

## **Subject: restrict - agent**

Hi Steve,

**Thought I'd comment about the definition of the word restrict.**

**There are no requirements that restrictions come from Congress. While there is certainly a lack of context specific definitions, it is clear that the President has enacted a wide variety of restrictions through executive order. For example:**

### Environmental policy

<http://www.archives.gov/federal-register/codification/executive-order/11987.html>

Executive agencies shall, to the extent permitted by law, restrict the introduction of exotic species into the natural ecosystems on lands and waters which they own, lease, or hold for purposes of administration; and, shall encourage the States, local governments, and private citizens to prevent the introduction of exotic species into natural ecosystems of the United States.

### Assassination policy

[http://www.bc.edu/schools/law/lawreviews/meta-elements/journals/bcicl/26\\_1/01\\_TXT.htm](http://www.bc.edu/schools/law/lawreviews/meta-elements/journals/bcicl/26_1/01_TXT.htm)

In order to understand the nature and scope of the U.S. Federal ban on assassinations and the degree to which it restricts the military options of the President, it is necessary to examine the circumstances of its origin. Reading the language of the rule—now in effect as Executive Order 12333—one could easily conclude that it prevents the United States from employing deadly force against foreign leaders. However, a legal and historical analysis of this document suggests that it is far less prohibitive than it might at first appear. It fails to actually bar state-sponsored assassination for two major reasons. First, in recent years the Order has been interpreted to allow the types of attacks against foreign leaders that the United States has typically favored. Second, an executive order does not have the force and immutability of law, and is subject to change by the President. As a result, Executive Order 12333 is not an effective legal obstacle to assassination, but rather is only a visible symbol of policy and a mechanism to ensure that the authority to initiate an assassination attempt resides with the President alone.<sup>114</sup>

**Perhaps executive orders can be changed at the pleasure of the president but they do represent policy change**

[http://www.bc.edu/schools/law/lawreviews/meta-elements/journals/bcicl/26\\_1/01\\_TXT.htm](http://www.bc.edu/schools/law/lawreviews/meta-elements/journals/bcicl/26_1/01_TXT.htm)

As an Executive Order, the implementation and enforcement of Executive Order

12333 is left entirely to the pleasure of the President. Should he determine that the Order restricts his ability to uphold his oath to “preserve, protect, and defend the Constitution of the United States,” he could at any time amend, revoke, or temporarily suspend Executive Order 12333 so as to allow whatever use of force he sees fit. Even when it remains in effect, the two exceptions created by Presidents Reagan and Clinton have narrowed its scope by excluding deaths resulting from strikes on valid military targets or counter-terror operations. Furthermore, should the President wish to keep an alteration of Executive Order 12333 away from the eyes of the enemy [\*PG34]and the American public for tactical reasons, he could conceal it under the shroud of the classification regime.

**Alternatively, in the context of degrading GPS signals, the President changed policy by decree:**

<http://kn.theiet.org/magazine/issues/0902/where-would-we-be-0902.cfm>

These international developments indicate the importance attached to global navigation, as well as the collective concern that the US could take unilateral action and restrict the use of GPS signals to its military users. Such distrust is based on the original signal specifications, which featured a military ‘P-code’ (precision) signal, giving an average position accuracy of 7.5m, a civilian coarse acquisition or ‘C/A-code’ signal accurate to 15m, and a ‘degraded C/A-code’ signal limited to an average of 50m. The ability to degrade the accuracy of the civilian signal, known as selective availability, was deactivated by presidential decree in May 2000, but commentators continue to note that this could easily be revoked.

**Further, the office of the President is statutorily permitted to restrict the import of certain Russian weapons.**

<http://www.usdoj.gov/olc/arms02.htm>

The letter states that numerous courts have ruled that when Congress delegates in foreign affairs the president has wide latitude to act including various types of restrictions all of which raises the question.

**The article Galloway found clearly suggests that the Congress has granted such authority to the President already.**

<http://www.globalresearch.ca/index.php?context=va&aid=4883>

“Congress has the constitutional power to legislate under which conditions nuclear weapons, the most terrible weapons created by mankind, will be used in military operations. By funding the research, development and manufacture of these weapons, at the rate of over 6 billion dollars per year, and handing them over to the Executive

without putting any restriction on their use, Congress members have made themselves liable for crimes that may be committed with "their" weapons. And there is the aggravating circumstance that the Executive announced to Congress that it would use nuclear weapons under conditions constituting serious violations of the laws and customs applicable in armed conflict, and that Congress knew that such conditions were very likely to occur.”

Per the previously mentioned case law, the President would then have wide latitude in asserting and implementing authority over nuclear weapons policy, which is, of course, why we have Pentagon run Nuclear Posture Reviews and presidential statements on nuclear weapons policy.

**My conclusion is that the President has the legal ability to restrict the use of nuclear weapons, i.e. offensive strikes and posture like no first use, dealerting, detargeting, etc. but would need to work with Congress for more fundamental changes like testing or arsenal reductions (which would require congressional funding at the least). In sum, there is nothing to suggest in any readily available literature that the term “restrict” means Congress.**