

PURGES, PAYBACK, DISRUPTIONS, POWER GRABS – TRACKING THE DAMAGE, AND THE PUSHBACK

Mark S. Bergman

7Pillars Global Insights, LLC

Washington, D.C.

March 8, 2025 – edition #8



Referring, in his January 27, 1838 address, “The Perpetuation of our Political Institutions” (later to be called his Lyceum Address), to the danger facing the United States, Abraham Lincoln feared not foreign powers as its source, but rather that danger “must spring up amongst us. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide.”

As the breaking news chyrons often call out, “this is a developing story” and as podcasts frequently note, this briefing note is current as of its date.

Developments and events likely will have happened thereafter to render some aspect of this in need of further updating.

“The struggle of man against power is the struggle of memory against forgetting.” Milan Kundera, Czech novelist.

Topics covered in this Note (all hyperlinked):

Highlights below and “*Updated*” or “*New*” in the text indicate new material since the last version (#6).

[Introductory Note](#)
[Flood the Zone](#)
[Domestic Consequences](#)

[Global Consequences](#)
[Concluding Thoughts](#)

[EOs/Other Presidential Actions:](#)

[Alien Enemies Act](#)
[Birthright Citizenship](#)
[CDC](#)
[Christian Bias](#)
[Content Moderation](#)
[Climate Change and EVs](#)
[Death Penalty](#)
[DEI](#)
[Electoral College](#)
[Energy](#)
[Federal Regulation](#)
[Federal Workforce](#)
[FEMA](#)
[Foreign Agents Registration Act](#)
[Foreign Corrupt Practices Act](#)
[Foreign Influence Task Force](#)
[FTO Designations](#)
[Kleptocracy enforcement units](#)
[Gender](#)
[Grants/ Loans/Other Assistance](#)
[Hatch Act](#)
[Immigration/Securing the Border](#)
[January 6th Insurrectionists](#)
[National Archive](#)
[National Nuclear Security Admin](#)
[NGOs](#)
[Open Borders](#)
[Public Health](#)
[Refugees](#)
[Revenge and Retribution](#)
[Revocation of Prior EOs](#)
[Second Amendment](#)
[Security Clearances](#)
[Sovereign Wealth Fund](#)
[Undocumented Migrants](#)
[Visitors to the US, generally](#)

[Dismantling the Guardrails](#)

[Administrative Law Judges](#)
[Central Intelligence Agency](#)
[Consumer Finance Protection Board](#)
[Chief Information Officers](#)
[Department of Defence](#)
[Department of Education](#)
[Department of Justice](#)
[Department of Homeland Security](#)
[Department of State](#)
[Department of Treasury](#)
[Environmental Protection Agency](#)
[EEOC/NLRB](#)
[Federal Aviation Administration](#)
[Federal Bureau of Investigation](#)
[Government Data](#)
[Greenhouse Gases](#)
[Inspectors General](#)
[Judge Advocate Generals](#)
[NOAA/NWS](#)
[Senior Military Purge](#)
[Small Business Administration](#)
[The Media](#)
[USAID](#)

[Fighting Back:](#)

[American Bar Association/Lawyers](#)
[Birthright Citizenship](#)
[Buyouts](#)
[CIA/National Intelligence](#)
[Democratic Attorneys General](#)
[Department of Agriculture](#)
[Department of Education](#)
[Department of Health/Human Services](#)
[Department of Justice/Danielle Sasso](#)
[Department of State/USAID](#)
[Department of Treasury](#)
[DEI Plaintiffs](#)
[Federal Bureau of Investigation](#)
[Federal Election Commission](#)
[Former SecDepts](#)
[Humphrey's Executor](#)
[Impoundment Act](#)
[Inspectors General](#)
[Internal Revenue Service](#)
[Merit Systems Protection Board](#)
[Musk/DOGE](#)
[National Labor Relations Board](#)
[National Endowment for Democracy](#)
[Office of Management and Budget](#)
[Office of Personnel Management](#)
[Office of Special Counsel](#)
[Privacy/Civil Liberties Oversight](#)
[Probationary employees](#)
[Refugee Admissions Program](#)
[Sanctuary Cities](#)
[Social Security Administration](#)
[Terminology](#)
[Transgender Rights](#)
[Youngstown Sheet & Tubing](#)

INTRODUCTORY NOTE

Imagine if the events that have unfolded since Inauguration Day had taken place outside the United States. Columnist Garrett Graff captured the essence perfectly in his piece [“Musk’s Junta Establishes Him as Head of Government.”](#)

Joyce Vance [characterized](#) the events of since Inauguration Day as a “coup” – “a hostile, undemocratic takeover of government.” Ruth Ben-Ghiat similarly has characterized the events as a “new kind of coup.” An equally apt characterization is “state capture” (ironically, the most recent high-profile example of which occurred in South Africa on an industrial scale). And Heather Cox Richardson [framed](#) the situation as “the replacement of our constitutional system with the whims of an unelected private citizen. The US president has no authority to cut programs created and funded by Congress, and a private citizen tapped by the president has even less standing to try anything so radical.” Dahlia Lithwick and Mark Joseph Stern come to a [similar conclusion](#) in Slate.

Time Magazine [placed](#) Elon Musk on the cover of its February 24th issue, sitting behind the Resolute Desk. Time says, “No single private citizen, certainly not one whose wealth and web of businesses are directly subject to the oversight of federal authorities, has wielded such power over the machinery of the U.S. government. So far, Musk appears accountable to no one but President Trump, who handed his campaign benefactor a sweeping mandate to bring the government in line with his agenda.” Musk is now a “special government employee” and, according to CNN, has a top-secret security clearance.

A coup typically brings to mind military action – tanks in the streets or violent mobs storming the presidential palace, but neither violence nor involvement of the military is a prerequisite. And, yes, Trump was democratically elected, but so many of his actions since then are end-runs around Congress, fly in the face of the law and violate the Constitution. That is undemocratic. More on this below – *see* [Democracy Fights Back](#).

And, speaking of terminology, I recall Iranian friends distinguishing between their government (elected) and the regime (the unelected power structure around the mullahs and the IRGC), and, while I understand that “regime” is generally understood in a normative manner to connote a government regardless of its ideological leanings, I find little reason to not be labelling the current administration as a “regime.”

More broadly, we should not mince words, and we should not let others trivialize or normalize what is happening. Some of these actions may be highly technical – diversions of deferral disbursements, worthy of a James Bond thriller, for example, but the implications are catastrophic, unless you are part of the oligarch class. The old playbook called for capturing the radio station; now, it is control of the country’s digital infrastructure. And taking down the nonpartisan civil service, whose services touch virtually every aspect of life, though many will find the structure of government Byzantine at best, will have profound adverse ramifications across every sector of society.

There is plenty to digest and unpack in the pages that follow. If there is one development, however, that stands out as the most compelling example of the constitutional crisis we face, it is the [resignations](#) of Department of Justice prosecutors

over the Trump administration’s decision to drop charges against NYC Mayor Eric Adams. The resignations are on par with the “Saturday Night Massacre” during the Watergate scandal and highlight how politics have overtaken the rule of law and the oath elected officials and federal employees have taken to the Constitution.

For the legal world, the actions of Trump’s political appointees at the Department of Justice (DoJ) is nothing short of seismic, and I would urge all to see this not as a difference of opinion over legal precedent or charging details, and to not be distracted by accusations by Trump officials of “weaponization” by Biden era officials or federal employees of law enforcement or of government, but rather as the elevation of political opportunity over the rule of law. It is official corruption, pure and simple. And, as Dahlia Lithwick noted in her [Amicus Podcast](#), accusations of “weaponization” is merely a cynical way to call out anyone (regardless of party and regardless of whether they are partisan or nonpartisan) who does not agree with the Trump agenda.

And from the department of you-can’t-make-this-stuff-up, after declining to provide exemptions for national security functions, the Trump administration fired employees at the agency responsible for the security of our nuclear weapons, the [National Nuclear Security Administration](#). They [reportedly](#) scrambled to rehire the fired employees, but were stymied because their email accounts had been disabled. Second prize goes to DOGE for posting classified information (headcount and budget) of the National Reconnaissance Office (NRO), the intelligence agency responsible for designing, building and maintaining our intelligence satellites. The story first was reported by [HuffPost](#).

Finally, as we think about remaining guardrails, we should celebrate those brave souls who are speaking out forcefully in support of the rule of law. As Week Seven draws to a close, I commend the [letter](#) written by Dean Treanor of the Georgetown University Law Center (“Georgetown-educated attorneys have, for decades, served this country capably and selflessly in offices such as yours, and we have confidence that tradition will continue) and the [memorandum opinion](#) issued by District Court Judge Beryl Howell reinstating NLRB member Gwynne Wilcox (“A President who touts an image of himself as a ‘king’ or a ‘dictator,’ perhaps as his vision of effective leadership, fundamentally misapprehends the role under Article II of the U.S. Constitution”).

And, finally, I commend to you the speech given on March 4 on the floor of France’s upper chamber by Senator Claude Malhuret, which so captures the moment (English translation available [here](#)) – “Never in history has a president of the United States capitulated to the enemy. Never has anyone supported an aggressor against an ally. Never has anyone trampled on the American Constitution, issued so many illegal decrees, dismissed judges who could have prevented him from doing so, dismissed the military general staff in one fell swoop, weakened all checks and balances, and taken control of social media.” If only American leaders were sounding the alarm, with such clarity and forcefulness.

FLOODING THE ZONE

The time-honored pomp and circumstance of the presidential inauguration on Inauguration Day came and went. Behind the scenes, the transfer of power, not surprisingly, was executed with ruthless efficiency, from the refitting of the Oval Office to the removal from the internet of countless webpages reflecting policies of the outgoing administration and the first of the less than voluntary personnel transitions. And, as expected, the Trump White House published a flurry of presidential actions (26 Executive Orders (EOs), 12 memoranda, four proclamations and four staffing announcements)¹ consistent with the America First priorities [posted](#) shortly after Donald Trump was inaugurated.

The pace of new orders has continued (as of February 7, there were close to 100 presidential actions posted on the White House [website](#)), along with chaos across the federal government and countless communities. Steve Bannon, who in 2019 framed the desired assault on the “deep state” as one of “flooding the zone,” had one other phrase in mind, “muzzle velocity.” And that is what we are now seeing. But more on muzzle velocity [below](#).

In brief, before his Day One had ended, Trump:

- ordered the promised massive crack down on immigration, including attempting to end birthright citizenship guaranteed by the Constitution;
- undertook to reverse significant portions of the Biden legacy;
- undertook to reshape the executive branch in fundamental ways and, in the process, remove career employees deemed part of the “deep state” or otherwise insufficiently loyal to him;
- directed the Justice Department to not enforce the TikTok ban;
- declared war on diversity, equity inclusion (“DEI”) and accessibility, not only in the federal government, but within the private sector as well, which could presage attacks on funding and tax-exempt status of universities and foundations; and
- pardoned (or commuted the sentences of) all the January 6th insurrectionists who were convicted, pleaded guilty or were, as of January 19, still under investigation.

Not quite dictator for a day, but catastrophic, nonetheless. It is hard to figure out where to start in highlighting and then assessing the damage that these EOs and the efforts they arguably authorize will do to our communities, to our society more broadly, to the rule of law and to our Republic. In addition to the appalling pardons of insurrectionists, there

¹ As [summarized](#) by the Library of Congress, EOs are “directed to, and govern the actions by, government officials and agencies,” and have the force of law if the topic is “founded on the authority of the President derived from the Constitution or a statute.” Executive memoranda are similar to EOs, and proclamations tend to be ceremonial in nature. According to the [American Bar Association](#), EOs “are not legislation; they require no approval from Congress, and Congress cannot simply overturn them. Congress may pass legislation that might make it difficult, or even impossible, to carry out the order, such as removing funding. Only a sitting U.S. President may overturn an existing executive order by issuing another executive order to that effect.”

was the declaration of a national emergency at the southern border and orders to use the US military to deal with the border situation. There remains the potential invocation of the Alien Enemies Act and the Insurrection Act that would provide statutory bases for the use of the military in situations never before envisioned in this country and in circumstances that at best are manufactured, not the least of which because illegal border crossings are at their lowest levels in years. The proposed designation of drug cartels as foreign terrorist organizations also raises the spectre of deploying the military for law enforcement purposes.

In addition, there are myriad consequences lurking just below the surface, embedded in EOs that by their very nature leave much to interpretation (some likened them to press releases) and are being rolled out in chaotic fashion that almost defies imagination given the four years of preparation under the watchful eyes of team that brought us Project 2025. Moreover, there is much sloppy drafting, and it is impossible to determine whether the sloppiness was intentional.

Suffice it to say that there are countless authorities that could lead either to unintended or, more worryingly, to intended consequences that rise to the level of the harms flowing from the headline items cited above. It also bears noting that, sloppy drafting or not, one of the dangers of the forces that have been unleashed is overly aggressive or rogue interpretations of the new order – with little opportunity for due process, with potential for significant damage before courts can intervene. Oh, and incidentally, according to an [analysis](#) by CNN, 36 of the 53 EOs and other actions taken by Trump before Week Two was out align with Project 2025. But, hey, Trump had never heard of Project 2025.

A final introductory note. I have framed my summary of the Trump/Musk assault on the country's institutions in terms of EOs, but we should all view these only as the forward elements of the assault. Resistance and resilience will mean sifting through the noise to focus, in the words of Senator Slotkin, on the "strategic and irreversible." The more damaging is proving to be the less visible.

DISMANTLING THE GUARDRAILS AND THE FEDERAL GOVERNMENT WORKFORCE

Those who warned in the run-up to the election of looming dangers often were met by responses along the lines of: the US government is a sprawling bureaucracy that moves slowly and will be hard to undermine, particularly if those on the inside are able to subvert attempted state capture by bureaucratic manoeuvring. How wrong this was.

Government agencies

Central Intelligence Agency

Trump has sent buy-out offers to the entire CIA workforce. Our adversaries could never have imagined inflicting so much damage to our national security and defense with such speed and efficiency. The Wall Street Journal was the [first](#) to report to move.

In the what-were-they-thinking department, it has been widely reported that the CIA shared with OPM over unencrypted email a list of their employees hired in the last two years (meaning on “probation” and easier to fire) – first name and initial of their last names. The New York Times [quoted](#) one former intelligence officer as saying this was a “counter-intelligence disaster.” While apologists downplayed the risk, others noted that names and initials could be combined with other data, whether from driver’s license and car registration systems, social media accounts or publicly available information from colleges and universities that the CIA uses for recruitment, to assemble a more complete list of agents. Imagine not only the adverse impact on national security of firing young intelligence officers but think of the tremendous waste given the intense training they have been through.

Incidentally, according to the [Washington Post](#), when the FBI [was forced](#) to turn over to acting Deputy Attorney General Emil Bove the names of agents involved in investigations of January 6th or of Trump (numbering close to 6,000 of the 38,000-strong FBI workforce), initially employee ID numbers, and eventually names, were provided through a classified system.

Consumer Finance Protection Board

Trump appointed his new Treasury Secretary, Scott Bessent, as the acting head of the Consumer Finance Protection Board (CFPB), which is an independent federal agency created by Congress in the aftermath of the global financial crisis to protect consumers against banking industry overreach. Bessent promptly [ordered](#) the CFPB to cease work. The prior CFPB director was fired only a few days before. Only days later, Trump [appointed](#) his newly installed OMB chief Russell Vought as acting head of the CFPB. DOGE apparently has been granted “read only” access to CFPB data.

The Mayor and City Council of Baltimore and the Economic Action Maryland Fund [sued](#) the CFPB and Russell Vought to halt the defunding of the CFPB (02/12/25). The Trump

administration [agreed](#) to pause the defunding pending the outcome of the lawsuit (02/13/25).

Department of Defense

The Washington Post was the first [to report](#) that the Department of Defense (DoD) had been directed to begin taking steps to shut down the Civilian Protection Center of Excellence. According to [one post](#) by a military veteran and expert on urban warfare, those familiar with the office describe its mission “as a tool that provides commanders more information as they conduct operations, informing targeters or military planners about patterns of life in a particular area, identifying cultural sites and averting unintended deaths before they occur.” The office was established by Congress and, thus, its closure will need Congressional approval. That said, as with other presumed guardrails, were Congress to block its closure, military and administration officials could eliminate its budget, fire or reassign personnel, or take other actions to neuter the office.

I have not fully assessed the impact, but in another shake-up of who covers official Washington, the Pentagon as part of a media rotation has replaced the New York Times, NBC News, National Public Radio and POLITICO with One America News Network, the New York Post, Breitbart and HuffPost.

NBC News [reported](#) that, just days before the beginning of Black History Month, the Defense Intelligence Agency paused all activities relating to Martin Luther King Jr. Day, Black History Month, Juneteenth, LGBTQ Pride Month, Holocaust Remembrance Day and other “special observances.” And affinity groups and “employee networking groups” are immediately on hold.

Week Five saw the arrival at the Pentagon of the former chief information security officer (CISO) for acquisitions and sustainment return as DoD’s CISO. Arrington was suspended from her position after she lost her security clearance for [allegedly](#) disclosing classified data.

The bombshell would drop at the end of Week Five, when Trump abruptly fired the Chairman of the Joint Chiefs of Staff (CJCS), General Charles Q. Brown, Jr., known as CQ (only the second African American to hold the position), and replaced him with retired [Air Force Lieutenant General Dan Caine](#). Typically, the chairman of JCS remains in place when administrations change. Defense Secretary Hegseth had attacked Brown for his “woke” focus on DEI in the military. Trump had already removed Admiral Linda Fagen, head of the Coast Guard, upon his inauguration.

Hegseth’s [press release](#) announcing the replacement confirms that more senior military leaders are being fired, namely the Chief of Naval Operations, Admiral Lisa Franchetti (the first woman CNO), and the Air Force Vice Chief of Staff, General James Slife, as well as the Judge Advocates General (JAGs) for the Air Force, Army and Navy. It is noteworthy that the [10 U.S.C. § 152](#), which governs the appointment of the CJCS, mandates the eligible pool of military officers that can serve as CJCS and Caine does not fit within them. That said, there is a carve out to that provision that allows the President to waive the eligibility requirement “if such action is necessary in the national interest.”

As Shane Harris and Jonathan Lemire, writing in *The Atlantic*, [noted](#), Caine's appointment, if confirmed, breaks with "a generation of norms and traditions governing promotion in the senior ranks of the military. In nearly 30 years, no one has risen to chairman without first serving as a member of the Joint Chiefs."

Harris and Lemire characterized the firings of Brown and Franchetti as having "rattled the foundations of the armed forces." They added that "Brown's dismissal, coupled with Caine's improbable elevation, added to a sense of bewilderment that has prevailed across the national-security establishment in recent days, as the administration purges the upper echelons of career officers and civil servants. Trump also appears poised to remove several other top military leaders—focusing on Black and women officers—and replace them with his handpicked successors." Senior officials at CIA, DHS and FBI, as well as at the other 17 intelligence agencies, are bracing to be fired.

Harris and Lemire cite a post by former Army Ranger and since 2018 Congressman Jason Crow who posted in X that while the purge of senior officers "is deeply troubling, ...purging JAG officers worries me most." JAG officers interpret the law (under the Uniform Code of Military Justice) and the constitutionality of military actions/orders, and would be at the forefront of determinations around lawful and unlawful orders. Retired military officers point out that JAGs are in place to keep their commanders out of trouble, not to override their decisions or undertake rogue crusades. Think of the toxic combination of a president no longer bound by concerns over civil or criminal liability due to the Supreme Court grant of presidential immunity and the absence of nonpartisan guardrails able to interpret whether an order is lawful or not (keeping in mind that while the president likely is immune, those tasked with carrying out unlawful orders would not be).

Tom Nichols, also writing in *The Atlantic*, after noting that the assumed reason for Caine's promotion (fealty) disqualifies him from the job of serving as the most senior officer in the US military and by law the principal military adviser to the President, best captured the ominous storm clouds looming on the horizon. "Now that Trump has captured the intelligence services, the Justice Department, and the FBI, the military is the last piece he needs to establish the foundations for authoritarian control of the U.S. government. None of this has anything to do with effectiveness, or "lethality," or promoting 'warfighters,' or any other buzzwords. It is praetorianism, plain and simple." The point of the firings, as one former senior military officer points out, was the firing. It sends a message.

And there is a well-founded reason for [10 U.S.C. § 152](#), and that is that it is critical for the Chairman, in fulfilling his duties, to be able to draw on personal experiences that only those officers that have achieved these few elevated ranks can bring to bear. The end-run by Trump around this requirement both undermines the finely balanced traditions that underpin Pol-Mil (civilian control of the military) and deprives the President of unvarnished, unfettered advice, that the President is then free to accept or ignore.

Week Six, in an [unprecedented public message](#) to Congress, five former Secretaries of Defense (Perry, Panetta, Mattis, Hagel and Austin) appealed to Congress to hold hearings to assess the national security implications of the dismissals of the senior military leaders,

to demand that the administration justify each firing and explain why the administration violated Congressional intent that General Brown complete his four-year term, and to refuse to confirm any new Pentagon nominations in the meantime.

Department of Education - updated

Week Three, the Wall Street Journal [reported](#) that the Department of Education is the likely next target of shutdown efforts. Apparently, administration officials are discussing an EO “that would shut down all functions of the agency that are not written explicitly into statute or move certain functions to other departments, according to people familiar with the matter. The order would call for developing a legislative proposal to abolish the department.”

In the meantime, the Department of Education launched its own war on DEI, then backtracked. The Department’s efforts started with the [EO](#) directing the Department of Justice and the Department of Education to issue guidance on how to comply with the Supreme Court’s ruling in 2023 *Students for Fair Admissions v. Harvard* that banned race-conscious admissions at Harvard University and the University of North Carolina at Chapel Hill. The Department interpreted the case as applying beyond admissions to every aspect of education – discipline, scholarship, hiring, compensation, financial aid, housing and so on. As reported (see the Washington Post [report](#)) after directing schools and universities via a [Dear Colleague Letter](#) (02/14/25) to eliminate diversity initiatives and racial preferences in the foregoing, or risk loss of federal money, the Department (in a [FAQ](#) (02/28/25)) walked part of that back by acknowledging that the federal government cannot mandate what is/is not in school curricula. The Department also narrowed what was covered by DEI.

The Department launched an online [portal](#) for parents, students, teachers and the general public to report “illegal discriminatory practices.”

Note there is a preliminary injunction in effect enjoining certain parts of the “[Ending Radical and Wasteful Government DEI Programs and Preferencing](#)” EO and the “[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)” EO. See [DEI Plaintiffs](#).

At the end of Week Seven, the Joint Task Force to Combat Anti-Semitism (comprised of the DoJ, Department of Health and Human Services (HHS), Department of Education and the General Services Administration) [announced](#) they were cancelling \$400 million in federal grants to Columbia University “due to the school’s continued inaction in the face of persistent harassment of Jewish students.” (See [reporting](#) from NBC News.) The announcement went on to say that “[t]hese cancellations represent the first round of action and additional cancellations are expected to follow. The Task Force is continuing to review and coordinate across federal agencies to identify additional cancellations that could be made swiftly.”

Department of Homeland Security

CBS News [reported](#) that DHS has terminated several advisory committees, including the Cyber Safety Review Board (which was conducting the investigation of the Salt Typhoon hack of the US telecom infrastructure by Chinese intelligence) and the Homeland

Security Advisory Council (comprised of former secretaries of Homeland Security, DEA administrators, police union presidents and CEOs of Fortune 500 companies).

As part of an evaluation of its election security mission, DHS announced that personnel within the Cybersecurity and Infrastructure Security Agency who focused on misinformation, disinformation and foreign influence operations aimed at US elections had been placed on administrative leave.

Week Five, and the strains of meeting [elevated quotas](#) for the mass deportation of undocumented migrants are showing. Only one month into the job as acting director of Immigration and Customs Enforcement (ICE), Caleb Vitello, a veteran ICE official, was removed.

Department of Justice

During Week One, the Washington Post [cited](#) two DoJ internal memoranda, one halting all new cases in the Civil Rights Division and a second suggesting that ongoing consent decrees with police forces on police department reforms are in jeopardy. The Post article cited Damon Hewitt, president and executive director of the Lawyers' Committee for Civil Rights Under Law, who had this to say about the actions: "It's beyond unusual — it's unprecedented. We've never seen this before at this scale with any transfer of power, regardless of the ideology of any incoming president or administration. This should make Americans both angry and deeply worried. This is more than just a changing course of philosophy – this is exactly what most people [in the civil rights community] feared: a Justice Department that was created to protect civil rights literally abdicating its duty and responsibility to protect Americans from all forms of discrimination."

The Washington Post [reported](#) that DoJ had removed several key career senior officials in the National Security and Criminal Divisions. Some were transferred to the newly formed Office of Sanctuary Cities Enforcement. Another irony – defenders of democracy being transferred to an office designed to further undermine democracy. *See also* Ruth Marcus' [op-ed](#), reporting on the transfer of senior officials in the divisions that oversee civil rights and environmental enforcement to the Sanctuary Cities Enforcement office, and the firing of a chief immigration judge and other officials involved in the immigration court system.

Week Two of the Trump regime, acting Attorney General James McHenry [fired](#) more than a dozen career federal prosecutors who worked under Special Counsel Jack Smith on the January 6th and classified documents prosecutions. It is unclear what legal authority he relied upon to dismiss the prosecutors. McHenry justified the firings on the grounds that those who prosecuted Trump could not be relied upon "to assist in faithfully implementing the president's agenda."

As Norm Eisen pointed out, while the president has the power to hire and fire federal employees, there are legal hurdles to fire career federal employees. The firings came on the heels of the [reported](#) issuance by the new US Attorney in Washington, D.C., Edward Martin, of a memorandum announcing a "special project" to review the prosecution of the January 6th insurrectionists and reportedly characterizing the charges against insurrectionists as a "great failure." Associate Deputy Attorney General Bradley

Weinsheimer, appointed during Trump's first term, who was also the DoJ's most senior career official and a key overseer of ethics issues, was also removed and offered a transfer to the Sanctuary Cities Enforcement office.

Week Three, speaking of sanctuary cities, with the new Attorney General in place, the DoJ has now sued Chicago, the State of Illinois and Cook County over sanctuary cities programs.

Trump's new Attorney General also is scaling back enforcement under the Foreign Corrupt Practices Act (FCPA) and its mirror image the Foreign Extortion Prevention Act, as well as the Foreign Agents Registration Act (FARA).

- Per one of her February 5th [internal memorandums](#), the Criminal Division is to focus its FCPA efforts on foreign bribery that facilitates the criminal activities of drug cartels and transnational criminal organizations (TCOs), and to shift away from other forms of bribery. The FCPA has for decades been the gold standard in anti-bribery legislation. Incidentally, I am not sure that US businesses with overseas operations will welcome this change in light of the fact that for decades they could resist demands for bribes by waving the threat of FCPA enforcement. Note that the FCPA still remains the law, and the shift may only be temporary. Note too that the Securities and Exchange Commission has civil enforcement powers in respect of the FCPA.
- Per a second February 5th [internal memorandum](#), "Recourse to criminal charges under [FARA] and 18 U.S.C. § 951 shall be limited to instances of alleged conduct similar to more traditional espionage by foreign government actors. With respect to FARA and § 951, the Counterintelligence and Export Control Section, including the FARA Unit, shall focus on civil enforcement, regulatory initiatives, and public guidance."

Worryingly, the National Security Division's Corporate Enforcement Unit is also disbanded. Equally worryingly, but not surprisingly given the oligarchy growing around this administration, money laundering investigations and asset forfeiture enforcement actions likewise will focus on drug cartels and TCOs, and various kleptocracy task forces will be disbanded.

A third AG [internal memorandum](#) calls for investigating, eliminating and penalizing "illegal DEI and DEIA preferences, mandates, policies, programs and activities in the private sector and in educational institutions that receive federal funds."

Altogether, [14](#) internal memoranda were issued on February 5.

