



Updated December 23, 2025

Defense Primer: President's Constitutional Authority with Regard to the Armed Forces

Article II, Section 2, Clause I

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States....

Commander in Chief—Early Supreme Court Cases

The Constitution makes the President commander in chief of the Armed Forces but does not define exactly what powers he or she may exercise in that role. Nor does it explain the extent to which Congress, using its own constitutional powers, may influence how the President commands the Armed Forces. Separation-of-powers debates arise with some frequency over the exercise of military powers.

Early in the nation's history, Alexander Hamilton wrote in *The Federalist*, No. 69, that the commander in chief power is "nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy." In 1850 the Supreme Court in *Fleming v. Page* stated that the President's "duty and his power are purely military." "As commander-in-chief," the Court explained, "he is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy."

In *Little v. Barreme*, Chief Justice Marshall recognized congressional war power while denying the exclusivity of presidential power. After Congress authorized limited hostilities with France, a U.S. vessel under orders from the President seized what its commander believed was a U.S. merchant ship carrying contraband from a French port. Congress had, however, provided only for seizure of such vessels bound to French ports. The Court held that the President's orders exceeded the authority granted by Congress and were not to be given effect, even though they might have been valid in the absence of such legislation.

In *Bas v. Tingy*, the Court looked to statute rather than plenary presidential power to uphold military conduct related to the limited war with France. In *Talbot v. Seeman*, the Court upheld as authorized by Congress a U.S. commander's capture of a neutral ship, holding, "The whole powers of war being, by the constitution of the United States, vested in congress, the acts of that body can alone be resorted to as our guides in this enquiry." During the War of 1812, the Court recognized in *Brown v. United States* that the Constitution empowers Congress to authorize the confiscation of enemy property during wartime and that,

absent such authorization, a seizure authorized by the President was void.

In the *Prize Cases*, the Supreme Court sustained President Lincoln's blockade of southern ports in April 1861 at a time when Congress was not in session. Although Congress subsequently ratified the President's actions, making consideration of the constitutional basis of the President's action without congressional authorization unnecessary, the Court approved the blockade five to four as an exercise of presidential power alone. The Court found that a state of war existed as a fact and that, because the nation was under attack, the President was "bound" to act "without waiting for any special legislative authority." This case is frequently cited in support of claims to greater presidential autonomy when the President acts as commander in chief.

The Supreme Court has also suggested that the President has some independent authority to employ the Armed Forces, at least in the absence of contrary congressional action. In the 1890 case *In re Neagle*, the Supreme Court suggested, in dictum, that the President has the power to deploy the military abroad to protect or rescue persons with significant ties to the United States. Justice Miller approvingly described the Martin Koszta affair, in which an American naval ship intervened to prevent a lawful immigrant from being captured by an Austrian vessel despite the absence of clear statutory authorization.

Presidential Power over Foreign Affairs

The expansion of presidential power related to war gained momentum in the twentieth century. In *United States v. Curtiss-Wright Export Corp.*, the Supreme Court stated that the President, as "the sole organ of the federal government in the field of international relations," enjoys greater discretion exercising foreign affairs powers than when only domestic issues are involved. Congress had authorized the President to proclaim an arms embargo if he found such action might contribute to a peaceful resolution of the war between Paraguay and Bolivia. President Franklin Roosevelt issued such a proclamation, and Curtiss-Wright was indicted for violating the embargo. It challenged the statute, arguing that Congress had failed to elaborate standards adequate to guide the President's exercise of the delegated power. The Court found otherwise, reasoning that the power of the federal government related to "external" affairs is not one of enumerated powers but rather one of inherent powers.

Presidential Uses of Force in Recent Decades

Presidents from Truman to Trump have claimed to varying degrees that the President has independent authority to

commit U.S. Armed Forces to involvements abroad absent any congressional participation other than consultation and after-the-fact financing. In 1993, for example, President Clinton asserted [authority](#) to order the participation of U.S. forces in NATO actions in Bosnia-Herzegovina based on what his Administration viewed as the President's "constitutional authority to conduct U.S. foreign relations" and role as commander in chief. Additionally, President Clinton [protested](#) congressional efforts to restrict the use of military forces there and elsewhere as an improper and possibly unconstitutional limitation on his "command and control" of U.S. forces.

