consideration for the proper role of checks and balances in a system of separated institutions as presidents will do what is politically convenient rather than what is grounded in the Constitution. This dissertation has demonstrated that the news media normalizes this type of violence to the constitutional order and allowing it to hide in plain sight.

Without a doubt, the unitary presidency faces a variety of formal and informal constraints. As noted in my introductory chapter, Howell (2003) argued that the two primary questions that presidents need to ask themselves when contemplating going it alone are 1) what do I want and 2) what can I get away with? (p. 187). As for the latter question, this project finds that presidents need not factor in the media reaction when contemplating the enormity of their unilateral powers because they have a solid ally in the press.

## BIBLIOGRAPHY

- “Abu Ghraib Unresolved”. 2005. *New York Times*, September 10, p. A16.
- “Abuses at Abu Ghraib”. 2004. *New York Times* May 1, p. A14.
- Adamic, Lada and Natalie Glance. 2005. “The Political Blogosphere and the 2004 U.S. Election: Divided They Blog”  
<http://citeseerx.ist.psu.edu/viewdoc/download;jsessionid=6E71C24CDBC6B619796E935BBC13B339?doi=10.1.1.59.9009&rep=rep1&type=pdf>
- Adler, David Gray. 2002. “Presidential Warmaking: The Clinton Legacy” in Adler and Genovese (eds.) *The Presidency and the Law: The Clinton Legacy* (Lawrence, KS: University Press of Kansas).
- Allen, Mike and Bradley Graham. 2004. “Bush Lauds Rumsfeld For Doing ‘Superb Job’; President Views More Photos of Prisoner Abuse” *Washington Post* May 11, p. A15.
- Allen, Mike and Josh White. 2004. “Rumsfeld Is Too Valuable, Say Cheney, Rice” *Washington Post* May 9, p. A22.
- Althaus, Scott L. 2003. “When News Norms Collide, Follow the Lead: New Evidence for Press Independence” *Political Communication* 20(4): 381-414.
- Althaus, Scott. 2011. “Moving Beyond the Traditional Defaults of Political Communication Research” *Political Communication Report* 21(3),  
[http://www.politicalcommunication.org/newsletter\\_21\\_3\\_althaus.html](http://www.politicalcommunication.org/newsletter_21_3_althaus.html)
- American Bar Association (ABA). 2006. *Report of the Task Force on Presidential Signing Statements and the Separation of Powers Doctrine* (August).
- Arnold, R. Douglas. 2004. *Congress, the Press, and Political Accountability* (Princeton: Princeton University Press).
- “A System of Abuse,” *Washington Post* May 5, 2004, p. A28.
- Baker, C. Edwin. 2006. *Media Concentration and Democracy: Why Ownership Matters* (New York: Cambridge University Press).
- Baker, Ross K. 2001. *House and Senate* 3<sup>rd</sup> ed. (New York: W.W. Norton).
- “Ban Torture. Period.”. 2005. *New York Times*, December 16, p. 40.
- “‘Battered Congress syndrome’”. 2006. *USA Today*, January 31, p. 10A.

- Baughman, James L. 2011. "The Fall and Rise of Partisan Journalism"  
<http://ethics.journalism.wisc.edu/2011/04/20/the-fall-and-rise-of-partisan-journalism/>
- Baum, Matthew A. 2011. "*Preaching to the Choir or Converting the Flock: Presidential Communication Strategies in the Age of Three Medias*"  
[http://www.hks.harvard.edu/fs/mbaum/documents/Baum\\_3Medias\\_LMU.pdf](http://www.hks.harvard.edu/fs/mbaum/documents/Baum_3Medias_LMU.pdf)
- Baum, Matthew A. and Tim Groeling. 2008. "New Media and the Polarization of American Political Discourse" *Political Communication* 25: 345-365.
- Baum, Matthew A. and Samuel Kernell. 1999. "Has Cable Ended the Golden Age of Presidential Television?" *American Political Science Review* 93 (March): 1-16.
- Baumgartner, Frank R. and Bryan D. Jones. 1993. *Agendas and Instability in American Politics* (Chicago: University of Chicago Press).
- Baumgartner, Frank R., Suzanna Linn, and Amber E. Boydstun. 2009. "The Decline of the Death Penalty: How Media Framing Changed Capital Punishment in America" in Schaffner and Sellers (eds.) *Winning with Words: The Origins and Impact of Framing* (New York: Routledge).
- Benkler, Yochai. 2006. *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (New Haven: Yale University Press).
- Bennet, James. 1998. "True to Form, Clinton Shifts Energies Back to U.S. Focus" *New York Times*, July 5, 1998, p. A10.
- Bennett, W. Lance. 1990. "Toward a Theory of Press-State Relations in the United States" *Journal of Communication* 40: 103-125.
- Bennett, W. Lance. 2012. *News: The Politics of Illusion* 9<sup>th</sup> ed. (New York: Pearson).
- Bennett, W. Lance, Regina G. Lawrence, and Steven Livingston. 2007. *When the Press Fails: Political Power and the News Media from Iraq to Katrina* (Chicago: University of Chicago Press).
- Bennett, W. Lance and William Serrin. 2005. "The Watchdog Role" in Overholser and Jamieson (eds.) *The Press* (New York: Oxford University Press): 169-188.
- "Binding the Hands of Torturers". 2005. *New York Times*, October 8, p. A14.
- Blight, David W. and Allison Scharfstein. 2012. "King's Forgotten Manifesto" *New York Times* May 17, p. A27.

