

GAO

Report to the Chairman, Committee on
Government Operations, House of
Representatives

December 1988

**NATIONAL
SECURITY**

**The Use of
Presidential Directives
to Make and
Implement U. S. Policy**





United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

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The Honorable Jack Brooks
Chairman, Committee on
Government Operations
House of Representatives

Dear Mr. Chairman:

Your letter of June 24, 1988, expressed concern that national policy can be initiated and directed by the President through a system of directives, such as the current National Security Decision Directives (NSDD), without congressional knowledge. You requested that we examine presidential directives that have been issued through the National Security Council (NSC) since 1947 and subsequently released in unclassified form to determine how the current and previous administrations have used these documents to make and implement U.S. policy. We found that a significant number of the unclassified presidential directives available for our review established policy, directed the implementation of policy, or authorized the commitment of federal government resources.

Background

Since 1947, each administration has adopted and tailored a system for announcing and circulating within the administration presidential directives involving domestic, foreign, and military policies. Most of the directives issued during the Truman and Eisenhower administrations (1947-60) have been declassified and are maintained in the National Archives and Records Administration. In contrast, most of the presidential directives issued since 1961 remain classified, and details about them are largely unavailable for congressional or public scrutiny.

We have become aware of a number of classified presidential directives in connection with our work, and others have come to our attention through various media sources. Some of these directives cover sensitive and controversial subjects, including the use of nuclear weapons, the Strategic Defense Initiative, and U.S. policy in Central America. This report does not cover directives that remain classified or those issued between 1947 and 1960 because they were not structured in a way to allow categorization. Our analysis is limited to directives publicly released since 1961 (see app. IV for a detailed discussion of our objectives, scope, and methodology).

Directives Contain Policy and Resource Decisions

Of the presidential directives that we evaluated, a significant number were used by past and present administrations to make and implement U.S. policy and commit government resources.

Since 1961, at least 1,042 presidential directives have been issued and 247 have been publicly released. We evaluated those directives that were publicly released and found that 116, or about half of the 247 we examined, fell into three identified categories—they established policy, directed the implementation of policy, and/or authorized the commitment of government resources (see app. I). The other directives included requests to executive agencies and departments to obtain more information or to seek recommendations on a particular course of action, queries on issues, reminders and advisories about meetings, discussions of foreign policy negotiation strategy, and staff reassignments.

Each presidential directive may contain decisions on more than one category. Of the 116 directives in our three identified categories, 81 established policy, 69 implemented policy, and 22 ordered the commitment of government resources (see app. II). Seventy-three involved foreign policy issues and 48 involved military issues (see app. III). The number of unclassified directives that we identified as involving domestic issues totaled only 26, but most of these were in recent years, which indicates that domestic policy issues have been the subject of an increasing number of presidential directives.

Because most of the 116 directives involved military and foreign policy issues, we asked staff members of the authorizing congressional committees if they were aware of or knew about presidential directives or, as they are currently called, NSDDs. According to these staff members, NSC does not systematically or routinely inform congressional committees about the decisions contained in these directives. Furthermore, NSC does not provide briefings, fact sheets, or unclassified directives to these committees. Congress is attempting to improve this situation through passage of H.R. 5092, a bill to establish the Presidential Directives and Records Accountability Act. This bill will require the registration of presidential directives, including national security directives, with the Office of the Federal Register and their disclosure to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

Each Administration Uses Presidential Directives to Affect Policy

Each administration has issued presidential directives, which usually have been classified, setting forth the U.S. position on a broad variety of national security issues when signed or authorized by the President. The fact that a number of these directives also rescinded or superseded the directives of prior administrations demonstrates the ongoing nature and policy-making intention of the documents. Although administrations have changed the name of the series of directives, reflecting the personal style of the President, each administration has used the directives to affect policy.

Truman/Eisenhower Administrations

In 1947, the NSC began producing policy papers. Those papers containing policy recommendations were presented to President Truman; his signature indicated approval of the proposed policy. When President Eisenhower assumed office, there were approximately 100 operative NSC policy papers, and by the end of his administration, a total of 320 policy papers and numerous NSC Actions had been approved.

NSC Actions are numbered records of decisions that were reached at NSC meetings. Those issued by Presidents Truman and Eisenhower differ in form from the presidential directives issued between 1961 and the present. Because of the difference in format, we could not determine exactly how many of the numerous NSC Actions authorized policy or committed resources. For example, several NSC Actions authorized the establishment of an early warning system in 1952. In this case, President Truman authorized that intensified efforts be undertaken to prepare to evacuate U.S. industry during wartime, directed that \$75 million be included in the fiscal year 1954 budget to develop and deploy an aircraft early warning system, and ordered that the system be fully developed within 3 years. It is not clear, however, which NSC Action authorized each activity.