US Attorney Martin, in a second [letter](#) posted on X to Musk, threatened to "chase to the end of the Earth" people who have broken the law or even acted unethically, presumably referring to the "individuals and networks who appear to be stealing government property and/or threatening government employees" which Musk had called his attention to. He ironically concludes by exclaiming that "noone [sic] is above the law" and conveniently ignores all the threats made against by Musk and his henchmen government employees who resisted the hostile takeovers of their agencies. As Joyce Vance [notes](#), Martin's

letter violates “violates DoJ policy by publicly discussing criminal case referrals to his office and saying he is opening cases, both actions prohibited by the [Principles of Federal Prosecution](#).”

Week Five, the acting Solicitor General, Sarah Harris, [notified](#) the Senate that the DoJ has concluded that the multiple layers of removal restrictions for administrative law judges is unconstitutional and, thus, the DoJ will no longer defend them in court. In effect, the DoJ is trying to make it easier to remove these judges. The multilayer system refers to provisions of federal law that provide that these judges can only be removed for “good cause,” a determination that is made by the Merits Systems Protection Bureau (MSPB), which protects federal employees from being subject to unfair personnel practices. In turn, MSPB members are Senate-confirmed for seven-year terms, and may be removed by the President only for “inefficiency, neglect of duty or malfeasance.” Trump already try to remove Cathy Harris, chair of the MSPB, without providing a reason. She sued the Treasury Secretary and was [reinstated](#) pending the outcome of the litigation (02/18/25).

Department of State

Darren Beattie, a former Trump speechwriter who was fired in 2018 after CNN [revealed](#) he spoke at a conference attended by White nationalists, has been appointed to serve as the acting Under Secretary for Public Diplomacy and Public Affairs, which is responsible for helping shape US messaging abroad related to counterterrorism and violent extremism. In a 2022 post, Beattie called on “China to give up dirt on corrupt and illegitimate American ruling class, relinquishing any claim to American property that it has purchased directly through intermediaries and 400 billion of reparations for fentanyl destruction. In exchange, Taiwan.”

Department of the Treasury - updated

The highest-ranking career official at the Treasury Department stepped down following a clash with Musk allies at DOGE over access to Treasury’s payment system that controls the disbursement of more than \$6 billion annually to businesses and households.

It remains unclear to what extent Musk and his minions have accessed the system. According to Wired [reporting](#), a 25-year-old engineer who previously worked for Space X and X obtained direct access to Treasury’s payment systems. He had privileges to write code on Bureau of Fiscal Service programs that control a fifth of the US economy, including Social Security benefits, veterans’ pay and veterans’ benefits. This could mean the ability to cut off disbursements to specific agencies or individuals, and to do so without leaving a trail.

Senator Patty Murray had this [to say](#) about the Musk hack of the government, “it is illegal.” “An unelected, unaccountable billionaire with expansive conflicts of interest, deep ties to China and an indiscreet axe to grind against perceived enemies is hijacking our nation’s most sensitive financial data systems and its checkbook so that he can illegally block funds to our constituents based on the slightest whim or wildest

conspiracy.” The 2015 hack of 22 million records of federal employees stored by OPM and the recent Chinese “Salt Typhoon” hack pale by comparison.

Week Seven, the Treasury Department [announced](#) that it was suspending enforcement of beneficial ownership reporting under the Corporate Transparency Act (CTA) against US citizens and domestic reporting companies. As I set out in a prior briefing note (available [here](#)), the CTA is an anti-money laundering regime and is intended to provide law enforcement and others with data necessary to identify those that currently benefit from financial anonymity to shield corruption, drug trafficking, other criminal acts, and terrorism. That anonymity is based on malign actors doing business through shell companies. As Treasury Secretary Yellen noted at the time of enactment, “Unmasking shell corporations is the single most significant thing we can do to make our financial system inhospitable to corrupt actors.”

Environmental Protection Agency

The Environmental Protection Agency (EPA) is [demoting](#) career employees who oversee scientific research, the enforcement of pollution laws, hazardous waste cleanup and the agency’s human resources department, and intends to replace them with political appointees. The changes specifically affect:

- the Office of Research and Development, the agency’s scientific research arm;
- the Office of Enforcement and Compliance, which is responsible for enforcing the country’s environmental laws;
- the Office of Land and Emergency Management, which oversees cleanups at some of the nation’s most contaminated lands and responds to environmental emergencies; and
- the Office of Mission Support, which manages human resources but also grants and contracts.

Employees in the EPA’s Office of Environmental Justice have been [placed](#) on administrative leave.

Week Six, in a move that could wreak havoc on efforts to fight climate change, the head of the EPA, Lee Zeldin, [reportedly](#) has urged the Trump administration to reconsider the 2009 finding under the Clean Air Act that is the basis on which the federal government regulates greenhouse gas emissions.

In 2007, the Supreme Court ruled in *Massachusetts v. EPA* that the EPA has the authority to regulate greenhouse gases because they meet the definition of air pollutants under the Clean Air Act. In 2009, the EPA [found](#) that six greenhouse gases “endanger both the public health and the public welfare of current and future generations.” As Grist staff writer Naveena Sadasivam [notes](#), during the Obama years, EPA used this so-called “endangerment” to issue emissions rules applicable to motor vehicles, coal plants, aircraft, among others. Sadasivam also notes that reversal of the finding would likely be challenged in court based on provisions of the [Inflation Reduction Act](#) that included

provisions amending the Clean Air Act to explicitly define greenhouse gases as “air pollutants,” as well as case law.

Trump, at his Cabinet meeting, announced that EPA was cutting 65% of its workforce, after which the White House walked that back to 65% of EPA’s spending. One of DOGE’s targets of “waste, fraud and abuse” [reportedly](#) is a \$20 billion Greenhouse Gas Reduction Fund.

Equal Employment Opportunity Commission and National Labor Relations Board

Trump reportedly fired Democratic members of two independent federal commissions, in what the Washington Post [described](#) as “an extraordinary break from decades of legal precedent.” He fired two of the three Democrats on the Equal Employment Opportunity Commission (EEOC) and its general counsel and fired the Democratic chair of the National Labor Relations Board (NLRB). These removals leave both five-member boards without enough members to conduct business. The boards now have only two members; Trump must fill the vacancies and await Senate approval. *See* [Democracy Fights Back](#), below.

Federal Aviation Administration – new

Week Six, the Washington Post [reports](#) that the FAA is on the verge of terminating a contract with Verizon to overhaul the air traffic communications system and in place awarding the contract to Musk’s Starlink.

Federal Bureau of Investigation

Notwithstanding pledges by Kash Patel that he would not undertake political retribution at the agency he has been tasked to lead, were he to be confirmed, multiple senior officials at the FBI have been ordered to leave or be fired (*see* Washington Post [reporting](#)). At least eight senior officers have been ordered to quit or be fired, and hundreds (if not thousands) across regional offices, field divisions and headquarters who were involved in the investigations of Trump or the January 6th insurrection are bracing for facing the same consequences. If the Justice Department (directed by the acting Deputy Attorney General) carries out these purges, as The Guardian framed the impact, “it would mark a seismic moment for the nation’s premier law enforcement agency, which has no political appointee other than the FBI director and eviscerate civil service protections for career officials.”

Incidentally, NPR [reports](#) that, in 2021 following the January 6th insurrection, acting Deputy Attorney General Bove at the time was co-chief of the terrorism and international narcotics unit at the US Attorney’s Office for the Southern District of New York and took the lead among prosecutors in the office to assist the FBI in identifying, investigating and arresting insurrectionists.

At the end of Week Two, the senior agent at the FBI’s NYC field office, James E. Dennehy, fired back and vowed “to dig in” to defend the agency and praised the agency’s interim leadership for trying to maintain the independence of the agency against the Trump directed purge. The New York Times [reports](#) that the threatened purge could affect 6,000 of the 38,000 employees at the FBI. The President of the Society of Former

(FBI) agents, characterizing removals as likely illegal, took issue with the notion that an acting Deputy Attorney General was directing an acting Director of the FBI to take action and urged that all employees be fired only for cause and treated with due process. He also noted that the forced retirement at the FBI of the Director, the Deputy Director and all five Executive Directors, and the firings of special agents in charge and requests for lists, are disruptive, at a time of elevated threats to the country.

Week Seven, Dennehy was given a choice of retiring or being fired, and [chose](#) to retire. Related reporting suggests that Dennehy's resistance prevented the mass firing of FBI agents who worked on January 6th cases. The head of the Washington Field Office, David Sundberg (who was heavily involved in the January 6th investigations), was fired in late January – at that time he was the highest-ranking agent to be fired since Inauguration Day.

We should all pause and consider what is happening across the Department of Justice and the FBI, not only from the perspective of each of the individuals involved, who will have been fired or forced to retire simply for undertaking investigations lawfully assigned to them, but also from the perspective of the nation as a whole.

Consider the impact from a public safety perspective of the aforementioned disruptions – the loss of hundreds of highly trained and experienced professionals, be they in specialized areas such as national security, cybersecurity or counterterrorism, to name just a few, or more general areas of law enforcement. As summarized in Washington Post [reporting](#), many of those who could be under investigation for their roles in the January 6th cases or Trump investigations “have full cases loads unrelated to those matters.” People familiar with the efforts said, “removing the nation's most experienced law enforcement officials and agents could result in massive staffing shortages, interrupt ongoing criminal cases and investigations and create public safety dangers across the country.” All to satisfy the grievances of one man!

Separately, the FBI will disband the [Foreign Influence Task Force](#) (FITF), the unit tasked with combatting foreign interference in US elections. This action is pursuant to one of the Attorney General's February 5th [internal memoranda](#), cited above. The FTIF was established in 2017 by Director Christopher Wray to address the targeting of US officials and other US persons through traditional intelligence tradecraft; criminal efforts to suppress voting and provide illegal campaign financing; and cyberattacks against voting infrastructure, along with computer intrusions targeting elected officials and others.

To add to the concerns at the Bureau, the Deputy Director slot, which historically is filled by a senior FBI agent (and not a political appointee, since the Director is typically an outsider), was filled by a former Secret Service Agent, NYPD officer and right-wing podcast host who [accused](#) the FBI of staging the attack on the Capitol, and claimed that the FBI lied when it said it still did not know who plated pipe bombs on January 6th near the DNC and RNC offices and called the FBI “irredeemably corrupt.” The Deputy Director runs the operations of the Bureau and oversees the Special Agents that lead the field offices across the country. The appointment prompted [shock](#) by current and former agents.

Inspectors General

During Week One of the Trump regime, inspectors general (IGs) in nearly all Cabinet-level agencies (DoJ and Department of Homeland Security (DHS) were spared), in what Senator Chuck Schumer labelled a “chilling purge,” were fired. The offices of IGs were established as federal agency watchdogs in 1978 as part of post-Watergate reforms. It is believed that 18 were fired. Incidentally, many of the fired IGs were holdovers from the first Trump administration.

The firings were in apparent violation of federal law that requires 30 days’ notice to Congress together with detailed and case-specific “substantive rationales” for the dismissal (as they are all Senate confirmed). The law was toughened as part of the 2022 National Defense Authorization Act (partly in reaction to firings by Trump of IGs during his first term) by replacing the mandated “reasons” for a firing with a “substantive rationale, including detailed and case-specific reasons” for a firing.

So, on his fifth day in office, Trump broke the law (claiming “[the firings of IGs] are a very common thing to do”). He ignored the rules designed to rein in his actions – no notice, no explanation let alone detailed rationales for the firings. As one of the participants in the Brennan Center tabletop exercises this summer, a former member of the Trump administration, regularly reminded the participants when legal roadblocks were cited as a bulwark against illegal action, “they just don’t care.” This is the crux of the problem. As Jennifer Rubin (formerly of the Washington Post and now at The Contrarian) noted in an interview with The New Republic, “whether it’s an executive decree that attempts to repeal birthright citizenship, which is in the Constitution, or it’s violating the inspector general’s rule, or it’s coming up with the DOGE. He does all of these things because he thinks he can get away with it.”

A January 27, 2025 Congressional Research Service update notes that following removals of IGs by President Reagan in 1981, the “practice has disfavored removal of IGs during presidential transitions.” The update concludes that Trump’s removal of IGs “appears to be a direct challenge to the enforceability of Congress’s removal procedures under” the IG Act.”

Government Data and Statistics

And there is a deeper concern here, as well, in that the IGs are in place to protect against fraud, waste, abuse and corruption by federal government agencies or personnel. Both Rubin and Greg Sargent (the interviewer) cite the relationship between the firings and the rising sense of grift-driven policies intended to facilitate the use of government for personal enrichment. Removing IGs removes both sources of information about fraud and corruption as well as guardrails in a position to blow the whistle on these actions or resist them. As I noted in an earlier briefing note (available here), with loyalists installed in let’s say the Department of Labor, who now will believe the jobs reports? As to the consequences of destroying the federal government’s statistical infrastructure, *see* recent CNN reporting on the fears centered on an administration that in recent months has

questioned the legitimacy of government economic data, but is also actively shutting down federal programs and websites that provide resources to underserved communities.

Note too the suspension [of communications](#) from the HHS and its agencies, including the National Institutes of Health and the Centers for Disease Control and Prevention (CDC). It is particularly troubling that the blackout on [public communications](#) from government health agencies was ordered in the middle of flu season and a global zoonotic outbreak and that, for the first time since 1952, the CDC withheld its weekly [morbidity and mortality data update](#). As [reported](#) by Catherine Rampell in the Washington Post, the blocked update was expected to contain two new studies about [bird flu transmission](#) (quoting KFF Health News). “The move echoed Trump’s data-suppression approach to covid-19. (‘If we [stopped testing](#) right now,’ he said in June 2020, ‘we’d have very few cases, if any.’”). See [Public Health](#) below, as well.

If we want a sense of where this going, consider the [observations](#) of the Czech intellectual and former president of Czechoslovakia Václav Havel in 1978, “Because the regime is captive to its own lies, it must falsify everything. It falsifies the past. It falsifies the present, and it falsifies the future. It falsifies statistics. It pretends not to possess an omnipotent and unprincipled police apparatus. It pretends to respect human rights. It pretends to persecute no one. It pretends to fear nothing. It pretends to pretend nothing.”

Week Six, [according](#) to the Washington Post, hundreds of probationary workers at the National Weather Service and National Oceanic and Atmospheric Administration have been fired. The federal employees are responsible for producing weather forecasts, maintaining radar systems, gathering data from satellites and monitoring key commercial fisheries. Current and former staff at the NWS and NOAA have been warning that these firings could cause significant disruptions to the country’s ability to guard against extreme weather events.

Small Business Administration – new

On February 7, 1,000 or so probationary employees at the Small Business Administration (SBA) were told via email they were fired. These firings followed the issuance of the [Implementing the DOGE Workforce Optimization Initiative](#) EO.

Three days later these employees were told the unsigned termination letters had been sent in error. The following day these employees received a second notice of termination, effective immediately. As Reps. Derek Tran and Nydia Velázquez set out in their [letter](#) to the acting Administrator of the SBA (02/12/25), not only were these actions mean-spirited and confusing, and potentially illegal, these terminations are likely to have significant and adverse effects on the services that the SBA provides to small businesses. NPR [reported](#) on the impact on one fired SBA employee – an Army veteran, that captures the cruelty of this purge. See also Business Insider’s [reporting](#).

USAID

Week One, there are [reports](#) that upwards of 60 senior career employees at USAID had been placed on administrative leave, accused of attempting to circumvent the EO on

foreign aid. Another senior official was put on leave for trying to reverse that move after finding no evidence of wrongdoing. The USAID public affairs office reportedly has been shut.

This comes in the midst of a suspension by USAID and the State Department of a significant number of humanitarian and related programs (*see* [Foreign Policy and Aid](#) below). A directive ordered USAID officials to not communicate outside the agency, including with the State Department, without approval. According to [The Guardian](#), the United States is the largest donor of aid globally, having disbursed \$72 billion in aid in FY2023 representing in calendar 2024 42% of all humanitarian aid tracked by the UN. For a detailed update on the situation at USAID, see [Devex Newswire](#). Devex estimates that the freeze in aid has halted nearly \$60 billion in unspent USAID obligations, putting at risk projects in countries such as Ukraine, Afghanistan and Kenya, across the spectrum from health to education.

At the end of Week Two, amid rumors that USAID would be folded into the State Department, CNN was the first [to report](#) that two senior USAID security officials had been placed on leave after stopping personnel from DOGE who physically tried to gain access to security systems and personnel files at USAID headquarters (described in one report “as seeking access to classified files in a secure area”). In response to news reports of the incident, Musk labelled USAID a “criminal organization” whose “time [it is] to die.” The USAID website went dark, and a new page was put up within the State Department website.

Recall that DOGE is not an agency or component of the federal government and is staffed by private individuals (none of whom has taken an oath to the Constitution). As Ruth Ben-Ghiat noted in her February 2nd [Lucid post](#), Musk is subject to no Congressional or other oversight because he has no official legal function.

As Week Three began, Marco Rubio had been put in charge of USAID as acting administrator, and Devex [reported](#) that all USAID direct hire personnel globally, with a few exceptions, [would be put on administrative leave](#) and those stationed abroad would be [recalled from their posts within 30 days](#). On Inauguration Day, USAID, founded in 1961 under President John F. Kennedy largely to counter the influence of the Soviet Union, was the largest aid donor in the world, employing over 10,000 people across more than 130 countries. Incidentally, when I went on the website to the USAID History page, it was gone.

Fast forward to Week Six, during a meeting of the Trump Cabinet Musk admitted that DOGE “accidentally cancelled” efforts by USAID to prevent the spread of Ebola, insisting that funding had been restored. As the Washington Post [reported](#), former and current USAID officials reported that Musk was wrong - “While the Trump administration issued a waiver to allow USAID to respond to an Ebola outbreak in Uganda last month, partner organizations were not promptly paid for their work, and USAID’s own efforts were sharply curtailed compared to past efforts to fight Ebola outbreaks.”

The Ebola funding story is representative of cascade of failures on the part of Musk and the Administration [to understand](#) how the federal government works and how destructive their initial efforts were. Once hastily dismantled, programs cannot magically be restored.

After aid groups scrambled to show their work would save lives and sought permission from the State Department and USAID to keep working, and after the administration conceded that programs should continue to operate ([according](#) to ProPublica, field hospitals in Gaza, an HIV drug supplier for the Democratic Republic of Congo, Syrian refugee food programs, health clinics that combat Ebola in Uganda and PEPFAR), Secretary Rubio and Peter Marocco pulled the rug out from under nearly 6,000 aid programs (I note the reported numbers of programs vary – I went with the most conservative of them), including those granted waivers only days earlier. “The move consigns untold numbers of the world’s poorest children, refugees and other vulnerable people to death, according to several senior federal officials. [Local authorities](#) have already begun estimating a death toll in the hundreds of thousands.” And the United States is also refusing to pay almost \$2.0 billion owed by the government to aid organizations for work already completed.

Beginning of Week Seven, and the carnage continues at USAID. The acting Assistant Administrator for Global Health, Nicholas Enrich, [was placed](#) on leave after circulating a series of scathing memos to staff describing the “failure” to provide lifesaving assistance as a result of actions by Trump’s political appointees. Enrich warned that the failure “will no doubt result in preventable death, destabilization and threats to national security on a massive scale.” See also [CNN reporting](#) on the memos:

- “A failure to contain infectious diseases at their source heightens the risk of transmission to the United States, posing a direct threat to public health and economic stability. The consequences extend beyond human health, impacting American businesses and families by increasing healthcare costs, disrupting international trade, and straining domestic resources.”
- Projections of an additional 12.5 million to 17.9 million cases of malaria annually and an additional 71,000 to 166,000 deaths, with about 2,000 cases of malaria imported to the US per year
- For highly pathogenic avian influenza (HPAI), a “worst-case scenario” could see 775 million cases globally, with 105 million in the US. “Based on the known impact of the COVID-19 pandemic, a HPAI pandemic is likely to cost the US at least \$14 trillion. The economic impact of just animal losses from bird flu in 2022 cost the US economy up to \$3 billion.”

Individual government positions

Effective February 14, all chief information officers across government agencies [are to be recharacterized](#) in effect as political appointees. The OPM directive calls for these positions, currently designated as nonpartisan “career reserved” to become “general.”

The media

Who will cause more damage to the media – the Trump regime or self-censorship to curry favor with the administration? Federal Communications Commission (FCC) chair Brendan Carr ordered an investigation into whether member stations of taxpayer-funded National Public Radio (NPR) and the Public Broadcasting System (PBS) violated government rules by airing “announcements that cross the line into prohibited commercial advertisements.” Carr concluded his [letter](#) with the ominous warning, “For my own part, I do not see a reason why Congress should continue sending taxpayer dollars to NPR and PBS given the changes in the media marketplace since the passage of the Public Broadcasting Act of 1967.”

And recall too that there is a broader censorship effort afoot – *see* [Content Moderation](#) below. As [reported](#) by [Catherine Rampell](#) in the Washington Post, the Restoring Freedom of Speech EO in reality is “the start of an Orwellian effort to root out wrongthink from government ranks and the private sector.”

Week Six, Jeff Bezos announced that the opinion page of the Washington Post going forward will only focus on “support and defense of two pillars: personal liberties and free markets.” He continued, “... viewpoints opposing [other] pillars will be left to be published by others.” The Opinion Editor David Shipley stepped down.

Continuing in its efforts to cow the media, and in the process reducing the flow of information available to the public from trusted news sources, the White House announced it would select the media outlets permitted to participate in the presidential press pool. Historically, the [White House Correspondents' Association](#) (WHCA), founded in 1914, has selected which reporters participate in the pool, which rotates regularly, travels with the president and covers photo ops, Cabinet meetings, and other events where it is impractical to have swarms of correspondents and camera crews in attendance. The WHCA president characterized the move as “tear[ing] at the independence of a free press in the United States. New York Times journalist Peter Baker [likened](#) the move to “how the Kremlin took over its own press pool and made sure that only compliant journalists were given access.” Fox News correspondent Jacqui Heinrich [criticized](#) the decision, saying the “move does not give the power back to the people - it gives power to the White House.”

The move follows the barring of reporters from the Associated Press from the Oval Office and Air Force One for declining to call the “Gulf of Mexico” the “Gulf of America,” prompting a [lawsuit](#). We should be under no illusion; this has little to do with a map. Trump’s goal is to stifle the flow of information that he finds inconvenient.

Other organizations – new

Week Six, the National Endowment for Democracy (NED) [announced](#) it is unable to access Congressional appropriated funds, which sustain 95% of its grant-making and operations. For the first time its four-decade history, it has been forced to suspend support for nearly 2,000 of its partners worldwide. “The disruption is hitting hardest in highly repressive environments, where dedicated frontline organizations have been forced to lay off staff, curtail operations, and, in some cases, face increased security threats.”

THE EXECUTIVE ORDERS AND OTHER PRESIDENTIAL ACTIONS

Immigration & Securing the Southern Border

National Emergency

Trump declared a “national emergency” at the southern border, which allows him to deploy National Guard and active duty military units to the border. This was long expected notwithstanding that the number of illegal border crossings is low, very few of the “millions and millions of criminal aliens” that Trump called out during his Rotunda speech have been arrested or convicted, and undocumented migrants have a far lower arrest rate than native-born Americans. The declaration was made under Sections 201 and 301 of the National Emergencies Act, and Trump invoked Title 10, Section 12302 and Title 10, Section 2808 to deploy active-duty military, as well as the Ready Reserve and the National Guard, to support the government’s response to “the emergency at the southern border.” Trump has also called for the construction of additional physical barriers along the southern border and for a waiver of FAA and FCC regulations that restrict the use of drones within five miles of the southern border.

This EO contemplates that the Secretary of Defense, or the secretary of each relevant military department, as appropriate and consistent with applicable law, is to order as many units or members of the Armed Forces, including the Ready Reserve and the National Guard, as the Secretary of Defense determines to be appropriate to support the activities of the Secretary of Homeland Security “in obtaining complete operational control of the southern border of the United States.”

The Secretary of Defense and the Secretary of Homeland Security, within 90 days, are to report on conditions at the border and any recommendations regarding additional action at the border, including, and this is critically important, whether to invoke the Insurrection Act (*see* my prior briefing note on the need to amend the Insurrection Act (01/04/24), available here).

To be clear, in reality (at least the normal reality), there is no national emergency because there is no emergency. The Brennan Center’s Elizabeth Goitein aptly characterized Trump’s responses to the border situation as a “massive abuse of emergency power. And I should say, ... the declaration of a national emergency is also an abuse of emergency powers, because these emergency powers are intended to address sudden, unexpected crises – that’s the definition of an emergency – that are moving too quickly for Congress to be able to address. That is not unlawful immigration at the border. It is not sudden or unexpected, and it is something that Congress can and should be addressing through comprehensive immigration reform.”

Goitein also notes that it is up to Congress, not the President, to address border security through comprehensive reform. In acting as he has, Trump is usurping the powers of Congress assigned to it under the Constitution. And, as Goitein reminds us, only a few months ago, Trump scuppered a bipartisan border security bill to serve his own purposes in his campaign based largely on chaos at the border.

Incidentally, Trump has not only weaponized the “national emergency” designation, but he has also invoked the notion of an “invasion,” potentially to justify further abuses of presidential power.

“Sealing the Border” to Repel an “Invasion”

In a proclamation ([Guaranteeing the States Protection Against Invasion](#)), Trump finds that the federal government has failed in its obligation to protect the states, and thus has declared that “an invasion is ongoing at the southern border, which requires the federal government to take measures to fulfil its obligations to the States.” Accordingly, he in effect intends to **seal the southern border** (whatever that means) – having found that “aliens are engaged in an invasion” and directing “that entry into the United States of such aliens be suspended until [he issues a finding] that the invasion at the southern border has ceased.” Under the proclamation, he has ordered that those coming across the southern border be restricted from invoking the screening provisions of the Immigration and Nationality Act (INA) and has also denied entry to those who fail to provide sufficient health information.

In his [America First Priorities](#), Trump called for the end of the Biden-era “catch-and-release” policy (allowing undocumented migrants to remain in the country pending immigration court hearings), reinstating the “Remain-in-Mexico” policy (formally known as the Migrant Protection Protocols, requiring asylum seekers to be processed in Mexico), building the border wall and suspending the refugee resettlement process. In his [Securing our Borders](#) EO, Trump calls for construction of the wall and other physical barriers, detaining aliens “apprehended on *suspicion* of violating federal or state law, until such time as they are removed, and removing aliens who enter or remain in violation of federal law.”

The catch-and-release policy is to be terminated, and the Migrant Protection Policy is to be resumed. In addition, the CBP One app is discontinued, and parole programs (which includes catch-and-release) that are contrary to Trump policies are to be terminated. Under Biden policies, Border Patrol used existing authorities to “parole” individuals into the country who required humanitarian assistance or who they were unable to process for asylum. The CBP One app was used to schedule appointments with CBP.

The Acting Secretary of Homeland Security issued a [Finding of Mass Influx of Aliens](#) to support his request from state and local governments “in all 50 states” in the administration of immigration laws as well as a federal response.

Subsidizing of Open Borders – new

Week Five, the [Ending Taxpayer Subsidization of Open Borders](#) EO seeks to crush taxpayer funded support for efforts of civil society groups aiding migrants. (*See* the related [Fact Sheet](#).) The targets are federal benefits for undocumented migrants, which is ironic as undocumented migrants are largely not eligible for federal benefits and overwhelming are additive in that they pay taxes and contribute to Social Security, among other programs, while getting no return benefit. *See generally* my prior briefing note on the contributions of undocumented migrants (01/09/25), available [here](#).

Role of the Military

Trump clarified his view of **the role of the military at our national borders** in a [separate EO](#). Trump called for the military to “prioritize the protection of the sovereignty and territorial integrity along our national borders.” He called, among other things, for a revision to the Unified Command Plan that assigns US Northern Command (NORTHCOM) the mission of “sealing the borders” and maintaining the sovereignty, territorial integrity and security of the United States, “by repelling forms of invasion, including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities.” The plan was due in days 10 days. The EO goes on to address “steady-state southern border security,” but the balance of the EO speaks of border security, without a reference to the southern border. Is this sloppy drafting or intentional? In any event, this would catapult the US military into an unprecedented role, one incidentally for which the military lacks training. This EO does not appear to contemplate that the military would serve as support for law enforcement.

Trump’s invocation of the power to call up the military, according to Goitein, could fail under [10 U.S. Code § 276](#), under which the military may not provide support to law enforcement “if the provision of such support will adversely affect the military preparedness of the United States.” Both the active-duty military and the National Guard are stretched thin. Moreover, deployments are likely to severely undermine the morale and readiness of the active-duty military, which for years has been plagued by recruitment and retention challenges. (See [Testimony of Retired Major General Randy Manner](#).)