- Bumiller, Elisabeth. 2004. "Rumsfeld Preserves Bearing, But Weighs Ability to Serve" *New York Times* May 13, p. A12.
- Bumiller, Elisabeth. 2006. "For President, Final Say on a Bill Sometimes Comes After the Signing" *New York Times*, January 16, p. A11.
- Burrows, Vanessa K. 2010. "Executive Orders: Issuance and Revocation" *Congressional Research Service Report for Congress* March 25 (RS20846)
- Bush, George W. 2004. "The President's News Conference With Prime Minister Paul Martin of Canada" April 30, 2004, *The American Presidency Project* [www.presidency.ucsb.edu/ws/index.php?pid=72613](http://www.presidency.ucsb.edu/ws/index.php?pid=72613)
- Bush, George W. 2005. "Statement on Signing the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006," December 30, 2005, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=65259>
- Bybee, Jay S. 2002. "Memorandum for Alberto R. Gonzales Counsel to the President Re: Standards of Conduct for Interrogation under 18 U.S.C 2340-2340A" August 1, 2002.
- Canes-Wrone, Brandice, William G. Howell, and David Lewis. 2008. "Executive Influence in Foreign versus Domestic Policy Making: Toward a Broader Understanding of Presidential Power" *Journal of Politics* 70(1): 1-16.
- Chong, Dennis and James N. Druckman. 2007. "Framing Theory" *Annual Review of Political Science* 10: 103-126.
- Clayman, Steven E., Marc N. Elliott, John Heritage, and Megan K. Beckett. 2010. "A Watershed in White House Journalism: Explaining the Post-1968 Rise of Aggressive Presidential News" *Political Communication* 27: 229-247.
- Climate Hawks. 2012. "Obama Administration fast tracks 5 Gigawatts of Renewable energy" *Daily Kos*, Aug. 8, <http://www.dailykos.com/story/2012/08/08/1118063/-Obama-Administration-fast-tracks-5-Gigawatts-of-Renewable-energy>
- "Clueless about Torture". 2005. *USA Today*, November 2, p. 12A.
- Cohen, Cathy J. 1999. *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics* (Chicago: University of Chicago Press).
- Cohen, Jeffrey E. 2008. *The Presidency in the Era of 24-Hour News* (Princeton: Princeton University Press).



- Cohen, Jeffrey E. 2010. *Going Local: Presidential Leadership in the Post-Broadcast Age* (New York: Cambridge University Press).
- Cohen, Richard. 2005. "Torture, Shaming Us All" *Washington Post*, November 8, A19.
- Congressional Record. 2005. "Senate consideration of H.R. 2863," 109<sup>th</sup> Congress, 1<sup>st</sup> Session, Oct. 5, 2005, p. S11062
- Cook, Timothy E. 1998. *Governing with the News: The News Media as a Political Institution* (Chicago: University of Chicago Press).
- Cooper, Phillip J. 2002. *By Order of the President: The Use and Abuse of Executive Direct Action* (Lawrence: University Press of Kansas).
- Cooper, Phillip J. 2005. "George W. Bush, Edgar Allan Poe, and the Use and Abuse of Presidential Signing Statements" *Presidential Studies Quarterly* 35(3): 515-532.
- Crenson, Matthew and Benjamin Ginsberg. 2007. *Presidential Power: Unchecked and Unbalanced* (New York: W.W. Norton).
- Cunningham, Brent. 2003. "Re-thinking Objectivity" *Columbia Journalism Review* July/August 2003, [http://www.cjr.org/feature/rethinking\\_objectivity.php?page=all](http://www.cjr.org/feature/rethinking_objectivity.php?page=all)
- Dahl, Robert A. 1998. *On Democracy* (New Haven: Yale University Press).
- Dahlgren, Peter. 2001. "The Public Sphere and the Net: Structure, Space, and Communication" in Bennett and Entman (eds.) *Mediated Politics: Communication in the Future of Democracy* (New York: Cambridge University Press): 33-55.
- Danielian, Lucig H. and Benjamin I. Page. 1994. "The Heavenly Chorus: Interest Group Voices on TV News" *American Journal of Political Science* 38(4): 1056-1078.
- Davis, Richard. 2009. *Typing Politics: The Role of Blogs in American Politics* (New York: Oxford University Press).
- Delli Carpini, Michael X. and Bruce A. Williams. *After Broadcast News: Media Regimes, Democracy, and the New Information Environment* (New York: Cambridge University Press).
- Deering, Christopher J. and Forrest Maltzman. 1999. "The Politics of Executive Orders: Legislative Constraints on Presidential Power" *Political Research Quarterly* 52: 767-783.

