

Governing in Crisis Teaching Guide

Duquesne University President Ken Gormley
The Constitutional Framework for Decision-making

Interview Summary

Ken Gormley, the President of Duquesne University and a respected expert on constitutional law and the American presidency, examined the role and limits of executive power during times of crisis. He provided a unique perspective on the laws and cases that have shaped the powers of presidents and governors over our country's history. These powers and their limits have been tested recently as the president, governors, and federal and state agencies have responded to the COVID-19 pandemic.

Watch or Listen to the Episode using your favorite video or podcast app: *YouTube, iTunes, Spotify, Google Podcast, Stitcher, Amazon Music*

The Governing in Crisis series videos, podcasts, and resource materials are available at:
www.iop.pitt.edu/governing-crisis.

Video Topics

- (0:00) Introduction
- (7:05) History and limits of Executive Power
- (14:37) Role of the President during times of crisis
- (19:46) Constitutional examination of PA Gov. Wolf's actions in response to COVID-19
- (34:49) Overview of planning for the reopening of higher education

Potential Uses

- Post a governance series video on Canvas and ask students to respond to a discussion question about the video, as well as comment on 1-2 of their classmates' posts.
- Show a clip of the video during class to enrich learning, emphasize a point, and/or contextualize a topic.
- Create a resource folder on Canvas that includes governance series videos, accompanied by "learn and do more" documents, as well as other links to support student growth related to current events.
- Incorporate a governance series video into pre-class readings for a live discussion using or adapting the questions below.

Suggested Written Reflection Questions

- There have been many instances of legal executive and legislative overreach during times of crisis. Keeping in mind *Schenck v. United States*, *Korematsu v. United States*, and *NSA*

surveillance program cases after 9/11, explain how political and social pressure during crises impacts decision-making.

- ❑ What did you find interesting in the interview? What is something that you disagreed with?

Suggested Classroom Discussion Questions

- ❑ President Gormley reminds us of Justice Sandra Day O'Connor's words, "The times of war are not a blank check." Given the legal framework President Gormley has provided, including *Jacobson v. Massachusetts*, discuss the constitutionality of federal and state responses to the COVID-19 pandemic. Are there actions the federal or state government has taken in response to COVID-19 that have been perceived as overreach?
- ❑ Even without constitutional absolute power, the President has power to respond and act in times of crisis. According to President Gormley, how can the federal government, and specifically the President, "facilitate" state coordination of COVID-19 response efforts? What are 1-2 examples where past U.S. presidents have or have not facilitated coordination in times of crisis? What were the strengths and weaknesses of this facilitation or lack thereof?
- ❑ The interview with President Gormley was released prior to the murder of George Floyd. Discuss how executive power used by mayors, governors, and the president has been used to address civil disobedience with respect to the protests over police reforms and COVID-19 related shutdowns. How has the use of executive power been the similar and differed between these two examples?

Related Reading

- ❑ The *USA Today* examines federal power related to President Trump's claim that he has total authority over states in an article titled *Here's what the Constitution's 10th Amendment says about Trump's claim to have total authority over states*
- ❑ As flare ups between states and localities over the COVID-19 response get attention, one scholar says it may be a good time to reexamine the relationship between the two levels of government. Check out *Amid Pandemic, A Call to Rebalance State and Local Power*
- ❑ In halls of power across the country, the COVID-19 pandemic has sometimes been used to stretch, bend, or ignore established law and policy. Fundamental freedoms, privacy protections, and access to justice have been curtailed in the name of public safety, with legal justifications ranging from appropriate to patently inaccurate. Read more from the ABA Journal in *Pandemic power plays: Civil liberties in the time of COVID-19*

Stay Informed via Social Media

 iop.pitt.edu

 thornburghforum.pitt.edu

 [@Pitt.IOP](https://www.facebook.com/Pitt.IOP)

 [@DickThornburghForum](https://www.facebook.com/DickThornburghForum)

 [@PITT_IOP](https://twitter.com/PITT_IOP)

 [Institute of Politics](https://www.youtube.com/InstituteofPolitics)

 [Institute of Politics](https://www.linkedin.com/company/InstituteofPolitics)

Please fill out this quick survey to let us know if you used any of the *Governing in Crisis* videos and share your feedback. [The survey can be accessed here.](#)