

# Using the Military to Fight Climate Change

## INTRODUCTION

“Congressional inaction” has become a ubiquitous phrase amongst political pundits and commentators.<sup>1</sup> Despite a Democratic president and Democratic majorities in the House and Senate, it is still exceedingly difficult to pass major legislative initiatives.<sup>2</sup> Congressional inaction is particularly acute when it comes to climate change; Democrats and Republicans can barely agree on common terminology, let alone policy solutions.<sup>3</sup> With this vast schism in agreement, the chances of passing meaningful legislation are remote. Thus, presidents who seek action on divisive issues, like climate policy, have turned to an alternate method of action: the executive order (EO).

EOs, however, are vulnerable to politics.<sup>4</sup> President Barack Obama issued an EO to reduce greenhouse gas emissions from coal-fired power plants, only for President Donald Trump to revoke it.<sup>5</sup> President Joe Biden then reinstated

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1. Tami Luhby, *Congress' Inaction Could Leave More Americans Hungry—Especially Kids*, CNN (Sept. 19, 2020, 5:49 AM), <https://www.cnn.com/2020/09/19/politics/congress-food-assistance-hunger/index.html>; Sam Dorman, *Pelosi Needs to Address 'Invasion' at Border, Congress' Inaction Shameful*; *GOP Rep. says*, FOX NEWS (June 8, 2019, 2:32 PM), <https://www.foxnews.com/politics/pelosi-invasion-border-congress-inaction-border>; Lisa Lerer et al., *Democrats Struggle to Energize Their Base as Frustrations Mount*, N.Y. TIMES (Nov. 27, 2021), <https://www.nytimes.com/2021/11/27/us/politics/biden-base-weakening-support.html>.

2. Ella Nilsen, *Biden's Spending Bill Could Be Democrats' Last Hope of Achieving Meaningful Climate Action as Crisis Worsens*, CNN (Sept. 14, 2021, 11:15 AM), <https://www.cnn.com/2021/09/14/politics/biden-budget-congress-climate-action/index.html>; Lisa Hagan, *Democrats' 2022 Agenda Pass 2021 Agenda*, U.S. NEWS AND WORLD REPORT (Dec. 30, 2021, 6:00 AM), <https://www.usnews.com/news/politics/articles/2021-12-30/democrats-2022-agenda-pass-2021-agenda>.

3. See Elaine Kamarck, *The Challenging Politics of Climate Change*, THE BROOKINGS INST. (Sept. 23, 2019), <https://www.brookings.edu/research/the-challenging-politics-of-climate-change/>; Coral Davenport, *Climate Change Denialists in Charge*, NEW YORK TIMES (Mar. 27, 2017), <https://www.nytimes.com/2017/03/27/us/politics/climate-change-denialists-in-charge.html>.

4. Ashlyn Still & Adrian Blanco, *A Visual Breakdown of Biden's Barrage of Executive Actions in His First Weeks*, WASH. POST (Feb. 5, 2021), <https://www.washingtonpost.com/politics/interactive/2021/biden-executive-orders-breakdown/>.

5. Coral Davenport & Alissa Rubin, *Trump Signs Executive Order Unwinding Obama Climate Policies*, N.Y. TIMES (Mar. 28, 2017), <https://www.nytimes.com/2017/03/28/climate/trump-executive-order-climate-change.html>.

Obama's order, and signed his own EO as well.<sup>6</sup> Despite EOs' vulnerabilities, they can have enduring and important legacies. This In Brief will argue that EOs are an important tool for addressing climate change. To do so, this brief will provide background on EOs, followed by the specifics of Biden's EO 14008. It will then contextualize EO 14008 within the broader field of EOs and demonstrate when and under what conditions EOs succeed and fail. Finally, this brief will make a two-part argument. First, EOs are an important legal tool to fight climate change because they can expeditiously refocus agency priorities based on new intelligence reports. Second, Biden's targeting of the military, specifically, enhances the efficacy of climate-change related EOs.

