



BIBLE BEATING

**The Trump Administration's Violent Crackdown
on Peaceful Protesters in Lafayette Square
on June 1, 2020**



**NATURAL RESOURCES
COMMITTEE**
DEMOCRATS
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HOUSE COMMITTEE ON NATURAL RESOURCES STAFF REPORT, JUNE 1, 2023

NOTE: THIS REPORT WAS PREPARED BY THE MINORITY STAFF OF THE HOUSE COMMITTEE ON NATURAL RESOURCES. IT HAS NOT BEEN OFFICIALLY ADOPTED BY THE COMMITTEE AND MAY NOT NECESSARILY REFLECT THE VIEWS OF ITS MEMBERS.

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EXECUTIVE SUMMARY

On June 1, 2020, in response to the murder of George Floyd by Minneapolis Police Department officer Derek Chauvin, peaceful protesters gathered in Lafayette Square in Washington, D.C. in advance of a city-wide 7:00 p.m. curfew. At approximately 6:32 p.m., less than a half hour before the curfew, the U.S. Park Police (USPP) initiated a clearing of the area, accompanied by various other law enforcement units, including the U.S. Secret Service (USSS). Without explanation, the clearing operation was highly aggressive, violent, and chaotic; officers physically assaulted protesters with force, weapons, and chemical munitions. Minutes after the violent crackdown, then-President Donald J. Trump walked through Lafayette Square and posed for a photo holding a Bible in front of St. John's Episcopal Church at 7:08 p.m.

The violent crackdown was broadcast widely on domestic and international television, leading to widespread public backlash. Law enforcement officers and the Trump administration were swiftly accused of using violence against Americans peacefully exercising their First Amendment rights, solely for the President's photo opportunity.

“
The Attorney General is
here. We gotta go now.
”

– USPP Incident Commander

The U.S. House Natural Resources Committee, under the leadership of Chair Raúl M. Grijalva (D-Ariz.), launched an investigation into these events in June 2020. The investigation included two full committee hearings on June 29 and July 28 of that year; review of documents requested from the U.S. Department of the Interior and other entities; review of Office of Inspector General reports and requested work papers; review of relevant Government Accountability Office reports; interviews with witnesses and experts; and review of credible news reports and public eyewitness accounts.

Based on the totality of the aforementioned documents, testimony, and information, this report provides a thorough public record of the events of June 1, 2020. It does so first by compiling evidence to corroborate the general consensus that: 1) protesters were peaceful on June 1, 2020; and 2) law enforcement's clearing operation was unjustifiably violent and unjustifiably sudden. The report also details two major investigation findings:

Investigation Finding 1. The Trump administration's stated justifications for the violent, sudden clearing operation are not credible. In the aftermath of June 1, the Trump administration repeatedly shifted between two explanations: 1) the violent nature of the clearing operation was justified given protester behavior; and 2) the sudden, pre-curfew timing of the clearing operation was necessary to install security fencing around Lafayette Square. This report finds that neither of these justifications adequately explains the events of that day.

Investigation Finding 2. President Trump likely instructed Attorney General Bill Barr to direct the violent, sudden clearing operation for his photo op at St. John's Church. *Previously unreleased evidence* sheds new light on Attorney General Bill Barr's influence on the pre-curfew timing of the clearing operation. In a private interview, a Metropolitan Police Department (MPD) official recalled requesting that the USPP incident commander wait until the 7:00 p.m. curfew for the clearing operation, to which the incident commander responded, "I can't wait till curfew. We --we have to go now." When asked for further explanation, the MPD official relayed that the incident commander said, "The Attorney General is here. We gotta go now." The interaction occurred at approximately 6:12 p.m., well in advance of the 7:00 p.m. curfew and only 4-6 minutes before the USSS deployed to the street on which St. John's Church is located.

Finally, the report provides a review of the backlash and condemnations of the violent crackdown, as well as a summary of actions taken by the U.S. Department of the Interior in response to the incident.



INVESTIGATION DETAILS

The U.S. House Committee on Natural Resources (Committee) has jurisdiction over the U.S. Department of the Interior (DOI), which includes the National Park Service (NPS). NPS administers the U.S. Park Police (USPP), one of the two lead law enforcement agencies involved in the incident under investigation. The Committee also has jurisdiction over Lafayette Square, which is managed by NPS.

Following reports that USPP officers were involved in the violent crackdown against peaceful protesters on June 1, the Committee launched its investigation into the incident.

The investigation included a comprehensive review of available evidence relevant to the Lafayette Square incident, including media reports, photographs and video footage from private citizens and government entities, eyewitness accounts, requested DOI records, Office of Inspector General (OIG) reports and work papers, and Government Accountability Office reports. The Committee also held two hearings to examine the incident and hear testimony from witnesses:

- June 29, 2020. Witnesses: (1) Kishon McDonald; (2) Amelia Brace; (3) Rev. Mariann Budde; and (4) Prof. Jonathan Turley.¹
- July 28, 2020. Witnesses: (1) Maj. Adam DeMarco; and (2) Acting USPP Chief Gregory Monahan.²

Throughout the investigation, the Trump administration repeatedly failed to adequately respond to the Committee's requests and efforts to accommodate, contrary to the recommendation of a wide variety of stakeholders, including the Republican-selected witness at the Committee's second hearing, law professor Jonathan Turley, who stated in testimony:

Various investigations are now occurring in both the legislative and executive branches into this controversy. Federal cases have been filed that will also pursue discovery on the underlying decisions made in Lafayette Park. **All of**

¹ *The U.S. Park Police Attack on Peaceful Protesters at Lafayette Square: Oversight Hearing Before the H. Comm. on Nat. Res.*, 116th Cong. (June 29, 2020) [hereinafter June hearing],

<https://www.govinfo.gov/content/pkg/CHRG-116hhrg40718/pdf/CHRG-116hhrg40718.pdf>.

² *Unanswered Questions About the U.S. Park Police's June 1 Attack on Peaceful Protesters at Lafayette Square: Oversight Hearing Before the H. Comm. on Nat. Res.*, 116th Cong. (July 28, 2020) [hereinafter July hearing],

<https://www.govinfo.gov/content/pkg/CHRG-116hhrg40718/pdf/CHRG-116hhrg40718.pdf>.

those efforts to get a full record are essential to guarantee full accountability, which all parties should favor.³

The Trump administration's obstruction caused substantial delays in the investigation. In contrast, the Biden administration cooperated more fully, providing the requested internal documents and records. The final documents were produced in November 2022.

³ *The U.S. Park Police Attack on Peaceful Protesters at Lafayette Square: Oversight Hearing Before the H. Comm. on Nat. Res.*, 116th Cong. at 28 (prepared statement of Jonathan Turley, Shapiro Prof. of Public Interest Law, The Geo. Wash. U. Law School) (emphasis added), <https://www.govinfo.gov/content/pkg/CHRG-116hhrg40718/pdf/CHRG-116hhrg40718.pdf>.

LAW ENFORCEMENT PRESENCE AND TIMELINE OF EVENTS ON JUNE 1, 2020

On June 1, 2020, federal law enforcement presence at Lafayette Square included officers from the following units:

- U.S. Park Police (USPP), managed by DOI
- Bureau of Prisons, managed by the U.S. Department of Justice
- U.S. Marshalls Service, managed by the U.S. Department of Justice
- Federal Protective Service, managed by the U.S. Department of Homeland Security
- U.S. Secret Service (USSS),⁴ managed by the U.S. Department of Homeland Security
- Arlington County Police Department (pursuant to a mutual aid agreement with the federal government)⁵
- Washington, D.C. National Guard (behind-the-lines support positions to assist with securing the perimeter)⁶
- Metropolitan Police Department (MPD)—Washington, D.C.’s local police. Officers were not within the federal command and remained outside the area immediately surrounding Lafayette Square, with primary responsibility for enforcing the mayor’s 7:00 p.m. curfew.⁷

The timeline of events on June 1, 2020, includes the following:

- **Early afternoon:** Protesters gather around Lafayette Square, largely concentrated on H Street NW just north of the square, where St. John’s Church is located.
- **Between 3–5:00 p.m.:** USSS informs USPP incident commander that President Trump intends to make an “off-the-record” visit to the Lafayette Square area at an unspecified time.⁸ Around this time, a Federal Bureau of Investigation (FBI) official calls Acting USPP Chief Gregory Monahan to request the clearing

⁴ See, e.g., GOV’T ACCOUNTABILITY OFF., GAO-22-104470, LAW ENFORCEMENT: FEDERAL AGENCIES SHOULD IMPROVE REPORTING AND REVIEW OF LESS-LETHAL FORCE (2021), [hereinafter GAO REPORT], <https://www.gao.gov/assets/720/718230.pdf>.

