

# **What is Public Policy and Why Do We Care?**

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## **I. MANY WAYS TO DEFINE PUBLIC POLICY**

- A. GERSTON: THE BASIC DECISIONS OR ACTIONS BY THOSE WHO HOLD OR AFFECT GOVERNMENT POSITIONS OF AUTHORITY
- B. MORE DIRECT DEFINITION: PUBLIC POLICY IS HOW PEOPLE CHOSEN TO GOVERN MANAGE THE PUBLIC GOOD WITHIN THE BOUNDARIES OF THEIR AUTHORITY.
- C. **BOTTOM LINE:** PUBLIC POLICY CONNECTS PEOPLE WITH PROGRAMS AND SERVICES. GOVERNMENT SERVES AS THE CONDUIT OR AGENT FOR THOSE ACTIVITIES.

## **II. PROPERTIES OF PUBLIC POLICY (*LIST*)**

- A. **ACTION STEP BY GOVERNMENT AUTHORITIES—OR NOT; IT'S THE EXERCISE OF LEGITIMATE POWER**

ex: THE GOVERNOR ISSUES AN EXECUTIVE ORDER, PERHAPS A STATE OF EMERGENCY AS THE STATE FIGHTS A WILDFIRE

ex: THE NEVADA SUPREME COURT RULES THAT NEVADA BASEBALL TEAM OWNERS ARE PROTECTED FROM LAWSUITS (2008)

ex: THE STATE LEGISLATURE ENACTS A LAW THAT PROTECTS ELDERS AND INCAPACITATED ADULTS FROM ABUSE (2009)

ex: BUREAUCRACY--THE NEVADA STATE BOARD OF EDUCATION ADOPTS  
REGULATIONS FOR ADULTS EARNING HIGH SCHOOL DIPLOMAS

ex: THE PEOPLE PASS INITIATIVES AND REFERENDA

**B. INTENTIONAL ACTIVITY**

ex: EFFORTS ARE ACTIVE, NOT PASSIVE

ex: THERE ARE OBJECTIVES, GOALS TO BE SATISFIED

WHY DON'T POLICY MAKERS GET MORE DONE? CONFLICT, INERTIA

**C. RESPONSE TO DEMANDS FOR CHANGE**

ex: NEVADA LEGISLATURE PASSED A LAW THAT PREVENTS A PARENT WHO  
ABDUCTS A CHILD FROM GAINING CUSTODY (2009)

**D. ASSOCIATED WITH CONFLICT—SCARCE RESOURCES**

ex: OVER MONEY

ex: OVER VALUES

ex: OVER LIVES

CAN ANYONE THINK OF A PUBLIC ISSUE DEALING WITH A SCARCE  
RESOURCE—SOMETHING VIEWED DIFFERENTLY BY COMPETING  
INTERESTS?

Answer: DEBATE OVER THE LEGALITY OF PROSTITUTION

Answer: MANAGEMENT OF NEVADA'S \$2.5-\$3.0 BUDGET DEFICIT

Answer: HIGH SCHOOL GRADUATION REQUIREMENTS

**E. RARELY NEUTRAL—WHAT HELPS/PLEASES ONE GROUP OFTEN  
HARMS/OFFENDS ANOTHER**

**F. RARELY PERMANENT**

ex: POSSIBLE CHANGING POLICY ON THE REGULATION OF MARIJUANA

ex: CHANGING POLICIES ON WATER USE

**G. COERCIVE—ONLY GOVERNMENT CAN LEGITIMATELY COMPELL US TO DO SOMETHING AGAINST OUR WILL**

ex: GOVERNMENTS REQUIRE YOU TO HAVE A DRIVER'S LICENSE, HUNTING PERMITS

WHO CAN GIVE AN EXAMPLE OF WHERE GOVERNMENT MAKES YOU DO SOMETHING YOU WOULDN'T OTHERWISE DO?

ex: YOU MUST STOP WHEN A POLICE OFFICER ORDERS YOU TO

ex: YOU MUST OBTAIN A BUILDING PERMIT BEFORE YOU UNDERTAKE A CONSTRUCTION PROJECT

**III. WHO ATTEMPTS TO INFLUENCE THE PUBLIC POLICYMAKING PROCESS?**

**A. CITIZENS—THINK ABOUT THE TEA PARTY MOVEMENT; CITIZENS WHO VISIT YOUR OFFICES; MAYBE A GENEROUS CAMPAIGN CONTRIBUTOR**

