GOVT 319-A01
Independent Investigations: The President, Congress, and the Special Counsel

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Office Hours: TBD  Class Room: Thompson Hall 2022

Course Description

This course serves to place the recent investigation conducted by Special Counsel Robert Mueller into historical, constitutional, and political context. The course will discuss and apply historical examples of independent investigations of the Presidency in an effort to distinguish the different forms those investigations have taken and to contrast those investigations with the traditional executive branch law enforcement process. The course will also address the many legal, practical, and political obstacles to investigating a President, including presidential immunity from prosecution, executive privilege, the pardon power, and the President’s role in supervising and overseeing executive branch officials. The Course will close with a discussion of Congress’s role in ensuring accountability through the exercise of its legislative, oversight, and impeachment powers.

Learning Objectives

• Students will demonstrate knowledge of basic practical and constitutional restrictions at play during investigations of the Presidency.
• Students will understand the varying historical approaches to investigating the Presidency.
• Students will be able to communicate their knowledge about independent investigations orally and in writing.
• Students will have a greater appreciation for and interest in the complexities of ensuring presidential accountability.
• Students will be able to apply the course information and skills to current events.

Course Requirements
There are no required books for this course.

**Participation and Discussion**

This course will be a mix of both lecture and discussion. Over the five class sessions I will attempt to convey major events, issues, and themes, but student participation will be essential to a full discussion of the subject matter. Students will be expected to attend class and class participation will be a significant portion of the final grade.

**Teaching Approach**

I am a practicing lawyer and my legal training will influence how I teach this class in two significant ways. First, there will be discussion of legal and constitutional principles throughout the course. Second, I will practice a very light version of the Socratic method, meaning I will call on students and ask for general input and personal views on the assignments.

**Reading, Listening, and Watching Assignments**

Assignments for this class will include academic and journalistic articles, blog posts, podcasts, and news programs. Please complete the assignment listed in the course schedule. All reading, listening, and watching should be completed before the lecture on the topic. The class topic is one that will likely be in the news, so in addition to assigned readings, students will be responsible for staying abreast of current events.

**Technology**

Turn your phones off while in class. You may not use laptop computers or tablet devices in class, except if you are sitting in the back row. If this restriction poses a challenge for you, please discuss it with me.

**Grade Components**

- Class Participation (30%)
  - In addition to general class participation, each class will begin with a discussion of any developments associated with the aftermath of the investigation or other related issues. For each class, students are expected to follow the news and come in prepared to discuss any journalistic or academic piece of their choosing.

- Short Presentation (30%)
Students will make a short presentation (less than 10 minutes) once during the class on an issue of their choosing that relates to our general topic.

- Final Paper (8-10 pages) (40%)
  - Students will write a final paper on an issue of their choosing that relates to our general topic. Students are encouraged to discuss their potential paper topic with me prior to beginning work.

**Class Schedule**

Class 1: The Mueller Investigation
- *This session will introduce the basics of independent investigations and provide students with a working knowledge of the Mueller investigation, its players, scope, and major events.*
- Assignment
  - Read: The U.S. Constitution (https://www.archives.gov/founding-docs/constitution-transcript)

Class 2: The Mueller Investigation in Historical Context
- *In this session we will discuss historical examples of independent investigations and differentiate between the different types of independent investigators.*
- Assignment
  - Read: Excerpt from Prosecuting the President: How Special Prosecutors (ages TBD)

Class 3: Obstacles to Investigating Presidents
- *This session will address the many legal, practical, and political obstacles to investigating a President and his advisors.*
- Assignment
  - Read: A Sitting President’s Amenability to Indictment and Criminal Prosecution
    https://www.justice.gov/olc/opinion/sitting-president%E2%80%99s-amenability-indictment-and-criminal-prosecution
  - Read: Indicting a President Is Not Foreclosed: The Complex History
    https://www.lawfareblog.com/indicting-president-not-foreclosed-complex-history
  - Read: Compelling Presidential Compliance with a Judicial Subpoena
    https://crsreports.congress.gov/product/pdf/LSB/LSB10130
Class 4: The President’s Role: Supervision

- This session will address the President’s role in supervising and overseeing an independent investigation and how those powers can clash with legal restrictions on obstructing an ongoing investigation.

