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Executive Power and the People:
Does the President care what you think?

James Ringold
Spring 2010

Introduction

One of the most important and prominent facets of a representative democracy is the relationship between an elected official and the people he or she represents. The electoral process allows the population to directly select their representatives. Some officials can be removed if they are perceived to be improperly managing their position, whether through votes of no confidence, impeachment, or recall vote. Public opinion polling is a constant presence in that democracy, attempting to show just how a populace feels about an issue their representatives will ultimately deal with. But do those representatives care? Although the president is not directly elected, the public plays a very large role in his selection by choosing the electors who ultimately elect him. Thus does public opinion alter the behavior of the president, an officer with a four-year term who rarely faces impeachment?

This question is fundamentally what this paper will seek to study. More specifically, I will be looking at the president's use of signing statements. The signing statement represents a power held uniquely and purely by the president (similar to the pardon) that creates an interesting niche to study. Even the veto can be overridden by Congress, which creates a secondary potential force guiding the president's hand in veto-making as he may worry it would be overridden. The signing statement is also a relatively less studied power in comparison to more traditional forces such as appointment, veto, or commander-in-chief powers. President George W. Bush saw public outcry over his use of signing statements in early 2005 and like many people this was my

first introduction to this lesser known executive tool. This paper will seek to discover whether pressures reflected in public opinion in general or from this large outcry in particular will make the president alter his usage of signing statements.

The study of how the public influences policy maker decisions is a well-explored field in American political science. First there is the simpler electoral pressure which is rather self-evident, namely a first term president who wants to see a second term cannot disregard the public too often for fear of losing their vote. But beyond that is the more complicated field of presidential *influence*. Richard Neustadt's 1960 work *Presidential Power* is one classic example of this idea. Neustadt analyzes the then-recent presidencies of Truman and Eisenhower, looking at how they affected legislation through influence with Congress rather than defined power. The underlying presumption that leads to my thesis is based on the idea that an unpopular president will be less influential, as Congress will have less reason to listen to the president's voice as it carries less weight. To use President Bush as an example again, early in his presidency he was able to see a large piece of legislation like "No Child Left Behind" passed with bipartisan support. Then, following the September 11th, 2001 attacks Bush saw a huge upswing in public support and the "PATRIOT Act" passed with some legislators saying they never even read the bill. Yet a few short years later, as the president's support waned, his own party lost control of Congress and the body became far less friendly to his legislative goals. Would a president, fearful of such a loss of support, alter the use of signing statements if they became unpopular to the public?

This study and its results carry significant importance to real-world politics. The signing statement represents a significant separation of powers issue, transferring some limited legislative powers to the executive. If presidential approval and influence played a role it would help illuminate an aspect to this guiding principle of our government. This study found no such evidence, however, with no measurement of presidential approval significantly predicting any style of presidential signing statement. Instead, the ideologies of the president and Congress were the only variables to show any predictive value. This presents an interesting portrait of the presidency, one where personal politics affect behavior more than the public. The signing statement is only a small tool at the hands of the president, but if the public cannot change presidential behavior then such statements may appear quite dangerous as they sit outside of traditional democracy. One of the largest worries of the founding fathers was breaking unchecked powers, so such a finding may be worrisome to some.

Literature Review

I. Popularity and influence as a presidential power

When individuals serve as President of the United States they are given a broad range of powers without a guide of how to apply them. The presidency is a unique job as it requires dealing with unexpected problems with no set solutions (Tugwell 1960). Tugwell sees a steady expansion of presidential power over the course of history, which leads to his work's title "The enlargement of the Presidency" (Tugwell 1960). He describes a practice which stretches as far back as Jefferson's purchase of the Louisiana

Purchase (Barilleaux 2006). But how a president applies those powers remains in the hands of the person sitting in the office.

The presidency holds an odd dual nature for the American public. In one sense the public expects the president to be this bold decision maker who will make an unpopular choice when it necessary. Yet the president is also expected to be responsive to the public, producing and enforcing policies they want. The result of this is a tricky cycle where the president must lead towards goals that please the public yet the president also needs public support to lead in the first place. (Cohen 1997)

Richard Neustadt identifies a similar pair of presidential styles in his famous text *Presidential Power*, calling them the leader and the clerk (Neustadt 1960: pp. 1-7). Neustadt describes the "clerkship" of the Presidency as the "routine obligations" of the office (1960: pp. 6-7). President Taft, for example, said there is "no undefined residuum of power" and "that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power" (Yenerall 2006). While clearly defined Constitutional powers are one aspect of the presidency, Neustadt focuses on the other side of the coin where "influence becomes the mark of leadership" (pg. 2). In other words, influence is what defines the second presidential role, that of a leader, which Neustadt focuses on. Other works have followed the same path of though, saying "the ideal president… actively barters with fellow politicians to build winning coalitions" (Kernell 1993: pg. 15).

Interestingly, Neustadt believes that "all Presidents are leaders, nowadays"

because “everyone expects the man in the White House to do something about everything” (pg. 6). Neustadt believes this view in 1960 of the president as a “leader” in every area is the result of “constituency pressures,” (pg. 7) a response to the “past crises” such as World War II (pg. 4) that required a broadly powered president such as FDR. In other words, FDR altered what Americans believed a president should be doing on the job. Barilleaux said that extreme times and/or public pressures lead presidents to expand their powers beyond those clearly defined within the Constitution. He calls this practice “venture constitutionalism,” (Barilleaux) for example. He notes that many presidents “push or test the limits of their constitutional power,” (Barilleaux: pg. 37) often to promote national security or other national interests “as the president sees it” (Barilleaux 2006: pp. 45-46).

I am not focusing so much on an extreme event altering presidential powers but simply the role of public opinion on presidential decision making. Neustadt recognized this, noting that “[a] President’s authority and status give him great advantages in dealing with the men he would persuade” (pg. 35). More recent work suggests that while Neustadt discusses public support as one aspect of this argument, it has become more the center piece of the discussion (Ostrom and Simon 1984). Ostrom and Simon note that presidential approval numbers are a much more heavily discussed area of modern political science and government, often reported on in the popular media. They indicate there are two general standards by which the public judges a president. First, the public holds a president responsible for maintaining a “reasonable quality of life.” In addition,

they say the public evaluates the president based on his ability to deal with crisis (Ostrom and Simon 1984: 681-682).

Not surprisingly, given the fact that the president draws power the influence of the office, the role of popularity on policy-making is a well-explored field (Bass et al 1990, Graber 1982, Kernell 1993). Kernell, for example, suggests that any modern strategic president must ask two questions before making a decision. First what does the public want and second what does *he or she* want and how much popularity is worth losing for that action (1993: pg. 201)? Bass agrees the president tends to be more successful in influencing Congress when the officeholder is a more popular figure (1990: pg. 87), but Kernell suggests one may face diminishing returns at some point where it stops being worthwhile to worry about public support (1993: pp. 202-207).

There are some gaps in the scholarship, however. First, the field seems far thinner relating to a president making *unpopular* decisions and their impact on presidential influence. Authors seem far more interested in how a president's public image *helps* as opposed to *hurts*. Neustadt, for example, deals only with the idea of public support and presidential influence. He does mention decisions that fail to *aid* president's influence (Neustadt 1960: pg. 148), but does not show examples of truly *negative* actions. Bass mentions presidents trying to control the flow of negative information to the press (1990: pp. 62-66) and dealing with crises (1990: pp. 60-61) but again does not try to model when a president might choose to take the unpopular choice. Kernell actually goes into this

issue, suggesting that once a president is popular enough to successfully be re-elected he no longer needs to concern himself with public opinion (1993: pp. 202-207).

This leads into the second, larger issue in this field: the focus on the electoral process. Neustadt's book was published before the conclusion of the 1960 Presidential election and ended with a discussion of the candidates positioning their image and influence with the public to win (Neustadt 1960). There may be an effect from the public on a sitting president during a campaign (Graber 1982: 111-145), but what about the second term president? President Bush was already in his second term when he issued controversial signing statements in late 2005 and early 2006 (Editorial Board 2006). The suggestion that a president can have "enough" popularity is also based on the electoral model of pressure on the presidency, quoting an Eisenhower advisor saying "The trick is to get the president into the fourth year with an approval rating still over 50 percent" (Kernell 1993: 202-204).

Whether or not public approval affects the president's ability to influence Congress, and if so to what degree, is still somewhat debated within the research (Canes-Wrone 2002). There are two reasonable models for precisely *how* the president's approval rating comes to influence Congress. One model suggests that Congress sees a high approval rating for the president as a public endorsement of the president's positions and thus members, most of whom are seeking reelection, want to follow this popular will (Canes-Wrone 2002). A second model is one of direct appeal, suggesting that the president's approval rating is a reflection of an ability to alter citizen's positions (Canes-

Wrone 2002). As a result those same election-seeking members will, according to this model, be swayed into following the president's position because the people now hold it as well.

One comprehensive study of this popularity-influence relationship found that a 10% gain in presidential approval increased the success on a piece of legislation by 16%. (Canes-Wrone 2002: 501). The larger and more interesting finding, however, reaffirms the idea that a president's goal is to reach 50% approval. The study found that a president's probability of success is *48%* higher when he has an approval rating of at least 50% (Canes-Wrone 2002). Other research has confirmed this finding, suggesting that the president can use the power of influence over Congress in specific fields, such as criminal law (Oliver 2005). Another recent study looked into the massive popular support President Bush gained immediately following September 11th, 2001 (Rocca 2009). This study was of particular value as it tracked average support in Congress for Bush's his positions before, immediately after, and then further into the future. This allowed the study to find that not only did support in Congress for his positions rise with his spike in public popularity, but as time went on and his popularity returned to normal he shed that additional support and return to pre-September 11th levels (Rocca 2009). My argument is similarly based on the premise that a president will always tend to seek higher approval ratings. They suggest there *is* a reason for a president to continue to seek public approval after reaching the term limit, and thus simple electoral pressures are not the only force at play.