**B. INTEREST GROUPS—NEVADA RESORT ASSOCIATION; TRANSPORT WORKERS, CULINARY UNION; AARP; REAL ESTATE; EDUCATORS**

--**SPONSORED BILLS** ARE INCREASINGLY PART OF THE LEGISLATIVE PROCESS; THEY REPRESENT THE EFFORTS OF PRIVATE INTERESTS TO DEFINE THE PUBLIC GOOD

**C. MEDIA—LAS VEGAS REVIEW JOURNAL AND THE CONSTRUCTION DEATHS AT CITY CENTER**

**D. POLITICAL PARTIES—PARTY PLATFORMS; RESOLUTIONS AT**

## CONVENTIONS

- E. **ELECTED OFFICIALS**—APPEALS FROM COLLEAGUES FOR SPONSORSHIPS,  
VOTES; DEMANDS FROM GOVERNMENT OFFICIALS AT OTHER LEVELS

## IV. WHO MAKES PUBLIC POLICY

- A. THOSE IN POSITIONS OF PUBLIC AUTHORITY
  - 1. LEGISLATORS
  - 2. GOVERNORS AND OTHERS ELECTED TO THE EXECUTIVE BRANCH
  - 3. JUDGES
  - 4. BUREAUCRATS—GIVEN THE AUTHORITY BY OTHERS
- B. THE MOST RESPECTED PUBLIC POLICIES ARE THOSE THAT HAVE BEEN  
CRAFTED BY ALL OR MOST OF THE PLAYERS

## V. SUMMARY

- A. PUBLIC POLICY IS WHAT THOSE IN POSITION OF AUTHORITY DO ON  
BEHALF OF SOCIETY
- B. INCLUDES
  - 1. EXERCISE OF LEGITIMATE POWER
  - 2. INTENTIONAL
  - 3. RESPONSE
  - 4. ASSOCIATED WITH CONFLICT
  - 5. RARELY PERMANENT
  - 6. COERCIVE

**C. THOSE WHO ATTEMPT TO INFLUENCE THE POLICY PROCESS INCLUDE**

- 1. CITIZENS**
- 2. INTEREST GROUPS**
- 3. MEDIA**
- 4. POLITICAL PARTIES**
- 5. ELECTED OFFICIALS**



# **Federalism and Public Policy: Where the States Fit In**

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- I. IT MAY NOT BE FAIR, BUT NEVADA IS NOT THE CENTER OF THE NATION'S POLITICAL UNIVERSE
  - A. EVEN WITH HARRY REID, SHARON ANGLE, AND AN ALL-STAR CAST
  - B. THAT'S BECAUSE OF **FEDERALISM**, WHICH IS THE POLITICAL RELATIONSHIP BETWEEN THE NATIONAL, STATE, AND LOCAL GOVERNMENTS.
  - C. IN PLAIN ENGLISH, FEDERALISM ESTABLISHES THE BOUNDARIES OF POWER FOR ALL GOVERNMENTS—NATIONAL, STATE, AND BY EXTENSION, LOCAL
  
- II. **INTENTIONS**—THE FRAMERS OF THE U.S. CONSTITUTION DESIGNED A NATION THAT WOULD BOTH EXPAND THE GENERAL POWERS OF GOVERNMENT WHILE AT THE SAME TIME PUT LIMITS ON GOVERNMENT. IT'S A PRETTY NIFTY TRICK.
  - A. THEY EXPANDED THE NATIONAL GOVERNMENT BEYOND THE ARTICLES OF CONFEDERATION
    - 1. ARTICLE I—EXECUTIVE BRANCH
    - 2. ARTICLE II—LEGISLATIVE BRANCH
    - 3. ARTICLE III—THE JUDICIARY

4. THEY ALSO LIMITED THE NATIONAL GOVERNMENT THROUGH “CHECKS AND BALANCES” AMONG THE THREE BRANCHES

a. BASICALLY, ALL THREE BRANCHES MUST AGREE FOR A POLICY TO BE ADOPTED

b. THERE ARE WAYS FOR EACH BRANCH TO STOP THE OTHERS

B. THE FRAMERS ALSO SET UP A SYSTEM WHERE THE STATES WOULD HAVE THEIR OWN AREAS OF AUTHORITY FREE OF FEDERAL INTERFERENCE