## I. BACKGROUND

### A. Executive Orders: History and Authority

EOs are unilateral presidential instruments that direct government actors or agencies to perform, or refrain from performing, certain actions.<sup>7</sup> Unlike legislation, EOs are unique in that they do not require approval from multiple branches of government.<sup>8</sup>

Presidents rely on Article II of the Constitution for their authority to issue EOs.<sup>9</sup> Article II states: "the executive power shall be vested in a President of the United States . . . the President shall be Commander in Chief of the Army and Navy of the United States . . . he shall take care that the laws be faithfully executed."<sup>10</sup> Within the scope of this authority, presidents can issue EOs as Commander-in-Chief, Head of State, Chief Law Enforcement Officer, and Head of the Executive Branch.<sup>11</sup> George Washington reportedly issued the first EO in June 1789 when he directed his Cabinet to report their activities to him.<sup>12</sup> Nearly every president since Washington has also used EOs.<sup>13</sup> For example, President Lincoln famously used EOs to suspend the writ of habeas corpus and proclaim an end to slavery during the Civil War.<sup>14</sup> President Franklin Roosevelt,

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6. Rob Moore, *President Biden Puts Climate Adaptation Back on the Agenda*, NAT'L RES. DEF. COUNCIL (Jan. 26, 2021), <https://www.nrdc.org/experts/rob-moore/president-biden-puts-climate-adaptation-back-agenda>; see also *Tackling the Climate Crisis at Home and Abroad*, Exec. Order No. 14,008, 86 Fed. Reg. 7619 (Feb. 1, 2021).

7. JOHN CONTRUBIS, CONG. RSCH. SERV., EXECUTIVE ORDERS AND PROCLAMATIONS, 1 (1999).

8. See Todd F. Gaziano, *The Use and Abuse of Executive Orders and Other Presidential Directives*, 5 TEX. REV. L. & POL. 267, 271–73 (2001).

9. CONTRUBIS, *supra* note 7, at 1–2.

10. U.S. CONST. art. II, §§ 1–3.

11. Gaziano, *supra* note 8, at 276–279.

12. Scott Bomboy, *Was Washington's Thanksgiving Proclamation the first Executive Order?*, NAT'L CONST. CTR. (Nov. 25, 2021), <https://constitutioncenter.org/blog/was-washingtons-thanksgiving-proclamation-the-first-executive-order>.

13. John Woolley & Gerhard Peters, *Executive Orders*, UNIV. OF CAL., SANTA BARBARA (Aug. 13, 2022), <https://www.presidency.ucsb.edu/statistics/data/executive-orders>.

14. *Executive Order*, HIST. (Feb. 4, 2021), <https://www.history.com/topics/us-government/executive-order>.

meanwhile, issued 654 orders in his first year in office in an effort to stem the Great Depression.<sup>15</sup>

Despite the unitary nature of EOs, Congress and the Judiciary can also play a role in authorizing EOs.<sup>16</sup> Presidents can obtain authority for an EO through legislation.<sup>17</sup> For example, President Jimmy Carter used the powers granted to him from the International Emergency Economic Powers Act to respond to the Iranian hostage crisis.<sup>18</sup> Congress can also use legislation to limit a president's powers.<sup>19</sup>

Courts have found the use of EOs to be constitutional, as long as they are properly authorized.<sup>20</sup> In *Youngstown Sheet & Tube Co. v. Sawyer*, President Truman tried to seize the steel industry for national security purposes during the Korean War; the Justices deemed this an overreach of executive power.<sup>21</sup> Justice Jackson's concurrence provided a framework for analyzing the authority of an EO.<sup>22</sup> Presidential power is at its greatest "[w]hen the President acts pursuant to an express or implied authorization of Congress . . . for it includes all that he possesses in his own right plus all that Congress can delegate."<sup>23</sup> Presidential power is at its weakest when "the President takes measures incompatible with the expressed or implied will of Congress."<sup>24</sup> There is a "zone of twilight" between these two extremes:

When the President acts in absence of either a congressional grant or denial of authority, he can rely upon his own independent powers. . . [C]ongressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables rather than on abstract theories of law.<sup>25</sup>

While limiting President Truman at the time, this authority has provided modern presidents wide discretion, so long as they do not overstep their bounds.<sup>26</sup>

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15. CONTRUBIS, *supra* note 7, at 4.