Neustadt started the process talking about the power to influence Congress as president (Neustadt 1960), and this has remained a consistent facet of the literature. Presidents have often used their influence in this way to silence critics or alter Congress' mind. Reagan, for example, gave a television address to the nation to stir up support following crises in Beirut and Grenada. He saw a rapid rise in support for his policies and there was a "chilling effect on critics" of his actions (Bass 1990: pg. 86). The idea of being a "lame duck" in the last few months before a president leaves office is a well-known effect. By a president's second term, especially near the end, a president begins to lose the ability to enforce positions (Dunn 2006). I find it likely that a president would avoid unpopular actions to avoid losing influence and being left similarly powerless. This is the core of my second argument, that as public outcry over the use of signing statements increases a president will use them less. Otherwise the president would lose support and influence, and thus lose the ability to get things done.

II. Presidential power and signing statements

In issuing a signing statement to the 2005 Defense Supplemental Appropriations Act, George W. Bush made reference to his office as a "unitary executive" (Nelson 2008). The "unitary executive" theory is a model of presidential power that suggests Congress and the courts cannot "restrict the president's authority to tell employees and agencies of the executive branch how to do their jobs" (Nelson 2008). These supposed unilateral powers of the executive, including the executive order and national security directive, allow the president to "make new law-and thus shift the existing status quo-

without the explicit consent of Congress" (Moe and Howell 1999: 851). In other words, they are presidential powers not "checked" in the current system of checks and balances. The "president is greatly advantaged" with these powers in moving policy and while Congress can respond by legislating away the president's action, for example, they often cannot. It such a case "the president wins by default" as his unitary decisions stands (Moe and Wilson 1994: 20). These unitary actions also seem to be on the rise. For 150 years of American history, for example, treaties (a process which involves Congress) outnumbered executive agreements (which are unitary). Over the past 50 years, however, executive agreements outnumber treaties ten to one (Howell 2005: 417-418). This same pattern of increased unitary executive action can be seen with a greater use of national security directives, "police action[s]" such as Korea as opposed to wars requiring Congressional declaration, and more significant executive orders (Howell 2005: 417-418).

Another modern unitary presidential power is the executive signing statement. Most basically they are any statement the president issues along with signing a bill into law. Some are "rhetorical" in nature (Kelley 2006: 74; Hudak 2009), such as one by Truman congratulating Congress for quickly passing a bill (Campbell 2008), are not of any real interest to study. The other variety of signing statements go by various names including "constitutionally based", "constitutional" and "political", "non-rhetorical", and "interpretive" (May 1993-94; Kelley 2006; Hudak 2009; Alito 1986). They are not a clearly constitutional power, but instead simply an expression of how the president

interprets the law being signed (May 1993-94; Kelley 2006). The precise definition of this type of statement varies depending on the study. In general, however, they refer to signing statements where the president makes a clear statement on the constitutionality on a bill or suggests a particular interpretation of a section of the bill. These "political" statements have existed for a long time, along with the controversy over them. President Tyler issued a statement in 1842 doubting the constitutionality of a bill and Congress labeled this action "a defacement of the public records" and an "evil example for the future" (May 1993-94: 73).

Signing statements and specifically those making constitutional claims have risen in the past 50 years alongside the other previously mentioned unitary presidential powers (May 1993-94: 931). Specifically, while serving under Ronald Reagan in the Office of Legal Counsel, now-Justice Samuel Alito issued a memo suggesting the issuance of interpretive signing statements would empower the executive and help curb some "prevalent abuses of legislative history" (Alito 1986). Ronald Reagan was also the first president to issue over 10 constitutionally-based signing statements per year of his presidency (May 1993-94: 931).

Hudak attempted to add the signing statement to a model of the president/legislature interaction over legislation (2009). Hudak places the Congressional median position and the president on a liberal/conservative scale and attempts to predict at what point the president will issue a signing statement (rather than veto the law). He found that President Bush was more likely to issue "non-rhetorical" signing statements

than President Clinton and that divided government did not play a statistically significant role in the process (Hudak 2009). That first finding makes some sense with information from other sources (United States Congress March 2008). The second finding is more interesting. It would seem logical at least on its face that a divided government would lead to more disagreeable bills for a president and thus more signing statements to alter them. This is one factor I attempted to account for during the research by including both the simple parties of Congress and the president as variables along with partisan ideological scores for both.

Other work has sought to describe the use of signing statements in terms of the *types* of bills the statements are attached to and the specific provisions they speak to. One study finds that a large number of signing statements are handed down dealing with legislative veto provisions in newly passed legislation (Berry 2009). A Supreme Court decision *INS v. Chadha* was handed down in 1983 ruling the legislative veto unconstitutional, yet Congress has continued to insert such provisions into laws. Berry's study found that the use of the signing statement has changed since *Chadha*, with president's issuing more statements to tamp down on these provisions (Berry 2009). This finding is interesting in it of itself, but speaks to a larger area that must at least be accounted for when studying signing statements. If the type of bill or provision impacts the use of signing statements, it must be accounted for.

The signing statement has been a controversial power for a long time. One side of the debate over signing statements feels that they are an unconstitutional application of

presidential power (Kelley 2006). This has led to congressional subcommittee hearings on some of the more controversial statements (Congress Feb 2008, US Congress March 2008). This group believes the president has two choices when presented with a bill, sign it or veto it (US Congress March 2008: 20-22). The signing statement is an act outside those two constitutional options and thus an expansion of unitary executive power. The first president, George Washington, tried to avoid bringing the executive into the legislative process. This effort included not issuing any messages to Congress that might be seen an "an attempt to force the hand of Congress on a matter constitutionally allotted to it" (Small 1932: 162-163). There are also people who justify and defend the practice of signing statements. These people say they are a "useful aspect of constitutional dialogue" by giving the president a way to more specifically participate in the legislative process rather than the rougher yes/no path of the veto (US Congress March 2008: 15). Samuel Alito went so far as to organize a program to increase the use of signing statements in the Reagan administration (Alito 1986). This research does not speak to any aspect of constitutionality but the argument shows why research such as this is so important, to help shed light on a controversial subject.

III. Expanding on past research

The research on signing statements outlined thus far has tended to remain focused on forces within the political system. These forces include the political makeup of Congress, the separations between the president and Congress, or the specifics of the bill Congress passes (Hudak 2009; Berry 2009). However this ignores a rather large aspect of

American politics, the public. Can *they* influence the president's use of signing statements? We have seen the importance some political scientists place in the president's ability to influence policy (Neustadt 1960), the pressures the public exerts over a first term president through reelection hopes (Graber 1982), and broad based research into how the public can influence the president's policy decisions (Cohen 1997). However, even amidst all the areas Cohen studied, there appears to be no direct work on how public opinion influences the president's use of signing statements.

I believe there are multiple hypothetical forces that could act upon the president which are worthy of study. There are several conceivable routes by which public opinion could influence his use of signing statements. One possible argument is that the signing statement is a tool the president must use as the office's influence dies down. That is, when the president is popular and able to exude greater control over Congress the bills they pass will be more to the president's taste (and less in need of alteration via signing statements) as a result. Such a potential force would predict that as the president's popularity rises the use of signing statements would decrease as they are less necessary and vice versa. I will refer to this logical model for the use of signing statements as the "Influence Model."

While I make no claim to the constitutionality of signing statements the controversy over their use is important as such public outcry may influence the president. Following a December 2005 signing statement by President Bush several newspapers cried out about his signing statement usage. *The New York Times*, *Boston Globe*,

Washington Post, *Herald Tribune*, and others all ran stories on signing statements. The *Times* ran an editorial, for example, that called this signing statement "constitutionally ludicrous" (Editorial Board 2006). An alternative potential force may arise from the lesser-known nature of signing statements. While presidential powers such as the veto are learned by many in grade school the signing statement seems to be less well-known. These papers have heavy readership, did these articles and general media focus bring the signing statement into the American consciousness? Plenty of scholarship exists on the role of the media in public opinions of the government. (Graber 1982, Bass 1990) If this focus did raise public awareness did that change in the public mindset alter the way President Bush conducted himself with signing statements for the remainder of his presidency? If the president is fearful of negative attention for the use of signing statements, perhaps their use will sharply decline following an outcry over them. This model for how the public may impact the president's use of statements will be referred to as the "Outcry Model."

These two models are the two hypotheses I have tested. First, that the president will be forced to use signing statements more as he grows less popular as a tool of last resort. Second, I hypothesize that presidents will avoid signing statements following protest over their use to avoid a negative backlash. The outcry was certainly a part of the 2008 presidential election, Obama and other candidates (United States Congress March 2008) discussed their dislike for signing statements. Obama promised not to use signing statements (Ku 2009), has he used the signing statement less and/or differently than

previous presidents? This is the kind of real world question this analysis helps to answer. My research does suggest Obama has thusfar used signing statements *far less* the previous presidents, but has not stopped entirely.

