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**Statement for the Record: HASC Hearing – 9 JUL 20**

Chairman Smith, Ranking Member Thornberry, and distinguished members of the House Armed Services Committee: Thank you for the opportunity to testify today on the Department of Defense's role in the U.S. Government's response to the civil unrest in the District of Columbia.

Throughout our history, the U.S. military has demonstrated an unwavering commitment to supporting civil authorities in a myriad of circumstances, from responding to natural disasters, to protecting civil rights, to addressing public health crises. Over the past several months, our Active Duty, Reserve, and National Guard Service members have worked tirelessly across America on the front lines of the fight against the coronavirus disease 2019 (COVID-19) pandemic. Whether delivering food and medical supplies to communities in need, evacuating and repatriating U.S. citizens from foreign countries, or administering care in hospitals nationwide, more than 60,000 Service members have unfailingly answered our Nation's call, saving lives and stemming the spread of the virus. I am incredibly proud of their dedication and service to our fellow Americans.

In late May, our ongoing support to civil authorities mission expanded in the wake of the killing of George Floyd and an officer being charged with his murder; a tragedy we have seen repeated too often in our Nation. His death evoked public outrage and illustrated a painful truth that racial injustice continues to afflict our country to this day. Understandably, many Americans sought to exercise their First Amendment rights by voicing their anguish, frustration, and longing for change. Although many of these protests were peaceful and law-abiding, it is clear that some individuals exploited the situation to sow chaos and commit acts of violence, destruction, and theft. Clashes erupted with police in multiple cities, including Minneapolis, Atlanta, New York, Louisville, and the District of Columbia, during which buildings and vehicles were set on fire and vandalized; stores were looted; and law enforcement personnel and innocent bystanders were injured.

National Guard personnel were called upon by their respective governors to restore order and safeguard our communities, businesses, monuments, and places of worship. In doing so, the National Guard once again demonstrated its commitment to upholding the rule of law and protecting life and liberty, so that the violent actions of a few do not undermine the rights and freedoms of law-abiding citizens, or jeopardize the livelihood of hardworking Americans.

Our brave National Guard personnel, and every member of the Armed Forces, swear an oath to support and defend the Constitution, and we commit to doing so in our longstanding tradition of remaining apolitical. Many of us have taken this oath numerous times to reaffirm our commitment to defending the rights that this great document promises all Americans. Chief among them is the First Amendment, which guarantees the freedom of speech and right to peaceful assembly. And in cities across America, National Guard personnel were devoted to protecting these sacred rights, despite the risk to their own safety and personal wellbeing.

As a former Soldier and member of the National Guard, I am a firm believer that in these situations, the National Guard is best suited to provide domestic support to civil authorities, in support of local law enforcement. Using active duty forces in a direct civilian law enforcement role should remain a last resort, and exercised only in the most urgent and dire of situations. I

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want to make very clear that no active duty military units engaged protesters or otherwise took a direct part in civilian law enforcement or Federal protection missions in the District of Columbia or anywhere else in the country.

**Growing Unrest and DoD's Support to Civil Authorities**

At the height of the civil unrest, more than 43,000 Army and Air National Guard personnel in 33 States and the District of Columbia were called upon to assist Federal, State, and local law enforcement agencies in restoring and maintaining order, protecting their communities, and defending the rights of all Americans to protest safely and peacefully.

At the peak of response efforts in the District of Columbia, more than 5,100 National Guard personnel from the District of Columbia National Guard (DCNG) and 11 States – Florida, Idaho, Indiana, Maryland, Mississippi, Missouri, New Jersey, Ohio, South Carolina, Tennessee, and Utah – were authorized by their respective Governors to provide support. The DCNG supported the U.S. Park Police (USPP), the U.S. Marshals Service (USMS), and the District of Columbia Metropolitan Police Department (MPD). The authorized duties of the DCNG included: protection of Federal property; point security, crowd management, and access control; acting as a quick response force; medical support; and transportation of personnel and supplies. The out-of-State National Guard personnel protected Federal functions, persons, and property in collaboration with Federal law enforcement agencies.

The following is a detailed account of DoD's support to civil authorities, specifically in Minneapolis and the District of Columbia.

**On Friday, May 29, 2020**, there was unrest near the North Fence Line of the White House (Pennsylvania Avenue and Lafayette Park), two individuals who breached the outer security barriers on Pennsylvania Avenue, were taken into custody for unlawful entry by U.S. Secret Service (USSS) Uniformed Division (UD) Officers. As the night continued, three more individuals were arrested by USSS UD Officers for the same charge for a total of five arrests. Numerous USPP officers were injured in the altercation at the North Fence.