Analysis: Mark Nevitt, [writing](#) in Just Security, reminds us that the foregoing EOs represent a fundamental shift in immigration and national security priorities, and potentially expand the role traditionally envisioned for the US military. While the first EO uses “assist” and “support the activities of the Secretary of Homeland Security” and “assist the “Department of Homeland Security,” suggesting that the military will not displace civilian or federal law enforcement at the border, the second EO refers to “invasion” and protection of “sovereignty and territorial integrity.” That potentially represents an expansion of the “[military purpose doctrine](#),” veering close to displacing law enforcement.

As I chronicled in a [prior briefing note](#), absent invocation of the Insurrection Act, by reason of the Posse Comitatus Act, the military is prohibited from *directly* supporting law enforcement domestically. Nevitt notes that this would mean that active-duty military would be unable to engage in interviews, interrogations or questioning. Posse Comitatus would not apply to National Guard operating with state or federal funding status, or to the Coast Guard. Indirect support, Nevitt notes, such as detection, monitoring, communications and logistics support, would be permitted.

In his [Daily Blast Podcast](#), Greg Sargent explores the implications of leaked reports of quotas of ICE arrest to make Trump look good. The problem is that to meet the quotas it means likely targeting less dangerous (*i.e.*, noncriminal) undocumented migrants that are easier to locate. Sargent’s interviewee (former DHS official Deborah Fleishhacker) notes

that average arrests under Biden were around 300 per day, and going to 1,200 a day would be an exponential increase. Not only does this put a lie to the Trump explanation of going after dangerous criminals, but it also means targeting migrants who are cooperating with ICE and showing up at ICE offices. It also means that law enforcement resources will need to be redirected towards immigration enforcement, putting other public safety efforts at risk.

Addressing Undocumented Migrants - Setting the Stage for Deportations

Continuing with the invasion theme, in his preamble to the [Protecting the American People Against Invasion](#) EO, Trump contrary to abundant evidence finds that “many of these aliens unlawfully within the United States present significant threats to national security and public safety, committing vile and heinous acts against innocent Americans. Others are engaged in hostile activities, including espionage, economic espionage, and preparations for terror-related activities. Many have abused the generosity of the American people, and their presence in the United States has cost taxpayers billions of dollars at the Federal, State, and local levels.” As to the reality, *see generally* my prior briefing note on the mass deportations (01/09/25), available [here](#).

Trump’s remedy is to call for **stricter enforcement of the immigration laws against inadmissible and removable aliens**. This includes:

- revoking a series of Biden EOs:
 - 13993 (aimed at revising civil immigration enforcement policies and procedures);
 - 14010 (reviewed the Migrant Protection Protocols, advanced opportunities for vulnerable communities to seek asylum protection, addressed myriad aspects of the US asylum system and strengthened Central American asylum systems);
 - 14011 (established a task force to identify children separated at the border from their families): and
 - 14012 (established a task force to coordinate efforts to support immigrants, including refugees, and facilitated state and local integration and inclusion efforts);
- giving the Directors of ICE and CIS, and the Commissioner of CBP the resources needed to enforce (on a civil basis) the INA and other federal laws relating to the illegal entry and unlawful presence of undocumented migrants (note this EO does not make reference to the military or National Guard, but the Coast Guard does fall under DHS);
- prioritizing prosecution of criminal offenses relating to unauthorized entry or continued unauthorized presence of aliens in the United States;
- establishing Homeland Security Task Forces (HSTFs) in all states nationwide to root out criminal cartels, foreign gangs and transnational criminal organizations, dismantle cross-border human smuggling and trafficking networks, end human smuggling and trafficking, with a particular focus on such offenses involving

children, and ensure the use of all available law enforcement tools to execute US immigration laws;

- directing the Secretary of Homeland Security to announce and publicize the legal obligation of all unregistered aliens to comply with existing [registration obligations](#), to ensure the registration obligation is complied with and to treat failure to register as a civil and criminal enforcement priority;
- directing the Secretary of Homeland Security to ensure the assessment and collection of fines that the Secretary is authorized to assess against persons unlawfully present in the United States, “including aliens who unlawfully entered or unlawfully attempted to enter the United States, **and from those who facilitate such aliens’ presence in the United States**”;
- directing the Secretary of Homeland Security to take action for the removal of recent entrants and other aliens subject to removal under [8 U.S.C. § 1225\(b\)\(1\)\(A\)\(iii\)\(II\)](#) (expedited removal without much due process, otherwise known as the “two-year” rule);
- directing the Secretary of Homeland Security to build detention facilities and ensure the detention of aliens apprehended for violations of immigration law pending outcome of removal proceedings or removal, to the extent permitted by law;
- directing the Secretary of Homeland Security, with the consent of State or local officials, to authorize State and local law enforcement officials to perform the functions of immigration officers (under [INA Section 287\(g\)](#) agreements) to investigate, apprehend, or detain aliens in the United States under the direction and the supervision of the Secretary of Homeland Security;
- directing the Secretary of Homeland Security to encourage self-deportations;
- directing the Secretary of State and the Secretary of Homeland Security to implement sanctions against recalcitrant countries that resist accepting their deported nationals, under [8 U.S.C. § 1253\(d\)](#), which permits the Secretary of State to deny any immigrant or non-immigrant visas to nationals, citizens, subjects and residents of that country (*see* below regarding [Colombia](#));
- directing the Secretary of State, the Attorney General and the Secretary of Homeland Security to rescind all Biden administration policies that led to the increased or continued presence of illegal aliens in the United States, including ensuring parole authority is properly exercised, that temporary protected status designations are proper and appropriately limited and that employment authorization is appropriately granted;
- directing the Attorney General and the Secretary of Homeland Security, “to the maximum extent possible under law, [to] evaluate and undertake any lawful actions to ensure that so-called ‘sanctuary’ jurisdictions, which seek to interfere with the lawful exercise of Federal law enforcement operations, do not receive access to Federal funds” and to “evaluate and undertake any other lawful actions,

- criminal or civil, that they deem warranted based on any such jurisdiction’s practices that interfere with the enforcement of federal law”;
- directing the Attorney General and the Secretary of Homeland Security to:
 - audit grants and other funding arrangements for NGOs supporting or providing services to “removable or illegal aliens to ensure that such agreements conform to applicable law and are free of waste, fraud, and abuse, and that they do not promote or facilitate violations of US immigration laws;
 - pause distribution of all further funds pursuant to such agreements pending the results of the review;
 - terminate agreements determined to be in violation of law or to be sources of waste, fraud, or abuse and prohibit any such future agreements; and
 - initiate clawback or recoupment procedures, if appropriate; and
 - directing the Director of the Office of Management and Budget (OMB) to ensure that all agencies identify and stop the provision of any public benefits to any illegal alien not authorized to receive them under the INA or other relevant statutory provisions.

The then acting Secretary of Homeland Security revoked the Biden-era [protected areas policy](#) that prohibited arrests by US immigration agents at or near schools, medical and mental healthcare facilities, places of worship, places where children gather, social services establishments, shelters and other similar venues (except if in or near courthouses). *See* [Fact Sheet](#) prepared by the National Immigration Law Center. Starting with the registration obligation, through to the intention to co-opt state and local law enforcement to be coordinated by the HSTFs, and deputize local law enforcement as immigration officers, pressure on sanctuary cities through the withholding of federal funds (challengeable under the 10th Amendment) and the increased use of detention facilities – these will all facilitate the threatened mass deportations, notwithstanding the significant financial and human costs associated with the plan, and reduce the ability of civil society and others to support or provide care or other benefits to undocumented migrants. *See* my mass deportations briefing note (01/02/25), available [here](#).

Note that passage of the [Laken Riley Act](#), as [pointed out](#) by the Immigration Hub, will significantly expand the prolonged detention to include minor offenses (burglary, theft, larceny, shoplifting, assault on law enforcement officers or crimes resulting in death or serious bodily injury), including cases where conduct has led to an arrest, but there is no conviction, and increases the enforcement role of state attorneys general.

The DoJ issued an [internal memorandum](#), citing the Supremacy Clause of the Constitution, directing US Attorneys to investigate any state or local government officials who resist, obstruct or otherwise fail to comply with the executive branch’s immigration enforcement initiatives. Also, worryingly, the memorandum appears to call on component agencies to prioritize immigration enforcement, and it is reasonable to wonder what that reallocation of resources and focus will mean for other enforcement priorities, including, for example, illegal drug interdiction. The ACLU issued a [response](#) to the threats against state and local officials, citing various errors set out in the DoJ

memorandum and concluding that the DoJ threats are unconstitutional, and further “violate common sense.”

In response to denial of landing rights for two military flights of deportees to Colombia, Trump slapped a 25% emergency” tariff (to have been raised to 50% in a week) on all goods imported from Colombia and ordered a travel ban and “immediate visa revocation” for Colombian government officials and “their allies and supporters,” visa sanctions on “party members, family members and supporters of the Colombian government” and enhanced customs inspections on travellers and cargo from Colombia. Trump vowed this was just the beginning, citing Colombia’s “legal obligations with regard to the acceptance and return of the criminals they forced into the United States.” Colombia backed down and so then did Trump – but the damage was done (a gift to China).

Week Three, news outlets reported the administration had started transferring migrants to Guantánamo. Some legal experts are questioning the legality of the move.

Analysis: The New York Times recently [published](#) an analysis of the targets of Trump’s deportation agenda. The analysis notes that the terms “undocumented,” “unauthorized” or “illegal” are not entirely accurate. Of the almost 14 million targeted, 60% have no legal status, while 40% have some form of temporary permission to be in the country. That 40% includes 1.1 million with temporary protected status (TPS), 540,000 Dreamers (DACA), 2.6 million waiting on asylum claims and 280,000 subject to other deferred action. In addition, there are groups that have received humanitarian parole from the Biden administration: 240,000 Ukrainians, 77,000 Afghans, 530,000 Cubans, Haitians, Nicaraguans and Venezuelans, and 940,000 applicants using the CBP One app – immigrants in the country under these programs are legal under current rules, though Trump and other Republicans have said the programs are illegal. Trump could allow the TPA program to expire and end new humanitarian applications but may be unable to revoke the current status of those in the country. The asylum cases presumably must go through the court system.

Ending Birthright Citizenship

In the [Protecting the Meaning and Value of American Citizenship](#) EO, Trump seeks to **end birthright citizenship**, and in particular in cases when a newborn’s mother was unlawfully present in the United States and the newborn’s father was not a United States citizen or lawful permanent resident at the time of birth, or when the newborn’s mother’s presence in the United States was lawful but temporary, and the person’s father was not a United States citizen or lawful permanent resident at the time of birth. This EO flies in the face of the Fourteenth Amendment as well as the 1898 decision of the Supreme Court in *United States v. Wong* later codified in the INA, and goes beyond even what was

previously expected, namely the first prong of the test only. Incidentally, without birthright citizenship, Kamala Harris would have been denied citizenship.

See [Democracy Fights Back](#), below.

Refugees

Under the [Realigning the US Refugee Admissions Program](#) EO, Trump has suspended the US Refugee Admissions Program (USRAP).

A report is to be provided within 90 days by the Secretary of Homeland Security as to whether entry of refugees under the USRAP should be resumed. Trump has reserved to himself the decision on whether or not to resume the program. This EO revoked President Biden's EO 14013 (Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration).

As a practical matter, per State Department guidance, this means that all refugee arrivals have been suspended until further notice, and all previously scheduled travel of refugees to the United States has been cancelled. No new travel bookings under the USRAP will be made. All refugee case processing and pre-departure activities also are suspended. No new referrals are to be made into the USRAP. Apparently, this guidance does not apply to Special Immigrant Visa (SIV) holders.

As the Migration Policy Institute has [observed](#), the halt to the USRAP and consideration of a travel ban from certain countries were the only actions Trump took, thus far, in respect of legal migration. MPI notes that restricting legal migration will be politically fraught – consider the split that emerged between the MAGA faction and the tech community over the H-1B visas.

Broader Policies Regarding Visitors to the United States

Pursuant to the [Protecting the US from Foreign Terrorists and Other National Security and Public Threats](#) EO, Trump calls for **enhanced vetting and screening of all non-American citizens seeking admission into the United States, or who are already here, and potential travel bans**. To be clear, this goes far beyond migrants coming across the southern border, and while the ostensible purpose is to prevent terrorist attacks, the EO is far broader, speaking, for example, of ensuring that “admitted aliens” and “aliens otherwise already present” in the country “do not bear hostile attitudes toward [American] citizens, culture, government, institutions, or founding principles.” The designated Cabinet officers are to:

- identify the resources needed to vet and screen aliens seeking admission or who are already here;
- determine the information needed from any country to adjudicate visas, admissions or other benefits under the INA;
- re-establish a uniform baseline for screening and vetting standards and procedures that existed on January 19, 2021; and
- “vet and screen to the maximum degree possible all aliens who intend to be admitted, enter, or are already inside the United States, particularly those aliens coming from regions or nations with identified security risks.”

The designated Cabinet officers also are to: identify countries “for which vetting and screening information is so deficient as to **warrant a partial or full suspension on the admission of nationals from those countries**” and identify how many nationals from those countries have entered or have been admitted into the United States on or since January 20, 2021. The Secretary of Homeland Security is empowered to exclude or remove aliens based on the foregoing.

The designated Cabinet officers also are to:

- evaluate all existing regulations, policies, procedures and provisions of the Foreign Service Manual to ensure continued public safety;
- ensure that sufficient safeguards are in place to prevent any refugee or stateless individual from being admitted to the United States without undergoing stringent identification verification beyond that required of any other alien seeking admission or entry to the United States;
- evaluate all visa programs to ensure that they are not used by foreign nation-states or other hostile actors to harm the security, economic, political, cultural, or other national interests of the United States;
- “recommend any actions necessary to protect the American people from the actions of foreign nationals who have undermined or seek to undermine the fundamental constitutional rights of the American people, including, but not limited to, our Citizens’ rights to freedom of speech and the free exercise of religion protected by the First Amendment, who preach or call for sectarian violence, the overthrow or replacement of the culture on which our constitutional Republic stands, or who provide aid, advocacy, or support for foreign terrorists; and
- “evaluate the adequacy of programs designed to ensure the proper assimilation of lawful immigrants into the United States, and recommend any additional measures to be taken that promote a unified American identity and attachment to the Constitution, laws, and founding principles of the United States.”

These authorities, and in particular the fourth bullet above (*e.g.*, protecting rights of free speech), could be another “stealth” threat, with unintended or intended consequences for non-Americans in the United States.

Designation of Drug Cartels/Other Transnational Criminal Organizations as “Foreign Terrorist Organizations” (FTOs) or Specially Designated Global Terrorists (“SGDTs”)

The Antiterrorism and Effective Death Penalty Act of 1996 (AEDP) sets out the legal basis to create a list of FTOs. The current list of FTOs is available [here](#). Congress first proposed designating Mexican drug cartels as FTOs in 2011. The Trump administration threatened to designate the cartels in 2019 but was persuaded by then Mexican President

López Obrador not to. Since then, typically following attacks on Americans, the issue has resurfaced.

Trump called for designation ([Designating Cartels and Other Organizations as FTOs and SDGTs](#)) of drug cartels and other transnational criminal organizations operating within and outside the United States as both FTOs and SGDTs. He also called on the Attorney General and the Secretary of Homeland Security to “make operational preparations regarding any decision I make to invoke the Alien Enemies Act, in relation to the existence of any qualifying invasion or predatory incursion.” The Alien Enemies Act, as I set out in a prior [briefing note](#) (01/09/25), has only been invoked three times, each during a war declared by Congress. Trump also called for the preparation of facilities needed to expedite the removal of those designated under “this order.”

It is unlawful for a person in the United States or subject to its authority to provide “material support or resources” to an FTO (18 U.S. Code § 2339B), which could easily pick up a broad range of financial interactions (payments to cartel-affiliated organizations or individuals, and any logistical assistance provided to either). This designation could have myriad unintended consequences for US businesses with operations in Mexico in view of the general understanding that cartels also have material presences in legal supply chains centered in the Mexican economy, including in the avocado trade (*see* “[The U.S.-Mexico Relationship Is About More Than Migration](#)”). The designation also could cover ransom, extortion or protection payments made to companies associated with FTOs and separately raise issues for civilians and civil society organizations living in or adjacent to cartel-controlled areas.

Note that designation of drug cartels as FTOs would be separate from addressing drug cartels under the existing regime established under the Foreign Narcotics Kingpin Designation Act. There is significant overlap between the two sets of authorities, though it is believed that the benefit of the FTO designation is that it facilitates prosecutions for providing “material support and resources” (as described above). *See generally*, The Wilson Center’s “[Mexican Cartels and the FTO Debate](#)” and Lawfare’s “[Should Mexican Cartels Be Designated as Terrorist Organizations?](#)”

Designation of SGDTs under a post-9/11 EO ([13224](#)) subject designated individuals to blockage of property and interests. It also prohibits transactions by US persons or others within the United States in respect of property or interests in blocked property, including making or receiving contribution of funds, goods or services to or for the benefit of designated persons. The provision to keep an eye on is the extent to which US citizens and others will be subject to sanction for wittingly or unwittingly providing material support.

Regrettably, Trump administration efforts to curb the cartels overlooks one significant inconvenient fact – the violence that blights Mexico is largely the result of the flow of firearms from the United States to cartel members. The Supreme Court [agreed](#) in October to hear a claim brought by Smith & Wesson and Interstate Arms ([Smith & Wesson Brands, Inc. et al. v. Estados Unidos Mexicanos](#)) to dismiss a lawsuit brought by Mexico accusing them of aiding and abetting the illegal trafficking of firearms to

Mexican drug cartels. As issue is whether the [Protection of Lawful Commerce in Arms Act](#) (PLCAA) shields the gun manufacturers from liability. A federal district court in Massachusetts dismissed the case in September citing the PLCAA, but that decision was [overturned](#) by the First Circuit Court of Appeals in January 2024, on the ground that the complaint adequately alleges that defendants aided and abetted the knowingly unlawful downstream trafficking of their guns into Mexico.” Arguments in the case will be heard before the Supreme Court March 4.

Week Six, Priscilla Alvarez and Alayna Treene of CNN [report](#) that Trump is preparing to invoke the Alien Enemies Act to speed up deportations, targeting a Venezuelan cartel already designated as a foreign terrorist organization, Tren de Aragua.

Federal Workforce – Generally

The [Hiring Freeze](#) EO establishes a federal hiring freeze, and the [Return to In-Person Work](#) EO ends remote work arrangement in the executive branch.

The [Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce](#) memorandum reinstates Trump’s October 2020 prior EO ([13957](#)) creating Schedule F (to now be known now as Schedule Policy/Career), and makes certain other modifications to that prior EO. It also revokes President Biden’s January 2021 EO that rescinded Schedule F. Presumably to better withstand challenges, the revised EO confirms that covered employees “are not required to personally or politically support the current President or the policies of the current administration.” It does go on to say, however, that covered employees “are required to faithfully implement administration policies to the best of their ability, consistent with their constitutional oath and the vesting of executive authority solely in the President. Failure to do so is grounds for dismissal.”

The [Reforming the Federal Hiring Process and Restoring Merit to Government Service](#) EO calls for a new federal hiring plan that curiously, though now not surprisingly, prioritizes not only efficiency, but a passion for “the ideals of the American republic and a commitment to upholding the rule of law and the United States Constitution.” The EO goes on to say that the plan will prevent “the hiring of individuals based on their race, sex or religion” as well as individuals who are unwilling to defend the Constitution or to faithfully serve the executive branch. The plan will also leverage data analytics “to identify trends gaps and opportunities in hiring” and “leverage digital platforms to improve candidate engagement.” The plan further is to improve Senior Executive Service positions, “to best facilitate democratic leaders, as required by law, within each agency.”

Taken together with the Restoring Accountability EO, it sounds a lot like loyalty tests.

The [Implementing the DOGE Workforce Optimization Initiative](#) EO follows from the Hiring Freeze EO and calls for reducing the size of the federal government through efficiency reforms and attrition, augmented by reductions in force across the federal government, focused initially on probationary employees and re-employed annuitants. The EO also calls for OPM to initiate rulemaking that adds to the suitability criteria for federal employment, including compliance with applicable legal obligations (including

timely filing of tax returns), compliance with citizenship requirements, certification of compliance with nondisclosure obligations and theft, misuse of negligent loss of government resources or equipment.

The Office of Personnel Management (OPM) has [called](#) on agencies to identify all employees who have served for less than two years in “excepted service appointments” and those who have served less than one year in “competitive service appointments.” They are also directed to determine whether they should be retained. These probationary employees may be terminated without appeal rights to the Merit Systems Protection Board.

The White House has announced a “resignation offer” for federal employees under which they can resign with pay through September 30. In a tactic reminiscent of Elon Musk’s ultimatum to Twitter employees in 2022, federal government employees were notified by email, and told they can accept by responding from their government accounts and simply typing “resign.” On January 28, the acting director of OPM Charles Ezell provided guidance regarding the program. Deferred resignation exempts employees who elect to resign from return-to-work requirements. Federal government employees have until February 6 to accept the offer.

The offer is available to all full-time federal employees except for military personnel, the US postal service, immigration enforcement and national security positions, and any others excluded by any federal agency (an estimated 2.3 million workers). Incidentally, it is unclear under what authorities those payments would be made – Senator Tim Kaine remarked that Trump “has no authority to make [the] offer. There’s no budget line item to pay people who are not showing up for work. If you accept that offer and resign, he’ll stiff you.” Employee groups and other Democrats have also called on employees to [reject the offer](#). Week Three, a group of Democratic attorneys general have [warned](#) federal workers not to accept the buy-out offer. The Partnership for Public Service is hosting a series of [“explainer webinars”](#) for federal employees regarding their rights. It has been reported that career civil servants at OPM have been locked out of computer systems containing personal data of millions of civil servants. The lock-out reportedly has been engineered by aides to Elon Musk sitting within DOGE. According to [Reuters](#), “the systems include a vast database called Enterprise Human Resources Integration, which contains dates of birth, Social Security numbers, appraisals, home addresses, pay grades and length of service of government workers.”

Musk also engineered installation of a new email server in OPM offices to send out mass emails to every single federal employee. As [reported](#) by The New Republic, the server has already triggered a [lawsuit](#) over potential privacy and security issues and led to a flood of [spam emails](#) being sent to various federal workers on Thursday.

See [Democracy Fights Back](#), below.

Week Four, with the Fork Directive deadline passed, OPM reportedly is moving forward with directives for the firing of probationary workers (the recently hired), which could potentially affect 220,000 in the federal workforce.

In perhaps one of the most stunning examples of incompetence, the Trump administration, as part of a purge of the Department of Energy, fired nuclear energy specialists at the [National Nuclear Security Administration](#) (NNST), without realizing that the NNST is responsible for designing and maintaining the country's nuclear weapons. Between 300-400 NNSA employees reportedly were terminated. It also is involved in responding to nuclear incidents, transporting nuclear weapons around the country and counter-terror that would target nuclear power facilities. These positions, [according](#) to an NNSA administrator, typically require high-level security clearances and training that can take 18 months or longer. The administration backtracked and is now trying to rehire these employees. [Reportedly](#), the fact that the NNSA name has both "National" and "Security" in it did not exempt it from purges supposedly intended to spare national security employees. Requested exemptions were denied.

Reportedly, the broader purge at the Department of Energy of more than 1,000 federal employees included employees at the [Office of Cybersecurity, Energy Security and Emergency Response](#), which among other tasks is responsible for preventing cyberattacks against the nation's power grid and energy infrastructure.

Federal Workforce – The Military

During Week Two, more EOs for the military:

The [Reinstating Service Members Discharged under the Military's COVID-19 Vaccination Mandate](#) EO calls for reinstatement of those discharged for refusing to be vaccinated, who wish to be reinstated, to be reinstated at their former rank and receive full back pay and benefits. Does wonders for military discipline!

The [Military Excellence and Readiness](#) EO, citing a "radical gender ideology to appease activists unconcerned with the requirements of military service like physical and mental health, selflessness, and unit cohesion," maintains that service members with "gender dysphoria" and those with "shifting pronoun usage or use of pronouns that inaccurately reflect an individual's sex" are unfit to serve in the US military.

The [Restoring America's Fighting Force](#) EO calls on the Secretary of Defense and the Secretary of Homeland Security to abolish all DEI offices in DoD and DHS and bans the promotion, advancement or other inculcation of the following un-American divisive, discriminatory, radical, extremist and irrational theories: that America's founding documents are racist or sexist, gender ideology or "divisive concepts," [defined](#) to mean concepts that:

- one race or sex is inherently superior to another race or sex;
- the United States is fundamentally racist or sexist;
- an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

- an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- an individual's moral character is necessarily determined by his or her race or sex;
- an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex;
- meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race; or
- any other form of race or sex stereotyping or any other form of race or sex scapegoating.

It is not clear what this all means for addressing [Christian nationalism](#) in the military, particularly given the appointment and confirmation of Pete Hegseth as Secretary of Defense. Just sayin'!

DEI and a New Target, Accessibility – updated

In Trump's world, DEI is the root of so much of what he sees is wrong with the country. In his [Reforming the Federal Hiring Process and Restoring Merit to Government Service](#) EO, he describes federal hiring processes as broken and outdated, and "no longer focused on merit, practical skill and dedication to the Constitution." He then singles out as impermissible factors, commitment to illegal racial discrimination under the guise of "equity" and commitment to the invented concept of "gender identity" over sex.

A second EO, [Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#), cites efforts by "influential institutions of American society, including the Federal Government, major corporations, financial institutions, the medical industry, large commercial airlines, law enforcement agencies, and institutions of higher education" as having "adopted and actively used dangerous, demeaning, and immoral race- and sex-based preferences under the guise of DEI and DEIA policies. The EO revokes a series of Biden era EOs, as well as EO 11246 signed by President Lyndon Johnson in September 1965. Federal agencies are to "encourage the private sector to end illegal DEI discrimination and practices." The EO also sets its sights on state and local educational institutions that received federal funds as well as institutions of higher learning that receive federal grants or participate in the federal student loan assistance program.

In his [Ending Radical and Wasteful Government DEI Programs](#) EO, Trump refers to Biden's "concerted effort" of forcing "illegal and immoral discrimination programs [(DEI)] into virtually all areas of the federal government, ranging from airline safety to the military." Americans, he says, deserve a government committed "to expending precious taxpayer resources only on making America great." All diversity, equity, inclusion "and accessibility" (DEIA) programs, preferences and activities in the federal government are to be terminated. All DEI, DEIA and "environmental justice" offices and positions, plans and performance requirements are to be terminated, to the maximum extent allowed by law. Department heads are to assess the operational impact of Biden administration DEI, DEIA and environmental justice programs and are to identify, among

other things, federal contractors that provided DEI training or DEI training materials to federal employees and federal grantees that received federal funding for DEI, DEIA and environmental justice programs.

The EO also extends to the private sector. In a section titled “Encouraging the Private Sector to End Illegal Discrimination and Preferences, the EO calls on agency heads to take necessary operational steps to “advance in the private sector the policy of individual initiative, excellence and hard work” [consistent with the policy].” The policy itself orders agencies “to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.” The Attorney General is to provide recommendations “for enforcing federal civil-rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI. Each agency is to draw up a list of up to nine potential civil compliance investigations of publicly traded corporations, large non-profit corporations or associations, foundations with assets of \$500 million or more, State and local bar and medical associations, and institutions of higher education with endowments over \$1 billion.”

Trump promptly issued a fact sheet [targeting the FAA's](#) DEI hiring policies. It is now widely reported that an Office of Personnel Management (OPM) memo ordered all DEI employees in the federal government to be placed on administrative leave and ordered all DEI offices across the government to be shut down. Agency heads are to ask their employees if they are aware of “efforts to disguise [DEI] programs by using coded or imprecise language.”

Signal groups lit up with news during Week Two of firings, reassignments and Stasi-like tactics. OPM [ordered](#) the closure of all DEIA and “environmental justice” offices and termination of workers within those offices within 60 days, there were anecdotal reports of firings of such workers in the first week, as the order contemplates the issuance of reduction-in-force notices at any time. All outward facing media of these offices (websites, etc.) were ordered removed. The first woman Coast Guard Commandant, Admiral Linda Fagan, was removed, including for excessive focus” on DEI policies.