In 2011, President Obama [ordered](#) U.S. military forces to take action as part of an international coalition to enforce U.N. Security Council Resolution 1973, which authorized U.N. member states to take all necessary measures (other than through military occupation) to protect civilians from attacks by the Libyan government and to establish a no-fly zone over the country. Although these operations had not been authorized by legislation, the executive branch submitted a [report](#) to Congress that claimed that the President had the "constitutional authority, as commander in chief and chief executive and pursuant to his foreign affairs powers, to direct such limited military operations abroad."

In contrast, in 2013, President Obama [announced](#) he was seeking congressional authorization to take limited military action against Syrian government targets to hold the Syrian regime accountable for actions against its population. Although the President stated that he believed he had the authority to take the action without congressional authorization, he opined that the country would be "stronger" and its "actions ... more effective" with congressional approval. The President [met with congressional leaders](#) to discuss a draft [authorization](#), but Congress, after [debate](#), [did not](#) authorize the use of force.

President Trump deployed the U.S. Armed Forces to target Syrian government actors based on the [justification](#) of defending partner forces under the authorizations for the [use of military force \(AUMF\) against terrorist groups responsible for the attacks of September 11, 2001](#), and against [Iraq in 2002](#). These authorizations arguably do not go so far as to permit extension of the conflict to the Syrian government. In 2018, President Trump [ordered](#) airstrikes against three chemical weapons facilities in Syria, where U.S. troops were engaged in armed conflict against the Islamic State. After the first airstrikes, the Department of Justice's Office of Legal Counsel [advised](#) the President that attacks on Syrian government targets are within the President's commander-in-chief powers without need for congressional approval because the President "had reasonably determined that the use of force would be in the national interest and that the anticipated hostilities would not rise to the level of a war in the constitutional sense."

In January 2020, President Trump [ordered a strike](#) against an Iranian target in Iraq, killing Qasem Soleimani, the head of the Islamic Revolutionary Guard Corps-Quds Force, and Abu Mahdi al Muhandis, an Iraqi security official and founder of Kata'ib Hizballah, an organization deemed

responsible for attacks against U.S. and U.S. partner forces in Iraq. The Trump Administration subsequently submitted a [report](#) to Congress describing a change to existing legal and policy frameworks governing the use of armed force. In the report, the Trump Administration explained that the President has authority as commander in chief "to direct the use of military force to protect the Nation from an attack or threat of imminent attack and to protect important national interests," which it argued included the use of armed force against Iranian targets to counter attacks against U.S. forces in the region. The report also cited the 2002 AUMF against Iraq in support of the operation. President Trump subsequently [vetoed a joint resolution](#) directing the termination of the use of force against Iran.

President Biden in 2021 ordered airstrikes against Iran-backed militia targets in Iraq and Syria in response to rocket attacks against U.S. targets in Iraq, [citing](#) his "constitutional authority to conduct United States foreign relations and as Commander in Chief and Chief Executive" rather than any congressional authorizations for use of military force. In 2023, the Biden Administration issued a [report](#) describing changes to the legal framework for the use of military force in Afghanistan, Iraq, Syria, and Somalia, including a classified Presidential Policy Memorandum that establishes "rigorous standards and procedures governing U.S. direct action against terrorist targets outside areas of active hostilities."

The second Trump Administration in 2025 began a military campaign in the Caribbean and other nearby international waters conducting airstrikes against small boats it alleges are carrying illicit narcotics. The Administration [asserts](#) that the boats are associated with "designated ... terrorist organizations" and [claims](#) Article II authority to use military force to defend the United States against the transport of deadly illicit drugs, which the President [has characterized](#) as tantamount to an armed attack giving rise to "a non-international armed conflict." The Administration [reportedly](#) takes the view that the War Powers Resolution [requirement](#) to withdraw from unauthorized hostilities after sixty days unless Congress authorizes military force does not apply, in part because the military strikes do not involve risk to U.S. troops.

CRS Products

CRS Report R42699, [The War Powers Resolution: Concepts and Practice](#), by Matthew C. Weed (2019)

CRS Legal Sidebar LSB11157, [Assessing Recent U.S. Airstrikes in the Middle East Under the War Powers Framework](#), by Jennifer K. Elsea and Karen Sokol (2024)

CRS Report R42738, [Instances of Use of United States Armed Forces Abroad, 1798-2023](#), by Barbara Salazar Torreon and Sofia Plagakis (2023)

CRS Report RL31693, [U.S. Armed Forces Abroad: Selected Congressional Votes Since 1982](#), by Barbara Salazar Torreon and Carla Y. Davis-Castro (2023)

Jennifer K. Elsea, Legislative Attorney

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.