⁵ See, e.g., U.S. DEP’T OF THE INTERIOR, OFF. OF INSPECTOR GEN., CASE NO. OI-PI-20-0563-P, REVIEW OF U.S. PARK POLICE ACTIONS AT LAFAYETTE PARK 5 n.8 (2021) [hereinafter DOI OIG REPORT], <https://www.oversight.gov/sites/default/files/oig-reports/DOI/SpecialReviewUSPPActionsAtLafayetteParkPublic.pdf>.

⁶ *Id.* at 5 & n.9.

⁷ *Id.* at 6, 12, 19 & nn. 10, 22.

⁸ See *id.* at 9–10. While the Office of Inspector General review describes the president’s visit as “unscheduled,” USPP officials used the term “off-the-record” in their interviews with investigators.

operation begin sooner.⁹ Mr. Monahan denies this request because he does not believe the various law enforcement units will be ready in time.¹⁰

- **Between 4–5:00 p.m.:** USSS and USPP agree on the final operational plan, choosing to deploy officers trained in civil disturbance tactics and armed with special equipment designed to forcefully suppress or disperse crowds, rather than taking a less adversarial approach rooted in de-escalation that is consistent with best practices.¹¹
- **6:04 p.m.:** According to *The Washington Post*, “[t]he White House communications office sends out a notice to reporters that an event has been added to Trump’s calendar: a 6:15 news briefing in the Rose Garden.”¹²
- **Between 6–6:10 p.m.:** Plans for the president to visit St. John’s Church are finalized between White House and USSS staff, according to unnamed officials familiar with the plans.¹³ MPD Chief Peter Newsham reportedly also learns at this time that President Trump will be walking to the church.¹⁴ A Washington, D.C. “public safety official” said it seemed like the USPP’s plan to move the perimeter had been “hurried up.”¹⁵
- **6:10 p.m.:** Attorney General Barr, whom President Trump wanted to “activate very strongly” against the protesters,¹⁶ appears in Lafayette Square behind the line of officers, as seen on news video footage. Barr approaches the USPP operations commander and speaks to him. According to an OIG report, the operations commander said AG Barr asked him, “Are these people still going to be here when POTUS [President of the United States] comes out?”¹⁷
- **6:12 p.m.:** The USPP incident commander and MPD assistant chief of police speak on the phone. The USPP incident commander tells the MPD assistant

⁹ U.S. DEP’T OF THE INTERIOR, OFF. OF INSPECTOR GEN., CASE NO. OI-PI-20-0563-P, REVIEW OF U.S. PARK POLICE ACTIONS AT LAFAYETTE PARK, UNREDACTED, at 10 (received July 12, 2021)

¹⁰ *Id.* at 10.

¹¹ See, e.g., *id.* at 10–11.

¹² Phillip Bump, *Timeline: The Clearing of Lafayette Square*, WASH. POST. (June 5, 2020), <https://www.washingtonpost.com/politics/2020/06/02/timeline-clearing-lafayette-square/>.

¹³ *Id.*; Aaron C. Davis, Carol D. Leonnig, Josh Dawsey & Devlin Barrett, *Officials Familiar with Lafayette Square Confrontation Challenge Trump Administration Claim of What Drove Aggressive Expulsion of Protesters*, WASH. POST. (June 14, 2020) [hereinafter Davis et al., *Officials Challenge Trump Claim*], https://www.washingtonpost.com/politics/officials-challenge-trump-administration-claim-of-what-drove-aggressive-expulsion-of-lafayette-square-protesters/2020/06/14/f2177e1e-acd4-11ea-a9d9-a81c1a491c52_story.html; Carol D. Leonnig, Matt Zapotosky, Josh Dawsey & Rebecca Tan, *Barr Personally Ordered Removal of Protesters near White House, Leading to Use of Force against Largely Peaceful Crowd*, WASH. POST. (June 2, 2020) [hereinafter Leonnig et al., *Barr Ordered Removal*], https://www.washingtonpost.com/politics/barr-personally-ordered-removal-of-protesters-near-white-house-leading-to-use-of-force-against-largely-peaceful-crowd/2020/06/02/Oca2417c-a4d5-11ea-b473-04905b1af82b_story.html.

¹⁴ See Davis et al., *Officials Challenge Trump Claim*, *supra* note 13.

¹⁵ *Id.*

¹⁶ CNN, *READ: President Trump’s Call with US Governors over Protests*, (June 1, 2020), <https://www.cnn.com/2020/06/01/politics/wh-governors-call-protests/index.html>.

¹⁷ DOI OIG REPORT, *supra* note 5, at 14.

chief that the clearing operation is about to begin. The assistant chief asks him to wait until after the curfew, when MPD would have clear authority to arrest protesters who refused to leave. The incident commander responds, “The Attorney General is here. We gotta go now.”¹⁸

- **6:16–6:18 p.m.:** USSS officers move to H Street and start clearing protesters ahead of schedule, before the USPP can give the first warning to disperse.
- **6:23 p.m.:** The USPP starts giving warnings to protesters for them to disperse. Many in the crowd cannot hear or understand the warnings.¹⁹
- **Approximately 6:32 p.m.:** The clearing operation begins, nearly a half hour before the city curfew.
- **6:43 p.m.:** The president begins a televised speech at the White House Rose Garden. He states: “These are not acts of peaceful protest. These are acts of domestic terror. . . . As we speak, I am dispatching thousands and thousands of heavily armed soldiers, military personnel, and law enforcement officers [in Washington, D.C.].”²⁰
- **Approximately 6:50 p.m.:** The president finishes his remarks at the Rose Garden, saying, “now I’m going to pay my respects to a very, very special place.”²¹ The USPP clearing operation concludes, with protesters removed.²² Two trucks with antiscale fencing materials enter the White House grounds.²³
- **7:01 p.m.:** The president and his security team leave the White House and walk through the cleared area to St. John’s Church.²⁴
- **7:06–7:11 p.m.:** President Trump arrives at St. John’s Church and poses for photos with a Bible.²⁵
- **7:18 p.m.:** The president arrives back at the White House.²⁶
- **7:30 p.m.:** Fencing installation begins 40 minutes after the area was fully cleared and the fencing materials arrived onsite.²⁷

The Trump administration implausibly claimed that coincidence explains the confluence of federal law enforcement’s sudden and violent clearing of the area around St. John’s Church and President Trump’s walk there for his photo op, a half

¹⁸ U.S. Department of the Interior, Office of Inspector General, “Lafayette Park Congressional Release One” work papers (received July 12, 2021).

¹⁹ Bump, *supra* note 11; June hearing, *supra* note 1, at 6 (statement of Kishon McDonald, civil rights demonstrator); *id.* at 9 (statement of Amelia Brace, U.S. correspondent, Seven News Australia); July hearing, *supra* note 2, at 117 (statement of Adam D. DeMarco, Major, D.C. National Guard).

²⁰ Statement by the President (June 1, 2020), <https://trumpwhitehouse.archives.gov/briefings-statements/statement-by-the-president-39/>.

²¹ *Id.*; Bump, *supra* note 12.

²² See Bump, *supra* note 12.

