



Highlights of [GAO-08-553T](#), a testimony before the subcommittee on Oversight and Investigations, Committee on Armed Services, House of Representatives

Why GAO Did This Study

Both Republican and Democratic Presidents have issued signing statements since the early nineteenth century. Signing statements usually take the form of a presidential statement or press release issued in connection with the President's signing of a bill. Some signing statements praise the newly signed law and those involved in its passage. In other signing statements, Presidents have offered their interpretation of or explained how agencies will execute a new law. Presidents have also raised constitutional concerns or objections to new statutes in signing statements.

The Chairmen of the Senate Appropriations Committee and the House Judiciary Committee asked us to examine the fiscal year 2006 appropriations acts and the President's accompanying signing statements to identify the provisions in the acts to which the President took exception, to identify the presidential concern, and to determine how the agencies executed those provisions. We also examined how the federal courts have treated presidential signing statements in their published opinions. In a second request, the same requestors asked us to examine an additional 10 provisions to determine how the agencies were executing them.

Based on this work, the Subcommittee invited GAO's General Counsel to testify on the use of signing statements.

To view the full product, including the scope and methodology, click on [GAO-08-553T](#). For more information, contact Susan Poling at (202) 512-2667 or polings@gao.gov.

PRESIDENTIAL SIGNING STATEMENTS

Agency Implementation of Selected Provisions of Law

What GAO Found

In our opinions, we examined how agencies were implementing certain provisions to which the President objected in the signing statements. In developing our first opinion, we examined all the signing statements accompanying the fiscal year 2006 appropriations acts, identified 160 specific provisions of law to which the President objected, and categorized each provision according to the nature of the President's stated concern. The President's objections to a majority of provisions fell under broad categories, four of which we summarize in the testimony: President's theory of the unitary executive, President's constitutional role, *INS v. Chadha*, and Fifth Amendment.

We then chose 19 provisions to learn whether the agencies were executing the provisions as written. In considering which provisions would be appropriate for further inquiry, we excluded provisions for which it would be difficult to determine whether the President was executing the provision, either because of the breadth of the executive action covered or because the information would not be readily available due to national security or foreign relations concerns. GAO also looked at 10 other provisions from various laws identified by congressional requestors to which the President objected in order to ascertain how agencies were executing the provisions.

In total, GAO examined how 21 agencies executed 29 different provisions of law. GAO determined that in all but 9 cases the agencies had either taken actions to execute the provisions as written, or conditions requiring agency action had not occurred. In the remaining 9 cases, GAO found that the agencies had not executed the provisions as written. We did not assess the merits of the President's objections or examine the constitutionality of the provisions to which the President objected. Although we found that agencies did not execute 9 provisions as written, we could not conclude that agency noncompliance was the result of the President's signing statements. We also examined the extent to which federal courts have relied on signing statements in their interpretation of federal statutes. GAO found that only in rare instances have courts treated presidential signing statements as authoritative sources of statutory interpretation.

While GAO's prior work did not involve any provisions in the recently enacted National Defense Authorization Act (NDAA) for fiscal year 2008, three provisions in the NDAA to which the President objected are similar to provisions we examined in our earlier opinions. We found that agencies had not executed two of these earlier provisions as written.

To reduce any effect signing statements may have on agency execution of statutes, Congress may wish to focus its oversight work to include those provisions to which the President objects to ensure that the laws are carried out.