

Deterrent in Chief

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All I want for Christmas is rational nuclear deterrence. Tall order, but I've done everything I can to stay on Santa's Nice list. I'm not the only one asking for someone to make me feel better about the specter of looming thermonuclear war with North Korea. As Mary Chestnut noted, Obama's 2010 Nuclear Posture Review is being updated by the new administration.¹ Early this year Congressman Ted Lieu (Dem., Los Angeles) and Senator Ed Markey (Dem., Massachusetts) introduced tiny pieces of legislation intended to bar the President from nuclear first use². Three weeks ago Senator Bob Corker called the Senate Committee on Foreign Relations (SFRC) to take testimony on nuclear command and control authority.³ The SFRC's hearing was inconclusive but newsworthy for being the most recent public review of protocol in 41 years. Besides the NPR, one could argue that both Lieu-Markey and the SFRC hearing did little more than demonstrate Congressional impotence in this case. But that isn't the only thing they signaled. A deeper look into the testimonies of Dr. Peter Feaver, retired Air Force General C. Robert Kehler, and Brian McKeon explain why the committee shouldn't have come away dissatisfied but reassured.⁴ So how does sole Presidential authority over nuclear weapons actually keep us safe?

¹ (Chesnut 2017)

² Congress.gov. "H.R.669 - 115th Congress (2017-2018): Restricting First Use of Nuclear Weapons Act of 2017." January 24, 2017. <https://www.congress.gov/bill/115th-congress/house-bill/669>.

³ "AUTHORITY TO ORDER THE USE OF NUCLEAR WEAPONS." 2017. Washington, D.C.: U.S. Government Publishing Office. <https://www.govinfo.gov/content/pkg/CHRG-115shrg34311/html/CHRG-115shrg34311.htm>.

⁴ "Statement to Senate Foreign Relations Committee On the Authority to Order the Use of Nuclear Weapons." 115th Congress (2017). (Statement of Dr. Peter Feaver, Expert).

Kehler, testimony on *Authority to Order the Use of Nuclear Weapons*

McKeon, testimony on *Authority to Order the Use of Nuclear Weapons*

Feaver, Kehler, and McKeon, in their short testimonies, outlined some of the major scenarios and issues that nuclear strategy must address, and why our strategic protocols depend on what seems like an dangerously precarious design. In short, those scenarios of nuclear weapons usage are a first-use strike (launching nukes first to head imminent war), a retaliatory strike (launching missiles second), and deterrence (threat of launch).

The Lieu-Markey bill was aimed solely at making first-use illegal. But as McKeon noted, there's nothing for Congress to really do here. Since nobody could misread a nuclear weapons launch in anger as anything but a declaration of war, and Congress has sole authority to declare war, a first use is already illegal. McKeon's and Kehler's testimony presented a more mixed picture of the Obama Administration's stated no first-use policy.

If the President wasn't feeling particularly lawful, the responsibility to resist would fall to military subordinates. If members of the chain of command were surprised by an order, or mutinous, they could ostensibly take the position that an order to launch a nuclear attack looked like first-use and could be resisted as illegal. Potential for mutiny is problematic, suffice it to say that in terms of Congressional authority to prevent first use, it's there—in name.

Retaliatory strikes are another issue, and one that we're most familiar with. Missile defense theory is (broadly put) wrapped around the retaliatory strike problem. Discussions of response times ([it is worse than you think](#)) are about retaliatory decision-making. Most of the horror films and the sense of futility of nuclear weapons imagine two countries retaliating and ending humanity, and even the third major strategic use of nuclear weapons (deterrence) emerges like a weed from sixty year old logic assuming that retaliatory strikes are inevitable.

The discussion in the SFRC hearing was educational for the Congresspersons of the committee. What they came to hear about was whether the chain of command that distances the Commander in Chief from actual nuclear launch is safe against *current* President Donald Trump. Reassurances were made that what was most important for retaliatory capability were trust in the command authority and expediency. Nuclear launch facility operators need to be able to trust that orders received are authoritative and credible, and that they are able to act before being destroyed by incoming warheads. Time is of the essence. Adding extra people to vet the order could impede effectiveness. Even more perilous is distributed authority. Requiring two or more people to convene, concur, and commit to a response risks fatal decision paralysis. What if that second authority is missing or disabled? Errors and confusion risks multiply as authority is distributed. Another aspect of this design, (that may

actually be keeping us safe) is what the design signals. As explained both by Feaver and McKeon, the message to potential adversaries that the US can respond immediately makes them think twice about attacking America.

The experts repeatedly testified to the deterrent capability of the current protocol and the inadvisability of tinkering with it. Dr. Feaver got to the point early in his testimony,

For nuclear deterrence to work, we must have a high assurance that the country will always be able to present a credible nuclear strike capability to our adversaries, even in the most-dire scenarios. Otherwise, if others believe that some sort of massive or cleverly designed first strike could render our nuclear arsenal unusable, adversaries will have a powerful incentive to strike us first and early in any unfolding crisis.⁵

While it may have been consoling for Senator Corker to hear Gen. Kehler remark that the military is only required to obey legal orders, the prospect of a doubtful subordinate signals to adversaries a weakly-linked chain, and that weakens deterrence. McKeon closed his testimony urging Congress to be judicious in proposing reform to the command protocol.

Congress may find it frustrating to be in a position where the product of decades-long abnegation of war authority is suddenly so visible. Clawing back control from the executive may be impossible, arduous, or even dangerous, but there has not been a President in our lifetime whose quixotic penchant for tantrums and polarizing rhetoric so warranted the effort.

⁵ Feaver, testimony on *Authority to Order the Use of Nuclear Weapons*

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