Research Design

I. Measure of presidential popularity

The fundamental purpose of this research design is to study whether public anger, either generally with the president or specifically over signing statements, will lessen the president's use of said statements. As the president sheds popularity, my thesis states, the loss of influence will force the use of signing statements. Then, beyond that, when the public *specifically* takes issue with such statements the president will be forced to reduce usage or risk a great loss of popularity as the issue becomes more salient. First I had to generate a measure of presidential approval over my sample period. If the president has shown a general willingness across time to issue more signing statements when popular and fewer when less popular then the first hypothesis would be proven. The simplest popularity measurement in politics is the opinion poll, and presidential approval is *heavily* polled. Such polls are an ideal measure as the data stretches far back (certainly covering the sample I will be studying) and is widely used metric in political science work (Bass Jr. 1990: 78-88). Given their depth of availability coupled with broad past usage in relevant scholarship, presidential approval polls will form the dataset of approval used to test various theses.

There are some issues with opinion polling that must be dealt with during the research design process to avoid any unnecessary sources of error creeping into the data. First, every poll carries some margin of error and even taking that into account the poll itself is only calculated to a certain percentage of certainty in its results. Many polls, for example, use a 95% "confidence interval" meaning that 95% of such polls will contain the "true" measurement of approval within their margins. However, the reverse of this is that 5% of such polls are completely wrong. Over the time period of our study this means 5% of the data we used would be incorrect, altering our dataset with its errors. To correct for this we will not simply use *one* poll for any given measurement. Instead, archives of approval polls selected by The Roper Center will be used to generate weekly average approval scores. All polls with a start date in a given week, for example Barack Obama was inaugurated January 20th, 2009 so his first week average would include any poll started January 20-26. By including multiple polls to form any individual data point I lessen the impact of any erroneous data as it is softened by several other polls from the same period.

The second worry with polling across a wide period of time is variation in questions. If the questions are worded differently perhaps the results they provide are not truly measuring the same factor. The selection of the Roper Center as a data source, however, largely deals with this issue. While the risk would grow larger by using questions from many sources (as the Roper Center does) as you deal with polls from different authors, the Roper Center naturally acts as a filter for the polls. Rather than

picking them out from years of poll archives, The Roper Center is a reputable has a clear set of "Presidential Approval" polls which all ask very similar questions.

Table 1: Sample of January 1993 presidential approval poll questions selected by The Roper Center

"In general, do you approve or disapprove of the job Bill Clinton is doing as President?
"Do you approve or disapprove of the way Bill Clinton is handling his job as President?"
"In general, do you approve or disapprove of the way President Clinton is handling his job as President?"

There is the slightest of variation in style ("handling his job" versus "doing") but these questions all very clearly go to the same target and are likely to provide uniform results. This paper will use only *general* approval numbers, not issue-based approval ratings such as "Do you approve or disapprove of the way Bill Clinton is handling healthcare/foreign affairs/etc" as those numbers are far more specific to the individual issue.

II. Selecting a sample

Before collecting presidential support data (or any other kind of data, for that matter), I must define what period to study. The signing statement, as previously mentioned, has a long history going back at least as far as President Tyler in 1842 (May 1993-94). However there is a class of signing statements, the so-called "rhetorical" ones, which make no real legal claim and are instead simple congratulatory or otherwise stylistic language without impact (Kelley 2006: 74; Hudak 2009; Campbell 2008). Tyler's signing statement actually questioned the constitutionality of a bill so was *not* one of these rhetorical statements (May 1993-94), but the practice of such non-rhetorical statements has risen in frequency among recent presidents (May 1993-94: 931).

Specifically Reagan works as a nice place to draw the line in the sand as he was the first president to issue 10 or more non-rhetorical signing statements a year and his then-Office of Legal Counsel staffer Samuel Alito was advising a broad expansion of their use. (Alito 1986)

As a result, only presidents from Reagan onwards will be examined in this study. Reagan is a logical starting point due to a number of factors. First, as mentioned above, his administration saw recommendations for the expansion of signing statement use and the resulting data show he did use them at a rate never before seen. Beyond that, study suggests the use of signing statements changed following the 1983 *INS v. Chadha* decision (Berry 2009), which could mean that pre-*Chadha* (and thus pre-Reagan) statements were used differently. George H.W. Bush will provide novel data as the only one term president in this given sample, an oddity that may carry over into signing statement use. Beyond that, Presidents Bill Clinton and George W. Bush serve as a nice balance of recent data. Each served the full eight years, one is a Democrat one is a Republican, and Clinton had two years of united party government and six years with it divided while Bush had two years divided with six united. These two presidents, along with President Obama who will be the figure of interest going forward, fit our criteria of modern presidents and provide a nice balance with regards to the various data factors which will be analyzed.

III. <u>Finding and coding the statements</u>

The signing statements themselves form the basis of study for this project. The organization "The American Presidency Project" is the source from which I draw all of the statements. They provide an easily searched and accessed database of signing statements by year, providing the statement and the bill it is attached to.

The first piece of data coding which will be performed is a labeling of what type of signing statement the document is. Much of the literature, as previously discussed, uses binary labels such as "rhetorical" and "non-rhetorical" (Kelley 2006: 74; Hudak 2009). I will attempt to code these statements using different labels, however, to provide greater detail. Rather than grouping *all* statements which make any sort of Constitutional claim together, I shall separate the *interpretive* from the *descriptive*. In a descriptive statement a president simply saying "I disagree with this section," while in an interpretive statement he instead says "I disagree with this section, and thus I construe it to mean something else." Those statements are of particular interest to study, as they as the statements that actually change the way a law is enforced. Presidents will always disagree with particular provisions of bills, it is relatively immaterial if they state this disagreement in a signing statement or just a speech accompanying a bill signing. *Interpretive* statements, however, impact the law itself and are thus a different animal entirely.

The truly rhetorical statements in which the president simply congratulates or chides Congress are likely of lesser interest as they have no deeper implications. However, they provide a useful comparison tool, as one may need to separate what *types*

of statements are issued to get away from just a count. Hudak, for example, separated the rhetorical and non-rhetorical to more carefully analyze in which situations presidents will issue non-rhetorical statements in (Hudak 2009).

Some of the research discussed previously provides a good starting point for how to properly organize and define such coding processes. Jeffrey Cohen, for example, conducted research on the impact of public opinion on a variety of aspects of presidential decision making. One way he carried out this research was coding every sentence of every State of the Union address to look at what topic areas the president was focusing on and whether his position is liberal, conservative, or neutral (Cohen 1997: pp. 126-132). Cohen notes that he "refus[es] to read meaning into a sentence," instead coding only the literal meaning of the sentence to halt the introduction of coding bias (Cohen 1997: 129).

Another study which provides a valuable example towards proper coding of signing statements attempted to code what it called "trivial" bill titles (Berry 2009). The end result of this was listing a series of terms, such as "A bill to award a gold medal…" or "A bill to designate the Federal building…" (Berry 2009: 271), to make explicitly clear what the author meant by the term "trivial." Coding the separate groups of "interpretive" and "non-interpretive" requires the same process. Included in the appendix is a list of terms which signal a non-rhetorical statement or which separate the descriptive from the interpretive. Most statements which contain a phrase such as "I will construe this provision…" or "This provision must be viewed…" are interpretive signing statements as they are the president clearly setting his definition for some section of a

law. Rhetorical statements on the other hand tend to have a clear pleasant tone to them, saying things such as “I am pleased to sign” without making more significant legal claims about the bill at hand. Explicitly defining the terminology used in the coding process improves the value of this work, at it allows readers and/or future researchers to re-analyze the statements themselves using similar processes.

Thus in total I tracked signing statements by two measures: the total number issued and specifically the number of interpretive statements. This allowed me to discern subtler patterns in the data, such as a president who appears to make many statements but is in fact only issuing a handful of interpretive ones.

I am interested in is the potential influence that public opinion has on the president, so I must get the clearest picture possible for this variable. As such I will also code this data using an alternative method suggested by other studies (Canes-Wrone 2002, Kernell 1993: 202-204). These papers suggest that the president simply being above 50% approval is significant, so I will also include a Yes/No variable for being above or below this mark.

The information on the people *behind* those bills will show if there is some effect from the agents involved. The data, which will be added to each monthly signing statement entry, will include the president, his party, the party in power in Congress, and a simple marker for whether or not the president and Congress share party affiliation. The unity (or lack there of) of party affiliation will be useful to get at another potential cause for signing statements. After all, presidents will only issue interpretive signing statements

to bills which have a section they disagree with. Political parties are, at some level, a conglomeration of somewhat like-minded people. As such it stands to reason that President/Congress pairings of *the same* party will disagree less and thus create less bills the President might issue signing statements too. All of the scores are freely available in multiple format via Poole and Rosenthal's website, making the data easy to collect and potentially update should anyone ever seek to update this paper. This force may be of particular interest to the analysis of the late 2005/early 2006 public outcry, as the Congress changed hands in 2006 and may color results one might otherwise attribute to other forces.