- Diamond, John. 2004. "Rumsfeld's time 'absorbed' by abuse scandal" *USA Today* May 25, p. A16.
- "Director for Torture". 2005. *Washington Post*, November 23, p. A18.
- Dowd, Maureen. 2005. "Torturing The Facts" *New York Times*, December 7, p. 33.
- Dowd, Maureen. 2004. "A World of Hurt," *New York Times* May 9, p. WK13.
- Drinkard, Jim, Dave Moniz, and John Diamond. 2004. "Rumsfeld Faces Lawmakers," *USA Today* May 7, p. A1.
- Egan, Charles E. 1952. "President In Plea" *New York Times*, April 9, p. 1.
- Egelko, Bob. 2012. "Yoo Says Obama – Not Bush – Exceeded Constitutional Powers" *San Francisco Gate* October 28, 2012,  
<http://blog.sfgate.com/nov05election/2012/10/25/yoo-says-obama-not-bush-exceeded-constitutional-powers/>
- Elsa, Jennifer K. 2004. "Lawfulness of Interrogation Techniques under the Geneva Conventions" *Congressional Research Service Report for Congress* (RL32567), September 8.
- Elsa, Jennifer K. 2005. "U.S. Treatment of Prisoners in Iraq: Selected Legal Issues" *Congressional Research Service Report for Congress* (RL32395), May 19.
- "End the Abuse". 2005. *Washington Post*, October 7, p. A22.
- Entman, Robert. 1993. "Framing: Toward clarification of a fractured paradigm" *Journal of Communication* 43(4): 51-58.
- Entman, Robert M. 2004. *Projections of Power: Framing News, Public Opinion, and US Foreign Policy* (Chicago: University of Chicago Press).
- Entman, Robert M. 2005. "The Nature and Sources of News" in Overholser and Jamieson (eds.) *The Press* (New York: Oxford University Press).
- Entman, Robert M. 2006. "Punctuating the Homogeneity of Institutionalized News: Abusing Prisoners at Abu Ghraib Versus Killing Civilians at Fallujah" *Political Communication* 23(2): 215-224.
- Entman, Robert M. 2012. *Scandal and Silence: Media Responses to Presidential Misconduct* (Cambridge: Polity Press).

- Farnsworth, Stephen J. and S. Robert Lichter. 2011. *The Nightly News Nightmare: Media Coverage of U.S. Presidential Elections, 1988-2008* (Lanham, MD: Rowman and Littlefield).
- Feldman, Noah. 2006. "Our Presidential Era: Who Can Check the President?" *New York Times Magazine*, Jan. 8, [www.nytimes.com/2006/01/08/magazine/08court.html?pagewanted=all](http://www.nytimes.com/2006/01/08/magazine/08court.html?pagewanted=all)
- Fisher, Louis. 2002. "Epilogue: Constitutional Violence" in Adler and Genovese (eds.) *The Presidency and the Law: The Clinton Legacy* (Lawrence, KS: University Press of Kansas).
- Fisher, Louis. 2007a. "Invoking Inherent Powers: A Primer" *Presidential Studies Quarterly* 37(1): 1-22.
- Fisher, Louis. 2007b. *Constitutional Conflicts between Congress and the President* 5<sup>th</sup> ed. (Lawrence, KS: University Press of Kansas).
- Fisher, Louis. 2007c. "Presidential Inherent Power: The 'Sole Organ' Doctrine" *Presidential Studies Quarterly* 37(1): 139-152.
- Fisher, Louis. 2009. "The President, Congress, Military Tribunals, and Guantanamo" in Thruber (ed.), *Rivals for Power: Presidential-Congressional Relations* 4<sup>th</sup> ed. (Lanham, MD: Rowman and Littlefield).
- Fisher, Louis. 2011. *Defending Congress and the Constitution* (Lawrence, KS: University Press of Kansas).
- Fisher, Louis. 2012. "Teaching the Presidency: Idealizing a Constitutional Office" *PS: Political Science and Politics* 45(1): 17-31.
- Gans, Herbert J. 1979. *Deciding What's News: A Study of CBS Evening News, NBC Nightly News, Newsweek, and Time* (New York: Pantheon).
- Gaziano, Todd F. 2001. "The Use and Abuse of Executive Orders and Other Presidential Directives" *The Heritage Foundation*
- Genovese, Michael G. 2013. *A Presidential Nation: Causes, Consequences, and Cures* (Boulder, CO: Westview Press).
- Gerring, John. 2006. *Case Study Research: Principles and Practices* (New York: Cambridge University Press).
- Gilens, Martin. 1999. *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy* (Chicago: University of Chicago Press).

- Golan, Guy. 2006. "Inter-media Agenda Setting and Global News Coverage: Assessing the influence of the *New York Times* on three network television evening news programs" *Journalism Studies* 7(2): 323-344.
- Graber, Doris A. 2010. *Mass Media and American Politics* 8<sup>th</sup> ed. (Washington DC: CQ Press).
- Graham, Bradley. 2004. "Rumsfeld Takes Responsibility for Abuse," *Washington Post* May 8, p. A1.
- Graham, Bradley and David Von Drehle. 2004. "Bush Apologizes for Abuse of Prisoners," *Washington Post* May 7, p. A1.
- Greenberg, David. 2003. *Nixon's Shadow: The History of an Image* (New York: W.W. Norton).
- Grossman, Michael B. and Martha Joynt Kumar. 1981. *Portraying the President: The White House and the News Media* (Baltimore: Johns Hopkins University Press).
- Habermas, Jurgen. 1989. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge: MIT Press).
- Habermas, Jurgen. 1992. "Further Reflections on the Public Sphere" in Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge: MIT Press): 421-461.
- Hargittai, Eszter, Jason Gallo, and Matthew Kane. 2008. "Cross-Ideological Discussions among Conservative and Liberal Bloggers" *Public Choice* 134: 67-86.
- Hallin, Daniel C. 1984. "The Media, the War in Vietnam, and Political Support: A Critique of the Thesis of an Oppositional Media" *Journal of Politics* 46(1): 2-24.
- Hallin, Daniel C. 1992. "Sound bite news" *Journal of Communication* 42:5-24.
- Halstead, T.J. 2007. "Presidential Signing Statements: Constitutional and Institutional Implications" *Congressional Research Service Report for Congress*, (RL33667), September 17.
- Hamilton, James T. 2004. *All the News That's Fit to Sell: How the Market Transforms Information into News* (Princeton: Princeton University Press).
- Hart, Gary. 2012. "Expediency" *Huffington Post*, April 23,  
[http://www.huffingtonpost.com/gary-hart/expediency\\_b\\_1445501.html](http://www.huffingtonpost.com/gary-hart/expediency_b_1445501.html)