Throughout the evening, numerous protests occurred near the White House and key locations within the District of Columbia following press coverage of protests across the United States.

Out of an abundance of caution, I verbally approved placing the 16th Military Police Brigade Headquarters, 91st Military Police Battalion, and 116th Military Police Company on a 4-hour prepare-to-deploy order. These forces remained at their respective home station locations of Fort Bragg, North Carolina; Fort Drum, New York; and Fort Riley, Kansas.

Meanwhile, the Chairman of the Joint Chiefs of Staff (CJCS) and I spoke with the Governor of Minnesota to determine if the Governor anticipated requiring additional military support due to the escalation of violence in Minneapolis. On the previous day, the Governor called the growing unrest in Minneapolis an "extremely dangerous situation" and declared a state of emergency. At this time, nearly 200 Minnesota Army National Guard personnel were placed in state active duty to support local law enforcement.

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**On Saturday, May 30, 2020**, demonstrations continued in multiple cities in the United States, with some turning violent. Six DCNG personnel were hurt – one was hit in the head with a brick and suffered a concussion, while the other five suffered less serious injuries. The USPP requested assistance from up to 100 DCNG personnel in order to support the USPP’s security plan for safety and protection of Lafayette Park resources and the White House Complex and Infrastructure through May 31. I verbally approved this request the same day.

The USPP required that all DCNG personnel be designated as “Special Police Officers” pursuant to D.C. Code § 5-205 and 54 U.S.C. § 102701. Pursuant to this designation, DCNG personnel have law enforcement authority to act on Federal park land. However, absent exigent circumstances, no DCNG personnel were authorized to conduct searches, seizures, or arrests. At the request of the President, I directed the Secretary of the Army to order the deployment of additional DCNG personnel to protect Federal functions, persons, and property. These DCNG personnel were issued shields and riot batons for personal protection. I did not authorize DCNG personnel or DCNG assets to collect, investigate, monitor, or store any information regarding any U.S. person.

The CJCS and I also spoke to the Governor of Minnesota Saturday morning. After our conversation, the Governor announced a full mobilization of the Minnesota National Guard, seeking to prevent further violence and protect the right of peaceful protest. The Governor directed these Service members to provide support to local authorities and aid in deterring situations such as rioting, arson, and looting in Minneapolis.

**On Sunday, May 31, 2020**, numerous civil disturbances, some violent, were occurring in multiple cities across the United States. In the District of Columbia, protesters clashed with law enforcement in Lafayette Park outside the White House, and pushed down multiple security barricades. According to the USSS, between the evening of May 29 and into the early hours of May 31, more than 60 USSS officers and special agents sustained minor to severe injuries from the violence (11 were brought to the hospital), and 6 USSS vehicles were vandalized.

Protesters reportedly broke through a barrier near a line of police and National Guard personnel at Lafayette Square Park near the White House. Multiple fires were reportedly set within blocks of the White House. St. John's Episcopal Church, across the street from the White House and Lafayette Square, was set on fire. A U.S. National Park Service building in Lafayette Park was also set on fire.

The USPP requested continued DCNG support – with an increase to 250 personnel – through June 7.

The District of Columbia’s Homeland Security and Emergency Management Agency (HSEMA), on behalf of the D.C. MPD, requested 100 DCNG personnel and associated transport vehicles through June 6 to assist with traffic control and to block intersections identified by the MPD to allow the public to exercise their First Amendment rights safely. The Secretary of the Army verbally approved this request that same day.

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DCNG personnel were not authorized to conduct law enforcement activities in connection with this requested support. These personnel were not armed and were only equipped with night visibility vests and lighted wands.

**On Monday, June 1, 2020**, as civil disturbances across the country continued, the Mayor of Washington D.C. ordered a citywide curfew.

More than 50 USPP officers sustained injuries, some being hospitalized, throughout the operation period starting on May 29. Additionally, 7 Washington, D.C. MPD police officers were reported as injured that day.

I, along with the CJCS and the Attorney General, participated in an Oval Office meeting with the President to discuss how best to protect the District of Columbia, including by using National Guard personnel to protect Federal functions, personnel, and property.

I directed the Secretary of the Army to have 5,000 National Guard personnel in the District of Columbia by the evening, based on the President's direction to protect Federal functions, persons, and property.