The final aspect of coding will attempt to label the partisan makeup of Congress and the President more precisely than with a simple label. Here we will make use of Poole and Rosenthal "DW-Nominate" scores (Poole). As with other measures and sources used within this thesis, these scores are widely used within the field of Political Science. Three separate scores will be used: The DW-Nominate scores operate by coding each individual legislator on the basis of a series of specific votes to place them on a liberal/conservative scale. I will find and code the median value for each given Congress to make use of the median voter theorem. The median voter in this case is the vote that determines the balancing point between liberals and conservatives in a given Congress, so he or she will be used to code the entire Congress. I will code both House and Senate median scores, to allow both for divided Congresses (as in the early 1980s) and to observe if the president is more heavily influenced by one house of Congress than the

other. These scores will be compared to the president's score, such that we can paint a finer picture of whether there is a relationship between the separation between the president and Congress and the use of signing statements (as the gap grows, does SS use?). One advantage of Nominate scores is they have been constructed so that they can be directly compared across multiple Congresses, which I will be doing.

One small flaw in my methodology is the use of a single score to code an entire Congress for two years. Most Congresses change in composition slightly over the course of their term, with members dying or retiring to be replaced by another. For example, the median voter for the 2008-2010 Senate would be drawn from a sample that includes both Ted Kennedy and his replacement, Scott Brown. An alternative method to avoid this would be to code month-by-month medians, checking for any slight change, but this would be far too complex and time consuming for the slight benefit it would provide.

A recently published study by M. S. Rocca on the role of presidential approval on influence over Congress following the September 11th attacks lends some credence to the variables I am measuring. Rocca accounts for many forces including party affiliation, ideology as measured by Poole and Rosenthal scores, presidential popularity, and issue type; all of which are accounted for in the coding I have just described (Rocca 2009). Rocca also codes for partisanship as I do with Poole and Rosenthal scores, but he examines the partisanship of individual districts for members as his concern lies with the behavior of individual legislators.

IV. <u>Planning research</u>

Two possible methods by which the public may alter the president's use of signing statements were discussed earlier in the Literature Review: the "Influence Model" and the "Outcry Model." The "Influence Model" suggested that the signing statement is something of a tool of last resort. That is, when he cannot exert influence over the bills Congress passes through his approval or party unity with the legislature he must turn to the signing statement to alter bills to meet his political beliefs. The "Outcry Model," on the other hand, suggests the president is fearful of taking unpopular actions. Thus the president would tend to use statements less following a period of citizen and/or media outcries over the use of signing statements.

Factors at play for the "Influence Model" include political party of the president and Congress and the popularity of the president. Beyond that I will examine the differences in DW-Nominate score for the median members of the House and Senate against the president's score. These more precise numerical scores will allow a greater level of detail when looking at just how party relationships and approval can play on presidential decision making. Perhaps a president and Congress appear quite divided looking simply at party affiliation, but their positions are in fact much closer.

After analyzing the role of general popularity I will work with the December 2005-March 2006 outcries against President Bush's use of the signing statement under the "Outcry Model." The key goal of this analysis is to take all of the previously calculated factors and attempt to determine whether or not all of that outcry had any impact on Presidents Bush and Obama. Most basically this simply whether the rate of

signing statement use changed, and if so did it change *because* of the outcry or was that just happenstance? For example, a new Congress was elected in 2006, did that shift predict Bush's pattern of signing statement use regardless of any outcry? By attempting to account for other general pressures within the process we can separate the true effect of that outcry as opposed to simply biasing effects of that particular moment in time. This breakdown will be far simpler than the "Influence Model," I will merely perform a separate regression including a measure of if the given month comes before or after the outcry in early 2006. If this variable proves to hold significance in predicting signing statement rates alongside the other variables previously coded it will suggest the outcry had some influence over the president.

One crucial and constant issue with any study of the presidency is the nature of the office. Namely, only one man occupies it at any given time, making the sample for study smaller and more prone to variation related to the individual and not structural forces. I will begin the work by simply creating general data sets and analysis to see if presidents in general follow either of these models. However, to account for this possible error in the data based on the tendencies of individual men in the office each president will also be compared to themselves. There will obviously be no variation in some factors when looking at just one man, such as the president's party, but it will allow for a clearer picture of other variables. This level of data will show how an individual president reacted to shifts in his own popularity, a truer image of that man than the average behavior of several different men across two decades. Results for the individual

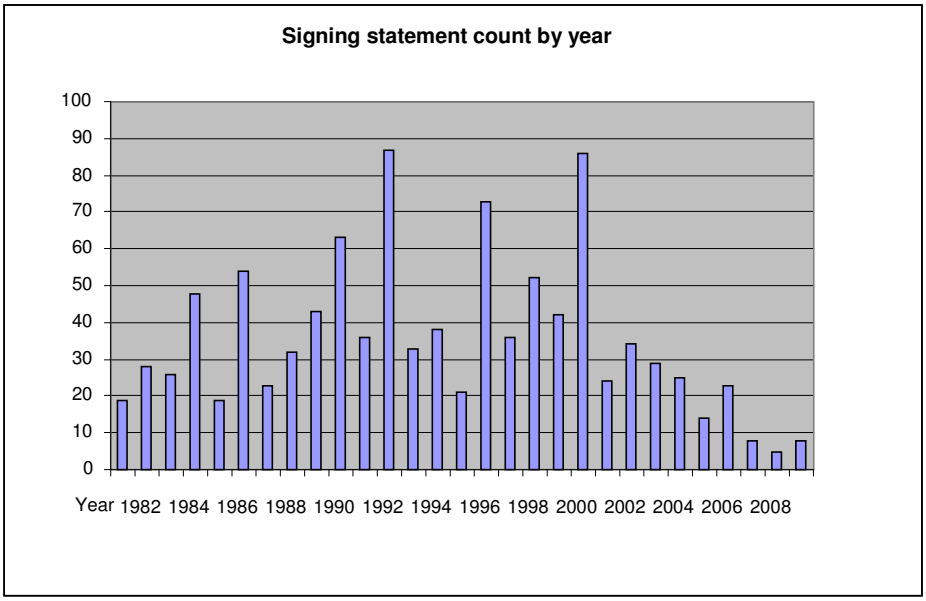
presidents will obviously not confirm the existence of larger forces at play, but could provide an interesting view of how these individual presidents behaved.

The final and more esoteric piece of analysis will be modeling President Obama. As the current president and a president who promised during the campaign not to use signing statements he represents an interesting new case to study. Has he kept up that promise, for example, is his signing statement use at least *less* than one would otherwise expect based on his situation (first term Democratic president in a united government given his popularity level, level of polarization, etc, etc). This analysis will naturally be limited as his presidency will continue beyond the completion of this paper, but it is still a worthwhile area to do what is possible.

Data and Analysis

I. Introductory data

Figure 1: Count of signing statements by year



To begin I can take the simplest step, looking at how many statements were issued by these presidents. On its face this data does not appear to have any particular pattern to it. 14 of the 29 years (48%) have a rate which falls between 20 and 40 statements a year, yet there are also 6 years with 50 or more. The past three years, 2007-2009, are the only years in the sample with fewer than 10 statements. Purely by appearance they are the three years that truly stand out as having a *low* incidence of statements. This provides an early clue that the "Outcry Model" may hold true, as the years following 2006 appear different than virtually all those that came before.

I must also take this moment to note that the selection of months as the unit of analysis along with no variable covering the number of bills passed in that month may affect my data. All the January entries in my 29 year sample have a total of 24 statements while the October entries cover 289 statements, for example. Of the 21 months which saw 10 or more statements issued 9 were October, 7 were November, 3 were December, and finally 1 September and 1 August. Perhaps some of this odd variance will be explained by analysis of my data, but I would guess that some of it is related to the number of bills Congress codes in that period. However, coding for this complex variable would be another study into itself.

II. <u>The Presidents (descriptive)</u>

Taking this simple analysis to the next step each president had his own particular range of behavior worth noting. The final analysis will still come from later regressions, but perhaps breaking down the data this way will yield an interesting pattern.

"interpretive" statements, as defined earlier, are statements in which the president makes a direct statement that he will read/construe a bill in a particular way to avoid what he perceives as a potential constitutional problem.[1]

