

Congress of the United States
Washington, DC 20515

December 12, 2024

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden,

Under the U.S. Constitution, only Congress can declare war, and there is no clearer act of war than the first use of nuclear weapons. But current U.S. policy gives the president unilateral authority to launch a nuclear first strike, sidelining Congress from this most consequential decision. As the coauthors of the *Restricting First Use of Nuclear Weapons Act* — proposed legislation that prohibits any U.S. president from launching a nuclear first strike without prior congressional authorization — we urge you, in your remaining time in office, to change this unconstitutional policy. We first introduced this act during the Obama administration not as a partisan effort, but to make the larger point that current U.S. policy, which gives the president sole authority to launch nuclear weapons without any input from Congress, is dangerous. As Donald Trump prepares to return to the Oval Office, it is more important than ever to take the power to start a nuclear war out of the hands of a single individual and ensure that Congress’s constitutional role is respected and fulfilled.

The president’s ability to singlehandedly launch a nuclear first strike has concerned our military and Congress since the dawn of the nuclear age. During the Watergate crisis, then-Secretary of Defense James Schlesinger was so concerned about President Richard Nixon’s mental state and alcohol consumption that he told military commanders that if Nixon ordered a nuclear strike, they should check with him or Secretary of State Henry Kissinger first. California Senator Alan Cranston phoned Schlesinger, warning him about “the need for keeping a berserk president from plunging us into a holocaust.”¹

More recently, two days after the January 6, 2021 mob attack on the U.S. Capitol, Chairman of the Joint Chiefs of Staff General Mark Milley took the extraordinary step of ordering his staff

¹ Garrett M. Graff, *The Madman and the Bomb*, Politico Magazine (Aug. 11, 2017), <https://www.politico.com/magazine/story/2017/08/11/donald-trump-nuclear-weapons-richard-nixon-215478/>.

to come to him if they received a nuclear strike order from Trump.² “You never know what a president’s trigger point is,” Milley reportedly told the officers.³

But current U.S. policy does not allow the Defense Secretary or the Chairman of the Joint Chiefs of Staff to reject a legitimate first use order; their role is purely advisory. The president can unilaterally make a launch decision and implement it directly without informing senior leaders. If Milley and Schlesinger both felt they had to break the rules to save the world from possible destruction, these rules must change.

Mr. President, with just weeks left in office, you can safeguard the system against Donald Trump or any future unstable president, and make it constitutional. We urge you to announce that henceforth it will be the policy of the United States that it will not initiate a nuclear first strike without express authorization from Congress. In a situation where the United States has already been attacked with nuclear weapons, the president would retain the option to respond unilaterally.

Such a policy would provide clear directives for the military to follow: A president could order a nuclear launch only if (1) Congress had approved the decision, providing a constitutional check on executive power or (2) the United States had already been attacked with a nuclear weapon. This would be infinitely safer than our current doctrine. As two former high-ranking U.S. national security officials recently wrote: “Requiring that presidents consult with others before making the most fateful decision in human history would make the United States and the world a safer place.”⁴

President Biden, as an important part of your legacy, you must put guardrails on presidential authority to start nuclear war. We must never again entrust the fate of the world to just one fallible human.

We thank you for your attention to this critical issue and stand ready to support your efforts in any way we can.

Sincerely,



Edward J. Markey
United States Senator



Ted W. Lieu
United States Representative

² Jamie Gangel et al., *Woodward/Costa book: Worried Trump could ‘go rogue,’ Milley took secret action to protect nuclear weapons*, CNN (Sept. 14, 2021), <https://www.cnn.com/2021/09/14/politics/woodward-book-trump-nuclear/index.html>.

³ *Id.*

⁴ Anthony Lake & Steven Andreasen, *The Nuclear Brain Trust*, Foreign Affairs (Oct. 24, 2024), <https://www.foreignaffairs.com/united-states/nuclear-brain-trust>.