

# National Security Directives: secret powers of the President

by Herbert Quinde

National Security Directives are probably the most powerful instrument of governance available to President Bush. Even though they are central to the formulation and execution of national policy, domestic and foreign, NSDs are cloaked in almost total secrecy. They give the President the option to do an "end run" around any constitutional checks and balances.

Since President Bush moved into the White House, only half a dozen NSDs, in partial form or in their entirety, have seen the light of day. During the span of the Reagan administration, some 300 National Security Decision Directives (NSDDs), as they were titled then, were issued. But *fewer than 50* NSDDs have been released publicly, and many with only partial text.

It was NSDDs that gave us Iranamok, the worst foreign policy fiasco of the Reagan-Bush years:

- NSDD 17, titled "Deterring Cuban Models/Covert Action in Nicaragua" (TOP SECRET), dated Nov. 23, 1983, gave the CIA the green light to create the Contras and "work with foreign governments as appropriate" to topple the Sandinista government of Nicaragua.

- NSDD 100, titled "Enhanced U.S. Military Activity and Assistance for the Central American Region" (TOP SECRET), dated July 28, 1983, upped the ante through military pressure on Nicaragua and pre-positioned U.S. forces in the Caribbean to be used three months later in the invasion of Grenada. It also required the secretaries of Defense and State to lobby Congress and the public to support the administration's action, without revealing the secret policy commitment. NSDD 100 specifies, "The Secretary of State and the Secretary of Defense will prepare a coordinated legislative, diplomatic, and public affairs strategy that supports these initiatives."

## The runaround: NSDD 159

But there was no popular support for the Contra policy, and Congress eventually passed the Boland Amendment to constrain the White House and the CIA's ability to act. On Jan. 18, 1985, NSDD 159, titled "Covert Action Policy Approval and Coordination Procedures," was issued. Since the CIA's hands were tied, NSDD 159 authorized the NSC to carry out covert operations, even though only the CIA was permitted by law to carry out such activities. Also, a broad

range of covert activities by agencies other than the CIA were exempted from the "covert action" definition, thereby eliminating the requirement for reporting to Congress.

Concretely, NSDD 159 gave Oliver North and his Project Democracy friends a blank check for Contra operations. It read in part, "The provision of routine support in the form of personnel, funds, equipment, supplies, transportation, training, logistics, and facilities by Government components other than the CIA to support a covert action shall not in itself be considered a separate covert action by the supplying agency." Therefore, the NSC, now "operational," was not required to alert Congress to its activities.

NSDD 159 was crucial to implementing the arms-for-hostages deals with Iran, authorizing the NSC to mount a covert operation and directing that it *not* be reported to Congress.

Initially, Congress had been cooperative with the anti-Sandinista policy. Congress was not blind to the Contra operation. A former CIA official told *EIR* that he personally briefed the appropriate congressional committees in anticipation of the 1984 mining of Nicaragua's harbors. But the Iran side of the operation was a radical departure from publicly stated White House policy. There was an arms embargo against Ayatollah Khomeini's Iran, and it was U.S. public policy not to negotiate with terrorists. Both Secretary of Defense Caspar Weinberger and Secretary of State George Shultz, sensing the risks involved, stopped a June 1985 attempt to issue another NSDD authorizing the transfer of arms to Iran, according to Adm. John Poindexter's testimony before the congressional committees investigating the Iran-Contra affair. Nonetheless, thousands of TOW anti-tank missiles started to flow to Iran, violating the Arms Export Act. And to this day, all of the hostages held by Iranian and Syrian puppets have yet to be freed.

## Secret propaganda: NSDD 77

When popular opposition to the policy was manifest, NSDD 77, titled "Management of Public Diplomacy Relative to National Security" (SECRET), dated Jan. 14, 1983, was invoked. NSDD 77 ordered the strengthening of "organization, planning, and coordination of the various aspects of public diplomacy of the United States Government relative

to national security. Public diplomacy is comprised of those actions of the U.S. Government designed to generate support for our national security objectives.”

