

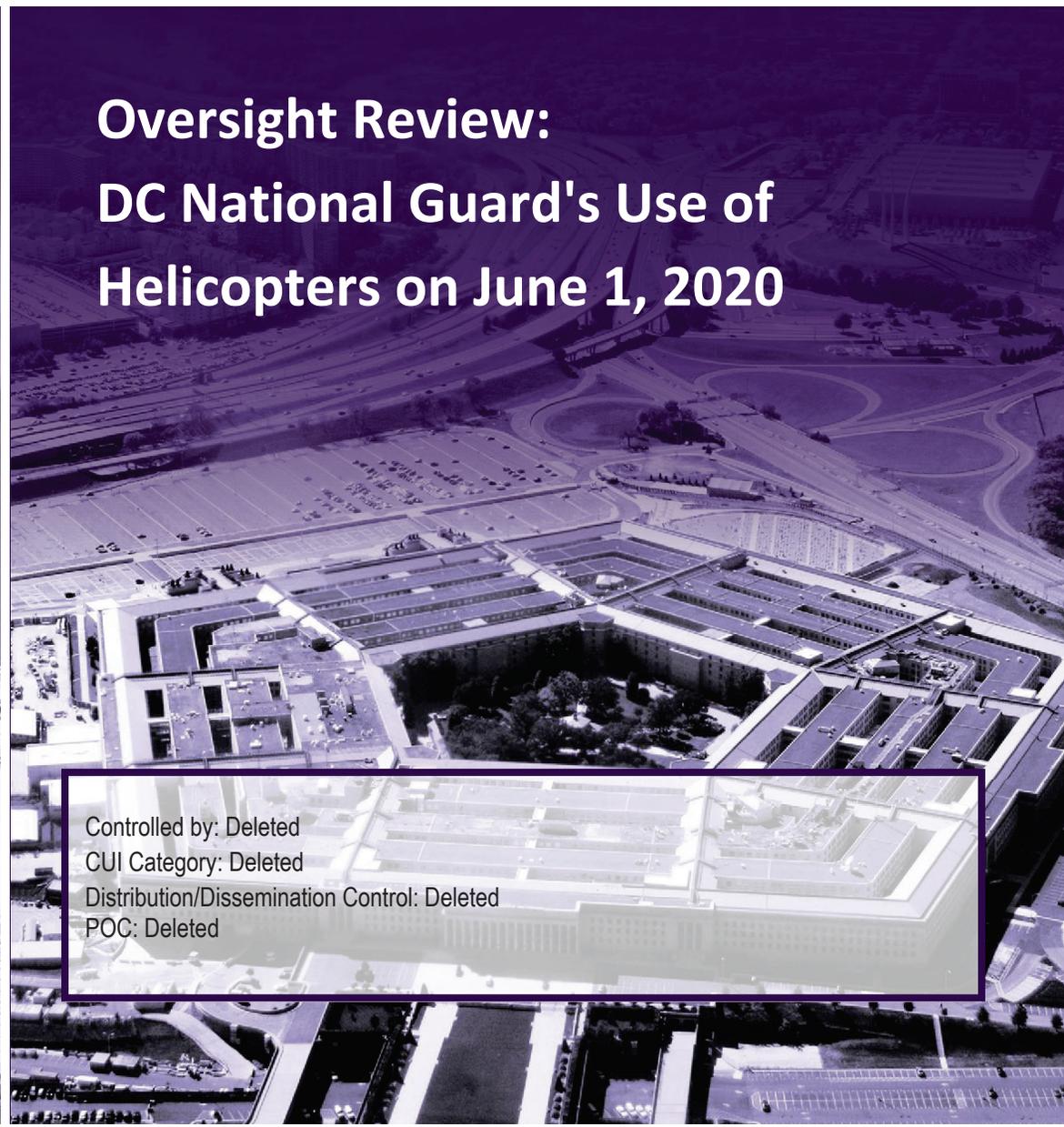


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INSPECTOR GENERAL

U.S. Department of Defense

May 26, 2021



Oversight Review: DC National Guard's Use of Helicopters on June 1, 2020

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
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22 JAN 2021

MEMORANDUM FOR INSPECTOR GENERAL DEPARTMENT OF THE ARMY
INVESTIGATIONS DIVISION (ATTN: [REDACTED])

SUBJECT: Oversight Review - DC National Guard Use of Helicopters on June 1, 2020
(D-CATS Case No. 20200630-065614-CASE-01/DAIG Case 20-00022)

The DoD OIG Investigations of Senior Officials Directorate (ISO) has completed an oversight review of the District of Columbia National Guard (DCNG) command-directed investigation (Army Regulation (AR) 15-6 investigation). We also reviewed your September 22, 2020 Report of Investigation (ROI) and your December 21, 2020 memorandum. Your ROI and the AR 15-6 investigation examined actions surrounding the use of DCNG helicopters to support local law enforcement authorities during a civil disturbance in Washington, D.C., on June 1, 2020.

On June 29, 2020, your office notified ISO of a potential allegation against Brigadier General (BG) Robert K. Ryan, Commander, Joint Task Force Civil Disturbance, based on your review of the information in the AR 15-6 investigation. On July 21, 2020, we notified you that during our initial oversight review of the AR 15-6 investigation we identified several items that needed clarification and additional information in order for us to reach a conclusion regarding the investigation results. Your September 22, 2020 ROI provided some of the additional information we identified in our initial review. After reviewing the additional information in your ROI, we again notified you on November 20, 2020, of additional points that needed clarification and additional investigative work to resolve before we could continue with our oversight review. Your December 21, 2020 memorandum provided additional information and documents for our consideration and review of the DCNG AR 15-6 and your ROI.

Our oversight review determined that your analysis of the facts was reasonable based on the available evidence in this case and the declared emergency nature of the situation on June 1, 2020. The evidence supports a determination that the decision by DCNG officials, including BG Ryan, to use helicopters in support of the civil disturbance operation based on the emergent nature of the situation and broad directions from the President of the United States (POTUS), the Secretary of Defense (SD), and the Secretary of the Army (SECARMY) was reasonable. We highlight below several issues based on the evidence contained in the AR 15-6, ROI, and your memorandum that are relevant to our determination and our assessment of the recommendations:

1. During his July 9, 2020 testimony to the House Armed Services Committee, the Secretary of Defense (SD) testified that he, the Chairman of the Joint Chiefs of Staff, and the United States Attorney General met with POTUS on June 1, 2020, to discuss how best to protect federal "functions,

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personnel, and property” from civil disturbances in Washington, D.C. At the conclusion of the meeting, the SD directed the SECARMY to deploy DCNG personnel to support law enforcement authorities.

2. The DCNG provided support to Washington, D.C. and federal agencies based on existing contingency plans, and their prior experience supporting large events such as Inaugurations and National Special Security Events. Although these plans did not specifically address using aviation assets, the use of DCNG helicopters was reasonable based on: the emergency nature of the situation; direction from President Trump and Secretary Esper as relayed through Secretary of the Army McCarthy to Major General (MG) William J. Walker, Commanding General (CG), DCNG and BG Ryan to “flood the zone” and to “use everything available” to protect “federal property and symbols”; and the DCARNG State Army Aviation Officer (SAAO) advised BG Ryan that helicopters, including Medical Evacuation (MEDEVAC) helicopters, were available to support the mission.

3. There was no regulation or policy that prohibited the DCNG from using its helicopters to support civil disturbance operations. However, we note that no specific training, policies, or procedures were in place for using helicopters to support requests for assistance from civilian authorities in civil disturbances. We also note the following:

a. Although the aircrews were fully trained to fly the helicopters and had read the Rules for the Use of Force (RUF), the rules were tailored to ground operations. Also, the pilots were not trained on integrating and using aviation assets in civil disturbance missions. As such, as stated in our recommendations below, the DCNG should develop an RUF and training for using aviation assets during civil disturbance missions.

b. Prior to the night of June 1, 2020, the DCNG did not have a prepared plan to maintain command and control of aviation assets used to support civil disturbance operations. The broad direction from the POTUS, and the rapid pace of events on the night of June 1, 2020, focused the flight operations crew’s attention at the Army Aviation Support Facility and Joint Operations Center on executing the mission and not on procedures to record, evaluate, review, and assign individual requests to the DCNG from civil authorities for using helicopters.

c. In accordance with AR 95-1, using dedicated MEDEVAC helicopters for non-MEDEVAC missions required a waiver from the Department of the Army, Military Operations – Aviation (DAMO-AV). However, the regulation also states that “[i]ndividuals may deviate from provisions of this regulation during an emergency.” Although DCNG personnel did not submit a request for a waiver, the ROI concluded that the use of MEDEVAC helicopters was “justified by the unprecedented emergency circumstances that existed in Washington, D.C., and warranted deviation from the regulatory standards governing uses of MEDEVAC helicopters, consistent with the exception cited in AR 95-1.” The ROI added that DAMO-AV was “well aware” of the use of the MEDEVAC aircraft.

4. We found no supporting evidence for the conclusion stated in the AR 15-6 report that [REDACTED] violated AR 95-1 by deploying all available helicopters (including MEDEVAC aircraft). [REDACTED] followed direction from BG Ryan’s chain of command, including President Trump and Secretary Esper, as relayed through Army Secretary McCarthy, to “flood the zone” with all available assets. [REDACTED] reasonably advised BG Ryan that MEDEVAC helicopters were an available asset. We provide no comment regarding any other aspects of [REDACTED] performance on the night of June 1, 2020.

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5. The evidence we reviewed indicated that aircrews flying helicopters on the night of June 1 were trained to operate their specific helicopters; however, they had not received training to conduct civil disturbance missions for situations such as those underway in Washington, D.C. However, the evidence indicated that despite a lack of civil disturbance operations training, the crew of a UH-60 helicopter hovering over the demonstrators observed that if they descended below a certain altitude, their rotorwash would reach personnel on the ground. They ascended to a higher altitude and called for a smaller UH-72 helicopter with less rotorwash to replace them over the scene.

6. The evidence that we reviewed also indicated that BG Ryan did not provide clear and consistent direction and mission guidance to DCNG aviators on the night of June 1, 2020, did not provide his clear and consistent commander's intent to include key tasks and parameters for the operation, and did not provide his Commander's Critical Information Requirements (CCIR) guidance or a desired end state. Although these matters do not pertain to a potential issue of misconduct, we recommend that the CG, DCNG, review BG Ryan's actions as matters of performance.

We also reviewed the recommendations contained in your ROI and agree that the DCNG AR 15-6 findings described below merit reconsideration because our review found insufficient evidence to support them. Specifically:

- officials should reconsider the AR 15-6 finding that MEDEVAC aircraft were not used in compliance with AR 95-1, when the regulation allows for such use during emergencies and BG Ryan and [REDACTED] received orders from President Trump and Secretary Esper to "use all available" assets to support the law enforcement operation;

- officials should reconsider the AR 15-6 finding that [REDACTED] misunderstood or modified the commander's intent to include orbiting around crowds and dispersing crowds in the mission parameters; and

- officials should reconsider the finding that [REDACTED] failed to seek approval for the use of MEDEVAC aircraft, as the evidence indicated the chain of command directed "use of all" available assets, which superceded the waiver approval process under the circumstances.

We reviewed the other recommendations in your ROI and recommend that DoD review and consider extending those recommendations to other DoD units that may provide similar helicopter support to law enforcement authorities in civil disturbance operations. The recommendations that should be considered by DoD include:

- integrating the use of aviation assets into existing civil support mission plans;

- supplementing existing RUF to include appropriate missions and controls for aviation assets;

- training all appropriate personnel on the proper use and restrictions on the use of helicopters to support law enforcement authorities; and,

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- developing a mission tracking system to record requests, reviews, decisions to approve/disapprove, and missions of the employment of aircraft to support law enforcement authorities in civil disturbance operations.

Additionally, we make the following recommendation:

- The Secretary of Defense's approval letter to the Secretary of the Interior for the use of DCNG assets, dated June 16, 2020, specifically states, "At no time will DCNG personnel or assets be engaged in domestic surveillance of U.S. persons during this period of support." Witnesses in the Office of the Secretary of Defense (OSD) told us this was "boiler plate" language for "any notification/approval of DCNG" support operations and mirrored language contained in the Secretary of Interior's initial request for support. However, witnesses could not provide us with an explanation of the term "domestic surveillance" used in the Secretary's letter or its meaning under any DoD standards. Accordingly, we recommend that DoD review and update guidance to define what specific activities constitute domestic surveillance in civil disturbance operations.

We request that you provide a response within 60 days addressing actions, if any, you take related to the recommendations in the AR 15-6, ROI, and those additional recommendations that we included in this memorandum.

Should you have any questions, please contact [REDACTED].

[REDACTED]
Marguerite C. Garrison
Deputy Inspector General
for Administrative Investigations

Enclosure:
as stated

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SAIG

MEMORANDUM FOR RECORD

SUBJECT: DAIG review of DOD OIG Oversight Review - DC National Guard Use of Helicopters on June 1, 2020

1. On 22 January 2021, the DOD OIG provided DAIG a memorandum, SUBJECT: Oversight Review - DC National Guard Use of Helicopters on June 1, 2020 (D-CATS Case No. 20200630-065614-CASE-01/DAIG Case 20-00022). The memorandum noted the Investigations of Senior Officials Directorate (ISO) had completed an oversight review of the District of Columbia National Guard (DCNG) command-directed investigation (Army Regulation (AR) 15-6 investigation) and the DAIG report of investigation (ROI) concerning the DCNG AR 15-6 investigation.

2. As The Inspector General, I reviewed their oversight and agreed with the DOD OIG conclusions and recommendations.

a. DAIG notified MG William Walker, Commander, DCNG, and BG Robert Ryan, Commanding General, Land Component Command, DCARNG, of our findings.

b. DAIG concurred with the DOD OIG finding that although (b)(6); (b)(7)(C) did not provide clear and consistent direction and mission guidance to DCNG on the use of helicopters, the deficiency did not indicate misconduct but rather a matter of performance. DAIG forwarded the performance concerns to Army senior leaders for review and action, as they deemed appropriate.

c. DAIG forwarded the recommendations to the National Guard Bureau, MG Walker, and DAMO-AV with appropriate instructions for providing a response to DAIG for consolidation of an overall Army response to DOD OIG as requested.

d. DAIG also agreed with DOD OIG recommendation to extend the DAIG recommendations to other DOD commands that may provide helicopter support to law enforcement activities in civil disturbance operations, to include:

(1) Integrating the use of aviation assets into existing civil support plans.

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CONTROLLED BY: Investigations Division (SAIG-IN)
CUI CATEGORY: PRIIG, PRVCY
DISTRIBUTION/DISSEMINATION CONTROL: FEDCON
POC: (b)(6); (b)(7)(C) 703-545-4556

SAIG

SUBJECT: DAIG review of DOD OIG Oversight Review - DC National Guard Use of Helicopters on June 1, 2020

(2) Supplementing existing Rules for the Use of Force when employing aircraft in civil disturbance operations.

(3) Training appropriate personnel on the proper use and restrictions when employing helicopters to support law enforcement authorities in civil disturbance operations.

(4) Developing a mission tracking system to record requests, reviews, and decisions for employment of aircraft to support civil disturbance operations.

3. DAIG also noted and concurred with the additional DOD OIG recommendation that DOD review and update guidance to define what specific activities constitute domestic surveillance.

4. I directed our Investigations Division to coordinate the Army response with DOD OIG for any outstanding actions regarding their review.

SMITH.LESLIE.CA
RLTON (b)(6); (b)(6)
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Date: 2021.05.14 11:00:59 -04'00'

LESLIE C. SMITH
Lieutenant General, USA
The Inspector General



DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

US ARMY INSPECTOR GENERAL AGENCY
REPORT OF INVESTIGATION (ROI)
(DCATS: 20200630-065614-CASE-01)
(DAIG Case 20-00022)

PURPOSE: This report responds to a Department of Defense Inspector General (DODIG) request that the Department of the Army Inspector General (DAIG) modify the District of Columbia National Guard (DCNG) Army Regulation (AR) 15-6 (Procedures for Administrative Investigations and Boards of Officers) report, or alternatively, provide an addendum to the report that specifically addresses their concerns regarding the DCNG's use of DCNG helicopters in Washington, DC on 1 June 2020. This report also serves as the Army endorsement to the findings of the DCNG AR 15-6 investigation, with exceptions and recommendations noted.

