

Statement by

Mr. Robert G. Salesses

Senior Official Performing the Duties of

Assistant Secretary of Defense for Homeland Defense and Global Security

Office of the Secretary of Defense

Before the 117th Congress

Committee on Homeland Security and Governmental Affairs

and

Committee on Rules and Administration

United States Senate

March 3, 2021

Introduction

Chairman Peters, Chairwoman Klobuchar, Ranking Member Portman, Ranking Member Blunt, and distinguished Members of the Committees: Thank you for the opportunity to testify before you today on the Department of Defense's (DoD's) support of civilian law enforcement agencies in their efforts to secure the U.S. Capitol on January 6, 2021. The peaceful transition of power is a hallmark of our nation and our democracy. The violence at the Capitol on the 6th of January was reprehensible and contrary to the tenets of the United States Constitution. Our thoughts and prayers also remain with the families of the fallen law enforcement officers who fought to protect the Congress on January 6th.

Defense Support of Civilian Law Enforcement

DoD's enduring mission is to provide military forces to deter war and protect the security of our nation. Domestically, one of DoD's missions is to support civil authorities, including, support to civilian law enforcement authorities, when requested.

Civilian law enforcement agencies most frequently request DoD provide support for planned major domestic events (e.g., Presidential nomination conventions, Presidential Inaugurations, international summits, and major sporting events). The safety and security of these planned major events are responsibilities shared by local, State, and Federal authorities. Due to the unique nature of the District of Columbia (DC), in which many governmental organizations exercise a range of authorities, the provision of safety and security, maintenance of civil order, and the protection of lives and property are vested in the DC Government, the U.S. Secret Service, the U.S. Park Police, the U.S Marshals Service, the U.S. Capitol Police, the Federal Protective Service, and other civilian law enforcement organizations. During these planned events, DoD may be requested to provide support to multiple law enforcement agencies to execute different public safety and security functions.

DoD regularly provides such support to planned events that occur in the District of Columbia and has established processes to work with lead law enforcement agencies to arrange for military support in advance. For example, in planning for Presidential Inaugurations, civilian law enforcement agencies regularly make requests in advance for DoD to provide both Active

Duty personnel and National Guard personnel to support civilian safety and security operations. Similarly, for other events at the Capitol, like the President’s State of the Union Address or any major address to a Joint Session of Congress, DoD often provides a mix of Active Duty and National Guard personnel to support specific missions, at the request of the Capitol Police Board and the U.S. Secret Service.

Unique Nature of the DC National Guard

The District of Columbia is also unique due to the fact that, unlike other National Guard units, the DC National Guard is a Federal militia. By law, the President is the Commander-in-Chief of the DC National Guard. In Executive Order 11485, “Supervision and control of the National Guard of the District of Columbia” (October 1, 1969), the President authorized and directed the Secretary of Defense to supervise, administer, and control the DC National Guard while in militia status. In an October 10, 1969, memorandum titled “Supervision and control of the National Guard of the District of Columbia,” the Secretary of Defense directed the Secretary of the Army to command, through the Commanding General, DC National Guard, the DC National Guard when used to provide support to the civil authorities of the District of Columbia. The unique nature of the DC National Guard affects the manner by which National Guard support is provided in the District of Columbia, which requires either Secretary of Defense or Secretary of the Army approval depending on the civil authority to which support is provided.

Department of Defense Support Prior to 6 January 2021

Federal and local civilian law enforcement in the District of Columbia (DC) were tracking planned protests on January 5-6, 2021. In letters to the Commanding General of the DC National Guard, dated December 31, 2020, the Mayor of DC and the Director of the DC Homeland Security and Emergency Management Agency requested that the DC National Guard support the DC MPD at 30 traffic control points (intersections) and 6 Metro stations and make available the DC National Guard’s Civil Support Team to support DC Fire and Emergency Medical Services. Over the weekend, January 1-3, 2021, the DC National Guard staff conducted a mission analysis, and the Commanding General of the DC National Guard made a recommendation to the Secretary of the Army as to how to support this request for assistance.

After consultation with the Department of Justice, the Secretary of the Army, the Chairman of the Joint Chiefs of Staff, the DoD General Counsel, and the Assistant Secretary of Defense for Homeland Defense and Global Security, the Acting Secretary of Defense approved the DC Government request for 340 DC National Guard personnel to provide support from January 5-6, 2021. This approval included an additional authorization for the Secretary of the Army to employ a 40-person DC National Guard Quick Reaction Force (QRF), staged at Joint Base Andrews, Maryland, to provide additional traffic-control personnel or additional support if requested by civil authorities.

