

Deterrent in Chief

All I want for Christmas is rational nuclear deterrence. Tall order, but I've done everything I can to stay on the "Nice" list. I'm not the only one asking for someone to make me feel better about the spectre of looming thermonuclear war with North Korea. As Mary Chesnut noted, Obama's 2010 Nuclear Posture Review is being updated by the new administration. 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 use. Three weeks ago Senator Bob Corker called the Senate Committee on Foreign Relations (SFRC) to take testimony on nuclear command and control authority. 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. So how does sole Presidential authority over nuclear weapons actually keep us safe?

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 absurdly 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 and Kehler's testimony presented a more mixed picture of the Obama Administration's policy on first use.

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 is wrapped around the retaliatory strike problem. Discussions of response times (it is worse than you think) are about retaliatory decision-making. Many of the horror films imagine two countries retaliating and ending humanity, and even the third major strategic use of nuclear weapons (deterrence) arises out of the logic of retaliatory strikes.

The discussion in the SFRC hearing was instructive for the Congressional staff attending. What they wanted to hear about was whether the chain of command that distances the Commander in Chief from actual nuclear launch is safe against this President. Reassurances were made that what is most important for retaliatory capability are 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 democratized. 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.

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 doubting subordinate signals to adversaries a weakly-linked chain, and *that* weakens deterrence. McKeon closed his testimony with this comment and urged them 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.

[Note: In the time it took you to read this article, the President would have exhausted the available decision-making window.]