

JUN 10 2020

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter is in response to your June 3, 2020 letter in which you expressed concern over the use of military forces in response to civil unrest. This response supplements the Department's briefing to Members of the Committee of June 8, 2020:

1) What are the Department's plans for the use of active duty forces for domestic law enforcement?

U.S. military forces are always prepared to perform the Department's missions. In the context of the protests in the District of Columbia, active duty forces are not currently present and were not ever in the District for purposes of civilian law enforcement. The Department of Defense has not received a request for assistance from another Federal law enforcement agency that the Secretary has filled with active duty personnel.

If a state government objects, will the military be used over their objections?

Congress has given the President the authority to use active duty military forces for domestic law enforcement under certain conditions specified in the Insurrection Act, codified in Title 10, U.S. Code, Sections 251 – 255. In the event that a President makes such a decision, he may do so without approval from the State government in which the forces are to be used. The President also has the authority to use active-duty military forces to protect Federal functions, persons, and properties.

2) How many troops have moved, and are moving, into the Washington, D.C. area?

Title 10 – Approximately 1,700 title 10 troops were moved to military installations outside of the District in Maryland and Virginia, but began returning to home station on June 5, 2020. All active duty troops have returned to their home base as of June 9, 2020.

Title 32 – There were approximately 3,800 National Guard members from New Jersey, Utah, Ohio, South Carolina, Florida, Indiana, Mississippi, Tennessee, Idaho, Missouri, Pennsylvania, and Maryland protecting Federal functions, persons, and properties within the District of Columbia, in coordination with the D.C. National Guard. All non-D.C. National Guard members have returned to their home states.

Where are they coming from, what will their mission be, and what criteria must be met for them to deploy into the city?

Title 10 – Forces were drawn from Fort Bragg, North Carolina, Fort Drum, New York, Fort Riley, Kansas, and Fort Myer, Virginia. These soldiers were already under a heightened readiness, and were prepared to deploy to a multitude of contingencies world-wide. The President did not direct these forces to perform any missions in the District of Columbia.

Title 32 – There were approximately 3,800 National Guard members from New Jersey, Utah, Ohio, South Carolina, Florida, Indiana, Mississippi, Tennessee, Idaho, Missouri, Pennsylvania, and Maryland who were supporting National Guard operations within Washington D.C.

Who has command of these forces?

Title 10 – The chain of military command for these title 10 forces was the President of the United States, the Secretary of Defense, the Commander U.S. Northern Command, and the Commanding General of the Joint Task Force-National Capitol Region, Major General Omar Jones.

Title 32 – The chain of military command for D.C. National Guard personnel is the President of the United States, the Secretary of Defense, the Secretary of the Army and the Commanding General, District of Columbia National Guard, Major General William J. Walker. The out-of-state National Guard personnel remained under the command and control of their respective State Governors and were under tactical control of Major General Walker.

At no point were any civilian law enforcement personnel under the command and control of any military personnel.

Is there a dual-status commander to synchronize active duty and National Guard personnel?

There was no dual-status commander designated for the National Capital Region.

3) For troops moved to the Washington, D.C. area, what vehicles will they utilize and what weapons and equipment will they be issued?

Non-D.C. National Guard troops used organic vehicles, including General Service Administration box trucks, buses, and military vehicles.

Title 10 troops were not introduced into the District of Columbia.

What training have they received on the limitations of their authorities, interaction with law enforcement agencies and National Guard troops, and operating procedures for encounters with civilian protestors?

National Guard personnel received training on the Standing Rules for the Use of Force, and the D.C. National Guard Rules for the Use of Force.

The active-duty military personnel who were stationed outside of the District of Columbia, included military police, engineers, and infantry personnel who received (or would have received, had they been employed) training on the standing rules for the use of force, which includes operational procedures, policies, and limitations when interacting with civilians and civilian law enforcement.

4) *Who has been charged with command of the District of Columbia National Guard?*

Major General William J. Walker is the commander of the D.C. National Guard.

What role does the Secretary of Defense have in giving mission assignments to the D.C. National Guard?

The Secretary of Defense gives mission assignments to the D.C. National Guard through the Secretary of the Army.