BACKGROUND:

1. On the evening of 29 May 2020, Major General William Walker, the Commanding General (CG) of the DCNG shifted the inactive duty training (IDT) schedule from 6-7 June 2020 to 30-31 May 2020 on less than a 12-hour notice in response to dynamic threats to the White House complex and anticipated escalation of civil unrest in Washington, DC. MG Walker assigned responsibility for the civil disturbance support mission to Brigadier General (BG) Robert K. Ryan, Land Component Commander (LCC), DCNG. At the time, BG Ryan was also serving as commander of the DCNG Joint Task Force COVID-19 and assumed the additional responsibility as commander, Joint Task Force Civil Disturbance (JTF-CD). On the evening of 30 May 2020, over 100 DC National Guardsmen supported the U.S. Park Police (USPP) to deter and quell any potential violence in the vicinity of Lafayette Square. Six DC National Guardsmen were injured that evening, which saw widespread property destruction, looting, and arson occur across the capital city. On the evening of 31 May 2020, the CG, DCNG ordered the encampment of the entire DCNG effective immediately in response to disturbances and Federal and District government requests for assistance. This added approximately 1200 Soldiers and Airmen available to support the civil disturbance support missions of the DCNG. Over 250 DC National Guardsmen directly supported the USPP and the U.S. Secret Service (USSS) to prevent violent demonstrations in the vicinity of Lafayette Square and the White House.

2. The DCNG Joint Operations Center (JOC) communicated the evolving mission requirements to members of the DCNG via text message alerts. The selected message excerpts below represent the speed at which the mission changed.

a. 29 May 2020 – 2124 hours: *****FLASH***** All DCNG members are on a report upon notification alert with 3-hour deployment capability.

SAIG-IN (20-00022)

b. 30 May 2020 – 0008 hours: ***FLASH*** Update 1: 1. All DCARNG O-1 to O-3 and E-1 to E-8 will report to the Armory Floor SAT 1000 hrs and report to CDR 372MP BN for civil disturbance training.

c. 31 MAY 2020 – 0631 hours: ***FLASH*** TF CIVIL DISTURBANCE will report to the DC Armory tomorrow, 31 May 2020 NLT 1700hrs.

d. 31 May 2020 – 1852 hours: Effective 31 1700 MAY 20, all DCNG forces are ordered to Title 32 U.S.C. § 502(f)(2) duty in support of OPN DC GUARDIAN (Civil Disturbance Response). On order the District of Columbia National Guard conducts civil disturbance operations in support of United States Park Police (USPP) and DC Metropolitan Police Department (MPD) to protect lives and infrastructure.

e. 31 May 2020 – 1910 hours: ***FLASH*** CORRECTION: 1. All DCARNG Service Members will report immediately to the DC Armory.

f. 1 June 2020 – 1506 hours: All members of Task Force Ready (Blocking Mission) are to report immediately to the DC National Guard Armory Drill floor with Kevlar helmets at the ready. The District of Columbia will enact a curfew at 1900 hrs and the District of Columbia National Guard with supporting elements will ensure that no terrain is relinquished and key federal buildings and monuments are protected.

g. 1 June 2020 – 2045 hours: Every SM not engaged currently, but maintain minimal staffing for mission support, are ordered to report to drill floor and prepare for onward movement to support Task Force Monument. All hands on deck, this is an evacuation of the armory to support soldiers in the field. This directive is from SECDEF, CSA, and MG Walker.

3. On the evening of 1 June 2020, the DC Army National Guard (DCARNG) deployed five helicopters to supplement the ground forces already actively supporting the federal and local response to the unrest in DC. During the evening of 1 June 2020, a DCARNG UH-72A (Lakota) helicopter descended below 100 feet above a crowd which had assembled near the Capitol One Arena after the imposed curfew. This maneuver was captured by a number of cell phone cameras and posted to social media and broadcast in the news. Following the event, several members of Congress (MOCs) contacted DOD and requested clarification on, and justification for, the flight activities.

4. On 3 June 2020, MG Walker appointed (b)(6); (b)(7)(C) US Air Force, DC Air National Guard (DCANG) to conduct an administrative investigation under the provisions of AR 15-6 into the facts and circumstances surrounding the employment of rotary wing assets over DC on the evening of 1 June 2020 in support of DCNG civil disturbance response operations. MG Walker approved the investigation with modifications on 30 June 2020.

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AS AUTHORIZED BY AR 20-1.**

5. On 21 July 2020, DODIG Investigations of Senior Officials (ISO) Directorate acknowledged DAIG's notification of a possible emergent allegation against BG Ryan contained in the DCNG AR 15-6 investigation report. DODIG requested that DAIG modify the DCNG AR 15-6 report or, alternatively, provide an addendum to the report that specifically included information that thoroughly addressed the jurisdictional aspects of the DCNG's use of helicopters to include: specific details of law enforcement requests for helicopter missions and low hover missions; the guidance provided in written operational orders and other similar documents; the source of the "special permission" BG Ryan highlighted in messages to other members of the DCNG; and BG Ryan's role in forwarding such guidance to his subordinates.
6. DODIG also requested that Department of the Army officials review and submit to the DODIG an endorsement with its conclusions regarding the DCNG's investigation for consideration in their oversight review. The Army endorsement could include any additional information appropriate for the oversight review.
7. The Inspector General (TIG) directed DAIG, Investigations Division (DAIG-IN) to investigate and respond to DODIG's concerns.

SCOPE:

1. Army leadership identified DAIG to prepare a response to DODIG's request. This report serves as an addendum to the original DCARNG AR 15-6 ROI and the Army's assessment and endorsement of the ROI's conclusions, except where noted. DODIG requested an additional review of six areas of potential deficiencies in the report, which DAIG identified as Issues #1 through #6.
2. DAIG addressed each of these areas of concern in separate sections of this report and included the supporting evidence as exhibits. Each section began with the DODIG statement of concern followed by a presentation of evidence and the DAIG analysis and conclusions.
3. DAIG combined the presentation of evidence for Issue #5, the "sole" adverse finding against (b)(6); (b)(7)(C) and Issue #6, that BG Ryan's alleged lack of knowledge of the regulatory requirements should not be considered as a factor to absolve him of any potential misconduct due to the overlap of the Issues. DAIG analyzed each Issue separately following the presentation of evidence.
4. The Army Office of General Counsel (OGC) and the Office of The Judge Advocate General (OTJAG) served as the Army subject matter experts (SMEs) for legal issues, particularly jurisdiction.

5. DODIG and OGC provided DAIG a Memorandum for Record (MFR), Subject: Review of Purported Deficiencies Identified in the AR 15-6 Investigation into DCARNG Rotary Wing Operations on 1 June 2020, prepared by (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) The MFR provided a DCNG perspective regarding the deficiencies noted by DODIG in the original AR 15-6 investigation and provided supplemental information and analysis to respond to DODIG's concerns. DAIG referred to this document as the (b)(6); (b)(7)(C) supplement" in this report. DAIG evaluated this document as evidence in this ROI, but did not necessarily accept or ratify its content.

6. DAIG evaluated the initial AR 15-6 ROI and supporting evidence including testimony, as well as additional information and evidence to develop a response to the DODIG concerns. In addition to sources already mentioned. DAIG interviewed BG Ryan. DAIG also reviewed several documents, to include Joint Publication 3-28 (Defense Support to Civil Authorities), AR 95 -1 (Flight Regulations), 22 March 2018, National Guard Pamphlet (PAM) 95-5 (Use of Army National Guard Aircraft), and the DCNG Rules for the Use of Force (RUF) in effect on 1 June 2020.

[Investigating Officer (IO) Note: DAIG sent the AR 15-6 file, including all exhibits, to DODIG prior to their review of the AR 15-6. This report does not include the entire AR 15-6 report and exhibits. DAIG only added key documents and testimonies not previously considered to support its conclusions as exhibits to this report.]

7. The AR 15-6 report noted that the use of aeromedical helicopters for non-medical missions appeared to violate AR 95 -1. The Department of the Army G-3/5/7 Aviation (DAMO-AV), the proponent of AR 95-1, designated the Directorate of Evaluations and Standards (DES), U.S. Army Aviation Center of Excellence (USAACE), Fort Rucker, AL, as the SME regarding the interpretation and application of AR 95 -1. DAMO-AV also reviewed all input DES provided to DAIG during the investigation.

8. This report is not a response to U.S. Senator Tammy Duckworth's request for an independent investigation into reports of helicopter flights over Washington, DC on 1 June 2020.

[IO Note: DAMO-AV will provide the Army's response to Senator Duckworth's inquiry and concerns regarding possible violations of Federal Aviation Regulations.]

ISSUE #1: The AR 15-6 report did not discuss the jurisdictional aspects of the DCNG operations in Washington.

EVIDENCE CONSIDERED:

a. (b)(6): (b)(7)(C) supplement noted: “The Investigating Officer (IO) likely felt no need to expound upon the jurisdiction of the DCNG to conduct civil disturbance response operations within the District of Columbia because that authority was and is well known to the AR 15-6 appointing/approval authority, MG William J. Walker, CG, DCNG, and to his immediate superiors in the DCNG chain of command, the Secretary of the Army (SECARMY) and the Secretary of Defense (SECDEF).”

b. The Army OGC and OTJAG provided a discussion of jurisdictional aspects of the DCNG response in a memorandum: SUBJECT: Jurisdictional Aspects of District of Columbia National Guard (DCNG) during the Civil Disturbance Operations (CDO) in Washington, DC The memorandum provided an overview of the Constitutional and statutory provisions relevant to the DCNG, the authority of the SECARMY related to the DCNG, a review of the specific requests for assistance from federal and local agencies between 30 May 2020 and 1 June 2020, and a review of the authorized activities of the DCNG that included a review of the Posse Comitatus Act, National Guard Police Powers in DC, and the RUF.

[IO Note: Joint Publication 3-28 noted that RUF may differ for each state’s National Guard forces – National Guard forces will use state RUF while in Title 32, US Code, or state active duty status.]

c. DAIG attached the document prepared by the Army SME as exhibit D-11 to this report as the Army response to Issue #1 without DAIG comment.

ISSUE #2: The report failed to include detailed, relevant information about specific law enforcement requests for support that may or may not have requested or authorized the use of helicopters in the manner discussed in the report.

EVIDENCE CONSIDERED:

1. The AR 15-6 IO found:

a. The JTF-CD lacked a plan to maintain command and control with TF-Aviation assets for the mission on the night of 1 June 2020. Interviews indicated that air crews and liaison officers (LNO) embedded with the MPD, for the most part, only recalled general mission details, referring to flying to intersections or landmarks. The report noted, “Although no maneuvers were directed, civil law enforcement agencies made requests for aircraft to respond to multiple locations.” In one instance, a request was

fielded and relayed to pick up a Federal Bureau of Investigations (FBI) agent from Hains Point and deposit him in furtherance of his mission. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

on the evening of 1 June 2020. (b)(6); (b)(7)(C) and another Soldier fielded calls from MPD and several federal agencies, but “did not keep specific records of most of the requests,” and “jotted down a few notes on note cards...”

(b)(6); (b)(7)(C)

was able to maintain contact with the three UH-60 (Blackhawk) aircraft because one of the unit pilots was a police officer, and he brought his police radio to facilitate communication. Thus, (b)(6); (b)(7)(C) could relay requests from the MPD and other federal agencies to the UH-60 crews, who could in turn relay requests to the UH-72 (Lakota) crews.

[IO Note: TF-Aviation consisted of the Army rotary wing aviation assets assigned to JTF-CD and was commanded by (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

served as the operations officer at Davison Army Airfield (DAAF). He received calls from military liaisons (LNOs) assigned to the DCNG Joint Forces Headquarters (JFHQ) who were co-located with MPD, the JOC, and other federal agencies. He then relayed the requests to the aircraft commanders for execution.]

b. In one instance, (b)(6); (b)(7)(C) relayed a request from MPD for helicopters to observe the area around Capital One Arena in response to reports of a large crowd gathering and possible unlawful activity. Two DCNG aircraft in turn hovered over a crowd in the vicinity of 5th and E Streets. The first helicopter on the scene was a UH-60 (Blackhawk). The pilot did not believe he should descend lower than 150 feet due to the rotor wash of the Blackhawk and requested relief by a UH-72 (Lakota) to get a better look. The smaller Lakota replaced the Blackhawk and descended below 100 feet. The Lakota hover was captured on cell phone video and reported in the media. Both pilots believed their actions were consistent with the mission they were given. The IO found that the low hover maneuver was not at the request of civil law enforcement or anyone else, nor did the pilots request authority to fly lower, as both pilots believed they had the authority to operate at whatever level deemed necessary based on the urgency of the evolving situation in the District. After a short time, the pilots raised their altitude in response to an MPD request due to interference with police communications. The AR 15-6 report did not indicate any other helicopters executed a low hover maneuver.

[IO Note:

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

1-224 Aviation, and Aviation Flying Element officer-in-charge of Task Force Aviation was the pilot of the UH-72 MEDEVAC that conducted the low hover. He testified that the request to go to that location was the first specific mission he received. He believed the mission was to “to look at” a crowd near the Capital One Arena. He thought MPD requested the mission through the JOC which passed the mission to the helicopter operations office at DAAF. The mission was then communicated to the UH- 60. When the much larger UH- 60 determined it was not ideal to perform the mission (b)(6); (b)(7)(C) took its place

and “tried to ascertain what was going on.” “We provided that--sort of that presence...” His aircraft was replaced by an UH-72 Security and Support (S&S) aircraft that was equipped with a powerful “night sun” spotlight. Testimony from (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) (his co-pilot) indicated that the S&S aircraft pilot stated, they could take a look and maybe encourage [the crowd] to break up and to move on. (b)(6); (b)(7)(C) learned after he left the scene that MPD had requested that the helicopters raise their ceiling so as not to interfere with police operations.]

c. The IO recommended the development and implementation of proper command and control procedures, to include dedicated radio frequencies.

2. On 30 June 2020, MG Walker approved the AR 15-6 report with modifications, making additional findings that:

a. BG Ryan did not direct the use of his aviation assets for the purposes of crowd dispersal or low hovers over crowds.

b. (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) misunderstood or modified the commander’s mission intent to include orbiting around crowds and dispersing crowds and conveyed those mission taskings to subordinates.

[IO Note: DAIG reviewed the mission directives from BG Ryan to (b)(6); (b)(7)(C) and from (b)(6); (b)(7)(C) to the air crews in more detail under Issue #3.]

3. (b)(6); (b)(7)(C) supplement noted: No specific agency requested the use of DCNG helicopters before they were deployed. The helicopters existed on the DCNG Modification Table of Organization and Equipment (MTOE) to support DCNG assigned roles and missions. BG Ryan employed the aircraft for observation, medical evacuation (MEDEVAC), command and control, and interagency support, in support of the overall DCNG mission to protect federal functions, property, and persons.

[IO Note: The DCNG had nine aircraft assigned by the MTOE. Only five were available for mission that evening: 1 – UH-72 MEDEVAC, 1 UH-72 S&S [Security and Support], and 3 - UH-60 MEDEVACs. The first two aircraft to launch appeared to be the aircraft tasked in Fragmentary Order (FRAGO) #1 detailed later in this report.]

4. DAIG reviewed videos of the “low hover” performed by the UH-72 that was included in the AR 15-6 investigation. The video showed the Lakota with Red Cross markings hovering over a crowd near the intersection of 5th Street NW and E Street NW at what appeared to be below 100 feet. The video also indicated that the impact of the rotor wash on people on the ground appeared to be minimal as they were standing below the

helicopters and hats, bandanas, and masks on people that wore them did not appear to be impacted.

DAIG REVIEW:

1. Both the AR 15-6 ROI and (b)(6); (b)(7)(C) supplement indicated that the DCNG and JTF-CD failed to adequately plan for and integrate the DCNG helicopters into the civil disturbance missions between 30 May 2020 and 2 June 2020.

a. MG Walker directed the encampment of the entire DCNG. FRAGO #1 to Operations Order (OPORD) 006-2020, DC Guardian, issued 30 May 2020, contained the mission that the DCNG “conducts civil disturbance operations in support of the USPP, to protect lives and infrastructure.” FRAGO #1 specifically identified one UH-72 and one UH-60 to support that mission to provide MEDEVAC, general transportation, and/or security support. BG Ryan testified that prior to 1 June 2020, he had only seen aviation Soldiers on foot, manning traffic control points as part of the DCNG security mission. BG Ryan had briefed the use of aviation assets to MG Walker, but it was not until almost 1900 hours on 1 June 2020 that BG Ryan received notification from (b)(6); (b)(7)(C) that the helicopters were cleared to fly by the USSS in the DC restricted air space. BG Ryan then communicated his directive to (b)(6); (b)(7)(C) to launch all the available aviation assets.

b. FRAGO #1 did not mention RUF other than including the Civil Support Team RUF and Rules of Conduct (ROC) Pocket Card for Support as references. The DCNG RUF briefing and individual RUF cards was focused on providing guidance to Soldiers involved in ground operations. There were no directed, approved, or implied flight maneuvers for helicopter support to CD missions in place prior to employment.

