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U.S. House of Representatives

Washington, DC 20515-6035

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June 3, 2020

The Honorable Mark T. Esper
Secretary
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301

General Mark Milley
Chairman
Joint Chiefs of Staff
999 Joint Staff Pentagon #2D932,
Arlington, VA 22202

Dear Secretary Esper and General Milley:

I write you today to express my continued, grave concern about the use of military forces in response to peaceful protestors in the District of Columbia, the movement of active duty troops to staging areas around the country's capital, and plans to deploy active duty troops around the United States should the President invoke the Insurrection Act.

As you are well aware, the role of the United States military in support of domestic law enforcement is strictly limited by law. It must not be used in violation of those limits. I remain unconvinced that this fundamental premise is fully understood by the Administration in light of the events in Lafayette Square, the movement of active duty troops to staging areas just outside Washington, D.C., and the apparent use of military aviation to disperse protestors on the night of June 1, 2020.

So that Congress, and the American public, can better understand all related orders, plans, deployments, as well as decisions and actions to date, I request written responses to the below questions no later than June 9, 2020.

- 1) What are the Department's plans for the use of active duty forces for domestic law enforcement? If a state government objects, will the military be used over their objections?

- 2) How many troops have moved, and are moving, into the Washington, D.C. area? Where are they coming from, what will their mission be, and what criteria must be met for them to deploy into the city? Who has command of these forces? Is there a dual-status commander to synchronize active duty and National Guard personnel?
- 3) For troops moved to the Washington, D.C. area, what vehicles will they utilize and what weapons and equipment will they be issued? 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?
- 4) Who has been charged with command of the District of Columbia National Guard? What role does the Secretary of Defense have in giving mission assignments to the D.C. National Guard? Does the Chairman of the Joint Chiefs have a role? If so, what is that role and please describe in detail? What authorities and orders have the National Guard been given?
- 5) Did the D.C. National Guard have any role in the dispersal of the peaceful protest in Lafayette Square? If so, what was that role and who gave the orders for those actions?
- 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?
- 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?
- 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?

I look forward to your prompt responses and continued engagement on important issues like this. As such, in addition to these written responses, I have requested your participation in a hearing on the Department's roles and authorities in civilian law

enforcement. It is imperative our military continue to be one of the most highly regarded public institutions as they “support and defend the constitution,” the document that binds together the fabric of this great nation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam Smith". The signature is stylized with large, flowing letters.

Adam Smith
Chairman

AS:wjt