In moves reminiscent of life under the East German surveillance regime, during Week One, federal employees received emails (prompted by a second OPM [directive](#)) warning employees they could be sanctioned for failing to report co-workers holding DEI positions that may have escaped notice (by using “coded or imprecise language”) to mask their work. Employees were directed to notify OPM if they were changes in contract language or job descriptions to “obscure” connections with DEIA or “similar ideologies.” An Orwellian email address DEIAtruth was provided for denouncing co-workers.

One [anonymous post](#) from an OPM insider characterizes the situation at OPM as a “hostile takeover of the federal civil service” – the central operating pillar of the federal government – the ultimate human resources department on which the delivery of federal services depends. The first target was the senior, non-political, career civil service tasked with ensuring that the civil service remains non-political and loyal to the Constitution rather than individuals. Requests have been sent to all agencies to identify those deemed

a threat to Trump’s agenda – and apparently the reports are to be sent to a non-governmental employee working for Elon Musk.

We hardly need any reminder of Trump’s “what-about-me” moment at the press conference called to honor victims of the crash of American Airlines flight 5342 and an Army Black Hawk helicopter, in which he blamed the crash on DEI hiring policies of his predecessors. Philip Bump, [writing](#) in the Washington Post, drew an interesting parallel with the 2020 press conference in which Trump called on Americans to use bleach to ward off COVID-19. I commend to you Trygve Hammer’s [Substack post](#), in which he concludes with “I just want to be clear that no one needs to be casting blame or turning to conspiracy theories right now. Blaming is not leading. Sticking to your bash-the-other-side talking points is marketing, not leadership. We deserve better. More than one mistake was made on the way to [the crash], and that does not mean anyone was incompetent or had bad intent.”

The National Science Foundation has halted funding of all existing grants and review of new applications apparently pending its review to identify which have DEIA components. As [reported](#) by NPR, this effort is in conflict with the CHIPS and Science Act, several provisions of which that are tied to NSF funding require that NSF broaden participation in science of “historically underrepresented groups.”

The Department of Education [reportedly](#) has placed dozens of employees on administrative leave based on OPM guidance on DEIA, ensnaring many whose job titles and officials duties had no obvious connection to DEIA. Some believe they were singled out merely for having attended routine DEIA training programs.

Federal Regulation

The [Regulatory Freeze Pending Review](#) EO calls for a freeze on new regulations (no new rules and withdrawal of pending rules) that have not been reviewed and approved by a department head or agency head appointed or designated by the President. It also calls for consideration of 60-day postponements, where possible, of the effective dates of rules already published in the *Federal Register* but not yet effective, and reopening comment periods during that delay.

Freeze of Grants, Loans and Other Financial Assistance

On January 27, acting director of the Office of Management and Budget (OMB) Matthew Vaeth, citing “Marxist equity, transgenderism, and green new deal social engineering policies,” [ordered](#) a “temporary pause” of all activities related to obligation or disbursement of federal financial assistance and “other relevant agency activities that may be implicated by the executive orders, including, but not limited to, financial assistance for foreign aid, nongovernmental organizations, DEI, woke gender ideology, and the green new deal.” Agencies had until February 25 to provide detailed information on any programs, projects or activities subject to this pause. Each agency was required to pause the issuance of new awards; disbursement of Federal funds under all open awards; and other relevant agency actions that may be implicated by the executive orders, to the extent permissible by law, until OMB has reviewed and provided guidance to the relevant agency with respect to the information submitted.

The freeze would not have affected Social Security or Medicare benefits, but it nonetheless would have hit programs affecting millions of Americans, from grants to the Center for Disease Control and Prevention, to aid to homeless shelters, financial aid to students and grants for the country's energy supply. Initially, accessing Medicaid and Head Start benefits was an issue. (According to statistics in the [New York Times](#), the average state received around \$3,700 per person from the federal government.) See [Democracy Fights Back](#), below.

In the meantime, two days after OMB issued the freeze as well as an FAQ, a day after Stephen Miller castigated federal workers for sending out “billions of dollars for wicked and pernicious purposes,” and following the legal challenges and widespread [confusion](#) and condemnation, in a two-sentence update, the freeze was rescinded (although the related EO was not). The chaotic roll-out is reminiscent of the 2017 travel ban. The New York times, among others, [reported](#) that the OMB order was released without proper vetting. The order was drafted at OMB by its general counsel, Mark Paoletta, and released without being shown to the White House staff secretary, Will Scharf, or to Trump's top policy adviser, Stephen Miller. In typical Trump fashion, Trump backed down in the face of effective pushback and then blamed the media for the confusion.

The Verge [reports](#) that the National Center for Missing and Exploited Children, the country's leading child safety NGO, has been forced to remove publications that reference queer and transgender children from its website under threat of losing government funding. For example, a report on [missing children with suicidal tendencies](#), a report on [male victims of child sex trafficking](#), and an overall data analysis of [children missing from care](#) were removed after January 24. Archived copies of all three reports included references to LGBTQ+ and particularly transgender children.

Gender and the “Attack on the Entire American System”

In his [Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#) EO, Trump obsesses with men self-identifying as women to “gain access to intimate single-sex spaces and activities designed for women, from women's domestic shelters to women's workplace showers.” Efforts he says, “to rededicate the biological reality of sex fundamentally attack women by depriving them of their dignity, safety and well-being.” He goes on to say that the “erasure of sex in language and in policy has a corrosive impact not just on women but on the validity of the entire American system.” To protect “women's rights” and “freedom of conscience,” the US government will now only recognize two sexes, male and female. Ironic that this perceived threat to women is far more important than recognizing, let alone guaranteeing, rights of access to abortion and other reproductive healthcare. This will affect, among other things, passports, visas and Global Entry cards, all government communications, funding of “gender ideology,” interpretations of Title IX of the Educational Amendments Act and protections of transgender people in prisons and detention centers.

Online Content Moderation and Free Speech

Conservatives have, particularly since the pandemic, sought to curb content moderation by the social media platforms by tying federal government coordination efforts to content

moderation decisions of the platforms, claiming that these efforts were part of a broad “censorship industrial complex” aimed at “conservative free speech. To have a cognizable censorship claim at law, claimants need an action on the part of the government, as the First Amendment only applies to government constraints on speech. Rep. Jim Jordan’s government oversight committee hearings as well as lawsuits sought to curb civil society, academic and government efforts aimed at combatting disinformation. (See my prior briefing notes summarizing the content moderation issues, available [here](#) (11/11/24), [here](#) (12/04/23) and [here](#) (10/25/23).)

The [Restoring Freedom of Speech and Ending Federal Censorship](#) EO describes federal government efforts, “under the guise of combatting ‘misinformation,’ ‘disinformation’ and ‘malinformation,’” as infringing on the First Amendment, when in fact the Supreme Court, in a case brought by two state attorneys general against a number of departments of the Federal Government (*Missouri v. Biden*) relating to alleged “suppression of conservative free speech” in respect of vaccines and elections (based on undue and unconstitutional pressure on the platforms), declined to reach that conclusion on standing grounds. The Justices appeared sceptical that they would reach a different conclusion on the merits.

The “free speech” policy of the new administration is to include:

- securing the right of Americans to engage in constitutionally protected speech;
- ensuring that no officer, employee or agent of the federal government engages in or facilitates any conduct that “would unconstitutionally abridge the free speech of any American citizen”;
- ensuring that no taxpayer resources are used to engage in or facilitate conduct that would “unconstitutionally abridge the free speech of any American citizen”; and
- identifying action to correct past misconduct related to censorship of protected speech.

The Attorney General is tasked with investigating the Biden administration’s activities in this area over the past four years that are inconsistent with the policy and with preparing recommendations for remedial action. This could be the precursor for the removal of federal employees involved in addressing a range of online disinformation threats.

The impact of this EO will take some time to unpack as it flips the free speech issues around. The First Amendment proscribes what the government can do. It is unclear how the policies of “securing free speech rights” underpinning this EO will add anything to the caselaw on so-called “jawboning” efforts that limit federal government restrictions, direct or indirect, on free speech. Said another way, the federal government is already barred from restricting free speech and there is plenty of caselaw on how this applies in indirect circumstances. There is one final irony in that, as Professor David Kaye (quoted in [Reuters](#)) noted, it is tough to square securing free speech rights with Trump’s repeated attacks on the media as the “enemy of the people.”

What the EO does mean though is that federal government efforts to combat disinformation will be rolled back further. One of the first clear casualties of this new

reality is the State Department's Global Engagement Center, which in 2016 was tasked with countering foreign disinformation and propaganda and coordinating related interagency efforts, and was [shut down](#) in December. One need only consider the surge of conspiracy theories around the LA fires and last summer's devastating hurricanes to appreciate the dangers of chilling efforts to combat the scourge of online misinformation and disinformation.

If ever we needed an example of the hypocrisy around the free speech crusade of Trump, Vance, Musk and others who rail against the "censorship industrial complex" of the Left, consider the words and phrases that are disappearing from federal government agency websites and documentation. See the [compilation](#) prepared by the New York Times. Note by the way that while the terms "women" and "female" are on the list the term "men" is not, and while the terms "Black" and "Native American" are on the list, the term "white" is not. By the way, not sure how one teaches English if one cannot use the word "pronouns."

Revenge and Retribution

In his [Ending the Weaponization of Government](#) EO, Trump directs his revenge and retribution agenda against what he termed Biden-era campaigns against its perceived political enemies, weaponization of federal law enforcement and the intelligence community against perceived political enemies and unprecedented, third-world weaponization of prosecutorial power to upend the democratic process, including the January 6th prosecutions. Trump calls on his administration to ensure accountability for "past misconduct related to weaponization of law enforcement and the intelligence community." The Attorney General is directed to review the activities of the DoJ, the Securities and Commission (SEC) and the Federal Trade Commission (FTC), and any other agency exercising civil or criminal enforcement authority, during the past four years and prepare recommendations for remedial action. The Director of National Intelligence is directed to undertake the same in respect of the intelligence community.

This is nothing short of a significant first step in what is likely to be the systematic removal of perceived enemies in the federal government, what Trump and his allies regularly call the "deep state." We saw this before during his first term, when, for example, he claimed his campaign had been the target of FBI wiretaps or he pushed for the appointment of a special prosecutor, John H. Durham, to investigate the FBI's handling of its inquiry into the Trump campaign's alleged ties to Russia.

On his second day in office, Trump revoked Secret Service protection for his former National Security Adviser, and outspoken critic who has been the target of Iranian death threats, John Bolton. He also fired and withdrew protection from Brian Hook, his former special envoy to Iran who was leading the State Department transition team and had also been targeted by Iran, and he similarly withdrew protection from a third Iranian target, his former Secretary of State and CIA Director, Mike Pompeo. It has been reported that Secretary of Defense Hegseth is about to announce rescission of the personal security detail and security clearance for former Chairman of the Joint Chiefs General Mark Milley, as well as an inquiry into his behavior and possible demotion in retirement. In

the nothing-is-too-petty department, the two portraits of the General have been removed from the Pentagon. Milley was pardoned pre-emptively by President Biden.

The House Speaker [announced](#) that the House would establish a Select Subcommittee of the Judiciary Committee to continue House “efforts to uncover the truth” by further investigating the work of the original January 6th Select Committee and alleged failures of security at the Capitol.

Climate Change and Electric Vehicles

[The Putting America First in International Agreements](#) EO calls for the US Ambassador to the United Nations to submit notification of withdrawal from the Paris climate agreement (effective in one year) and the United Nations Framework Convention on Climate Change (UNFCCC), and to revoke any purported US financial commitment under the UNFCCC. The EO also rescinds the US International Climate Finance Plan.

The [Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis](#) EO, among other things aimed at bringing down costs of living calls on the administration to “eliminate harmful, coercive ‘climate’ policies that increase the costs of food and fuel.”

Public Health

The [Withdrawing the United States from the World Health Organization](#) EO states that the United States intends to withdraw from the World Health Organization. The rationale: its alleged mishandling of the pandemic? Really?

The United States will pause all financial support for the WHO, recall US government personnel and contractors assigned to the WHO and “identify credible and transparent US and international partners to assume necessary activities previously undertaken by the WHO.” The 2024 [US Global Health Security Strategy](#), which set three policy goals to guide US policy on global health security – strengthening global health security capacities through bilateral partnerships; facilitating political commitment, financing, and leadership to achieve health security; and increasing connections between health security and complementary programs to maximize impact – is to be rescinded. It also identified climate change as a health security risk.

Week Two, the Trump administration purged federal websites, including sites that contained public health and other similar data, and in particular datasets and webpages from the CDC website. See [statement](#) of the Association of Schools and Programs of Public Health and “[Trump’s shocking purge of public health data, explained.](#)”

Week Four, CBS [reports](#) that the CDC could lose up to 10% of its workforce due to purges of federal government employees.

Death Penalty

The title of the [Restoring the Death Penalty and Protecting Public Safety](#) EO captures the gist. Trump seeks to ensure that laws that authorize capital punishment are respected and implemented and to counteract politicians and judges who “subvert the law by obstructing and preventing the execution of capital sentences.” The Attorney General is

directed to pursue the death penalty for all crimes “of a severity demanding its use” and to take action to seek the overruling of Supreme Court precedents that limit the authority of state and federal authorities to impose capital punishment. Murder of law enforcement officers and capital crimes committed by undocumented aliens are singled out.

Security Clearances

President Trump ordered that persons identified by the White House immediately be granted interim top security/sensitive compartmented information (TS/SCI) clearances for up to six months, without background checks.

In a [separate EO](#), Trump revoked current and active security clearances of then 51 former intelligence officials (two have since died) who signed a 2020 letter arguing that the emails on the Hunter Biden laptop had all the “classic earmarks of a Russian information operation.” The EO order also calls for an investigation as to whether there was “inappropriate activity” on the part of others in the intelligence community related to the letter, and disciplinary action if warranted. The EO also revokes John Bolton’s security clearance.

Rounding out Week Three, Trump [announced](#) he would be revoking Joe Biden’s security clearance and his ability to receive the Presidential Daily Brief.

Week Six, in a move that sent shock waves through the legal community and the broader professional services community, Trump issued a memorandum ([Suspension of Security Clearances and Evaluation of Government Contracts](#)) revoking the security clearances of partners at Covington & Burlington who provided pro bono legal support for Special Counsel Jack Smith. Reportedly, the representation was of Smith personally when, according to a statement by the law firm, it “became apparent he would become the subject of a government investigation” and was picked up in Smith’s disclosure of pro bono legal services in his OGE Form 278e. Counsel representing national security defenses need security clearances in order to effectively represent clients whose cases involve classified material. Withdrawing security clearances means that national security clients may be unable to find legal counsel to represent them. Mark Zaid, who for decades has represented government whistleblowers and was also involved in the first Trump impeachment, [reportedly](#) had his security clearance revoked as well.

Anecdotally, this move, together with other stories of action being taken against leaders who speak up (and not necessarily in the form of direct criticism of the administration), is sending a chill through the professional services world and the business community. *See also* [reporting](#) by Bloomberg Law reporters Ben Penn and Tatyana Monnay.

January 6th Defendants

In an EO [addressing](#) the January 6th convictions and guilty pleas, President Trump commuted the sentence of 14 individuals (including defendants found guilty of seditious conspiracy by juries) and granted pardons *to all others* convicted of offenses related to January 6th. (See NPR’s [“Trump gave pardons to hundreds of violent Jan. 6 rioters.”](#)

[Here's what they did.](#)”) The Attorney General is directed to dismiss all pending indictments with prejudice (of approximately 470 defendants).

Note that this does not impact the group of civil claims brought in Federal District Court in DC by members of Congress and police officers against Trump, which were consolidated before Judge Ahmit P. Mehta and remain [pending](#). The claims have survived two rulings on presidential immunity, one by Judge Mehta and one by a three-judge panel of the DC Circuit. The latter sent the consolidated case back to Judge Mehta on the question of immunity and whether Trump’s January 6th speech was a protected official act or a part of his re-election campaign.

In his New York Times [op-ed](#), former federal prosecutor Brendan Ballou warns that the effect of the pardons is to “encourage vigilantes loyal to the president, but unaccountable to the government.” Recall that if vigilantes or militias were to act, Trump retains the power to pardon them (again) for federal crimes committed and pressure governors to pardon them (where that is possible) for state violations. Recall too that our history has plenty of examples of vigilante “justice,” from lynch mobs to the Ku Klux Klan. (See my earlier briefing note on authoritarian rule in the United States (05/07/24), available [here](#).)

The pardons are perhaps the most appalling of the Day One actions. Only a few Republicans lawmakers have spoken out, some have offered muted criticism, and some have offered full throated support, claiming Trump had a mandate, overlooking the fact that there was little indication he would pardon those convicted of violence. As recently as January 5, then-Vice President elect JD Vance was clear that those who “committed violence that day” should not be pardoned. A week into the new regime, on CBS “Face the Nation,” Vance [defended](#) the pardons, including of those who attacked police officers, citing “massive denial due process” and “denial of constitutional rights,” overlooking the fact that many pleaded guilty and others were found guilty by juries. Week Two, Senate Democrats, led by Senators Schumers, Murray, Murphy and Kim and with the support of all Senate Democrats, offered a resolution condemning the “pardons of any individuals who were found guilty of assaulting Capitol Police officers” - 160 pleaded guilty to assaulting police officers. Any one Senator could kill the resolution when it comes up for unanimous consent.

And for those keeping track, despite Trump’s professed concern with drug trafficking, Trump [pardoned](#) Ross Ulbricht, founder of the online drug marketplace Silk Road who had been [sentenced](#) to life in prison.

Foreign Policy and Aid – America First

Trump felt compelled [to tell](#) the State Department that henceforth American foreign policy shall “champion core American interests and always put America and American citizens first.”

As for foreign aid, Trump sees aid as often being “antithetical to American values” and as serving “to destabilize world peace by promoting ideas in foreign countries that are directly inverse to harmonious and stable relations internal to and among countries.” All new foreign development assistance obligations and disbursements are to be paused for 90 days, pending review. See [Reevaluating And Realigning US Foreign Aid](#). Trump’s

reorganization of the National Security Council (NSC) excludes the USAID Administrator (President Biden had elevated the position to the NSC during his administration). This may make sense in light of the rumored intention to fold USAID into the State Department.

As Unlock Aid, which advocates for reform of the way in which the approximately \$60 billion of annual expenditures to solve global challenges are disbursed, noted in their response to the EOs, “Investments that promote sustainable economic growth create new markets for American businesses, for example. Strategic investments in Central America reduce migration pressures on America's southern border. Investments in global health abroad reduce the risks of infectious disease outbreaks at home, disruptions in global supply chains, and global economic shocks. Pausing obligations and disbursements for essential programs puts investments like these at risk, undermines trust in the United States as a reliable partner, and weakens U.S. national and economic security.”

During Week One, the State Department advised all diplomatic and consular posts to pause all new foreign aid funding. This went further than the EO that halted new disbursements of *development* aid.

The New York Times, among many, [reports](#) that all new foreign assistance has been halted to partner nations, except “emergency food aid” and military aid to Israel and Egypt. For existing foreign assistance awards, contracting officers and grant officers have been directed to immediately issue stop-work orders.

The freeze thus impacts aid to Taiwan, Lebanon and Ukraine, though in anticipation of the move, the Biden administration had accelerated aid to Ukraine. The director of the State Department’s Office of Policy Planning is tasked with developing new guidelines for review of all foreign aid within 30 days.

As [reported](#) by CNN, the freeze has also had immediate consequences for thousands of Afghans who worked for the US military, including those in Qatar and Albania still awaiting onward travel to the United States, who have lost access to services and goods funded by the US government. The freeze also affects the ability of Afghans holding SIVs to travel to the United States. (Recall Trump’s criticism of Biden for abandoning Afghans who fought alongside our troops.). The freeze on foreign assistance also halts service provided by NGOs that were funded by the United States.

Michael Schiffer, [writing](#) in Just Security, notes that the suspended aid includes:

- work to prevent current outbreaks of mpox and Marburg virus from spreading beyond Africa;
- drug supplies supporting 20.6 million people across 55 countries living with HIV), including more than a half million children (under [PEPFAR](#));
- support for religious minorities in the Middle East;
- combatting the spread of fentanyl across the western hemisphere; and
- support of allies and partners in Asia to build resilience in the face of coercive Chinese economic policies.

Aid also includes the President's Malaria Initiative that counters the spread of malaria.

Schiffer concludes that “[i]n halting foreign assistance spending, the Trump administration has just put America last, while handing a gift to our biggest adversaries, notably China. In fact, Trump may just have conceded great power competition with China before his first week in office was even over.” He also notes that there is “no such thing as a temporary pause. ... It is difficult to exaggerate the reverberating effects of a stop-work order on the ability of such organizations and their programs to continue to function.” He concludes that this suspension, unless reversed, “may represent an extraordinary setback for the United States,” because aid is not charity, it is an investment in safeguarding American interests. This is about protecting America from terrorist threats, fentanyl, human trafficking and the root causes of migration. It is about protecting critical supply chains and securing markets abroad for exports (and the jobs that underpin those exports).

Senator Lindsay Graham had this to say while [questioning](#) Russell Vought, proposed head of OMB (and I paraphrase). We spend \$69 billion on the State Department, our embassies and foreign assistance, which represents around 1% of the federal budget. But “[i]f you don't get involved in the world and you don't have programs in Africa where China's trying to buy the whole continent, we're making a mistake. So, it's 1% of the budget. You could eliminate it all. You're not going to balance the budget. I think soft power is a critical component of defending America and our values.”

Reps. Gregory Meeks (Ranking Member, House Foreign Affairs Committee) and Lois Frankel (Ranking Member, House Appropriations Subcommittee on National Security) [urged](#) Secretary Rubio to resume funding for ongoing US foreign assistance programs, and thereby avoid ceding space to Iran and other adversaries. Expect to see a flurry of lawsuits challenging the suspension, potentially under the Take Care Clause of the Constitution (which requires the President to ensure that laws are faithfully executed).

In the meantime, Trump has presented a significant gift to China and to Russia. As Schiffer notes, “The U.S. suspension of foreign aid now threatens to effectively leave the field wide open for China to expand its influence – and, ironically, to paint Beijing as a better and more reliable partner than Washington. Russia, too, may seek to exploit the vacuum created by the U.S. retreat from foreign assistance,” not to mention the impact on Ukraine.

Hard to see how any of this puts “America First.”

International Criminal Court. In his [Imposing Sanctions on the International Criminal Court](#) EO, Trump found that the ICC had “engaged in illegitimate and baseless actions targeting America and its close ally Israel” and determined that any effort by the ICC to investigate, arrest, detain, or prosecute protected persons “constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States,” and declared a national emergency to address that threat. Trump has imposed sanctions, which also includes making financial donations to sanctioned individuals and barred entry of sanctioned individuals.

UN and Other International Organizations. In his [Withdrawing from and Ending Funding to Certain UN Organizations and Reviewing Support to all International Organizations](#) EO, Trumps goes after the UN High Commission on Refugees (UNHCR), the UN Educational, Scientific and Cultural Organization (UNESCO) and the UN Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA). He has withdrawn from UNHCR and put continued membership in UNESCO under review. He has halted funding of both UNHCR and UNRWA.

The Secretary of State is to conduct a review of all international intergovernmental organizations of which the United States is a member and provides any type of funding or other support, and all conventions and treaties to which the United States is a party, to determine which organizations, conventions, and treaties “are contrary to the interests of the United States” and whether such organizations, conventions, or treaties can be reformed. The Secretary of State is to provide recommendations as to whether the United States should withdraw from any such organizations, conventions, or treaties.

South Africa. In his [Addressing Egregious Actions of South Africa](#) EO, Trump takes issue with South African legislation that could lead to the expropriation of Afrikaner land as well as the case brought before the International Court of Justice against Israel. (The initial version of the EO mistakenly referred to the International Criminal Court.) The EO provides that, as long as South Africa “continues these unjust and immoral practices that harm our Nation,” the United States shall not provide aid or assistance to South Africa and “shall promote the resettlement of Afrikaner refugees escaping government-sponsored race-based discrimination, including racially discriminatory property confiscation.”

It is beyond me how land reform in South Africa has any impact on the United States. Moreover, there is fundamental disconnect between Trump’s crackdown on refugee resettlement and his move to facilitate the entry of white Afrikaners wishing to emigrate to the United States. Third, this is all theatre - as *The Economist* [notes](#), there is unlikely to be any exodus to the United States. South Africa has not imposed Zimbabwe-style land seizures and Afrikaners, like so many other South Africans, “feel deeply rooted in their homeland.”

Trade

Under the [America First Trade Policy](#) memorandum, the Commerce Secretary is to investigate the causes of trade deficits and unfair trade practices and recommend appropriate measures to remedy the deficits and trade practices. The memorandum also singles out, among others, the US-Mexico-Canada Agreement, “currency manipulation” counterfeit produces and contraband drugs (*e.g.*, fentanyl), application of antidumping and countervailing duty laws, possible vulnerability from a national security perspective of the industrial and manufacturing base to imports, trade with China and the broader economic relationship with China, export controls in the context of national security – all

subject to review. The Treasury Secretary is directed to investigate double taxation of US citizens and corporations. The reports largely are due by April 1.

Although no tariffs were announced on Inauguration Day, at the end of Week Two, Trump levied tariffs on China, Canada and Mexico. The [fallout](#) was immediate.

And then he backed down on Mexico and Canada. But the damage has been done. Financial markets were rattled and the stock market dropped – it is fair to say that much of Wall Street was taken by surprise that Trump would actually go through with the tariffs – the assumption was that the threat of tariffs would be for advantage in negotiations, never to be imposed.

Just to draw attention to one data point, the Wall Street Journal in an op-ed entitled “[The dumbest trade war in history](#),” notes that the US automobile industry, which contributes in excess of \$800 billion to the US economy, depends heavily on parts from Canada and Mexico. Moreover, tariffs, it notes, will also upend international trade in farm goods. In imposing tariffs, Trump is violating the treaty he negotiated during his first term, the US-Mexico-Canada trade agreement. Does not augur well for being trusted in the future to observe treaty commitments. The WSJ editorial board did not mince words, “Mr. Trump sometimes sounds as if the U.S. shouldn’t import anything at all, that America can be a perfectly closed economy making everything at home. This is called autarky, and it isn’t the world we live in, or one that we should want to live in, as Mr. Trump may soon find out.”

As The American Prospect [spelled out](#), Trump’s attack against Canada is based on a false premise. TAP cites Cato Institute [data](#) showing that approximately 86% of fentanyl caught by US customs is smuggled across borders in the United States by Americans. Most of the fentanyl that gets through comes from China, followed by Mexico. Canada represents a miniscule amount (43 pounds intercepted versus 23,000 pounds intercepted from Mexico). Is this Trump’s way to woo Canada to become the 51st state? Or is he scrambling to figure out how to pay for his tax cuts?

So, we now have threatened retaliation that will harm American exporters and raises the spectre of a hugely disruptive global trade war. The Canadian government [published](#) a list of products (worth \$30 billion) Canada is prepared to subject to a 25% tariff – effectiveness of these countermeasures is tied to the effectiveness of the US tariffs.

Worst case scenarios envision irreparable harm to supply chains and possible recession; short of that, supply chains are disrupted, and costs rise for businesses and consumers alike. Not exactly what Trump voters expected. And speaking of which, according to Morning Consult [polling](#), 67% of Americans blame the Trump administration for tariff-related price increases amid news of the tariffs.

Currently, the tariffs on imports from Mexico and Canada have been paused for 30 days. The tariffs on China’s imports remain in effect. And there are concerns that the next target will be the European Union. But let’s not forget, the price for the pause was Trump being able to announce concessions by Canada and Mexico” that they had already

planned to do – evidence once again Trump will back down when he is confronted by strength. Similarly, the White House already is walking back the Gaza outburst.

Week Seven, 25% tariffs on Mexico and China took effect and the tariffs on China were doubled from 10% to 20%. The White House’s [tariffs FAQ](#) cites fentanyl and presidential power under the International Emergency Economic Powers Act (IEEPA) to counter threats to national security! For more on emergency powers, see my briefing note (11/24/25), available [here](#). Canada responded to the 25% tariffs on goods and 10% tariffs on energy with tariffs on \$30 billion of US goods.