16. Gaziano, *supra* note 8, at 280.

17. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952).

18. CHRISTOPHER A. CASEY ET AL., CONG. RSCH. SERV., R45618, THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT: ORIGINS, EVOLUTION, AND USE (2020).

19. CONTRUBIS, *supra* note 7, at 15.

20. *Youngstown*, 343 U.S. at 585.

21. *Id.* at 582–84, 587–89.

22. *Id.* at 635–38.

23. *Id.* at 635.

24. *Id.* at 637.

25. *Id.*

26. *See id.*

*B. Executive Orders: Timing and Efficacy*

Even though presidents have broad authority for issuing EOs, they recognize the folly in overusing such measures. For one, EOs are subject to the bureaucratic politics of the agency charged with implementing them.<sup>27</sup> Agencies maintain competing loyalties between Congress and the president, and may have conflicting interests with a president's objectives.<sup>28</sup> This can lead to principal-agent problems<sup>29</sup> as well as delays in implementation.<sup>30</sup> Another problem is that EOs are not signed into law and thus can easily be revoked by future presidents, as evidenced by Presidents Obama, Trump, and Biden.<sup>31</sup> Therefore, presidents are strategic about when to use EOs.<sup>32</sup> Two political scientists found that when there is unity (when the House, Senate, and president are all the same party), presidents sign more EOs.<sup>33</sup> However, these orders tend to be routine executions of government functions or symbolic memorializations of events or individuals.<sup>34</sup> However, when Congress and the president are divided, presidents are more likely to implement policy-specific EOs.<sup>35</sup> Even though Biden entered office with technical majorities in the House and Senate, the Senate was practically divided on the climate change issue because Senators Joe Manchin and Kyrsten Sinema, despite being Democrats, did not support Biden's climate change initiatives.<sup>36</sup> This lack of unity likely compelled Biden to act through an EO.<sup>37</sup>

There are three factors that make EOs particularly effective. First, when an EO mentions a specific agency and describes what that agency should do, the agency is much more likely to act.<sup>38</sup> Thus, clarity and directness are vital for efficacy.<sup>39</sup>

Second, EOs appear to be more effective when they request action from a non-politicized agency.<sup>40</sup> Dr. Joshua Kennedy argues that this is a result of

27. Joshua B. Kennedy, *Do This! Do That! And Nothing Will Happen* *Executive Orders and Bureaucratic Responsiveness*, 43 AM. POL. RSCH. 1, 61–63 (Jan. 2015).

28. *Id.*

29. *Principal-Agent Problem*, INVESTOPEDIA (Apr. 24, 2021), <https://www.investopedia.com/terms/p/principal-agent-problem.asp>.

30. Kennedy, *supra* note 27, at 64.

31. Davenport, *supra* note 5; Moore, *supra* note 6.

32. Jeffrey A. Fine & Adam L. Warber, *Circumventing Adversity* *Executive Orders and Divided Government*, 42 PRESIDENTIAL STUD. Q. 256, 272 (2012).

33. *Id.* at 270.

34. *Id.* at 262 (Including, for example, “new medals that honor military service, create seals for new federal agencies, or honor well-known political figures that pass away.”).

35. *Id.* at 271–72.

36. Anthony Zurcher, *Joe Manchin and Kyrsten Sinema Blocking Biden's Climate Agenda*, BBC (Oct. 28, 2021), <https://www.bbc.com/news/world-us-canada-59060739>.

37. *See id.*; Eric Niiler, *Can Biden Make Climate Progress with a Divided Congress? Actually, Yeah*, WIRED (Nov. 12, 2020, 0:00 AM), <https://www.wired.com/story/can-biden-make-climate-progress-with-a-divided-congress-actually-yeah/>.