- Hayes, Danny and Matt Guardino. 2010. "Whose Views Made the News? Media Coverage and the March to War in Iraq" *Political Communication* 27: 59-87.
- Herbert, Bob. 2005. "Dangerous Territory" *New York Times*, December 19, p. A33.
- Hersh, Seymour M. 2004a. "Torture at Abu Ghraib" *The New Yorker* available online at [http://www.newyorker.com/archive/2004/05/10/040510fa\\_fact](http://www.newyorker.com/archive/2004/05/10/040510fa_fact)
- Hersh, Seymour M. 2004b. "Chain of Command" *The New Yorker* available online at [http://www.newyorker.com/archive/2004/05/17/040517fa\\_fact2](http://www.newyorker.com/archive/2004/05/17/040517fa_fact2)
- Hibbing, John R. and Elizabeth Theiss-Morse. 1995. *Congress as Public Enemy: Public Attitudes Toward American Political Institutions* (New York: Cambridge University Press).
- Higham, Scott, Joe Stephens, and Josh White. 2004. "Prison Visits General Reported in Hearing," *Washington Post* May 23, p. A1.
- Hindman, Matthew. 2009. *The Myth of Digital Democracy* (Princeton: Princeton University Press).
- Hoffman, Lindsay H. 2006. "Is Internet Content Different After All? A Content Analysis of Mobilizing Information in Online and Print Newspapers" *Journalism and Mass Communication Quarterly* 83(1): 58-76.
- Howell, William G. 2003. *Power without Persuasion: The Politics of Direct Presidential Action* (Princeton: Princeton University Press).
- Howell, William G. 2005. "Unilateral Powers: A Brief Overview" *Presidential Studies Quarterly* 35 (3): 417-439.
- Howell, William G. and Douglas Kriner. 2007. "Bending So as Not to Break: What the Bush Presidency Reveals about the Politics of Unilateral Action" in Edwards and King (eds.) *The Polarized Presidency of George W. Bush* (New York: Oxford University Press).
- Howell, William G. and Kenneth R. Mayer. 2005. "The Last One Hundred Days" *Presidential Studies Quarterly* 35(3): 533-553.
- Howell, William G. and Jon C. Pevehouse. 2007a. *While Dangers Gather: Congressional Checks on Presidential War Powers* (Princeton: Princeton University Press).
- Howell, William G., and Jon C. Pevehouse. 2007b. "When Congress Stops Wars" *Foreign Affairs* September/October

- Huffington, Arianna. 2011. "Shakespeare, The Bible, and America's Shift Into a Punitive Society" *Huffington Post*, Nov. 2, [http://www.huffingtonpost.com/arianna-huffington/unemployment-mortgage-crisis-\\_b\\_1072430.html](http://www.huffingtonpost.com/arianna-huffington/unemployment-mortgage-crisis-_b_1072430.html)
- Human Rights Watch. 2012. "Delivered Into Enemy Hands: US-Led Abuse and Rendition of Opponents to Gaddafi's Libya" *Human Rights Watch*, Sept. 6, [www.hrw.org/reports/2012/09/05/delivered-enemy-hands](http://www.hrw.org/reports/2012/09/05/delivered-enemy-hands)
- Hunter, Derek. 2012. "Pitching In to Help President Obama" *Townhall*, Jan. 8, [http://townhall.com/columnists/derekhunter/2012/01/08/pitching\\_in\\_to\\_help\\_president\\_obama/page/full/](http://townhall.com/columnists/derekhunter/2012/01/08/pitching_in_to_help_president_obama/page/full/)
- Ignatius, David. 2004. "The Other Americans" *Washington Post* May 7, 2004, p. A33.
- Irons, Peter. 1999. *A People's History of the Supreme Court*. (New York: Penguin).
- Iyengar, Shanto. 1991. *Is Anyone Responsible? How Television Frames Political Issues* (Chicago: University of Chicago Press).
- Jackson, Jesse. 2011. "As Obama Finally Acts, He Exposes GOP Strategy" *Huffington Post*, Nov. 1, [http://www.huffingtonpost.com/rev-jesse-jackson/obama-2012-election\\_b\\_1069568.html](http://www.huffingtonpost.com/rev-jesse-jackson/obama-2012-election_b_1069568.html)
- Jamieson, Kathleen Hall and Joseph N. Cappella. 2008. *Echo Chamber: Rush Limbaugh and the Conservative Media Establishment* (New York: Oxford University Press).
- Kamen, Al. 2004. "Rumsfeld Agonistes" *Washington Post* May 7, p. A31.
- Kaplan, Richard L. 2006. "The News About New Institutionalism: Journalism's Ethic of Objectivity and Its Political Origins" *Political Communication* 23: 173-185.
- Karpf, David. 2008. "Understanding Blogspace" *Journal of Information, Technology & Politics* 5(4): 369-385.
- Karpf, David. 2009. "Blogosphere Research: A Mixed-Methods Approach to Rapidly Changing Systems" *IEEE Intelligent Systems* Sept/Oct: 67-70.
- Karpf, David. 2012. "Social Science Research Methods in Internet Time" *Information, Communication, and Society* 15(5): 639-661.
- Kelley, Christopher S. 2006. "The Significance of the Presidential Signing Statement" in Kelley (ed.) *Executing the Constitution: Putting the President Back into the Constitution* (Albany: State University of New York Press), pp. 73-89.