[IO Note: OPORD 005-2020 focused on the DCNG assisting the District of Columbia partners in COVID-19 response to ensure the spread of the disease is reduced to avoid overwhelming healthcare facilities. The OPORD mentioned, “Phase II, Assembly: This phase includes assembly of all DCNG response personnel and receipt of an operational, JAG Rules of Force, and PAO brief along with the issuance of proper PPE.” DAIG determined that this was the base OPORD, though FRAGO#1 referred to OPORD 06-2020.]

c. DAIG concluded that neither MPD nor other agencies requested any specific flight maneuvers from DCNG aircraft. Concerning the “low hover” flight maneuver, the evidence indicated the maneuver was conducted based on a request from MPD to observe a crowd near Capital One Arena. The initial helicopter to respond was a Blackhawk. The pilot recognized the rotor wash would impact personnel on the ground and called the UH-72 in to replace it on station. The UH-72 Lakota MEDEVAC initially replaced the UH-60, and was able to descend lower to better observe the crowd. That

aircraft was then replaced by the UH-72 S&S helicopter that was better equipped to observe the crowd with its "night sun" spotlight. DAIG found the initiatives and actions of the pilots were consistent with aerial observation missions and did not indicate the maneuvers were intended to serve as a method of direct crowd dispersal. The pilots' maneuvers and use of the spotlight were consistent with the mission to show a military presence, which in and of itself, would serve to discourage an unlawful assembly of violent crowds and other unlawful activity once the mayor designated the 1900 curfew.

2. DAIG determined that the DCNG and JTF-CD did not maintain adequate records that would provide detailed and relevant information about specific law enforcement requests for helicopter support for the evening of 1 June 2020.

a. The evidence indicated the decision to launch all of the available aviation assets was made in the early evening of 1 June 2020. At that time, and approaching the time of curfew imposed by Mayor Bowser (1900 hours), the DCNG and JTF-CD were primarily focused on the majority of the force which was deployed on the ground in Washington, DC. The LNOs were already in place with MPD and federal agencies.

b. Evidence indicated that BG Ryan telephonically provided (b)(6); (b)(7)(C) guidance regarding the employment of the helicopters. (b)(6); (b)(7)(C) telephonically transmitted his mission brief to Soldiers on duty at the DAAF. While each aircrew member noted they had been briefed on their missions, the lack of consistency in their interpretations of (b)(6); (b)(7)(C) brief called into question the details that were provided in the briefing. The lack of preparation for the aviation CD support mission was also evident in the testimony of the team that coordinated the helicopter support from the airfield. They did not maintain a log of missions performed by the aircraft; rather, they kept information for some of the missions on note cards.

c. The urgency of the situation resulted in launching aircraft without clear and specific mission requirements and priorities. The lack of experience in this aviation support to CD missions was evident in the ineffective coordination, command, and control by the LNOs and the operations staff at DAAF. The lack of an aviation RUF and specified appropriate aviation CD support missions caused each pilot or crew to interpret what their mission was, and determine the best way to execute.

ISSUE #3: The AR 15-6 did not fully review the communications BG Ryan sent during the operation which relayed to other DCNG officials, that he had "special permission" and "full authorities" to conduct helicopter flights in DC. For instance, if the Secretary of the Army or the Army Chief of Staff directed the DCNG to use all available assets, then such direction might be interpreted to serve as a waiver of the restrictions outlined in AR 95-1.

EVIDENCE CONSIDERED:

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AS AUTHORIZED BY AR 20-1.**

1. The AR 15-6 investigation did not make a finding as to what "special permission" and "full authorities" BG Ryan referred. The relevant evidence in the investigation included the following:

[IO Note: Some of the items listed below were not discussed in the body of the AR 15-6 report, but were contained in documents or testimony that were exhibits to the report. Additionally, some exhibits to the AR 15-6 ROI were added during MG Walker's review as part of his determination.]

a. BG Ryan testified that on 1 June 2020, the SECARMY and the Chief of Staff of the Army (CSA) spent time at the DC Armory discussing the mission of the DCNG. The SECARMY directed us, "for all intents and purposes, flood the box with everything we have. And that was the federal enclave in downtown Washington." "So the intent was very clear... You will deploy the DC National Guard by all means necessary, armed, out in support of civil authority in the District of Columbia in the existing joint operations area we had; to include massive presence and so we executed."

[IO Note: BG Ryan did not recall air assets being discussed at that time.]

b. The JOC message on 1 June 2020 at 2045, sent to all members of the DCNG included the, "All hands on deck, this is an evacuation of the armory to support soldiers in the field. This directive is from SECDEF, CSA, and MG Walker."

c. (b)(6); (b)(7)(C) emailed (b)(6); (b)(7)(C) on 1 June 2020, at 1711 hours, that the DCNG had received overflight waivers from the USSS for 1-6 June 2020 for missions related to civil unrest.

d. (b)(6); (b)(7)(C) forwarded (b)(6); (b)(7)(C) email to BG Ryan on 1 June 2020, at 1848 hours, adding, "Sir, BLUF [Bottom line up front], we have permission to land/fly into DC Prohibited areas."

e. BG Ryan testified that he made the decision to deploy all available DCNG helicopters after the TF-Aviation commander advised him that he had available assets cleared to fly in Washington. BG Ryan understood the mission of JTF-CD was to "flood the box" and to "show a military presence." He also thought TF-Aviation could do observation, command and control, and inter-agency support. He relayed that mission to (b)(6); (b)(7)(C) telling him, "Whatever capability we had to flood the box... So we had an aviation capability, five aircraft. Yes, put the aircraft up."

f. (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) JFHQ, DCNG, testified he was present and heard the conversation between BG Ryan and (b)(6); (b)(7)(C) on speaker phone. "I heard him [Ryan] inform (b)(6); (b)(7)(C) that he was authorized to fly aviation assets as part of the "Flood the Box" mission, to provide an overwhelming National

Guard presence in and around the National Monuments, Lafayette Park and the White House. Specific guidance was to provide a presence at the African American History Museum and the Martin Luther King Memorial. [REDACTED] confirmed and stated the other aircraft would fly up and down the National Mall until they ran out of fuel and then they would refuel and go again." At no time in the conversation did he hear BG Ryan instruct, or authorize aviation assets to fly at low altitudes or be used to disperse crowds.

[IO Note: BG Ryan provided the sworn statement from [REDACTED] as an enclosure to his reply to the preliminary findings of the AR 15-6 investigation. As the approving authority, MG Walker directed that [REDACTED] statement be added as an exhibit to the AR 15-6 report.]

g. Sometime during the evening of 1 June 2020, BG Ryan was part of a text chain with his subordinate commanders that included [REDACTED] Someone sent an image of a UH-60 in front of the Washington Monument and wrote, [REDACTED] your helicopters are looking good!" BG Ryan responded, "OMG! I am out here too. Incredible. I got special permission to launch. Full authorities."

[IO Note: The AR 15-6 IO received a copy of the above referenced text chain only after he had interviewed BG Ryan. He did not ask BG Ryan what he meant by the term "special permission to launch."]

h. According to [REDACTED] BG Ryan informed him, "We are activating the force. We have a green light. I need you to put all of the aircraft up in the air.... I got special permissions. I need you to go to the restricted area [near the White House and US Capitol]. I need you to support the task force. I need you to assist all our special agencies and I need you to orbit around the crowds to disperse any type of looting, mayhem, whatsoever, but that full force needs to acknowledge the mission."

i. [REDACTED]
[REDACTED]

to launch the fleet. "I said the tasking that I received was to kinda go over the crowds wherever there was any type of looting and then just try to orbit around the crowds, if there was any looting, and whatever that mission is, but just show a presence there if there is anything kinda crazy going on." "Did I specifically say "hover over crowds and cause mayhem?" Absolutely not." Regarding whether he ordered any specific flight maneuvers during the operation, [REDACTED] testified, "No...you don't tell a pilot how to fly an aircraft." Regarding whether the pilots sought authorization to fly at a lower altitude, [REDACTED] testified, "Yea, so the circumstances authorized. So these circumstances authorize the aircraft to loft at low altitudes could be based upon the scope of the mission I gave you. You could leave that up to the [Pilot in Command]."

j. [REDACTED] testified:

(1) He started the process of requesting a waiver from the USSS to fly DCNG aircraft into the restricted Washington, DC airspace on Sunday 31 May 2020. He got the request finalized the morning of 1 June 2020, the morning of the mission. He initiated the request because the DCNG would have so many personnel on the National Mall it would be wise to have that permission or have that waiver in effect so they could fly if they needed to do a patient transfer or MEDEVAC, or move people.

(2) He was sleeping as part of his MEDEVAC readiness posture when he learned of the mission to "launch the fleet." [REDACTED] called [REDACTED] another pilot in the unit and he [REDACTED] joined the call on speakerphone. "The directive that we got was to flood the box, so flood the P-56A, the area of the mall with rotor-wing aircraft to deter criminal activity, unlawful activity, to defend the monuments from potential damage." "I understood my mission was to fly over the National Mall and provide an aerial presence--I call it a deterrent, to people who might want to deface or damage structure of the National Mall based on the threat that the J-2 had briefed as being folks wanting to come damage in [sic] structures of the mall. And to be there to support ground force commanders as necessary."

k. [REDACTED] testified he learned of the mission in a call from [REDACTED] around 1930 hours on 1 June 2020.

(1) Earlier that day he had monitored a conference call between BG Ryan and [REDACTED] in which BG Ryan talked about the urgency of the day's operation. The mission to protect the city could not be overstated. The direction to launch the fleet was received with the same level of urgency. The decision to launch the fleet was made by someone above [REDACTED] maybe the LCC, the SECARMY, or the SECDEF.

(2) His understanding of the mission was based on a both BG Ryan's conference call comments and the pre-mission briefing [REDACTED] provided over the phone. "So launch the fleet with specific guidance that were either unruly crowds with looting and crimes being committed moving initially on the area surrounding the African American History Museum. So that was our first point, go find them there and provide a constant obvious presence to try to deter criminal activity and prevent injury to people and significant property damage. Fly low, be loud...Fly low over the crowds." "Provide a sort of a deterrent presence in the hopes of preventing the crowds from you know violence occurring to the police officers. So do that and you know when that crowd's done go find you know other crowds and we will liaise you know as best as we can." "Find the crowds, provide that deterrent presence and you know, fly low." [REDACTED] testified that [REDACTED] was the person that told the pilots to "fly low" and "hover" during the mission brief, but [REDACTED] did not specifically direct him to perform the low hover he conducted.

(3) "The purpose, as I understood based on the order I was given [by (b)(6): (b)(7)(C)] was to immediately launch every aircraft that we have, was to provide a deterrent presence over the mall area and the downtown area. Fly low, hover, be overhead, helicopters are loud, so it's distracting and annoying when there's a helicopter over you."

(4) He testified that NG Pam 95-5 (Use of Army National Guard Aircraft) described immediate response authority. "Nothing in this regulation precludes the immediate response authority of commanders to use their resources to prevent damage to property and injury to people. So that's kind of the guiding principle that we would launch, it's not illegal...but I'm not a lawyer, the assumed kind of immediate response action. They say launch the fleet. Our fleet's mostly medevac. This is what you want us to do. Mission risk is assumed at a higher level."

l. (b)(6): (b)(7)(C) was the second pilot in (b)(6): (b)(7)(C) aircraft. He testified he did not participate in the phone call with (b)(6): (b)(7)(C) (b)(6): (b)(7)(C) briefed him on the mission. "The mission set that was relayed to me was we're launching five aircraft to show a military presence and to look for rioters looting, to encourage dispersal of crowds if they seemed like they were out of control or getting disorderly, and basically that was it." He added, "Part of that could include hovering over the streets."

m. (b)(6): (b)(7)(C) a UH-60 pilot on 1 June 2020, stated, "Our instructions came as a phone call from (b)(6): (b)(7)(C) which was played on speakerphone with several other aircrew members present. I remember the call taking place around roughly 2100 [hours]. The message to all the crews was to conduct a 'show of force'. While the exact words are difficult to recall, I remember a clear sense of urgency to launch the aircraft quickly and a request for a 'show of force,' apparently from the highest levels of DC Guard and Army leadership."

n. (b)(6): (b)(7)(C) a UH-60 pilot on 1 June 2020, testified that (b)(6): (b)(7)(C) told the air crew they were authorized to fly into the restricted areas of DC to provide support for the law enforcement on the ground. He understood his mission that night as, "...we were to help identify crowds and look for any unrest" as well as to "provide that presence."

o. (b)(6): (b)(7)(C) (b)(6): (b)(7)(C) DCNG, texted BG Ryan sometime on the morning of 2 June 2020 and shared news that DAMO-AV had contacted him regarding the aviation operations the previous evening. There were "concerns on optics, safety, etc." BG Ryan responded in part, "Presidential approval," "Fully vetted."

p. The AR 15-6 IO stated, "No pilot sought authority to fly lower. All believed they had the authority to operate at whatever level deemed necessary."

2. (b)(6); (b)(7)(C) supplement stated:

a. The AR 15-6 IO received a copy of the above referenced text chain only after he had interviewed BG Ryan. He did not ask BG Ryan what he meant by the term "special permission to launch." The IO inferred that "BG Ryan either believed himself or at the very least caused others to believe that the order to employ these assets [meaning helicopter assets] had come all the way from the President."

b. In his rebuttal to the preliminary findings and recommendations, BG Ryan stated, "At no time prior to the commencement of TF-Aviation rotary wing operations on the evening of 1 June did I state to (b)(6); (b)(7)(C) or anyone else that the air operations on that night were specifically or specially authorized, approved or directed by the President, or by any senior DoD or Department of the Army official. Nor did I ever convey to (b)(6); (b)(7)(C) or anyone else, that TF-Aviation was for any reason absolved of its' obligation to adhere to applicable Army regulations or DoD policy regarding the employment or use of air ambulances for non-aeromedical purposes."

c. MG Walker, the AR 15-6 approval authority, determined that the term "special permission" was likely taken out of context by the IO. In his sworn testimony, (b)(6); (b)(7)(C) claimed that when BG Ryan called to authorize flight operations, BG Ryan stated "I got special permissions." (b)(6); (b)(7)(C) may have derived this phrase from BG Ryan's group text chain. BG Ryan's claim is essentially that it was actually (b)(6); (b)(7)(C) who informed BG Ryan that "special permission" was granted (i.e. USSS permission to fly in the restricted airspace).

[IO Note: MG Walker did not include the determination that the term "special permission" was likely taken out of context by the IO in his written finding of facts related to the AR 15-6 investigation. This information may have been provided verbally from MG Walker to (b)(6); (b)(7)(C)

d. When BG Ryan sent his text message asserting "I got special permission to launch," he did so while on the National Mall observing a DCARNG helicopter overfly his position. That helicopter would not have been allowed to fly in that particular airspace without the express authorization of the USSS. The "special permission" BG Ryan was referring to, according to his rebuttal, was this special authorization obtained by his helicopters to fly in this restricted airspace. There was no evidence in the investigative record, to include transcripts of interviews or other exhibits, which suggested that BG Ryan, before DCARNG helicopter operations were launched, led (b)(6); (b)(7)(C) or any subordinate, to believe that the President, or any other senior official, specifically authorized those air operations or waived applicable regulations or policies.

e. BG Ryan's text exchange with (b)(6); (b)(7)(C) occurred the day after the 1 June 2020 flight operations, and this exchange was not indicia that BG Ryan led his subordinates to believe the President specifically approved the previous night's air operations before they occurred. Further, it was unclear what BG Ryan meant by "Presidential Approval." The IO received a copy of the text exchange after his interview with BG Ryan and did not ask BG Ryan the meaning of his words. BG Ryan could have been speaking about the overall range of DCNG operations on 1 June, which were conducted pursuant to the direction of the President. He could also have been referring to remarks made by the President the previous evening from the Rose Garden, remarks which Ryan watched at the DC Armory. In that address, the President stated: "I am also taking swift and decisive action to protect our great capital, Washington, DC. What happened in this city last night was a total disgrace. As we speak, I am dispatching thousands and thousands of heavily armed Soldiers, military personnel, and law enforcement officers to stop the rioting, looting, vandalism, assaults, and the wanton destruction of property."

f. To illustrate the gravity and unique nature of DCNG operations on that date, BG Ryan, in his sworn testimony, noted the presence of both the SECARMY and the CSA at the DC Armory on the morning of 1 June 2020. Notably, however, BG Ryan recalled no discussion of air assets or air operations during the visit of these senior Department of the Army leaders. Both his sworn statement and his rebuttal to the preliminary findings and recommendations made clear that BG Ryan authorized the subject rotary wing operations on his own authority and volition. BG Ryan's rebuttal made clear that he did not cause any subordinate to believe they were absolved of regulatory obligations because of the direction of an official senior to BG Ryan.