Over the weekend of January 2-3, 2021, Office of the Secretary of Defense staff, contacted the U.S. Secret Service, the U.S. Park Police, the U.S. Marshals Service, the FBI, and the U.S. Capitol Police to determine if they planned to request assistance. None of these other law enforcement agencies indicated a need for DoD or National Guard support. The Acting Secretary of Defense met with select Cabinet Members on January 3 to discuss potential requirements for DoD support, and none were raised.

On January 5, 2021, DoD received a letter from the Mayor of the District of Columbia addressed to the Acting Attorney General, the Acting Secretary of Defense, and the Secretary of the Army. In this letter, the Mayor informed the addressees --“The MPD is prepared for this week’s First Amendment activities. MPD has coordinated with its federal partners, namely the U.S. Park Police, U.S. Capitol Police and U.S. Secret Service – all of whom regularly have uniformed personnel protecting federal assets in the District of Columbia. To be clear, the District of Columbia is not requesting other federal law enforcement personnel and discourages any additional deployment without immediate notification to and consultation with, MPD if such plans are underway. The protection of persons and property is our utmost concern and responsibility. MPD is well trained and prepared to lead the law enforcement, coordination and response to allow for the peaceful demonstration of First Amendment rights in the District of Columbia”.

In approving the DC Government’s request for assistance, the Acting Secretary of Defense also provided additional guidance to the Secretary of the Army on use of the DC National Guard,

mindful of observations and lessons learned from DoD after-action reviews of events in May and June 2020, which included investigations of issues that drew public concern, such as the use of helicopters and reconnaissance aircraft by National Guard forces. Specifically, the Acting Secretary of Defense directed the Secretary of the Army to obtain his approval before approving requests for DC National Guard to:

- be issued weapons, ammunition, bayonets, batons, or ballistic protection equipment such as helmets and body armor;
- interact physically with protestors, except when necessary in self-defense or the defense of others, consistent with the DC National Guard Rules for the Use of Force;
- employ any riot control agents;
- share equipment with civilian law enforcement agencies;
- use DoD aircraft for incident, awareness, and assessment activities;
- employ helicopters or any other air assets;
- conduct searches, seizures, arrests, or other similar direct law enforcement activities; or
- seek support from any non-DC National Guard units.

The Acting Secretary of Defense also directed that the Secretary of the Army could employ the DC National Guard QRF only as a last resort and in response to a request from an appropriate civil authority, and that the QRF be clearly marked and distinguishable from civilian law enforcement personnel.

Department of Defense Support to the U.S. Capitol 6 January 2021

The Department of Defense has detailed the events of January 6, 2021, in a memorandum published on the DoD public affairs website; I provide here a summary of certain events of the day.¹

¹ <https://www.defense.gov/Newsroom/Releases/Release/Article/2467051/planning-and-execution-timeline-for-the-national-guards-involvement-in-the-janu/>.

After the U.S. Capitol Police ordered the evacuation of the U.S. Capitol Complex, the Mayor of DC called the Secretary of the Army to request an unspecified number of additional DC National Guard personnel.

Approximately ten minutes later, the Chief of the U.S. Capitol Police called the Commanding General, DC National Guard, to request immediate assistance (1:49 p.m.). Following a call with the Mayor of DC and her staff, the Secretary of the Army met with the Acting Secretary of Defense and the Chairman of the Joint Chiefs of Staff to discuss the requests of the U.S. Capitol Police and the Mayor of DC (at approximately 2:30 p.m.).

The Acting Secretary of Defense determined that all available forces of the DC National Guard were required to be re-missioned to reinforce DC MPD and U.S. Capitol Police positions to support efforts to reestablish security of the U.S. Capitol Complex. The Acting Secretary of Defense approved full activation of the DC National Guard to provide support, and the Secretary of the Army directed DC National Guard personnel to initiate movement and full mobilization (3:04 p.m.).

During this period, MG Walker was also recalling and making ready DC National Guard forces at the DC National Guard Armory for deployment to the Capitol Complex.

After reviewing the DC National Guard forces' missions, equipping, and responsibilities to be performed at the Capitol Complex in support of DC MPD and U.S. Capitol Police, and conferring with the DC MPD at their headquarters at 4:10 p.m., the Secretary of the Army received the Acting Secretary of Defense's approval at 4:32 p.m., and ordered the DC National Guard forces to depart the Armory for the Capitol. Upon arrival at the Capitol, DC National Guard personnel were deputized by, and began supporting, the U.S. Capitol Police.

