

Opinion Biden needs to prevent Trump from having unlimited control over nuclear weapons

By Jon Wolfsthal

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In less than a year, America will elect a president. Whoever is sworn in on Jan. 20, 2025, will immediately be vested with the sole legal authority to order the use of the United States' nuclear weapons. If a sitting president decides to exercise that authority — for almost any reason — no one can legally stop them. That must change.

This is not a new problem. Two of the 14 presidents in the nuclear age have behaved dangerously enough that their own officials have tried, in legally questionable ways, to insert themselves into the nuclear chain of command.

In President Richard M. Nixon's final days, then-Defense Secretary James Schlesinger declared that any nuclear order had to be checked with him first. The fact that Donald Trump remains the front-runner for the 2024 Republican nomination injects additional concern given his behavior as president. In the last few days of Trump's term, then-Chairman of the Joint Chiefs of Staff Gen. Mark A. Milley tried to mitigate these risks by telling officers at the National Military Command Center (NMCC) that if they received a nuclear launch order from Trump, they must loop him in. "I'm part of the procedure," Milley reportedly told subordinates.

We might want to thank both Milley and Schlesinger for what they did, but they might have broken the law in doing so. Though the chairman of the Joint Chiefs is the country's senior military officer, he is not part of the nuclear-launch process. Nor is the defense secretary, secretary of state or even the commander of U.S. Strategic Command.

To initiate a nuclear strike, the president can issue an order bypassing senior military leaders and advisers. Every president carries with him a sealed card known as the "biscuit." The president can call the NMCC at any time and use the code from the biscuit to verify his identity — and the weapons get launched. As commander in chief, a president can even order the watch officer not to tell superiors that an order has been given. So even if a concerned chairman of the Joint Chiefs instructs his soldiers to inform him of any such command, the president can simply override that "safeguard" at his discretion.

The chain of command, however, is different for almost every other decision to use military force. For non-nuclear decisions — including conventional military strikes or sending soldiers into combat — the president must give an order to the defense secretary, who then issues written instructions to the relevant combatant commander. It's a transparent system that encourages accountability.

Why are nuclear weapons procedures different from conventional ones? Because, during the Cold War, speed was seen as essential for deterrence. If a Soviet nuclear bolt from the blue could kill a sitting president before he had time to order a counterattack, adversaries were thought to have an incentive to initiate a first strike. By being able to respond quickly, without having to work through layers of officials, deterrence was thought to be more robust.

But there is no reason today to rely on speedy decision-making during situations in which the United States might launch first. Even as relations with Moscow are at historic lows, we are worlds removed from the Cold War's dominant knife's-edge logic. This means checks and balances on a president's decision to start a nuclear war can be adopted without sacrificing America's security or the protection of our allies. It's time our institutions caught up with this strategic reality.

Numerous ideas have been put forward to close this dangerous loophole. None is perfect. The idea of requiring another elected or Senate-confirmed officer such as a vice president, secretary of state or defense secretary to agree to a nuclear launch order has been considered impractical. For one, if senior officials are killed or are appointed without Senate approval, the United States could be rendered unable to retaliate against a nuclear attack. At the very least, any such change would require a legal remedy and congressional approval by both houses of Congress — something unlikely even in ideal circumstances.

What is left is not a permanent solution but an improvement over the current process nonetheless: President Biden has the authority as commander in chief to change the military chain of command. He can make launching nuclear weapons absent a confirmed nuclear attack on the United States conform to the same procedures required for the use of conventional forces. Adopting such a process would not impact the country's security or that of its allies. But it would ensure that no president can act without other senior officials being directly involved in a decision to use America's most powerful weapons.

Could a future president try to reverse these safeguards? Yes, but doing so would take time and require the work of other senior officials. The formal chain of command is established by law but can be changed through executive order. Requiring White House lawyers to develop a new directive to revert to the older, less-constrained systems would be a time-consuming process. And putting even surmountable speed bumps in place is worth the effort.

There is no perfect system for preventing nuclear use as long as nuclear weapons exist. Yet nuclear procedures have been adjusted many times over the decades, and it is time for yet another change. The Biden administration should be praised for spending a lot of time crafting norms for responsible nuclear behavior — from repeatedly declaring that a nuclear war cannot be won and thus must never be fought, to ensuring that unsupervised artificial intelligence is kept far from decisions on the use of nuclear weapons. It should continue this admirable track record by insulating the United States' nuclear weapons from an unstable future president by adding senior officials into the process.