DAIG REVIEW:

1. DAIG confirmed that BG Ryan used the terms "special permission" and "full authorities" on 1 June 2020 and the terms, "Presidential Approval," and "fully vetted" on 2 June 2020. We evaluated the AR 15-6 report (b)(6); (b)(7)(C) supplement, and interviewed BG Ryan establish the intent and impact of the text messages BG Ryan sent to his subordinate commanders, stating that he had "special permission" and "full authorities" to conduct helicopter flights in DC. Key evidence included:

a. In his DAIG testimony, BG Ryan testified that the SECARMY provided him two tasks on 1 June 2020, "He said your two tasks are to flood the box and protect the monuments." BG Ryan repeated back the direction to MG Walker, "I repeated back the direction to General Walker that I received, to say, "Sir, flood the box?" "Yes, General Ryan." "Everything?" "Yes, everything." "Armed?" "Yes, armed." I'm like, "Yes, sir, moving out." BG Ryan understood, "that 'flood the box' meant we were -- we were putting all available hands on the street, all service members on the street, O8 and below, and that we were armed, and we were to flood the box, intent with everything

available.” The JOC message sent to all members of the DCNG that used the terms, “all hands on deck” and “This directive is from SECDEF, CSA, and MG Walker” supported the conversation between MG Walker that all resources were to be deployed in support of this emergency situation.

[IO Note: BG Ryan noted that aviation assets were not specifically addressed by the SECARMY or MG Walker.]

b. (b)(6); (b)(7)(C) began coordinating for a waiver from USSS for DCNG helicopters to operate in restricted airspace over Washington, DC on 31 May 2020. That date corresponded with the date of FRAGO #1, which added specific tasks for DCNG aviation assets to the civil disturbance mission of the DCNG.

c. (b)(6); (b)(7)(C) notified BG Ryan on 1 June 2020, at 1848 hours that, “We have permission to land/fly into DC Prohibited areas.” The permission referred to the USSS authorization for the DCNG helicopters to operate in the highly restricted air space over Washington, DC.

d. BG Ryan testified that he decided to employ the DCNG helicopter assets soon after he learned they had a waiver to fly in DC. He contacted (b)(6); (b)(7)(C) BG Ryan told (b)(6); (b)(7)(C) that he had “permission to launch those helicopters into that restricted air space to continue furtherance of flooding the box.” Two other witnesses used the term “flood the box” when describing the mission. BG Ryan testified that he had previously discussed the types of aviation missions with (b)(6); (b)(7)(C) including observation, command and control, interagency support, and medical evacuation.

e. BG Ryan was not sure if he used the term “special permissions,” when he talked to (b)(6); (b)(7)(C) but he may have. (b)(6); (b)(7)(C) used the term “special permission,” in his testimony; however, the context for the use of the term was unclear. BG Ryan testified to DAIG that, “The only real other genesis [for the term special permissions] would be on the evening of June 1st, the receipt of the email from the Secret Service allowing my Task Force Aviation to fly into restricted air space.”

f. (b)(6); (b)(7)(C) briefed (b)(6); (b)(7)(C) and other crew members after BG Ryan authorized him to launch the aircraft. The mission (b)(6); (b)(7)(C) relayed was, “...go over the crowds wherever there was any type of looting and then just try to orbit around the crowds, if there was any looting, and whatever that mission is, but just show a presence...” (b)(6); (b)(7)(C) testimony indicated he did not use the term “special permission” when briefing (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C)

g. Neither (b)(6); (b)(7)(C) nor (b)(6); (b)(7)(C) used the term “special permission” in their testimony. (b)(6); (b)(7)(C) used the term, “flood the box,” and both officers referred to a

sense of urgency in the mission. Both officers, as well as (b)(6); (b)(7)(C) referred to the mission as including the need to create an obvious military aerial presence, and serve as a deterrence. None of the subordinate crewmembers used the term “special permissions” in their testimony.

2. DAIG determined that BG Ryan’s use of the terms “special permission” and “full authorities” in a text message the evening of 1 June 2020 referred to the waiver for DCNG helicopters to operate in restricted airspace and was not meant to imply that extraordinary command approval was granted for the mission.

a. A waiver from the USSS was required to fly in the restricted air space over Washington, DC. The USSS granted permission for these flights. These types of flights were not a normal occurrence for the DCNG air assets.

b. (b)(6); (b)(7)(C) told BG Ryan the DCNG had permission to fly/land in the restricted zones which calls into question (b)(6); (b)(7)(C) testimony that BG Ryan used the term during the telephone call on the evening of 1 June 2020.

c. BG Ryan’s text message immediately followed the text of a photo showing a UH- 60 flying over the National Mall. BG Ryan’s use of “special permission,” and “full authorities,” accurately provided context to the image, noting that the flight was properly cleared. The other TF commanders who were part of the group text were not previously aware that the USSS had granted permission to fly in the restricted areas. The other TF commanders were operating under the DCNG OPLAN DC Guardian and would have no reason to conclude that BG Ryan’s comments referred to their missions.

3. BG Ryan used the terms “Presidential Approval” and “fully vetted” in a text exchange with (b)(6); (b)(7)(C) on 2 June 2020, after the completion of the helicopter missions and in response to concerns raised by DAMO-AV. BG Ryan testified to DAIG that his use of the terms was a spontaneous text utterance used in furtherance of underscoring that the DCNG is the President’s National Guard. Similarly, BG Ryan testified that “fully vetted” was a spontaneous text in furtherance of communicating his understanding to (b)(6); (b)(7)(C) that JTF-DC was cleared to operate with maximum forces (Army and Air), maximum effort, armed, in order to flood the box/ Joint Operating Area.

DAIG CONCLUSIONS:

1. DAIG concluded that BG Ryan’s use of the term “special permission” or “full authorities” was not interpreted by anyone in the DCNG as a waiver of the restrictions outlined in AR 95-1, nor was it taken as granting authorization to fly low or conduct low hovers. Specific flight maneuvers were determined by each pilot, and no extraordinary permissions or authorities were required. In a non-emergency scenario, the only matter

that would have required a waiver from the Army staff was the use of aeromedical helicopters for non-medical missions.

2. DAIG concluded that BG Ryan's use of the terms, "Presidential Approval" and "fully vetted" on 2 June 2020 was not intended to serve as justification for a waiver to any requirements contained in AR 95- 1. The active presence of the DCNG in Washington, DC on 1 and 2 June 2020 was widely broadcast during that time. The President held several news conferences on 1 and 2 June 2020 that referenced his authorization to deploy the DCNG.

3. The preponderance of credible evidence indicated that while the SECARMY and the CSA were present during much of the deployment of the DCNG, the decision to deploy the DCNG remained with MG Walker and his subordinate commanders. The DCNG did not use the presence of the SECARMY or the CSA to infer that either the SECARMY or the CSA granted waivers for employment of the aeromedical helicopters for non-medical missions.

[IO Note: DAIG also considered evidence introduced in Issue #6 that indicated BG Ryan was unfamiliar with the restrictions of AR 95-1 and that (b)(6); (b)(7)(C) misunderstood the restrictions on the use of aeromedical assets and failed to properly advise the leaders of the DCNG. Because neither perceived a requirement to request such authority IAW AR 95-1, the use and interpretation of "full authorities" did not encompass a belief that they had, or needed, such authority.]

ISSUE #4: The AR 15-6 investigator was junior in rank to the senior officials (i.e., BG Ryan) who were involved in the events.

EVIDENCE CONSIDERED:

1. The AR 15-6 appointment memorandum named (b)(6); (b)(7)(C) as the IO. The memorandum noted, "The scope of your appointment is to conduct an investigation into the use of DCARNG rotary assets on 1 June 2020 as they flew in various sectors of Washington, DC. You should also report whether any personnel should be held accountable for any violations, shortcomings, or failures."

2. AR 15-6 states:

a. In paragraph 2-3f, that in all cases, an IO will be senior in rank to any person whose conduct or performance of duty may be investigated, or against whom adverse findings or recommendations may be made, except when the appointing authority determines this to be impracticable because of military exigencies. Inconvenience in obtaining an IO or the unavailability of senior persons within the appointing authority's organization are not military exigencies that would justify the above exception.

b. In paragraph 2-3f(2), that an IO who, during the proceedings, discovers that the completion of the investigation requires examining the conduct or performance of duty of, or may result in findings or recommendations adverse to, a person senior to him or her, will report this fact as soon as possible to the appointing authority. The appointing authority will then appoint another person, senior to the person affected, who will either replace the IO, or conduct a separate inquiry into the matters pertaining to that person.

c. In paragraph 2-3f(3), that if the appointing authority does not become aware of the problem until the results of the investigation are presented for review and action, the case will be returned for new or supplemental investigation only where specific prejudice is found to exist.

3. (b)(6); (b)(7)(C) supplement noted

a. MG Walker appointed a senior officer with over 25 years of federal legal and investigative experience as IO. This officer was directly supported by a dedicated investigative counsel and three SMEs on military aviation safety, standardization, and policy.

b. The initial scope of the investigation was to look into the facts and circumstances surrounding the employment of DCNG rotary wing assets. The IO in this instance was a Colonel (O6). The flight crews whose conduct was investigated consisted of non-commissioned officers, warrant officers and company grade officers. Their immediate commander was a LTC. It was not until late in the inquiry when the IO called BG Ryan's duty performance into question.

c. When MG Walker became aware that the IO made a finding that was potentially adverse to BG Ryan after the investigation had been presented for review and action, he determined, IAW AR 15-6, paragraph 2-3f(3) that there were no indications of specific prejudice against any party.

4. On 17 June 2020, (b)(6); (b)(7)(C) emailed DAIG and forwarded all information and evidence related to the DCNG AR 15-6 investigation at the request of MG Walker. The email stated that BG Ryan was not the subject of the investigation and there were no allegations of impropriety or misconduct or complaints against BG Ryan as it related to this investigation. The IO did make a finding that "BG Ryan did not provide clear guidance regarding the purpose, nature, and scope of the operation and authorized and prohibited activities on the night of 1 June 2020." MG Walker forwarded the report based on that information and as required by AR 20-1 (Inspector General Activities and Procedures), para. 7-1.I., which states, "Commanders, IGs, or principal HQDA staff officials must forward directly to DAIG's Investigations Division through IG channels any and all allegations of impropriety or misconduct and complaints against senior officials."

5. DAIG-IN conducted a review of the AR 15-6 with a focus on the IO's comments related to BG Ryan. On 29 June 2020, DAIG emailed DODIG and noted, "Provided is our recommendation to dismiss regarding the complaint against the DC National Guard. Our recommendation is to dismiss the allegation that BG Ryan may have violated the restrictions of employment of MEDEVAC aircraft in violation of AR 95- 1, based on the evidence and authorities provided in the CJCS DSCA EXORD [Joint Publication 3-28] and DODD 3025.18 [Defense Support of Civil Authorities (DCSA)], under immediate response authority and the habitual relationship between the DC Guard and Federal Agencies in the District, the findings in the DC Guard 15-6 report exonerate BG Ryan from any perceived impropriety, and should be approved by MG Walker. The matters related to (b)(6); (b)(7)(C) and his failure to advise BG Ryan of the type of aircraft provided, and their restrictions for use in scenarios other than MEDEVAC, are appropriately addressed in the 15-6, and the command must take appropriate action as recommended in their report."

DAIG REVIEW AND CONCLUSIONS:

1. DAIG found that (b)(6); (b)(7)(C) did not initially comply with AR 15-6 when he began to investigate the conduct of a person senior in rank to him, and when he presented an investigative report to MG Walker that included potential adverse findings against BG Ryan, an officer senior to the IO. It is likely this error was identified prior to or during a preliminary legal review of the findings. However, DAIG was not provided with a formal DCNG legal review of the AR 15-6. That DCNG legal review process ceased once DAIG was notified of the AR 15-6 findings involving a senior official.

2. DAIG found that MG Walker acted reasonably when he became aware of the potential violation of Army regulations involving a senior official by the appointed IO, an Air Force officer. MG Walker contacted DAIG IAW AR 20-1 requirements for reporting allegations against senior officials. The scope of the investigation was to investigate the use of DCNG helicopters on the evening of 1 June 2020. MG Walker's appointment of a (b)(6); (b)(7)(C) was reasonable considering that the senior member of the aviation element was a LTC.

3. DAIG completed a review of the concerns related to BG Ryan raised in the AR 15-6 investigation and recommended dismissal. DAIG found that (b)(6); (b)(7)(C) may not have been familiar with the Army requirements of the ARs. Consistent with past practices, the DAIG believed that it corrected or negated (b)(6); (b)(7)(C) error when DAIG assumed responsibility for the senior official investigation. Ultimately, MG Walker disapproved (b)(6); (b)(7)(C) adverse finding against BG Ryan.

ISSUE #5: Based on the potential deficiencies described above, we are not confident that the report's final outcome supports the "sole" adverse finding against

(b)(6); (b)(7)(C)

ISSUE #6: BG Ryan's alleged lack of knowledge of the regulatory requirements should not be considered as a factor to absolve him of any potential misconduct.

[IO Note: As noted in Scope, DAIG combined the evidence for Issue #5 and Issue #6 as they were closely related. Issue #5 implied that there were perhaps other personnel that were subject to adverse findings. DAIG examined this implication, focusing on the actions of BG Ryan as he was the other party most involved in the employment of the aeromedical assets.]

EVIDENCE CONSIDERED:

1. The AR 15-6 IO found:

a. BG Ryan did not provide clear guidance regarding the purpose, nature, and scope of the operation and authorized and prohibited activities on the night of 1 June 2020.

b. All aircrew members acted in good faith and executed all activities within the mission set as they understood it under the pressures of 1 June 2020.

c. Air ambulance designated aircraft were not used in compliance with AR 95-1. Additionally, two of the UH-60 air ambulance aircraft utilized were not clearly marked as air ambulances with the Red Cross as required by AR 40-3 (Medical, Dental, and Veterinary Care).

d. There were a number of instances noted in which Army Aviation Support Facility (AASF) required documents contained errors and were not in compliance with Army regulations; additionally, the unit did not comply with its own Standard Operating Procedures.

e. JTF-CD lacked a plan to maintain command and control with TF-Aviation assets for the mission on the night of 1 June 2020.

2. The AR 15-6 IO made the following recommendations:

a. Based on the finding that there was a lack of clear guidance to the aircrews regarding the purpose, nature and scope of the operation and their authorized and prohibited activities, the IO recommended that DCARNG develop processes to prevent such a recurrence.

b. Based on the finding that air ambulance aircraft were not used in compliance with AR 95-1, the IO recommended that all DCARNG aviation personnel, including their non-

aviator commanders, be trained on proper and authorized use of air ambulance aircraft and the process to seek an exception from authorized uses.

c. Based on the errors noted in required documents during the course of this investigation, the DAIG IO recommended a Directorate of Evaluation and Standardization (DES) assessment of the AASF to bring its operations and records management into compliance with Army regulations.

d. Based on the finding that two air ambulance aircraft were not properly marked with the Red Cross, the IO recommended Red Cross designations be placed in accordance with AR 40-3.

e. Based on the findings that JTF-CD lacked a plan to maintain command and control with TF-Aviation assets for the mission on the night of 1 June 2020, the IO recommended the development and implementation of proper command and control procedures, to include dedicated radio frequencies

3. MG Walker, as the appointing and approving authority for the AR 15-6 investigation, reviewed the investigating officer's report and considered responses from BG Ryan and (b)(6): (b)(7)(C) because of potentially adverse findings contained in the report. Each officer was afforded notice of the adverse information and given an opportunity to respond in accordance with AR 15-6, paragraph 5-4. After considering the report and rebuttals, MG Walker took the following actions:

a. The findings and recommendations of the investigating officer in the Report of Investigation (ROI) attached to DA Form 1574-1 were approved with the following modifications:

(1) MG Walker disapproved finding "a" of the ROI. [BG Ryan did not provide clear guidance regarding the purpose, nature, and scope of the operation and authorized and prohibited activities on the night of 1 June 2020.]

(2) MG Walker approved findings "b" through "e" of the ROI.

(3) MG Walker added findings in Enclosure A.

(4) MG Walker modified recommendation "a" in Enclosure A to read, "I recommend that the DCARNG develop processes to prevent such a recurrence."

