

# Executive Orders

Back in the day, most of us were required to take a course or two in American Government when we were in high school. Today, such a course(s) no longer exists where an entire semester or year is devoted to studying our government. Today most high school courses integrate “civic” with economics. Neither subject of which provides a solid basis of understanding.

In the college/university setting most students are required to take one to two courses in social studies. This broad range of courses may include one or two courses in US government. Law schools generally require studies in government but these tend to be more specifically related to law and not general knowledge of government.

Consequently many of us either have forgotten our government studies or never learned about government to any depth of knowledge.

As a recap, there are three branches of government – the executive, legislative, and judicial. Each branch exists to ensure a separation of powers, that the government is effective, and that our rights are protected.

The legislative branch wields the most power of the branches in government. Its primary duties are to formulate law. The judicial branch determines the legality of these laws.

Among the executive branch duties is the overseeing of the government’s various departments such as the Department of Defense, Department of Health and Human Services, Department of Commerce, etc.

Associated with the three branches are the 4<sup>th</sup> and 5<sup>th</sup> estates. While these two areas are not formally part of the government, they carry a great deal of power to influence the people and government.

The 4<sup>th</sup> estate stems from a belief that the media has a responsibility to keep the public informed and is essential to the healthy functioning of democracy. Their role is that of watchdog.

The 5<sup>th</sup> estate has a similar role to that of the 4<sup>th</sup> estate but instead of coming from the media, it informs the public through social media.

In less than 20 days into his presidency, Biden has signed over 28 executive orders – a number significantly greater than any other president during their first month of office.

The term “executive order” has been tossed around so much in the past decade that few American have tried to understand its meaning and application in the government process.

All presidents create, write and sign various documents that become part of the Federal Register. These documents include:

- executive orders,
- proclamations,
- administrative orders,
- memoranda

Unfortunately there is no direct definition for executive orders, proclamations, or memoranda, in our Constitution or laws. Because of this, their use and application can and has been greatly abused.

Both executive orders and proclamations have the force of law, and can be codified under Title 3 of the Code of Federal Regulations.

So where does the authority for executive orders come from?

Article II of the Constitution assigns the president the roles of commander in chief, head of state, chief law enforcement officer, and head of the executive branch. The president has the sole constitutional obligation to “take care that the laws be faithfully executed,” and is granted broad discretion over federal law enforcement decisions.

Executive orders are powerful tools that the president can use and abuse. They are supposed to be directives from the president to departments within the executive branch. However they are often used to push the president’s will onto the people which is a violation of law. The president has the responsibility to see that the Constitution and laws are interpreted correctly and does not violate them.

When abused, illegal, or becomes a weapon used to control the people and/or the nation, clashes with the judiciary and/or Congress occur. The judiciary may override an executive order if the order is found to be illegal.

Congress cannot overturn the orders. However Congress may pass legislation that can make it difficult, or even impossible, to carry out the order, such as removing funding. Still, the president has to sign the law enacting that change, unless Congress is able to override his veto.

In effect, only a sitting U.S. President may overturn an existing executive order by issuing another executive order to that effect.

Federal courts have strike down executive orders that exceed the scope of the president’s authority. This happened when an appeals court stuck down Clinton’s order forbidding government contracts with businesses that employed strike-breakers. The Supreme Court said that Clinton’s order requiring the government to use foreign languages in providing federal benefits and services was similarly illegal.

Similarly, there were frequent clashes between the unilateral actions Obama made using executive orders and Congress and the federal courts. Apparently many of Obama's executive orders placed undue burdens on the taxpayers – American citizens – by violating the US Constitution. Some notable Obama offenses include:

Chrysler Bailout – blatant crony capitalism, subversion of creditor rights, government-directed industrial policy to help political insiders

Obamacare – many attempts to circumvent law

Political profiling – directed IRS to develop a list to identify organizations engaged in political activities, such as criticizing the government, educating about the Constitution, or challenging Obamacare

Assault On Free Speech and Due Process On College Campuses – urged crackdown on “unwelcome” speech and required complaints to be heard in quasi judicial procedures that deny legal representation, encourage punishment before trial, and convict based on a mere “more likely than not” standard

With regard to Trump's executive orders, between the media, House of Representatives, and 9th circuit court, it is difficult to determine if any of Trump's orders were illegal. There is no doubt that he wanted to build the wall and control illegal immigration, but the leftists would have you believe that these were illegal acts when in fact they were for the security of our nation and its people. People outside of our country or illegally within do not, and should not, receive the same rights and privileges that American citizens receive.

Since Biden became president, he has issued many executive orders to counter those of Trump. While this is perfectly legal, Biden's actions are definitely not in the interest of America and our citizens.

As you read or hear about executive orders, proclamations and directives, it is important to remember that the measure of abuse of this presidential authority isn't the number of orders issued, but whether any were/are illegal or improper.

### **Where do I find the Executive Orders?**

There are a number of online resources where you can download and/or view executive orders. The three best sources are:

*National Archives and Records Administration*

<https://www.archives.gov/federal-register/executive-orders/>

*Archive of all things related to the U.S. government, the National Archives maintains a digital index of executive orders that is searchable by date, number, or topic. Orders may be viewed as PDFs or text, in the Federal Register, or within Title 3 of the U.S. Code.*

*American Presidency Project*

[http://www.presidency.ucsb.edu/executive\\_orders.php](http://www.presidency.ucsb.edu/executive_orders.php)

*An archive maintained by the University of California Santa Barbara includes text of almost all executive orders, searchable by year of issue back to the early nineteenth century.*

*White House*

<https://www.whitehouse.gov/briefing-room/presidential-actions/>

*Executive orders from the current presidential administration are available as PDFs from the White House press office.*