

Commentary Sorry, Liberals. DOGE Is 100% Legal. Here's Why

By Victor Davis Hanson

I want to revisit the hysteria, controversy—whatever term we use—about Elon Musk and his role in the Department of Government Efficiency—or [DOGE](#)—using that term for the executive officer of Renaissance Venice. The Italian word “doge” is a meme, so to speak.



There's a lot of controversy about [Elon Musk](#), and let's just dispel some of it right at the start. He is not a freelancer. He was appointed a government official. Donald Trump, by an executive order, created the Department of Government Efficiency, and he made Elon Musk the head of it,

along with Vivek Ramaswamy, who now has resigned.

Elon Musk has statutory authority. This Department of Government Efficiency is not a Cabinet agency. He does not have to be approved by Congress. And it only is going to last until July 4, 2026. It's not a permanent agency, but he has the same power, or lack of such, as the national security adviser, who does not have to be confirmed by the U.S. Senate.

He's more legitimate—or he has more statutory legitimacy—than earlier presidential advisers, like Harry Hopkins, who moved into the White House under the FDR administration, or Bernard Baruch, who basically ran two world wars, in terms of domestic production, under Woodrow Wilson and FDR. So, let's just

dispel the idea that he's doing anything unusual.

As far as the executive orders that created the DOGE program and eliminated the [U.S. Agency for International Development](#)—that was perfectly legal in itself. USAID was created by John F. Kennedy in 1961 by an executive order. There was a statutory direction for the president to disperse foreign aid into a comprehensive body, but it didn't say USAID—he could do whatever he wanted.

And so, Donald Trump has decided to end autonomous USAID and fold it into the State Department for disaster relief or poverty relief or famine relief.

But let's get straight what Elon Musk is trying to do. He's going through all of these agencies and finding waste and fraud. And he has executive authority to do so. The Democrats are suing on the principle that they have approved funds for some of these agencies and Donald Trump is not spending them. And they are also arguing that Elon must exist by an executive order and not a congressional statute.

And this is very ironic, to tell you the truth. If you look back at executive orders, the number of which have been issued by Democratic and Republican presidencies, you see two general terms: The two Bushes and [Donald Trump](#) are not that much different than the 16 years of Bill Clinton and Barack Obama.

Where you see the big divide in the number of executive orders is a break between FDR and Harry Truman, and to a lesser extent, Herbert Hoover and Coolidge, and the present. And believe me, during the Roosevelt years and Truman years, that was an all-time record of executive orders, and that got Roosevelt in trouble, of course, with the Supreme Court.

As far as impounding funds, [Joe Biden](#) set the precedent. You all saw him on tape when he said, "SOB—the son of a—I went in, over there, to Ukraine and I said, 'You're not getting this billion dollars until you do this.'" Well, that money had been

approved by Congress.

And when he became president, there was a statute that said, "Here's the money to build the wall."

And Joe Biden canceled the wall. That was illegal. But he came up with all these—"Oh, we have to do environmental studies, or on endangered species." But he didn't spend the money. All Donald Trump is doing is saying, "I don't believe the Impoundment Control Act is legal. We'll see what the Supreme Court—but I'm just following the precedent that Joe Biden did." But now the shoe's on the other foot.

And so, again, there is a statutory authority for Elon Musk to do what he does. He has the executive order justifying his agency, his 20-some employees. And more importantly—there's another thing no one talks about—Elon Musk is a controversial figure and everybody is attacking him. And whom are they not attacking? Donald Trump.

So, while the media is trying to make a split—Time magazine had a cover of Elon Musk behind the presidential desk in the Oval Office, Donald Trump didn't get angry about that. He said, "I didn't even know Time magazine was still in existence." Why? Because Elon Musk, in addition to all of these executive duties he's doing to cut back wasteful spending, he is redirecting animus away from the president to him.

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