- Kelley, Christopher S. 2007. "Contextualizing the Signing Statement" *Presidential Studies Quarterly* 37(4): 737-748.
- Kerbel, Matthew R. 2009. *Netroots: Online Progressives and the Transformation of American Politics* (Boulder, CO: Paradigm Publishers).
- Kernell, Samuel. 2006. *Going Public: New Strategies of Presidential Leadership* 4<sup>th</sup> ed. (Washington DC: CQ Press).
- Krauthammer, Charles. 2004. "Abu Ghraib as Symbol" *Washington Post* May 7, p. A33.
- Kumar, Deepa. 2007. *Outside the Box: Corporate Media, Globalization, and the UPS Strike* (Chicago: University of Illinois Press).
- Kumar, Martha Joynt. 2003. "The White House and the Press: News Organizations as a Presidential Resource and as a Source of Pressure" *Presidential Studies Quarterly* 33(3).
- Kumar, Martha Joynt. 2010. *Managing the President's Message: The White House Communications Operation* (Baltimore: Johns Hopkins University Press).
- Kumar, Martha Joynt and Alex Jones. 2005. "Government and the Press: Issues and Trends" in Overholser and Jamieson (eds.) *The Press* (New York: Oxford University Press): 226-247.
- Ladd, Jonathan M. 2011. *Why Americans Hate the Media and How It Matters* (Princeton: Princeton University Press).
- Lane, Charles. 2006. "Alito Replies Don't Rock Status Quo" *Washington Post*, January 11, p. A14.
- Lawrence, Eric, John Sides, and Henry Farrell. 2010. "Self-Segregation or Deliberation? Blog Readership, Participation, and Polarization in American Politics" *Perspectives on Politics* 8(1): 141-157.
- Lawrence, Regina G. 2000a. *The Politics of Force: Media and the Construction of Police Brutality* (Berkeley: University of California Press).
- Lawrence, Regina G. 2000b. "Game-Framing the Issues: Tracking the Strategy Frame in Public Policy News," *Political Communication* 17(2): 93-114.
- Lee, Christopher. 2006. "Alito Once Made Case For Presidential Power" *Washington Post*, January 2, p. A11.

- Lee, Frances E. 2010. "Senate Deliberation and the Future of Congressional Power." *PS: Political Science & Politics* 43(2): 227-229.
- "Legalized Torture, Reloaded". 2005. *New York Times*, October 26, p. 26.
- Leviero, Anthony. 1950. "Resort to the Law" *New York Times*, Feb. 7, p. 1.
- Leviero, Anthony. 1953. "Eisenhower Issues New Security Code," *New York Times*, Nov. 7, p. 1, 11.
- Lewis, Anthony. 2004. "A President Beyond the Law," *New York Times* May 7, p. A31.
- Lewis, David A. and Roger P. Rose. 2002. "The President, the Press, and the War-Making Power: An Analysis of Media Coverage Prior to the Persian Gulf War" *Presidential Studies Quarterly* 32(3): 559-571.
- Lewison, Jed. 2011. "'We Can't Wait': Obama to use executive authority to boost economy as Republicans dither on jobs" *Daily Kos* Oct. 24, [www.dailykos.com/story/2011/10/24/1029465/--We-can-t-wait-Obama-to-use-executive-authority-to-boost-economy-as-Republicans-dither-on-jobs](http://www.dailykos.com/story/2011/10/24/1029465/--We-can-t-wait-Obama-to-use-executive-authority-to-boost-economy-as-Republicans-dither-on-jobs)
- Limbaugh, David. 2011. "You Can't Wait? Neither Can We" *Townhall*, Oct. 25, [http://townhall.com/columnists/davidlimbaugh/2011/10/25/you\\_cant\\_wait\\_neither\\_can\\_we/page/full/](http://townhall.com/columnists/davidlimbaugh/2011/10/25/you_cant_wait_neither_can_we/page/full/)
- Liptak, Adam. 2006. "Presidential Signing Statements, and Alito's Role in Them, Are Questioned" *New York Times* January 14, p. A11.
- Livingston, Steven and W. Lance Bennett. 2003. "Gatekeeping, Indexing, and Live-Event News: Is Technology Altering the Construction of News?" *Political Communication* 20: 363-380.
- Lippmann, Walter. 1920. *Liberty and the News* (New York: Harcourt, Brace, and Howe).
- Lippmann, Walter. 1922. *Public Opinion* (New York: Free Press).
- Lowi, Theodore J. 2009. "Bend Sinister: How the Constitution Saved the Republic and Lost Itself" *PS: Political Science and Politics* 42(1): 3-9.
- Luban, David. 2005. "Torture, American-Style; This Debate Comes Down to Words vs. Deeds" *Washington Post*, November 27, p. B01.
- MacFarquhar, Neil. 2004. "Revulsion at Prison Abuse Provokes Scorn for the U.S." *New York Times* May 5, p. A18.