(5) MG Walker approved recommendations "b" through "e" of the ROI.

b. MG Walker took the actions specified in Enclosure A.

4. Enclosure A to MG Walker's findings added:

a. Additional Finding "a, b, and c." Added exhibits 105 – 110 to the AR 15-6 report. [email from (b)(6): (b)(7)(C) to BG Ryan, UH-72 Performance planning cards, BG Ryan's response to the AR 15-6 findings, a sworn statement by (b)(6): (b)(7)(C) and (b)(6): (b)(7)(C) response to the AR 15-6 findings.]

b. Additional Finding "m." Added a finding that the UH-72 pilots could have performed an emergency landing without undue hazard to person or property.

c. Additional Finding "n." Added a finding that the pilots operated the helicopters in a manner consistent with the USSS and FAA rules.

[IO Note: DAIG did not address MG Walker's findings regarding aircraft performance or pilot capability. DAMO-AV evaluated these matters in a separate review.]

d. Regarding (b)(6): (b)(7)(C) MG Walker added:

(1) Additional Finding "d." (b)(6): (b)(7)(C) did not properly brief the JTF Commander, BG Ryan, on the aviation assets at his disposal. The investigation identified two air ambulance helicopters that were on this mission that had not been properly marked.

(2) Additional Finding "f." (b)(6): (b)(7)(C) misunderstood or modified the commander's mission intent to include orbiting around crowds and dispersing crowds and conveyed those mission taskings to subordinates.

(3) Additional Finding "g." (b)(6): (b)(7)(C) was not present during the mission briefing, take-off, mission execution, or landing of the aviation assets on the evening of 1 June 2020 and morning of 2 June 2020.

(4) Additional Finding "h." (b)(6): (b)(7)(C) (b)(6): (b)(7)(C) should have been aware of the regulatory requirement to seek approval from DAMO-AV for the use of air ambulance aircraft for other than in support of the aeromedical or humanitarian relief missions.

(5) Additional Finding "i." (b)(6): (b)(7)(C) incorrectly stated that "there was nothing stipulated in the regulations per [AR] 95-1 ... and [NG Pam] 95-5 ... everything else is at the discretion of the commander after that."

(6) Additional Finding "j." (b)(6): (b)(7)(C) incorrectly relied on NG Pam 95-5, Chapter 7-6(i) (3) to permit commanders to "take immediate action to save life, to mitigate property damage, and/or alleviate human suffering."

(7) Additional Finding “k.” (b)(6); (b)(7)(C) failure to follow the regulatory requirement to seek approval for the use of air ambulance aircraft for other than support of the aeromedical or humanitarian relief missions resulted in the JTF Commander believing that all aviation assets could be used in accordance with his mission intent.

e. Regarding BG Ryan, MG Walker added:

(1) Additional Finding “e.” BG Ryan did not direct the use of his aviation assets for the purposes of crowd dispersal or low hovers over crowds.

(2) Additional Finding “l.” BG Ryan was not aware of the regulatory requirement to seek approval for the use of air ambulances for other than in support of the aeromedical or humanitarian relief missions.

5. MG Walker intended to take the following actions based on his review of the AR 15-6 investigation:

a. Issue (b)(6); (b)(7)(C) a General Officer Memorandum of Reprimand (GOMOR) for the actions that led up to and resulted in the use of four air ambulance aircraft for other than in support of the aeromedical or humanitarian relief missions on the night of 1 June through the morning of 2 June 2020.

b. Issue developmental counseling statements for the two pilots who hovered at a low altitude on the night of 1 June through the morning of 2 June 2020.

[IO Note: MG Walker has not acted on the findings of the AR 15-6 investigation, pending this Army review and DODIG concurrence of this review. Consistent with AR 20-1, paragraph 7-2c, which states that an IG will not recommend adverse action against an individual in an ROI, DAIG’s endorsement of the AR 15-6 investigation does not extend to any adverse action MG Walker may intend to take.]

6. (b)(6); (b)(7)(C) supplement noted:

a. General observations:

(1) Upon review of all the facts and evidence, including matters submitted in rebuttal, MG Walker, the approval authority, did not agree in every instance with the findings and analysis of the IO. MG Walker carefully examined the investigative record, listened to recorded testimony, read sworn statements and transcripts of testimony, and rebuttal information. He then disapproved, approved, and added to the findings and recommendations as he deemed appropriate.

(2) MG Walker's findings, determinations, and analysis in this AR 15-6 process were being called into question by individuals who had far less familiarity with this matter than he had. The legal advice and counsel he received was also implicitly being questioned. In the interests of transparency and fairness, this scrutiny was expected and welcomed.

(3) When a third party suggested that adverse findings against a particular officer were not supportable, in spite of an overwhelming body of evidence to the contrary, and when that third party suggests, without evidence, that a more senior officer potentially committed misconduct, and steered focus to that more senior officer, it raised concerns as to the fairness and impartiality of the third party and to whether a predetermined result or outcome was being advanced or programmed.

b. Regarding (b)(6): (b)(7)(C)

(1) (b)(6): (b)(7)(C) held multiple roles on the evening of 1 June 2020. (b)(6): (b)(7)(C)

(b)(6): (b)(7)(C)

(b)(6): (b)(7)(C)

(b)(6): (b)(7)(C)

was subordinate to BG Ryan in all of these roles.

(2) (b)(6): (b)(7)(C)

(b)(6): (b)(7)(C)

(3) The AR 15-6 investigation identified that four of the five aircraft deployed on 1 June 2020 were dedicated air ambulances that, IAW AR 95-1, "should not have been deployed for anything other than aeromedical or humanitarian missions without obtaining express authorization from the Deputy Chief of Staff, G-3/5/7 (DAMO-AV)." (b)(6): (b)(7)(C) did not seek or obtain authorization to fly for non-medical purposes as required by AR 95-1.

[IO Note: (b)(6): (b)(7)(C) testified in the AR 15-6 investigation regarding the use of aeromedical aviation assets, "I knew it wasn't gonna be a good look, but (a), was it illegal? No, because the Army regulations back it, yes. But at the end of the day, the commanding general has to make that decision out of the assets he has. I'm not part of that decision making above me within the Joint Task Force, so there has to be an assumption of risk higher than me what the fallout is going to be."

(4) The record clearly reflected that (b)(6): (b)(7)(C) did not comprehend the restrictions imposed on the employment of air ambulances for non-aeromedical or non-humanitarian purposes. When asked if the employment of DCARNG aircraft marked with Red Cross insignia was consistent with applicable regulations, (b)(6): (b)(7)(C) replied that, "It was consistent with regulations. There was no—there was nothing

stipulated in regulations per [AR] 95-1... and [NGB Pam] 95-5 and the ARs.” Later when asked if he was aware of a requirement to request an exception to policy in order to use air ambulance aircraft for non-MEDEVAC purposes, he replied, “No. Exception to policy, no, because all of our guidance is pretty much in black and white.”

(b)(6); (b)(7)(C) whose job it was to know and advise his superiors on applicable regulations and policies, appeared to have lacked fundamental and essential knowledge or to have been willfully dissembling.

(5) In his rebuttal to the preliminary findings and recommendations, (b)(6); (b)(7)(C) cited NG Pam 95-5, Chapter 7-6(i) (3) as a provision that allowed National Guard commanders the authority to “take immediate action to save life, to mitigate property damage, and/or alleviate human suffering.” He apparently believed this “immediate action authority” was applicable on the evening of 1 June 2020 and superseded any requirement restricting the employment of air ambulances for non-medical purposes and the requirement that the Red Cross symbol be affixed to air ambulances.

(6) Contrary to (b)(6); (b)(7)(C) assertions, there was clear National Guard Bureau (NGB) guidance which stated expressly that “MEDEVAC aircraft will not be used for, nor waivers granted for, operational or training flights in support of local, state and federal law enforcement missions.” (b)(6); (b)(7)(C) should have been aware of this restriction. The investigative record reflected that (b)(6); (b)(7)(C) was either ignorant of the regulatory authorities which constrained the employment of air ambulances during domestic operations or he willfully disregarded those authorities.

(7) The entirety of the DCARNG had been activated for the civil disturbance response mission on the previous day. (b)(6); (b)(7)(C) was subject to an encampment order IAW DC Code §§ 49-101. (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) for instance, had been on continuous duty all day, sleeping at DAAF as necessary. Several other TF-Aviation personnel were domiciled at the AASF for the duration of the encampment order. Over 1200 DC Guardsmen were deployed on the streets of the capital. Most of the commanders, senior leaders, and line soldiers and airmen of JTF-CD did not leave their places of duty until the early hours of the morning of 2 June 2020. (b)(6); (b)(7)(C) did not inform BG Ryan or other responsible senior officers that he would not be present at DAAF for the evening’s operations. (b)(6); (b)(7)(C) absence and failure to inform his superiors thereof, in the midst of significant air operations, was in and of itself, enough to subject him to administrative action.

(8) The AR 15-6 investigation also revealed, and MG Walker specifically found, that (b)(6); (b)(7)(C) was not physically present at his duty station during the time in which his subordinates conducted rotary operations in the airspace above Washington, DC. When BG Ryan called (b)(6); (b)(7)(C) to inform him that aviation operations were authorized and directed, (b)(6); (b)(7)(C) was in his personal vehicle apparently driving

home to his personal residence. He declined to return to DAAF, but instead he telephoned (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

verbally conveyed to these officers BG Ryan's mission intent to launch the fleet of five aircraft and the scope and parameters of the evening's air operations. (b)(6); (b)(7)(C) absence stands out under the circumstances.

c. Regarding BG Ryan:

(1) MG Walker disapproved the IO's finding that "BG Ryan did not provide clear guidance regarding the purpose, nature, and scope of the operation and authorized and prohibited activities on the night of 1 June 2020" for several reasons.

(a) BG Ryan did not give personal direction or guidance to any of the helicopter pilots or aircrew. He trusted (b)(6); (b)(7)(C) to convey his Commander's Intent and mission sets. (b)(6); (b)(7)(C) provided direction to the pilots and crews. The testimony and statements of the pilots and crew were not an indicator of the clarity of the guidance provided by BG Ryan because (b)(6); (b)(7)(C) mediated that mission guidance.

(b) The testimony of BG Ryan and (b)(6); (b)(7)(C) indicated they agreed on the scope of the authorized helicopter operations — the presence of the military aircraft were to serve as a civil disturbance deterrent, to facilitate observation and command and control of arrayed DCNG forces, to support interagency partners, and to provide a medical evacuation capability if necessary.

(c) The AR 15-6 IO did not find that BG Ryan authorized or directed crowd dispersal or low hovers over crowds, rather he focused on the fact that BG Ryan did not specifically limit or prohibit these type of activities. MG Walker ultimately rejected this analysis. Under the doctrine of mission command, subordinate commanders are afforded discretion in achieving the commander's intent. Specific restrictions on aerial maneuvers of this nature would typically be imposed by the aviation commander, as the SME on aerial operations. Additionally, if BG Ryan did not impose limitations or restrictions on the subject flight maneuvers (low hovers), he also did not specifically order or direct low hovers. (b)(6); (b)(7)(C) could still have imposed such restrictions (b)(6); (b)(7)(C) and did not do so.

(2) The record reflected that BG Ryan was unaware of the constraints imposed on the employment of MEDEVAC aircraft before directing the launch of the five DCARNG aircraft on the evening of 1 June 2020. (b)(6); (b)(7)(C) did not inform BG Ryan because he himself did not understand that AR 95-1, and other policies, restricted the employment of the aircraft for non-aeromedical purposes without a waiver.

(3) MG Walker determined that (b)(6); (b)(7)(C) was at fault in this situation. (b)(6); (b)(7)(C) failed to advise his superior commander of known restrictions and limitations that the superior commander was not, and generally would not be explicitly aware of without an aviation background.

(4) MG Walker determined that the point of failure in this instance was at the (b)(6); (b)(7)(C) level, as he should have informed BG Ryan of the restrictions. After being made aware of the restrictions imposed on MEDEVAC aircraft, BG Ryan could have then either willfully disregarded the restrictions (assuming the risk of being personally liable for the regulatory violations) or he could have resolved the issue by seeking, or directing others to seek, the appropriate approval.

7. AR 95-1 states:

a. In paragraph 1-6, Deviations, subparagraph a, "Individuals may deviate from provisions of this regulation during emergencies," and subparagraph b, "Report deviations from the provisions of this regulation, Federal Aviation Administration (FAA) regulations, or host country regulations with the details of the incident directly to the unit commander. Report incidents within 24 hours after they occur."

b. In paragraph 3-3, Operational Use, n. (4) Army air ambulance aircraft are dedicated evacuation platforms in support of aeromedical missions described in AR 40-3. All requests to utilize air ambulance aircraft for missions other than in support of the aeromedical or humanitarian relief missions defined in this paragraph will be forwarded through ACOM, ASCC, DRU, or ARNG to the Deputy Chief of Staff, G-3/5/7 (DAMO-AV), 400 Army Pentagon, Washington, DC 20310-0400 for approval.

8. The National Guard Civil Support Task List (CSTL), 1 February 2016, identified military capabilities most routinely provided to civil authorities in preparation for and response to natural and man-made disasters. The CSTL identified the National Guard civil disturbance operation mission sets as: Crowd management and Control Support; Public Safety Support, Transportation Security; Quick Reaction Support; Emergency Response Protection; Area Security Support, Facility Security Operations; and Manage Public Safety and Security Support Assets. The public safety support capability includes manning traffic control points, access control, presence patrols, and other services (observation, escort, and protective services). This capability provides direct support to law enforcement to mitigate the effects of an escalated incident, civil disturbance, or natural/manmade disaster.

9. The US Army Aviation Center of Excellence (USAACE), DES, designated by DAMO-AV (the proponent of AR 95-1) to advise DAIG regarding aviation matters for this report, provided the following input to DAIG for consideration:

a. AR 95-1, AR 40-3, and NG PAM 95-5 detail the requirements for Operational Use, Special Mission Use, and Use of Army National Guard Aircraft. .

b. AR 95-1, paragraph 1-6 provides an allowance so that individuals may deviate from provisions of this regulation during emergencies. Any deviations from provisions in AR 95-1 would be based on the current situation, information available, and the judgment of the person making the decision. There is no all-encompassing definition in AR 95-1 as to what constitutes an emergency; it is left to the commands/crews to make such a determination when a situation arises. Given the climate and situation the evening of 1 June 2020, it is reasonable to have interpreted the missions conducted by the aircraft in question to fall under the "emergency situations" category permitting a deviation from the provisions on AR 95-1.

c. The DCNG support to civil disturbance missions fell under operational use missions which are detailed in AR 95-1, paragraph 3-3. [Paragraph 3-3n(4) contains the requirement for all requests to utilize air ambulance aircraft for missions other than in support of the aeromedical or humanitarian relief missions to be forwarded to DAMO- AV]. When the decision was made to use aeromedical aircraft for other missions in response to an emergency situation, the DCNG and/or ARNG should have notified the Deputy Chief of Staff, G-3/5/7 (DAMO-AV) of the full details as soon as possible. This provision allowed for after the fact approval based on the commander's assessment of the situation.

10. Army Doctrine Publication (ADP) 6-0 (Mission Command- Command and Control of Army Forces) provides a discussion of the fundamentals of mission command and command and control. While the document provides a detailed review of the Army command philosophy, a few relevant excerpts are listed below:

a. Paragraph 1-14: Mission command is the Army's approach to command and control that empowers subordinate decision making and decentralized execution appropriate to the situation.

b. Paragraph 1-16: Mission command helps commanders capitalize on subordinate ingenuity, innovation, and decision making to achieve the commander's intent when conditions change or current orders are no longer relevant. It requires subordinates who seek opportunities and commanders who accept risk for subordinates trying to meet their intent. Subordinate decision making and decentralized execution appropriate to the situation help manage uncertainty and enable necessary tempo at each echelon during operations.

c. Paragraph 1-45: The commander's intent is a clear and concise expression of the purpose of the operation and the desired military end state that supports mission command, provides focus to the staff, and helps subordinate and supporting

commanders act to achieve the commander's desired results without further orders. During planning, the initial commander's intent drives course of action development. During execution, the commander's intent establishes the limits within which a subordinate may exercise initiative.

d. Paragraph 1-107: Command and control is fundamental to all operations. Mission command—the Army's approach to command and control—underpins how the U.S. Army fights. Mission command concentrates on the objective of an operation, not on every task necessary to achieve it. Mission command emphasizes timely decision making, understanding of the higher commander's intent, and the clear responsibility of subordinates to exercise initiative within that intent to achieve the desired end state. Mission command relies on decentralized execution and subordinate initiative within the commander's intent to provide unity of effort.

e. Paragraph 1-109: In practice, mission command tends to be decentralized, informal, and flexible. Plans, orders, and graphics should be as simple and concise as possible, designed for maximum flexibility during execution. By decentralizing decision-making authority, mission command increases tempo and improves subordinates' abilities to act quickly in fluid and chaotic situations.