While the full mobilization of the DC National Guard was ongoing, the Acting Secretary of Defense, the Secretary of the Army, the Chairman of the Joint Chiefs of Staff, and the Chief of the National Guard Bureau discussed the sourcing of National Guard personnel from other States in the National Capital Region to support expected requests for assistance from Federal

law enforcement agencies. The Acting Secretary of Defense directed the Chief of the National Guard Bureau to work with States in the vicinity of DC to identify National Guard units that could be called upon to conduct civil disturbance response/support to civilian law enforcement operations. The Acting Secretary initially authorized additional training for the identified units to ensure those units were prepared to conduct civil disturbance operations, including by incorporating lessons learned from recent events, as appropriate, and to muster them more quickly pending the receipt of requests from civilian law enforcement agencies in the District of Columbia.

By 6:14 p.m., the U.S. Capitol Police and DC MPD, supported by the DC National Guard, established a perimeter on the west side of the U.S. Capitol.

DoD continued to flow National Guard forces into the Capitol to support the U.S. Capitol Police. By 9:00 a.m. on January 7, 1,140 National Guard personnel had arrived at the Capitol; by 9:00 a.m. on January 8, more than 1,800 National Guard personnel were providing support in the Capitol; and by January 10, more than 6,000 National Guard personnel were providing support in the Capitol.

Department of Defense Support After January 6, 2021

Based on further requests from Federal civilian law enforcement agencies and the DC Government, DoD has continued to support efforts to ensure the safety and security of the U.S. Capitol and provide support to other civilian law enforcement agencies.

Support of U.S. Capitol Security Through the Inauguration

From January 6, 2021, through January 24, 2021, at the request of the U.S. Capitol Police, approximately 13,700 National Guard personnel helped secure the U.S. Capitol building and perimeter. These personnel conducted presence patrols along the perimeter of the Capitol grounds, assisted with vehicle access control, and maintained substantial QRFs on the Capitol grounds and at the DC National Guard Armory. These National Guard personnel were armed with individual weapons for self-defense and equipped with full civil disturbance gear, including

helmets, shields, and batons. DoD also maintained Chemical, Biological, Radiological, and Nuclear detection and response capabilities, and various helicopters and vehicles for medical evacuation. Additionally, the U.S. Secret Service communicated a request for 1,290 Active Duty and 11,876 National Guard personnel to provide security and safety support during Inauguration events from January 19, 2021, through January 21, 2021.

Other DoD Support to Civilian Law Enforcement Authorities in the District of Columbia

After the Inauguration, on January 24, 2021, the U.S. Capitol Police reduced the requested number of National Guard personnel to provide support to approximately 4,960, with 30 light military tactical vehicles. Since January 24, 2021, National Guard support missions have included presence patrols along the perimeter of the Capitol grounds and at the Capitol Power Plant, vehicle access control, and maintaining a QRF. These National Guard personnel are armed with individual weapons for self-defense and equipped with civil disturbance gear. This support has been approved through March 12, 2021.

From January 8, 2021, through February 7, 2021, the U.S. Park Police requested 550 National Guard personnel to provide a QRF.

From January 21, 2021, through February 3, 2021, the U.S. Secret Service requested 125 National Guard personnel on standby at the White House and 125 National Guard personnel on standby at the Naval Observatory. Personnel were to work 12 hour shifts to provide civil disturbance support, as needed. From February 4, 2021, through February 20, 2021, the U.S. Secret Service reduced the requirement to 75 personnel at the White House and 25 personnel at the Naval Observatory due to staffing shortages within the National Guard. These National Guard personnel were not armed, but they were equipped with civil disturbance gear (e.g., helmets, shields, and batons).

From January 25, 2021, to the present, the DC MPD has requested 500 DC National Guard personnel to serve as a “response force” to support traffic management, presence, and security. These National Guard personnel are not armed. This support is approved until March 12, 2021.

Conclusion

Going forward, the Department is committed to working closely with our Federal, State, and local law enforcement partners, the DC Government, and the Congress to ensure we learn from this event and take all necessary actions to respond and ensure an attack on our nation's capital never happens again. I also want to express my deepest sympathy to you and all Members of Congress for the tragic events of January 6th.

Chairman Peters, Chairwoman Klobuchar, Ranking Member Portman, Ranking Member Blunt, and distinguished Members of the Committees: Thank you for the opportunity to testify before you today. And thank you for your continued support of the men and women of the Department of Defense.