38. Kennedy, *supra* note 27, at 72.

39. *Id.*

40. *Id.* at 73.

political agencies being led by individuals with less experience in government, as many are political appointees.<sup>41</sup> Thus, implementation would be harder as the political appointees may be motivated by external factors or simply have less understanding of government efficiency.<sup>42</sup>

Finally, EOs are much more effective when they do not require funding.<sup>43</sup> Funding usually requires an act from Congress.<sup>44</sup> Thus, while presidents can ask agencies to reallocate funding or reorganize a budget to accommodate an EO, agencies simply may not have enough funding for new policy initiatives without additional appropriations from Congress.<sup>45</sup>

### C. Executive Order 14008

President Biden signed EO 14008—“Executive Order on Tackling the Climate Crisis at Home and Abroad”—on January 27th, 2021.<sup>46</sup> Its legal basis stems from the president’s unitary authority to direct federal agencies.<sup>47</sup> Furthermore, the president is wholly within his authority to direct federal agencies to refocus or change their priorities.<sup>48</sup>

EO 14008 is divided into two substantive sections.<sup>49</sup> The first links climate change to national security: “It is the policy of my Administration that climate considerations shall be an essential element of United States foreign policy and national security.”<sup>50</sup> President Biden operationalized that goal by requesting reports from his intelligence and military agencies on how climate change impacts strategic objectives:<sup>51</sup>

These strategies and plans should include an assessment of:

- i. climate impacts relevant to broad agency strategies in particular countries or regions;
- ii. climate impacts on their agency-managed infrastructure abroad (e.g., embassies, military installations), without prejudice to existing requirements regarding assessment of such infrastructure;
- iii. how the agency intends to manage such impacts or incorporate risk mitigation into its installation master plans; and

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41. *Id.*

42. *Id.*

43. See Andrew Rudalevige, *Most of Trump’s Executive Orders Aren’t Actually Executive Orders. Here’s Why That Matters.*, WASH. POST (Jan. 30, 2017, 7:00 AM), <https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/30/most-of-trumps-executive-orders-arent-actually-executive-orders-heres-why-that-matters/>.

44. *See id.*

45. *See id.*

46. Tackling the Climate Crisis at Home and Abroad, 86 Fed. Reg. 7619 (Feb. 1, 2021).

47. Gaziano, *supra* note 8, at 278.

48. *See id.*

49. Tackling the Climate Crisis at Home and Abroad, 86 Fed. Reg. 7619 (Feb. 1, 2021).

50. *Id.* at 7619.

51. *Id.* at 7621.

- iv. how the agency's international work, including partner engagement, can contribute to addressing the climate crisis.<sup>52</sup>

The second section has a more domestic focus.<sup>53</sup> This section includes specific directives like creating a climate change task force and changing the way the federal government manages procurement, public lands and waters, and financial programs.<sup>54</sup> It also includes broader goals like advancing conservation initiatives and improving environmental justice.<sup>55</sup>

## II. ANALYSIS

This brief will focus on EOs that specifically direct the military for two reasons.<sup>56</sup> First, the Department of Defense is the largest employer in the world; therefore, its actions on policy have an outsized impact.<sup>57</sup> Second, the U.S. military has 750 bases or facilities in 80 countries or territories around the world.<sup>58</sup> Such size naturally impacts international policy. Because of both the military's domestic and international size, the military has a massive carbon footprint, likely exceeding the total pollution of Portugal or Denmark.<sup>59</sup> The military's ability to reduce its carbon footprint on its own would be beneficial, but its domestic and international presence also underscores its influence in changing cultures and perpetuating change.

### A. Immediate Efficacy of Biden's Executive Order

For purposes of this paper and in relation to the military, the most important element in EO 14008 was directing federal international agencies to create reports assessing the impact of climate change on their objectives.<sup>60</sup> This section's order, and the agencies' response, suggests a framework for creating change in the future: Identify agencies who can act beyond the political fray and

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52. *Id.*

53. *Id.* at 7622–32.

