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Sweeping Powers President Can Use During Apocalypse Scenarios Revealed

Recently released [documents](#) provide insight into the executive branch's plans for apocalyptic scenarios under which the president would activate special wartime, national-security powers.

Prior to the release of the documents, there was limited knowledge of what was put into the classified government directives related to emergency and wartime powers granted by Congress or otherwise claimed by presidents. What was previously known was thanks to declassified descriptions of powers developed early in the Cold War.



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During that era, the powers included the ability to impose martial law, round up individuals deemed to be dangerous, and censor news from foreign sources.

Under administrations of both parties, the directives, known as presidential emergency action documents, have not been made public or shown to Congress.

But a greater understanding is now possible due to the revealed documents, which relate to the George W. Bush administration's efforts to revise the draft orders after the attacks of September 11, 2001.

Files provided to *The New York Times* by the Brennan Center for Justice show that the Bush-era effort focused, in part, on a law that allows the president to shut down or take over communications networks during wartime. It's possible the government developed or revised that order in reaction to the explosion in consumer internet usage in the 1990s.

A file from the summer of 2008 mentions that Justice Department lawyers were revising an unidentified draft order in light of a recent Supreme Court opinion. While the memo does not specify the ruling, it alludes to Supreme Court decisions on gun ownership rights and the rights of Guantanamo Bay prisoners to court hearings.

According to the [Times](#),

“The bottom line is that these documents leave no doubt that the post-9/11 emergency actions [sic] documents have direct and significant implications for Americans' civil liberties,” said Elizabeth Goitein of the Brennan Center for Justice at New York University. “And yet, there is no oversight by Congress. And that's unacceptable.”

Even though it is unclear how the directives have evolved since the later stages of the Cold War, Ms. Goitein said they have likely expanded to include other scenarios beyond a devastating nuclear attack. The documents show that later versions extended from one category to seven, although their topics remain secret, and fall within the jurisdiction of agencies with different areas of focus.



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The newly disclosed documents show that there were 48 of the directives when the Bush administration took office; by 2008, that number had grown to 56. Vice President Dick Cheney's office was involved in reviewing and "clearing" the orders. The documents do not indicate any consultation with Congress.

The Brennan Center for Justice, which has gathered materials about the presidential emergency action documents, obtained the files under the Freedom of Information Act from the Bush presidential library. The disclosures numbered approximately 500 pages, while about 6,000 more pages were withheld as classified.

The disclosures came after the House in December passed a bill to impose major curbs on executive power after the Trump years, including a provision to mandate disclosure of the emergency action documents to congressional overseers. The bill, known as the Protecting our Democracy Act, is not expected to pass the Senate.

"It's our duty as lawmakers to demand that the executive branch turn over documents so Congress, as representatives of the American people, can evaluate the constitutionality of any future president's attempt to exploit an emergency to assume extraordinary powers," said Senator Edward J. Markey (D-Mass.), who drafted the provision as stand-alone legislation in 2020.

One early emergency action order from the 1950s provides for the creation of military zones prohibiting certain classes of people, reminiscent of how the federal government barred Japanese Americans from many areas of the West Coast during World War II, leading to their internment.

The *Times* notes that another directive allows for the creation of an agency "reporting to the president [that] could enact controls like requisitioning private property and allocating materials; imposing wage, price and rent controls; rationing; and settling labor disputes."

During both the Obama and Trump eras, the Justice Department in budget documents signaled to Congress that it was reviewing the 56 presidential emergency action documents. Yet subsequent budget documents have not given further information on what, if any, changes those two administrations made to them.



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