We did, however, examine summaries of NSC Actions issued between late 1947 and the end of 1952. These summaries reveal that President Truman issued presidential decisions that established and implemented policy and committed federal government resources in the foreign, domestic, and military policy arenas. Generally, the Truman documents include such diverse issues as the construction of airfields in Turkey, economic relations between the United States and Yugoslavia, plans for overt psychological warfare during wartime, and certain steps to "trace down" those responsible for unauthorized disclosures of classified information.

**Kennedy/Johnson
Administrations**

President Kennedy established National Security Action Memoranda (NSAM), some of which represented policy recommendations approved at NSC meetings. These decisions include establishing a policy of greater police assistance programs in less developed countries, authorizing the dispatch of fighter aircraft and logistical support to the Congo for contingency purposes, and authorizing a special U.S. contribution to the Laotian government.

President Johnson continued the system of numbered NSAMs after taking office but executed only about 99 directives, as compared to President Kennedy's 273. Through NSAMs, President Johnson authorized an increase in U.S. military support forces in Vietnam, directed the U.S. Information Agency to reprogram funds to implement an intensified and expanded program of psychological activities in the Vietnam conflict, and approved the initiation of a Central American Export Development Program to improve Central America's export potential.

**Nixon/Ford
Administrations**

The Nixon and Ford administrations issued national security position papers called National Security Study Memoranda. At least 318 decision documents, resulting from these papers, were designated National Security Decision Memoranda (NSDM) and included such presidential decisions as establishing a policy to renounce the production of toxins except for defensive research and development purposes, directing the National Science Foundation to implement a \$29 million to \$34 million research program in the Antarctic, and endorsing a policy to combat population growth.

Carter Administration

President Carter's first presidential directive instituted the Presidential Review Memoranda to study national security issues. To announce and circulate these decisions, he adopted the Presidential Directives/NSC series, which numbered at least 54. Among the other decisions in the directives series, President Carter established a national policy on telecommunications security and a policy to guide the conduct of civil space programs.

Reagan Administration

President Reagan's first directive established a series called NSDDs to issue decisions on all areas involving national security. President Reagan also instituted National Security Study Directives, which authorized studies of national security policy and objectives. As of August 1988,

President Reagan had issued at least 298 directives. In his NSDDs, President Reagan approved a strategic forces modernization program, which authorized the Defense Department to absorb any cost overruns by reprogramming funds; established a policy to help victims of acute food shortages in selected Third World areas, which included the establishment of a no-year \$50 million presidential fund; and established a national policy for commercializing expendable launch vehicles.

Only two of President Reagan's directives maintained at the Archives resemble memoranda. The remainder look like policy papers or summaries. In some cases, the directive is marked "unclassified version." In other cases, it appears that a "fact sheet" has been released in place of the original directive. Moreover, despite the fact that his first directive declares that all NSDDs are to bear the President's signature, only three at the Archives have been signed by him or for him. This indicates that most of the declassified and released NSDDs may not be photocopies of the original documents and/or that the transmittal pages for these directives were not released intact with the appropriate documents.

Role of Federal Register May Need to Be Clarified

H.R. 5092 requires that each directive be filed with the Office of the Federal Register. Documents filed with that Office are published and made available to the public. While publication of classified documents is certainly unintended, the proposed legislation does not specifically provide for the protection of directives containing sensitive information that are to be maintained by the Office of the Federal Register. The Office of the National Archivist, which regularly receives classified documents and has procedures for handling such material, may be better suited to meet this requirement.

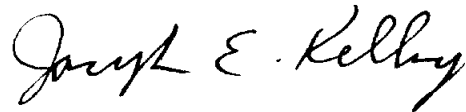
Conclusions

Presidential directives that are not made public or shared with the Congress have become a concern because national policy may be initiated and directed and resources may be committed by a president without relevant congressional committees' being consulted or informed. While there may be limited circumstances in which the President may assert a right to withhold certain kinds of sensitive information from the Congress, given the breadth of topics these directives cover and their potential impact on domestic, foreign, and military policy, we believe that some notification to the Congress is warranted. Consequently, we support H.R. 5092, a bill to establish the Presidential Directives and Records Accountability Act, taking into account the need to address the issue of filing classified directives with the Office of the Federal Register.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to interested committees and Members of Congress, the Secretaries of State and Defense, and the Assistant to the President, National Security Council. Copies will be made available to other interested parties on request.