1. ARTICLE IV

2. 10<sup>TH</sup> AMENDMENT

C. THE POINT IS THAT EACH AREA HAS ITS OWN SET OF RESPONSIBILITIES AND OBLIGATIONS TO THE PEOPLE.

D. STILL, STATES MUST HONOR TWO SETS OF RULES

1. THE GUARANTEES OF THEIR OWN CONSTITUTIONS

2. THE GUARANTEES OF THE U.S. CONSTITUTION

3. AND IF THE TWO SETS OF GUARANTEES CLASH, ALMOST ALWAYS THE U.S. CONSTITUTION PREVAILS

III. THE TRICKY PART—THE BOUNDARIES OF FEDERALISM HAVE CHANGED OVER TIME, DUE LARGELY TO INTERPRETATIONS OF THE U.S. SUPREME COURT

A. FOUR ERAS

1. FIRST DAYS THROUGH LATE 1830s—NATIONAL DOMINANCE



2. LATE 1830s THROUGH 1937—MORE STATE POWER AT THE EXPENSE OF THE NATIONAL GOVERNMENT
3. 1937 THROUGH MID-1980s—MORE NATIONAL POWER (THINK GREAT DEPRESSION RESPONSE) BUT LESS THAN THE FIRST ERA
4. MID-1980S THROUGH TODAY—SWING TOWARD MORE STATES RIGHTS
  - a. GAY MARRIAGE
  - b. ABORTION RULES
  - c. CLIMATE CONTROL
  - d. EMINENT DOMAIN
  - e. DEATH WITH DIGNITY

B. SOME AREAS REMAIN FIRMLY IN FEDERAL HANDS...

1. DEFENSE AND INTERNATIONAL RELATIONS
2. WATER—THE COLORADO RIVER COMPACT
3. GRAZING—BUREAU OF LAND MANAGEMENT

C. AREAS ABOUT TO BE TESTED

1. IMMIGRATION
2. HEALTH CARE
3. DECRIMINALIZATION OF MARIJUANA—WHICH HAS BEEN TESTED BEFORE
3. YUCCA MOUNTAIN

D. WHY HAVE INTERPRETATIONS CHANGED OVER TIME, ANYWAY?

1. CHANGING VALUES—ABOUT EDUCATION, FOOD SAFETY, CONSUMERISM
2. CHANGING ECONOMY—FROM SELF-SUFFICIENCY TO INTERDEPENDENCE

3. CHANGING WORLD—THE OCEANS NO LONGER PROTECT US

IV. IMPLICATIONS FOR PUBLIC POLICYMAKING IN NEVADA AND OTHER STATES LIMITS

1. NO TREATIES WITH NATIONS

2. NO TARIFFS

3. NO WITHDRAWAL FROM SOCIAL SECURITY, U.S. INCOME TAXES

4. NO REJECTION OF U.S. SUPREME COURT DECISION, e.g. *BROWN v. BOARD*

A. SYMBOLIC OPPORTUNITIES

1. RESOLUTIONS

B. UNCHARTED WATERS

1. CAN NEVADA STIFF THE FEDS ON HEALTH CARE?

2. CAN NEVADA REJECT THE OUTCOMES OF OTHER STATES, SUCH AS GAY MARRIAGE?

C. BOTTOM LINE—THERE ARE LIMITS ON WHAT GOVERNMENTS CAN DO, EVEN STATE GOVERNMENTS

# **Implementation and Evaluation**

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## **I. THE “BACK END” OF THE PUBLIC POLICY MAKING PROCESS—**

### **IMPLEMENTATION AND EVALUATION**

**A. WE CALL IT THE “BACK END” BECAUSE MOST PEOPLE DON’T PAY  
ATTENTION TO A POLICY ONCE IT’S ON THE BOOKS**

- 1. IMPLEMENTATION: THE PROCESS OF TRANSFERRING PUBLIC POLICY  
DECISIONS INTO PRACTICE**
- 2. EVALUATION: ASSESSING WHETHER WHAT WAS DONE HAS PRODUCED  
THE DESIRED RESULTS**