NGOs

Week Three, Trump declared war on NGOs. In his [Memorandum for Heads of Executive Department and Agencies](#), he calls out NGOs “many of which,” he claims with absolutely no evidence, “are engaged in actions that actively undermine the security, prosperity and safety” of Americans.” The policy is to stop “funding NGOs that undermine the national interest.”

Tax Treaties and Global Tax Deal – Focus on Extraterritorial Effect

In his [OECD Global Tax](#) EO, Trump directs the Treasury Secretary and Permanent Representative to the OECD to terminate any Biden administration commitments in respect of the [Global Minimum Tax](#). Simply put, the Global Minimum Tax (known as “Pillar Two”) is intended to ensure that large multinational enterprises pay a minimum effective tax rate (15%) in each jurisdiction in which they operate. It was negotiated by the Biden administration with close to 140 countries. The European Union, United Kingdom and other countries have adopted the 15% minimum tax, but the Congress never approved bringing the United States into compliance with it. The United States has an approximate 10% global minimum tax, part of Trump's landmark 2017 tax cut package.

The Treasury Secretary also is directed to investigate whether any foreign countries are not in compliance with bilateral tax treaties “or have any tax rules in place, or are likely to put tax rules in place, that are extraterritorial or disproportionately affect American companies,” and develop and present to the President “options for protective measures or other actions that the United States should adopt or take in response to such non-compliance or tax rules.”

It is worth focusing on whether the Trump administration intends to expand its focus on foreign laws, such as the EU’s GDPR or the EU climate disclosure rules, which have extraterritorial effect. (See my prior briefing note (03/05/23), available [here](#).)

Energy-Related

Trump declared a [National Energy Emergency](#) (an EO) and ordered a [Temporary Withdrawal of all Areas on the Outer Continental Shelf from Offshore Leasing and](#)

[Review of Leasing and Permitting Practices for Wind Projects](#) (a memorandum). See [Democracy Fights Back](#), below.

His plans to [Unleash American Energy](#) focus on encouraging exploration and production on federal lands and waters, becoming a leading producer of non-fuel minerals, including rare earth minerals, and having access to sufficient energy resources across the country and territories for economic and national security, as well as military preparedness.

Trump calls for the elimination of subsidies and other policies that favor the development of electric vehicles (EVs) and for accelerating the permitting process, and he revoked a range of Biden-era climate- and energy-related EOs. Trump mandated that all agencies pause disbursement of funds under the Inflation Reduction Act and the Infrastructure Investment and Jobs Act, including funds for EV charging stations. Applications for liquid natural gas export project permits will once again be accepted. Agency actions that impose undue burdens on domestic mining and processing of non-fuel minerals are to be revised or rescinded. Geological mapping of critical minerals is to be prioritized.

The US Trade Representative is to assess “whether exploitative practices and state-assisted mineral projects abroad are unlawful or unduly burden or restrict United States commerce.” The Commerce Secretary is to assess the national security implications of American dependence on minerals and the potential for trade action. The Secretary of Homeland Security is to assess the quantity and inflow of minerals likely produced by forced labor and whether such inflows pose a threat to national security.

Other Actions

DOGE. Trump renames US Digital Service the [Department of Government Efficiency](#) (DOGE).

Alaska. In his [Unleashing Alaska’s Resource Potential](#) EO, Trump took aim at “the punitive restrictions implemented by the previous administration that specifically target resource development on both State and Federal lands in Alaska.”

Anti-Christian Bias. Week Three, Trump announced the formation of a task force, to be headed by his Attorney General, to “[eradicate](#) anti-Christian bias” in the federal government.

Changing Names. Trump took action to restore [Names that Honor American Greatness](#), including changing Denali back to Mount McKinley and changing the Gulf of Mexico to the Gulf of America.

Federal Emergency Management Agency. Trump ordered a review of FEMA and called for the establishment of a council to undertake that review. See [Council to Assess the Federal Emergency Management Agency](#).

Iron Dome. In his [Iron Dome for America](#) EO, Trump directed the Defense Secretary to draw up an implementation plan for the next-generation missile defense shield.

National Archive. The National Archive and Records Administration (NARA) is an independent agency that houses many of the country’s founding documents and oversees research facilities as well as 13 presidential libraries and 14 regional archives.

NARA also is the repository for 13 billion pages of text and 10 million maps, charts and drawings, and tens of millions of photographs, films and other records. Moreover, the agency plays important roles in the federal government's classification process (housing the Information Security Oversight Office and the National Declassification Center and receiving classified documents for retention), which is why the classified documents purloined by Donald Trump were to have been returned to it and why it sought their return in accordance with the law.

As for its role as an institution that underpins our democracy, NARA is also:

- responsible for administering the Electoral College process, including by providing instructions to states on how to carry out the Electoral College voting process and transmit their votes, and for receiving and validating the voting certificates from the states;
- responsible for publishing the Code of Federal Regulations and the Federal Register;
- responsible for administering the process by which the Constitution is amended;
- responsible for administering the record retention and record destruction policies of the federal government;
- in charge of the National Personnel Records Center, to which the personnel files of all federal employees are transferred when they separate from the federal government; and
- the ombudsman for the federal Freedom of Information Act (FOIA) programs, and as such is the recipient of public complaints about violations of FOIA.

With that presumed taint, it is no surprise that NARA [was the target](#) of attacks in 2022 and certainly no surprise that at the end of Week Three Trump dismissed the head of NARA, the Archivist of the United States, perhaps the most apolitical position in Washington, D.C.

Second Amendment. In his [Protecting Second Amendment Rights](#) EO, Trump directs his Attorney General to review, all in the context of protecting Second Amendment rights:

- all Biden administration actions that purport to promote safety but may have impinged on the Second Amendment rights of law-abiding citizens;
- rules promulgated during the Biden administration by DoJ, including by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, pertaining to firearms and/or federal firearms licensees;
- agencies' plans, orders, and actions regarding the so-called "enhanced regulatory enforcement policy" pertaining to firearms and/or Federal firearms licensees;
- reports and related documents issued by the White House Office of Gun Violence Prevention;
- the positions taken by the United States in any and all ongoing and potential litigation that affects or could affect the ability of Americans to exercise their Second Amendment rights;

- agencies' classifications of firearms and ammunition; and
- the processing of applications to make, manufacture, transfer, or export firearms.

Sovereign Wealth Fund. In his [A Plan for Establishing a US Sovereign Wealth Fund](#) EO, Trump directs the Treasury Secretary and Commerce Secretary to develop a plan for the establishment of a sovereign wealth fund.

Rescission of “Harmful Executive Orders”

Among the 78 EOs issued by President Biden that were [rescinded](#) on Day One (*see* Appendix A), were EOs that advanced racial equality, combatted discrimination on the basis of gender, addressed climate change, imposed additional ethics requirements for political appointees, focused on the underlying causes of migration, lowered prescription drugs, withdrew offshore drilling from certain areas, protected transgender persons in the military and imposed sanctions on settlers accused of violence against Palestinians in the West Bank.

The directors of the Domestic Policy Council and the National Economic Council are tasked with identifying additional EOs to repeal and additional new EOs to replace rescinded ones. The National Security Adviser is directed to review all Biden-era National Security Memoranda that “harm national security, domestic resilience and American values” for possible rescission.

DEMOCRACY FIGHTS BACK - updated

Introduction – updated

The remaining guardrails appear to the courts and the stock market. Here are some of the litigation trackers:

- [Civil Rights Litigation Clearinghouse](#)
- [Forbes](#)
- [Just Security](#)
- [Lawfare](#)
- [New York Times](#)
- [Washington Post](#)
- [Democracy Forward News & Updates](#)

Other trackers:

- [Chamberlain - Tracking Politicization of the Military](#)
- [Choose Democracy - Tracking the Trackers](#)
- [CNN Tracker of EOs](#)
- [Horizons Project - movement activity](#)
- [Project 2025 Tracker](#)
- [Public Citizen - Tracking Conflicts of Interest](#)
- [Resist List](#)

Robert Hubbell [has provided](#) a succinct refresher on the relevant Constitutional and legislative principles:

- Congress makes the laws (Article I, Section 1);
- the president must take care that the laws must be faithfully executed (Article II, Section 3 – the **Take Care Clause**);
- all appropriations are to be authorized by Congress (Article I, Section 9 – the **Appropriations Clause**);
- the president must carry out the appropriations made by Congress; and
- the president cannot refuse to spend the money appropriated by Congress (**Impoundment Control Act**).

There are two other relevant clauses of the Constitution.

- The **Presentment Clause** (Article I, Section 7) provides that after the Senate and the House have passed legislation, the President may only sign or return legislation (in whole and not in part), and may not otherwise pick and choose which provisions become law and which do not.
- The **Spending Clause** (Article I, Section 8) gives Congress exclusive power over the federal purse, including the power to attach conditions to the expenditure of

federal funds. The President has no constitutional power to countermand these appropriations.

The actions of Trump and Musk – the cuts, the closures and the hacking in support thereof, Hubbell reminds us, should not be labelled as “controversial,” or “disputed,” or “illegal.” “They overthrow the constitutional order and separation of powers by claiming that the president exercises the authority granted to Congress in Article I of the Constitution. That is a coup.” It is now up to the courts under Article III to resist Trump’s encroachment.

Thus far, the legal challenges have served two purposes. The first has been to slow down the challenged actions and the second is that the lawsuits have yielded new information about the extent of the efforts to dismantle the institutions of government. [POLITICO reports](#) that sworn affidavits from the DoJ provide the following insights: Thomas Krause, a Musk ally, [described his handling of Treasury’s massive payment system](#), indicating he had “over the shoulder” access to view it and had toyed with copies of the code underlying the system; Trump’s day-to-day manager of USAID, Peter Marocco, filed a [12-page affidavit](#) describing efforts to shutter the agency, and forced DoJ to admit that those efforts were more extensive than lawyers had previously acknowledged in court; and that FBI leaders had resisted efforts by Trump’s appointees in DoJ to disclose the names of FBI agents who worked on Jan. 6 cases.

That said, we should be under no illusion as to how close we are to a constitutional crisis. Recall that, during a 2021 interview, Vance, a graduate of the Yale Law School, said he would advise Trump to “fire every single midlevel bureaucrat, every civil servant in the administrative state, replace them with our people. When the courts stop you, stand before the country, like Andrew Jackson did, and say, ‘The chief justice has made his ruling. Now let him enforce it.’” Vance, together with Musk and others, has continued with this riff in the face of a growing number of legal challenges (described below) to Trump administration actions.

Musk reacted to a [temporary restraining order](#) with the following post referring to Judge Engelmayer: “A corrupt judge protecting corruption. He needs to be impeached NOW!” Vance posted his view that, “If a judge tried to tell a general how to conduct a military operation, that would be illegal. If a judge tried to command the attorney general in how to use her discretion as a prosecutor, that’s also illegal. Judges aren’t allowed to control the executive’s legitimate power.”

Joyce Vance, professor at the University of Alabama School of Law, wrote in an e-mail on Sunday to [NBC News](#): “The Constitution and our rule of law tradition are set up so that the courts have jurisdiction to consider the scope of power possessed by the executive branch (the president), when his actions are challenged. “Centuries of precedent establish the role of the courts in checking overreach by the executive branch,” including cases like [Youngstown Sheet & Tubing Company v. Sawyer](#), where the U.S. Supreme Court refused to let President Harry S. Truman take over U.S. steel mills during the Korean War. In *Youngstown*, the Supreme Court held that when the President acts:

- in accordance with express or implied authorization, “his authority is at its maximum” for that authority includes all that he possesses under Article II plus all that Congress can delegate, and only in these circumstances does the President personify federal sovereignty;
- in absence of congressional grant or denial of authority, there is a “zone of twilight” in which he and Congress may have concurrent authority or in which authority is uncertain; and
- in a manner incompatible with the expressed or implied will of Congress, “his power is at its lowest ebb,” for then he can rely only on his own Constitutional powers, less any Constitutional powers of Congress over the matter.

Marin K. Levy, professor at Duke Law School, told CNBC via e-mail on Sunday: “The State Attorneys General and the judge in this case were all acting well within their authority. What we saw here was the judicial system working as it is supposed to.”

Legal Terminology

An explainer on legal terminology relating to emergency relief in federal court:

- A **temporary restraining order** (or **TRO**) is a pre-trial order that stops (enjoins) or mandates conduct. It is issued in emergency situations to prevent irreparable harm and, under Rule 65 of the Federal Rules of Civil Procedure, can be issued without notice to the affected party. TROs tend to have short durations (maximum 14 days, unless both sides to a longer term or there is “good cause” for an extension) and will be followed by consideration of a preliminary injunction. Requesting parties will request both a TRO and a preliminary injunction. Both are intended to preserve the status quo pending decision on the merits of the underlying case.
- Like a TRO, a **preliminary injunction** is sought to prevent irreparable harm pending the outcome of a case. They can only be issued after the affected party has notice and both parties have an opportunity to be heard. To succeed in getting a preliminary injunction, the requesting party must establish that it is likely to succeed on the merits of (that is, win) their underlying case, it is likely to suffer irreparable harm if the preliminary injunction is not granted, that the balance of the equities (interest in obtaining the injunction versus burden on the affected party) tips in its favor, and the granting of the injunction is in the public interest (*Winter v. NRDC*). There is no time limit on a preliminary injunction and typically runs while the case is pending.
- A court will issue a **permanent injunction** if it finds that the requesting party has suffered irreparable injury, that remedies at law are inadequate to compensate the requesting party for its injury, based on the relative hardships, a remedy in equity is warranted and the public interest will not be disserved by the permanent injunction.
- In unusual circumstances, injunctions can be issued on a nationwide basis.
- Preliminary injunctions can be appealed; TROs can be appealed but that is less customary.

- Both TROs and preliminary injunctions are equitable remedies. These remedies are framed as extraordinary and drastic. A party requests a court to issue a TRO and/or a preliminary injunction by filing a motion. If the court grants any of these motions to block action, that action is “**enjoined.**”

As Suzanne Goldberg noted in her Lawfare [post](#), federal courts have responded in a variety of ways to the flurry of challenges to the Trump administration:

- grant a TRO and then dissolve it days later after determining the court lacked jurisdiction over a [union challenge to the federal “fork in the road” offer](#);
- grant and then extend a TRO prohibiting the Trump administration from sending home [USAID employees abroad](#) but then [deny a preliminary injunction](#) after full briefing and multiple hearings;
- deny a TRO for lack of irreparable harm but leave open the possibility of a preliminary injunction in a challenge to [DOGE’s access to internal agency data](#) and other Musk and DOGE actions;
- issue a TRO that was proposed and agreed to by [FBI agents, their union, and the government](#) not to publicly share a list of agents involved in the Jan. 6 investigations;
- order the Trump administration to obey its TRO on the [federal funding freeze directive](#) and to report biweekly on its disbursement of [National Institutes of Health funds](#); and
- [grant a preliminary injunction](#) to block most parts of an executive order ending federal support for programs and grants related to diversity, equity, and inclusion but denied a TRO because it was unnecessary in light of the preliminary-injunction grant.

AFL-CIO, Department of People Who Work for a Living

Week Three, the AFL-CIO [launched](#) its counter-offensive against DOGE by forming the [Department of People Who Work for a Living](#). The exact scope, as [reported](#) by the New York Times, remains unclear, though the effort is likely to focus on highlighting what DOGE is doing and on the gap between the wealth of the emerging oligarch class and the federal employees being let go. It will also serve as a resource on fighting back.

American Bar Association and the Legal Profession

The American Bar Association (ABA) has a tradition of issuing President’s letters on the rule of law. These letters are addressed to foreign national governments and express the ABA’s concerns about alleged intimidation, harassment, or abuse of lawyers, judges, and human rights advocates. Week Four saw the ABA publish a similar letter, but this time addressed to a domestic audience about the threat to the rule of law in America.

In his February 10 [letter](#), ABA President William R. Bay cited, among other things, “wide-scale affronts to the rule of law itself, such as attacks on constitutionally protected birthright citizenship, the dismantling of USAID and the attempts to criminalize those who support lawful programs to eliminate bias and enhance diversity.” Altogether there

were four themes covered, defending the courts and judges, acknowledging the role of the courts, adhering to the rule of law and respecting the separation of powers. The ABA President called on elected officials to insist on adherence to the rule of law and warned that we cannot remain silent in the face of an administration that seeks to choose which law it will follow or ignore. Further, reminding lawyers of the oath we all took when we became lawyers, it urged every attorney to echo the ABA and insist that our government follow the law.

Week Seven, the ABA President issued a second [letter](#) (03/30/25), prompted by government actions since February 10 that “evidence a clear and disconcerting pattern” – of judges being targeted if they issue decisions that with which the administration does not agree and of counsel representing parties in dispute with the administration or which the administration does not like being similarly targeted. The letter chronicles high-ranking administration officials calling for “corrupt judges” (*i.e.*, corrupt for issuing orders with which the administration does not agree) to be impeached or criticizing judges for not following the “will of the people” (ignoring the fact that judges swear oaths to follow the law “not public opinion or political chatter or what someone contends is the will of the people”). The letter also cited the action taken by EO against [Covington & Burlington](#) and attacks against [DoJ lawyers and Assistant US Attorneys](#). The letter concludes by calling on the entire legal profession, including counsel who serve in elected position, “to speak out against intimidation. If the ABA and lawyers fail to speak out, who will speak for the judiciary or protect the system of justice in our country.

Also Week Seven, the administration declared war on another law firm and implicated the broader legal community. The [Addressing Risks from Perkins Coie](#) EO singles out Perkins Coie, in its capacity as counsel to the Hilary Clinton campaign, for its work on the Russia-gate “dossier” and its election protection work, and goes much further than the Covington & Burling EO. (See also the White House [FAQ](#).) This EO directs the suspension of any security clearances held by Perkins Coie lawyers, requires government contractors to disclose any business they do with Perkins Coie, requires federal government agencies to review contracts with Perkins Coie or with contractors that disclose they do business with Perkins and to terminate any contract for which Perkins Coie has been hired to perform any service. While the EO cites DEI concerns, this should be seen for what it truly is, weaponization of the instruments of executive powers to exact revenge on his political opponents.

This EO also directs the Chair of the EEOC to “review practices of representative large, influential, or industry leading law firms for consistency with Title VII of the Civil Rights Act of 1964” and the Attorney General to investigate practices of these law firms who do business with the federal government for compliance with race-based and sex-based non-discrimination laws. Government agencies are to take steps to bar Perkins Coie employees from federal government buildings “when such access would threaten the national security of or otherwise be inconsistent with the interests of the United States and refrain from hiring Perkins Coie employees absent an affirmative waiver that “such hire will not threaten the national security of the United States.”

The two principal lawyers involved in the “dossier” work, Marc Elias and Michael Sussmann, left Perkins Coie. Marc Elias formed his own election law-focused firm in 2021.

While elite law firms have been slow to speak out (*see* [Fear of Trump Has Elite Law Firms in Retreat](#)), one who did speak out was not associated with a law firm, but rather was the Dean of Georgetown Law Center William Treanor, who [rebuked](#) acting DC US Attorney Ed Martin (03/06/25) for [advising](#) that Treanor that his office would not hire any GLC students if the school does not remove DEI from its curriculum. Treanor reminded Martin that “The First Amendment ... guarantees that the government cannot direct what Georgetown and its faculty teach and how to teach it. The Supreme Court has continually affirmed that among the freedoms central to a university’s First Amendment rights are its abilities to determine, on academic grounds, who may teach, what to teach, and how to teach it. *See* discussion of [Department of Education](#) edicts. Note that this tactic has been used by conservative judges in the past (*see* [Above the Law](#).)

Democratic lawmakers also are stepping up. Democratic members of the Senate Judiciary Committee sent a [letter](#) (03/06/25) to the Office of the Disciplinary Counsel of the DC Bar requesting a disciplinary investigation against Martin for possible violations of the DC Rules of Professional Conduct. The letter cites possible conflicts of interest and threats of prosecution as well as threats of investigation against government officials as part of Operation Whirlwind, including investigations of two Democratic members of Congress.

There is yet another irony in the Martin threats. Recall that as part of right-wing efforts to shut down content moderation by social media platforms, the Biden administration was accused of “jawboning,” that is, of impermissibly threatening social media platforms to in effect censor “conservative free speech” through content moderation edicts. This effort was thwarted by the Supreme Court. *See* [Content Moderation and Free Speech](#), above.

Keep an eye out: Bradley Bondi, brother of AG Pam Bondi, and Alica Long, chief deputy to Ed Martin, are [running](#) for president and treasurer, respectively, of the DC Bar Association and would sit on the Bar’s 23-person Board of Governors. As NBC News [points out](#), while the Bar does not have a direct role in addressing misconduct among the more than 120,000 members of the Bar (including a significant number of federal government lawyers), its Board of Governors does recommend members to sit on the DC Board of Professional Responsibility, which is the disciplinary arm of the DC Court of Appeals.

Attorneys General in Blue States – new

The 23 Democratic attorneys general started preparing for Trump 2.0 over a year ago and hit the ground running on Inauguration Day. This is a supremely coordinated effort,

which explains for example the flurry of lawsuits brought to date. See [“23 Dem AGs think they’ve cracked the code to fighting Trump.”](#)

Birthright Citizenship

The ACLU, among others, wasted no time and [sued](#) the Trump administration hours after Trump was inaugurated, on behalf of organizations with members whose children will be denied citizenship under the EO, over its effort to end birthright citizenship. A group of 18 states also [sued](#) “to protect their states, localities and residents from the President’s flagrant unlawful attempt to strip hundreds of thousands of American-born children of their citizenship based on their parentage.” Trump’s move, in the [words](#) of Kica Matos, head of the National Immigration Law Center, underscores his lack of regard for the Constitution. His repeal attempt is “both absurd and unconstitutional.”

Trump’s first contact with the legal system was reassuring – guardrails still exist. Federal Judge John Coughenour (appointed by President Ronald Reagan) temporarily blocked implementation of the birthright EO, finding it “blatantly unconstitutional.” In an exchange no lawyer would ever want to hear, the judge was unsparing, “Frankly, I have difficulty understanding how a member of the Bar could state unequivocally that this is constitutional. It just boggles the mind.”

Week Three, a second federal judge weighed in on the birthright issue in crystal clear terms, issuing a nationwide injunction. The judge characterized the EO as “conflict[ing] with the plain language of the 14th Amendment, contradict[ing] 125-year-old binding Supreme Court precedent and run[nin]g counter to our nation’s 250-year history of citizenship by birth.”

And the following day, Judge Coughenour issued a nationwide [preliminary injunction](#) blocking implementation of the birthright EO and enjoining its enforcement. Once again, the Judge’s order was equally crystal clear, “the government’s position is unavailing and untenable. It does not have the text or precedent to support its interpretation of the Citizenship Clause. And it rehashes losing arguments from over a century ago.” The Judge concludes, “Citizenship by birth is an unequivocal Constitutional right.... The President cannot change, limit, or qualify this Constitutional right via executive order.” In court, the Judge reportedly said, “It has become ever more apparent that to our president the rule of law is but an impediment to his policy goals. In this courtroom, and under my watch, the rule of law is a bright beacon which I intend to follow.”

Buyout of Federal Employees

The American Federation of Government Employees, AFL-CIO and two other unions, represented by [Democracy Forward](#), [sued](#) OPM and its acting director to block the buyouts of federal employees (using the defined term the “Fork Directive”) (02/04/25). The federal judge in the case (District Court Judge George A. O’Toole, Jr.) [declined](#) to block the buyouts on the ground that the unions did not have the standing to challenge the buyouts and the court lacked subject matter jurisdiction. While a setback that allowed Trump to close the offers, the underlying legality of the offers is yet to be tested.

Central Intelligence Agency/Office of the Director of National Intelligence – New

A group of career intelligence officers assigned by CIA and ODNI to personnel management functions involving DEIA sued CIA and ODNI as well as their respective directors to enjoin being terminated (02/17/25). The plaintiffs are represented by Kevin Carroll. A federal judge (District Court Judge Anthony J. Trenga), citing the fact that the 51 intelligence officer plaintiffs all are at-will employees, refused to halt the firings (02/27/25).

DEI Plaintiffs- updated

As Week Five came to a close, with chaos at the Pentagon, Trump’s efforts to cut federal funding from programs that incorporate DEI was blocked by a federal judge (District Court Judge Adam B. Abelson), who [granted](#) the motion of the plaintiff (the National Association of Diversity Officers in Higher Education) for a preliminary injunction (02/21/25). The ruling was based on First and Fifth Amendment grounds, and covers terminations of “equity-related” grants and contracts, requirements that contracts and grant awards include certifications by contractors or awardees that they do not operate DEI programs and threats of DoJ enforcement against private sector companies to deter DEI programs. The EOs covered by the order include the “[Ending Radical and Wasteful Government DEI Programs and Preferencing](#)” EO and the “[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)” EO. The underlying action was [brought](#) by counsel from Democracy Forward and Asian Americans Advancing Justice (02/03/25).

Department of Agriculture - updated

Plaintiffs that include an NGO of farmers and gardeners, the Natural Resources Defense Council and the Environmental Working Group [sued](#) the Department of Agriculture over the removal of climate-related policies, guides, datasets and resources from its websites (02/24/25). They seek declaratory and injunctive relief, and are represented by Earthjustice and Knight First Amendment Institute at Columbia University.

Week Seven, the MSPB [granted](#) a 45-day stay on the dismissal of all probationary employees (over 5,000) at the Department of Agriculture. All such employees are reinstated, at least temporarily. The stay was requested by the Office of the Special Counsel (see [below](#)). Special Counsel [applauded](#) the 45-day stay, only to have the block on his removal [lifted](#) only hours later.

Department of Education

The University of California Student Association has [sued](#) the Department of Education accusing DOGE of illegally accessing “sensitive personal and financial information” of about 42 million federal student loan borrowers.

Department of Health & Human Services/NIH

On February 7, the Trump administration declared that it would cut funding for life-saving medical research. Limiting Facilities and Administrative (F&A) reimbursements for all NIH research grants would have an immediate and dire impact on critical biomedical and health research nationwide. F&A costs are the real and necessary costs of

conducting the groundbreaking research that has led to so many medical breakthroughs over the past decades. A cut to F&A for NIH grants is a cut to the medical research that helps countless American families whose loved ones face incurable diseases or untreatable debilitating conditions. This [warning](#) came from the American Council on Education, the Association of American Universities and the Association of Public and Land-grant Universities as part of an announcement of a [lawsuit](#) they and a group of affected universities had filed (02/10/25) against the Department of Health & Human Services and the National Institutes of Health seeking to halt the cuts.

Twenty-two Democratic states, led by Massachusetts, [sued NIH](#) over its decision to place a 15% cap on indirect funding for research projects (02/10/25). District Court Judge Mary Page Kelly enjoined the cap pending litigation.

Department of Homeland Security

Make the Road New York, supported by the ACLU, has [sued](#) the DHS claiming that the expanded use of expedited removal under the INA to include noncitizens located anywhere in the United States who cannot prove they have been continuously present in the United States for more than two years violates the Fifth Amendment, the Due Process Clause, the INA and the [Administrative Procedure Act](#) (01/22/25).

Week Six, a federal judge (District Court Judge Theodore D. Chuang) [granted](#) a motion for a preliminary injunction in favor of a diverse group on faith groups (Quakers, Cooperative Baptists and Sikhs) blocking DHS, ICE and CBP from immigration enforcement in or near places of worship operated by any of the plaintiffs (02/24/25). The Court [issued](#) a Memorandum Opinion as to why it declined to issue a nationwide injunction.

Department of Justice

Week Four, Danielle R. Sassoon, the interim US Attorney for the Southern District of New York (SDNY), resigned after acting Deputy Attorney General Bove [directed](#) her to drop the corruption charges against New York City Mayor Eric Adams. When the case was transferred to the DoJ's Public Integrity Unit, the two heads of the unit resigned. An additional three officials in the Public Integrity Unit and the lead prosecutor in the Adams case Assistant US Attorney for SDNY Hagan Scotten also resigned. Sassoon was interim US Attorney pending Senate confirmation of Jay Clayton.