11. AR 600-20 (Army Command Policy), 6 November 2014, states:

a. In paragraph 2-1a, "The chain of command assists commanders at all levels to achieve their primary function of accomplishing the unit's assigned mission..."

b. In paragraph 2-1b, "Commanders are responsible for everything their command does or fails to do. However, commanders subdivide responsibility and authority and assign portions of both to various subordinate commanders and staff members. In this way, a proper degree of responsibility becomes inherent in each command echelon ... Commanders who assign responsibility and authority to their subordinates still retain the overall responsibility for the actions of their commands."

c. In paragraph 2-1c, "Effective communication between senior and subordinate Soldiers within the chain of command is crucial to the proper functioning of all units."

[IO Note: AR 600-20 was revised on 24 July 2020.]

12. AR 600-100 (Army Profession and Leadership Policy) effective 5 May 2017, states in paragraph 1-7c, "Mission command is the exercise of authority and direction by the commander using mission orders to enable disciplined initiative within the commander's intent to empower agile and adaptive leaders in the conduct of unified land operations. Trust, critical to mission command, is the bedrock of our profession. It is the internal

organizing principle of the Army, and is what enables the decentralized decision making by subordinates to operate within the commander's intent."

DAIG REVIEW:

1. DAIG determined that the following approved AR 15-6 findings were supported by the preponderance of evidence.

a. AR 15-6 Finding "b." All aircrew members acted in good faith and executed all activities within the mission set as they understood it under the pressures of 1 June 2020.

b. The portion of AR 15-6 Finding "c." Two of the UH-72A ambulance aircraft utilized were not clearly marked as air ambulances with the Red Cross as required by AR 40-3.

[IO Note: The first sentence of AR 15-6 Finding c. regarding the use of aeromedical helicopters was addressed separately in this report].

c. AR 15-6 Finding "d." Required documents contained errors and were not in compliance with Army regulations.

d. AR 15-6 Finding "e." JTF-CD lacked a plan to maintain command and control with TF-Aviation assets for the mission on the night of 1 June 2020.

e. Additional Findings "a, b, and c." These three findings added exhibits to the base ROI.

f. Additional Finding "e." BG Ryan did not direct the use of his aviation assets for the purposes of crowd dispersal or low hovers over crowds

g. Additional Finding "g." That (b)(6); (b)(7)(C) was not present during the mission briefing, take-off, mission execution, or landing of the aviation assets on the evening of 1 June and morning of 2 June.

h. Additional Finding "j." (b)(6); (b)(7)(C) incorrectly relied on NG Pam 95-5, Chapter 7-6.i. (3) to permit commanders to "take immediate action to save life, to mitigate property damage, and/or alleviate human suffering."

[IO Note: DAIG assessed this finding from the perspective that MG Walker's concern was that (b)(6); (b)(7)(C) incorrectly relied on a National Guard publication to rebut a finding in the AR 15-6 investigation that he improperly employed aeromedical helicopters. The NG Pam 95-5 was subordinate to AR 95-1. AR 95-1 provided

exceptions for the use of aeromedical helicopters in emergencies. DAIG concluded that while MG Walker's intent in this finding may not have been to identify (b)(6); (b)(7)(C) incorrect citation of a regulation, the finding was supported by the evidence showing (b)(6); (b)(7)(C) lack of familiarity with the aviation regulations caused him to present MG Walker an unsupportable argument.]

2. DAIG determined that the remainder of MG Walker's findings required additional evidence and or analysis to establish the preponderance of evidence. DAIG established that the remaining findings centered around two key points, (1) Did BG Ryan provide clear guidance regarding the purpose, nature, and scope of the operations, and (2) Did BG Ryan and/or (b)(6); (b)(7)(C) violate Army regulations in the employment of aeromedical aircraft for non-medical missions. The following paragraphs address these points.

3. DAIG determined after further analysis of AR 15-6 Finding "a" and Additional Finding "f" that:

a. The preponderance of evidence supported MG Walker's decision to disapprove AR 15-6 Finding "a," that BG Ryan did not provide clear guidance regarding the purpose, nature, and scope of the operation and authorized and prohibited activities on the night of 1 June 2020. DAIG found that BG Ryan's guidance to (b)(6); (b)(7)(C) met the requirements of ADP 6-0.

(1) The AR 15-6 IO focused on the telephone conversation between BG Ryan and (b)(6); (b)(7)(C) just prior to the launch of the aviation assets to find that BG Ryan had not issued clear guidance to (b)(6); (b)(7)(C) DAIG found that telephone call was but one element of information related to the mission of TF-Aviation on the evening of 1 June 2020. BG Ryan's instructions to (b)(6); (b)(7)(C) supplemented previous discussions between the two, including the teleconference on the afternoon of 1 June 2020. Additionally, DCNG FRAGO #1 and JOC text messages described the civil disturbance support missions as to protect lives and infrastructure, support USPP and MPD, ensure that no terrain was relinquished, and protect key federal buildings and monuments. Testimony indicated that BG Ryan further provided (b)(6); (b)(7)(C) examples of potential tasks consistent with the CSTL (observation, command and control, interagency support, and medical evacuation) that might be requested, for the employment of TF-Aviation. There were no specific requests for aviation support prior to the launch of the aircraft, so BG Ryan's discussion of missions in general terms was reasonable considering this was the first time DCNG employed helicopters to support emergency CD operations.

(2) While BG Ryan did not list specific missions for TF-Aviation in the telephone call to (b)(6); (b)(7)(C) prior to launching the aircraft, BG Ryan reinforced his commander's intent with a slogan coined by CSA and used by MG Walker, "flood the

box” with a massive DCNG military presence. The slogan did not change BG Ryan’s original commander’s intent for the aviation assets to operate in and around the National Monuments, the African American Museum, Lafayette Park and the White House. The effect of BG Ryan’s decision to launch every available aircraft to support the CD mission was to increase the aviation support to JTF-CD from two helicopters to five helicopters. This was consistent with the desired end state of supporting civil disturbance operations to protect lives and infrastructure, which was expressed in the FRAGO, JOC FLASH text messages, and BG Ryan’s phone calls, all of which

(b)(6): (b)(7)(C) received

(3) (b)(6): (b)(7)(C) (b)(6): (b)(7)(C) had a requirement to conduct a mission analysis, identify specified and implied tasks, develop courses of action for execution, and determine how TF-Aviation would execute the mission. (b)(6): (b)(7)(C) was the (b)(6): (b)(7)(C) and was obligated to analyze the DCNG CD mission and define the role and operating constraints for the aviation assets in support of the mission. (b)(6): (b)(7)(C) also had the responsibility to identify issues or concerns with the mission directive he received and request clarification from BG Ryan for items that were not clear; he did not request clarification. Testimony indicated that both BG Ryan’s intent to “flood the box” with a massive presence and the desired end state of protecting the monuments and infrastructure were conveyed to the pilot level.

b. While the preponderance of evidence contained within the AR 15-6 report supported MG Walker’s Additional Finding “f,” that (b)(6): (b)(7)(C) misunderstood or modified the commander’s intent to include orbiting around crowds and dispersing crowds, DAIG found that MG Walker may not have considered all available evidence when reaching this decision.

(1) (b)(6): (b)(7)(C) briefing to aircrews was consistent with BG Ryan’s intent for TF-Aviation to support the DCNG CD mission of providing a military presence to deter criminal activity, supporting the ground forces, protecting people, and protecting property. Prior to the launching of the fleet on 1 June 2020 the mission of TF-Aviation was primarily to be on stand-by to provide MEDEVAC support. (b)(6): (b)(7)(C) noted there were no specific requests for aviation support when the helicopters launched and told the aircrews to be prepared to receive requests for support while in the air. His direction to fly “low and loud” supported the mission of “flooding the box” and providing a military presence in Washington, DC. Consistent with flight operations, (b)(6): (b)(7)(C) left the specific flight maneuvers up to the pilots.

(2) MG Walker’s finding noted that (b)(6): (b)(7)(C) modified the commander’s intent to add “orbiting around crowds and dispersing crowds.” DAIG found that testimonial evidence indicated that part of (b)(6): (b)(7)(C) aircrew briefing included a mission to observe activities on the ground. Orbiting a crowd was a reasonable flight

maneuver to execute that mission. Although two witnesses stated that they understood the mission to include assisting the ground forces in encouraging crowd dispersal, the DAIG found insufficient evidence to conclude that (b)(6); (b)(7)(C) briefed or directed any flight crews to use their helicopters for crowd dispersal. The evidence related to the one incident of a helicopter performing a low hover indicated that the maneuver was performed as a method of observation and not necessarily direct crowd dispersal, though the pilots hoped that the presence of the helicopters would serve to discourage violence and other illegal activity. The video of the event showed that the crowd was not dispersed by the helicopter.

(3) As noted previously in this report, the DCNG lacked a specific RUF or concept for the incorporation of helicopters in support of its CD mission. Lacking this planned concept for CD mission support, (b)(6); (b)(7)(C) direction to the aircrews was arguably reasonable and consistent with BG Ryan's intent considering the emergency situation in Washington, DC.

4. DAIG determined that MG Walker should re-analyze the first sentence of AR 15-6 finding "c." that air ambulance aircraft were not used in compliance with AR 95-1. DAIG determined that while the preponderance of evidence contained within the AR 15-6 ROI would normally otherwise support the finding, neither the IO nor MG Walker considered the entirety of AR 95-1 when reaching that conclusion. Had they done so, they may have reached a finding that while the use of air ambulances for non-aeromedical missions without prior approval by DAMO-AV violated paragraph 3-3n(4), this deviation from the regulation was justified by the emergency situation, consistent with the exception in AR 95-1, paragraph 1-6, and corroborated by USAACE, DES.

a. Neither the AR 15-6 IO nor MG Walker considered the emergency exceptions to policy listed in AR 95-1 that authorized the deviation from the normal restrictions on employment of aeromedical resources under the circumstances existing in Washington, DC on 1 and 2 June 2020. DAIG found that this lack of consideration of the entirety of AR 95-1 was partially addressed by the AR 15-6 IO's recommendation that all DCARNG aviation personnel, including their non-aviator commanders, be trained on proper and authorized use of air ambulance aircraft and the process to seek an exception from authorized uses.

b. The AR 15-6 conclusion that the DCNG improperly deployed aeromedical assets was based on AR 95-1, paragraph 3-3n(4), which states, "Army air ambulance aircraft are dedicated evacuation platforms in support of aeromedical missions described in AR 40-3."

c. AR 95-1, paragraph 1-6, states "Individuals may deviate from provisions of this regulation during emergencies." DAIG found that the unprecedented threat to federal buildings and property, including the White House, on 1 June 2020 could certainly be

viewed as an emergency within the meaning of this provision. The presence and interaction of DOD and Army leadership with the DCNG highlights the urgency of this period of time. Mayor Bowser had imposed a city-wide curfew as part of a state of emergency declaration for Washington, DC. The JOC text message that included the phrase, "All hands on deck, this is an evacuation of the armory to support soldiers in the field. This directive is from SECDEF, CSA, and MG Walker" further highlighted the gravity of the situation.

d. DES, designated by DAMO-AV as the proponent organization for AR 95-1, opined there is no all-encompassing definition in AR 95-1 for emergency situations. The regulation provided for commands and crews to make that situational determination. AR 95-1, paragraph 1-6, allows individuals to deviate from provisions of the regulation during emergencies. These deviations would be based on the current situation, information available, and the judgment of the person making the decision. Given the climate and situation that evening, it was reasonable to have interpreted the missions conducted by the aircraft in question to fall under the "emergency situations" category permitting a deviation from the provisions on AR 95-1. Even though the evidence did not indicate that anyone in the DCNG, including BG Ryan, was aware of the provision in AR 95-1 allowing for deviations in emergency situations, BG Ryan's decision to launch all available aircraft was based on his appreciation of the unprecedented nature of the situation and his realization that this was a no-fail mission for the DCNG. It was clear that BG Ryan considered the circumstances to constitute an emergency; thus the deviation from AR 95-1 was justified, even after the fact.

[IO Note: DAIG found that although the DCNG did not initially fulfill the administrative reporting requirement, DAMO-AV was aware of the situation. DAMO-AV contacted (b)(6); (b)(7)(C) on 2 June 2020 which prompted BG Ryan to telephone DAMO-AV the same day. Additionally, DAMO-AV SMEs were part of the AR 15-6 investigation team. Soon thereafter, MG Walker, was apprised of the general nature of the alleged violations of AR 95-1. DAIG found that all of the above-noted actions made the initial request or reporting requirement for the operational use of aeromedical aviation assets to DAMO-AV moot as they were well aware of the use. The DAIG further found that the above stated rationale also applied to the reporting requirement listed in AR 95-1, paragraph 1-6.]

5. DAIG determined the preponderance of evidence supported MG Walker's Additional Findings "d, h, and i,"

a. Additional Finding "d." (b)(6); (b)(7)(C) did not properly brief the JTF Commander, BG Ryan, on the aviation assets at his disposal. The investigation identified two air ambulance helicopters that were on this mission that had not been properly marked.

(1) (b)(6); (b)(7)(C) it was (b)(6); (b)(7)(C) responsibility to introduce aviation specific considerations and restraints into the planning and decision making processes. (b)(6); (b)(7)(C) testified that he had concerns with how using the aeromedical assets might look, but he failed to raise his concerns to BG Ryan or remind BG Ryan that some of the helicopters were carrying a Red Cross emblem. Although BG Ryan acknowledged that he was aware of what aviation assets TF-Aviation had, it was incumbent on (b)(6); (b)(7)(C) to inform him that of the five aircraft available on 1 June 2020, four were designated as air ambulances (though two were not properly marked). (b)(6); (b)(7)(C) had an obligation to properly advise not only BG Ryan, but the entire DCNG regarding the employment of its helicopters. This responsibility included identifying and presenting any concerns or potential issues regarding the use of aeromedical assets.

(2) (b)(6); (b)(7)(C) failure to properly brief BG Ryan appeared based on his lack of knowledge and understanding of his role as the (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) The evidence in the AR 15-6 report, to include (b)(6); (b)(7)(C) own testimony, supported the finding that he was not aware of the provisions of AR 95-1 regarding the restrictions and exceptions on the use of aeromedical aviation assets.

b. Additional Finding “h.” (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) should have been aware of the regulatory requirement to seek approval from DAMO-AV for the use of air ambulance aircraft for other than in support of the aeromedical or humanitarian relief missions. Additional Finding “i.” (b)(6); (b)(7)(C) incorrectly stated that “there was nothing stipulated in the regulations per [AR] 95-1 ... and [NG Pam] 95-5 ... everything else is at the discretion of the commander after that.”

(1) DAIG determined these two allegations were consistent with previous findings that indicated (b)(6); (b)(7)(C) lacked sufficient knowledge of aviation regulations.

(2) The DCNG and BG Ryan relied on (b)(6); (b)(7)(C) to be the expert in Army aviation operations and to provide timely and accurate advice. These two findings indicated situations in which (b)(6); (b)(7)(C) was either unaware of a process listed in the regulation or misinterpreted the regulation to the command. In either situation, the command lacked the proper input to evaluate in their decision making process to employ aircraft. This led commanders to make the best decisions they could with the information they had available.

c. DAIG also determined that (b)(6); (b)(7)(C) physical absence during the fast moving events on the evening of 1 June 2020 prevented him from appreciating the magnitude of the helicopter missions that evening or monitoring his unit's operations in real time. He was thus not able to properly assess, adjust, or recommend mission

modifications to DCNG leaders and the pilots based on changes due to the dynamic circumstances of the environment.

6. DAIG determined that MG Walker should re-analyze Additional Finding “k.”

(b)(6); (b)(7)(C) failure to follow the regulatory requirement to seek approval for the use of air ambulance aircraft for other than support of the aeromedical or humanitarian relief missions resulted in the JTF Commander believing that all aviation assets could be used in accordance with his own mission intent. The evidence indicated that (b)(6); (b)(7)(C) did not fail to follow regulatory guidance regarding the employment of air ambulances; rather he was not aware of the provisions of AR 95-1 paragraph 1-6, under which emergency situations at the time would have justified a deviation from that requirement under the circumstances that existed on 1 June 2020. DAIG found that MG Walker should review and reconsider his finding in light of the evidence related to AR 95-1 and findings that already addressed (b)(6); (b)(7)(C) failure to perform his duties as the (b)(6); (b)(7)(C)

7. DAIG determined the preponderance of evidence supported MG Walker's Additional finding “l.” that BG Ryan was not aware of the regulatory requirement to seek approval for the use of air ambulance for other than in support of the aeromedical or humanitarian relief missions.

