

CJCS HASC Civil Unrest Hearing Written Statement

Chairman Smith, Ranking Member Thornberry, distinguished members of the committee, thank you for the opportunity to appear before you today with Secretary Esper to discuss the recent civil unrest.

The past month and a half has been an especially trying time for America and for our military.

I am outraged by the senseless and brutal killing of George Floyd.

His death amplified the pain, the frustration, and the fear that so many of our fellow Americans live with day in and day out. The protests that have ensued not only speak to his killing, but also to the centuries of injustice toward Black Americans. We as a nation and as a military are still struggling with racism, and we have much work to do. Racism and discrimination, structural preferences, patterns of mistreatment, and other manifestations of bias have no place in America and they have no place in our Armed Forces.

We know our system in the United States is imperfect, full of passionate debate, and continually evolving, but we should be proud that the vast majority of protests have been peaceful. Peaceful protest means that American freedom is working.

We in the military have taken an oath to protect the rights and freedoms of all Americans. As service members, we pledge to support and defend the Constitution and its essential principles: that all men and women are born free and equal and have freedoms of speech, press, and religion, and rights to peaceful assembly and to vote. This oath underpins my duties as the Chairman of the Joint Chiefs of Staff, and I am deeply committed to fulfilling the letter and spirit of my oath regardless of consequences. We, the U.S. military, will always support and defend the U.S. Constitution and hold dear the principle of an apolitical military that is so deeply rooted in the very essence our Republic.

My role as the Chairman of the Joint Chiefs of Staff is to be the principal military advisor to the President, Secretary of Defense, National Security Council, and Homeland Security Council. Throughout recent events, I exercised this role exclusively; at no time was I in command of any forces. All of my actions have been consistent with my statutory authority as an advisor, who is explicitly not in the chain of command.

Since the protests began, I have informed my advice by seeking information to help me understand the situation across the Nation and assess the ability of federal, state, and local

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authorities to handle situations under their responsibility. I have met and spoke with National Guard leadership and troops, Army and Department of Defense leadership, Department of Justice officials, state Governors, and District of Columbia officials to better understand the circumstances around the civil unrest across America and in our Nation's capital. From these engagements, my assessment and advice was, and continues to be, that under the prevailing conditions active duty troops were, and are, not necessary to deploy on the streets of America. The Insurrection Act was, in fact, never invoked. Local, state, and federal law enforcement or the National Guard under governor control was able to handle all cases of civil unrest. Per order by the Secretary of Defense, active duty troops were alerted and prepared, but never utilized.

The week following the death of George Floyd on 25 May saw initially peaceful protests turn violent in many cities throughout the country. In Minneapolis, significant violence began on the evening of 26 May. The violence took the form of looting, commercial property damage, and arson. Minneapolis firefighters and police officers quickly became overwhelmed. On the 28 May, Governor Tim Walz declared a state of emergency, activated Minnesota National Guard troops under his authority, and deployed them to Minneapolis to support state and local law enforcement. The Secretary of Defense and I spoke via telephone with Governor Walz to better understand the situation in Minneapolis and see what, if any, additional assistance he required. This conversation helped inform my military advice.

Overnight, from 29-30 May, the number of violent protests grew nationally to 13 major cities, then to 22 cities the following evening, and 34 cities on 31 May. By the morning of 1 June, 29 states and the District of Columbia had activated their National Guard, totaling more than 17,000 troops.

In Washington D.C., our Nation's capital faced three nights of escalating violence – from 29 May through 31 May. Law enforcement and protestors clashed; the White House increased its security posture; the federal government vacated certain buildings and ordered a number of workers to stay at home; some of our Nation's monuments and government buildings were defaced; businesses in D.C. were looted, and some were set ablaze. It was reported to me that it was the worst three days of violence in Washington D.C. in almost 30 years.

The chain of command for the National Guard's response to civil unrest in D.C. is unique, guided by laws that have roots in our Constitution and Congressional statutes on how the District

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is governed. Congress created a Federal district and placed the command and control of the D.C. militia – what we call the National Guard today – under the President, since there is no governor of the District. In 1969, the President delegated supervision and control of the D.C. National Guard to the Secretary of Defense. As a result, D.C. National Guard command and control flows from the President to the Secretary of Defense, to the Secretary of the Army, and then to the Commanding General of the D.C. National Guard, Major General Walker. At all times, my role remained to execute my statutory duty as the principal military advisor to the President and the Secretary of Defense and I was never in charge of any forces. The lawful chain of command was at all times in effect.

To generate feasible, lawful, and effective advice for how the military could help respond to violent protests in Washington, D.C. should the need arise, I met with the Secretary of Defense, Secretary of the Army, Chief of Staff of the Army, Chief of the National Guard Bureau, D.C. National Guard leadership, U.S. Attorney General, FBI Director, D.C. Metro Police Chief, and federal law enforcement from the Department of Justice, the lead federal organization coordinating the multi-agency response to civil unrest in D.C. Additionally, I went to the FBI Washington Field Office, the location of the D.C. command and control center, in order to better assess the command and control arrangements and the situation across the country and in the District. I was in field fatigues at the FBI office because I intended to visit with various National Guard troops to further assess the situation.

While at the FBI office, several of us were called to the White House to brief the situation. Afterwards, the President and a large group of advisors, of which I was one, walked across the street toward Lafayette Square to talk with the National Guard troops and police and survey damage. I broke contact with the group before they gathered by St. John's Episcopal Church.

My substantive engagement with various organizations and individuals responsible for responding to civil unrest was essential to informing my assessment of the situation and my advice on the potential use of federal troops. I consistently assessed that state and local authorities had the capabilities to handle the situations and in some instances may require National Guard under Governor control or federal law enforcement, but in no case did I assess that active duty troops were required based on the security situation. The Secretary of Defense did issue, "be prepared to" orders to just over 1,700 active component troops that were staged at military bases outside the District of Columbia beginning on 2 June. They were never used and

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all returned to their home stations by 6 June. I continually advised that there were effective options well-short of employing active duty troops in America's communities. Additionally, I consistently advised that de-escalation measures be taken, such as removing weapons and helmets consistent with force protection measures.

I am incredibly proud of the dedication, professionalism, and discipline displayed by the citizen-soldiers that make up our National Guard. As they have since their creation in 1636, they answered the call to support local and state needs. They supported law enforcement in quickly quelling violence and restoring the ability of Americans to conduct peaceful protest – a basic tenet of our Republic. Thirty-three states and the District of Columbia ultimately activated their National Guard during this historic time of civil unrest, totaling more than 43,000 Guardsmen. We never had to use active duty troops in American communities because of the combined efforts and expertise of state and local authorities supported by the National Guard. Their efforts were not without cost. Many law enforcement officers, National Guard troops, first responders, and civilians were injured, and several were killed.

Our National Guardsmen – and every member of our Joint Force, including myself – have sworn an oath to support and defend the Constitution. This includes the rights it bestows upon our citizens for free speech and peaceful assembly, and the essential principle that all Americans are created equal. We who wear the uniform of our Nation come from the people of our Nation, and we remain dedicated to the Constitution that has allowed us to live in freedom and continue to build the Nation we love.

Thank you very much, and I look forward to your questions.