The New Yorker's [headline](#) captured the moment most succinctly, "Danielle Sassoon's American Bravery: A conservative prosecutor in New York makes the first bold move against Donald Trump's rampaging Presidency." And, as the New York Times [observed](#), "[t]he consequences of the confrontation extend far beyond the fate of Mr. Adams. It has set up what promises to be a protracted and damaging battle over the integrity, independence and direction of a department that Mr. Trump views like a piece of captured battlefield artillery he is now able to turn against his attackers.

Sassoon, a former law clerk to Supreme Court Justice Antonin Scalia and a member of the Federalist Society, issued a scathing [rebuttal](#) to Attorney General Pam Bondi, noting that the reasons advanced by Bove for dismissing the charges against Adams "are not

ones I can in good faith defend as in the public interest and as consistent with the principles of impartiality and fairness that guide my decision-making.”

In her letter, Sassoon refers to the rationale for dismissing the charges that included an analogy to the prisoner swap by which Brittany Griner was exchanged for Viktor Blout. She writes, “Adams’s advocacy should be called out for what it is: an improper offer of immigration enforcement assistance in exchange for a dismissal of his case. Although Mr. Bove disclaimed any intention to exchange leniency in this case for Adams’s assistance in enforcing federal law, that is the nature of the bargain laid bare in Mr. Bove’s memo. That is especially so given Mr. Bove’s comparison to the Bout prisoner exchange, which was quite expressly a quid pro quo, but one carried out by the White House, and not the prosecutors in charge of Bout’s case.” She also refers to a pending superseding indictment that would have been based “on evidence that Adams destroyed and instructed others to destroy evidence and provide false information to the FBI.”

Sassoon also reveals that during a meeting with Bove, Adams’s counsel, and members of her office, “Adams’s attorneys repeatedly urged what amounted to a quid pro quo, indicating that Adams would be in a position to assist with the Department’s enforcement priorities only if the indictment were dismissed. Mr. Bove admonished a member of [her] team who took notes during that meeting and directed the collection of those notes at the meeting’s conclusion.” Further reporting suggests that Bove seems to have guided Adams’ counsel to a rationale for dropping the charges, which as the New York Times [put it](#), “represents an extraordinary shattering of norms of an agency charged with enforcing the laws of the United States.” The DoJ is open for business, namely reaching prosecutorial decisions on the basis of political considerations, not the merits.

In his [resignation letter](#), Scotten wrote, “No system of ordered liberty can allow the Government to use the carrot of dismissing charges, or the stick of threatening to bring them again, to induce an elected official to support its policy objectives.” He continued, “any assistant U.S. attorney would know that our laws and traditions do not allow using the prosecutorial power to influence other citizens, much less elected officials, in this way. If no lawyer within earshot of the President is willing to give him that advice, then I expect you will eventually find someone who is enough of a fool, or enough of a coward, to file your motion. But it was never going to be me.”

In what appears to be one of the new weapons to thwart resistance to the new regime, Bove, in his February 13 [letter](#) responding to Sassoon, said he would open an investigation into Sassoon’s “conduct” and that of other prosecutors who worked on the prosecution of Adams.

This all flies in the face of longstanding precedent, perhaps best captured, as the New York Times [pointed out](#), in the enduring legacy (at least until a month ago) of the sentiments captured in 1940 in [remarks](#) delivered by Robert H. Jackson (later Supreme Court Justice). Sassoon captured this in noting that “[b]ecause the law does not support a dismissal, and because I am confident that Adams has committed the crimes with which he is charged, I cannot agree to seek a dismissal driven by improper considerations.” She then quoted Jackson: “The prosecutor at his best is one of the most beneficent forces in our society; when he acts from malice or other base motives, he is one of the worst.”

As for the “improper considerations” to which Sassoon refers, the February 10 [directive](#) to dismiss the prosecution delivered to Sassoon by Bove [reportedly](#) admits that the DoJ “reached this conclusion without assessing the strength of the evidence or the legal theories on which the case is based.” Rather, it made this determination for two reasons, improper timing and a diversion of resources away from “illegal immigration and violent crime.” In his February 13 letter, Bove confirms that he directed dropping charges not based on the evidence or lack thereof, but rather on “well-founded concerns regarding weaponization, election interference and the impediments that the case has imposed on Mayor Adam’s ability to govern and cooperate with federal law enforcement to keep New York City safe.”

There is an irony in all of this in that Adams’ *quid pro quo* for charges being dropped was to assist in immigration enforcement, premised on the need to remove “criminal” undocumented migrants! He charges were to be dropped without prejudice, meaning that Adams could again be charged.

Separately, the remaining Biden-era US Attorneys are being [fired](#) at the direction of the White House. This is a departure from past practice when US Attorneys are asked to resign by an incoming administration and typically given a grace period to do so (and the departures are coordinated with the DoJ’s Executive Office for US Attorneys, which apparently also did not happen). The replacement of US Attorneys likely hastens implementation of mass deportations and other Trump priorities.

Week Five, the Chief of the Criminal Division in the US Attorney’s Office for the District of Columbia, Denise Cheung, resigned rather than comply with a demand to open a criminal investigation into whether a contract had been unlawfully awarded by the Biden administration for an environmental grant initiative. In her [resignation letter](#) to the DC Attorney, Cheung sets out that she did not believe there was sufficient evidence to take the action requested.

Department of Labor

The AFL-CIO and various other unions, represented by [Democracy Forward](#), [sued](#) the Department of Labor and DOGE to halt access by DOGE-affiliated personnel to Department of Labor systems and information (02/05/25). The judge hearing the case (District Court Judge John D. Bates), while noting that the court harbors concerns about the plaintiffs’ conduct, [declined](#) to issue a restraining order due to lack of standing (02/07/25).

Plaintiffs filed an [amended complaint](#) to address the standing issue and expanded the scope of requested relief to include HHS and the CFPB (02/11/25).

Judge Bates [declined](#) to issue the restraining order (02/14/25). Parties have until February 18 to file a proposed preliminary injunction motion briefing schedule.

Department of State/USAID – updated

The American Foreign Service Association and the American Federation of Government Employees, represented by [Democracy Forward](#) and [Public Citizen Litigation Group](#), filed a [lawsuit](#) challenging the shutdown of USAID (02/06/25). The suit names Trump,

Treasury, State, Rubio and Bessent as defendants. The complaint cites a global humanitarian crisis, loss of thousands of American jobs and threats to our national security triggered by the shutdown. An [affidavit](#) filed in the case by a USAID Foreign Service Officer serving in the DRC gives a sense of the catastrophic consequences of the administration's actions.

At the end of Week Five, a federal judge (District Court Judge Carl J. Nichols) [denied](#) the plaintiffs' motion for a preliminary injunction and dissolved the temporary restraining order (02/21/25). The ruling, which was based on a finding of lack of jurisdiction, characterized the relief sought as more properly decided by civil service review boards such as the Foreign Service Grievance Board or the MSPB. The ruling [clears the way](#) for 2,014 USAID staff to be placed on paid leave (611 others were deemed essential and remained in place).

Five former USAID Administrators (under both Republican and Democratic administrations), J. Brian Atwood, Peter McPherson, Andrew Natsios, Gayle Smith and Samantha Power, [reportedly](#) have spoken out in a joint statement in support of their former agency. "While we don't agree on all issues, we wholeheartedly agree that USAID and America's foreign assistance programs are vital to our interests, that the career men and women of USAID have served each of us well, and that it is the duty of the Administration and Congress to swiftly protect the Agency's statutory role. Failure to maintain the global engagement that foreign aid enables, to honor the men and women of our civilian service as we do those in the military or weaken and even destroy the Agency is to the benefit of neither political party and the detriment of all Americans."

Rep. Sara Jacobs announced she will introduce legislation in the House to push back against Musk's shuttering of USAID.

Week Three, Senator Brian Schatz has placed [a hold](#) on confirmations of all State Department nominees until the actions affecting USAID are reversed. The Senate typically speeds up the confirmation of many nominees through "unanimous consent," a process that bypasses a formal floor vote if no senator objects. Schatz's blanket hold prevents the Senate from approving nominees quickly, requiring Senate Majority Leader John Thune to use valuable floor time to advance the president's nominations through the confirmation process. This was the tactic used by Senator Tommy Tuberville to hold up military nominations over the DoD policy of abortion-related travel expenses.

Democrats maintain that shutting down USAID would require an act of Congress, and a [report](#) prepared by the Congressional Research Service concurs. The CRS report notes that, "[b]ecause Congress established USAID as an independent establishment (defined in 5 U.S.C. § 104) within the executive branch, the President does not have the authority to abolish it; congressional authorization would be required to abolish, move, or consolidate USAID." Trump takes issue with this on the flimsy justification that the agency is "rife with fraud."

Apparently, after several Democratic Senators were barred from entering the Treasury, Senator [Richard Blumenthal](#) announced the caucus is placing a blanket hold on all Trump nominations through multiple committees. Senators [Markey](#) and [Coons](#) made similar

announcements. The first target will be proposed OBM director Vought. *See* Indivisible’s [We Choose to Fight](#), the toolkit to resist nominations.

Week Three, late Friday, a federal judge temporarily blocked USAID from putting 2,200 workers on paid leave following the filing of the action by the American Foreign Service Association and the American Federation of Government Employees.

Week Four, a federal judge ordered the Trump administration to temporarily lift its foreign aid funding freeze on existing programs, the result of a [stop-work order](#) issued by Secretary of State Rubio on January 24, and set a five-day deadline for the administration to prove it is complying with his directive that the administration notify every organization with an existing foreign-aid contract with the federal government of the temporary stay. The freeze had shut down US humanitarian aid and development work around the world. The judge cited the financial devastation that the near-overnight cutoff of payments has caused suppliers and nonprofit organizations that carry out much of U.S. aid overseas. The order [extends](#) the court’s temporary restraining order issued last week until February 21 (02/13/25).

In separate actions brought by the AIDS Vaccine Coalition and the Global Health Council against the State Department and Trump, a federal judge (District Court Judge Amir H. Ali) issued an [order](#) (02/13/25) enjoining the State Department and USAID from:

- suspending, pausing, or otherwise preventing the obligation or disbursement of appropriated foreign-assistance funds in connection with any contracts, grants, cooperative agreements, loans, or other federal foreign assistance award that was in existence as of January 19, 2025; and
- issuing, implementing, enforcing, or otherwise giving effect to terminations, suspensions, or stop-work orders in connection with any contracts, grants, cooperative agreements, loans, or other federal foreign assistance award that was in existence as of January 19, 2025.

Week Six, Judge Ali ordered the State Department and USAID to comply with his February 13 temporary restraining order (by paying all invoices and drawdown requests owed before February 13), and to do so within 36 hours (February 26), after finding that there were no signs the Trump administration had taken steps to comply with his February 13 order (02/25/25). The judge clearly was impatient with DoJ counsel sidestepping his questions, “I don’t know why I can’t get a straight answer from you,” he reportedly bemoaned. The judge does have the power to order officials to appear before him and to cite them for contempt.

Just before the deadline imposed by Judge Ali, Supreme Court Chief Justice John G. Roberts Jr. granted the Trump administration’s [request](#) for an administrative stay of temporary restraining order mandating compliance by February 26. The plaintiffs have until Friday to respond to the administration’s assertions.

CBS reports that the dismantling of USAID continues with 4,200 USAID employees placed on administrative leave at the end of Week Five after Judge Nichols’ [ruling](#)

denying a request for a preliminary injunction. Judge Ali's order represents the second time a federal judge has found that the Trump administration did not follow a court order, the first being Judge McConnell's [order](#) regarding frozen grants and loans.

Week Seven, the day after Trump's address to Congress, the Supreme Court [vacated](#) the Roberts order on the administrative stay, thereby restoring one of the lower court's two temporary restraining orders and in effect blocking government efforts to pause close to \$2 billion of foreign assistance. (See the brief [submitted](#) by counsel to plaintiffs reciting the reasons why the administration's legal reason was wrong.) Recall that Judge Amir Ali had issued two temporary restraining orders, which remained in effect and the second directing the government to pay committed foreign assistance funds by February 26. It was this latter order that was the subject of the motions before the Supreme Court. The Supreme Court directed the lower court to clarify what obligations the administration must fulfil to ensure compliance with its temporary restraining order. Chief Justice Roberts and Justice Coney Barrett joined to form the majority in this 5-4 ruling. Justice Samuel Alito issued a dissenting opinion, joined by Justices Thomas, Gorsuch and Kavanaugh.

In his analysis of the Supreme Court action, Georgetown University Law Center Professor Stephen Vladeck ("[The Supreme Court Foreign-Aid Ruling Is a Bad Sign for Trump](#)") cites four interesting takeaways from the majority: the Supreme Court denied the administration's application rather than dismissing it as moot, in other words the Supreme Court ordered the government to pay now; the direction for clarification appears to be an open invitation to Judge Ali to issue a more specific order as to what the government must do; the timing suggests that the Supreme Court wanted to wait until after Trump's address to Congress, perhaps he notes to avoid Trump attacking the justices while several of them were in the audience; and it appears that on these non-cultural legal issues there is a 5-4 realignment on the Court.

As for Justice Alito's dissent, Vladeck notes that the dissent attributes the obligation to make the \$2 billion payments to Judge Ali's ruling (and "not because the law requires it"), when in fact it is the law *that requires the payments* – Congress had mandated the spending and the contractual obligations had already been fulfilled. Justice Alito also raises a sovereign immunity argument, but in [Bowen v. Massachusetts](#) the Supreme Court ruled that it could adjudicate whether Administrative Procedure Act relief applies to government obligations to pay expenditures to which recipients are legally entitled. Then, Justice Alito appears to be arguing that the harm suffered by the plaintiffs flowed not from the administration's refusal to pay but the Appellate Court's refusal to take up the case. Finally, Justice Alito closes by characterizing the majority ruling as imposing "a \$2 billion penalty on American taxpayers." No, the payments were authorized by Congress.

Department of Treasury – updated

Joseph Menn, Jeff Stein and Ellen Nakashima, writing in the Washington Post, [report](#) that Treasury was warned by a federal contractor that runs a threat intelligence center for Treasury's Bureau of Fiscal Services that DOGE's access to a sensitive payment network

(even on a “read-only” basis) represented an “unprecedented insider threat risk” and should be suspended “immediately.” The contractor also recommended that a comprehensive review of the system be undertaken to identify any changes approved by DOGE affiliates. The reporting notes that the payment system, among other things, ensures that Pentagon contractors, software vendors and US intelligence assets overseas are paid.

The key concern is that DOGE-affiliated engineers were able to access systems containing sensitive information, including personally identifiable information (PII), that should only have been accessible by vetted employees with proper security clearances and training. Access to the information could be used to improperly target federal employees, could facilitate shutting down payments and could expose the systems to cyberattack. This issue is not confined to the Treasury Department as access was granted across a number of federal agencies, and those who tried to resist granting access based on existing rules and protocols were placed on administrative leave or fired.

A federal judge (U.S. District Judge Colleen Kollar-Kotelly) [ruled](#) (2/6/25) that only two Musk-affiliated staffers can access the Treasury Department’s payment system on a “read only” basis, after the Alliance for Retired Americans, the American Federation of Government Employees and Service Employees International Union, AFL-CIO [sued](#) the Treasury Secretary amid reports DOGE accessed sensitive records. (One of the employees given access has reportedly since [resigned](#) over racist tweets uncovered by the Wall Street Journal.)

A second federal judge (U.S. District Judge Paul Engelmayer), granted [a temporary restraining order](#) (02/08/28) in favor of a group of 19 states with Democratic attorneys general, led by New York State, against Trump, the Treasury Department and the Treasury Secretary in respect of the grant of access by “special government employees” (*i.e.*, Musk) to payment systems of the Bureau of Fiscal Systems (BFS). Specifically, the defendants are:

- restrained from granting access to any Treasury Department payment record, payment systems, or any other data systems maintained by the Treasury Department containing PII and/or confidential financial information of payees, other than to civil servants with a need for access to perform their job duties within the Bureau of Fiscal Services who have passed all background checks and security clearances and taken all information security training called for in federal statutes and Treasury Department regulations;
- restrained from granting access to all political appointees, special government employees, and government employees detailed from an agency outside the Treasury Department, to any Treasury Department payment record, payment systems or any other data systems maintained by the Treasury Department containing PII and/or confidential financial information of payees; and
- ordered to direct any person prohibited above from having access to such information, records and systems but who has had access to such information,

records and systems since January 20, 2025, to immediately destroy copies of material downloaded from the Treasury Department's records and systems.

The Federal Court of Appeals for the First Circuit [declined](#) to issue an administrative stay to block the February 8 temporary restraining order (02/11/25).

The Associated Press [reports](#) that the Office of the Inspector General at the Treasury Department plans to undertake an audit of the security controls for the Treasury payment systems. The announcement of the audit coincides with calls by Senators Warren and Wyden for visibility into the activities of DOGE in respect of the payment systems, though the sequence suggests that the audit was initiated before Democrats pushed for it. The audit will also review transactions over the past two years to prove or disprove allegations of massive fraud levelled by Musk. The Associated Press also notes that Treasury has provided inconsistent information about DOGE's access to its payment systems, saying first that access was "read only," then acknowledging that a member of the DOGE team briefly had the ability to edit code, then claimed edit rights were granted by accident.

At the end of Week Five, the temporary restraining order granted by Judge Engelmayer was superseded by a [permanent injunction](#) (essentially tracking the temporary restraining order) issued by another federal judge (District Judge Jeannette A. Vargas) (02/21/25). Among other findings, Judge Vargas noted that "Plaintiffs will more likely than not succeed in establishing that the agency's processes for permitting the Treasury DOGE Team access to critical BFS payment systems, with full knowledge of the serious risks that access entailed, was arbitrary and capricious. While it appears that the career staff at BFS did their best to develop what mitigation strategies they could, the inexplicable urgency and time constraints under which they operated all but ensured that the launch of the Treasury DOGE Team was chaotic and haphazard."

Judge Vargas also ordered the Treasury Department to report by March 24 to the Court on training, vetting and security clearances and mitigation procedures, as well as both the legal authority under which DOGE team members were employed by or detailed to Treasury and the chain of reporting between DOGE team members, DOGE and Treasury.

Week Seven, in the Alliance for Retired Americans [case](#), District Court Judge Colleen Kollar-Kotelly [ruled](#) that the plaintiffs had "not cleared the 'high standard' of showing a likelihood of an irreparable injury that is 'beyond remediation' for purposes of her Circuit, which is a prerequisite for the issuance of a preliminary injunction and denied their motion. However, the Judge also ruled that "[i]f Plaintiffs could show that Defendants imminently planned to make their private information public or to share that information with individuals outside the federal government with no obligation to maintain its confidentiality, the Court would not hesitate to find a likelihood of irreparable harm."

The Judge did acknowledge that Judge Vargas had issued a temporary restraining order (an inconsistent ruling) in the case brought by the [Democratic attorneys general](#), and also noted that District Court Judges in two other cases (Judge Rossie D. Alston in the Eastern District of Virginia and by Judge Debroah L. Boardman the District of Maryland) had

denied motions along the same lines as she had – Judge Alson in [favor](#) of all defendants and Judge Boardman in [favor](#) of the Treasury Secretary but not the other defendants (OPM and the Department of Education).

The [first](#) of those two cases had been brought by the Electronic Privacy Information Center (02/10/25), supported by The Kaplan Law Firm, the Electronic Privacy Information Center (EPIC) and Democracy Forward Foundation, and the [second](#) by the American Federation of Teachers, International Association of Machinists and Aerospace Workers, National Active and Retired Federal Employees Association, National Federation of Federal Employees and various individual federal employees (02/10/25), supported by Protect Democracy Project, Democracy and Rule of Law Clinic and Minger, Tolles & Olson.

Energy Emergency

Senators Tim Kaine and Martin Heinrich tabled [legislation](#) ([S. J. Res. 10](#)) under the National Emergencies Act ([50 U.S. Code § 1622](#)) challenging Trump’s declaration of an [energy emergency](#). Senate Republicans [blocked](#) the legislation (02/26/25). The proposed resolution was under the Congressional Review Act, which allows a simple majority in both houses to overturn federal rulemaking. As it was privileged, the Senate had to vote on the resolution.

Federal Emergency Management Agency

Firings at FEMA may well affect a majority of its staff. Following the firing of 200 probationary employees at the end of Week Four, the administration [reportedly](#) is on track to fire a significant number of additional employees who have worked on climate change, environmental justice, equity or DEIA. Former FEMA Chief of Staff Michael Coen warned that “[t]he next time there’s a major catastrophic event that requires extensive manpower, FEMA’s going to be at a disadvantage.” FEMA is already short-staffed, and reportedly was so overwhelmed in October responding to severe hurricane damage in six states that it was forced to seek assistance from other federal government agencies. Given FEMA’s emergency response mission that has been overwhelmingly affected by the significant increase in the frequency and severity of extreme weather events driven by climate change and the devastation that often blights at-risk communities, it is not surprising that singling out employees that had any involvement with climate change, environmental justice or DEIA could cover much of the agency.

Federal Bureau of Investigation

Week Three, a group of FBI agents [sued](#) the DoJ in a class action to enjoin the publication of the names of agents under investigation, following the demand that agents or their supervisors fill out questionnaires detailing their involvement in either the January 6th investigation or the classified documents case against Trump (02/04/25). They are unnamed to protect their identity. The complaint provides in part that, “Plaintiffs assert that the purpose for this list is to identify agents to be terminated or to suffer other adverse employment action. Plaintiffs reasonably fear that all or parts of this list might be published by allies of President Trump, thus placing themselves and their

families in immediate danger of retribution by the now pardoned and at-large Jan. 6 convicted felons.”

A [letter](#) to the acting Deputy Attorney General from three attorneys in the national security space threatens legal action to stop the purges.

A second [lawsuit](#) was brought by the FBI Agents Association and various unnamed agents, represented by Mark Zaid and Norm Eisen acting through State Democracy Defenders Fund, against the DoJ to block the public release of personal information about the individual plaintiffs and persons similarly situated, which they fear would lead to opprobrium and potential vigilante action by those who they were investigating (02/04/25).

At the end of Week Three, hours before attorneys were to appear in court on the class action, the DoJ agreed, for now, to not release the personal information of agents. Let’s be clear what was at stake here – the release of the names of agents who worked, for example, on January 6th investigations would be at risk of attacks by the defendants in those cases, all of whom have been pardoned or had their sentences commuted, or their allies, or the legions of internet trolls who relish in doxx and swatting attacks for the sport of it.

Federal Election Commission

At the end of Week Three, Trump attempted to remove Ellen Weintraub, Chair of the Federal Election Commission (FEC). Weintraub pushed back. Her term expired, but she is legally allowed to continue to serve until a replacement is nominated by the president and confirmed by the Senate. Trevor Potter, Republican former chair of the FEC and the president of the Campaign Law Center, said in a [statement](#) that, in attempting to remove Weintraub, Trump violated the law, the separation of powers doctrine and Supreme Court precedent. “Congress,” he said, “explicitly, and intentionally, created the FEC to be an independent, bipartisan federal agency whose commissioners are confirmed by Congress to serve the vital role of protecting the democratic rights of American voters.” See generally [Brennan Center summary](#).

Independent Agencies

As predicted (see [Taking Trump at his Word](#)), Trump is moving to end the independence of federal commissions and boards, such as the FTC, the FCC, the SEC, the EEOC, the Consumer Product Safety Commission and the Federal Energy Regulatory Commission and the NLRB (see the [Ensuring Accountability of all Agencies](#) EO and related [FAQ](#)), in effect overturning a structure imposed by Congress dating back to the 1880s and severely testing the bounds of the separation of powers. The heads of all of these agencies are Senate-confirmed and, in contrast to Cabinet Secretaries and heads of their subagencies, who serve at the pleasure of the President, enjoy regulatory and budgetary independent from the President in effect through the “for cause” protections in respect of removal

granted by statute (terms are set by statute and removal is limited to cause based on misconduct).

This EO, referring to the independent agencies as “so-called independent agencies” and Trump’s intention of ensuring “Presidential supervision and control of the entire executive branch,” requires them to submit all proposed regulations to the White House for review. We saw a precursor to this assault in the firings by Trump (cited above and below), in violation of the law, of IGs, career prosecutors and members of the NLRB and EEOC. *See generally* reporting by the New York Times’ Charlie Savage, available [here](#) and [here](#). The EO does not extend to the Federal Reserve Board.

The EO also declares that the President and the Attorney General, subject to the supervision and control of the President, are to provide authoritative interpretations of law for the entire executive branch. No federal government employee in their official capacity may advance an interpretation of the law that contravenes the opinion of the President or the Attorney General, whether in regulations, guidance or positions advanced in litigation.

As Danielle Kurtzleben of NPR [notes](#), White House review of regulations promulgated by federal agencies dates back to Clinton days and the constraint on presidential power to fire heads of independent agencies dates back to the 1935 Supreme Court decision in *Humphrey’s Executor v. United States* (adjudicating against President Franklin Roosevelt in the firing of an FTC Commissioner), but the Clinton EO exempted independent regulatory agencies.

To be clear, this is Trump’s power grab over agencies that historically have been nonpartisan – his pushing the bounds of presidential power to test the so-called theory of the unitary executive. This means reaching into regulation of the financial world (the SEC), labor (NLRB) and the business world (with antitrust power, including review of mergers, at the FTC). The stability that the financial and business worlds in particular so crave is about to disintegrate.

A February 12 letter from Sarah Harris, acting Solicitor General, to Congress stating that the DoJ views the for-cause removal protections set on in *Humphrey’s Executor* as unconstitutional and the emergency application to the Supreme Court to vacate the temporary restraining order blocking the removal of the head of the Office of Special Counsel should be seen in the context of this maximalist assertion of presidential power.

Inspectors General

IGs at the Departments of Defense, Veterans Affairs, Health and Human Services, State, Agriculture, Education, and Labor, and at the Small Business Administration [sued](#) their respective agencies and Trump for unjustified termination, in violation of federal law enacted to protect IGs from precisely the interference they suffered in the discharge of their non-partisan oversight duties (02/12/25). Two of the plaintiffs had been hired during Trump’s first term. The IGs are represented by counsel at WilmerHale.

Internal Revenue Service – updated

A group of taxpayer advocates and two unions [sued](#) the Internal Revenue Service (IRS), the Treasury Department and DOGE seeking a temporary restraining order to block access, inspection and disclosure of tax return information and other personal information in IRS systems to DOGE (02/17/25). The suit, which cites both the Administrative Procedure Act and the Privacy Act, is supported by Democracy Forward Foundation. According to Democracy Docket, this suit is the tenth case filed to prevent DOGE from accessing confidential information in federal government agencies. The complaint notes that DOGE will have access to Musk’s business competitors and that “no other business owner on the planet has access to this kind of information on his competitors.”

Meanwhile, it appears that the IRS is trying to hold the line against demands from ICE that the IRS share taxpayer information with ICE. (See “[DHS asks IRS for addresses of people believed to be in U.S. illegally.](#)”) It is shameful that there is so little appreciation that undocumented migrants pay billions of taxes every year and so few connect the dots when the issue of ICE access to tax records is reported. See the discussion above and the cross-reference to a previous briefing note of mine on the significant financial benefits that undocumented migrants provide to the US economy.

End of Week Seven, two Chicago-area immigration advocacy groups (Centro de Trabajadores Unidos and the Immigrant Solidarity DuPage) [sued](#) the Treasury Secretary and the acting Commissioner of the IRS to enjoin defendants from providing Individual Taxpayer Identification Numbers (used by those who are unable to obtain Social Security Numbers), tax returns and other taxpayer information to the Department of Homeland Security, ICE and the President (03/07/25). The plaintiffs cite [26 U.S.C. § 6103](#), which bars disclosure of taxpayer information to any third party except in [very limited circumstances](#). (See also [Background on disclosure of tax returns.](#)) Recall that it was Section 6103 that Trump [invoked](#) to shield his tax returns from scrutiny, including by Congressional committees.

Media

The Associated Press [sued](#) the White House, seeking a temporary restraining order, for being excluded from the White House press pool for declining to refer to the Gulf of Mexico as the Gulf of America (02/21/25) and also [filed](#) a motion for a preliminary injunction (02/21/25). The motion for a temporary restraining order was [denied](#), but the Court has ordered expedited briefings on the separate request for the preliminary injunction (02/24/25).