²³ DOI OIG REPORT, *supra* note 5, at 21.

²⁴ Bump, *supra* note 12.

²⁵ *Id.*

²⁶ *Id.*; DOI OIG REPORT, *supra* note 5, at 20.

²⁷ DOI OIG REPORT, *supra* note 5, at 21.

hour before the 7:00 curfew. The evidence points to a link between the two. The timeline, the president's many hostile statements about protesters and commands to "dominate the streets" on which they demonstrated, and the personal involvement of an attorney general whom the president had "activated" to quell the protests indicate that President Trump wanted to publicly demonstrate his power over the Black Lives Matter movement after the public embarrassment of sheltering in a White House bunker a few days prior.

Later that evening, at 9:57 p.m., President Trump retweeted a tweet from Kristin Fisher, then a White House correspondent for Fox News, that said, "I almost can't believe what I'm seeing. POTUS just walked out the front door of the White House and into Lafayette Square – the epicenter of the DC protests – to visit historic St. John's Church, which was set on fire last night."²⁸

²⁸ Kristin Fisher (@KristinFisher), TWITTER (June 1, 2020, 7:06 PM), <https://twitter.com/KristinFisher/status/1267593490650849282>.

CONSENSUS 1: PROTESTERS WERE PEACEFUL ON JUNE 1, 2020

George Floyd's murder on May 25, 2020, sparked months of protests across the country and abroad demanding justice for the systemic violence and racism perpetrated against Black people by numerous law enforcement officers.²⁹ Conservative estimates suggest 15 to 26 million Americans took part, making it the largest protest movement in U.S. history by number of participants.³⁰



In Washington, D.C., many of these demonstrations—including the June 1 protest—were held in and around Lafayette Square, a historic gathering place for First Amendment activity due to its proximity to the White House.³¹ As of June 1, Lafayette Square had been fenced off, moving protests to surrounding streets, including the intersection of H Street NW and 16th Street NW where St. John's Church is located.

The overwhelming majority of media reports about the protest around Lafayette Square on June 1, including by *The New York Times*,³² *The Washington Post*,³³ the local

²⁹ See, e.g., Niall McCarthy, *Police Shootings: Black Americans Disproportionately Affected [Infographic]*, FORBES (May 28, 2020), <https://www.forbes.com/sites/niallmccarthy/2020/05/28/police-shootings-black-americans-disproportionately-affected-infographic/?sh=2034310759f7>.

³⁰ Larry Buchanan, Quoc Trung Bui & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>.

³¹ See, e.g., *President's Park: A History of Protest at the White House*, White House Hist. Ass'n, <https://www.whitehousehistory.org/presidents-park-a-history-of-protest-at-the-white-house> (last visited May 30, 2023).

³² *Tear Gas Clears Path for Trump to Visit Church*, N.Y. TIMES (June 3, 2020), <https://www.nytimes.com/2020/06/01/us/floyd-protests-live.html>.

³³ Ashley Parker, Josh Dawsey & Rebecca Tan, *Inside the Push to Tear-Gas Protesters ahead of a Trump Photo Op*, WASH. POST (June 1, 2020), https://www.washingtonpost.com/politics/inside-the-push-to-tear-gas-protesters-ahead-of-a-trump-photo-op/2020/06/01/4b0f7b50-a46c-11ea-bb20-ebf0921f3bbd_story.html; Bump, *supra* note 11; Davis et al., *Officials Challenge Trump Claim*, *supra* note 13.

Fox affiliate,³⁴ CNN,³⁵ ABC,³⁶ NBC,³⁷ *The Hill*,³⁸ *Reason*,³⁹ *USA TODAY*,⁴⁰ NPR,⁴¹ and Vox,⁴² characterized it as peaceful. Multiple correspondents from various outlets gave firsthand reports about the peaceful nature of the protesters, including CNN, NBC, ABC, *USA TODAY*, WTOP, and Australia's Seven News.⁴³ Consistent with these reports, all three Committee hearing witnesses who had been present within the crowd on

³⁴ Paul Wagner, *Who Called for Force on Protesters at Lafayette Park?*, FOX 5 (June 2, 2020), <https://www.fox5dc.com/news/who-called-for-force-on-protesters-at-lafayette-park>.

³⁵ Kevin Liptak, Alex Marquardt, Evan Perez, David Shortell & Jeremy Diamond, *60 Minutes of Mayhem: How Aggressive Politics and Policing Turned a Peaceful Protest into a Violent Confrontation*, CNN (June 2, 2020), <https://www.cnn.com/2020/06/02/politics/trump-white-house-protest-police-church-photo-op/index.html>.

³⁶ Libby Cathey, *Trump Calls Tear Gas Reports 'Fake News,' but Protesters' Eyes Burned Just the Same*, ABC NEWS (June 4, 2020), <https://abcnews.go.com/Politics/trump-calls-tear-gas-reports-fake-news-protesters/story?id=71052769>.

³⁷ Jonathan Allen, *Trump and Tear Gas in Lafayette Square: A Memo from the Protest Front Lines*, NBC NEWS (June 2, 2020), <https://www.nbcnews.com/politics/white-house/memo-front-lines-different-america-n1222066>.

³⁸ Rebecca Beitsch, *Interior Secretary: Park Police Faced 'State of Siege' at Lafayette Protests*, THE HILL (June 5, 2020), <https://thehill.com/policy/energy-environment/501438-interior-secretary-park-police-faced-state-of-siege-at-lafayette>.

³⁹ Robby Soave, *Clearing Out Lafayette Park for Trump's Church Photo Op Was Wrong, Even If Cops Didn't Use Tear Gas*, REASON (June 2, 2020), <https://reason.com/2020/06/02/lafayette-park-trump-tear-gas-police-st-johns-church/>.

⁴⁰ Karl Gelles, Veronica Bravo & George Petras, *How Police Pushed Aside Protesters Ahead of Trump's Controversial Church Photo*, USA TODAY (June 5, 2020), <https://www.usatoday.com/in-depth/graphics/2020/06/05/george-floyd-protests-trump-church-photo-curfew-park/3127684001/>.

⁴¹ Tom Gjelten, *Peaceful Protesters Tear-Gassed To Clear Way For Trump Church Photo-Op*, NPR (June 1, 2020), <https://www.npr.org/2020/06/01/867532070/trumps-unannounced-church-visit-angers-church-officials>.

⁴² Alex Ward, *US Park Police Denies Using Tear Gas on Peaceful Protesters. Evidence Suggests Otherwise*, Vox (June 2, 2020), <https://www.vox.com/2020/6/2/21278559/tear-gas-white-house-protest-park-police>.

⁴³ Ted Johnson, *Park Police Claim that Protesters Threw Projectiles at Lafayette Square Park, But Reporters Say They Saw Peaceful Demonstration*, DEADLINE (June 2, 2020), <https://deadline.com/2020/06/donald-trump-george-floyd-demonstrators-lafayette-square-park-1202949717/> (collecting media accounts); Dan Friedell, *Some Clarity a Day After Reports of Tear Gas in Lafayette Square, but Questions Remain*, WTOP NEWS (June 2, 2020), <https://wtop.com/dc/2020/06/some-clarity-a-day-after-reports-of-tear-gas-in-lafayette-square-but-questions-remain/>; Savannah Behrmann & John Fritze, *Tear Gas vs. Pepper Spray. Debate Over Methods Used to Clear Lafayette Square Turns Political*, USA TODAY (June 3, 2020),

<https://www.usatoday.com/story/news/politics/2020/06/03/floyd-protests-tear-gas-used-clear-park-trumps-walk/3128855001/>; Alex Marquardt (@MarquardtA) TWITTER (June 2, 2020, 5:17 PM),

<https://twitter.com/MarquardtA/status/1267928417837682697> ("We didn't see projectiles thrown at police. Certainly no bricks or 'caustic liquids.' Sunday there was a lot thrown and they didn't react like that. Park Police fired canisters of smoke w/ an irritant that caused severe coughing/ choking + pepper spray rounds + flash bangs."); 'By Far, the Most Peaceful Protest': Protestors Forced out of Lafayette Park before Trump Visits Church, MSNBC (June 1, 2020), <https://www.msnbc.com/msnbc/watch/-by-far-the-most-peaceful-protest-protestors-forced-out-of-lafayette-park-before-trump-visits-church-84206149621> (reporting by Garrett Haake); Garrett Haake (@GarrettHaake), TWITTER (June 2, 2020, 10:24 AM), <https://twitter.com/GarrettHaake/status/1267824405876359173> ("Hey Neal. I was there. Tear gas was definitely used, and park police can't 🤔 that. And there was no object-throwing before the mounted park police moved in. Don't want to tell you how to do your job, but using a background source to deny observable fact seems like a bad call.").