54. *Id.* at 7623–24.

55. *Id.* at 7622–32.

56. For purposes of this paper, I use “the military” to refer to the Department of Defense (DoD) and also to the larger institutional defense forces, such as the intelligence community and Joint Chiefs of Staff.

57. Henry Taylor, *Who Is the World's Biggest Employer? The Answer Might Not Be What You Expect*, WORLD ECON. F. (June 17, 2015), <https://www.weforum.org/agenda/2015/06/worlds-10-biggest-employers/>.

58. Doug Bandow, *750 Bases in 80 Countries Is Too Many for Any Nation Time for the US to Bring Its Troops Home*, CATO INST. (Oct. 4, 2021), <https://www.cato.org/commentary/750-bases-80-countries-too-many-any-nation-time-us-bring-its-troops-home>.

59. Sonner Kehrt, *“We Must Do Our Part to Mitigate Climate Change”—The Military's Pollution Problem*, THE WAR HORSE (Jan 6, 2022), <https://thewarhorse.org/us-military-has-a-pollution-problem-but-no-accountability/>.

60. Tackling the Climate Crisis at Home and Abroad, 86 Fed. Reg. 7619, 7621–22 (Feb. 1, 2021).

who have shown institutional support for change, and task them with manageable assignments that further the fight against climate change.

As detailed in the background, EOs are most effective when they call out specific agencies, when those agencies are apolitical, and when funding is not needed.<sup>61</sup> Biden specifically directed the Director of National Intelligence, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff to prepare reports that assess climate impacts on their strategies and agency-managed infrastructure, and what risks climate change might create going forward.<sup>62</sup> Biden's direction was specific and targeted.

Second, the military and intelligence community strives to remain apolitical.<sup>63</sup> Unlike civil service bureaucrats who may be more subject to political pressures,<sup>64</sup> the military works to actively stay out of politics.<sup>65</sup> Further, the public's perception of the military reinforces its apolitical nature.<sup>66</sup> In this way, Biden's specific targeting of the military fits Dr. Kennedy's assessment of responsive agencies.

Finally, tasking agencies to write reports does not require Congressional approval, as such an action should not require new funding. Therefore, according to the academic literature, this type of EO should be effective at achieving its objective, which in this case was simply an assessment of climate change on a respective agency.<sup>67</sup>

The effects of this EO confirm this hypothesis. In October 2021, the Department of Defense, Office of the Director of National Intelligence, Department of Homeland Security, and National Security Council all complied with EO 14008 and produced agency reports about how climate change will impact their respective work.<sup>68</sup> While a report may not on its face seem like a

61. See Kennedy, *supra* note 27.

62. *Id.*

63. Ronald R. Krebs & Robert Ralston, *More Deferential but Also More Political How Americans' Views of the Military Have Changed Over 20 Years*, TEX. NAT'L SEC. REV. (Nov. 17, 2021), <https://warontherocks.com/2021/11/more-deferential-but-also-more-political-how-americans-views-of-the-military-have-changed-over-20-years/>; Walter Haynes, *Will the Military Become Just Another Politicized Institution?*, TEX. NAT'L SEC. REV. (Dec. 10, 2020), <https://warontherocks.com/2020/12/will-the-military-become-just-another-politicized-institution/>; MICHAEL KLARE, ALL HELL BREAKING LOOSE 2 (2019).

64. See, e.g., JOEL D. ABERBACH & BERT A. ROCKMAN, IN THE WEB OF POLITICS: THREE DECADES OF THE US FEDERAL EXECUTIVE (2001) (discussing the varied relationships and pressures impacting civil service bureaucrats).

65. Meghann Myers, *The Military Is Supposed to Stay Out of Politics, But It Keeps Getting Dragged In*, MIL. TIMES (June 4, 2020), <https://www.militarytimes.com/news/your-military/2020/06/04/the-military-is-supposed-to-stay-out-of-politics-but-it-keeps-getting-dragged-in/> (“I've worked very hard to keep the department out of politics, which is very hard these days, as we move closer and closer to an election,” Defense Secretary Mark Esper told reporters”).

