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What are Executive Orders? What re their limits?

By [Brett Snider, Esq.](#) | Last updated on March 21, 2019

An executive order is one way a U.S. president can make changes to the nation's policies. But there are limits as to how far such orders can go.

As history has shown, executive orders can be used in many different ways. Here's a quick summary of what you need to know:

## A Way for Presidents to Set Policy

For most national policy changes to occur, a bill must be approved by Congress and then signed into law by the president. An executive order is a way of [sidestepping the legislative process](#) to accomplish limited policy objectives.

Legal support for these orders comes from both the Constitution and acts (or the inaction) of Congress. Many executive orders base their authority in the U.S. Constitution's broad grant of [executive power](#) to the president.

The president can also make executive orders relating to organizations under the executive branch, like the Food and Drug Administration or the National Security Administration. Executive orders have also historically been used in times of war or military conflict, like President Franklin Roosevelt's order that led to the [internment of Japanese Americans during World War II.](#)

Critics often take issue with a president's use of executive orders. For example, President Obama issued executive orders relating to issues ranging from [fighting HIV](#) to forming a [council on Native American affairs](#). These and other executive orders were often met with criticism.

## Limits on Executive Orders

Executive orders are not unchecked strokes of power from the president's pen; they can be challenged and deemed unlawful by federal courts. In fact, the U.S. Supreme Court determined during the Korean War that executive orders must fit within a certain sphere of power and [cannot simply defy Congressional intent.](#)

Although this area of law remains in flux, executive orders have the most legitimacy when the president is acting with the implied or express authority of Congress. However, these executive orders may still legally shape policy if the laws or Congress have been silent on an issue.

\*\* The Senate rejected Convention on Bio- Diversity. The Senate was factually not silent.

Because Congress is rarely silent on major issues, executive orders are most common in areas where the president has been granted discretion by Congress. Regardless of the president's relationship with the federal legislature, executive orders will only allow a very small policy window in which to make changes.

### Related Resources:

- [FACT CHECK: Obama's planned executive orders would accomplish less than meets the eye](#) (The Associated Press)
- [President Obama's Executive Order: 5 Ways to Improve Cybersecurity](#) (FindLaw's Technologist)
- [Obama's Gun Proposals Target Mental Health Too](#) (FindLaw's Law and Daily Life)
- [What Is the War Powers Act? What Does It Require?](#) (FindLaw's Law and Daily Life)
- \*\* Sharing Note: Senate Rejection of Treaty / LT Robert Powell