June 1 testified that the protesters they saw were entirely peaceful prior to the clearing operation.⁴⁴

Committee staff reviewed extensive video footage of the protest from multiple locations and angles. The footage included video from media outlets⁴⁵ and individuals in attendance at the protest that day who provided their footage directly to Committee staff. In addition, Committee staff learned during the course of the investigation that the USPP had taken photographs and video of the June 1 crowd from various vantage points, including nearby buildings. The Committee was not given access to this video until the Biden administration took office. On Nov. 17, 2021, Committee staff conducted an *in camera* review of a subset of the video footage that had national security sensitivities.

Committee staff's review of all available photographic and video evidence uncovered no significant protester violence on June 1. Committee staff found only minor incidents of physically disruptive behavior, including an individual throwing a candy bar, an individual throwing an egg, and sporadic incidents of individuals throwing water bottles.⁴⁶

A report by the Center for Tactical Medicine, overseen by the U.S. Department of Health and Human Services Assistant Secretary for Preparedness and Response, listed two instances of officers being treated for physical injuries on June 1:

⁴⁴ See June hearing, *supra* note 1 (statement of Kishon McDonald); *id.* (statement of Amelia Brace); July hearing, *supra* note 2 (statement of Adam DeMarco).

⁴⁵ Dalton Bennett, Sarah Cahlan, Aaron C. Davis & Joyce Sohyun Lee, *The Crackdown Before Trump's Photo Op*, WASH. POST (June 8, 2020), <https://www.washingtonpost.com/investigations/2020/06/08/timeline-trump-church-photo-op/>; A Video Timeline of the Crackdown on Protesters before Trump's Photo Op | Visual Forensics, WASH. POST (June 8, 2020), <https://www.youtube.com/watch?v=JxYmLDyaOA>; Graphic Warning: Peaceful Protesters Fired at with Tear Gas, Rubber Bullets by U.S. Military Police, REUTERS (June 1, 2020), <https://www.youtube.com/watch?v=UrMoqSPZymQ>; Military Vehicles Move outside White House amid Protests, CNN (June 1, 2020), https://www.youtube.com/watch?v=H_g4Sy-zAXg; Jessie Yeung et al., *June 1 George Floyd Protest News*, CNN (June 2, 2020, updated 2:10 a.m. ET), https://www.cnn.com/us/live-news/george-floyd-protests-06-01-20/h_ae113748a5f97e828b58e4599949940e (collecting numerous CNN videos); *The Day Police Charged a Peaceful Protest for Trump's Photo-Op*, CNN (June 4, 2020), <https://www.cnn.com/videos/politics/2020/06/04/washington-dc-protest-trump-speech-church-visit-mh-orig.cnn>.

⁴⁶ Dalton Bennet et al., *The Crackdown Before Trump's Photo Op*, *supra* note 45; Tim Carney (@TPCarney), TWITTER (June 2, 2020, 11:20 AM), <https://twitter.com/TPCarney/status/1267838487438524418> ("I took this video because I thought it was interesting that there were people shouting 'stop throwing shit' than there were people throwing shit. But if some reporter told you that nobody threw shit at officers, that reporter was wrong."); Davis et al., *Officials Challenge Trump Claim*, *supra* note 13. As noted, Committee staff reviewed video of protesters occasionally throwing water bottles, in both public and nonpublic (USPP law enforcement sensitive) footage. Although the USPP alleged that some such bottles contained frozen water, Committee staff saw no clear indication from any video or other evidence that this was the case.

“Laceration face [sic] (USPP)” and “Kick to groin (Federal Protective Service).”⁴⁷ As detailed later in this report, USPP Acting Chief Gregory Monahan admitted during hearing testimony that no injuries to USPP officers occurred *prior* to the start of the clearing operation.⁴⁸

Investigation Limitation: U.S. Park Police failed to record radio transmissions on June 1

Contrary to DOI policy, the USPP failed to record officer radio transmissions on June 1, effectively preventing the Committee from reviewing real-time law enforcement assessments of protester behavior. When asked at the Committee’s second hearing about the missing recordings of USPP radio traffic on June 1, Acting USPP Chief Monahan testified that the “administrative” USPP radio channel for the Lafayette Square operation had not been “configured” to record since it was upgraded in 2018.⁴⁹

On July 1, 2022, the OIG released a review on the USPP’s failure to record its Lafayette Square radio transmissions.⁵⁰ The review found that from October 2018 to June 2020, the USPP failed to record all communications from its “admin” radio channel, which had been used for the June 1 clearing operation. The OIG did not find that this violation of the USPP’s requirements was intentional, but rather the result of confusion and carelessness. USPP personnel discovered the lack of recordings only when they attempted to retrieve communications related to Lafayette Square.

⁴⁷ U.S. Department of the Interior, “DOI_00017307_00000001 – DOI_00017307_00000006” internal records (received Dec. 14, 2020).

⁴⁸ July hearing, *supra* note 2, at 90 (response of Mr. Monahan) (“The injury on June 1 was during the clearing operation of H Street.”).

⁴⁹ *Id.* at 83–84.

⁵⁰ U.S. DEP’T OF THE INTERIOR, OFF. OF INSPECTOR GEN., CASE NO. OI–SI–21–0171–W, REVIEW OF THE U.S. PARK POLICE’S COMMUNICATIONS RECORDING SYSTEM IN THE WASHINGTON, DC METROPOLITAN AREA (2022), <https://www.doi.gov/sites/default/files/2021-migration/SPECIALREVIEW%20-%20REVIEWOFUSPPCOMMSRECORDINGSYSTEM.pdf>.

CONSENSUS 2:

LAW ENFORCEMENT'S CLEARING OPERATION WAS UNJUSTIFIABLY VIOLENT AND UNJUSTIFIABLY SUDDEN

Numerous protesters, bystanders, and journalists present at the scene on June 1 provided firsthand accounts of the sudden and excessive violence USPP and other law enforcement officers inflicted on protesters. The Committee staff's extensive review of video footage from multiple sources and angles has corroborated these individual witness accounts.

Kishon McDonald, a Navy veteran who participated in the protest that day, testified at the Committee's first hearing about what he saw, heard, and experienced at Lafayette Square. Mr. McDonald knew about the 7:00 p.m. city-wide curfew, so he "went there as part of [his] usual run and planned to run back home by the curfew time."⁵¹ In written testimony, Mr. McDonald described the sudden outbreak of police violence:

I walked from 16th & I Street directly towards Lafayette Park and observed a huge group of diverse peaceful protesters chanting for George Floyd and for change. It was an overwhelming experience, and it was powerful to be a part of it. The chanting continued until around 6:25 p.m., when officers started approaching us as we stood on the north side of Lafayette Park along the fencing.

...

We told them we were peaceful and wanted no trouble. We were met with silence. **At no time did I hear any instructions to move**, and if we did hear instructions I would have moved and I'm sure the crowd would have moved because we were very peaceful during the entire time before we were attacked.