- Mahler, Jonathan. 2008. "After the Imperial Presidency," *The New York Times Magazine* Nov. 8.
- Malecha, Gary Lee and Daniel E. Reagan. 2012. *The Public Congress: Congressional Deliberation in a New Media Age* (New York: Routledge).
- Malkin, Michelle. 2011a. "Obama's Drug Shortage Demagoguery" *Michelle Malkin*, Nov. 4, <http://michellemalkin.com/2011/11/04/obamas-drug-shortage-demagoguery/>
- Malkin, Michelle. 2011b. "The Great Stonewall of Obama" *Michelle Malkin*, Nov. 9, <http://michellemalkin.com/2011/11/09/the-great-stonewall-of-obama/>
- Maltese, John Anthony. 1994. *Spin Control: The White House Office of Communications and the Management of Presidential News* 2<sup>nd</sup> ed. (Chapel Hill: University of North Carolina Press).
- Mann, Thomas E., and Norman J. Ornstein. 2006. *The Broken Branch: How Congress is Failing America and How to Get It Back on Track* (New York: Oxford University Press).
- Margasak, Larry. 2012. "Senate GOP's Next Move Against Obama Awaited In Nominations Fight" *Huffington Post*, Jan. 22, [http://www.huffingtonpost.com/2012/01/22/obama-nominations-senate-gop\\_n\\_1221938.html](http://www.huffingtonpost.com/2012/01/22/obama-nominations-senate-gop_n_1221938.html)
- Mayer, Jane. 2008. *The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals* (New York: Anchor Books).
- Mayer, Kenneth R. 1999. "Executive Orders and Presidential Power" *Journal of Politics* 61: 445-466.
- Mayer, Kenneth R. 2001. *With the Stroke of a Pen: Executive Orders and Presidential Power*. (Princeton: Princeton University Press).
- Mayer, Kenneth R. 2009. "Going Alone: The Presidential Power of Unilateral Action" in Edwards and Howell (eds.) *The Oxford Handbook of the American Presidency* (New York: Oxford University Press), pp. 427-454.
- Mayer, Kenneth R. and Kevin Price. 2002. "Unilateral Presidential Powers: Significant Executive Orders, 1949-1999" *Presidential Studies Quarterly* 32(2): 367-386.

- McCarter, Joan. 2012. "President Obama announces recess appointment of Richard Cordray" *Daily Kos* Jan. 4,  
<http://www.dailykos.com/story/2012/01/04/1051504/-President-Obama-announces-recess-appointment-of-Richard-Cordray>
- McGerr, Michael E. 1986. *The Decline of Popular Politics: The American North, 1865-1928* (New York: Oxford University Press).
- Mermin, Jonathan. 1999. *Debating War and Peace: Media Coverage of US Intervention in the Post-Vietnam Era* (Princeton: Princeton University Press).
- Meyers, Steven Lee. 2004. "Testimony From Abu Ghraib Prisoners Describes a Center of Violence and Fear," *New York Times*, May 22, p. A9.
- Michaels, Jim. 2004. "Tour Provides Glimpse of Life at Abu Ghraib" *USA Today* May 06, p. A4.
- Milkis, Sidney M. 1993. *The President and the Parties: The Transformation of the American Party System since the New Deal* (New York: Oxford University Press).
- Miller, Judith. 1981. "Reagan Broadens Power of C.I.A., Allowing Spying Activities in U.S." *New York Times*, Dec. 5, 1981, p. 1.
- Miroff, Bruce. 2010. "The Presidential Spectacle" in Nelson (ed.) *The Presidency and the Political System* 9<sup>th</sup> ed. (Washington DC: CQ Press).
- Moe, Terry and William G. Howell. 1999. "The Presidential Power of Unilateral Action" *Journal of Law, Economics, and Organizations* 15 (1): 132-179.
- Moeller, Susan D. 2004. *Media Coverage of Weapons of Mass Destruction* Center for International and Security Studies at Maryland,  
[http://www.cissm.umd.edu/papers/files/wmdstudy\\_full.pdf](http://www.cissm.umd.edu/papers/files/wmdstudy_full.pdf)
- "Mr. Cheney's Imperial Presidency". 2005. *New York Times* December 23, p. A26.
- Nakamura, David. 2012. "Obama to seek balance in his State of Union remarks" *Washington Post*, January 17, p. A3.
- Neustadt, Richard E. 1960. *Presidential Power: The Politics of Leadership* (New York: Wiley).
- Nie, Norman H., Darwin W. Miller, III, Saar Golde, Daniel M. Butler, and Kenneth Winneg. 2010. "The World Wide Web and the U.S. Political News Market" *American Journal of Political Science* 54(2): 428-439.

- Norris, Pippa. 1996. "Does Television Erode Social Capital? A Reply to Putnam" *PS: Political Science and Politics* 29(3): 474-480.
- Obama, Barack. 2012. "Remarks of President Barack Obama at Shaker Heights High School" January 4, 2012.
- Ornstein, Norman J., and Thomas E. Mann. 2006. "When Congress Checks Out" *Foreign Affairs* November/December
- Page, Benjamin I. 1996. *Who Deliberates? Mass Media in Modern Democracy* (Chicago: University of Chicago Press).
- Page, Benjamin I. and Robert Y. Shapiro. 1992. *The Rational Public: Fifty Years of Trends in Americans' Policy Preferences* (Chicago: University of Chicago Press).
- Patterson, Thomas E. 1993. *Out of Order: How the Decline of the Political Parties and the Growing Power of the News Media Undermine the American Way of Electing Presidents* (New York: Knopf).
- Patterson, Thomas E. 2000. *Doing Well and Doing Good: How soft news and critical journalism are shrinking the news audience and weakening democracy – And what the news outlets can do about it* (Joan Shorenstein Center on Press, Politics, and Public Policy).
- Patterson, Thomas E. 2002. *The Vanishing Voter: Public Involvement in an Age of Uncertainty* (New York: Knopf).
- Patterson, Thomas E. and Philip Seib. 2005. "Informing the Public" in Overholser and Jamieson (eds.) *The Press* (New York: Oxford University Press): 189-202.
- Peters, Gerhard. 2012. "Executive Orders" *The American Presidency Project*, <http://www.presidency.ucsb.edu/data/orders.php>.
- Pew Project for Excellence in Journalism. 2010. "The State of the News Media: An Annual Report on American Journalism," *Pew Project for Excellence in Journalism*, <http://stateofthemedias.org/2010/>.
- Pew Research Center. 2012. "In Changing News Landscape, Even Television is Vulnerable" *Pew Research Center for the People and the Press* Sept. 27, 2012, [www.people-press.org/2012/09/27/in-changing-news-landscape-even-television-is-vulnerable/](http://www.people-press.org/2012/09/27/in-changing-news-landscape-even-television-is-vulnerable/).
- "Playing With Fire". 2005. *New York Times*, November 12, p. A14.

