Hot Topics in Legal Research: Presidential Executive Orders and How to Research Them

Professor Tung Yin
Rob Truman, Boley Law Library
Lewis & Clark Law School
March 1, 2017
Executive Order 12333 of December 4, 1981

United States Intelligence Activities

TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Preamble</th>
<th>Page</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Part 1. Goals, Direction, Duties, and Responsibilities With Respect to the National Intelligence Effort</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Goals</td>
</tr>
<tr>
<td>1.2 The National Security Council</td>
</tr>
<tr>
<td>1.3 National Foreign Intelligence Advisory Groups</td>
</tr>
<tr>
<td>1.4 The Intelligence Community</td>
</tr>
<tr>
<td>1.5 Director of Central Intelligence</td>
</tr>
<tr>
<td>1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies</td>
</tr>
<tr>
<td>1.7 Senior Officials of the Intelligence Community</td>
</tr>
<tr>
<td>1.8 The Central Intelligence Agency</td>
</tr>
<tr>
<td>1.9 The Department of State</td>
</tr>
<tr>
<td>1.10 The Department of the Treasury</td>
</tr>
<tr>
<td>1.11 The Department of Defense</td>
</tr>
<tr>
<td>1.12 Intelligence Components Utilized by the Secretary of Defense</td>
</tr>
<tr>
<td>1.13 The Department of Energy</td>
</tr>
<tr>
<td>1.14 The Federal Bureau of Investigation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 2. Conduct of Intelligence Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 Need</td>
</tr>
<tr>
<td>2.2 Purpose</td>
</tr>
<tr>
<td>2.3 Collection of Information</td>
</tr>
<tr>
<td>2.4 Collection Techniques</td>
</tr>
<tr>
<td>2.5 Attorney General Approval</td>
</tr>
<tr>
<td>2.6 Assistance to Law Enforcement Authorities</td>
</tr>
<tr>
<td>2.7 Covert Action</td>
</tr>
<tr>
<td>2.8 Consistency With Other Laws</td>
</tr>
<tr>
<td>2.9 Undisclosed Participation in Organizations Within the United States</td>
</tr>
<tr>
<td>2.10 Human Experimentation</td>
</tr>
<tr>
<td>2.11 Prohibition on Assassination</td>
</tr>
<tr>
<td>2.12 Indirect Participation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 Congressional Oversight</td>
</tr>
<tr>
<td>3.2 Implementation</td>
</tr>
<tr>
<td>3.3 Procedures</td>
</tr>
<tr>
<td>3.4 Definitions</td>
</tr>
<tr>
<td>3.5 Purpose and Effect</td>
</tr>
<tr>
<td>3.6 Revocation</td>
</tr>
</tbody>
</table>

Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:
Executive Order 13228 of October 8, 2001

Establishing the Office of Homeland Security and the Homeland Security Council

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Establishment. I hereby establish within the Executive Office of the President an Office of Homeland Security (the “Office”) to be headed by the Assistant to the President for Homeland Security.

Sec. 2. Mission. The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

Sec. 3. Functions. The functions of the Office shall be to coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

(a) National Strategy. The Office shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and shall periodically review and coordinate revisions to that strategy as necessary.

(b) Detection. The Office shall identify priorities and coordinate efforts for collection and analysis of information within the United States regarding threats of terrorism against the United States and activities of terrorists
Tuesday,
January 27, 2009

Part V

The President

Executive Order 13491—Ensuring Lawful Interrogations
Executive Order 13492—Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities
Executive Order 13493—Review of Detention Policy Options
Executive Order 13491 of January 22, 2009

Ensuring Lawful Interrogations

By the authority vested in me by the Constitution and the laws of the United States of America, in order to improve the effectiveness of human intelligence-gathering, to promote the safe, lawful, and humane treatment of individuals in United States custody and of United States personnel who are detained in armed conflicts, to ensure compliance with the treaty obligations of the United States, including the Geneva Conventions, and to take care that the laws of the United States are faithfully executed, I hereby order as follows:

Section 1. Revocation. Executive Order 13440 of July 20, 2007, is revoked. All executive directives, orders, and regulations inconsistent with this order, including but not limited to those issued to or by the Central Intelligence Agency (CIA) from September 11, 2001, to January 26, 2009, concerning detention or the interrogation of detained individuals, are revoked to the extent of their inconsistency with this order. Heads of departments and agencies shall take all necessary steps to ensure that all directives, orders, and regulations of their respective departments or agencies are consistent with this order. Upon request, the Attorney General shall provide guidance about which directives, orders, and regulations are inconsistent with this order.