Right after 6:30 p.m. I observed a line of police in riot Robocop gear coming in from my left. Now at this point the soldiers were communicating, but it was yelling "MOVE! MOVE!" They were not walking. **They were pushing and running toward us with their shields, and people started to panic and a world of confusion ensued.** I could not really understand what was going on or why they were responding in that manner seeing it was way before curfew—30 minutes before.

⁵¹ June hearing, *supra* note 1, at 7 (prepared statement of Kishon McDonald, civil rights demonstrator).

I observed a Black male fall to the ground and protesters circled around him and demanded police stop so a medic could come assist him. The officers stopped briefly on the south side of St John's Church. We grabbed the male and started to retreat. **Then the police started throwing tear gas and flash bang grenades at us for no reason. We were retreating. We didn't need any help retreating.**⁵²

In his verbal testimony, Mr. McDonald said he believed that law enforcement had used tear gas.⁵³ He referenced the training he received in the use of CS, a type of tear gas, in boot camp for the Navy.⁵⁴

Amelia Brace, a U.S. correspondent for Australia's Seven Network, and her cameraman, Tim Myers, were providing live television reporting of the protests on June 1. Ms. Brace stated in written testimony for the Committee's first hearing that when she and Mr. Myers arrived at Lafayette Square around 5:45 p.m. that evening, "[t]he crowd was **passionate, but peaceful**. In fact, the atmosphere was much less tense than it was the night before, with none of the property destruction or fires we had seen that night."⁵⁵ But as she and Mr. Myers prepared to deliver their 6:30 p.m. "live cross" report, law enforcement became inexplicably hostile:

As we were getting ready for the cross, we saw the police lines suddenly start to form. These officers were in full riot gear. Some—which we identified by their uniforms and helmets as U.S. Park Police—carried round, clear shields on one arm, often using their other hand to swing their batons. Other officers carried what looked like modified automatic weapons, which we knew fired "less-lethal" projectiles like rubber bullets.

We were aware that the curfew was not set to kick in for another half hour, so we were confused about what was happening. However, based on our experience the night before, we were not overly concerned by police lining up, as **we expected the police forces to only begin clearing the area after curfew**.

We did not hear any warning from law enforcement that the area was going to be cleared, or that the curfew was going to start early. Nevertheless, right around 6:30, the line of police suddenly surged forward. We ran a couple hundred feet West on H Street along with the protesters to position ourselves

⁵² *Id.* (emphasis added).

⁵³ *Id.* at 7 and 60.

⁵⁴ *Id.* at 7 and 62.

⁵⁵ *Id.* at 11 (prepared statement of Amelia Brace, U.S. correspondent, Seven News Australia) (emphasis added).

farther away from the line. The police began releasing some kind of smoke and irritant gas, and firing what I thought at the time were rubber bullets. I now understand they may have been shooting “pepper balls” or launching “stinger” grenades, which I understand launch rubber pellets into the surrounding area. Tim was hit with one of those projectile[s] in the back of the neck during this surge. The “TVU”—the piece of electronic equipment that transmits our video and audio feed back to the studio in Sydney, which Tim carries in his backpack—was also hit with a projectile or piece of shrapnel and was knocked offline. (We later realized that the TVU was seriously damaged in that incident.)⁵⁶

After that “first surge,” Ms. Brace and Mr. Myers moved away from the police line, took shelter behind a concrete structure, and identified themselves as media to nearby officers. Shortly after beginning their live report from that location, law enforcement surged again:

As I started explaining the situation to the in-studio hosts, **the line of police suddenly—and again, without any verbal warning that I could hear—began charging forward at a sprinting pace.** As Tim was capturing the footage of this stampede (which was knocking protesters onto the ground), a Park Police officer who was running by on the sidewalk stopped just as he was passing us, turned toward Tim and **rammed him in the chest and stomach with the edge of his riot shield**, causing Tim to keel over and drop down to a sitting position on a plastic crate behind him. The officer took a half step back and seemed to pause for a moment, looking at Tim. He then punched his hand directly into the front of Tim’s camera and grabbed the lens, causing Tim’s head to whiplash backward. Tim later told me that this caused him to “see stars” for a moment. As this happened, both Tim and I were repeatedly shouting “Media! Media!” at the top of our lungs, to make clear what I would have thought was already obvious.

In an instant, a group of four or five Park Police officers surrounded us, as we continued to shout “Media!” I recall instinctively raising my hands near my face and almost cowering behind Tim, afraid of what this even larger group of officers would now do to us. . . . An officer in the group stood behind the first officer, and placed his arm between the first officer and us, seemingly trying to restrain him. That second officer shouted at us to move further down the sidewalk. We immediately complied. Tim—despite having been knocked down a second earlier—crouched low and began running down the sidewalk. Even though Tim was following the officers’ instructions, the first officer pushed the

⁵⁶ *Id.* at 11–12 (emphasis added).

face of his shield against Tim's back to physically prod him forward. I grabbed hold of Tim's backpack, and followed, also crouching low.

As I was running away, I felt something strike me hard across the back and shoulders. I now know, from seeing the local news crew's footage, that **a third U.S. Park Police officer reached around the second officer to smack me with his baton in a backhanded motion as I was running away.**⁵⁷

Seven Network video footage of the incident, broadcast live to viewers in Australia, corroborated Ms. Brace's account.⁵⁸

Washington, D.C. National Guard (DCNG) Major Adam DeMarco, a witness at the Committee's second hearing, served as the official liaison between the DCNG and the USPP on June 1 and was present at Lafayette Square before and during the clearing operation. In his written testimony, Major DeMarco stated that, "Having served in a combat zone, and understanding how to assess threat environments, at no time did I feel threatened by the protestors or assess them to be violent."⁵⁹ Further, he said, "those demonstrators—our fellow American citizens—were engaged in the peaceful expression of their First Amendment rights. Yet they were subjected to an unprovoked escalation and excessive use of force."⁶⁰

Major DeMarco detailed the incident in verbal testimony:

From what I observed, the demonstrators were behaving peacefully, exercising their First Amendment rights. . . .

. . .

As Park Police pushed the demonstrators further down H Street, I saw demonstrators scattering and fleeing as Park Police charged toward them. I observed people fall to the ground, and some Park Police used their shields offensively as weapons. . . . I also observed unidentified law enforcement personnel behind our National Guardsmen using paintball-like weapons to discharge what I later learned to be pepper balls into the crowd as demonstrators continued to flee.⁶¹

⁵⁷ *Id.* at 13.

⁵⁸ 7NEWS Update Tuesday, June 2: Media Attacked by US Police, Investigation into Teen's Arrest, 7NEWS AUSTRALIA (June 2, 2020), <https://www.youtube.com/watch?v=yzNMdWOoC7M&feature=youtu.be&t=33>.

⁵⁹ July hearing, *supra* note 2, at 120 (prepared statement of Adam DeMarco, Major, DCNG).

⁶⁰ *Id.* at 120–21.

⁶¹ *Id.*

Despite USPP's contradictory attempts to suggest otherwise, USPP and its law enforcement partners used chemical munitions.

Following the June 1 clearing operation, reports that law enforcement used tear gas and other chemical munitions quickly emerged. “Tear gas” does not have a specific, technical definition.⁶² Instead, the term is commonly understood to include a wide variety of chemical irritants used for crowd control, including “CS” (2-chlorobenzalmalononitrile) and “OC” (oleoresin capsicum), although law enforcement often uses “tear gas” to mean only CS gas.⁶³ The chemical munitions referred to as “pepper balls” often contain OC, a highly concentrated extract of hot peppers.⁶⁴ CS, OC, and similar compounds all irritate internal cells and activate pain receptors that lead to intense burning in the eyes, throat, and lungs, and can interfere with breathing. The use of such chemical munitions during a global pandemic of an airborne virus with potentially severe respiratory impacts posed clear dangers to public health and should have been used only when warranted.

