

Congress of the United States
Washington, DC 20515

January 8, 2021

The Honorable Christopher C. Miller
Acting Secretary of Defense
1400 Defense Blvd.
Washington, DC 20301

General Mark A. Milley
Chairman of the Joint Chiefs of Staff
1400 Defense Blvd.
Washington, DC 20301

Dear Acting Secretary of Defense Miller and Chairman Milley,

We write to request your commitment not to carry out any order given by President Donald J. Trump to use nuclear weapons, or that could provoke or result in their use. Further, we urge you to ensure the lawfulness of any military directive from the White House before the end of President Trump's term in office and its compliance with clear congressional authorization. President Trump's unhinged conduct this week gives us grave concern about unlawful and unwarranted military action that he could order in the waning days of his presidency.

Earlier this week, President Trump brazenly incited violence resulting in an insurrection against the United States and the defiling of the U.S. Capitol. He has violated his oath of office to "preserve, protect, and defend the Constitution of the United States." He is a danger to our nation and the world, and will remain so until he leaves office. Indeed, aides close to the president have described President Trump's recent behavior as akin to a "total monster," and that the situation was "beyond the pale," and "insane."¹ Members of his Administration are resigning in droves. And as recently as this past April, President Trump stated the dangerous falsehood that "when somebody [is] president of the United States, the[ir] authority is total."²

We are especially concerned that the President of the United States has the sole authority to authorize the use of nuclear weapons. During the Watergate crisis, an unstable President Nixon reportedly boasted: "I can go into my office and pick up the telephone and in 25 minutes 70 million people will be dead."³ In the final days of the Nixon presidency, then-Secretary of Defense James R. Schlesinger, in consultation with General George S. Brown, then-Chairman of

¹ Philip Rucker et al., *Aides weigh resignations, removal options as Trump rages against perceived betrayals*, Washington Post (Jan. 7, 2021), https://www.washingtonpost.com/politics/trump-resignations-25th-amendment/2021/01/07/e131ce10-50a3-11eb-bda4-615aaefd0555_story.html.

² Jeremy B. White, *Trump Claims Total Authority Over State Decisions*, Politico (Apr. 13, 2020), <https://www.politico.com/states/california/story/2020/04/13/trump-claims-total-authority-over-state-decisions-1275506>.

³ VOA News, *US Lawmakers Set to Introduce 'First Strike' Bill*, VOA (Jan. 28, 2019). <https://www.voanews.com/usa/us-lawmakers-set-introduce-first-strike-bill>.

the Joint Chiefs of Staff, closely monitored “all orders from any source . . . to prevent any of a series of hypothetical situations from developing.”⁴ Schlesinger wanted “to insure that no unauthorized orders were given to military units by the White House.”⁵

President Trump’s recent behavior has generated the same concerns that animated Secretary Schlesinger’s and General Brown’s extraordinary — yet entirely warranted — action. It has become increasingly clear over the last few days that President Trump is unfit for office, is unable to fulfill his constitutional responsibilities as president — including his duties as Commander-in-Chief under Article II — and is a demonstrable threat to peace and security. This sad conclusion demands close monitoring of all military orders emanating from the White House to ensure their lawfulness and compliance with congressional authorization, and must especially include a refusal to execute any Trump order for the first use of a nuclear weapon. These commitments would be consistent with Article 90 of the Uniform Code of Military Justice, which Congress has adopted as law, and which obligates our military members to follow only lawful orders of a superior,⁶ as well as the standards of international humanitarian law, which arguably proscribe the first use of nuclear weapons.⁷

Inscribed on the north wall of the Martin Luther King, Jr. memorial just a few miles from the Pentagon are these words he spoke in 1963: “The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.”⁸ These are challenging times that require the moral courage to do what is right.

Thank you for your service in the defense of the nation.

Sincerely,



Edward J. Markey
United States Senator



James P. McGovern
Member of Congress

⁴ Bernard Gwertzman, *Pentagon Kept Tight Rein In Last Days of Nixon Rule*, N.Y. Times (Aug. 25, 1974), <https://www.nytimes.com/1974/08/25/archives/pentagon-kept-tight-rein-in-last-days-of-nixon-rule-no-event.html>.

⁵ *Id.*

⁶ 10 U.S.C. § 890.

⁷ Christopher Vail, *The Legality of Nuclear Weapons for Use and Deterrence*, 48 Georgetown L.J. 839, 842-44 (2018), <https://www.law.georgetown.edu/international-law-journal/wp-content/uploads/sites/21/2018/05/48-3-The-Legality-of-Nuclear-Weapons-for-Use-and-Deterrence.pdf>.

⁸ National Park Service, Quotations, Martin Luther King, Jr. Memorial, <https://www.nps.gov/mlkm/learn/quotations.htm>.