

From: Commander R Forsyth RN (Ret'd)



Director General Nuclear Secretariat
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9 January 2020

Dear Director General

In correspondence with your Directorate between November 2017 and December 2018, I sought to establish how a Trident SSBN Commanding Officer (CO) on receipt of a fire order could be confident that he is not being ordered to commit genocide or a crime against humanity as the Joint Services Manual of Law of Armed Conflict (JSP383) requires of him. Furthermore, Nuremberg Principles IV and VII and Article 33 of the Rome Statute of the International Criminal Court (ICC) also place direct responsibility on the CO not to obey an order which is manifestly unlawful even though it emanates from a superior. Therefore, in order to be sure that he is acting lawfully, he needs to know the details of his targets and the effects of his weapons on them. As you will see from our correspondence, my concern grew out of a realisation that the CO is as much subject to the deliberate ambiguity of Government nuclear weapon policy regarding first use, targets and number of warheads as the intended target(s).

Your Directorate did not provide an answer to this other than stating in a variety of different ways that Government policy is lawful. When I pressed further your Directorate terminated the correspondence.

Rear Admiral John Gower (retired former ACDS Nuclear, Chemical & Biological), writing in response to my comments dated 25 November 2019 on his article *UK: Nuclear Weapon Command, Control and Communications* published on 12 September 2019 on the public website www.nautilus.org, stated:

"...[T]hat the SSBN command has no knowledge of the targets which the PM has ordered selected absolves them of the Nuremberg Principles, which are based on the simple fact that a subordinate subject to them has knowledge of the specifics of the order and discretion in carrying them out. Continued legal advice supports this."

Does Rear Admiral Gower's interpretation of the Nuremberg Principles in relation to ICC Article 33 accurately reflect the Government's position and, if so, can your Directorate provide details of this legal advice?

Yours sincerely

Robert Forsyth