As outlined in the table below, the USPP responded to allegations of tear gas use with several contradictory and confusing public assertions about the kinds of chemical munitions it or other law enforcement agencies used on June 1.⁶⁵

- June 2 USPP press release: **“No tear gas was used** by USPP officers or other assisting law enforcement partners to close the area at Lafayette Park.”⁶⁶
- June 3 Update to June 2 press release: “USPP officers and other assisting law enforcement partners **did not use tear gas or OC Skat Shells** to close the area at Lafayette Park on Monday, June 1.”⁶⁷

⁶² See, e.g., DOI OIG REPORT, *supra* note 5, at 13 n.14 (“colloquial terms, such as ‘tear gas,’ . . . can have varied meanings”).

⁶³ Craig Bettenhausen, *Tear Gas and Pepper Spray: What Protesters Need to Know*, CHEM. & ENG’G NEWS (June 18, 2020), <https://cen.acs.org/policy/chemical-weapons/Tear-gas-and-pepper-spray-What-protesters-need-to-know/98/web/2020/06> (“Tear gas doesn’t have a rigid definition, according to chemical weapons expert Dan Kaszeta, who is managing director of the consulting firm Strongpoint Security. Tear gas is a slang term that usually means CS in the law enforcement world but can also include OC and other chemicals.”).

⁶⁴ *Id.*

⁶⁵ See also Carol D. Leonnig, *Park Police Spokesman Acknowledges Chemical Agents Used on Lafayette Square Protesters Are Similar to Tear Gas*, WASH. POST (June 5, 2020), https://www.washingtonpost.com/politics/park-police-spokesman-acknowledges-chemical-agents-used-on-lafayette-square-protesters-are-similar-to-tear-gas/2020/06/05/971a8d78-a75a-11ea-b473-04905b1af82b_story.html.

⁶⁶ USPP, News Release, Statement from United States Park Police Acting Chief Gregory T. Monahan about the Actions Taken over the Weekend to Protect Life and Property (June 2, 2020), available at https://web.archive.org/web/20200603012517/https://www.nps.gov/subjects/uspp/6_2_20_statement_from_acting_chief_monahan.htm (emphasis added).

⁶⁷ USPP, News Release, Statement from United States Park Police Acting Chief Gregory T. Monahan about the Actions Taken over the Weekend to Protect Life and Property (update of June 3, 2020), https://www.nps.gov/subjects/uspp/6_2_20_statement_from_acting_chief_monahan.htm (emphasis added).

- June 5 USPP spokesperson says **it was a “mistake” to say USPP did not use tear gas**, because they did use pepper balls, which contain a chemical irritant that can cause tears and can therefore be considered under the broad category of tear gas or riot control agents.⁶⁸ Later that day, Acting USPP Chief Monahan repeated that USPP officers did not use “tear gas.”⁶⁹
- June 5 Letter from DOI Secretary Bernhardt: “. . . **no tear gas was used** by USPP or associated units at Lafayette Park, contrary to widely and erroneously reported assertions.”⁷⁰
- July Committee hearing:
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- Rep. Mike Levin (D-Calif.) asked Mr. Monahan, “Did you see officers **throw or fire chemical munitions** into the crowd?” Mr. Monahan responded, “Yes, I did.”⁷¹
 - In response to Rep. Jesús “Chuy” García’s (D-Ill.) questioning, Mr. Monahan said, “So, to your first question, the **United States Park Police did not use tear gas** on June 1.”⁷²

Despite these assertions, two witnesses who had previously experienced tear gas as part of their military training testified at the Committee’s hearings that they smelled and felt the effects of tear gas during the clearing operation. As Major DeMarco stated in his written testimony:

The Park Police liaison officer told me that the explosions were “stage smoke,” and that no tear gas was being deployed against the demonstrators. But I could feel irritation in my eyes and nose, and based on my previous exposure to tear gas in my training at West Point and later in my Army training, I recognized that irritation as effects consistent with CS or ‘tear gas.’ And later that evening, I **found spent tear gas canisters on the street nearby.**⁷³

Similarly, Mr. McDonald testified:

Then the police started throwing tear gas and flash bang grenades at us for no reason. We were retreating. We didn’t need any help retreating. . . . I did CS gas training in boot camp. This group of demonstrators were not soldiers. This

⁶⁸ Alex Ward, *US Park Police Said Using “Tear Gas” in a Statement was a “Mistake.” It Just Used the Term Again.*, Vox (June 5, 2020), <https://www.vox.com/2020/6/5/21281604/lafayette-square-white-house-tear-gas-protest> (emphasis added).

⁶⁹ *Id.*

⁷⁰ Letter from David Bernhardt, Secretary, U.S. Department of the Interior, to Rep. Raúl M. Grijalva, Chair, H. Comm. on Natural Resources (June 5, 2020) (emphasis added); see also June hearing, *supra* note 1, at 72 (reprinting the letter).

⁷¹ July hearing, *supra* note 2, at 96 (emphasis added).

⁷² *Id.* at 98 (emphasis added).

⁷³ *Id.* at 120 (prepared statement of Adam DeMarco, Major, DCNG) (emphasis added).

wasn't a battle stations test. But this was similar to a boot camp drill. It's unacceptable to treat protesters like that in our own city and nation.⁷⁴

News correspondents reported finding expended tear gas canisters on the scene.⁷⁵ Journalists also documented video evidence of officers holding what appeared to be tear gas canisters and tear gas canister launchers, as well as USPP officers rolling "Stinger Ball" grenades, which can contain CS and a type of chemical irritant, at protesters.⁷⁶

Photographic evidence, including pictures submitted by Major DeMarco, provided further proof that chemical munitions were used that day. Even USPP officers, in later interviews with OIG investigators, described experiencing the effects of CS gas.⁷⁷ The OIG's report found that CS gas had been deployed by the MPD, whereas USPP officers had used pepper balls.⁷⁸

USPP failed to provide sufficient warnings to disperse.

In 2015, a class action settlement over improper USPP mass arrests of World Bank protesters imposed new rules requiring the USPP to give three audible warnings to disperse before arresting a crowd of people. These rules also require officers to be positioned at the rear of the crowd to confirm that the warnings are audible to all people subject to arrest.⁷⁹ Such warnings are commonly given through a portable amplification device like a megaphone or a long-range acoustic device (LRAD). Though an LRAD is larger and more unwieldy than a megaphone, it is 20–30 decibels louder and significantly clearer than a megaphone, according to one LRAD manufacturer.⁸⁰ As a matter of both the letter and spirit of the law applicable in the

⁷⁴ June hearing, *supra* note 1, at 7 (prepared statement of Kishon McDonald, civil rights demonstrator) (emphasis added).

⁷⁵ Nick Boykin & Nathan Baca, *No Law Enforcement Agency Admits to Using Tear Gas Monday, but Tear Gas Canisters were Found at the Scene*, WUSA9 (June 5, 2020), <https://www.wusa9.com/article/news/local/dc/tear-gas-washington-dc-protests-st-johns-church/65-7e9a67c7-e40b-47a2-8060-3f7d908139dd>.

⁷⁶ Nathan Baca, *New Video Shows Federal Police Holding Tear Gas Launchers, Rolling Stinger Grenade at Protesters*, WUSA9 (June 9, 2020), <https://www.wusa9.com/article/news/local/protests-tear-gas-protesters-lafayette-square-park-police-new-video-evidence/65-c39fb767-b114-41d6-bcbb-530b3823d8e7>; *Stinger® CS Rubber Ball Grenade*, DEFENSE TECH., <https://www.defense-technology.com/product/stinger-cs-rubber-ball-grenade/> (describing Stinger grenade type that includes CS and that causes stinging, irritation, burning sensations, tightness of the chest, blisters, and other symptoms).

⁷⁷ DOI OIG REPORT, *supra* note 5, at 19.

⁷⁸ *Id.* at 19–20.

⁷⁹ *Barham v. Ramsey*, Civ. Action No. 02-2283, Settlement Agreement Between Federal Defendants and the Class Representatives on Behalf of the Plaintiff. (D.D.C. 2015).

