

Three Heads Are Better Than One

How to Limit the President's Single-handed Authority to Order the Use of Nuclear Weapons

HIGHLIGHTS

The president of the United States currently has the authority to order the use of nuclear weapons without consulting anyone else.

The existing system is dangerous, allowing a reckless or impulsive president to issue an order that could start a nuclear war. Once launched, a nuclear-armed missile cannot be recalled or ordered to self-destruct; it is on a committed path to destruction.

Investing a single person with this degree of responsibility is unnecessary. The Federal Emergency Management Agency continuously tracks the locations of officials in the presidential line of succession and can communicate with them at a moment's notice. This same tracking and communication system could allow the decision to launch nuclear weapons to involve consent from additional people.

In the United States, the president has sole authority to order the use of nuclear weapons. The assumption has always been that, given the monumental importance of this decision, the president would consult with advisers before ordering an attack; however, there is no requirement for him or her to do so. This arrangement is risky, allowing a reckless or impulsive president to issue an order that has profound consequences, not only for the target of such an attack but for all Americans. Once the president orders the launch of land- or submarine-based missiles, there is no going back. Those missiles cannot be recalled or made to self-destruct; once launched, they will proceed to their targets.

The risks are not simply hypothetical. Before he resigned during the Watergate scandal, President Nixon was drinking heavily, and many advisers considered him unstable. Defense Secretary James Schlesinger reportedly instructed the joint chiefs of staff that “any emergency order coming from the President”—including a nuclear launch order—should go through him or Secretary of State Henry Kissinger first (McFadden 2014). But Schlesinger had no legal authority to intervene. It is not clear what would have happened had a presidential order actually come.

It is unnecessary for Americans to accept this high level of risk. The United States can add critical accountability by using an existing system to modify its decisionmaking process to require that one or more officials concur with any presidential order to use nuclear weapons before the military carries it out.



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A Safer Plan for Authorizing the Use of Nuclear Weapons

The Union of Concerned Scientists proposes that the use of nuclear weapons require, in addition to a presidential order, the agreement of two other high-level officials. The proposed procedure would not require the time-intensive development of consensus among the three people but rather entail a simple thumbs up/thumbs down to the attack plan that the president selects. Either official would simply veto the order if it was not legal under the Law of Armed Conflict,¹ if they felt the president was not mentally fit to issue it, or if they thought a nuclear launch was unwise.

As it stands, if the president wished to order the use of nuclear weapons, he or she would choose an attack option from a list that is carried in the presidential emergency satchel (commonly called the “football”), and then call the Pentagon’s National Military Command Center (the “War Room”) to order the attack. The president would read a code from a card (the “biscuit”) to confirm his or her identity and would specify an attack option. The War Room, after authenticating that the order came from the president, would send an encrypted order to the crews of the aircraft, submarines, and/or missile silos that would carry out the physical launch process for the chosen attack option. Land-based missiles would leave their silos within minutes.

Under our proposal, the War Room would send an order to launch crews only if the two identified officials confirmed the order. This process would apply whether the order was offensive or defensive—for the first use of nuclear weapons or for their use in response to an incoming nuclear attack or warning of an attack.²

Using the FEMA Tracking System to Include Multiple Decisionmakers

The Federal Emergency Management Agency (FEMA) continuously tracks the location of officials in the presidential line of succession so that their whereabouts are known in the event of an emergency. FEMA is also able to quickly and securely communicate with these individuals to ensure the continuity and stability of government in the event that the president dies, is incapacitated, or is otherwise removed from office unexpectedly (FEMA 2009). In the event of a national

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emergency, if others in the line of succession were also incapacitated, FEMA would proceed down the list until it reached the person next in line to become president. The FEMA system ensures that the rest of the government—including the War Room—knows who the president of the United States is at any given time. The War Room would only authenticate and carry out a nuclear launch order issued by that person.

Currently, to ensure that a new president can order the use of nuclear weapons as soon as he or she is sworn in, the vice president (and almost certainly others lower in the line of succession) carries another emergency satchel and a “biscuit” (to confirm his or her identity and specify an attack option) that would be activated if they were to become president. On occasions such as the annual State of the Union address, when many of those in the line of succession are in the same location, one official is chosen as the “designated survivor” and stays at a separate location, accompanied by an aide with another football and biscuit in case all of those higher in the line of succession are killed or incapacitated.