Table 2: Descriptive statistics for President Ronald Reagan

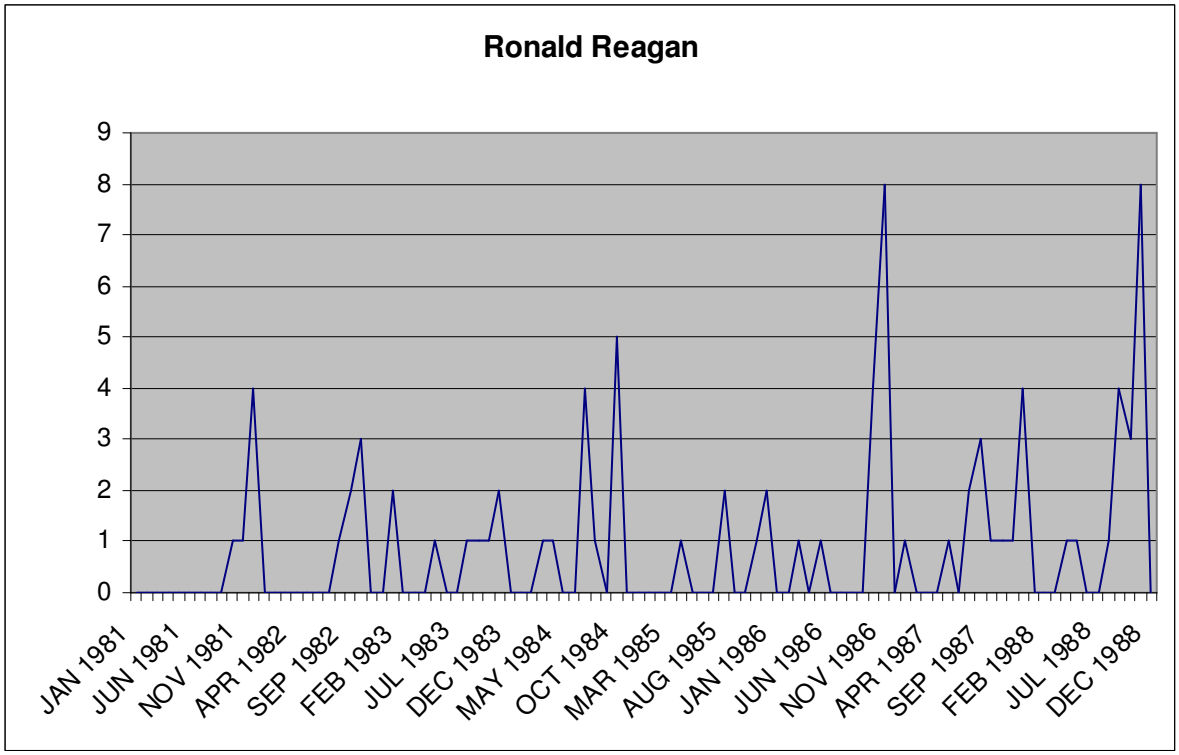
	N	Min.	Max.	Mean	Std. Dev.
Statements/ Month	96	0	25	2.59	3.954
Interpretive/ Month	96	0	8	.88	1.564
% interpretive	96	0	1	.22	.321
Congressional Median	96	-.143	-.065	-.11925	.031919
Senate Median	96	-.138	-.003	-.03950	.057213
Cong-Pres Difference	96	.764	.842	.81825	.031919
Senate-Pres Difference	96	.702	.837	.73850	.057213
Presidential approval	89	37	68	52.85	7.692
Below 50%?	96	0	1	.41	.494
Not a lame duck?	96	0	1		
Second term?	96	0	1		
Valid N	89				

President Reagan's DW-Nominate score was .699, quite conservative on this scale which ranges from -1 (liberal) to 1 (conservative). The Democrats controlled the House for Reagan's entire presidency, and although Republicans as a party held the Senate from 1981 to 1986 the median Senator in each of those 3 Congresses was actually very slightly liberal (never crossing the 0 mark into conservative, as the table shows). As such Reagan shows a strongly and consistently large gap between himself and Congress, between .7 and .85 for both the House and Senate for his entire presidency. He issued an

[1] All analysis performed in STATA 7

average of about two and a half statements a month and just under one interpretive statement per month. This leaves roughly 34% of his statements as interpretive, however the mean of his monthly % interpretive figures is far lower at 22% because of the many 0 statement months which are coded as 0% interpretive, and thus drag down the mean *percent* interpretive without affecting the individual *counts*. Reagan was relatively popular, with an average popularity figure of about 53%. No poll was listed by the Roper Center for 7 of Reagan's months as president, and thus only 89 of the 96 total months are "valid N" with information coded for the popularity variable.

Figure 2: Ronald Reagan's interpretive signing statement use by month



This is a simple time series of interpretive signing statements in a month for Ronald Reagan. He showed very limited statement use during the first two years of his

presidency, with just one spike briefly centered on late 1981 to early 1982. The most significant spikes in usage come in two spikes centered on his reelection race in 1984, another in late 1986, and a final spike for much of his last year in 1988. This is only the first president in the sample, but this pattern of spikes does appear to roughly follow election cycles. This is of particular interest for the 1984 and 1988 spikes as it suggests the "lame duck" variable which I have tested may show some correlation.

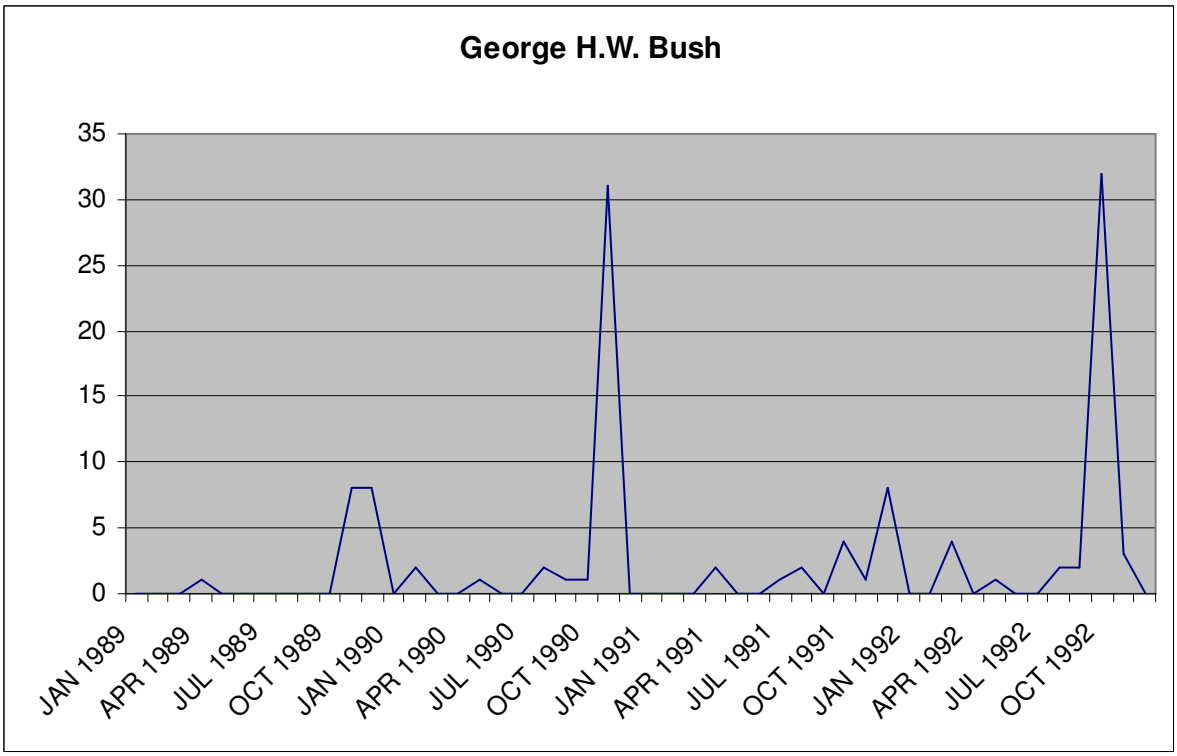
Table 3: Descriptive statistics for President George H.W. Bush

	N	Min.	Max.	Mean	Std. Dev.
Statements/ Month	48	0	55	4.69	10.005
Interpretive/ Month	48	0	32	2.44	6.464
% interpretive	48	0	1	.30	.384
Congressional Median	48	-.160	-.134	-.14700	.013138
Senate Median	48	-.201	-.171	-.18600	.015159
Cong-Pres Difference	48	.747	.773	.76000	.013138
Senate-Pres Difference	48	.784	.814	.79900	.015159
Presidential approval	48	32	87	60.50	14.154
Below 50%?	48	0	1	.25	.438
Not a lame duck?	48	0	1		
Second term?	48	0	0		
Valid N	48				

George H.W. Bush had also had a conservative .613 DW-Nominate score and similar to Reagan faced a strongly Democratic (and liberal) opposition Congress, again leaving him with a gap between himself and Congress falling between .75 and .8 (on a scale with a maximum possible difference of 2). George H.W. Bush also issued nearly

twice as many total statements and three times as many interpretive statements per month. Again we see the effect of 0-statement months on the monthly percentage mean, as 52% of the statements Bush issued were interpretive (a rise from Reagan's 34%). An interesting note, President George H.W. Bush also had the "biggest" month in the study, issuing 55 total and 32 interpretive statements in October 1992 (the highest figures for any president for the variables). This month saw one of his lowest approval figures (34%), was leading up to the 1992 elections, and came during his maximum distance from the Senate (and near max from the House). It is interesting that this outlier point is a confluence of many of the forces that previous research (electoral, political) and this paper (popularity) study.

Figure 3: George H.W. Bush's interpretive signing statement use by month



First, before reading this graph you must take careful note of the scale. President George H.W. Bush had two of the largest spikes of interpretive signing statements *ever* in late 1990 and 1992, pulling the maximum on this Y-axis to 35 (while President Reagan's went only to 9). As such even spikes that appear small here can be similar in scale to those observed on Reagan's graph. However, compared to itself this graph shows the same pattern as Reagan. Once again the two clearly important spikes occur around the midterm elections and the end of President Bush's term, suggesting that electoral pressures are a big factor in the use of signing statements.

