



Americans overwhelmingly support Constitutional checks on the presidency, even in addressing terrorism

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The first 100 days of the Trump presidency have demonstrated the limits of presidential power. Federal courts have invalidated the administration's 90-day travel bans; Trump's EPA chief has concluded that the administration is unlikely to be able to revoke the finding that greenhouses gases cause harm; and the new President found himself unable to persuade his own party's Congressional delegation to support his replacement for Obama Care.

For many, this is evidence that the nation's system of checks and balances is operating as it should. The American constitutional scheme splits power across institutions, slowing down change, and preventing any one branch from having unlimited power.

But the system of checks and balances depends not only on the Constitution and legal precedent. It requires the support of the American people. History has far too many examples of powerful leaders steamrolling other branches of government by mobilizing the masses and thereby intimidating legislators, judges, and civil servants. Public support for checks and balances is essential for their efficacy; without it, politicians can expand their powers beyond their constitutional role without reprisal.

In that light, the McCourtney Mood of the Nation Poll asked a representative sample of Americans to consider these two possibilities and tell us which came closest to their opinion:

In addressing the threat of international terrorism, it is important that the president can act independently, and without interference by the US Supreme Court.¹

Even when addressing the threat of international terrorism, it is important that the US Supreme Court act in accord with our system of checks and balances to ensure that a president does not violate the law or the Constitution.

We found that 78% of the public (with a margin of error of $\pm 5.3\%$) said that they felt the Court should act as a check on the president *even for terrorism*: the very sort of national security issue where deference to the executive's authority should be at its peak.

A different group of respondents was asked the same question, but they were asked about the importance of interference by Congress. Even though Congress remains extremely unpopular with the public, 75% felt that it was important that Congress be able to intervene even when the president might make the case that he has to act quickly and independently ($\pm 5.3\%$).

From this we conclude that the vast majority of Americans would support intervention by Congress or the Courts if they believed President Trump was exceeding his Constitutional authority.

Of course, we might expect Trump voters to respond differently about these checks and balances. After all, these Americans might see the Congress and Supreme Court as impediments to needed action rather than necessary checks and balances. Yet even among Trump voters, 57% ($\pm 9\%$) told us that the checks and balance statement was closest to their opinion.

A 35 year old Trump voter from California told us, "The Constitution is the foundation of our democracy and must be respected at all times." A 69 year old Trump voter from Georgia was more expansive, noting "Regardless of attacks from outside the country, the most serious attacks and those most likely to destroy the country will come from within. Our system of checks and balances is what is our best hope of survival."

¹ Half of the survey respondents were asked about "The US Supreme Court" and half about "the justices of the US Supreme Court," but this made no differences in their answers.

We also see that a sizable minority of Trump voters lean in the other direction, and they hold these beliefs because of their low opinions of Congress and the courts. Some, like a 70 year old voter from Kentucky, found this a very difficult question. He said, “I am torn between those two things, but the way the supreme court is right now, I'm not sure they will follow the constitution.” Others were less conflicted, trusting Trump more than the other branches. Speaking of the the Supreme Court in particular, many Trump voters favored executive action because the Court was “corrupt,” “biased,” and that justices were “making their own law and acting on their own political beliefs” rather than on Constitutional principles.

Many others emphasized the need to act quickly. Typical was a voter from North Carolina who wrote, “congress takes too long to address anything whereas a Presidential executive order does not.”

Whether or not the 100-day mark is meaningful or not, it is critical to remember that we are in the early days. Right now, the principles of checks and balances enjoy wide support, even among those who voted for the President and want him to succeed. This is just one question that we will continue to follow over the course of the new administration.

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How the Poll was Conducted

This poll was conducted between February 23rd and February 27th, 2017 by YouGov in partnership with the Penn State McCourtney Institute of Democracy.

All *Mood of the Nation* questionnaires are designed by the McCourtney Institute polling team, with the fieldwork conducted by YouGov, an online polling organization. The YouGov panel includes over 1.8 million individuals who agree to complete occasional surveys. The 1,000 individuals who completed the McCourtney *Mood of the Nation Poll* were matched to the joint distribution from the Census's American Community Survey in terms of age, sex, race/ethnicity, and years of education. The frame was augmented by matching to the November 2010 Current Population Survey and the Pew Religious Life Survey in order to include voter registration, political interest and party identification in the selection model. The unweighted data are broadly representative of the US population in terms of age, education, and region.

The data have been weighted to adjust for variation in the sample from the adult United States population with respect to demographic variables such as geographic region, gender, race/ethnicity, age, and education, and political variables such as voter registration status and political interest. Weighting details are described in a paper by Ansolabehere and Rivers.²

² Ansolabehere, Stephen, and Douglas Rivers. (2013) "Cooperative survey research." *Annual Review of Political Science* 16: 307-329.