⁸⁰ GENASYS, LRAD OVERVIEW AND PRODUCT GUIDE 4 (2021), <https://genasys.com/wp-content/uploads/LRAD-Product-Guide-Final-PRINT.pdf>.

District of Columbia, a dispersal warning is insufficient if the people subjected to the warning cannot hear it well enough to know that they are required to leave.⁸¹

Acting USPP Chief Monahan testified at the Committee's second hearing that the USPP followed the procedures set forth in the 2015 settlement agreement: "The protocol was followed . . . There were three warnings given. And they were given utilizing a long-range acoustic device, it is called an LRAD, and that is what it stands for. That was the device used."⁸² After repeated document requests and extensive review of documentary, video, and photographic evidence,⁸³ Committee staff was able to confirm that the USPP used an LRAD to issue three warnings to disperse the protesters.

As previously mentioned, news reports and witness testimony consistently indicated that many in the crowd could not hear the warnings clearly enough to understand them (or at all, in many cases), contributing to the confusion and chaos of the clearing.⁸⁴ No USPP officer confirmed the warnings' audibility as set forth in the 2015 settlement agreement.⁸⁵ As noted in the OIG's June 2021 review, such failure to confirm audibility technically did not violate the 2015 settlement agreement policy because the policy narrowly applied to "high volume arrest" situations, whereas the June 1 clearing operation was not intended to produce (nor did it result in) mass arrests.⁸⁶

The OIG evaluated two other USPP policies for potential violation:

The "Use of Force" policy states that the USPP should give warnings to disperse when possible. Likewise, the USPP's "Demonstrations and Special Events" policy states that, before the USPP acts against protesters, it should generally provide people the opportunity to withdraw and disperse peacefully as well as provide an "escape route favorable to public safety needs."⁸⁷

⁸¹ Federal case law applicable to protests in Washington, D.C. is unambiguously clear that law enforcement warnings to disperse must be audible and intelligible to the people being told to disperse, based on the fundamental principle of notice. See, e.g., *Barham v. Ramsey*, 338 F. Supp. 2d 48, 58 (D.D.C. 2004) (citing a prior case in which "police chief's failure to make sure his dispersal orders were *actually heard*, not merely given, rendered the mass arrest illegal").

⁸² July hearing, *supra* note 2, at 82–83; see also Dina Temple-Raston, *Military Confirms It Sought Information on Using 'Heat Ray' Against D.C. Protesters*, NPR (Sept. 16, 2020), <https://www.npr.org/2020/09/16/913748800/military-police-leaders-weighed-deploying-heat-ray-against-d-c-protesters>.

⁸³ Including video and photographic evidence from MPD and USPP.

⁸⁴ See sources at *supra* note 19 and accompanying text.

⁸⁵ DOI OIG REPORT, *supra* note 5, at 27.

⁸⁶ *Id.* at 26.

⁸⁷ *Id.* at 26–27 (footnotes omitted).

However, due to a lack of specificity in the policies, the OIG could not confirm a violation.

In contrast to the policy addressing “High Volume Arrest Procedures,” these two policies do not provide detailed guidance on the number of warnings required, the timing of the warnings, the required content of the warnings, or whether and how the USPP will ensure that everyone involved can hear the warnings.⁸⁸

The OIG recommended that the USPP “develop a detailed warning policy applicable to demonstrations and protests that do not involve high-volume arrests [and] that includes a provision to help ensure officers and protesters can hear the warnings.”⁸⁹

⁸⁸ *Id.* at 27.

⁸⁹ *Id.* at 28.

INVESTIGATION FINDING 1:

THE TRUMP ADMINISTRATION'S STATED JUSTIFICATIONS FOR THE VIOLENT, SUDDEN CLEARING OPERATION ARE NOT CREDIBLE

In response to the public backlash against law enforcement's actions on June 1, Trump administration officials offered two primary rationales for the violent nature and sudden, pre-curfew timing of the clearing operation: 1) the violent nature of the clearing operation was justified given protester behavior; and 2) the sudden, pre-curfew timing of the clearing operation was necessary to install security fencing around Lafayette Square.

The sections below provide evidence that these justifications are not credible.

THE TRUMP ADMINISTRATION'S CLAIM THAT THE VIOLENT NATURE OF THE CLEARING OPERATION WAS JUSTIFIED GIVEN PROTESTER BEHAVIOR IS NOT CREDIBLE

Trump administration officials claimed that violent protester behavior justified law enforcement's heavy use of force at Lafayette Square. In a statement released June 2, 2020, USPP Acting Chief Gregory Monahan referenced this alleged violence, claiming protesters began throwing "projectiles including bricks, frozen water bottles and caustic liquids" around 6:33 p.m.⁹⁰ Notably, 6:33



p.m. is almost exactly the same time as the start of the clearing operation, and a full ten minutes after the USPP issued the first of its three LRAD warnings to the crowd.⁹¹ It is also more than 10 minutes after the USSS began its sudden, violent clearing of the area.⁹² As previously detailed, no video, photographic, or other evidence available for the Committee's review meaningfully supports this description of protester behavior on June 1, at any time that day.

⁹⁰ USPP, News Release, *supra* note 66.

⁹¹ DOI OIG REPORT, *supra* note 5, at 16.

⁹² *Id.* at 15.

Descriptions of violent protester behavior misleadingly referred to previous days

At the Committee's second hearing, Acting USPP Chief Monahan reiterated the claims in his June 2 statement and testified that law enforcement based their strategy for clearing the area on an assessment of the level of violence that day:

[O]ur decision to clear H Street at the time that we did was based on an on-the-ground assessment of the violence that was subjected at law enforcement **that day**. That is a fact, yes.⁹³

Given ample testimony that protesters were peaceful, Committee members at the hearing asked Mr. Monahan for specific evidence of crowd violence. Mr. Monahan responded by repeatedly referring to violence on days prior and citing injuries sustained by USPP personnel on May 30 and May 31, 2020, the two days preceding June 1.

Attorney General Bill Barr made similar claims in a televised interview with CBS News: "On Friday, Saturday and Sunday, OK, there were violent riots in—at Lafayette Park where the park police were under constant attack at the—behind their bike rack fences."⁹⁴ Mr. Barr further asserted in that interview that the media had not reported "about the fact that there were 150 law enforcement officers injured and many taken to the hospital with concussions. So, it wasn't a peaceful protest."⁹⁵

When pressed by Rep. Ruben Gallego (D-Ariz.), Mr. Monahan admitted in his hearing testimony that only one USPP officer was injured on June 1, and that the injury was sustained *during* the clearing of protesters, not before.

Rep. Gallego: But that day, you only had one injury. What time was that injury at? You testified, June 1, one injury. What time was that injury at?

Mr. Monahan: The injury on June 1 was during the clearing operation of H Street.

Rep. Gallego: So, that whole day was peaceful protesting until the clearing. And, yet, you decided that somehow there was going to be violence. So, therefore, you initiated something before 7 p.m. curfew.

Mr. Monahan: No, sir. That is inaccurate. What I stated earlier was that we saw violence throughout the operational period.

Rep. Gallego: I am not asking that. I am asking on June 1.⁹⁶

⁹³ July hearing, *supra* note 2, at 112 (emphasis added).

⁹⁴ Transcript: Attorney General William Barr on "Face the Nation," June 7, 2020, CBS NEWS, <https://www.cbsnews.com/news/bill-barr-george-floyd-protests-blm-face-the-nation-transcript/>. Mr. Barr also asserted that protesters had thrown "projectiles" on June 1, but he did not specify what kind of projectiles these were, and his descriptions of protester violence centered primarily on the nights before June 1.

⁹⁵ *Id.*

⁹⁶ July hearing, *supra* note 2, at 90.

USPP's policy mandates de-escalation of violence

The USPP's law enforcement policies and procedures are specified in a series of General Orders. General Order 3615 governing "Use of Force" sets out "types and levels of the use of force by an officer, including the Federal constitutional standards for the use of deadly force."⁹⁷ General Order 3615 was updated on November 1, 2019, and approved by Acting USPP Chief Monahan.