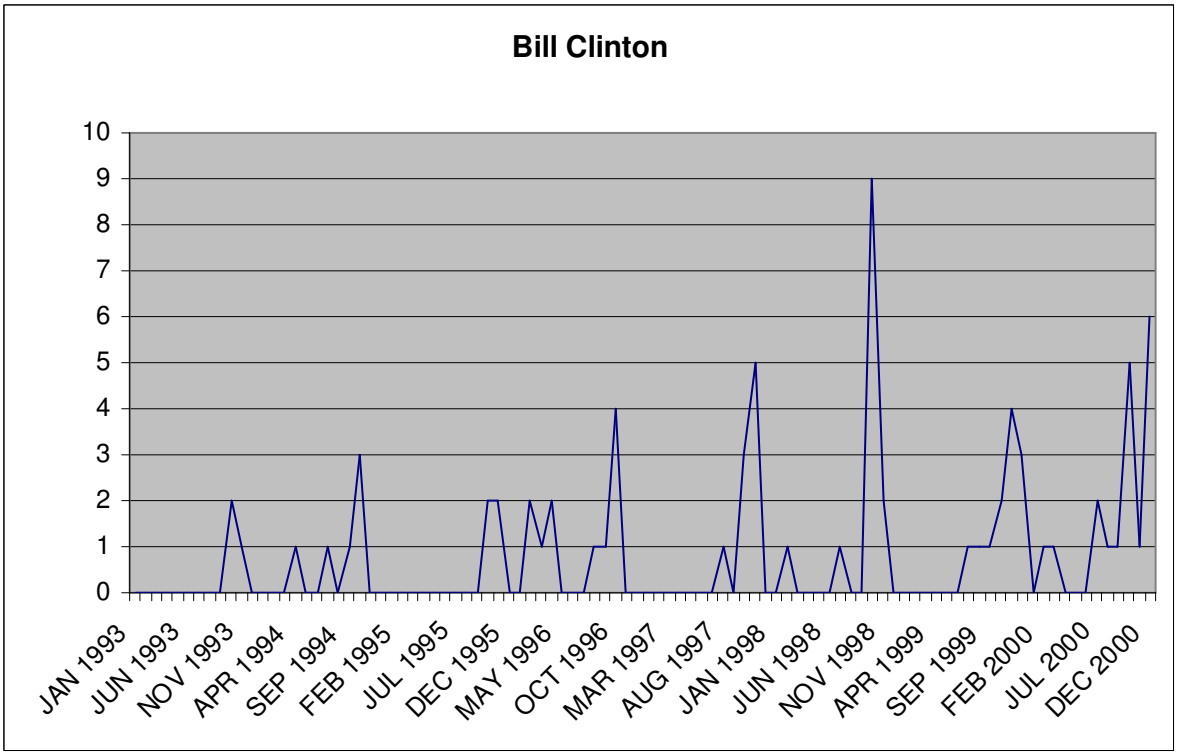
Table 4: Descriptive statistics for President Bill Clinton

	N	Min.	Max.	Mean	Std. Dev.
Statements/ Month	96	0	26	3.94	5.305
Interpretive/ Month	96	0	9	.79	1.507
% interpretive	96	0	1	.12	.199
Congressional Median	96	-.167	.208	.10375	.157535
Senate Median	96	-.209	.142	0.1675	.137986
Cong-Pres Difference	96	.347	.722	.61775	.157535
Senate-Pres Difference	96	.305	.656	.53075	.137986
Presidential approval	96	38	72	54.67	7.670
Below 50%?	96	0	1	.26	.494
Not a lame duck?	96	0	1		
Second term?	96	0	1		
Valid N	96				

President Clinton's DW score was -.514. He was the first president in the sample to face a completely allied Congress (by party) for any period, but he also saw Congress

change hands in 1994 to his opposition party. As such his minimum gaps with the House and Senate are far lower than those seen with Reagan or H.W. Bush, but his maximums are in the similar range around .7 or so. Clinton issued slightly fewer total statements than H.W. Bush (more than Reagan), but put out far fewer interpretive statements than either of the two previous presidents. Compared to 34% for Reagan and 52% for H.W. Bush only 20% of Clinton's statements were interpretive. Clinton was, on average, a popular president for his two terms. This varied by term, however, as his average approval for his first term was 48.7% compared to 60.6% for his second. Perhaps some of his first term issues stemmed from a divided nation following the three-way election in 1992 with Ross Perot, but I do find it interesting that he maintained such heavy approval amidst his scandals.

Figure 4: Bill Clinton's interpretive signing statement use by month



Bill Clinton continues these same election-centered patterns, including the complete lack of statements immediately following his elections exactly as Reagan had. Once again the president shows some of his largest spikes around a midterm election (1998) and going into his lame duck years (in 2000 and, to a lesser degree, 1996). Interestingly, President Clinton's third largest spike on this graph comes in late 1997. This period is not an election of any form. Also, Clinton shows nearly no variation in his signing statements leading to the 1994 midterms where Clinton's Democrats lost the White House.

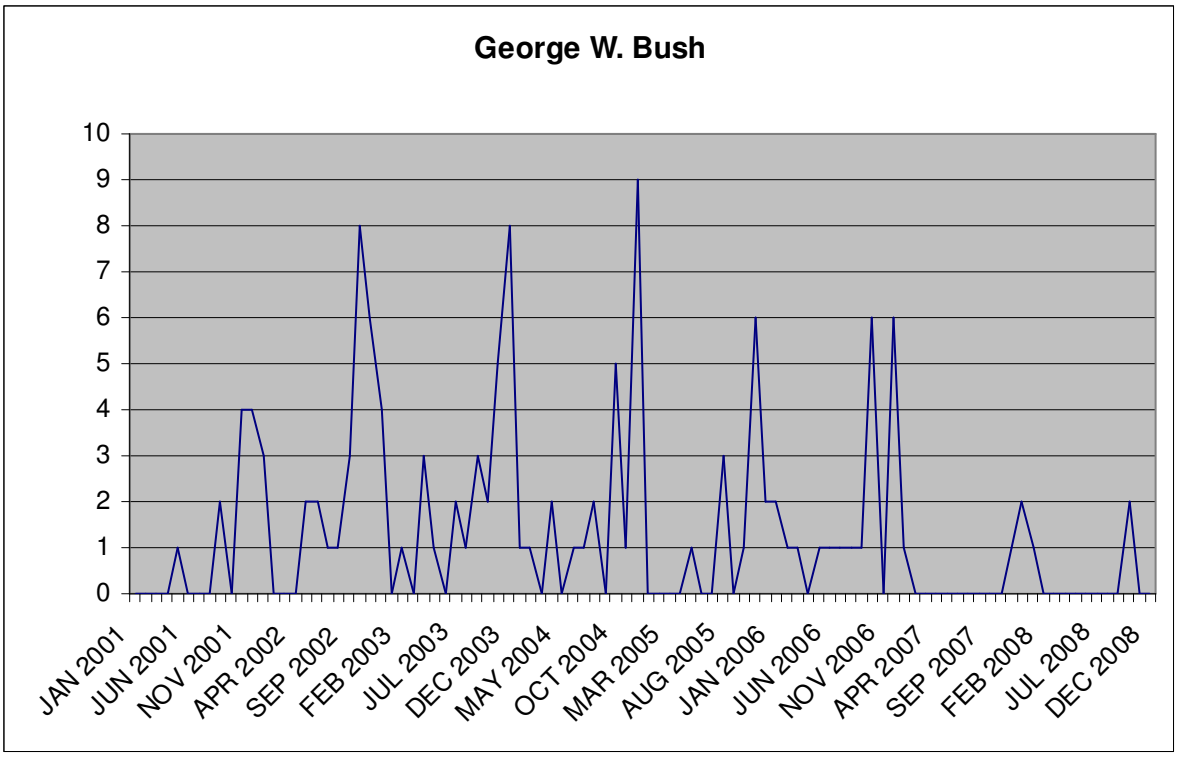
Table 5: Descriptive statistics for President George W. Bush

	N	Min.	Max.	Mean	Std. Dev.
Statements/ Month	96	0	10	1.68	2.278
Interpretive/ Month	96	0	9	1.36	2.011
% interpretive	96	0	1	.48	.471
Congressional Median	96	-.144	.359	.19000	.198865
Senate Median	96	-.041	.132	.03338	.067374
Cong-Pres Difference	96	.567	1.070	.73600	.198865
Senate-Pres Difference	96	.794	.967	.89262	.067374
Presidential approval	96	22	86	46.93	14.230
Below 50%?	96	0	1	.57	.497
Not a lame duck?	96	0	1		
Second term?	96	0	1		
Valid N	96				

President George W. Bush saw a switch in the party control of Congress like President Clinton, though had 6 years of an allied Congress and 2 in opposition while this

was reversed for Clinton. However, President Bush was by far the most conservative president in our sample by DW-Nominate scores, scoring .926 (of a possible 1). As such even with a Republican Congress and Senate for much of his presidency he still faced a sizeable spread from Congress' median. President Bush displays a different model of signing statement use from the presidents before him. He issued far fewer total statements than any of the presidents before him, just 1.68 per month, though his interpretive count was second only to his father. The result of this was the highest ratio of interpretive statements, a full 81% of President Bush's statements were interpretive while his father was the only president to top 50% (52%). Bush's approval ratings also varied heavily from highs following September 11th, 2001 to lows late in his second term, he has the highest approval standard deviation and is the only president with a mean below 50%.