Musk/DOGE

The Washington Post [reported](#) (updated 02/04/25) that concerns about DOGE actions have been raised across government departments. Moves to shutter agencies, force out federal employees and gain access to sensitive payment systems appear to violate federal law. Legal objections reportedly have been raised at the Treasury Department, the Education Department, USAID, the General Services Administration, OPM, the EEOC and the White House budget office, among others. The Washington Post quotes Blake Emerson, a professor of constitutional law at the UCLA School of Law, who warns that

“there is a kind of shadow executive branch that is existing and operating and exercising power outside of the channels the Constitution and the statutes that Congress authorized.”

Senator Adam Schiff has posed a series of [questions](#) to the White House Chief of Staff (02/10/25) regarding compliance by Musk with federal conflicts of interest, ethics and reporting requirements in light of “his activities within the Executive Office of the President and his access to sensitive government information while he retains significant financial interests in multiple private companies that benefit from federal government contracts.” The Guardian [reports](#) that Musk had been under investigations by a number of federal agencies, including USAID, the Food and Drug Administration, the Agriculture Department and the National Highway Safety Administration. *See generally, [New York Times Analysis](#).*

DOGE is now investigating the agencies whose IGs only a short while ago were investigating him.

Week Four, 14 attorneys general acting for their respective states, led by New Mexico, [sued](#) Musk (02/14/25), Trump and DOGE seeking injunctive and declaratory relief to curb the activities of DOGE. Specifically, the plaintiffs argue, based on the Appointments Clause of the Constitution, that as Musk does not occupy “an office of the United States” and has not had his nomination of any office confirmed by the Senate, his officer-led actions are unconstitutional. The complaint notes “Mr. Musk’s seemingly limitless and unchecked power to strip the government of its workforce and eliminate entire departments with the stroke of a pen or click of a mouse would have been shocking to those who won this country’s independence. There is no office of the United States, other than the President, with the full power of the Executive Branch, and the sweeping authority now vested in a single unelected and unconfirmed individual is antithetical to the nation’s entire constitutional structure.”

Plaintiffs seek injunctive relief to halt the access to government data by DOGE and to halt activities of DOGE and seek declaratory relief to declare the officer-level acts of Musk and DOGE *ultra vires* and with no legal effect. The case has been assigned to Judge Tanya S. Chutkan, who presided over the Jack Smith January 6th election interference case.

A similar case, on similar grounds and seeking the same type of relief, was [brought](#) the day before (02/13/25) by 26 anonymous current or former employees and contractors of USAID against Musk and DOGE. The case was supported by State Democracy Defenders Fund.

Week Five, in the case brought by the 14 attorneys general, Judge Chutkan [denied](#) the motion for a temporary restraining order on the ground that plaintiffs had not carried their burden of showing they will suffer imminent, irreparable harm (02/17/25). The Judge did note that Plaintiffs “raise a colorable Appointments Clause claim with serious implications. “Accepting Plaintiffs allegations as true, Defendants’ actions are thus precisely the ‘Executive abuses’ that the Appointments Clause seeks to prevent.” “Plaintiffs legitimately call into question what appears to be the unchecked authority of

an unelected official and an entity that was not created by Congress and over which it has no oversight.”

The White House concurrently filed a declaration that Musk is an employee of the White House Office, and not of DOGE. The declaration continues “Mr. Musk has no actual or formal authority to make government decisions himself”! Hard to square that with Musk’s [statements](#), including that “all of our actions are maximally transparent.” Trump obviously is trying to backtrack given the likelihood that plaintiffs will prevail on the merits by reason of the fact that Musk’s authority and actions over the past five week fly in the face of the Appointments Clause.

Week Six, a federal judge (District Court Judge Deborah L. Boardman) [granted](#) a temporary restraining order enjoining the OPM, the Treasury Department and the Department of Education from disclosing records with sensitive personal information to DOGE-affiliated personnel (02/24/25). The [suit](#) was brought by unions and membership organizations representing current and former federal employees and federal student aid recipients and six military veterans who have received federal benefits or student loans.

The Associated Press reports that 21 senior civil service employees (engineers, data scientists, designers and product managers) who worked for the US Digital Service (USDS) and were being integrated into DOGE (representing one-third of the remaining staff at USDS) resigned, saying that they were not prepared to use their technical expertise and skills to “compromise core government systems, jeopardize Americans’ sensitive data or dismantle critical public services.”

National Labor Relations Board - updated

Gwynne Wilcox, who was fired by Trump from the NLRB, [sued](#) Trump and the chair of the NLRB over her dismissal, seeking reinstatement and a declaration that her removal was unlawful. This is the first case brought to challenge Trump’s firing of members of independent boards at federal agencies. Wilcox was represented Gupta Wessler LLP.

At the end of Week Seven, District Court Judge Beryl A. Howell granted summary judgment in favor of Wilcox, [ruling](#) that Trump lacks the authority to remove NLRB members at will and [ordering](#) that Wilcox be reinstated to serve out her five-year term that ends in August 2028 (03/06/25). In her ruling, Judge Howell cited Humphrey’s Executor and in effect rejected the unitary executive theory, noting that

“A President who touts an image of himself as a ‘king’ or a ‘dictator,’ perhaps as his vision of effective leadership, fundamentally misapprehends the role under Article II of the U.S. Constitution. In our constitutional order, the President is tasked to be a conscientious custodian of the law, albeit an energetic one, to take care of effectuating his enumerated duties, including the laws enacted by the Congress and as interpreted by the Judiciary. ... Luckily, the Framers, anticipating such a power grab, vested in Article III, not Article II, the power to interpret the law, including resolving conflicts about congressional checks on presidential authority. The President’s interpretation

of the scope of his constitutional power— or, more aptly, his aspiration—is flat wrong.”

The Trump administration has appealed.

National Endowment for Democracy – new

Week Seven, the [National Endowment for Democracy sued](#) the State Department, OMB, the Treasury Department and the Department of Health and Human Services, and their Secretaries, for unlawfully withholding congressionally appropriated funding. Claims are based on the Administrative Procedures Act, the Presentment Clause, the Appropriations Clause, the Spending Clause and the Take Care Clause of the Constitution, Plaintiffs are represented by Munger, Tolles.

Office of the Special Counsel – updated

The Office of the Special Counsel (OSC) protects federal employees and applicants from prohibited personnel practices, particularly reprisal for whistleblowing. The OSC also provides a secure channel for federal employees to blow the whistle by disclosing wrongdoing. It civilly enforces the Hatch Act, which places restrictions on partisan political activity by government employees. And it acts as an aide to Congress by providing reports meant to inform legislative and oversight agendas. Trump ordered the firing of the special counsel to that office, Hampton Dellinger. Dellinger [sued](#) for reinstatement (2/10/25) and a federal judge (U.S. District Judge Amy Berman Jackson) ordered his temporary reinstatement (2/11/25). (Note that this Special Counsel should not be confused with special counsel such a Jack Smith appointed by the Attorney General.)

Following a ruling by the DC Circuit upholding Judge Berman Jackson’s ruling (dismissing the appeal, dismissing the motion for a stay and denying mandamus) (02/15/25), the Trump administration [made an application](#) to the Supreme Court to vacate Judge Berman’s temporary restraining order and for an administrative stay of the District Court’s order (02/16/25). At the end Week Five, the Supreme Court (7-2) in effect allowed Judge Berman Jackson’s rulings [to stand](#) on the ground that a temporary restraining order was not subject to appeal at this stage (02/21/25). Judge Berman Jackson (02/26/25) [extended](#) the temporary restraining order until March 1.

End of Week Five, the Office of Special Counsel [ruled](#) that DOGE had violated protocol in firing six employees in violation of federal law governing probationary terminations and reductions in force and [requested](#) the MSPB to enjoin probationary terminations of the six employees (02/21/25). The rulings were released Week Six (02/24/25). The initial complaint is available [here](#) and the amended complaint, adding 14 agencies, is available [here](#). The plaintiffs are represented by Democracy Forward and Alden Law Group.

Four days later, the MSPB [ruled](#) that the six employees must be rehired, at least through April 10 (02/25/25). The 45-day stay ordered by the MSPB allows the Office of Special Counsel to continue its investigation of the firings, which has indicated it is exploring ways to broaden the group of similarly fired federal employees entitled to relief. The six

employees are at the departments of Agriculture, Education, Energy, Housing & Urban Development, Veterans Affairs and OPM.

End of Week Six, Judge Jackson, citing *Humphreys' Executor*, [found](#) (03/01/25) that “it would be antithetical to the very existence of the [OSC] and position to vindicate the President’s Article II power as it was described in *Humphrey’s Executor*: a constitutional license to bully officials in the executive branch into doing his will” and ruled in favor of the Special Counsel, Hampton Dellinger. The Court found that the statute establishing the OSC is not unconstitutional and “that elimination of the restrictions on plaintiff’s removal would be fatal to the defining and essential feature of the [OSC] as it was conceived by Congress and signed into law by the President: its independence. The Court concludes that they must stand.” This was a decision on both the motion for a permanent injunction and on the merits. Treasury Secretary Bessent et al. have appealed to the DC Circuit Court of Appeals.

The seesaw continued – Week Seven, the DC Circuit Court of Appeals [granted](#) the administration’s motion to lift Judge Jackson’s ruling, without offering any explanation. So, for the moment Dellinger again was removed, pending the appellate court’s determination as to whether Trump has the authority to fire him without cause. On March 6, Dellinger ended his legal challenge to remain in his job, [citing](#) that his “odds of ultimately prevailing before the Supreme Court are long.” Those odds may have been lengthened because he was the sole head of the OSC, and courts have been more willing to protect heads of multi-member agencies than sole heads. After Dellinger dropped his case, the Supreme Court [denied](#) the administration’s order to vacate the lower court as moot.

Office of Management and Budget

A federal judge (U.S. District Judge Loren L. AliKhan) temporarily blocked the OMB funding freeze, until February 3 at 5:00 pm. No purported federal authority was cited by OMB as a basis for the pause, and it is unclear how the pause squares with the [Impoundment Control Act of 1974](#) (ICA). An OMB [FAQ](#) claims that the temporary pause is not an impoundment under the ICA. Law Professor Steve Vladeck had this to say about the pause, “In essence, the Trump administration is claiming the unilateral power to at least temporarily “impound” tens of billions of dollars of appropriated funds—in direct conflict with Congress’s constitutional power of the purse, and in even more flagrant violation of the [ICA].” Vladeck goes on to say that the administration is likely to challenge the constitutionality of the ICA, and Media Matters [notes](#) that the architect of Project 2025, Russell Vought, “whose fingerprints are all over Trump’s new federal funding (“has long argued in support of the president’s power to impound – that is, refuse to spend – funds allocated by Congress.”

Judge AliKhan’s order meant that federal agencies, states and other organizations that receive federal government funding would continue to receive funds beyond the January 28 deadline set by OMB. The [lawsuit](#) was brought against OMB by a group of nonprofit organizations under the National Council of Nonprofits, the American Public Health Association, Main Street Alliance and SAGE, and supported by Democracy Forward. On

February 3, Judge AliKhan issued a [temporary restraining order](#) consistent with her initial order.

On February 25, based on briefs submitted by both sides, oral argument and an amicus brief submitted by the American Center for Law and Justice, Judge AliKhan issued a [preliminary injunction](#) in plaintiffs' favor. The judge found that, [i]n the simplest terms, the freeze was ill-conceived from the beginning. ... The breadth of that [freeze] is almost unfathomable."

Another federal judge (Chief Judge John J. McConnell, Jr.) granted a [temporary restraining order](#) (1/21/25) in a separate case challenging the pause in federal funding (grants and other programs) ordered by OMB, brought by Democratic attorneys general of 22 states and the District of Columbia. In dispensing with defendants' claim of mootness on the ground that the OMB rescinded its "freeze" directive, the judge noted that "the evidence shows that the alleged rescission of the OMB directive was in name-only and may have been issued simply to defeat the jurisdiction of the courts. The substantive effect of the directive carries on." In granting the temporary restraining order, the court found a substantial likelihood that the plaintiffs would prevail on the merits and that the OMB directive will be found that have violated the Constitution and federal statutes.

Following presentation of evidence by the attorneys general plaintiffs that the Trump administration was ignoring the temporary restraining order issued by Judge McConnell, by continuing to improperly freeze federal funds and refusing to resume disbursement of appropriated federal funds, the judge issued a separate [order](#) (2/10/25). That order directed the Trump administration to comply with his temporary restraining order to unfreeze federal grants. The judge, citing the Constitution, federal statutes, Supreme Court precedent and his initial temporary restraining order, specifically ordered the Trump administration to:

- immediately restore frozen funding during the pendency of the temporary restraining order until the Court hears and decides the preliminary injunction request;
- immediately end any federal funding pause during the pendency of the temporary restraining order;
- immediately take every step necessary to effectuate the temporary restraining order, including clearing any administrative, operational or technical hurdles to implementation;
- comply with the plain text of the temporary restraining order not to pause any funds based on pronouncements pausing funding incorporated into the OMB directive;
- immediately restore withheld funds, including those federal funds appropriated in the Inflation Reduction Act and the Infrastructure Improvement and Jobs Act; and
- resume the funding of institutes and other agencies (for example the National Institute for Health) otherwise covered by the temporary restraining order.

To be clear, Judge McConnell in effect found the Trump administration to have violated his earlier temporary restraining order. In his order, he made reference to caselaw holding that defendants “who make private determinations of the law and refuse to obey an order generally risk criminal contempt even if the order is ultimately ruled incorrect.” It does not get clearer than that.

As [ProPublica](#) set out following this latest intervention by the federal courts, notwithstanding consistent orders to unblock funds, federal agencies are continuing to do so. The article notes that “agencies continue to suspend funding, despite multiple court orders blocking the federal freeze. Experts say the Trump administration’s actions set the stage for challenges to Congress’ authority – and the limits of the presidency.”

For more on the Impoundment Control Act, see “[The Trump Administration Cannot Use Award Terms and Conditions to Impound Funds](#)” in Just Security.

Office of Personnel Management

A group of federal employees together with multiple employee unions, including the American Federation of Government Employees and the Association of Administrative Law Judges, [sued](#) OPM and DOGE to block DOGE from accessing the private information of millions of Americans stored by OPM, and to delete any data that has been collected or removed from databases (2/11/25). The lawsuit also asks the court to block OPM from sharing further data with DOGE. Plaintiffs cite both the Privacy Act of 1974 and the Administrative Procedure Act. Plaintiffs are represented by Lex Lumina, Electronic Frontier Foundation (EFF), State Democracy Defenders Fund and The Chandra Law Firm.

In its press release about the lawsuit, EFF notes because the federal government is America’s largest employer, OPM’s records are one of the largest, if not the largest, collection of employee data in the country. Data include PII such as names, social security numbers, and demographics, work experience, union activities, salaries, performance, and demotions; health information, including life insurance and health benefits; financial information, including death benefit designations and savings programs; and nondisclosure agreements. These records cover millions of federal workers and millions more Americans who applied for federal jobs.

EFF notes that DOGE’s unchecked access puts the safety of all federal employees at risk of privacy violations to political pressure to blackmail to targeted attacks. EFF notes that, last year, Musk publicly [disclosed the names](#) of specific government employees whose jobs he claimed he would cut *before* he had access to the system. He has also targeted at least one [former employee](#) of Twitter.

Week Six, a [coalition](#) of unions, small businesses, veterans and conservation organizations [sued](#) OPM to block the mass termination of probationary federal employees. The motion for a temporary restraining order is supported by Altshuler Berzon LLP and State Democracy Defenders Fund. The complaint cites violations of federal law, including the Administrative Procedure Act. The complaint also seeks to block the five-accomplishments email request. It is widely reported that there are around

200,000 probationary federal employees, representing around 10% of the federal workforce.

A federal judge (District Court Judge William H. Alsup) issued a [temporary restraining order](#) enjoining the firing of probationary employees, whom the Judge called “the lifeblood of our government,” that covers the Veterans Affairs Department, the National Park Service, the Small Business Administration, the Bureau of Land Management, the National Science Foundation and other agencies whose firings impact the civic groups that sued (02/28/25). The court found that the labor union plaintiffs did not have standing, hence the order did not cover all federal agencies, including the Defense Department that is set to fire 5,400 probationary employees. The Judge did ask defense counsel to communicate his general message across all government agencies, with the Defense Department front of mind.

The order was premised on the court’s finding that OPM does not have “any authority whatsoever under any statute in the history of the universe to hire or fire employees at another federal agency.” The Judge ordered OPM to rescind its January 20 [memorandum](#) (guidance on probationary periods) and February 14 [internal email](#) directing agencies to identify probationary employees who are not “mission-critical” and fire them. The Judge labelled these OPM directions as “illegal.”

This was the second setback for the administration on probationary firings, the first being the [MSPB](#) order to temporarily reinstate six fired probationary employees.

Other Legal Actions

Governor Josh Stein and various Pennsylvania state government departments [sued](#) various departments of the federal government alleging the Trump administration had failed to disburse more than \$2 billion in approved federal funding owed Pennsylvania in spite of a court order lifting the federal spending freeze.

Privacy and Civil Liberties Oversight Board

Two Senate-confirmed members of the Privacy and Civil Liberties Oversight Board (two of the three Democrats on the Board) who were removed from the Board [sued](#) to enjoin their removal (02/24/25). The plaintiffs were represented by Arnold & Porter Kaye Scholer. The Board was established by [statute](#) following recommendations of the 9/11 Commission.

Refugee Admissions Program – new

A group of plaintiffs including HIAS, Church World Service and Lutheran Community Services Northwest, as well as individuals, [sued](#) Trump, Secretaries Rubio and Noem, and acting Secretary of HHS Dorothy Fink, to block implementation of the [Refugee Admissions Program EO](#) (02/10/25).

The refugee resettlement program was established in 1980 under the Refugee Act to provide a “permanent and systematic procedure” for refugee admissions. The program provides a legal path for admission to the United States for persons displaced by persecution, war and natural disaster. It differs from asylum. The Refugee Act mandate is fulfilled through the US Refugee Assistance Program, which is jointly administered by

the State Department (though the Bureau of Population, Refugees and Migration), Homeland Security (through Citizenship and Immigration Services), the Department of Health and Human Services (though the Office of Refugee Resettlement) and the United Nations (through the International Organization for Migration and the UN High Commissioner for Refugees).

Week Six, a federal judge (District Court Judge Jamal N. Whitehead) granted plaintiffs' motion for a preliminary injunction. His [ruling](#) from the bench (02/25/25) was followed by an [order](#) (02/28/25), in which Judge Whitehead, citing *Youngstown*, found that while Trump "enjoys considerable latitude to suspend refugee admissions, that discretion is not boundless." Trump may not "effect a wholesale reversal of legislatively established policy" and he may not "nullify an entire statutory framework through executive decree. The Constitution's separation of powers demands this limitation."

Sanctuary Cities

Two cases have been brought challenging Trump administration guidance and actions relating to sanctuary cities. One case, brought by [Chicago-based organizations](#), raises First Amendment and Administrative Procedure Act claims against DHS (01/25/25) and the second one, brought by [the City and County of San Francisco](#) challenge, based on the Tenth Amendment, Separation of Powers, the Spending Clause and Due Process Clause, Trump administration efforts to withhold funds from sanctuary cities (02/07/25). The suit names Trump, the Attorney General, the Secretary of Homeland Security and the acting Deputy Attorney General.

Social Security Administration

The American Federation of State, County & Municipal Employees, the American Federation of Teachers and the Alliance for Retired Americans [sued](#) the Social Security Administration (SSA) and DOGE to enjoin access by DOGE to personal information in the SSA system (02/21/25). The plaintiffs are represented by Democracy Forward Foundation.

Transgender Rights

A federal judge has temporarily blocked the Federal Bureau of Prisons from carrying out the EO directing incarcerated transgender women into men's prisons and ending gender transition medical facilities.

DOMESTIC CONSEQUENCES

USAID

According to a 2023 USAID report [cited](#) by Unlock Aid, nearly 90% of USAID expenditures in FY 2022 were disbursed to international contracting partners, most of which are based in or around Washington, D.C., with only 10% going to frontline, local groups. It is therefore not a surprise to see reporting along the lines of this report from the Washington Post ([“Gutting USAID threatens billions of dollars for US farms, business”](#)) which notes that efforts to shutter USAID “has left American workers in limbo and threatens billions of dollars the agency spends on American businesses and organizations.”

USAID oversees projects such as food aid, disaster relief and health programs in over 100 countries with a staff of more than 10,000 and a budget of around \$40 billion, but “billions of those dollars flowed back into the American economy” until the freeze ordered by Trump. The article notes that American farms on average supplied around 41% of food aid distributed around the world, representing in 2021 purchases from American farms of \$2.1 billion. “Purchases and shipments of US food aid worth over \$340 million – including rice, wheat and soybeans – have been paused during Trump’s foreign-aid freeze.”

DOGE and the Great Hack

I have cited in various sections above a concerted effort on the part of Musk and six tech engineers ([ages 19-25](#)) to access US government IT systems in what experts have characterized as a hack of catastrophic proportions. Charlie Warzel and Ian Bogost, writing in The Atlantic ([“The Government's Computing Experts Say They Are Terrified”](#)) spoke to four IT experts, starting off their piece as follows: “Elon Musk’s unceasing attempts to access the data and information systems of the federal government range so widely, and are so unprecedented and unpredictable, that government computing experts believe the effort has spun out of control. ... each expert was unequivocal: They are terrified and struggling to articulate the scale of the crisis.” One expert went on to say, “this is the largest data breach and the largest IT security breach in our country’s history – at least that’s publicly known.”

A February 13 [post](#) by Bruce Schneier, a lecturer at the Harvard Kennedy School, and Davi Ottenheimer at Inrupt highlight the national security consequences of what they termed “the most consequential security breach in the history of the US government” with implications for national security that they label as profound and staggering. In the sum, they noted the following:

- the systems accessed are not “esoteric pieces of our nation’s infrastructure, they are the sinews of government;
- what makes the hack unprecedented is not just the scope, but the method – this is not a penetration by a foreign adversary, but rather by domestic operators with limited experience and minimal oversight, in plain sight;

- what is most alarming is not just the access but the “systematic dismantling of security measures that would detect and prevent misuse ... by removing the career officials in charge of those security measures and replacing them with inexperienced operators.”
- by modifying core systems, DOGE has not only compromised current operations, but has left behind vulnerabilities that could be exploited in future attacks, giving Russia and China, for example, an [unprecedented opportunity](#).

See also [a conversation](#) between Stanford Law Professors Pam Karlan and Mark Lemley.

Incidentally, various news outlets (*see, e.g., Bloomberg*) have reported that one of the engineers, who has been tapped as an IT advisor for the State Department (alongside his DOGE role) was fired from a prior job for leaking proprietary company information.

NYC Comptroller Brad Lander issued a [statement](#) (2/12/25) accusing the Trump administration of clawing back \$80 million in congressionally-appropriated FEMA funding for shelter and services from New York City bank accounts. Suspiciously coincident to the pardoning of NYC’s mayor. The Homeland Security Secretary was unapologetic in a post on X, “I have clawed back the full payment that FEMA deep state activists unilaterally gave to N.Y.C. migrant hotels. Mark my words: there will not be a single penny spent that goes against the interest and safety of the American people.” According to the [New York Times](#), the \$80 million was disbursed as a grant from the Shelter and Services Program, administrated by FEMA and initiated by Congress in 2023 to issue grants to cities providing services to migrants who had been released from federal custody after crossing the border. In a related incident, four FEMA officials, including its chief financial officer, were [fired](#) for having disbursed congressionally authorized funds.

States Rights?

Jonathan Chait, writing in The Atlantic, [reported](#) on an exchange between Trump and Maine Governor Janet Mills. While explaining his trans EO to a group of governors at the White House, he singled out the Governor. When he asked her whether she would comply with the EO, she responded “I’m complying with state and federal laws.” He replied, “We *are* the federal law.” He then threatened to deny Maine federal funding if she fails to comply.” As Chait notes, “Trump cannot simply cut Maine off financially because the state chooses to challenge federal policy. Distinctions like this, however, seem totally lost on the president, who sees himself as national king.” Referring to Trump’s “He who saves...” pronouncement, his response to Mills is entirely consistent – “Since Trump cannot violate the law, it follows that the law means whatever he says.”

In her [interview](#) with the New York Times (published 01/03/25), Massachusetts Governor Maura Healey characterized the Trump attack on Governor Mills as follows:

“I heard somebody who thinks he’s king. Congress makes the laws. ... The judiciary enforces the laws and determines the application of the law. And the executive, and I’m an executive, my job is to faithfully apply and execute the law. And so, that’s a problem. He doesn’t believe that Congress makes the law. He believes that he makes the law.

And as for cutting off federal funding, again that runs counter to the Constitution. Congress appropriates funding.

Meanwhile, speaking at CPAC, presidential envoy for Special Missions and head of the Kennedy Center Ric Grenell [threatened](#) that there will conditions attached to aid to California to rebuild after the wildfires.

Public Safety

As the Center for American Progress set out in a recent report (“[Trump’s Rash Immigration Actions Place Cruelty and Spectacle Above Security](#)”), Trumps rash border security and deportations programs are actually harming public safety and national security while offering no concrete policy solutions to fix our admittedly broker immigration system. These theatrical “shock and awe” actions follow a broader patters of cruelty “as indiscriminate [proposed spending cuts](#) from the White House and congressional Republicans have [forced Head Start facilities to temporarily close, prevented community health centers from accessing funds to serve patients, targeted Medicaid and the Supplemental Nutrition Assistance Program, and shut down lifesaving health programs across the globe](#). The administration’s immigration agenda is just as indiscriminate, ripping apart families and communities while jeopardizing national security and public safety.”

Trump, as the National Immigration Council notes, is [wrongly](#) criminalizing [anyone his administration suspects lacks legal status](#), subjecting them to [arrest by law enforcement](#). [Veterans and U.S citizens](#) have been detained, Native American Tribal members’ [identities](#) have been challenged, and [pregnant women and children](#) have been detained. Worryingly from a public safety perspective, law enforcement time and resources are prioritizing these photo opportunities at the expense of countering [public safety threats](#). We now have “collateral arrests” of people who pose no danger to public safety, tearing apart families and destroying communities, while making the country less safe.

The Great Grift – new

One of the stealth moves on Day One, buried among 78 “[harmful EOs](#)” that were rescinded, was EO 13989 ([Ethics Commitments by Executive Branch Personnel](#)), which required all executive agency appointees to sign a pledge, which among other things, included a series of revolving door bans, a ban on accepting gifts from lobbyists and a ban on accepting “golden parachute” payments from a former employer payable upon accepting a position in the federal government. The pledge also includes an undertaking to make hiring and other employment decisions based on a candidate’s qualifications, competence and experience.

The pledge also includes in its preamble a commitment “to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit,” a commit “to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice” and a commitment “to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain.”

And, incidentally, recall that Trump fired the holding over IGs responsible for rooting out fraud in government.

GLOBAL CONSEQUENCES

Upending the Global World Order

In what one journalist characterized as the “darkest week for Europe since the 1940s,” Europe received its own Trump-led shock and awe with a three-pronged assault upending the global world order during Week Four. Others [cited](#) the “collapse of the transatlantic alliance.” The first salvo was over Ukraine, when Trump in a 90-minute call Vladimir Putin signalled his intention to surrender Ukraine without the Ukrainians or the Europeans at the table, presumably after securing half of its critical minerals as tabled by Treasury Secretary Bessent. The second salvo was Defense Secretary Hegseth’s message that America will no longer prioritize the defense of Europe, and the third salvo, Vance’s endorsement at the Munich Security Conference (MSC) of Europe’s far-right parties and his call to include them in government. Week Five would be worse.

There is no sugarcoating Trump’s performance – the great negotiator gave Putin much of what he wanted, without getting anything in return and before negotiations even started. Trump clearly gave up any pretence of being a supporter of Ukraine, and in the process lost any credibility of being the impartial dealmaker. Art of the deal? Trump only spoke to President Zelensky after the call with Putin. Moreover, Trump seems to be unfazed by having been played by Putin – As *The Economist* [pointed out](#), Putin is not winning in Ukraine. Russia’s battlefield gains largely dropped off after the first weeks of the invasion; it occupies 19.2% of Ukraine at the cost of over 800,000 casualties (compared to 19.6% of controlled territory in April 2022); more than half of its 7,300 tanks are destroyed and it may well run out of T-80 tanks by April. Oh, and the country is experiencing double-digit inflation and its interest rates are 21%.