66. Krebs, *supra* note 63.

67. See Fine & Warber, 258–59, *supra* note 32; Kennedy, 64, *supra* note 27.

68. Mark Nevitt, *What You Need to Know About the New Climate Security Reports*, LAWFARE BLOG (Oct. 26, 2021, 3:47 PM), <https://www.lawfareblog.com/what-you-need-know-about-new-climate-security-reports>.

transformational development in the fight against climate change, the significance of these reports, both in what they say and in what they symbolize, should not be understated. The reports, especially that from the National Intelligence Council,<sup>69</sup> were revelatory.<sup>70</sup> Specifically, the National Intelligence Estimate (NIE) examined 15 potential environmental risks.<sup>71</sup> While none of these risks were deemed “high” as of today, 8 of the 15 risks are projected as becoming “high” risks in 20 years (see Figure 1).<sup>72</sup>

**Figure 1**<sup>73</sup>:

**Climate Change and International Responses Increasing Risks to US Interests Through 2040**

Risks to US national security interests through 2040 will increase as countries respond to the intensifying physical effects of climate change. Global temperatures most likely will surpass the Paris Agreement goal of 1.5°C by around 2030, and the physical effects are projected to continue intensifying.

○ None    ● Low    ● Medium    ● High

Risk	2021	2030	2040	
<b>Geopolitical Tensions Over Climate Responses</b>	Perception of Insufficient Contributions to Reduce Emissions	● Low	● Medium	● High
	Carbon Dioxide Removal not at Scale for Countries' Net-Zero Pledges	○ None	● Low	● Medium
	Developing Country Demands for Financing and Technology Assistance	● Medium	● High	● High
	Petro States Resisting Clean Energy Transition Away From Fossil Fuels	● Low	● Medium	● High
	Competition With China Over Key Minerals and Clean Energy Technologies	● Low	● Medium	● High
	Contention Over Use of Economic Tools To Advance Climate Interests	○ None	● Low	● Medium
<b>Climate Exacerbated Geopolitical Flashpoints</b>	Miscalculation Over Strategic Competition in the Arctic Leading to Conflict	○ None	● Low	● Medium
	Cross-Border Water Tension and Conflict	● Low	● Medium	● High
	Cross-Border Migration Attributed to Climate Impacts	● Medium	● High	● High
	Un governed Unilateral Geoengineering	○ None	● Low	● Medium
<b>Climate Effects Impacting Country-Level Instability</b>	Strain on Energy and Food Systems	● Low	● Medium	● High
	Negative Health Consequences	● Low	● Medium	● Medium
	Internal Insecurity and Conflict	● Low	● Low	● Medium
	Greater Demand for Aid and Humanitarian Relief	● Medium	● High	● High
	Strain on Military Readiness	○ None	● Low	● Medium

69. The National Intelligence Council’s report is called the National Intelligence Estimate and is produced by the most senior intelligence analysts with deep expertise in future threats.

70. See Nevitt, *supra* note 68.

71. NAT’L INTEL. COUNCIL, NIC-NIE-2021-10030-A, NATIONAL INTELLIGENCE ESTIMATE ON CLIMATE CHANGE: CLIMATE CHANGE AND INTERNATIONAL RESPONSES INCREASING CHALLENGES TO US NATIONAL SECURITY THROUGH 2040 (2021), [https://www.dni.gov/files/ODNI/documents/assessments/NIE\\_Climate\\_Change\\_and\\_National\\_Security.pdf](https://www.dni.gov/files/ODNI/documents/assessments/NIE_Climate_Change_and_National_Security.pdf), preceding p. i.