The FEMA tracking system would work for both defensive and offensive use of nuclear weapons. If the United States were in a situation in which it needed to respond to a nuclear attack, rather than being the first to use nuclear weapons, it would want to ensure that it could make decisions quickly, and requiring the involvement of two high-level officials might raise concern about creating delays. However, if, after a nuclear attack, it were the case that FEMA could not quickly communicate with two designated officials, a decision could be made by the president and one other official, or by the president alone if necessary—just as it would be in the current system. The ability of the United States to respond to a nuclear attack would not be diminished.

¹ *The Law of Armed Conflict, which governs all US military operations, requires that any use of force fulfill three basic principles: it must be limited to actions needed to accomplish legitimate military objectives, it must discriminate between military and civilian targets, and the military objective to be achieved must outweigh the harm the attack will cause to civilians (Office of General Counsel 2015).*

² *Although Congress can endorse and promote such a policy change, only the administration can change US nuclear weapons policy.*

The Benefits of Including Officials in the Presidential Line of Succession

The FEMA system could be used to confirm the president's launch order by any two officials. But there are several compelling reasons to specifically include the officials in the line of presidential succession (see box).

- **Legitimacy.** These individuals are already legally designated to become commander-in-chief. If those ahead of them in the line of succession were no longer able to exercise this power, the decision about whether to launch nuclear weapons and the authority to do so would transfer to them.
- **Democratic input.** The top three officials in the line of succession are elected—not appointed—including two members of Congress. Therefore, it is likely that at least one congressional leader would be required to approve any launch order, providing some level of democratic input into a decision with enormous implications for every American.
- **Independence.** The top three officials in the presidential line of succession cannot be fired by the president, unlike cabinet secretaries and other political appointees who could be dismissed if they disagreed with the president's decision.



The Associated Press

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BOX

The Presidential Line of Succession

The first six people in the US presidential line of succession are the:

1. Vice president
2. Speaker of the House of Representatives
3. President pro tempore of the Senate
4. Secretary of state
5. Secretary of the treasury
6. Secretary of defense

Additional Steps to Limit Presidential Launch Authority

In addition to ending the authority of a single individual to order a nuclear attack, other steps could help to further limit the circumstances under which the president could order the use of nuclear weapons.

First, the United States should remove its silo-based missiles from hair-trigger alert, a status that allows their launch within a matter of minutes. The United States should also eliminate the option of launching nuclear weapons on only the warning—not confirmation—of an incoming attack (Wright, MacDonald, and Gronlund 2016). Instead, the United States should require that the president wait for a confirmed detonation of nuclear weapons on US territory or that of an ally. These changes would eliminate the risk of a launch based on a false or mistaken warning and would reduce the need to make a launch decision under extreme time pressure.

Second, US policy currently allows the use of nuclear weapons during a non-nuclear conflict with another

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nuclear-armed country, namely Russia, China, and North Korea. This should be changed to prohibit US first use of nuclear weapons, since doing so in a conflict with one of these nations would likely lead to a nuclear response and a wider nuclear war. The United States should declare that it will not be the first to use nuclear weapons, and that the sole purpose of US nuclear weapons is to deter and, if necessary, respond to the use of nuclear weapons against the United States or its allies. Even if the president retained the sole authority to order a launch, this policy of no first use would limit the circumstances under which the president could do so and would eliminate the possibility of the United States starting a nuclear war—not by mistake, but deliberately.

Reliance on sole presidential authority to order a nuclear launch, although intended to help ensure the safety and security of the nation, instead puts Americans at increased risk. Including additional decisionmakers to affirm a nuclear launch order would help to ensure that the decision is made by people mentally fit to make it, includes some level of democratic input, and is wise.

This fact sheet was adapted from “How to limit presidential authority to order the use of nuclear weapons,” by L. Gronlund, D. Wright, and S. Fetter, published in the Bulletin of the Atomic Scientists, January 23, 2018 (<https://thebulletin.org/2018/01/how-to-limit-presidential-authority-to-order-the-use-of-nuclear-weapons>).

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