- Pious, Richard M. 2007a. "Inherent War and Executive Powers and Prerogative Politics," *Presidential Studies Quarterly* 37(1): 66-84.
- Pious, Richard M. 2007b. "Torture of Detainees and Presidential Prerogative Power" in Edwards and King (eds.), *The Polarized Presidency of George W. Bush* (New York: Oxford University Press).
- Pole, Antoinette. 2010. *Blogging the Political: Politics and Participation in a Networked Society* (New York: Routledge).
- Portnoy, Howard. 2012. "Obama threatens another power grab after Senate defeats cybersecurity bill" *Hot Air*, Aug. 6, <http://hotair.com/greenroom/archives/2012/08/06/obama-threatens-another-power-grab-after-senate-defeats-cybersecurity-bill/>
- Posner, Eric A. and Adrian Vermeule. 2010. *The Executive Unbound: After the Madisonian Republic* (New York: Oxford University Press).
- Priest, Dana and Joe Stephens. 2004. "Secret World of U.S. Interrogation; Long History of Tactics in Overseas Prisons Is Coming to Light," *Washington Post* May 11, p. A1.
- Prior, Markus. 2005. "News vs. Entertainment: How Increasing Media Choice Widens Gaps in Political Knowledge and Turnout" *American Journal of Political Science* 49(3): 577-592.
- Putnam, Robert D. 2000. *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster).
- "Rebellion Against Abuse". 2005. *Washington Post*, November 3, p. A20.
- Rice, Condoleezza and Nicholas Kravetz. 2000. "The Media—A Problem in Policy Making" *International Journal of Press/Politics* 5(3): 87-89.
- Rich, Frank. 2005. "'We Do Not Torture' and Other Funny Stories" *New York Times*, November 13, p. 12.
- Riley, Russell L. 1999. *The Presidency and the Politics of Racial Inequality: Nation-Keeping from 1831-1965* (New York: Columbia University Press).
- Risen, James. 2004. "G.I.'s Are Accused of Abusing Iraqi Captives," *New York Times* April 29, p. A15.
- Risen, James. 2006. *State of War: The Secret History of the CIA and the Bush Administration* (New York: Free Press, 2006).

- Robinson, Eugene. 2005. "Out of a Bad Spy Novel" *Washington Post*, November 4, A23.
- Rozell, Mark J. 1996a. *In Contempt of Congress: Postwar Press Coverage on Capitol Hill* (Westport, CT: Praeger).
- Rozell, Mark J. 1996b. *The Press and the Bush Presidency* (Westport, CT: Praeger).
- Rubin, Richard. 1981. *Press, Party, and Presidency* (New York: Norton).
- Rudalevige, Andrew. 2005. *The New Imperial Presidency* (Ann Arbor: University of Michigan Press).
- Rudalevige, Andrew. 2006. "The Decline and Resurgence and Decline (and Resurgence?) of Congress: Charting a New Imperial Presidency," *Presidential Studies Quarterly* 36(3): 506-524.
- Rudalevige, Andrew. 2009. "The Imperial Presidency vs. the Hill" in Thruber (ed.), *Rivals for Power: Presidential-Congressional Relations* (Lanham, MD: Rowman and Littlefield).
- Savage, Charlie. 2006a. "Bush Could Bypass New Torture Ban" *Boston Globe* January 4, p. A1.
- Savage, Charlie. 2006b. "3 GOP Senators Blast Bush Bid to Bypass Torture Ban" *Boston Globe* January 5, p. A3.
- Savage, Charlie. 2007. *Takeover: The Return of the Imperial Presidency and the Subversion of American Democracy* (New York: Back Bay Books).
- Savage, Charlie. 2012. "Shift on Executive Power Lets Obama Bypass Rivals" *New York Times*, April 22, p. A1.
- Schattschneider, E.E. 1960. *The Semi-Sovereign People: A Realist's View of Democracy in America* (Hinsdale, IL: Dryden Press).
- Schlozman, Kay Lehman, Sidney Verba, and Henry E. Brady. 2010. "Weapon of the Strong? Participatory Inequality and the Internet" *Perspectives on Politics* 8(2): 487-509.
- Schmitt, Eric. 2005. "Cheney Working to Block Legislation on Detainees" *New York Times*, July 24, 2005, p. 23.
- Schmitt, Eric and David E. Sanger. 2005. "White House And McCain Are Near Deal On Torture Bill" *New York Times*, December 7, 2005, p. A26.