Sec. 2. Definitions. As used in this order:

(a) "Army Field Manual 2-22.3" means FM 2-22.3, Human Intelligence Collector Operations, issued by the Department of the Army on September 6, 2000.

(b) "Army Field Manual 34-52" means FM 34-52, Intelligence Interrogation, issued by the Department of the Army on May 8, 1987.

(c) "Common Article 3" means Article 3 of each of the Geneva Conventions.


(e) "Geneva Conventions" means:

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114);

(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12,
Presidential Documents

Executive Order 13492 of January 22, 2009

Review and Disposition of Individuals Detained At the Guantánamo Bay Naval Base and Closure of Detention Facilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to effect the appropriate disposition of individuals currently detained by the Department of Defense at the Guantánamo Bay Naval Base (Guantánamo) and promptly to close detention facilities at Guantánamo, consistent with the national security and foreign policy interests of the United States and the interests of justice, I hereby order as follows:

Section 1. Definitions. As used in this order:
(a) “Common Article 3” means Article 3 of each of the Geneva Conventions.
(b) “Geneva Conventions” means:
(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114);
(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949 (6 UST 3217);
(iii) the Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (6 UST 3316); and
(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (6 UST 3516).
(c) “Individuals currently detained at Guantánamo” and “individuals covered by this order” mean individuals currently detained by the Department
Finding Presidential Executive Orders
A USA TODAY review of presidential documents found at least five cases where the version posted on the White House website doesn't match the official version sent to the Federal Register. The differences include minor grammatical changes, missing words and paragraph renumbering — but also two cases where the original text referred to inaccurate or non-existent provisions of law.
Official Versions
Process of Publication

Example: Executive Order 13769

1. President Signs (1/27/2017)

2. Printed in Daily Federal Register (02/01/2017)

Quick Tip
All Links on the Law Library Site

Easy as 1, 2, 3...
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Legal Research Quicklinks

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- Find a Book
- Find a Paper Topic
- Find a Past Exam
- Getting Started with Legal Research
- Legal Research Strategy
- Reference Works
  - Dictionaries & Encyclopedias
  - Federal Government
  - Foreign & International
  - Newspapers
  - Oregon
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  - Administrative Law Research
    - American Indian Law
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    - U.S. Supreme Court Research Guide

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Research

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About
Federal Register
Federal Register

Published every business day

EOs since 1936

Sometimes 2-3 day delay until publication of EOs
Federal Register – Finding

FederalRegister.gov (1994 – Present)
National Vaccine Injury Compensation Program

by the Health Resources and Services Administration
on 02/28/2017

HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program, as required by the Public Health Service (PHS) Act, as amended.
### Donald Trump


<table>
<thead>
<tr>
<th>Year</th>
<th>Order(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>EO 13765 - EO 13776</td>
</tr>
</tbody>
</table>

### Barack Obama


<table>
<thead>
<tr>
<th>Year</th>
<th>Order(s)</th>
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</thead>
<tbody>
<tr>
<td>2017</td>
<td>EO 13757 - EO 13764</td>
</tr>
<tr>
<td>2016</td>
<td>EO 13716 - EO 13756</td>
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<tr>
<td>2015</td>
<td>EO 13687 - EO 13715</td>
</tr>
<tr>
<td>2014</td>
<td>EO 13656 - EO 13686</td>
</tr>
<tr>
<td>2013</td>
<td>EO 13635 - EO 13655</td>
</tr>
<tr>
<td>2012</td>
<td>EO 13597 - EO 13634</td>
</tr>
<tr>
<td>2011</td>
<td>EO 13563 - EO 13596</td>
</tr>
<tr>
<td>2010</td>
<td>EO 13526 - EO 13562</td>
</tr>
<tr>
<td>2009</td>
<td>EO 13489 - EO 15323</td>
</tr>
</tbody>
</table>