**B. MOST PEOPLE ASSUME THAT POLICIES ARE CARRIED OUT AS THE POLICY  
MAKERS INTENDED. WE’LL SEE....**

## **II. THREE REQUIREMENTS FOR IMPLEMENTATION OF A PUBLIC POLICY COMMITMENT TO TAKE PLACE**

**A. RESOURCES**

- 1. MEANS—MONEY, PERSON POWER**
- 2. INSTITUTIONAL APPARATUS—AN OFFICE, AN AGENCY, A BUREAU**
- 3. RESOURCES ARE ABOUT CAPACITY**

**B. UNDERSTOOD GOALS**

- 1. COMMUNICATION IS CLEAR**
- 2. LITTLE AMBIGUITY**

**C. FOLLOW THROUGH**

1. GETTING THE JOB DONE
2. PERSONAL OBJECTIVES MUST BE SET ASIDE FOR THE GREATER GOOD OF THE POLICY

**III. INDUCEMENTS FOR IMPLEMENTATION—LET’S REMEMBER**

--IMPLEMENTATION IS FAR FROM AUTOMATIC

--COMMONLY, THERE IS RESISTANCE TO CHANGE; THE STATUS QUO IS MORE COMFORTABLE EVEN IN TOUGH TIMES. WHY? BECAUSE THE STATUS QUO IS THE KNOWN AND IMPLEMENTATION IS THE UNKNOWN

--WHAT ELEMENTS ARE NECESSARY TO FACILITATE IMPLEMENTATION?

**A. FUNDING—THE MONEY NECESSARY TO DO THE JOB**

ex: IF THE LEGISLATURE ENACTS A POLICY ON MINING SAFETY, IT MUST PROVIDE THE RESOURCES TO HIRE THE INSPECTORS.

**B. LIMITED NUMBERS OF AGENCIES INVOLVED WITH THE CHANGE—A STREAMLINED BUREAUCRACY**

ex: IF THE LEGISLATURE ENACTS A POLICY ON CHILD ABUSE, WHICH AGENCY IS IN CHARGE OF ENFORCING THE POLICY?

--THE ATTORNEY GENERAL’S OFFICE?

--COUNTY DEPARTMENTS OF SOCIAL SERVICES?

--THE NEVADA DIVISION OF CHILD AND FAMILY SERVICES?

**C. MINIMAL BUREAUCRATIC DISCRETION—THE POLICY IS WRITTEN WITH LITTLE WIGGLE ROOM TO INTERPRET, CLARITY**

**ex: CHILD ABUSE SHOULD BE CLEARLY DEFINED**

**ex: THE LESS BUREAUCRATIC DISCRETION, THE EASIER IT IS FOR THE POLICY TO SUCCEED AS INTENDED**

#### **IV. OBSTACLES TO IMPLEMENTATION**

**A. BARGAINING AFTER THE FACT--TRYING TO CHANGE THE MEANING AFTER THE POLICY IS ENACTED**

**ex: AFTER THE LEGISLATURE ENACTS A MINING SAFETY LAW, A COMPANY ASKS FOR A WAIVER BECAUSE THE MINE IS OLD, ONGOING THE MORE BARGAINING THAT TAKES PLACE, THE LESS LEGITIMACY OF THE PUBLIC POLICY AUTHORITY WHO MAKES IT.**

**B. LACK OF FUNDING—THE GOVERNMENT CREATES A POLICY BUT DOESN'T PROVIDE THE FUNDS TO CARRY OUT ITS GOALS**

**ex: NOT ENOUGH INSPECTORS AFTER PASSAGE**

**C. CHANGES IN PRIORITIES—NEW CONDITIONS REQUIRE REASSESSMENTS OF COMMITMENTS**

**ex: PERHAPS THE LEGISLATURE COMMITS TO A MEDICAL SCHOOL AT UNR ONLY TO LEARN THAT THERE AREN'T ENOUGH APPLICANTS**

**D. POOR LEGISLATIVE OVERSIGHT. LEGISLATURES HAVE OVERSIGHT POWERS, YET THEY RARELY USE THEM**

**ex: A NEW LAW THAT REQUIRES CONTRACTORS TO BE BONDED; WAS IT**

CARRIED OUT? HOW MANY HAVE SLIPPED THROUGH THE CRACKS?  
WHY?

