

By Kennedy Aikey, Kennedy Cook, and Hailey Trimpey under the direction of Robert Alexander, Ph.D.

### **Examining Executive Orders and Joe Biden's use of them in his first month**

The use of executive orders allows a President to quickly enforce new legislation. This power is a means to enable a President to promote their agenda without the need for congressional approval. In his first month, Joe Biden has used executive orders much more so than his recent predecessors. He has used this power to overturn policies by the Trump administration and has added a number of his own initiatives as well. Executive orders have been used by almost all Presidents to ensure that their time in office is used to its fullest potential.

#### **Question 1: What is an executive order?**

Executive orders are written documents that are authored by the President to issue executive power. These orders hold much of the same power of a federal law. A President can use this power to solely direct the actions of the government and its officials. Thirty days after an executive order is published into the Federal Register, the order takes effect. Executive orders cannot be used to give the President any more power than he or she is already given within the Constitution.

Surprisingly, Congress has very limited ability to regulate executive orders. They are able to pass a new law that would override the order, however it would be subject to a Presidential veto. Federal courts also have the power to strike down executive orders if they feel that the order is exceeding the President's authority. Every President, except William Harrison, has issued an executive order during their term in office. Executive orders have been used for many different things but mainly to enforce civil rights, designate federal holidays, or regulate the civil service.

#### **Question 2: How have executive orders been used over time?**

While executive orders have been used by presidents as far back as Washington, Abraham Lincoln is credited with issuing the first executive order to be assigned a number. After his 1862 order, Lincoln went on to sign perhaps the most well-known executive order--the Emancipation Proclamation. This order declared the freedom of more than three million slaves throughout the Confederacy and provided the framework for the later freedom of millions more.

Along with Lincoln, President Franklin Delano Roosevelt issued several notable executive orders. During the time of the Great Depression, Roosevelt used executive orders to create programs such as The Civil Works Administration and the Rural Electrification Administration.

The use of executive orders peaked during the era of The New Deal, reaching over one thousand between 1933 and 1934.

Although executive orders are not used as frequently today as they were during Roosevelt's administration, there are still recent prominent examples. One of these being Barack Obama's Deferred Action for Childhood Arrivals (DACA), commonly known as the Dream Act. This order was issued after Congress failed to pass DREAM, a similar statute championed by Obama. DACA is a more controversial example of an executive order as the Trump Administration attempted to rescind it by its own executive order, but was unable to when the Supreme Court overturned Trump's decision saying the order violated the Administrative Procedure Act.

### **Question 3: How has Joe Biden used executive orders and what might we expect in the future?**

Since taking office, President Biden has signed over fifty executive orders ranging from the Coronavirus Pandemic to climate change. Biden has signed almost twice as many executive orders as compared to the past four presidents during the first month of their presidency. Fifteen of Biden's orders have been regarding the COVID-19 pandemic, and only two of these thirteen orders have been reversals from the Trump Administration.

The second biggest topic for Biden's executive orders is immigration policy. He has issued ten thus far with eight of those being reversals from the Trump Administration. In addition to reinstating DACA protections, Biden halted the construction of the border wall along the United States and Mexico borders. Lastly, Biden issued an order regarding the census and requiring non-citizens to be counted in the census.

Besides immigration, Biden has focused his actions on the climate crisis and sustainability. On his first day in office, he invoked a series of initiatives to tackle the climate crisis. He signed an order to have the United States rejoin the Paris Climate Accord and canceled the construction of the Keystone Pipeline. Biden gave permission to agencies to review and reverse over 100 environmental policies enacted by the Trump administration. His second week in office, he issued an executive order for the process of developing new emissions reduction targets to be announced by April 22nd this upcoming spring.

### **Parting Thoughts**

Executive orders are an important component of the American policy making process. Joe Biden has signed an unprecedented number of executive orders in his first month and he is sure to sign more. Future executive orders are likely to focus on tackling COVID-19. Specifically, we might see the enactment of the Defense Protection Act to amp up COVID-19 vaccinations and

additional funding for healthcare and essential workers relating to the pandemic. Getting the virus under control is both important for the public health crisis it poses as well as providing a means to safely and fully open up the nation's economy.