### George W. Bush


<table>
<thead>
<tr>
<th>Year</th>
<th>Order(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>EO 13484 - EO 13488</td>
</tr>
<tr>
<td>2008</td>
<td>EO 13454 - EO 13483</td>
</tr>
<tr>
<td>2007</td>
<td>EO 13421 - EO 13453</td>
</tr>
<tr>
<td>2006</td>
<td>EO 13385 - EO 13420</td>
</tr>
<tr>
<td>2005</td>
<td>EO 13368 - EO 13394</td>
</tr>
<tr>
<td>2004</td>
<td>EO 13322 - EO 13367</td>
</tr>
<tr>
<td>2003</td>
<td>EO 13282 - EO 13321</td>
</tr>
<tr>
<td>2002</td>
<td>EO 13249 - EO 13261</td>
</tr>
<tr>
<td>EO Number</td>
<td>Title</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------------------------------------------------</td>
</tr>
<tr>
<td>EO 13776</td>
<td>Task Force on Crime Reduction and Public Safety</td>
</tr>
<tr>
<td>EO 13775</td>
<td>Providing an Order of Succession Within the Department of Justice</td>
</tr>
<tr>
<td>EO 13774</td>
<td>Preventing Violence Against Federal, State, Tribal, and Local Law Enforcement Officers</td>
</tr>
<tr>
<td>EO 13773</td>
<td>Enforcing Federal Law With Respect to Transnational Criminal Organizations and Preventing International Trafficking</td>
</tr>
<tr>
<td>EO 13771</td>
<td>Reducing Regulation and Controlling Regulatory Costs</td>
</tr>
</tbody>
</table>
Executive Order 13776 of February 9, 2017

Task Force on Crime Reduction and Public Safety

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce crime and restore public safety to communities across the Nation, it is hereby ordered as follows:

Section 1. Policy. It shall be the policy of the executive branch to reduce crime in America. Many communities across the Nation are suffering from high rates of violent crime. A focus on law and order and the safety and security of the American people requires a commitment to enforcing the law and developing policies that comprehensively address illegal immigration, drug trafficking, and violent crime. The Department of Justice shall take the lead on Federal actions to support law enforcement efforts nationwide and to collaborate with State, tribal, and local jurisdictions to restore public safety to all of our communities.

Sec. 2. Task Force. (a) In furtherance of the policy described in section
Executive Order 13776 of February 9, 2017

Task Force on Crime Reduction and Public Safety

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce crime and restore public safety to communities across the Nation, it is hereby ordered as follows:

Section 1. Policy. It shall be the policy of the executive branch to reduce crime in America. Many communities across the Nation are suffering from high rates of violent crime. A focus on law and order and the safety and security of the American people requires a commitment to enforcing the law and developing policies that comprehensively address illegal immigration, drug trafficking, and violent crime. The Department of Justice shall take the lead on Federal actions to support law enforcement efforts nationwide and to collaborate with State, tribal, and local jurisdictions to restore public safety to all of our communities.

Sec. 2. Task Force. (a) In furtherance of the policy described in section 1 of this order, I hereby direct the Attorney General to establish, and to appoint or designate an individual or individuals to chair, a Task Force on Crime Reduction.
Federal Register – Finding

*FederalRegister.gov* (1994 – Present)

*HeinOnline* (From 1936)
Get Citation

open in new tab/window
Table of Contents

1. Goals

1.2 The National Security Council

1.3 National Foreign Intelligence Advisory Groups

1.4 The Intelligence Community

1.5 Director of Central Intelligence

1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies

1.7 Senior Officials of the Intelligence Community

1.8 The Central Intelligence Agency

1.9 The Department of State

1.10 The Department of the Treasury

1.11 The Department of Defense

1.12 Intelligence Components Utilized by the Secretary of Defense

1.13 The Department of Energy

1.14 The Federal Bureau of Investigation

2. Need

2.2 Purpose

2.3 Collection of Information

2.4 Collection Techniques

2.5 Attorney General Approval

2.6 Assistance to Law Enforcement Agencies

2.7 Contracting

2.8 Coordination With Other Laws
CFR

*Code of Federal Regulations*

[Statutes at Large : USC :: Federal Register : CFR]

**The official version** (once printed) of Executive Orders

Published annually

Presidential docs all go to Title 3

Unlike other code sections, only contains that year’s EOs
CFR – Finding

*FDSYS (U.S. GPO) – (1996 – Present)*
CODE OF FEDERAL REGULATIONS (ANNUAL EDITION)

The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The 50 subject matter titles contain one or more individual volumes, which are updated once each calendar year, on a staggered basis. The annual update cycle is as follows: titles 1-16 are revised as of January 1; titles 17-27 are revised as of April 1; titles 28-41 are revised as of July 1; and titles 42-50 are revised as of October 1. Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the CFR refer to material at the section level. About the Code of Federal Regulations (annual edition).

Choose Year - Year - Go

Browse by Year
3
2001 Compilation
and
Parts 100–102
Revised as of January 1, 2002

The President

Published by:
Office of the Federal Register
National Archives and Records
Administration
A Special Edition of the Federal Register
Establishing the Office of Homeland Security and the Homeland Security Council

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Establishment. I hereby establish within the Executive Office of the President an Office of Homeland Security (the “Office”) to be headed by the Assistant to the President for Homeland Security.