72. See *id.*

73. *Id.*



The NIE states: “We assess that climate change will increasingly exacerbate risks to US national security interests as the physical impacts increase and geopolitical tensions mount about how to respond to the challenge.”<sup>74</sup> Professor Mark Nevitt, an expert in climate and security, has called it a “must-read for security professionals.”<sup>75</sup> Nevitt continues and calls this document a “first-of-its-kind . . . [as it] summariz[es] the consensus view of the U.S. intelligence community in a candid, forthright manner.”<sup>76</sup> This EO, therefore, helped produce a “first-of-its-kind” type of document—an important result in its own right. Further still, the clout these agencies hold provides more emphasis and urgency to their reports.<sup>77</sup> Thus, even though they are mere “reports,” they are an important element in the fight against climate change.

*B. Broader Implications of Targeting the Military with Executive Orders*

Zooming out, the defense community’s production of relevant, action-oriented reports underscores the military’s receptivity to EOs, even those on climate change.<sup>78</sup> In 2013, President Obama signed EO 13653—“Preparing the United States for the Impacts of Climate Change”—which called for all federal agencies to identify how global warming might impact their future activities and take the necessary actions to “enhance climate preparedness and resilience.”<sup>79</sup> Following this order, the Department of Defense took significant steps to reduce its contributions to global warming.<sup>80</sup> For example, between 2011 and 2015, the U.S. military’s renewable power generation almost doubled to an amount that could power about 286,000 homes, and the number of renewable energy products tripled to 1,390 in the same timeframe.<sup>81</sup> The Pentagon, in 2016, also directed its branches to “assess ‘the effects of climate change on the DoD missions’ and act where necessary to overcome ‘any risks that develop as a result of climate change.’”<sup>82</sup>

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74. *Id.* at i.

75. Nevitt, *supra* note 68.

76. *Id.*

77. See *Confidence in Institutions*, GALLUP (2021), <https://news.gallup.com/poll/1597/confidence-institutions.aspx> (showing that the public has almost twice as much confidence in the military than almost any other institution in the U.S.).

78. KLARE, *supra* note 63, at 1-3.

79. Preparing the United States for the Impacts of Climate Change, 78 Fed. Reg. 66,817, 66,819–20, (Nov. 6, 2013). As mentioned in the introduction, *supra*, President Trump revoked this EO and President Biden reinstated it.

80. KLARE, *supra* note 63, at 2.

81. Timothy Gardner, *U.S. Military Arches Forward on Green Energy, Eespite Trump*, REUTERS (Mar. 1, 2017, 9:39 AM), <https://www.reuters.com/article/us-usa-military-green-energy-insight/u-s-military-marches-forward-on-green-energy-despite-trump-idUSKBN1683BL>.

82. KLARE, *supra* note 63, at 2.

More importantly, the military's response was not mitigated by political turnover.<sup>83</sup> Even though President Trump revoked EO 13653, the military did not stop preparing for the effects of climate change.<sup>84</sup> For example, the military did not stop preparing bases for increased flooding or drawing up plans for humanitarian crises.<sup>85</sup> Instead, they simply stopped using the word climate change to justify their actions.<sup>86</sup> A DoD draft report discussing base vulnerabilities, which mentioned climate change twenty-three times in 2016, only mentioned it once in 2018, opting for words like "extreme weather" or just "change."<sup>87</sup> Despite Trump's antipathy, the military continued preparing for everything from resource scarcities and ethnic strife to food shortages and a melting Arctic.<sup>88</sup>

The military's recognition of the impacts of climate change emphasizes their importance in the climate change fight in three ways. First, the military's consistent recognition of the impacts of climate change can cultivate and support long-term research projects and development. This is critical because the U.S. military has a massive carbon footprint.<sup>89</sup> Yet, the military cannot stop its operations. Instead, the military must find alternative fuels and alternate methods of operation. In many regards, the military has already started this process. In 2009, the Navy launched the "Great Green Fleet," which consisted of an entire combat formation of ships running on a petroleum-beef fat blend of fuel.<sup>90</sup> While undertaken in the name of resource protection, not climate change, operationally, the outcome was the same: minimizing pollution. This project highlights the military's flexibility in adaptation. The military can reimagine America's fight against climate change, all in the name of national security. In so doing, the military can use the words "climate change" to spur the national conversation—or not use those words—and still develop new means of travel, transportation, and energy consumption. Such research, while designed for the military, could be transferred to civil society, too. A supportive and influential institution that already thinks decades into the future, with a large budget, that can operate above the political fray, is the perfect medium to spur revolutionary changes to society's interactions with the world around it.