- Assignment
  - Listen: National Constitution Center Podcast
  - Read: The President and the Independent Counsel, by Brett Kavanaugh (pages 2157-2172)
    [https://heinonline.org/HOL/Page?handle=hein.journals/glj86&div=64&g_sent=1&casa_token=ioya3hvmVeIAAAAA:NNzP ZwosDuY LaiYrwoxrh-TR3tALnNGiWtQ7Ea-QDfWLqL2synctylsb0yp9Z52Qtz2Ljwj&collection=journals](https://heinonline.org/HOL/Page?handle=hein.journals/glj86&div=64&g_sent=1&casa_token=ioya3hvmVeIAAAAA:NNzP ZwosDuY LaiYrwoxrh-TR3tALnNGiWtQ7Ea-QDfWLqL2synctylsb0yp9Z52Qtz2Ljwj&collection=journals)
  - Read: The President’s Power to End a Criminal Investigation

Class 5: Congress’s Role: Accountability

- This session will focus on Congress’s role, both while the investigation is ongoing and after its completion.

- Assignment
  - Read: CRS Report, Impeachment and Removal (pages 1-16)
  - Read: CRS In Focus, Congressional Oversight and Investigations
  - Read: CRS Legal Sidebar, The Special Counsel’s Report: Can Congress Get It?
  - Read: What Independent Investigations of the Past Can Teach Congress About Its Role in the Mueller Probe
  - Listen: National Constitution Center Podcast
    [https://constitutioncenter.org/debate/podcasts/the-attorney-general-the-president-and-congressional-oversight](https://constitutioncenter.org/debate/podcasts/the-attorney-general-the-president-and-congressional-oversight)

**Additional Concerns**

This syllabus is a tentative guide for the course. I reserve the right to make announced changes to this document and will distribute these changes in class
and on the course website. Each student will be responsible for all announcements and materials covered in class.

Class Conduct

Class atmosphere will be quite relaxed. Just a few guidelines to make sure:

- Arriving a few minutes late is tolerated as long as you make an effort to minimize the disturbance for other students.
- Turn off all cell phones (or don’t even bring them).
- If you have to leave a class early, please let me know in advance.

Disabilities and Accommodations

If you are a student with a disability and you need academic accommodations, please see me and contact the Disability Resource Center (DRC) at 993-2474. All academic accommodations must be arranged through the DRC.

Academic Integrity

Academic Integrity. The integrity of the University community is affected by the individual choices made by each of us. Mason has an Honor Code with clear guidelines regarding academic integrity. Three fundamental and rather simple principles to follow at all times are that: (1) all work submitted be your own, unless explicit collaboration has been allowed; (2) when using the work or ideas of others, including fellow students, give full credit through accurate citations; and (3) if you are uncertain about the ground rules on a particular assignment, ask for clarification. No grade is important enough to justify academic misconduct. Plagiarism means using the exact words, opinions, or factual information from another person without giving the person credit. Writers give credit through accepted documentation styles, such as parenthetical citation, footnotes, or endnotes. Paraphrased material must also be cited, using MLA or APA format. A simple listing of books or articles is not sufficient. Plagiarism is the equivalent of intellectual robbery and cannot be tolerated in the academic setting. If you have any doubts about what constitutes plagiarism, please see me.

Notice of mandatory reporting of sexual assault, interpersonal violence, and stalking.

As a faculty member, I am designated as a Responsible Employee, and must report all disclosures of sexual assault, interpersonal violence, and stalking to Masons Title IX Coordinator per University Policy 1412. You may seek assistance from Masons Title IX Coordinator, Jennifer Hammat, by calling 703-993-8730 or email cde@gmu.edu. If you wish to speak with someone confidentially, please contact one of Masons confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-993-3686 or Counseling
and Psychology Services (CAPS) at 703-993-2380. The 24-hour Sexual and Intimate Partner Violence Crisis Line for Mason is 703-380-1434.

**Enrollment Statement**

Students are responsible for verifying their enrollment in this class. Scheduled adjustments should be made by the deadlines published in the Schedule of Classes.