[IO Note: As stated previously, DAIG found that the DCNG did not fulfill this administrative requirement, however, DAMO-AV was aware of the situation and DAIG considered the issue moot.]

a. The preponderance of evidence indicated that the DCNG did not have a developed plan in place prior to the employment of helicopters to support CD missions prior to the unprecedented events of 1 June 2020. The evidence, including BG Ryan's testimony, indicated that BG Ryan was aware that the majority of helicopters assigned to the DCNG were designated aeromedical. The evidence also established that BG Ryan lacked knowledge regarding restrictions on the use of aeromedical helicopters in non-combat operations. Just as BG Ryan was unaware of the requirement in AR 95-1 to seek approval from DAMO-AV prior to, or after the fact for the utilization of air ambulance aircraft for non-aeromedical missions, he was equally unaware that the regulation provided for deviations in emergency situations. Had BG Ryan known about this provision, he could have made an explicit determination that the emergency situation warranted deviation from the regulation and initiated the required notifications via his chain of command. This in turn would have allowed the chain of command to object if appropriate.

b. Regarding Issue #6, DAIG did not agree with the DODIG assertion that BG Ryan's lack of knowledge should not be considered when evaluating this matter.

DAIG examined the totality of evidence to establish if BG Ryan's actions complied with AR 600-20 and AR 600-100.

(1) As the JTF commander, BG Ryan needed to rely on the expertise of his subordinate commanders to plan and execute missions. (b)(6); (b)(7)(C) was the (b)(6); (b)(7)(C). His job was to deploy the helicopters consistent with Army policy, but the evidence showed (b)(6); (b)(7)(C) did not understand the Army policy. BG Ryan testified that he considered (b)(6); (b)(7)(C) competent and reliable as the (b)(6); (b)(7)(C) however, previous missions had not included CD support. BG Ryan reasonably relied on (b)(6); (b)(7)(C) a subordinate commander, to live up to his responsibility as the DCNG aviation SME and provide accurate and timely guidance regarding the use of the DCNG helicopter fleet. It was arguably unreasonable to expect BG Ryan to know the nuances of AR 95-1 even though BG Ryan was aware that the DCNG helicopters were aeromedical assets.

(2) (b)(6); (b)(7)(C) did not introduce the potential issues with the use of aeromedical helicopters to the DCNG JFHQ or BG Ryan during the planning phase of the CD mission, or at any time prior to the employment of the helicopters. It was likely that he either was unaware of this restriction or did not consider the exceptions for justification until after he was cited in the AR 15-6 investigation for his failure to do so. (b)(6); (b)(7)(C) did not demonstrate a proper degree of responsibility inherent with his position as (b)(6); (b)(7)(C).

(3) AR 600-20 cited the requirement for effective communications between senior and subordinate. DAIG found that although BG Ryan's telephone conversation with (b)(6); (b)(7)(C) on the evening of 1 June 2020 focused on terms such as "launch the fleet," "flood the box," or show a "military presence," this guidance coupled with information from previous conversations and messages was sufficient for (b)(6); (b)(7)(C) to either to plan for his mission or seek clarification. The evidence indicated he briefed the aircrew based on the information he received and did not request additional guidance or clarification. (b)(6); (b)(7)(C) did not inform BG Ryan that he was not present at DAAF nor was he in Washington, DC during the operations the evening of 1 June 2020. (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) had an obligation to be actively engaged in the JTF-CD and TF-Aviation mission in order to communicate with the entirety of the DCNG on status of Army helicopter operations. (b)(6); (b)(7)(C) absence indicated his failure to execute his primary function of assisting the commander to accomplish the assigned mission. BG Ryan trusted (b)(6); (b)(7)(C) to perform his role in support of JTF-CD and (b)(6); (b)(7)(C) did not execute his entrusted duties.

c. DAIG found that BG Ryan's lack of knowledge concerning limits on the use of aeromedical helicopters was an indication of a greater systemic issue and lack of understanding in the employment of aircraft on the DCNG MTOE..

(1) FRAGO #1, issued on 30 May 2020, required JTF-DC to provide one UH-72 for MEDEVAC or S&S missions, and one UH-60 to provide CASEVAC or general transportation missions. The FRAGO appeared to address the helicopters as interchangeable assets. That would mean that each helicopter could perform a medical and non-medical mission. The JFHQ concept could be supported by the UH-72 as the DCNG had a helicopter configured as a MEDEVAC and one configured as a mission equipment package (MEP). The data we reviewed identified UH-60s configured only as MEDEVAC helicopters, therefore unable to provide general transportation support. The mission tasking in this FRAGO was indicative of a more widespread misunderstanding within the DCNG regarding the authorized use of aeromedical aircraft for non-medical missions.

(2) The DCNG RUF did not appear to consider the employment of air assets in support of the ground mission. This oversight resulted in pilots using their initiative to conduct flight maneuvers that may or may not have been consistent with the commander's intent.

(3) On 1 June 2020, several DOD and Army leaders, including BG Ryan, were on the National Mall and other areas of Washington, DC and no doubt saw or heard the DCNG helicopters. There were no reports of concern with the employment of the helicopters, two of which were clearly marked with Red Cross markings.

(4) None of the pilots or crew overtly or vocally raised concerns, objections or questions regarding the use of the aeromedical helicopters to support non-medical missions. Some of the testimony indicated the pilots and aircrew were aware that even though they were supporting a CD mission the helicopters could still perform medical missions if required. [REDACTED] testified he thought about the use of aeromedical helicopters, but did not appear to question the decision made by "leadership." Other testimony indicated the some pilots and aircrew had no knowledge of the limitations in AR 95-1.

(5) Whether he knew it or not, if an emergency situation existed, BG Ryan was allowed to deviate from aviation requirements noted in AR 95-1, per the emergency deviation exception noted in subparagraph 1-6. The event in question was an emergency, so use of the aeromedical assets for limited operational use did not violate the regulation.

8. Regarding Issue #5. Based on the foregoing, and notwithstanding the recommendations that MG Walker reconsider several of his findings, DAIG concluded that the preponderance of the credible evidence supported the "sole" adverse finding against [REDACTED]

OVERALL CONCLUSION: DAIG found that BG Ryan's decision to incorporate helicopter support into JTF-CD was consistent with the intent of the CG, DCNG who directed the encampment of the entire DCNG, and the directive by senior Army officials to "flood the box" and show a massive military presence. DAIG reviewed the findings of the DCNG AR 15-6 investigation and additional findings that MG Walker presented in Enclosure A and recommended additional analysis of several findings based on the discovery of previously unappreciated evidence. Most significant was the DAIG conclusion, based on the DAMO-AV expert opinion that AR 95-1 allowed for the use of aeromedical aviation assets for non-medical mission in emergencies such as that which existed in Washington, DC on the evening of 1 June 2020. Clearly, the images of the UH-72A, particularly one marked with a Red Cross symbol, hovering over a crowd may have raised questions and concerns; however, DAIG found this maneuver did not violate plans or regulations in place at the time, but identified an area for improvement and clarification in Army policy. Our investigation also found potential systemic issues at Army, NGB, and DCNG levels that should be reviewed in light of the potential for further employment of Army aviation assets to support CD missions. These findings are in no way meant to diminish the outstanding accomplishments of the Soldiers and Airmen of the DCNG during these unprecedented circumstances.

RECOMMENDATIONS:

1. DODIG accepts this ROI as the Army supplement and endorsement, with comment, to the AR 15-6 investigation conducted by the DCNG into Army helicopter operations in Washington, DC on the evening of 1 June 2020.
2. DODIG concur with the findings presented in this report, including the recommendations that MG Walker reconsider the findings based on DAIG's review, analysis, and comments on the AR 15-6 findings.
3. DODIG concur with the DAIG recommendation to dismiss allegations against BG Ryan as detailed in the 29 June 2020 email from DAIG to DODIG with additional justification provided in this report.
4. CG, DCNG review the five recommendations made in the AR 15-6 investigation in view of the additional analysis provided in the DAIG report and implement corrective actions.
5. DAIG provide CG, DCNG the recommendations made in this report that included:
 - a. The DCNG JFHQ should integrate DCNG aviation assets into existing civil support mission plans.
 - b. The SJA, DCNG, should coordinate with the J3 to supplement the existing RUF to include appropriate missions and controls for aviation assets.
 - c. The SAAO should advise the JFHQ on the appropriate use and restriction on the use of helicopters in support of civil disturbance missions.
 - d. The SAAO should conduct training for all members of the aviation units as well as the primary staff at the JFHQ to ensure the restrictions and waiver requirements for aeromedical assets is understood.
 - e. The SAAO should develop a mission tracking system to manage the employment of multiple aircraft to support a civil disturbance mission.
 - f. SJA, DCNG ensure that the procedures for appointing an IO outlined in AR 15-6 are followed by all commanders in the DCNG regardless of service.
 - g. MG Walker review and reconsider the portion of AR 15-6 finding "c," that air ambulance aircraft were not used in compliance with AR 95-1 in light of the provisions of AR 95-1 that allow for aeromedical aviation assets to perform non-medical missions during emergency situations.

h. MG Walker review and reconsider Additional finding "f," that (b)(6): (b)(7)(C) misunderstood or modified the commander's intent to include orbiting around crowds and dispersing crowds.

i. MG Walker review and reconsider Additional Finding "k," that (b)(6): (b)(7)(C) failure to follow the regulatory requirement to seek approval for the use of air ambulance aircraft for other than support of the aeromedical or humanitarian relief missions resulted in the JTF Commander believing that all aviation assets could be used in accordance with his mission intent.

6. DAMO-AV review AR 95-1 to determine if aviation support to civil disturbance missions is appropriately addressed.

7. NBG evaluate the CSTL to determine if it adequately addresses the incorporation of Army aviation assets into certain CD missions.

(b)(6): (b)(7)(C)

Investigator

APPROVED:

SMITH,LESLIE,CA Digitally signed by
RLTON (b)(6): (b)(7)(C) SMITH,LESLIE,CARLTON (b)(6)
(b)(6): (b)(7)(C)
Date: 2020.09.22 14:15:03 -04:00

LESLIE C. SMITH
Lieutenant General, USA
The Inspector General

LIST OF EXHIBITS

EXHIBITS

ITEM

A Initiating Document:

DODIG referral to DAIG

B Standards:

- B-1: AR 95-1, Flight Regulations, 22 March 2018
- B-2: NG Pam, Use of Army National Guard Aircraft, 4 November 2011
- B-3: ADP 6-0 (Mission Command- Command and Control of Army Forces) July 2019
- B-4: AR 600-20
- B-5: AR 600-100

C Other References:

- C-1: Joint Publication 3-28, Defense Support of Civil Authorities, 29 October 2018
- C-2: DODD 3025.18, Defense Support of Civil Authorities (DCSA), incorporating change 2, 19 March, 2018
- C-3: NGB Civil Support Task List

D Supporting Documents

- D-1: Army Regulation 15-6 Investigation Report Regarding Use of District of Columbia Army National Guard Rotary Wing Assets Flown Within Washington, DC on 1 June 2020, 10 June 2020 [BASE REPORT]
- D-2: MFR, SUBJECT: Action by the Appointing Authority - Army Regulation 15-6 Investigation Report Regarding Use of District of Columbia Army National Guard Rotary Wing Assets Flown Within Washington, DC, on 1 June 2020, 30 June 2020
- D-3: Enclosure A to MG Walker's Action MFR, Findings of Fact and recommendations, 30 June 2020
- D-4: MFR, (b)(6); (b)(7)(C) Subject: Review of Purported Deficiencies Identified in the AR 15-6 Investigation into DCARNG Rotary Wing Operations on 1 June 2020, 3 August 2020
- D-5: DCNG Briefing: Rules on the use of Force and Rules of Conduct

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SAIG-IN (20-00022)

- D-6: DCNG RUF Card
- D-7: DCNG OORDER 005-2020 COVID19
- D-8: JTF-JOC Text Alert Messages – 31 May – 1 June 2020
- D-9: FRAGO 1 to Operations Order 006-2020, DC Guardian, 30 May 2020
- D-10: Screenshots of Text messages from BG Ryan, 1 and 2 June 2020
- D-11: OGC/OTJAG MFR, SUBJECT: Jurisdictional Aspects of District of Columbia National Guard (DCNG) during the Civil Disturbance Operations (CDO) in Washington, DC, 30 July 2020
- D-12: MFR, SUBJECT: Directorate of Evaluation and Standardization (DES) Findings related to DAIG information request, 13 August 2020
- D-13: DES clarification to DAIG follow-up questions, dated 11 September 2020

E Testimony

- E-1: BG Ryan – 18 August 2020
- E-2: BG Ryan supplemental email, 21 August 2020
- E-3: BG Ryan – AR 15-6
- E-4: (b)(6): (b)(7)(C) – AR 15-6
- E-5: (b)(6): (b)(7)(C) – AR 15-6
- E-6: – AR 15-6
- E-7: – AR 15-6
- E-8: – AR 15-6
- E-9: – AR 15-6
- E-10: (b)(6): (b)(7)(C) – AR 15-6
- E-11: (b)(6): (b)(7)(C) – AR 15-6 (UH-60 pilot)



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
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21 JUL 2020

MEMORANDUM FOR INSPECTOR GENERAL DEPARTMENT OF THE ARMY
INVESTIGATIONS DIVISION (ATTN: [REDACTED])

SUBJECT: Senior Official Case Referral Brigadier General Robert K. Ryan (D-CATS Case No. 20200630-065614-CASE-01)

The DoD OIG Investigations of Senior Officials Directorate (ISO) acknowledges receipt of the Army IG's June 29, 2020, notification of a possible emergent allegation from a District of Columbia National Guard (DCNG) command directed investigation (Army Regulation (AR) 15-6 investigation). The emergent allegation related to the actions of Brigadier General (BG) Robert K. Ryan, the commander of the DC National Guard Joint Task Force, and ordering the improper use of DC Army National Guard (DCARNG) helicopters to support local law enforcement authorities to control protests in Washington, DC, on June 1, 2020. We also acknowledge receipt of the approved DCNG AR 15-6 investigation report.

We identified the following potential deficiencies during our initial DCNG AR 15-6 investigation report review:

- a. The report does not discuss the jurisdictional aspects of the DCNG operations in Washington. According to documents attached to, but not mentioned in the report, the Department of the Interior, Department of Homeland Security, Department of Justice, and the DC Government's Homeland Security office each requested support from the DCNG. One request states that the DCNG will be acting in a law enforcement capacity (i.e., "Special Policemen"), while the DC Government request states that the DCNG will NOT be operating in a law enforcement capacity. Those issues should be thoroughly reviewed and discussed in the report as part of a review of the authority to provide military support and to determine whether the DCNG was acting in accordance with those requests in addition to relevant laws and DoD policies.
- b. The report fails to include detailed relevant information about specific law enforcement requests for support that may or may not have requested or authorized the use of helicopters in the manner discussed in the report.
- c. In BG Ryan's interview, the investigator apparently did not ask about the texts BG Ryan sent during the operation which relayed to other DCNG officials, to include [REDACTED], the State Army Aviation Officer, that he had "special permission" and "full authorities" to conduct helicopter flights in DC. If, for instance, the Secretary of the Army or the Army Chief of Staff directed the DCNG to use all

available assets, then such direction might be interpreted to serve as a waiver of the restrictions outlined in AR 95-1.

- d. The 15-6 investigator was junior in rank to the senior officials (i.e., BG Ryan) who were involved in the events.
- e. Based on the potential deficiencies described above, we are not confident that the report's final outcome supports the "sole" adverse finding against [REDACTED].
- f. BG Ryan's alleged lack of knowledge of the regulatory requirements should not be considered as a factor to absolve him of any potential misconduct.

We request that the Army IG modify the DCNG AR 15-6 report or, alternatively, provide an addendum to the report that specifically includes information that thoroughly addresses the jurisdictional aspects of the DCNG's use of helicopters (including specific details of law enforcement requests for helicopter missions and low hover missions); the guidance provided in written operational orders and other similar documents; the source of the "special permission" BG Ryan highlighted in messages to other members of the DCNG; and BG Ryan's role in forwarding such guidance to his subordinates. We also request that Department of the Army officials review and submit to the DoD OIG an endorsement with its conclusions regarding the DCNG's investigation and provide our office with a copy of that endorsement for consideration in our oversight review. The Army endorsement may include any additional information it feels is appropriate for our review.

