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How Obama compares with past presidents on executive orders

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Speaking to a fractured North Carolina delegation Tuesday at the Republican National Convention in Cleveland – most North Carolina delegates had declared they preferred Ted Cruz to Donald Trump – House Speaker Paul Ryan tried to build some unity.

Refusing to support Trump, he argued, is essentially the same as helping Hillary Clinton – who Ryan said would continue many of President Barack Obama’s policies.

Politifact North Carolina took notice of a point Ryan made about Obama. Obama has been especially egregious, Ryan said, in his use of the executive branch to go around Congress.

“We’ve lost lots of control over our own government,” Ryan said, adding he believes the constitutional separation of powers is breaking down as the presidency gains more power.

“And by the way, Republican presidents did it too,” he said. “But this president took it to a whole new level. And now we have all these rules and regulations which are basically laws. They have the full force of law.”

Ryan’s claim that Obama has taken this practice “to a whole new level” is virtually impossible to fact-check, but we did want to explore the claim, add some context and see how Obama compares with his predecessors, both Democrat and Republican.

Executive orders

The most well-known kind of presidential action is an executive order.

Executive orders can’t create new legislation; they can only add to or clarify existing laws. The Supreme Court decided that in 1952, when it stopped Harry Truman from nationalizing the steel industry with an executive order.

Most executive orders are mundane and simply give direction to an agency under a president’s control.

More controversially and rarely, they can be used to circumvent the typical lawmaking process when Congress doesn’t pass something the president wants done.

Every president except for William Henry Harrison, who died a month after taking office, has issued at least one executive order.

The National Archives has [a chronological list](#) of all executive orders dating back to the Great Depression.

When compared with other presidents, Obama has been historically stingy in his use of executive orders. The [American Presidency Project](#) at UC-Santa Barbara helpfully tracks the numbers.

Obama issues about 33 a year on average. That's the fewest of any president in the 20th and 21st centuries. No one has used them more sparingly since Grover Cleveland in the 1890s.

Even most 20th-century presidents who spent less time in office than Obama – Taft, Harding, Coolidge, Hoover, Johnson, Nixon and Carter – still issued more total executive orders.

President Franklin Roosevelt was the most prolific user of executive orders, both total and per year. He issued 3,721 in his 12-plus years in office. That's more per year (307) than Obama has issued in all 7.5 years combined (242).

It's worth noting, though, that formal orders aren't the only way the executive branch can enact policy. The president can issue directions to agencies, and agencies can also set their own rules and regulations.

Notable Obama actions

David Woodard, a professor at Clemson University, said Obama has used the executive branch to promote progressive social issues, especially lesbian, gay, bisexual and transgender rights, more than any past president.

The Obama administration [sued North Carolina](#) this spring over [a controversial state law](#) that requires transgender people in government buildings to use the bathroom matching their birth certificate.

“I think the implication is that the bureaucracy has overstepped its authority in the area of social issues,” Woodard said regarding Ryan's claim.

On immigration, Obama suffered a setback in June, when the short-handed [Supreme Court tied 4-4](#) on an executive action protecting from deportation some immigrants who live in the country without legal permission. That meant a lower court's order to block the program will stand.

Obama has also used executive orders and actions to raise the minimum wage for federal contractors to \$10.10 an hour and to attempt to make firearms sales more closely monitored.

Our friends at [FactCheck.org](#) have [a good explainer](#) of his actions on guns. Obama proposed them while slamming Congress for not passing a universal background check – which PolitiFact has previously found is [supported by 90 percent](#) of Americans.

“Obama has been acting because Congress won't – under the dubious theory that he gets more power in that circumstance – and therefore you have lawsuits in response,” said Ilya Shapiro, the editor-in-chief of the libertarian Cato Institute's Supreme Court Review.

Since Obama was the stingiest issuer of executive orders in more than a century, maybe Ryan meant that he is using executive orders and actions for more important issues than past presidents have. It's a charge he has levied in the past.

This is where it becomes what Shapiro told us is "a judgment call or historians' parlor game, not a fact to check."

Michael Munger, a professor of politics and economics at Duke University, said Obama "has used executive orders in a way that really mocks the separation of powers."

Yet Munger also cited an article by a fellow Duke professor, Richard Salsman, which said Obama's executive orders pale in comparison to those of President Franklin Roosevelt, whose most famous order let the government forcibly move thousands of Japanese-Americans into internment camps during World War II.

"That puts it in perspective," Munger said.

Abraham Lincoln used an executive order, called the Emancipation Proclamation, to enact the controversial policy of freeing slaves.

President Harry Truman attempted to have the government take over steel mills using an executive order. Truman also used an executive order to maneuver around racists in Congress and stop racial segregation in the military, in 1948.

More recently, President George W. Bush used executive orders to authorize warrantless wiretapping of U.S. citizens by the National Security Agency and to limit federal funding for stem cell research.

Bill Clinton used executive action to ban openly gay people from serving in the military, and Ronald Reagan used executive orders to increase the size and power of the country's intelligence community.