- Schudson, Michael. 1978. *Discovering the News: A Social History of American Newspapers* (New York: Basic Books).
- Schudson, Michael and Susan E. Tift. 2005. "American Journalism in Historical Perspective" in Overholser and Jamieson (eds.) *The Press* (New York: Oxford University Press): 17-47.
- Sellers, Patrick. 2010. *Cycles of Spin: Strategic Communication in the U.S. Congress* (New York: Cambridge University Press).
- Shane, Peter M. 2009. *Madison's Nightmare: How Executive Power Threatens American Democracy* (Chicago: University of Chicago Press).
- Shanker, Thom and Dexter Filkins. 2004. "The Struggle for Iraq: Punishment; Army Punishes 7 with Reprimands for Prison Abuse," *New York Times* May 4, p. A1.
- Shanker, Thom and Eric Schmitt. 2004. "Rumsfeld Accepts Blame and Offers Apology in Abuse," *New York Times* May 8, p. A1.
- Shapiro, Walter. 2004. "For Senator, Outrage is More Outrageous than Abuse" *USA Today* May 12, p. A04.
- Shaw, Aaron and Yochai Benkler. 2012. "A Tale of Two Blogospheres: Discursive Practices on the Left and Right" *American Behavioral Scientist* 56(4): 459-487.
- Shuster, Alvin. 1961. "Kennedy Offers Plan To Combat Juvenile Crimes", *New York Times*, May 12, 1961, p. 1.
- Sigal, Leon V. 1973. *Reporters and Officials: The Organization and Politics of Newsmaking* (Lexington: DC Heath).
- Skowronek, Stephen. 1993. *The Politics Presidents Make: Leadership from John Adams to Bill Clinton* (Cambridge: Harvard University Press).
- Smith, Jeffrey H. 2005. "Central Torture Agency?; Exempting the CIA From the McCain Amendment Sends the Wrong Signal to Our Officers" *Washington Post*, November 9, 2005, p. A31.
- Smith, R. Jeffrey. 2004. "Senators Fault Pentagon As New Photos Emerge" *Washington Post* May 10, p. A1.
- Sobieraj, Sarah and Jeffrey M. Berry. 2011. "From Incivility to Outrage: Political Discourse in Blogs, Talk Radio, and Cable News" *Political Communication* 28: 19-41.

- Sparrow, Bartholomew H. 1999. *Uncertain Guardians: The News Media as a Political Institution* (Baltimore: Johns Hopkins University Press).
- Stevenson, Richard W. and Carl Hulse. 2004. "President Backs His Defense Chief in Show of Unity" *New York Times* May 11, p. A1.
- Taguba, Antonio M. 2004. "Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade"
- "The Imperial Presidency at Work". 2006. *New York Times* January 15, p. 11.
- "The Military Archipelago". 2004. *New York Times* May 7, p. A30.
- "The Torture Photos". 2004. *New York Times* May 5, p. A26.
- Thorson, Esther. 2005. "Mobilizing Citizen Participation" in Overholser and Jamieson (eds.) *The Press* (New York: Oxford University Press): 203-219.
- "Torture, Shaming Us All". 2005. *Washington Post*, November 8, p. A19.
- Tuchman, Gaye. 1978. *Making News: A Study in the Construction of Reality* (New York: Free Press).
- Tulis, Jeffrey K. 1987. *The Rhetorical Presidency* (Princeton: Princeton University Press).
- "Unchecked Abuse". 2006. *Washington Post* January 11, p. A20.
- VandeHei, Jim. 2004. "Kerry Assails Bush on Iraq," *Washington Post* May 13, p. A1.
- "Vice President for Torture". 2005. *Washington Post*, October 26, p. A18.
- Von Drehle, David. 2004. "Capitol Hill Sees the Flip Side of a Powerful Warrior" *Washington Post* May 8, p. A1.
- Wallsten, Kevin. 2007. "Agenda Setting and the Blogosphere: An Analysis of the Relationship between Mainstream Media and Political Blogs" *Review of Policy Research* 24(6): 567-587.
- Wallsten, Peter. 2012. "Policy Shifts Gives Reprieve to Some Illegal Immigrants" *Washington Post*, June 16, p. A12.
- Warber, Adam L. 2006. *Executive Orders and the Modern Presidency: Legislating from the oval office* (Boulder: Lynne Rienner).

- Warner, John W. and John McCain. 2006. "Senator John W. Warner, R-VA. And Senator John McCain, R-ARIZ. Statement on Presidential Signing Detainee Provisions," January 4.
- Waterman, Richard W. 2009. "Assessing the Unilateral Presidency" in Edwards and Howell (eds.) *The Oxford Handbook of the American Presidency* (New York: Oxford University Press), pp. 477-498.
- White, Josh. 2004. "Rumsfeld Visits Prison in Iraq" *Washington Post* May 14, p. A1.
- White, Josh. 2006. "Levin Protests Move to Dismiss Detainee Petitions" *Washington Post*, January 5, p. A2.
- White, Josh and Charles Babington. 2005. "House Supports Ban on Torture" *Washington Post* December 15, p. A1.
- Whittington, Keith E. and Daniel P. Carpenter. 2003. "Executive Power in American Institutional Development," *Perspectives on Politics* 1:3
- Wildavsky, Aaron. 1966. "The Two Presidencies" *Trans-Action* 4: 7-14.
- Willing, Richard. 2004. "Legal Issues in Prosecuting Abuse Perpetrators," *USA Today* May 06, p. A4.
- Wines, Michael. 1992. "Switching Policy, U.S. Will Return Refugees to Haiti" *New York Times*, May 25, 1992, p. 1.
- Zaller, John. 1992. *The Nature and Origins of Mass Opinion* (New York: Cambridge University Press).
- Zaller, John. 2001. "Monica Lewinsky and the Mainsprings of American Politics," in Bennett and Entman (eds.) *Mediated Politics: Communication in the Future of Democracy* (New York: Cambridge University Press), pp. 252-278.
- Zaller, John. 2003. "A New Standard of News Quality: Burglar Alarms for the Monitorial Citizen" *Political Communication* 20: 109-130.
- Zaller, John, and Dennis Chiu. 1996. "Government's Little Helper: US Press Coverage of Foreign Policy Crises, 1945-1991" *Political Communication* 13: 385-405.