In consultation with the Commanding General, DCNG, the Secretary of the Army advised me that the DCNG could only field 1,200 personnel and, as a result, 3,800 National Guard members from other States would be necessary.

At the direction of the President, and after consulting with the Attorney General, I requested, pursuant to Section 502(f) of Title 32, U.S. Code, that Governors provide approximately 3,800 National Guard personnel to protect Federal functions, persons, and property in the District of Columbia.

Due to his role supervising the DCNG, at my direction, the Secretary of the Army also served as the coordinating authority for all National Guard personnel deployed to the District of Columbia and supported the Attorney General's overall supervision of matters pertaining to the civil unrest.

National Guard personnel were not engaged in clearing protesters in Lafayette Square.

Meanwhile, the USMS requested DCNG assistance, pursuant to D.C. Code § 49-103, to assist the USMS's efforts to suppress violence and enforce the laws, including by protecting Federal buildings, national monuments, and other Federal property, and by ensuring conditions necessary for the orderly functioning of the Federal Government, through June 7. I verbally approved the request and authorized 850 DCNG personnel to provide assistance through June 14.

I then placed approximately 1,700 active-duty military personnel on alert in Maryland and Virginia in the event that out-of-State National Guard personnel could not arrive in time. Of those personnel, 400 were from the 3rd Infantry Regiment at Joint Base Myer-Henderson Hall, Virginia; 1,300 were from Fort Bragg, North Carolina; Fort Drum, New York; and Fort Riley, Kansas. The latter personnel were previously placed on a 4-hour prepare-to-deploy order on May 29 and I subsequently ordered them to be pre-positioned at Joint Base Andrews, Maryland; Fort

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Belvoir, Virginia; and Joint Base Myer-Henderson Hall, Virginia, where they remained on alert. These active duty personnel remained outside of the District of Columbia.

These deployed forces were composed of 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.

**On Tuesday, June 2, 2020**, the D.C. Mayor extended the citywide curfew as disturbances continued.

Active-duty military personnel of the 82nd Airborne Division arrived at Andrews Air Force Base, Maryland.

National Guard Service members from supporting States began to arrive in the District of Columbia. To ensure that out-of-State National Guard deployments into the District of Columbia were consistent with the President's authorization, units were limited in their deployment to Federal Government properties, including Federal buildings and monuments. When deployed to Federal Government properties, they were authorized to take reasonable measures to ensure the protection of property and the safety of Federal personnel, including crowd control, temporary detention, and cursory search. National Guard personnel from supporting States were not authorized to deploy away from Federal Government properties.

**On Wednesday, June 3, 2020**, additional National Guard Service members from supporting States arrived in the District of Columbia and were deployed to protect Federal functions, persons, and property.

**On Thursday, June 4, 2020**, with sufficient numbers of National Guard personnel now deployed in the District of Columbia, I initiated the redeployment of active-duty personnel back to their home stations.

**On Friday, June 5, 2020**, I verbally ordered the remainder of the deployed active-duty military forces to redeploy to their home bases and, in the case of the 3rd Infantry Regiment, to return to their normal duties.

The District of Columbia HSEMA, on behalf of the MPD, requested assistance from 150 DCNG personnel to assist with traffic control at Metrorail stations on June 6 and an additional 100 DCNG personnel from June 7-13. The Secretary of the Army verbally approved this request the same day.

**By Saturday, June 6, 2020**, protests were largely peaceful. In the District of Columbia, the USPP reported that there were no acts of vandalism or violence and no officer injuries. All active-duty military forces had returned to their home bases.

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**On Sunday, June 7, 2020**, protests remained largely peaceful with minor exceptions, and the President approved terminating any further mission requirements for out-of-State National Guard personnel. These National Guard personnel began returning to their home States.

The District of Columbia HSEMA requested an extension of the assistance from the 100 DCNG personnel through June 14. The Secretary of the Army verbally approved this request the same day.

**By Friday, June 12, 2020**, all the out-of-State National Guard personnel who deployed to the District of Columbia had returned to their home States.

**On Tuesday, June 23, 2020**, due to acts of vandalism to numerous historical statues and monuments, the USPP requested 450 DCNG personnel, from June 23 through July 8, to support the USPP incident action plan and provide an off-site response element to ensure the safety and protection of Lafayette Park resources, the White House Complex, the National Mall, and other National Park Service reservations in Washington, D.C. I approved this support on the same day, with the stipulation that the DCNG personnel would not be armed with firearms and would not exercise law enforcement authorities or responsibilities.

