

Presidential Executive Orders

Presidents issue EO's to help officers and agencies of the executive branch manage operations within the federal government itself. EO's have the full force of law.

How do Presidents justify their use of this authority?

1. Although there is no enumerated Constitutional provision or statute that explicitly permits EO's, there is . . .
 - ↳ A vague grant of "executive power" in Article II, Section 1, Clause 1 of the Constitution
 - ↳ and furthered by the declaration "take care that the laws be faithfully executed" made in Article II, Section 3, Clause 5.
2. Certain acts of Congress have delegated to the president some degree of discretionary power. (also known as "Delegated Legislation")

Why might a President issue an Executive Order?

- ↳ This may be a calculated act of defiance against Congress.
 - ↳ If there is a policy which the president prefers, but believes Congress will block it, then an executive order becomes a viable option.
 - ↳ Example: integration of the US armed forces

Criticism of the use of Executive Orders

Critics have accused presidents of EO's, of using them to make laws without Congressional approval, and of moving existing laws away from their original mandates

How can an Executive Order be blocked or overturned?

1. The Supreme Court can do so
 - ↳ In *Youngstown Sheet & Tube Co v. Sawyer* (1952) the court ruled that Truman's EO-10340, which placed all steel mills in the country under federal control, was invalid because it attempted to make law, rather than clarify or act to further a law put forth by congress or the Constitution
 - ↳ Once twice has the court nullified an EO
1. EO's may be withdrawn by the sitting or a future present, through issuing a new EO.
3. Congress may attempt to not fund an EO, although the president may divert funds from elsewhere to navigate around such a hindrance.
4. While Congress may not vote directly on the merits of an EO, it may attempt to override it by passing contrary legislation with a two-thirds majority.

NOTEWORTHY EXECUTIVE ORDERS

- Lincoln 1862: Issued the Emancipation Proclamation
- Grant: Created the Native American reservation system.
- F.Roosevelt 1941 (EO-8802): Prohibited racial, religious and ethnic discrimination in the defense industry.
- F.Roosevelt 1942 (EO-9066): Delegated to the military authority to remove all people in a military zone
 - ↳ This facilitated the Japanese-American Internment Camp system
- Truman 1947 (EO-9835): Established the first loyalty program in the United States, designed to root out Communists in the government.
- Truman 1948 (EO-9981): Integration of the US Armed Services
- Eisenhower 1957 (EO-10730): Issued support for the desegregation of public schools.
 - ↳ Why was this necessary after the *Brown v. Board* decision? The National Guard was being used by the governor to prevent integration, so the Executive Order was used to send in the paratroopers to force integration.
- Kennedy 1962 (EO-10988): Recognizes the right of federal workers to join employee organizations and bargain collectively.
- L.Johnson 1963 (EO-11129): Decreed that NASA Launch Operations Center would be renamed after President Kennedy.
- L.Johnson 1964 (EO-11130): Created the Warren Commission to investigate the Kennedy assassination.
- Ford 1976 (EO-11905): Outlawed the assassination of foreign leaders by US agencies.
- Carter 1979 (EO-12127, EO-12128): Implemented the federal Emergency Management Agency (FEMA)
- Carter 1979 (EO-12170) Froze all Iranian assets held within the United States.
- Clinton 2000 (EO-13158): Established the National Marine Protected Areas Initiative and lands within it.
- Bush Jr 2001 (EO-13199): Established the Office of Faith-Based Initiatives
- Obama 2013: 19 EO's in one day to address gun violence

Unresolved issues persist:

- ↳ Wars have been fought upon executive order. However, all such wars have had authorizing resolutions from Congress. The extent to which the president may exercise military power independently of Congress and the scope of the War Powers Resolution remain unresolved constitutional issues, although all presidents since its passage have complied with the terms of the Resolution while maintaining that they are not constitutionally required to do so.

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HISTORY BY ADMINISTRATION

2021- **	Biden	Dem.	140
** <i>Through July 2024</i>			
2017-2021	Trump	Rep.	220
2009-2017	Obama	Dem.	276
2001-2009	Bush Jr	Rep.	291
1993-2001	Clinton	Dem.	364
1989-1993	Bush Sr	Rep.	166
1981-1989	Reagan	Rep.	381
1977-1981	Carter	Dem.	320
1974-1977	Ford	Rep.	169
1969-1974	Nixon	Rep.	346
1963-1974	L.Johnson	Dem.	325
1961-1963	Kennedy	Dem.	214
1953-1961	Eisenhower	Rep.	484
1945-1953	Truman	Dem.	907
1933-1945	F.Roosevelt	Dem.	3522
1929-1933	Hoover	Rep.	968
1923-1929	Coolidge	Rep.	1203
1921-1923	Harding	Rep.	522
1913-1921	Wilson	Dem.	1803
1909-1913	Taft	Rep.	724
1901-1909	T.Roosevelt	Rep.	1081
1897-1901	McKinley	Rep.	185
1893-1897	Cleveland	Dem.	140
1889-1893	Harrison	Rep.	143
1885-1889	Cleveland	Dem.	113
1881-1885	Arthur	Rep.	96
1881	Garfield	Rep.	6
1877-1881	Hayes	Rep.	92
1869-1877	Grant	Rep.	217
1865-1869	A.Johnson,	Dem.Nat'l.Union	79
1861-1865	Lincoln	Rep.Nat'l.Union	117
1857-1861	Buchanan	Dem.	16
1853-1857	Pierce	Dem.	35
1850-1853	Fillmore	Whig	12
1849-1850	Taylor	Whig	5
1845-1849	Polk	Dem.	18
1841-1845	Tyler	Whig	17
1841	Harrison	Whig	0
1837-1841	Van Buren	Dem.	10
1829-1837	Jackson	Dem.	12
1825-1829	J.Q.Adams	Dem.-Rep.; Nat'l Rep.	3
1817-1825	Monroe	Dem.-Rep.	1
1809-1817	Madison	Dem.-Rep.	1
1801-1809	Jefferson	Dem.-Rep.	4
1797-1801	J.Adams	Federalist	1
1789-1797	Washington	no pol' affiliation	8

Source: <http://www.presidency.ucsb.edu/data/orders.php>