



Republican opposition to Obama's use of executive powers limited

By: Susan Ferrechio – January 18, 2013

Some Republicans were quick to denounce President Obama's plan to bypass Congress and use his executive powers to institute gun violence proposals. But most of the GOP has been conspicuously silent on the matter, and constitutional scholars have concluded that the president is acting within the law.

"I was actually pleasantly surprised that Obama did not try to legislate by executive order," said Ilya Shapiro, a constitutional scholar at the libertarian Cato Institute.

Obama rolled out a series of gun control measures Wednesday, including a ban on assault weapons and high-capacity ammo clips, but he also signed 23 "executive actions" that will institute a variety of gun-related issues without congressional approval.

Shapiro said it appeared none of the initiatives seemed to rise to the level of actual executive orders, which are recorded in the Federal Register, but are more akin to memoranda or actions that can be taken by the executive branch without any special recognition.

"It's stuff that is not that big," Shapiro said, naming a few. "Tightening up how information flows between databases, treating mental health in a slightly different way. These should not be controversial measures."

House Speaker John Boehner, R-Ohio, said nothing about the executive actions after Obama's announcement, promising through a spokesman to review the president's gun control recommendations and any gun-related legislation passed by the Senate.

But some GOP lawmakers are ready to fight the executive initiatives, including one that allows federal agencies to share data with the federal background check system, providing new authority for law enforcement to run background checks and giving states incentives to share background check information.

Republicans and gun rights advocates said they fear initiatives like a data-sharing program because they could lay the foundation for a national gun registry that the government could use to track or confiscate weapons.

Critics were particularly critical of one executive action that says the new health care law "does not prohibit doctors asking their patients about guns in their homes."

Sen. Rand Paul, R-Ky., said the initiative is an effort by the president to use the health care law to get doctors "informing on their patients as to whether they have guns."

Appearing on "Washington Watch" with Tony Perkins, Paul announced that he would introduce a bill "to try to rein in his authority to do things by executive order."

Critics point out that the presidential executive orders and executive actions are virtually the same, but scholars like Shapiro see a big difference and point to past executive orders by Obama that seemed to encroach on the authority of Congress.

"There were things like the moratorium on offshore drilling, for which the Department of the Interior was held in contempt of court twice," Shapiro said. "And there was the [Food and Drug Administration's] regulation on cigarette labeling that was struck down by a judge on First Amendment grounds."

Obama isn't the first president criticized for exercising executive powers. Former President George W. Bush issued 291 executive orders during his eight years in office and greatly expanded executive privilege in the aftermath of the Sept. 11, 2001, terrorist attacks.

Bush also was criticized for using executive powers to bypass Congress, and by the time he left office, even Republicans had chastised him for actions that seemed to usurp Congress's authority.