Does the Chairman of the Joint Chiefs have a role?

The role of the Chairman of the Joint Chiefs of Staff is to provide best military advice to the President of the United States, Secretary of Defense, the Homeland Security Council, and the National Security Council, pursuant to title 10, U.S. Code, section 151.

If so, what is that role and please describe in detail?

Not applicable, see above.

What authorities and orders have the National Guard been given?

Consistent with the President's direction, the Secretary of Defense assigned to out-of-State National Guard personnel the mission of protecting Federal functions, persons, and property within the District of Columbia. These National Guard personnel were undertaking this activity in a duty status pursuant to section 502(f) of title 32, U.S. Code. The D.C. National Guard has been operating pursuant to a request from a number of responsible officials, including a request from the U.S. Park Police, the U.S. Marshals Service, and the Metropolitan Police Department.

5) *Did the D.C. National Guard have any role in the dispersal of the peaceful protest in Lafayette Square?*

The D.C. National Guard soldiers did not actively participate in the clearing of Lafayette Park. They were there strictly in a support-to-civilian law enforcement role.

If so, what was the role and who gave the orders for those actions?

As the D.C. National Guard did not actively participate in the clearing of Lafayette Park, no related orders were given. However, Major General Walker did direct “support-to-civilian law enforcement” actions of the D.C. National Guard.

6) There are multiple videos of what appear to be a Lakota and possibly a Black Hawk helicopter hovering low over peacefully protesting crowds using their rotor wash to disperse a crowd on June 1, 2020. Were these military helicopters and did they belong to the D.C. Guard or another unit? What was their mission, who authorized them to hover over the crowd, and why? Did any property damage occur because of the rotor wash? Were any military or civilian aviation policies violated by the aircraft crew(s), and how many (by type) airframes were involved? Did one of the helicopters have the internationally recognized symbol of a medical evacuation helicopter? If so, why was that air frame flying in D.C. that evening? Secretary Esper, you have said there will be an investigation. Will investigators go to the site of the incident and interview citizens who live in proximity to the event?

There were D.C. National Guard helicopters, and at least one was marked with the internationally recognized medevac symbols. The helicopters were authorized for use in the D.C. airspace by the Secretary of the Army. There is an open investigation to determine the exact facts and circumstances of the mission, authorization to hover, property damages, and violation(s) of policy.

7) What was the rationale behind your participation in the President's walk across Lafayette Square to stand in front of the doors of St. Johns' Episcopal Church on the evening of June 1, 2020?

We participated in the walk with the aim of observing damage in Lafayette Square and at St. Johns Church, and meeting with and thanking the National Guard members who were on duty.

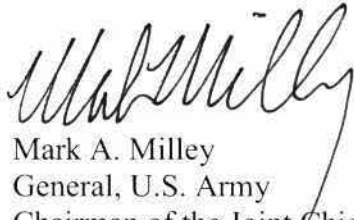
8) On the afternoon and evening of the June 1, 2020 were there any orders given to the 3rd Infantry Regiment, also known as “The Old Guard,” to prepare to enter D.C. in support of civilian law enforcement? Was the Old Guard issued live ammunition and/or bayonets along with other equipment in preparation for this mission? If so, what was their mission, what were their Standing Rules for the Use of Force, and who was in charge, the commander of the Military District of Washington or the Commanding General of the D.C. National Guard?

The Secretary of Defense ordered the Old Guard to assume a “prepare to deploy status” on June 1, 2020, but did not order The Old Guard into the District of Columbia. At no point were any weapons loaded or made ready, but in preparation for potential operations in an increased readiness posture, the Old Guard Commander directed the issue of bayonets in scabbards and limited amounts of ammunition to be maintained in pouches. The Old Guard has subsequently returned to its normal readiness posture and remains assigned to the U.S. Army Military District of Washington Commander. As an

active duty component, the Old Guard is subject to the *Standing Rules for Use of Force for U.S. Forces*, CJCSI 3121.0B.

Thank you for your continued support of the men and women of the U.S. military.

Sincerely,



Mark A. Milley
General, U.S. Army
Chairman of the Joint Chiefs of Staff



Mark T. Esper
Secretary of Defense