Figure 5: George W. Bush's interpretive signing statement use by month



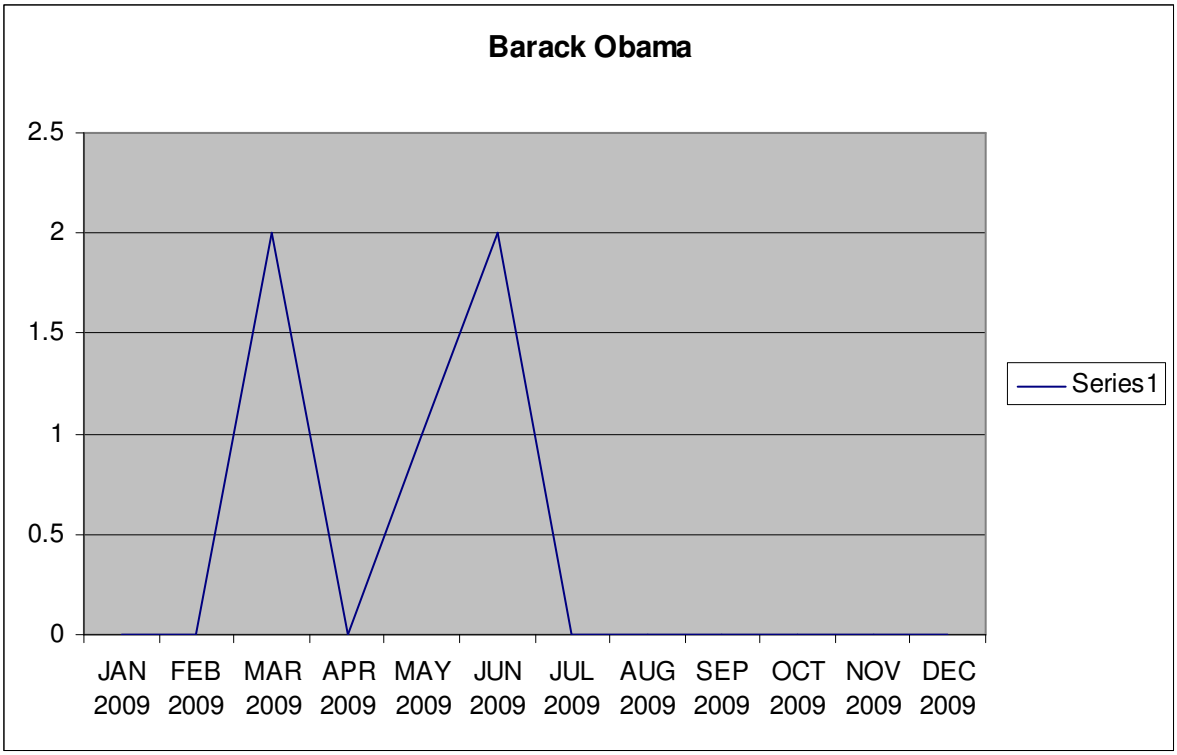
President George W. Bush has a set of five or six noteworthy periods of heavy use. Interestingly he does not appear to follow the same patterns discussed for the past presidents. He has the same familiar midterm and general election spikes in 2002, 2004, and 2006 along with the same lack of statements following his inaugurations in 2001 and 2005. However, unlike the other presidents he shows spikes on the same scale in late 2003/early 2004 and in learn 2006. These are distinctly *not* electoral spikes and are also not clearly connected to September 11th, an obviously defining moment of Bush's presidency. Perhaps the late 2003 spike is connected to the war in Iraq, but Bush certainly appears to have broken some of the patterns of previous statement usage.

Table 6: Descriptive statistics for President Barack Obama

	N	Min.	Max.	Mean	Std. Dev.
Statements/ Month	12	0	3	.67	.985
Interpretive/ Month	12	0	2	.42	.793
% interpretive	12	0	1	.22	.410
Congressional Median	12	-.189	-.189	.-.189	0
Senate Median	12	-.296	-.296	-.296	0
Cong-Pres Difference	12	.083	.083	.083	0
Senate-Pres Difference	12	.023	.023	.023	0
Presidential approval	12	46	68	57.08	6.680
Below 50%?	12	0	1	.17	.389
Not a lame duck?	12	1	1		
Second term?	12	0	0		
Valid N	12				

Obama scored relatively moderately on the DW-Nominate scale, a -.272. With only one year of data we can draw few conclusions about Barack Obama's use of signing statements. His presidency, however, seems to lend additional credence to the idea that something, perhaps the public outcry in 2006, has changed with regard to signing statements recently. Over the 28 years from 1981-2008 with multiple leaders and Congresses presidents issued an average of 36 signing statements a year while President Obama issued 8 in 2009. Beyond that President Bush issued just 36 over the last 3 years of his presidency.

Figure 6: Barack Obama's interpretive signing statement use by month



When reading this you must be remember the *scale*, as with President George H.W. Bush. President Obama has made *very* limited use of signing statements. All past

presidents in this sample have shown a brief period during their first year where they made little to no use of interpretive signing statements and Obama appears to be following this pattern. As his presidency moves forward he will provide a clearer picture on his personal style of usage. Obama might return to traditional presidential patterns as observed in this sample or perhaps he will stay at this low level and use this presidential tool in a truly unique way.

III. Introductory data (descriptives and correlation matrix)

Table 7: Descriptive statistics for the entire dataset

	N	Min.	Max.	Mean	Std. Dev.
Statements/ Month	348	0	55	2.93	5.324
Interpretive/ Month	348	0	32	1.19	2.897
% interpretive	348	0	1	.28	.380
Congressional Median	348	-.189	.359	.02134	.196445
Senate Median	348	-.296	.142	-.03291	.122144
President Score	348	-.514	.926	.38166	.594938
Cong-Pres Difference	348	.083	1.070	.70686	.194006
Senate-Pres Difference	348	.024	.967	.70740	.207631
Presidential approval	341	22	87	52.92	11.713
Below 50%?	348	0	1	.38	.487
Lame Duck?	348	0	1		
Second term?	348	0	0		
Valid N	341				

Table 8: **Correlation matrix for independent variables**

	Interpretive/ Month	% interpretive	United Congress	Pres./Cong. Party split	Con.-Pres Difference	Sen.-Pres Difference	Pres. approval	Below 50%?	2nd term?	Lame duck?
Interpretive/ Month	**1**									
% interpretive	.4202	**1**								
United Congress	.0965	.1576	**1**							
Pres./Cong. Party split	-.0446	-.3051	-.3181	**1**						
Cong-Pres Difference	.0115	-.0526	-.2782	.4787	**1**					
Senate-Pres Difference	.1222	.2463	-.0003	-.0854	.7488	**1**				
Presidential approval	.0218	-.0218	-.0239	.0939	-.1709	-.0676	**1**			
Below 50%?	-.0200	.0724	.0130	-.1692	.0662	.0602	-.7860	**1**		
Second term?	-.0568	-.0085	.0907	.1938	.3260	.2048	-.1489	.0047	**1**	
Lame Duck?	.0735	.0333	.0852	.1727	.2577	.1475	-.2217	.0330	.0231	**1**

Given the obvious similarity between some independent variables (approval and above-or-below 50% approval) and the potential relationships between others (party split and DW-Nominate ideology score gaps) I was concerned that multicollinearity could become an issue. A multiple regression seeks to find how much variance in the dependent variable a particular independent variable accounts for and thus multiple independent variables that are themselves heavily correlated confuse the process as they are difficult to disentangle. I generated a correlation matrix for the various independent variables to test this and several variables did hold heavy correlation with one another. Approval and Above/Below 50% approval shared a -.7860 correlation, as expected as one variable is simply a transformation of the other. In addition the Congress/Senate-President score split statistics have a similarly large .7488 correlation. The approval correlation was avoided by simply not using the 50% variable in the end, but the multicollinearity for the score statistics was dealt with below in the multiple regressions.

IV. Bivariate data

As an initial attempt to discover which variables play a hand in the president's use of signing statements I ran a series of bivariate regressions to test the correlation for the variables later used in the multivariate regression.[2]

Table 9: Coefficient from bivariate regression of the president and Congress scores and the dependent variables.

	Interpretive / Month	% interpretive
Congress-Pres DW-Nominate difference	.1926	-9.4578

The difference between the median Congressman and the President's DW-Nominate scores showed no significant correlation with either independent variable.

[2] The data were clustered on Congressional terms. Clustering was necessary because the ideological gap scores remained constant within a Congress.

Table 10: **Coefficient from bivariate regression of the president and Senate scores and the dependent variables. * p < .01**

	Interpretive / Month	% interpretive
Senate-Pres DW-Nominate difference	1.66045*	45.0716*

The difference between the median *Senator* and President's DW-Nominate scores, however, showed significant correlation with both independent variables. The coefficients relate only to this simple bivariate model, but as both are significant the results can be translated into meaningful results. The descriptive statistics listed earlier in Table 7 show that, effectively, the maximum spread observed in DW-Nominate scores is 1. Even beyond that, the maximum *possible* spread on this scale from -1 to 1 is 2. As a result, these coefficients which pertain to a shift of a full 1 point in DW-Nominate scores should be translated to have more practical relevance. The coefficient for the count of interpretive statements, for example, suggests that a shift of 1 point of DW-Nominate score gap will yield 1.66 more interpretive statements per month. However, on a more realistic scale, this means a shift of .1 points of DW-Nominate will yield .166 more statements. The model also suggests the same shift will cause the ratio of the president's statements to be comprised of 4.51% more interpretive statements.

Table 11: **Coefficient from bivariate regression of the president's approval and the dependent variables.**

	Interpretive / Month	% interpretive
Presidential Approval	.0054	-.0706

The president's approval rating showed no significant correlation with either independent variable.

Table 12: **Coefficient from bivariate regression of the president being in his 2nd term and the dependent variables.**

	Interpretive / Month	% interpretive
President in his 2nd term	-.3068	-.1550

Whether or not the month at hand came in the president's second term showed no significant correlation with either independent variable.

Table 13: **Coefficient from bivariate regression of the president being in the last year of a terms and the dependent variables.**

	Interpretive / Month	% interpretive
President in his "lame duck" year	.4600	2.2045

Whether or not the month at hand came in the last year of a president's term showed no significant correlation with either independent variable.