Sec. 2. Mission. The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

Sec. 3. Functions. The functions of the Office shall be to coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

(a) National Strategy. The Office shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and shall periodically review and coordinate revisions to that strategy as necessary.

(b) Detection. The Office shall identify priorities and coordinate efforts for collection and analysis of information within the United States regarding threats of terrorism against the United States and activities of terrorists or terrorist groups within the United States. The Office also shall identify, in coordination with the Assistant to the President for National Security Affairs, priorities for collection of intelligence outside the United States regarding threats of terrorism within the United States.

(i) In performing these functions, the Office shall work with Federal, State, and local agencies, as appropriate, to:

(A) facilitate collection from State and local governments and private entities of information pertaining to terrorist threats
CFR – Finding

FDSYS (U.S. GPO) (1996 – Present)

HeinOnline (1938 – Present)
Pre-1936 EOs
Executive Order.

It is hereby ordered that all smallest legal subdivisions which touch the shore line of Lakes Malheur and Harney and the streams and waters connecting these lakes in township twenty-five south, ranges thirty-two, thirty-two and one-half and thirty-three; township twenty-six south, ranges twenty-nine, thirty, thirty-one, thirty-two and thirty-three; township twenty-seven south, ranges twenty-nine, twenty-nine and one-half, thirty and thirty-two, all east of the Willamette Meridian, Oregon, together with all islands and unsurveyed lands situated within the meander lines of said lakes and connecting waters, as segregated by the broken line shown upon the diagram hereto attached and made a part of this Order, are hereby reserved, subject to valid existing rights, and set aside for the use of the Department of Agriculture as a preserve and breeding ground for native birds. The taking or destruction of birds’ eggs and nests, and the taking or killing of any species of native bird for any purpose whatsoever, except under such rules and regulations as may be prescribed by the Secretary of Agriculture, is prohibited, and warning is expressly given to all persons not to commit within the reserved territory any of the acts hereby enjoined. This reserve to be known as Lake Malheur Reservation.

THEODORE ROOSEVELT

The White House,
August 18, 1908.

[No. 929.]
Still Good Law?
Still Good Law?

Westlaw
(Good re: subsequent EOs, but must use Citing References tab for cases)
United States Intelligence Activities

December 4, 1981

*59941 Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

*59942 Part 1

Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

1.1 Goals. The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense
Negative Direct History

The KeyCited document has been negatively impacted in the following ways by events or decisions in the same litigation or proceedings:

1. United States Intelligence Activities


   Amended in Part by

2. Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security


   AND Amended in Part by

3. Strengthened Management of the Intelligence Community


   Order Amended by

4. Further Amendments to Executive Order 12333, United States Intelligence Activities

Still Good Law?

KeyCite (Westlaw)
Good for amendments; For cases use *Citing References* tab

Executive Orders Disposition Tables (NARA)
Excellent service for citations of your EO and amending EOs

- Executive order number
- Date of signing by the President
- Federal Register volume, page number, and issue date
- Title
- Amendments (if any)
- Current status (where applicable)
We are currently upgrading the Executive Order Disposition Tables Index. To see the text of recent Executive Orders, please visit www.federalregister.gov/executive-orders

**Donald J. Trump** (2017-Present)
EOs 13765 - 13766 | Subject Index

**Barack Obama** (2009-2017)
EOs 13489 - 13764 | Subject Index

**George W. Bush** (2001-2009)
EOs 13198-13488 | Subject Index

**William J. Clinton** (1993-2001)
EOs 12834-13197 | Subject Index

**George Bush** (1989-1993)
EOs 12668-12833

EOs 12287-12667
Executive Order 12334
President's Intelligence Oversight Board

- Signed: December 4, 1981
- Federal Register page and date: 46 FR 59955; December 8, 1981
- Amended by: EO 12701, February 14, 1990
- Revoked by: EO 12863, September 13, 1993
Other Sources of Presidential Documents
Other Sources of Pres. Docs

*Westlaw Presidential Documents Library* (EOs from 1936; Other docs from 1984; CFR & FR)

*Whitehouse.gov* (Current president only)
  (but you’ve been warned...)

*Compilation of Presidential Documents* (1992 – present)
  (EOs, Proclamations, *Memoranda*, and other docs)
Other Sources of Pres. Docs

*Public Papers of the Presidents* (Hoover – Obama)
(EOs, Proclamations, *Memoranda*, and other docs)

*Statutes at Large*
(for Proclamations)

*The American Presidency Project*
(Invaluable resource for finding all manner of Presidential Documents)
Thank you!

Questions?

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