The major contributors to this report are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink that reads "Joseph E. Kelley". The signature is written in a cursive style with a large, stylized initial "J".

Joseph E. Kelley
Associate Director

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National Security and International Affairs Division,
Washington, D.C.

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Abbreviations

NSAM	National Security Action Memoranda
NSC	National Security Council
NSDD	National Security Decision Directives
NSDM	National Security Decision Memoranda

Presidential Directives That Established or Directed the Implementation of Policy or Committed Government Resources

Administration	Reviewed by GAO	Number of directives in identified category	Percent in category
Kennedy	118	38	32
Johnson	34	21	62
Nixon/Ford	33	18	55
Carter	11	7	64
Reagan	51	32	63
Total	247	116	47

Breakdown of 116 Presidential Directives That Authorized Policy Decisions or Committed Government Resources

Administration	Established policy	Implemented policy	Committed resources
Kennedy	21	28	10
Johnson	15	10	3
Nixon/Ford	12	10	3
Carter	6	4	0
Reagan	27	17	6
Total	81 (70%)	69 (59%)	22 (19%)

Breakdown of 116 Presidential Directives Related to Military, Foreign, and Domestic Policies

Administration	Military	Foreign	Domestic
Kennedy	16	32	4
Johnson	12	12	2
Nixon/Ford	3	16	0
Carter	1	3	4
Reagan	16	10	16
Total	48 (41%)	73 (63%)	26 (22%)

Objectives, Scope, and Methodology

Our objectives were to determine how the current and previous administrations used presidential directives to make and implement policy for the United States and to ascertain how many directives issued since 1961 established national policy, directed the implementation of policy, or authorized the commitment of federal government resources.

The Archives does not have a complete listing of presidential directives issued by any administration. However, we have determined that since 1961 at least 1,042 have been issued, and 247 of them have been publicly released and are maintained in the Archives files. During the Truman and Eisenhower administrations (1947-60), the documents were not structured in a way that would enable the activities authorized in the directives to be quantified. Therefore, our analysis of presidential directives is limited to the 247 that have been publicly released since 1961. We obtained photocopies of the 247 unclassified or declassified presidential directives that are maintained in the National Archives and Records Administration.

All of the directives we identified as authorizing presidential decisions were issued in Presidents Johnson's and Kennedy's National Security Action Memoranda series, Presidents Nixon's and Ford's National Security Decision Memoranda series, President Carter's Presidential Directives/National Security Council series, or President Reagan's National Security Decision Directives (NSDD) series. Almost all of these directives stated that they were authorized or directed by the President, either directly or through an advisor. A few directives stated that they authorized national policy, but the directives did not state that this policy was specifically authorized or directed by the President. In addition, President Reagan released fact sheets or press releases, apparently in place of presidential directives.

Our analysis was based on a reading of each presidential directive to determine if it established U.S. policy, directed the implementation of U.S. policy, or authorized a commitment of federal government resources. We also ascertained whether the directive dealt with foreign, domestic, or military policies. We used the following definitions:

- Establishes policy. Orders an action(s) that reaches outside the government structure and its internal administration and creates, approves, revises, or modifies a U.S. position, concept of operations, statement of goals and objectives, or national policy.
- Implements policy. Directs, authorizes, or orders an action(s) or activity that is related to a policy.

- Commits resources. Authorizes an amount or range of funds or commits U.S. military personnel or equipment for a specified purpose.
- Foreign policy. Policies that concern interactions between the U.S. government and foreign countries, including the transfer of U.S. military equipment or support abroad.
- Domestic policy. Policies that affect private U.S. citizens, industry, and universities or colleges in the United States, including U.S. space policy.
- Military policy. Policies that involve military activities, including the deployment or other movement of U.S. military forces, or U.S. military strategy. Transfers of military equipment and support abroad are also included in this category, making such actions related to both foreign and military policy.

The nature of the criteria we used to define the various policy categories is somewhat subjective, and this reduced the precision of our results. Moreover, many of the directives contained deletions, and at times we were limited by incomplete knowledge of either the subject covered by a directive or a directive's consequences. For example, we designated President Reagan's NSDD 145, which establishes a national telecommunications policy and discusses how it will be implemented, as a directive that both establishes policy and implements it. On the other hand, we designated NSDD 159, which describes procedures for covert action approval and coordination, as an internal government matter and not a policy issue.

As requested, we did not send a draft copy of the report to the NSC for its comments. We performed our review between January and August 1988 in accordance with generally accepted government auditing standards.

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