Table 14: **Coefficient from bivariate regression of the "Outcry" variable and the dependent variables.**

	Interpretive / Month	% interpretive
"Outcry" variable	-.5792	7.5504

This final independent variable is the "outcry" variable, added to test my second hypothesis that public anger in early 2006 over President Bush's use of signing statements lessened their use. I coded all months from 2006 onwards as a 1 and all other months as a 0. Although the early preliminary data showed a severe downturn in signing statement usage after 2006, the "outcry" variable showed no significant correlation with either independent variable.

The results of these bivariate regressions were not promising for many significant results from the multivariate regressions. Only the Senate-President score difference met any level of significance and those results, though significant, had small enough coefficients to mean little in the real world.

V. Multiple regression

The next step is to run a multivariate analysis of the data so all of the independent variables can be understood together. However, as discussed earlier, the potential for error due to multicollinearity existed within certain variables. Here are the results of an early regression.

Table 15: Regressions using presidential approval. * p<.05, ** p<.01, *** p<.001

	Interpretive/Month	% interpretive
(Constant)	.783	32.354**
President/Cong. Different parties	1.468*	7.077
Cong.-Pres. score diff	-7.117**	-136.843***
Senate-Pres. score diff	6.897***	137.485***
Lame duck?	-.518	-6.208
2nd term?	-.321	2.791
Presidential approval?	-.010	-.252
n	*341*	*341*
Adjusted R^2	*.036*	*.187*
F	*3.113***	*14.038****

These results seem quite promising, with multiple models and variables meeting some level of significance. However, note the coefficient pairs for Congress and Senate score differences. They are all similar in scale and of opposite sign and this pattern was true with all of the statistics this regression returned. This is a clear sign that multicollinearity has confused the regression, leaving it unable to determine which of these two closely related variables actually account for the observed variance. As a result I decided to rerun the regression, testing just one chamber's score. I selected the Senate variable as it was the only significant variable in the bivariate regressions and I still

wanted to reflect the impact of ideological differences between the president and Congress.

Table 16: Regressions using Senate score. * p<.01, ** p<.001

	Interpretive / Month	% interpretive
(Constant)	-.2662	-16.5410
Senate-Pres. score diff	1.7666*	50.5275*
Presidential approval?	.0043	.1706
Lame duck?	.4081	.4692
2nd term?	-.4283	-7.6393
2006 outcry	-.2662	15.5316
n	*341*	*341*
Adjusted R^2	*.0267*	*0.0785*
F	*9.64***	*7.83***

This model differs from the previous regression in Table 15 in a few ways. First, all variables related to an ideological gap between the President and Congress other than the Senate score differential are removed. This solved the multicollinearity issue, allowing the regression to provide pure and unconfused results. Second, the "outcry" variable has been added, which codes post-outcry months as a 1. However, as the bivariate regression initially suggested, the outcry variable showed no significant effect on signing statement usage.

The results of the regressions are both significant, but once again the only variable that is itself significant is the Senate score. The Senate results are quite similar to the bivariate results, showing roughly .18 statements per month. This result is significant and does follow logic. As the gap between Congress and the President grows he will be more heavily forced to use signing statements to get what he wants. However, the mean value for this ideological gap for the entire sample from 1981-2009 was 7 tenths. Thus the average change in signing statement usage over this sample due to Senate ideological differences is a little over 1 interpretive statement a month. Thus while the effect is significant it does appear to be relatively minor.

The Senate score was also significant for the % interpretive, indicating the percent interpretive rose by 5.1 percent per tenth of a point of ideological difference. The same mean .7 ideological gap results in about a 36% higher percent of monthly signing statements which are interpretive. Putting the shift in these terms makes the results far more noticeable in the real world.

Conclusions

I. Discussion

Few of my initial hypotheses were confirmed. The first and major hypothesis I suggested was that as the president gains higher approval he will wield greater influence over Congress and thus need to make less use of signing statements. While a lack of significant results does not *disprove* this hypothesis no regression I have run returned results that *confirm* this idea. No regression found presidential approval to be a significant predictor of signing statements, either their general use or interpretive statements. The regressions for the alternative popularity idea of being above or below 50% approval generated results that were virtually identical. This study simply has not found any evidence of impact of presidential approval on signing statement use.

The second hypothesis tested is the idea of a public outcry affecting presidential action. While general public opinion may not affect his behavior, a president may grow more hesitant to do something when it becomes *specifically* unpopular. Thus I hypothesized that Presidents Bush and Obama may have used signing statements from 2006 onwards less than they otherwise would have. However, as with the previous

theory, there were no results to confirm it. There was no significant difference in signing statement usage between pre- and post-outcry months within the multivariate regression and the bivariate regression showed no significant correlation for the outcry variable.

The significance of the Senate but not the House ideological gap can be explained given the nature of the political process. The House does not have the same kinds of obstruction methods, such as the filibuster or anonymous hold, that the Senate does. That obstruction may make ideological differences with the Senate more likely to affect the president as he is forced to deal with the Senate's demands. During the healthcare debate, for example, early bills passed the House (relatively) easily while months were spent with the bill filibustered in the Senate while debate continued. Similarly a president may be able to get what he wants in the House, but the Senate could hold enough weight to actually move the debate and thus force the president to use signing statements to get what he wants.

These results suggest a very different model for presidential decision making, one guided almost entirely by the political views of the representatives and not the approval of the public. Presidents from January 1981 to December 2005 issued an average of 3.26 statements a month, 1.26 of which were interpretive. These numbers were .916 and .6875 from January 2006 onwards. These results seem to paint the picture which, on the face of it, led to my hypothesis in the first place. What this study suggests, however, is that this gap is likely due to other factors like the changing political climate and not simply the outcry. Presidents also issued 1.22 interpretive statements in months with 50% or higher

approval, while months below 50% saw an almost identical 1.10 interpretive statements. This simple practical result confirms what the regression is saying, showing no significant difference between the signing statement use of presidents with differing levels of approval.

II. Potential errors and future research ideas

I have discussed the first major factor which could confuse the results, the unit of analysis. I used individual months, coding all the variables by month. However some factors I did not code are not constant across months and thus are lost in this study. I discussed how almost all heavy signing statement months (>10) fell in October, November, and December. Why is this? Perhaps *more bills* are passed in certain months than other. If the Congress is not passing bills the president cannot issue statements, no matter what he might do if given the chance. Thus one major way this study could be expanded would be to include the number of bills passed or bills signed in a given month. This would allow for a truer "% of bills with signing statement" variable to be created which would remove this source of error.

Future studies could also attempt to model approval in alternative methods. Perhaps *popularity* polls would be a better indicator of presidential influence than *approval* polling? The president may draw power from public love, regardless of how they feel about the job he is doing. Ideally there would be polling data related specifically to signing statements, but I am not aware of any significantly long-lasting and consistent poll on the subject. Another study could look at the effect of public opinion on another

issue with heavier polling, allowing for a closer look at whether the president responds to opinions on a particular issue.

Beyond these somewhat minor modifications to my model, however, future studies could attempt to take a completely different approach to the issue altogether. Perhaps Congress is the body that truly controls the flow of signing statements and the president merely responds to their actions. Beyond simply for the *number* of bills Congress passes there may be periods of lesser *quality* bills that therefore require more fixing by the president. Election years appeared to show higher signing statement use, for example. Perhaps Congress is not only passing more bills so they have something to sell to their constituents but are pushing out flawed bills in the rush. This could be studied through an analysis of legislative histories, looking at the time spent debating the bills or simply the nature of the debate itself. If Congress, in their rush, present flawed bills with pieces the president wants signed into law he may be *forced* to use signing statements more often.

During my time coding of the statements one common type of provisions which presidents interpreted were appointments-related provisions. More generally a great number of them deal with provisions which focus on the separation of powers between Congress and the President. These include appointments, the legislative veto as discussed during the research design, or other provisions. Take for example this statement by President George W. Bush on the "Legislation To Provide for the Transfer of the Nebraska Avenue Naval Complex" signed July 2, 2004.

> The executive branch **shall construe** section 1(g)(3) of the Act, which purports to make consultation with specified Members of Congress a precondition to execution of the law, **as calling for, but not mandating, such consultation.** Construing the provision as a mandate to consult would be inconsistent with constitutional provisions concerning the separate powers of the Congress to legislate and the President to execute the laws. (Bush 2004)

Many of the statements revolve around similar provisions, where Congress is trying to hold some control over an executive decision or appointment. A deeper look at legislative histories and debate would provide a clearer picture on this issue. Perhaps, once again, it is in fact Congress who sets the machine in motion by passing these bills which are distrustful of presidential action and the president who merely responds to them. Previously discussed research has shown the president heavily interprets bills with legislative veto sections. This issue could be further explored, looking at a variety of similar provisions that threaten the separation of powers. Perhaps the signing statement does not threaten this principle but instead defends it against potentially damaging legislation.

III. Final thoughts

It is always disheartening to find no significant evidence for the hypotheses you put forward. It can feel as though *nothing* of value was found by all of your hard work. However this is not true here, instead the results are simply different than what was originally expected. If he gets along with Congress more he uses them less and vice versa. Strategies for signing statement use may not automatically extend to every decision the president makes, but it makes a rather damning suggestion about how the man approaches a problem. All the data I have collected and analyzed suggests that the fundamental forces guiding a president's decision making with regards to signing statements are ideological. As such it is the study and understanding of the agents

involved that will allow for a clearer picture of presidential decision making in the years ahead.

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