Please submit your modified report of investigation or addendum and endorsement to ISO at [REDACTED] when complete. Should you have any questions, please contact me at [REDACTED], or [REDACTED] at [REDACTED].

[REDACTED]

Marguerite Garrison
Deputy Inspector General for
Administrative Investigations



CUI

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20 NOV 2020

MEMORANDUM FOR INSPECTOR GENERAL DEPARTMENT OF THE ARMY
INVESTIGATIONS DIVISION (ATTN: [REDACTED])

SUBJECT: Senior Official Case Referral – Brigadier General Robert K. Ryan (D-CATS Case No. 20200630-065614-CASE-01/DAIG Case 20-00022)

The DoD OIG Investigations of Senior Officials Directorate (ISO) acknowledges receipt of your September 22, 2020 Report of Investigation (ROI) which serves as an endorsement, with exceptions, to a District of Columbia National Guard (DCNG) command directed investigation (Army Regulation (AR) 15-6 investigation). Your ROI and the AR 15-6 investigation examined, in part, the actions of Brigadier General (BG) Robert K. Ryan, Commander, Joint Task Force Civil Disturbance, who allegedly ordered DCNG helicopters to support local law enforcement authorities during a civil disturbance in Washington, D.C., on June 1, 2020.

On June 29, 2020, your office notified ISO of a potential allegation against BG Ryan based on a review of the information in the AR 15-6 investigation. On July 21, 2020, we notified you of the results of our initial review of the AR 15-6 investigation and identified several potential deficiencies in that investigation. Your September 22, 2020 ROI provided additional information regarding the deficiencies we identified in our initial review.

Our oversight review of your September 22, 2020 ROI and the AR 15-6 investigation identified additional deficiencies and additional investigative work that is required before we can continue with our oversight review. Enclosed is a list of the specific questions that we request you fully address before we continue our review. Our questions are focused on the jurisdictional matters, tasking of the DCNG helicopters, use of MEDEVAC helicopters, and the disapproval of adverse findings against BG Ryan. We recommend that your office provide a modified report or addendum to your September 22, 2020 ROI that thoroughly addresses the attached questions.

Please submit your modified report or addendum to the DoD OIG Investigations of Senior Officials Directorate at [REDACTED]. Should you have any questions, please contact [REDACTED].

[REDACTED]
Marguerite C. Garrison
Deputy Inspector General
for Administrative Investigations

Enclosure:
As stated

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CUI Category: Law Enforcement
Distribution/Dissemination Controls: FEDCON
POC: Marguerite C. Garrison / [REDACTED]

CUI

DCATS: 20200630-065614-CASE-01
DAIG Case 20-00022

ENCLOSURE

Additional Questions Brigadier General Robert K. Ryan

The Department of Defense Office of Inspector General, Investigations of Senior Officials request you provide responses to the questions below.

Jurisdiction Matters

1. Between 30 May and June 4, 2020, the DoD received the following requests for assistance from the District of Columbia National Guard in support of Civil Disturbance operations in the District of Columbia:

a. On May 30, May 31, and June 7, 2020, the Department of the Interior (DOI) requested DCNG personnel to serve “in a civil disturbance and security role,” and requested DCNG personnel to be designated as “Special Policeman” so they could have “law enforcement authority to act on Federal park land.” This request was for support to the U.S. Park Police in securing the White House complex and portions of the National Mall. The Secretary of Defense approved the requests in a letter dated June 16, 2020.

b. On May 31, 2020 the D.C. Homeland Security and Emergency Management Agency (DCHSEMA) requested that the Commanding General, DCNG, provide 100 DCNG personnel to assist Metropolitan Police Department (MPD) personnel with traffic control during the protest, and stated that DCNG elements would not be involved in any domestic surveillance or law enforcement-related activities. It appears that the Secretary of the Army (SECARMY) verbally approved this request on or about June 1, 2020.

c. On June 1, 2020, the U.S. Marshal for the District of Columbia requested that the DoD authorize DCNG support to assist “in protecting Federal buildings, national monuments and other Federal property, and maintaining conditions necessary for the orderly functioning of the Federal Government.” It appears that the Secretary of Defense verbally approved the request and that his decision was included in a written response dated June 17, 2020.

We reviewed each of the above requests for DCNG support and have five questions specific to the requests and the DoD’s responses:

- None of the agencies requested DCNG aviation support. When did someone first mention providing aviation support in response to these requests, and who raised the idea?
- Who made the decision to provide aviation support to accomplish the missions described in these requests?
- How did the decision-maker communicate this decision, and to whom?
- What was the specific need for helicopters in response to the requests the DoD received?

- What agreements, if any, did the DCNG or the Army prepare for helicopter use, and what documentation exists to memorialize these agreements (ex. MPD request on June 1 – discussed below)?

2. Regarding authorized uses of DCNG aviation assets (helicopters) we have the following questions:

- How did the use of DCNG MEDEVAC helicopters on June 1, 2020, fall within authorized uses for DCNG MEDEVAC assets?
- What Federal buildings, national monuments, and other Federal property were the DCNG helicopters protecting during the low-hover incident at 5th and E Streets?
- How was the use of the helicopters at 5th and E Streets “maintaining conditions necessary for the orderly functioning of the Federal Government”?

3. According to BG Ryan’s testimony, on June 1, 2020, the SECARMY, BG Ryan, and several other DoD personnel attended a lengthy meeting/briefing on demonstration events occurring in the District of Columbia. We have the following questions about the meeting:

- What did attendees other than BG Ryan hear the SECARMY direct BG Ryan to do?
- What did other attendees understand that SECARMY authorized BG Ryan to do in response to law enforcement requests for DCNG support?
- What direction did the SECARMY give during this meeting, or after it, on using DCNG helicopters for law enforcement support?
- Did the SECARMY’s direction in this meeting differ from how BG Ryan described it in his testimony? If so, why is it different and how does that difference affect your determinations regarding BG Ryan’s accountability?
- What briefing(s) did SECARMY receive in this meeting, or after it, on using DCNG aviation assets? Who gave this briefing? What did the briefer tell SECARMY about the type of helicopters available, their quantity, and their capabilities for law enforcement operations? What else did the briefer tell the SECARMY?
- What direction did the SECARMY explicitly or implicitly give to BG Ryan or anyone else that authorized using DCNG helicopters to support law enforcement operations for demonstrations in the District?
- What preexisting plan or other directive did the SECARMY use for directing the deployment of DCNG helicopters?
- What specific uses did SECARMY authorize for the helicopters?
- To what specific geographic location(s) within the District did the SECARMY direct or authorize BG Ryan to deploy DCNG helicopters?
- What guidance regarding DCNG interaction and cooperation with civilian authorities did the SECARMY provide to BG Ryan?

4. BG Ryan testified to the following regarding SECARMY’s directions: “[The SECARMY] gave two specific tasks. And the first one I clearly remember flood the box. Yea, flood the box. It’s in the order. It’s a fragmentary order” None of the orders included as exhibits to the DCNG report, however,

appear to authorize the helicopter support DCNG used on the night of June 1, 2020. We have the following questions regarding the tasks or orders BG Ryan said the SECARMY gave him:

- What documentation memorialized the SECARMY's "flood the box" direction to BG Ryan on June 1, 2020?
- Which other attendees heard the SECARMY give this direction to BG Ryan?
- What did other attendees understand "flood the box with everything available" to mean?
- What did the SECARMY mean by the phrase "flood the box"?
- What directives, orders, or plans set the boundaries for "the box"? Please provide a copy of any documents that establish what "the box" meant and its parameters.
- With what DCNG assets did the SECARMY authorize BG Ryan to "flood the box"? Where is this documented?
- What was the second task the SECARMY gave BG Ryan?

5. DAIG stated that ██████████ told crewmembers the following: "Fly low, be loud...Fly low over the crowds...Yea, so the circumstances authorized. So these circumstances authorize the aircraft to loft at low altitudes could be based upon the scope of the mission I gave you." We have the following questions about this testimony:

- To what circumstances and scope of the mission was ██████████ referring?
- What agency(ies) requested DCNG helicopters to support their demonstration-related operations?
- What agency(ies) requested that DCNG helicopters fly low over demonstrators?
- What documentation memorialized the low-fly mission request(s)?
- What did ██████████ mean by "loft at low altitudes"?
- If the aircrews went beyond what they were directed to do when they conducted low-hover over demonstrators, on whose authority did they do this?

6. We reviewed the law enforcement requests submitted to the DoD for DCNG support for demonstration-related operations. None of them mentioned aviation assets (helicopters). We have the following questions about ██████████ and ██████████:

- What led ██████████ and ██████████ to believe that part of their mission included "deter criminal activity"?
- Who determined their mission included "deter criminal activity"? Based on what requests and authorities?
- What tactics and maneuvers did ██████████ and ██████████ understand they were to implement to "deter criminal activity" with DCNG helicopters?
- What training do DCNG aviators receive to "deter criminal activity" in a law enforcement support role? Did ██████████ and ██████████ perform consistently with such training?

7. DAIG's September 22, 2020 response to our previous questions states that OPORD 005-2020, titled "Coronavirus 2019 (COVID-19) Response Support," was the base OPORD for the operations conducted on June 1, 2020. OPORD 005-2020 refers to District of Columbia All Hazards CONPLAN, 2 Jan 19, and

District Response Plan, 1 Sep 14, but neither is mentioned or included in the DCNG investigation report. We have the following questions about this issue:

- How do these documents affect the investigation's findings and recommendations?
- What specific OPORD was created for the civil disturbance operations DCNG conducted?
- What does this OPORD authorize concerning use of DCNG helicopters to support demonstration-related law enforcement operations? Please provide us with a copy of OPORD 006-2020.

8. On June 1, 2020, BG Ryan briefed MG Walker on aviation asset use. We have the following questions about that briefing:

- How and from where did BG Ryan receive the information he used to brief MG Walker on DCNG aviation assets?
- What specifically did BG Ryan brief to MG Walker?
- Where is this briefing to MG Walker documented? Provide us with a copy of all documentation.
- Who else attended the briefing?
- What direction did MG Walker give to BG Ryan, during or after the briefing, about using DCNG helicopters to support demonstration-related law enforcement operations?

Tasking to DCNG Helicopters on June 1, 2020

9. The exhibits to the investigation include a statement by [REDACTED] and an e-mail from [REDACTED] to [REDACTED] showing they ([REDACTED] and [REDACTED]) were coordinating with the USSS to get clearance for DCNG helicopters to enter restricted airspace over central Washington, D.C., as early as May 30, 2020. BG Ryan testified that he was not aware of the reason for these requests. We have the following questions about these clearance requests:

- Who directed [REDACTED] and [REDACTED] to request this clearance?
- For what purpose?
- Where are these requests documented?
- Did USSS or other civilian authorities request that the DCNG obtain restricted airspace clearance on June 1, 2020? If so, who made the request and for what purpose? Please provide copies of all documentation for this request.

10. We found no indication which law enforcement agency(ies) the two aircraft identified in FRAGO 1 deployed to support. We have the following questions about this issue:

- As each request from Federal and State agencies for DCNG support was approved, what FRAGOs did the DCNG generate with the updated Mission/Execution?
- How were DCNG aviation units and personnel updated on new requests, missions, and required tactics and maneuvers?
- Who provided these updates?

11. FRAGO 1 tasked the UH-60, reportedly a dedicated MEDEVAC helicopter, with conducting general transportation support. Why did the DCNG leadership, specifically [REDACTED], not initiate an exception to policy from DAMO-AV, IAW AR 95-1?

12. DAIG identified the following two requests for helicopter support in the ROI:

- One request involved picking up an FBI agent from Hains Point to “deposit him in furtherance of his mission.”

- The second request was from the Metro PD for a helicopter to observe an area around the Capital One Center for large crowds and possible unlawful activities.

We have the following questions about these two requests described in the ROI:

- Who approved these two requests, and when?
- We found no evidence of requests to DoD from any Federal (FBI) or local (MPD) law enforcement agencies for aviation support. Why did DCNG conduct these two missions? At whose request?
- Why were the helicopters used?
- Who decided to use helicopters and under what authority?
- What uses did the authorizing official approve for the helicopters?
- Were these uses within the regulatory standards governing uses for MEDEVAC helicopters? Provide all supporting documentation.

13. The investigation included only short statements from two soldiers stationed at the Joint Operations Center (JOC), where DCNG coordinates operations with civilian law enforcement agencies and from which requests for aviation support were sent to Davison AAF to be passed on to air units. We have the following questions about DCNG JOC coordination:

- Who spoke to DCNG JOC personnel about using DCNG helicopters?
- What was the context?
- What discussions did DCNG JOC personnel have and with whom about the availability of DCNG helicopters, how DCNG helicopters could and could not be used, and how and by whom requests for DCNG helicopter assistance were generated?
- What did law enforcement agency representatives in the JOC ask for from the DCNG on June 1, 2020? What is the timeline for JOC requests for DCNG assistance on June 1, 2020?
- Where is this documented?
- Who did DCNG JOC personnel contact to relay law enforcement requests for DCNG support? What did they relay?
- Who approved or disapproved these requests?
- How were records of specific requests for helicopter support created at the JOC? Please provide us with copies of these.
- What details did JOC personnel recall of an original request for helicopter support that led to the low hover incident at 5th and E Streets in downtown Washington, D.C.? Who made this

request? What was the law enforcement need for the helicopters? Please provide copies of this request.

Usage of MEDEVAC Aircraft for non-MEDEVAC Mission

14. The Army opined that there was no violation of AR 95-1, given the circumstances in this case, and has recommended that MG Walker reconsider his finding that the regulation had been violated. Although the reports indicate that BG Ryan and [REDACTED] did not know AR 95-1 requirements, the Army concluded that the emergency exception would have applied had they been aware of AR 95-1. Our questions about this follow:

- Did their actions violate an applicable standard?
- If not, then provide a fulsome analysis why you think their actions did not violate AR 95-1 or any other applicable standard.
- How should this matter be resolved as it pertains to BG Ryan and [REDACTED]?
- What was the emergency communicated to DCNG that warranted use of MEDEVAC helicopters?
- Who communicated to DCNG an emergency need for helicopter support? Where is this documented? Please provide us with copies of any communications that describe the emergency conditions pertaining to this emergency exception.

15. DAIG “noted” that DAMO-AV was “aware” of the situation concerning the use of MEDEVAC helicopters for non-MEDEVAC missions. However, the DAMO-AV POC indicated that they did not process any subsequent or after-the-fact requests or approvals for DCNG use of MEDEVAC helicopters on June 1, 2020, and that they did not conduct any post-event analysis or otherwise create documents that would be useful for this investigation. We have the following questions about this issue:

- Who at DAMO-AV was “aware” of the non-MEDEVAC missions?
- How did DAMO-AV document being “aware?”
- If DAMO-AV did not document being “aware” of the missions, and there are no documented approvals for using MEDEVAC helicopters on June 1, 2020, how does this align with the approval process outlined in AR 95-1?

Disapproval of Adverse Findings against BG Ryan

16. DAIG concluded that [REDACTED] ignorance of and failure to brief BG Ryan on the regulatory requirements governing MEDEVAC aircraft use meant that BG Ryan was unable to explicitly determine whether the emergency situation warranted deviation from AR 95-1, and stated it was “arguably unreasonable to expect BG Ryan to know the nuances of regulations governing aeromedical assets.” A number of Army directives, however, require proper marking and place significant restriction on using medical assets for operations, and an Army general officer with aviation assets under his command should have gained at least general knowledge of these requirements through training and experience. Our question about this follows:

- How was BG Ryan's lack of knowledge and direction regarding, and failure to question the use of, MEDEVAC assets under his command reasonable for an officer of his rank, position, and experience?

17. The investigation indicates that DCNG air assets were deployed on very short notice on a mission for which the aircrews were not trained or equipped, and for which no prior plan had been prepared, in an environment in which every action was subject to intense public and media scrutiny because of the possible use of force against U.S. citizens. The investigation also seems to indicate that once the air mission launched, it proceeded without any significant involvement or supervision from the chain of command. The investigation found that specific flight maneuvers were left to the aviators flying the aircraft, and that tasking of aircraft on the night of June 1, 2020, was handled exclusively by junior officers at the JOC and Davison AAF. Our question about this follows:

- How was the limited level of command and control BG Ryan exercised over his aviation assets on this occasion reasonable for an officer of his rank, position, and experience?

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Report No. DODIG-2021-089

Oversight Review:
DC National Guard's Use of Helicopters on June 1, 2020



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