



Reining in the Imperial Presidency: A Plan for Repealing Harmful Executive Orders

By Alex Nowrasteh

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President-elect Donald Trump is preparing to move back into the Oval Office, where he will reclaim extraordinary power to shape the lives of millions with a simple stroke of a pen.

Executive orders (EOs), a president's most potent tool for unilateral action, have quietly become the primary vehicle for enforcing sweeping policy changes. The appeal of EOs to presidents is understandable. As Bill Clinton's adviser Paul Begala famously quipped, "Stroke of the pen. Law of the land. Kind of cool." But for proponents of limited government, this "cool" ease of governance represents a creeping authoritarianism that should leave them cold.

Historically, EOs were intended as a way for a president to efficiently manage the executive branch. George Washington's first EO, for instance, was a simple request for information from department heads. But since the New Deal, the executive branch's power has expanded dramatically, fueled by national emergencies, wars, and crises that have allowed presidents to claim ever more

authority—often with Congress abdicating its own responsibilities. Today, they often serve as formidable instruments of power, used to direct agencies to enact broad and sometimes controversial regulations.

Presidents today wield a suite of powers that go far beyond what the Founders envisioned. They can declare emergencies, direct vast bureaucratic machinery to their own ends, make war without congressional approval, and more.

From regulations affecting health care, immigration, and the economy to decisions on military action and civil rights, EOs are a president's means to bypass Congress and impose their will. The most notorious example remains Franklin Delano Roosevelt's EO that ordered the internment of Japanese Americans during World War II—a stark reminder of how dangerous this unchecked power can be.

Yet despite the growing influence of EOs, American law offers no clear definition of what an executive order even is. Most troubling, the courts rarely challenge

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the president’s use of EOs. One notable exception was the Youngstown Steel case, where the Supreme Court blocked President Truman’s attempt to nationalize the steel industry during the Korean War. But such instances are few and far between. Even Congress’s traditional check—the power of the purse—has proven ineffective, as evidenced by President Trump redirecting

funds to build a border wall despite congressional opposition.

Impeachment, too, has become a dead letter, while the Supreme Court’s recent decision in *Trump v. US*, which broadened presidential immunity from criminal prosecution for official acts, further shields the office from meaningful oversight. As it stands, the two remaining checks on presidential power are the courts—staffed by presidential appointees—and the electoral process, a disheartening reality for anyone who believes in a truly balanced federal government.

The trajectory is clear: If left unchecked, the presidency risks becoming an elected doge in all but name, with Congress playing a diminished role. This is why it’s more critical than ever to restore the presidency to its proper constitutional limits that would provide a legal straitjacket that prevents the president from harming the country. Yet we must also be realistic and prepare for the continuation of the “imperial presidency.”

To that end, Cato recently published the *Cato Handbook on Executive Orders and Presidential Directives*, a critical guide that highlights some of the most harmful executive orders in recent history. Our goal is to help the next administration identify and revoke EOs that undermine individual liberty, limited government, free markets, and peace. While the handbook is not exhaustive, it offers a starting point for undoing some of the most egregious executive overreach in areas like health care, immigration, foreign policy, trade, and divisive cultural issues.

For example, President Biden’s EO 13991, which promoted ineffective public health measures such as mask mandates during the

pandemic, should be revoked. Furthermore, several other health care–related EOs worsen the inefficiencies in Medicare, Medicaid, and the Affordable Care Act, and President-elect Trump should amend or rescind them to restore a more market-based approach to health care.

On climate and energy, Cato scholars have identified five EOs related to clean energy and climate change that unnecessarily raise costs and impose excessive burdens on Americans. These orders prompt federal agencies to exaggerate the risks of climate change, leading to misguided regulations. Repealing them would ease the regulatory load on businesses and consumers alike.

One especially destructive move by the Biden administration was a memorandum exempting IRS tax regulations from review by the Office of Information and Regulatory Affairs. This lack of oversight weakens accountability and transparency in tax policy—a key area where regulatory scrutiny is crucial. President-elect Trump should revoke this memo and restore proper oversight of IRS regulations.

The Biden administration also took a regulation-heavy approach to artificial intelligence (AI) in an EO that could hamper the development of this critical technology. While the EO includes some positive provisions, such as streamlining immigration for highly skilled workers, its regulation-first stance should be revisited. President-elect Trump should amend the EO to allow private firms to build AI without regulatory interference while maintaining the pro-immigration aspects.

Beyond these domestic concerns, President-elect Trump has the power to finally close Guantanamo Bay. Revoking

an EO issued by President Trump and reinstating Obama-era policies to shutter the prison camp would be a vital step in restoring America’s global standing. Similarly, several EOs imposed by previous administrations have led to unnecessary foreign sanctions and the misuse of the US military in anti-drug operations—both of which should be reconsidered or reversed by the 2024 administration.

Another troubling area is trade. Numerous EOs and proclamations currently impose restrictive Buy American provisions that limit competition and inflate costs for domestic firms. These outdated trade barriers should be repealed, clearing the way for a more open and competitive market.

The presidency has grown far too powerful, and much of that power is wielded through EOs. Congress must act decisively to rein in this overreach and restore the balance envisioned by the Constitution. In the meantime, there’s much President-elect Trump can do to at least reduce the harm imposed by previous administrations, one EO at a time. When the dust settles and real policy discussions resume, our handbook will be there to help guide the new administration toward greater liberty. ✨

ABOUT THE AUTHOR

Alex Nowrasteh is the vice president for economic and social policy studies at the Cato Institute. He is the editor of the recently released *Cato Handbook on Executive Orders and Presidential Directives*, which recommends revoking several specific executive orders and making systemic changes to presidential power.