Second, the military's actions to prepare for the impacts of climate change can shape public discourse on the matter because the public puts its trust in the military.<sup>91</sup> In 2021, a Reagan National Defense Survey found that 78 percent of

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83. See Tara Copp, *Pentagon is Still Preparing for Global Warming Even Though Trump Said to Stop*, MIL. TIMES (Sept. 12, 2017), <https://www.militarytimes.com/news/your-military/2017/09/12/pentagon-is-still-preparing-for-global-warming-even-though-trump-said-to-stop/>.

84. *Id.*

85. *Id.*

86. KLARE, *supra* note 63, at 6.

87. *Id.*

88. *Id.*

89. Kehrt, *supra* note 59.

90. KLARE, *supra* note 63, at 204–06.

91. See *Confidence in Institutions*, *supra* note 77.

Americans have “some” or a “great deal of confidence” in the military, while 71 percent are confident in the military “to act in a professional and non-political manner.”<sup>92</sup> That number is slightly lower than, but generally consistent with, a 2019 poll from the Pew Research Center which found that 83 percent of the population has a “great deal” or “fair amount” of confidence in the military.<sup>93</sup> With extensive public confidence,<sup>94</sup> the military could start using words like “climate change” and discuss its threats to national security and international stability to energize American civil society to change its habits and behaviors to reduce its carbon output.<sup>95</sup> Alternatively, the military could maintain its current lexicon and simply continue transitioning to alternative energy sources. Such developments could slowly move the political needle on what is needed to protect American security interests against the negative impacts of climate change.

A final benefit of the military’s recognition of climate change is that the military will likely be receptive to directives to prepare for the types of risks the NIE predicts will occur in the near future. Rather than reacting to catastrophes both at home and abroad, the military can start training and preparing for these types of events now. With long-term planning and a consistent approach, the military can respond without having to scramble. This approach encourages current and future administrations to develop these resources for the future. These three reasons all support the effectiveness and importance of targeting EOs at the military.

#### CONCLUSION

Despite EOs’ potential for revocation, EOs can be important and viable tools to fight climate change. Targeting the military specifically is a wise choice for future administrations: The military is particularly keen on adapting and improving itself because it recognizes the potential security risks that climate change poses. Additionally, the military can make changes without incurring political blowback, and it can and will continue to act despite political turnover. As the NIE demonstrated, climate change is a growing problem that will raise multiple risks to U.S. national security. Therefore, it is important for future administrations to continue fighting climate change, even with an obstructive

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92. *Reagan National Defense Survey – Executive Memo*, RONALD REAGAN PRESIDENTIAL FOUND. & INST. (Nov. 2021), <https://www.reaganfoundation.org/media/358079/reagan-foundation-november-2021-survey-executive-memo.pdf>.

93. Lee Rainie et al., *Trust and Distrust in America*, PEW RES. CTR. (July 22, 2019), <https://www.pewresearch.org/politics/2019/07/22/trust-and-distrust-in-america/>.

94. Especially in relationship to other institutions, as evidenced by the Gallup findings in n. 72.

95. Such rhetoric could also lead to reduced public trust in the military, but this is a risk worth taking.

Congress. For these reasons, future administrations must make use of EOs to fight climate change.

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**We welcome responses to this In Brief. If you are interested in submitting a response for our online journal, *Ecology Law Currents*, please contact [cse.elq@law.berkeley.edu](mailto:cse.elq@law.berkeley.edu). Responses to articles may be viewed at our website, <http://www.ecologylawquarterly.org>.**