Throughout this sequence, and to date, no active-duty military units have engaged in civil disturbance operations.

### **Ongoing Investigations**

Following the events described above, I have directed a full after-action review to be completed by the end of July by the Secretary of the Army, which will include an examination of issues that drew public concern, such as the use of helicopters and reconnaissance aircraft in support of civilian law enforcement or National Guard ground forces.

Regarding the use of helicopters, on June 1, a DCNG UH-72 helicopter with medical markings hovered at low altitude over a group of protestors. I directed an investigation into the matter within two hours of learning of the incident, to determine the exact facts and circumstances of the mission, authorization to hover, property damages, and any violations of policy. While the investigation has concluded, the findings are currently under review by the Secretary of the Army.

Additionally, upon learning that Air National Guard RC-26 aircraft were used to support civil authorities on June 2-3, 2020, I directed the Secretary of the Air Force to conduct an investigation, which Secretary Barbara Barrett launched on June 17, 2020. This ongoing investigation is being led by the Air Force Inspector General to determine the exact facts and circumstances of that mission.

### **Diversity and Inclusion in the Military**

The tragic death of George Floyd and the ensuing civil unrest across the country underscore that the issues of race and equality weigh heavily on the American conscience. We know that racism is real across America, and we also know that the Department of Defense is not immune to the

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forces of bias and prejudice, whether seen or unseen, deliberate or unintentional. Racism, bias, and prejudice have no place in our military, not only because they are immoral and unjust, but also because they degrade the morale, cohesion, and readiness of our force.

Our history demonstrates that the U.S. military has often led on these issues, but the events of recent weeks are a stark reminder that much more work needs to be done. As a result, in the past month, I have personally engaged many of our military personnel – both officer and enlisted – from our youngest military personnel to our Service Chiefs, as well as the Secretaries of our Military Departments and other civilian leaders, on the topic of race in the military. They all agree that our military, one of America's most respected institutions, must lead on these issues and strive to end bias and prejudice in all its forms, and ensure equal opportunity, diversity, and inclusion for all in our ranks.

On June 17, I announced three new initiatives aimed at doing just that, promoting equal opportunity, diversity, and inclusion across the force:

First, I directed our civilian and uniformed leadership in the Pentagon to bring me concrete ideas that could be implemented immediately, such as removing photos from selection boards and establishing Diversity and Inclusion training and education reform across the Military Services.

Second, I established an internal Department of Defense Board on Diversity and Inclusion, which will report back to me by the end of the year with recommendations on how we can increase racial diversity and ensure equal opportunity across all ranks, especially in the officer corps.

Finally, I began the process of establishing a Defense Advisory Committee on Diversity and Inclusion in the Armed Services that will be a permanent structure, composed of an independent and diverse group of Americans committed to building upon the work of the Defense Board over the long term.

These are just the first steps toward shifting our culture and creating enduring change across our enterprise, so that the strongest, most capable military ever known better reflects the American people it is sworn to protect and defend.

### **Conclusion**

In closing, I want to assure the American people that the members of the Department of Defense take seriously our oath to defend the Constitution of the United States and protect the sacred rights and freedoms this document guarantees for every American. As one of the country's most respected institutions, we work to maintain the trust of the American people through our time-honored commitment to our mission and core values, while remaining neutral and non-partisan in all matters. I am exceptionally proud of our Service members whose steadfast devotion to these principles ensures that our fellow Americans have the ability to peacefully exercise their First Amendment rights.

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For more than two centuries, our Armed Forces have earned the confidence of the public through their tremendous sacrifice in the cause of freedom, equality, and opportunity for all. And throughout our history, many have done so by paying the ultimate sacrifice in service to our country. It is a constant reminder that our brave personnel remain engaged around the globe to protect and defend our homeland, our people, and our way life.

We will continue to do so, as we work to build a better force – one that is diverse, inclusive, and representative of the American people that Service members, past and present, have so nobly and bravely defended at home and abroad.

Thank you.

Enclosures

1. Message to the Department – Support to Civil Authorities, June 2, 2020
2. Secretary of Defense Press Conference on Civil Unrest, June 3, 2020
3. DoD Response to Hon. Adam Smith on Use of Military Forces, June 10, 2020
4. USD(IS) Response to House Permanent Select Committee on Intelligence Regarding Domestic Response, June 11, 2020
5. Video Transcript – Message to the Force on Diversity and Inclusion, June 18, 2020
6. Memorandum – Actions for Improving Diversity and Inclusion in the Department of Defense, June 19, 2020

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