In his [address](#) to NATO shortly before the Trump call with Putin, Hegseth first addressed Ukraine: return to pre-2014 borders “is unrealistic,” Ukraine’s NATO membership is not a “realistic outcome,” and US troops will not be part of any security guarantees; instead the guarantee must be backed by European and non-European troops. As for NATO, defense spending should reach 5% of GDP. And finally, he was in Brussels “to directly and unambiguously express that stark strategic realities prevent the United States of America from being primarily focused on the security of Europe.”

Tortoise Media set out an interesting timeline:

- 1938: British PM Neville Chamberlain promises “peace in our time.” WWII begins 11 months later, with 10 million Ukrainian war dead.
- 1945: FDR, Churchill and Stalin meet at Yalta to set out the post-war world order.
- 1991: President George HW Bush warns Ukraine of “suicidal nationalism” four months after which 92% of voters vote to withdraw from the USSR.
- 1994: the US, UK and Russia sign the so-called Budapest Memorandum, under which the Ukrainians give up the nuclear weapons on their territory (then the third largest nuclear arsenal in the world) in return for guarantees that none of the parties would use

military force or economic coercion against Ukraine and would respect Ukraine's sovereignty and independence.

- 2008: Russian invades Georgia.
- 2014: Russian annexes Crimea and occupies part of the Donbas.
- 2022: Russian launches a full-scale invasion of Ukraine.

As Russian affairs correspondent Pjotr Sauer [wrote](#) in The Guardian, the mood in Moscow's political circles after the Trump call was buoyant. Trump may well join Putin in Moscow for the annual May 9 Victory Day parade. "The once-unthinkable image of a US leader seated beside Putin, watching Russian soldiers who fought in Ukraine march across Red Square in the country's grandest display of power, no longer feels so far-fetched. If it came to pass, it would deal a devastating blow to the west's three-year effort to diplomatically isolate the Russian president." Guardian journalist Andrew Roth [raises](#) the possibility that Trump might agree to the withdrawal of US forces stationed in the Baltics, Poland and other former Warsaw Pact countries based on Putin's desire (as set out in the Russian read-out of the call with Trump, that the Ukraine deal also address "the origins of the conflict"). Not farfetched, muses Roth, if Trump is only interested in the rare earth minerals in Ukraine.

If the European audience at MSC was expecting a broader riff on external security threats, they were sorely let down. After all, the 2022 MSC was overshadowed by fears that Russia would shortly launch its invasion of Ukraine (which it did days later) and during the 2024 meeting (many believe not coincidentally), opposition leader Alexei Navalny died in a Russian prison camp. Vance's statement that "The threat I worry the most about vis-à-vis Europe is not Russia, it's not China, it's ... the threat from within" was viewed as a direct challenge to democracy in Europe. Ironic that he delivered his [remarks](#), in effect endorsing the far-right Alternative für Deutschland (AfD), after paying a visit to the Dachau concentration camp. In effect, as President Zelensky intimated, once again Putin and his anti-democratic fervor overshadowed yet another MSC, this time courtesy of the Americans.

In what was seen as an ill-advised lecture and reprimand, Vance cited the cancellation of the presidential election in Romania due to strong evidence of Russian interference, the prosecution of an anti-abortion protester in Britain and the exclusion of far-left and far-right German politicians from the MSC. Equally troubling was Vance's attack on content moderation, accusing European leaders of "hiding behind ugly Soviet-era words like 'misinformation' and 'disinformation.'" Vance continued, "In Britain, and across Europe, free speech, I fear, is in retreat." These accusations not only echo the canard that American internet researchers are engaged in "censorship of conservative free speech," but Vance went on to accuse the Biden administration of "threatening and bullying social media companies to censor so-called misinformation." *See generally* ["Fact check: JD Vance's free speech claims debunked."](#)

Perhaps the most shocking message came in the juxtaposition of two comments: "If you're running in fear of your own voters, there is nothing America can do for you. Nor, for that matter, is there anything that you can do for the American people who elected me and elected President Trump" and "For years, we've been told that everything we fund

and support is in the name of our shared democratic values.” The future of defense of Europe is very much in doubt – no “shared values” anymore, then no support.

Vance [chose](#) to meet the co-leader of the AfD Alice Weidel, but not the German chancellor, Olaf Scholz. Parts of the AfD have been under surveillance by Germany’s domestic intelligence services for suspected domestic terrorism and extremism for some years. In a post on X, Scholz had this reaction to Vance, “I expressly reject” Vance’s message. “From the experience of National Socialism, the democratic parties in Germany have a common consensus: this is the firewall against extreme right-wing parties.”

Gideon Rachman aptly [characterized](#) Trump’s position over Ukraine and Vance’s warning as compelling evidence that “American culture wars, international security and European politics can no longer be disentangled.” The Europeans are now scrambling to figure out how to respond to the cascading chain of events, including being excluded from talks over the fate of Ukraine, and more fundamentally, what this all means for the future of European security. Patrick Wintour Guardian diplomatic correspondent [summed up](#) the split in European views – some believing the rupture with the United States is recoverable, while others take a far darker view, that the Trump administration is intent on weakening and dividing the Europeans, and leaving them to fend for themselves.

It is ironic too that Vance chose to lecture (incidentally completely unfairly) about free speech and criticized Europeans for “censoring opponents” and “putting them in jail.” Equally ironic, former Russian President and Prime Minister Dmitry Medvedev [praised](#) the remarks. We should not miss the significance of the inflection point, as defense of Europe slips away in favor of an inexplicable rapprochement with Russia.

In a further sign of the intention to disrupt and destabilize, the Trump administration reportedly [has pressured](#) authorities in Romania to lift travel restrictions on [Andrew Tate](#) and his brother Tristan, both facing criminal charges in Romania of sexual misconduct, engaging in organized crime and money laundering.

And that was just Week Four. Week Five would drive a stake into the heart of the Atlantic alliance. Peter Baker would [aptly characterize](#) Trump’s revisionism and pivot to Russia unimaginable since Yalta as follows, “Three years almost to the day, President Trump is rewriting the history of Russia’s invasion of its smaller neighbor. Ukraine, in this version, is not a victim but a villain. And Mr. Zelensky is not a latter-day Winston Churchill, but a ‘dictator without elections’ who somehow started the war himself and conned America into helping. ... the vitriol expressed towards Mr. Zelensky drew gasps of surprise on both sides of the Atlantic.” Trump claimed Zelensky’s popularity rating is 4% (in fact it is [57%](#)).

And shortly after attacking Zelensky, in his assault on New York City’s congestion charge (forgetting for the moment that he has for months championed states’ rights over federal intervention), Trump [called](#) himself “King”

To be clear, the idea that Zelensky “talked the United States of America into spending \$350 Billion Dollars, to go into a War that couldn’t be won” (per Trump’s post on Truth

Social) when the entire world saw Russia without provocation and in violation of international law ruthlessly attack Ukraine and commit unspeakable atrocities against its civilian population and infrastructure is the ultimate and shameless distortion of reality. As for being a dictator, Zelensky won over 70% of the vote, against the then incumbent president and his approval ratings are higher than Trump's. (A poll [conducted](#) February 4-9 in Ukraine shows 57% of the 1,000 surveyed trusting Zelensky, down 90% from May 2022, but up from 52% in December 2024.)

One of the few voices of reason among the Republicans, former Vice President Mike Pence, [was crystal clear](#), Russia “launched an unprovoked and brutal invasion.” Tortoise Media was prescient in its post last week starting its timeline with Neville Chamberlain's appeasement of Hitler in giving up parts of Czechoslovakia to prevent war. We all know how that ended.

And as for the \$350 billion and his later claim that “Europe has given \$100 billion and [the US has] given \$300-plus [billion], the facts (according to the Kiel Institute): these are factually incorrect. When Trump accused Zelensky of “admitting that half the money is missing,” as CNN [notes](#), what Zelensky was saying was that a large portion of US aid to Ukraine is not handed over to the Ukrainians.

Zelensky is [correct](#). Over the past three years, Europe has allocated €132 billion and the United States has allocated €114 billion, roughly half of which €120 billion has been military assistance. While Europe and the United States are roughly on par on military aid., Europe has long surpassed the United States on financial and humanitarian aid (€70 billion versus €50 billion). And what Trump glosses over or does not seem to understand, as the Center for Strategic and International Studies [noted](#) last May, the idea of “aid to Ukraine” is a misnomer. Around 72% of money overall and 86% of military aid is spent in the United States – the weapons sent are produced in factories in the United States (and in fact the money is largely spent to replenish US stockpiles with more modern weapons as older systems are deployed), payments to US service members are largely spent in the United States and a portion of humanitarian aid is spent in the United States.

And for Trump to now seek half of Ukraine's critical minerals, worth three to four times the military, humanitarian and other financial aid expended in defense of Ukraine (a significant portion of which was spent in the United States and all of which was expended to defend the West from Putin) is reprehensible.

Week Six would vie with Week Five as the most shameful week in US foreign policy in decades. On the third anniversary of the February 2022 invasion of Ukraine, the Ukraine government put forward a General Assembly resolution demanding the withdrawal by Russia of its forces from Ukraine and accountability for its war crimes as a basis for peace. The vote: 93 supported the resolution, 65 abstained and 18 voted against (including Russia, North Korea, Nicaragua, Belarus, Equatorial Guinea, Israel and the

United States of America).² We are now aligned with a war criminal, a leader deemed responsible for the murder of the Russian journalist Anna Politkovskaya, former intelligence officer Alexander Litvinenko and opposition leader Alexei Navalny, and who unleashed the illegal invasion of Georgia, the invasion and seizure of Crimea and the brutal invasion of Ukraine that has witnessed untold war crimes and crimes against humanity against the people of Ukraine. And Trump has driven a wedge between the United States and its closest allies.

And if we needed a reminder of the sway Putin has over Trump and Vance, we have the excruciating [seven minutes](#) of Vance and Trump shamelessly shaking down Zelensky in the Oval Office for the whole world to see. After close to 40 minutes of cordial discussion, and following a question from a Polish journalist, Vance launched into his invectives. It certainly looked like a set-up – an ambush, because even in this chaotic White House, someone should have recognized that anyone schooled in the “art of closing the deal” would never countenance a public shaming, let alone recognize that the absence of security guarantees as part of the minerals deal was a red line for Zelensky.

Michael Smerconish [offered](#) an interesting angle on Trump’s broadsides – he jumped in when he saw that Vance was upstaging him. Note too that Vance contradicted the Trump narrative by stating that “Putin invaded Ukraine and destroyed a chunk of the country.” And ironic that Trump became incensed when Zelensky warned Trump of the threats that Putin poses (“... you will feel it in the future”). Yes, “great television,” but this is not entertaining, it is appalling. And there is only one winner in all of this, Vladimir Putin.

Equally revealing was Trump’s response to a reporter who asked what would happen if Russia violated a Trump-negotiated ceasefire? Trump shot back, “What if anything?” “What if a bomb drops on your head right now?” He then continued with his grievance riff over the Russia investigation, “Let me tell you, Putin went through a hell of a lot with me. He went through a phony witch hunt where they used Russia, Russia, Russia, Russia.” See “[The Real Reason Trump Berated Zelensky.](#)”

Not that we needed reminding that Trump plays fast and loose with the truth – as to the facts (see also [PolitiFact](#), of the Poynter Institute and [FactCheck.org](#)):

- “You have not thanked us” – see CNN [fact check](#) identifying 33 expression of thanks or gratitude in English (excluding those in Ukrainian). Most recently, after a call in February 12 with Trump, Zelensky posted on X “I am grateful to

² The General Assembly also took up a second resolution proposed by the United States that acknowledged the “tragic loss of life” and called for a swift end to the conflict, without mentioning Russian aggression. France proposed three amendments that stated that the conflict was the result of Russia’s “full-scale invasion,” reaffirmed commitment to Ukraine’s sovereignty, independence, unity and territorial integrity, and called for peace that respects the UN Charter. This resolution passed 93-8, with 73 abstentions. The United States abstained and Russia voted against. The vote on the amendments was 60-18, with 81 abstentions. The United States then submitted its initial resolution to the Security Council (with no mention of Russian aggression), where it was approved 10-0, with Britain, Denmark, France, Greece and Slovenia abstaining. See [UN News](#).

President Trump” and “I appreciate his genuine interest.” In a February 19 press conference, Zelensky exclaimed, “I am thankful for all of (Trump’s) support.”

- “We gave you \$350 billion” – see above. Note also that Ukraine Oversight (set up by the US government to oversee aid to Ukraine as part of Operation Atlantic Resolve) [estimates](#) the US has provided \$183 billion and provided a further \$20 billion in loans as part of a G7 initiative. Mark Cancian, a senior adviser with the Center for Strategic and International Studies, estimates US aid to Ukraine in the range of \$175-185 billion.
- “You campaigned for the opposition in October” – No, Zelensky visited an ammunition plant in Scranton where he thanked workers producing munitions for Ukraine. During that trip, Zelensky met with President Biden and Vice President Harris, and also met with Trump in New York City.
- “Zelensky is a dictator” – No, he was [elected](#) in March 2019 to a five year-term and garnered more than 73% of the vote. Following the invasion in February 2022, martial law [was declared](#). Ukrainian law [provides](#) for a suspension of elections during the pendency of martial law. There are a number of reasons why elections would be fraught – first, millions of Ukrainians are living outside the country, second hundreds of thousands of troops are deployed to front lines, third close to 20% of the country is under Russian occupation and fourth lines of voters at the polls would be potential targets of Russian drone attacks.
- “Zelensky has a 4% approval rating” – see above.

And now, Week Seven and the day before his address to Congress, not surprisingly, Trump has “paused” congressional authorized military aid to Ukraine, with a White House official reporting that Trump wants Zelensky “committed” to reaching a peace agreement. Recall that this is the second such pause, as five years ago Trump held up congressionally authorized aid, leading to his first impeachment. And like that first pause, this one constitutes “an impoundment” in violation of the [Impoundment Control Act](#) and hence is unconstitutional as a breach of his obligation to [take care](#) that the laws are faithfully executed (Take Care Clause of the Constitution). Recall too that there is no effort to pressure the adversary, Russia, to come to the negotiating table (an adversary that has little incentive to end its illegal war unless there are further concessions from Trump we don’t know about), rather only pressure on our ally, Ukraine.

CNN [reports](#) that the pause only applies to aid not yet delivered to Ukraine, and that Ukraine might have sufficient weaponry to continue fighting, perhaps until summer. That said, CNN also quotes CSIS adviser Mark Cancian as saying that the impact “could be crippling” in two to four months, aided by continued deliveries of military aid from European countries.

Separately, The Guardian [reports](#) that the State Department and the Treasury Department have been directed to draw up plans for potential sanctions relief for Russia and sanctioned individuals. It remains unclear which sanctions would be lifted first and under what conditions. While some sanctions could be lifted by EO, others would likely need congressional approval. Notwithstanding Secretary Rubio’s exclamation of “incredible

opportunities were Moscow to end the war, it is less clear that US businesses would be quick to return to Russia were sanctions lifted, and certainly plenty of reasons to not do so (see [Not in a Hurry](#), [Open Question](#) and [Not Raring to Get Back](#)).

So, for those tuning in late, why did Trump launch his revisionist broadside on Zelensky before the cringeworthy Oval Office exchange? Possibly because he is in such thrall to Putin that he needs to continue to please him as Putin plays him so well, or simply because for Trump lying works. Recall that over 70% of Republicans believed that Trump won the 2020 election and significant numbers of Republicans bought the idea that January 6th was a peaceful protest by a group of well-meaning patriots. Putin has one long-term strategic goal to crush the Atlantic alliance, and Trump is now complicit in that endeavor. And he may be more than complicit if the goal is to carve up the world.

I remain convinced that we will weather this storm, though when and how, and with what irreversible damage I do not know. But one thing is clear, the rest of the world will never again look upon the United States of America as it has for at least 80 years. As for the pain for the Ukrainians, consider the following: see [Trump's Ukrainian betrayal](#).

Withdrawal of Foreign Assistance

Books could, and no doubt will, be written about the devastating impact of the USAID funding freeze. I was intrigued by Washington Post [reporting](#) in Week Six that the acting deputy IG for USAID and his staff have been sitting on two reports out of fear that, if the reports are released, the White House will retaliate against them for being the bearer of bad news. One report chronicles the dire situation in Gaza, with the funding freeze threatening the ceasefire, and the second, a global audit, cites the risks of widespread looting and disease, with dire conditions across southern Africa, Senegal and Sudan. The USAID IG position remains vacant following the firing of IG Paul K. Martin the day after he issued a report on the chaos triggered by the withdrawal of USAID assistance and staff.

CONCLUDING THOUGHTS

The Law and the Constitution

Our legal system is under threat. Professor Lawrence Tribe properly [frames](#) the issue: “Without any doubt Donald Trump is the most lawless and scofflaw president we have ever seen in the history of the United States.” Continuing with the muzzle velocity characterization (*see* below), Tribe describes “a blitzkrieg on the law and the constitution. The very fact that the illegal actions have come out with the speed of a rapidly firing Gatling gun makes it very hard for people to focus on any one of them. That’s obviously part of the strategy.” The freeze on federal spending and the attempt to end birthright citizenship have no legal basis. The manner in which the IGs were removed violated the law, and a number of firings of federal employees likely will be found to have violated the law.

“Muzzle velocity”

In his February 2 op-ed (“[Don’t Believe Him](#)”), Ezra Klein has some critically important insights. Klein points out that the Trump strategy is Bannon’s “muzzle velocity.” Flooding the zone is the point – the objective of the EOs and announcements cumulatively is to overwhelm and distract, to keep us all off-balance. Trump has power – that of the presidency, but that power has limits. He seeks to make us all believe he has omnipotent power. But, as Klein urges, “don’t believe him.”

He is acting by EO because he is afraid of seeking more durable legislation via Congress, even though Republicans control both chambers on Capitol Hill. Were he to do so with the margins he has, however, he would fail, and recalling the humiliation of the McCain thumbs down, he fears looking weak. Klein concludes that “Trump is acting like a king, because he is too weak to govern like a president.” “He is hoping that perception then becomes reality. That can only happen if we believe him.” Klein reminds us not to mistake the chaos for command and control or to mistake the speed and force for a real strategy for governing.

Little of what Trump is doing should be making him more popular. After all, much of the carnage (shrinking government, imposing tariffs) may be intended to provide cover for his tax cuts. He has only one direction and one speed now, and that, Klein posits, is to continue to overreach, and that will make him even more unpopular. The question is whether the Republic can survive to the midterms?

Slide to Autocracy?

As Week Four wound to a close, Trump posted on Social Media and on X the cryptic message: “He who saves his Country does not violate any Law” – perhaps paraphrasing Napoleon Bonaparte, and echoing ([according](#) to Time Magazine) the authoritarian leader of El Salvador Nayib Bukele). The question is whether this statement portends plans for the administration to ignore court rulings or is a message to MAGA extremists that if they act outside the bounds of the law they will be protected. *See* “[Trump Suggests No](#)

[Laws Are Broken if He's 'Saving His Country'.](#)” It is hard to characterize this statement as anything other than dictatorial, and sadly both Musk and Vance appear to be onboard.

* * *

For months leading up to the election, some warned of the risk of an impending slide to fascism should Trump win. Far too many thought the warnings were at best inapt and at worst alarmist – their authors, victims of Trump “derangement syndrome.”

Well, here we are, with January 6th insurrectionists, including militia members found guilty of sedition, pardoned or had their sentences commuted, and some were welcomed on Capitol Hill, while those who investigated them are now under threat. Countless public servants have been driven out of their jobs for just doing their jobs. Government watchdogs have been fired in violation of the law. Floods, fires and a plane crash have been weaponized for purely political reasons and possibly for sport. Refugees are no longer welcome, and the roundups of undocumented migrants that were sold to the American public as focusing on dangerous criminals have reached well beyond criminals. Foreign aid has dried up, putting programs, aid workers and aid volunteers, and lives across the Global South at risk. America is now positioned for forced territorial expansion, which must impress Vladimir Putin to no end. And not only are we aligned with Putin, while pushing away our traditional allies, but a slew of defenses that we have built up over the years to counter foreign espionage, foreign influence operations, corruption, kleptocracy and organized crime, and possibly terrorism are being dismantled and the professionals who spent years if not decades countering these threats, are being fired or reassigned. As a nation we are far less secure, and our insecurity deepens by the day.

These are also the less obvious but no less pernicious actions. As David Rothkopf so eloquently noted in his Substack (“[The Opposite of Woke is - Despotism](#)”), Trump and MAGA have declared war on information so as to create a “brain dead America.” He reminds us that one of the key elements of the playbook of autocrats (from Hitler, to Stalin, Mao, Putin and Orbán) is the attack on education, free thought, ideas, speech, knowledge and facts. The war on DEI and its many manifestations, including the banned words, should be seen for what they truly are, an “effort to outlaw or penalize ways of thinking, ways of seeing the world that do not confirm with the thinking of the small group that has seized the reins of our society.” The attacks on DEI, excluding members of the press from the press pool, attacks against law firms and universities – all are designed to chill open discourse and freedom of thought. This, Rothkopf concludes, is authoritarianism and despotism.

Trump has surrounded himself with cabinet members who pose unprecedented risks to our national security, our institutions and our public health. Consider that many of them would not be hired in a position of authority or placed on a board in corporate America. An unelected oligarch, through a department that does not legally exist, is gaining control of private data of federal civil servants, the federal payment systems and other sensitive

(and potentially classified) information, and those attempting to hold the line have been placed on administrative leave.

We should not be surprised, as Trump threatened much of what he has wrought. When Trump trumpeted he would be a dictator on Day One, this is what he meant. And far too many just laughed. Shame on us. This is a brazen effort to undermine the Constitution combined with blatant “state capture.” The question now is, what are we going to do about it? Where is the public outrage now that our Republic is so fundamentally threatened? We need to do more than leave it to a foreign leader ([Justin Trudeau](#)) or a French Senator to so eloquently frame the damage and place the blame where it belongs.

We must not normalize, and we must not minimize, what is happening. For our close to 250 years as a Republic, we have been spared what many have experienced and are experiencing. We must learn from them and, as Rothkopf urges, we must stand up and speak truth to power.

* * *

APPENDIX A – RESCINDED BIDEN EXECUTIVE ORDERS

- Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government).
- Executive Order 13986 of January 20, 2021 (Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census).
- Executive Order 13987 of January 20, 2021 (Organizing and Mobilizing the United States Government To Provide a Unified and Effective Response To Combat COVID-19 and To Provide United States Leadership on Global Health and Security).
- Executive Order 13988 of January 20, 2021 (Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation).
- Executive Order 13989 of January 20, 2021 (Ethics Commitments by Executive Branch Personnel).
- Executive Order 13990 of January 20, 2021 (Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis).
- Executive Order 13993 of January 20, 2021 (Revision of Civil Immigration Enforcement Policies and Priorities).
- Executive Order 13995 of January 21, 2021 (Ensuring an Equitable Pandemic Response and Recovery).
- Executive Order 13996 of January 21, 2021 (Establishing the COVID-19 Pandemic Testing Board and Ensuring a Sustainable Public Health Workforce for COVID-19 and Other Biological Threats).
- Executive Order 13997 of January 21, 2021 (Improving and Expanding Access to Care and Treatments for COVID-19).
- Executive Order 13999 of January 21, 2021 (Protecting Worker Health and Safety).
- Executive Order 14000 of January 21, 2021 (Supporting the Reopening and Continuing Operation of Schools and Early Childhood Education Providers).
- Executive Order 14002 of January 22, 2021 (Economic Relief Related to the COVID-19 Pandemic).
- Executive Order 14003 of January 22, 2021 (Protecting the Federal Workforce).
- Executive Order 14004 of January 25, 2021 (Enabling All Qualified Americans To Serve Their Country in Uniform).
- Executive Order 14006 of January 26, 2021 (Reforming Our Incarceration System To Eliminate the Use of Privately Operated Criminal Detention Facilities).
- Executive Order 14007 of January 27, 2021 (President’s Council of Advisors on Science and Technology).
- Executive Order 14008 of January 27, 2021 (Tackling the Climate Crisis at Home and Abroad).
- Executive Order 14009 of January 28, 2021 (Strengthening Medicaid and the Affordable Care Act).
- Executive Order 14010 of February 2, 2021 (Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border).
- Executive Order 14011 of February 2, 2021 (Establishment of Interagency Task Force on the Reunification of Families).
- Executive Order 14012 of February 2, 2021 (Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans).
- Executive Order 14013 of February 4, 2021 (Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration).
- Executive Order 14015 of February 14, 2021 (Establishment of the White House Office of Faith-Based and Neighborhood Partnerships).

- Executive Order 14019 of March 7, 2021 (Promoting Access to Voting).
- Executive Order 14020 of March 8, 2021 (Establishment of the White House Gender Policy Council).
- Executive Order 14021 of March 8, 2021 (Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity).
- Executive Order 14022 of April 1, 2021 (Termination of Emergency With Respect to the International Criminal Court).
- Executive Order 14027 of May 7, 2021 (Establishment of the Climate Change Support Office).
- Executive Order 14030 of May 20, 2021 (Climate-Related Financial Risk).
- Executive Order 14031 of May 28, 2021 (Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders).
- Executive Order 14035 of June 25, 2021 (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce).
- Executive Order 14037 of August 5, 2021 (Strengthening American Leadership in Clean Cars and Trucks).
- Executive Order 14045 of September 13, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Hispanics).
- Executive Order 14049 of October 11, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities).
- Executive Order 14050 of October 19, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans).
- Executive Order 14052 of November 15, 2021 (Implementation of the Infrastructure Investment and Jobs Act).
- Executive Order 14055 of November 18, 2021 (Nondisplacement of Qualified Workers Under Service Contracts).
- Executive Order 14057 of December 8, 2021 (Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability).
- Executive Order 14060 of December 15, 2021 (Establishing the United States Council on Transnational Organized Crime).
- Executive Order 14069 of March 15, 2022 (Advancing Economy, Efficiency, and Effectiveness in Federal Contracting by Promoting Pay Equity and Transparency).
- Executive Order 14070 of April 5, 2022 (Continuing To Strengthen Americans' Access to Affordable, Quality Health Coverage).
- Executive Order 14074 of May 25, 2022 (Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety).
- Executive Order 14075 of June 15, 2022 (Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals).
- Executive Order 14082 of September 12, 2022 (Implementation of the Energy and Infrastructure Provisions of the Inflation Reduction Act of 2022).
- Executive Order 14084 of September 30, 2022 (Promoting the Arts, the Humanities, and Museum and Library Services).
- Executive Order 14087 of October 14, 2022 (Lowering Prescription Drug Costs for Americans).
- Executive Order 14089 of December 13, 2022 (Establishing the President's Advisory Council on African Diaspora Engagement in the United States).
- Executive Order 14091 of February 16, 2023 (Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government).

- The Presidential Memorandum of March 13, 2023 (Withdrawal of Certain Areas off the United States Arctic Coast of the Outer Continental Shelf from Oil or Gas Leasing).
- Executive Order 14096 of April 21, 2023 (Revitalizing Our Nation’s Commitment to Environmental Justice for All).
- Executive Order 14099 of May 9, 2023 (Moving Beyond COVID-19 Vaccination Requirements for Federal Workers).
- Executive Order 14110 of October 30, 2023 (Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence).
- Executive Order 14115 of February 1, 2024 (Imposing Certain Sanctions on Persons Undermining Peace, Security, and Stability in the West Bank).
- Executive Order 14124 of July 17, 2024 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity Through Hispanic-Serving Institutions).
- The Presidential Memorandum of January 6, 2025 (Withdrawal of Certain Areas of the United States Outer Continental Shelf from Oil or Natural Gas Leasing).
- The Presidential Memorandum of January 14, 2025 (Certification of Rescission of Cuba’s Designation as a State Sponsor of Terrorism).
- The Presidential Memorandum of January 14, 2025 (Revocation of National Security Presidential Memorandum 5).