**V. EVALUATION--THERE ARE THREE BENEFITS FROM EVALUATION.**

A. FIRST, IT IS THE **MOST ACCURATE WAY** FOR PUBLIC POLICY MAKERS TO  
SEE WHETHER THEIR IDEA HAS BEEN CARRIED OUT AS INTENDED

ex: THE LEGISLATURE ENACTS A POLICY ON OVERTIME WAGES; HOLDS  
HEARINGS TO SEE IF THE POLICY HAS WORKED AS INTENDED

B. SECOND, EVALUATION IS THE **LAST MAJOR OPPORUNITY** TO ADJUST A  
POLICY IF IT HAS GONE AWRY, EVEN IF IT WAS IMPLEMENTED AS  
INTENDED.

1. ex: THE LEGISLATURE PASSES A WELFARE REFORM LAW, AND IT  
DOESN'T GET PEOPLE BACK OFF WELFARE AS THEY EXPECTED

C. THIRD, EVALUATION ALLOWS THE OBSERVER TO REFLECT ON WHAT WAS  
INTENDED, WHAT HAPPENED, AND THE CONSEQUENCES OF THE PUBLIC  
POLICY ACTION STEP.

**VI. WHO EVALUATES?**

A. INTERNAL EVALUATORS—INDIVIDUALS AND ORGANIZATIONS WHO  
KNOW FIRST-HAND WHAT'S GOING ON—USUALLY BUREAUCRATS

B. EXTERNAL EVALUATORS--INDEPENDENT AGENCIES NOT ATTACHED OR  
PART OF THE POLICY IMPLEMENTATION STRUCTURE

## **VII. PROBLEMS WITH EVALUATION**

### **A. LACK OF INDEPENDENT EVALUATORS**

1. EVALUATORS ARE TOO CLOSE TO THOSE WHO MADE THE POLICY,  
PERHAPS EVEN DEPENDENT UPON THEM

eg., THE GOVERNOR APPOINTS ALLIES TO EVALUATE THE STATE'S  
TAX STRUCTURE, AND THEY CONCLUDE WITH WHAT HE WANTS...

2. CAN'T BE CRITICAL OR OBJECTIVE

### **B. UNQUALIFIED EVALUATORS**

1. INVESTIGATORS WHO DON'T KNOW WHAT THEY'RE DOING

### **C. INCORRECT EVALUATION TOOLS**

1. BAD MEASUREMENT
2. INCOMPLETE MEASUREMENT—NO BENCHMARKING

### **D. IGNORED FINDINGS**

1. THE PROBLEMS IDENTIFIED ARE NOT DEALT WITH

## **V. CONCLUSION—IMPLEMENTATION AND EVALUATION ARE IMPORTANT STEPS IN THE PUBLIC POLICYMAKING PROCESS**

**A. POLICYMAKING AUTHORITIES MUST FOLLOW THROUGH TO MAKE SURE  
THAT POLICIES ARE CARRIED OUT AS INTENDED**

**B. FAILURE TO DO MAY RESULT IN PROBLEMS WORSE THAN THE ONE(S)  
THAT LED TO THE POLICY IN THE FIRST PLACE.**





## Nevada Legislature Public Policy Quiz

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After reading the scenarios below, mark "true" if you believe that the activity is a public policy and "false" if you believe it is not.

1. After years of vandalism, the residents of a Henderson neighborhood create a "Neighborhood Watch" group that will help them spot crime.  
True False
2. The Laughlin City Council decides that the streets perpendicular to Casina Drive should have parking meters.  
True False
3. Local citizen Ethel Excitement writes her state legislator with a demand to improve the Nevada's air quality.  
True False
4. The Nevada State Legislature debates whether to refer a state sales tax increase proposal to the voters.  
True False
5. The Nevada State Legislature passes a resolution honoring outgoing Governor Jim Gibbons for his four years of stewardship.  
True False
6. Las Vegas municipal employees vote to strike after reaching a collective bargaining impasse with state officials.  
True False
7. Assembly Speaker John Ocegüera and Senate Majority Leader Steven Horsford agree on the bills that will be considered during the 2011 general session.  
True False
8. The Nevada State Legislature requires all public schools to provide instruction in algebra by the 8<sup>th</sup> grade.  
True False
9. The Nevada State Legislature creates a task force to study the feasibility of consolidating Las Vegas and Clark County.  
True False
10. Local residents persuade Elko Assemblyman John Ellison to carry a bill increasing the annual resident quotas for mule deer hunting.  
True False