In other words, a *secret* presidential decree was issued ordering the creation of a *secret* public relations initiative, in effect a propaganda ministry, not only aimed at foreign governments, but also at Congress, the media, and the American public. Allied foreign governments fearful of Washington’s further destabilizing Central America were put under pressure and accused of being pro-communist. Congressmen, journalists, and political activists were harassed and intimidated for their opposition, in a manner reminiscent of the Cointelpro operation which targeted anti-war dissidents in the late 1960s. Articles were planted in the media by government agents.

The General Accounting Office subsequently established that these activities violated the law prohibiting “covert propaganda” inside the United States.

During the televised congressional hearings that probed Irangate, Oliver North steadfastly maintained that there were no restrictions on the NSC’s being “operational.” During the hearing, Sen. George Mitchell (D-Me.) asked North, “Since the law requires that before any covert action could be conducted, the President must specifically authorize it, since you’ve testified that you conducted a covert operation, and since you’ve further testified that the President neither designated the National Security Council to conduct covert operations nor did he make a Finding authorizing this covert operation, what was the legal basis for your activities with respect to this covert operation?”

North responded, “The National Security Council staff is not included with constraints that are depicted in either the Executive Order [on covert operations—EO 12333] or the NSDD [159] as an intelligence agency. And thus, in neither case does the law provide that the President had to do what you are saying he had to do.”

### **Pattern of government abuse**

In retrospect, it is clear that Oliver North and company did not carry out a “rogue” operation. There was no “secret government” distinct from the Reagan-Bush administration. Through secret presidential national security directives, the NSC was authorized to go “underground” to carry out a policy unilaterally, *because* of massive popular opposition. The method used, should send shivers down the spine of any patriot who believes in the constitutional principles that founded this nation. The National Security Directive, if abused, ensures that there is no accountability by the Executive branch of government.

Unlike the conventional system of presidential proclamations and executive orders which are issued through a numerical accounting system and by law must be published in the Federal Register and the Code of Federal Regulations, there is no such requirement for NSDs. Confidential and even

classified executive orders have been issued and not published, but they are accounted for in the numbering system.

In an attempt to gain statutory accountability, Rep. John Conyers (D-Mich.) and Rep. Jack Brooks (D-Tex.) have cosponsored H.R. 5438, the “Presidential Directives and Records Accountability Act,” which did not make it to the floor for a vote in the recently concluded Congress. The bill essentially requires the White House to provide a copy of any NSD to the Speaker of the House and the President *pro tem* of the Senate after it is issued. It provides for full confidentiality through the secrecy classification process, and in no way impinges on the Executive branch’s right to formulate or implement policy.

The White House says that NSDs are internal “administrative” communications between the President and his staff, and therefore no one else, including Congress, has a right to see them, according to Susan Fitzgerald, a former research analyst for the Fund for Constitutional Government. A source in the House Government Operations Committee reports that they are in a “constitutional dispute” with the Bush White House over NSDs, and that NSC counsel Nicholas Rostow has refused to reveal even the number of NSDs issued since President Bush took office.

A review of six NSDs issued by President Bush and obtained by the Congressional Research Service clearly exposes the lie that NSDs are just internal “administrative” communications. On Nov. 16, 1989, a “Fact Sheet” on U.S. Space Policy was made available with a White House press release, although the number of the NSD was not revealed. NSD 1 is titled “National Security Council Organization.” NSD 10 established additional NSC Policy Coordinating Committees (PCCs) on Counter-terrorism, Special Activities, Nonproliferation Policy, and Refugees, as well as the PCC directed by FEMA, among others. On Oct. 5, 1989, the “National Security Sealift Policy” was declassified, but no NSD number was released. NSD 27, titled “Soviet Emigration Policy,” was issued Oct. 2, 1989. Finally, a summary of “National Policy for the Security of National Security Telecommunications and Information Systems” was released, but again, there is no identifying NSD number or date.

As of October 1989, at least 27 NSDs are known to have been issued under Bush. Congressional sources say that at least two more were issued in 1990—one on U.S. policy toward Iraq, and the other on narcotics policy. What does that NSD say about U.S. plans in the Persian Gulf? That is still secret.

A source with the Office of Counsel to the House of Representatives says, “The problem is that the White House puts out a secret policy and Congress doesn’t know if a change has been made. How is the Legislative branch supposed to function without knowledge of what the other branch of government is doing? . . . So it really becomes a renegade policy-setting device.”