The USPP's "Use of Force" General Order states broadly that the "type and level of force used **must be reasonable**, depending on the dynamics of the situation."⁹⁸ It also specifies that "[o]nce a level of force is no longer required, it must be **decreased or discontinued**. An officer is expected to employ **only the minimum level of reasonable force necessary** to control a situation."⁹⁹

General Order 3615 also instructs USPP officers to de-escalate conflict through non-violent techniques when possible, stating:

An officer shall, if possible, first attempt to defuse a situation through advice, warning, verbal persuasion, tactical communication, and other **de-escalation and conflict negotiation techniques**. . . . The goal is to gain the voluntary compliance of a subject, when appropriate and consistent with personal safety, to **reduce or eliminate the necessity to use force**. Officers shall escalate and de-escalate their level of response in accordance with the actions of a subject. Once the subject is under control, an officer shall **de-escalate the amount of force to the lowest level necessary** to maintain control.¹⁰⁰

In sum, General Order 3615 makes it clear that the USPP's use of force must be proportional to the actual, present threat posed by an individual or group. USPP officers must use de-escalation, verbal persuasion, and conflict negotiation "to reduce or eliminate the necessity to use force" in situations where that is possible. These standards are consistent with law enforcement use of force principles generally, as set forth in federal case law generally forbidding officers from using

⁹⁷ USPP, GEN. ORDER NO. 3615, USE OF FORCE § 3615.01 (1998, revised 2019).

⁹⁸ *Id.* at § 3615.02 (emphasis added).

⁹⁹ *Id.* (emphasis added).

¹⁰⁰ *Id.* at § 3615.04 (emphasis added).

disproportionate force (including tear gas and pepper spray) against individuals who have committed no crimes and pose no physical threat.¹⁰¹

Despite evidence demonstrating otherwise, Mr. Monahan repeatedly claimed the USPP's clearing operation was appropriate. During the Committee's second hearing, Rep. Diana DeGette (D-Colo.) asked Mr. Monahan whether he thought "the use of chemical irritants and of officers chasing protesters to beat them with batons . . . represented only the minimum level of reasonable force necessary to control the situation of Lafayette Square on June 1."¹⁰² Mr. Monahan replied in the affirmative.¹⁰³ Rep. DeGette further asked if Mr. Monahan believed the USPP's "sudden surge into the entire protest crowd on June 1 was a genuine effort to get the protesters to voluntarily comply and, most importantly, to reduce or eliminate the necessity to use force."¹⁰⁴ Mr. Monahan again replied in the affirmative.¹⁰⁵

On Dec. 15, 2021, the Government Accountability Office (GAO) released a report of its review of multiple agencies' use of "less-lethal force" against protesters in the aftermath of George Floyd's murder.¹⁰⁶ The report found that the USPP's Office of Professional Responsibility, which is analogous to a police department's internal affairs division, in conducting internal reviews of officers' uses of force, determined that only one of the 54 individual incidents of police force reported by the USPP between May 26, 2020, and June 15, 2020, merited independent review by the OIG.¹⁰⁷ That incident was the well-documented and widely publicized attack on Australian journalists Amelia Brace and Tim Myers.¹⁰⁸ In a May 24, 2023, report, the OIG found

¹⁰¹ See, e.g., June hearing, *supra* note 1, at 24–25 (prepared statement of Jonathan Turley, Shapiro Prof. of Public Interest Law, The Geo. Wash. U. Law School) ("There are cases, including some recent holdings, where courts reject the use of such devices [gas, pepper sprays, and pepper balls] against an entire demonstration as opposed to individual violent demonstrators. Courts have held that the proper response to violent individuals is to arrest those individuals rather than to generally deploy tear gas or other irritants. This is particularly the case with regard to dispersing crowds engaged in free speech activities." *Id.* at 25.) The Republican-invited witness's testimony also quoted from *Collins v. Jordan*, 110 F.3d 1363, 1372 (9th Cir. 1996) (holding that "the proper response to potential and actual violence is for the government to ensure an adequate police presence, and to arrest those who actually engage in such conduct") and from *Abay v. City of Denver*, 445 F. Supp. 3d 1286, 1294 (D. Colo. 2020) (enjoining disproportionate force against a peaceful protest for George Floyd, and allowing the use of chemical irritants or projectiles only when a command officer "specifically authorizes such use of force in response to specific acts of violence or destruction of property that the command officer has personally witnessed"). See also *Collins*, 110 F.3d at 1371 (noting that "it is clearly established federal and state law that protests or assemblies cannot be dispersed on the ground that they are unlawful unless they are violent or . . . pose a clear and present danger of imminent violence," or they are violating some other law in the process") (internal quotations and citations omitted).

¹⁰² July hearing, *supra* note 2, at 103.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ GAO REPORT, *supra* note 4.

¹⁰⁷ *Id.* at 37, 58–59.

¹⁰⁸ *Id.* at 58–59.

the USPP actions in that case violated USPP policy regarding the use of force.¹⁰⁹ The other 53 uses of force were deemed acceptable by USPP internal investigations.

THE TRUMP ADMINISTRATION'S CLAIM THAT THE SUDDEN, PRE-CURFEW TIMING OF THE CLEARING OPERATION WAS NECESSARY TO INSTALL SECURITY FENCING IS NOT CREDIBLE

In addition to asserting that protester behavior justified the violent clearing operation on June 1, Trump administration and USPP officials said the clearing was part of a pre-planned operation to install security fencing around Lafayette Square.

In a June 7, 2020, CBS News interview, Attorney General Bill Barr stated, "This was not an operation to respond to that particular crowd. It was an operation to move the perimeter one block."¹¹⁰ Mr. Barr also said he ordered the expansion of the perimeter and installation of fencing because of the violence that had occurred in the days before June 1.¹¹¹

Evidence shows that efforts to obtain and install fencing began at least two days before June 1.¹¹² However, this justification does not explain why the clearing operation occurred in a suddenly rushed manner shortly before the widely publicized 7:00 p.m. city-wide curfew. It is standard law enforcement practice to clear civil disturbances at a time when crowds are smallest and least agitated. Those with expertise and training in handling civil disturbances, including Major DeMarco¹¹³ and former U.S. Capitol Police Chief Terrance Gainer,¹¹⁴ have stated that, if the express purpose of the operation was to clear the area for fencing, law enforcement should have waited until after the 7:00 p.m. curfew, when the protesters were required to leave.

Mr. Turley, a recognized legal expert on police handling of mass protests, made the same point in his written testimony at the Committee's first hearing:

At a minimum, the rapid advancement of the police line raises concerns over execution of the order when further delay might have allowed more people to move out of the area. Few courts would look kindly on such rapid escalation of force by law enforcement in the middle of a protest over police abuse.

¹⁰⁹ U.S. DEP'T OF THE INTERIOR, OFF. OF INSPECTOR GEN., REPORT NO. 21-0009, ALLEGED EXCESSIVE USE OF FORCE, NPS, DC 1-2 (2023), https://www.doi.gov/sites/default/files/2021-migration/AllegedExcessiveUseofForceNPSDC_Public.pdf.

¹¹⁰ Transcript: Attorney General William Barr on "Face the Nation," June 7, 2020, CBS NEWS, <https://www.cbsnews.com/news/bill-barr-george-floyd-protests-blm-face-the-nation-transcript/>.

¹¹¹ *Id.*

¹¹² See DOI OIG REPORT, *supra* note 5, at 32.

¹¹³ See July hearing, *supra* note 2.

¹¹⁴ Davis et al., *Officials Challenge Trump Claim*, *supra* note 13.

...

I do not believe the decision to disperse the crowd that night was right under these circumstances, notwithstanding the authority to clear to the Park. In addition to a rapid advancement of the police line, the move before the curfew only magnified the confusion for the crowd. **The police should have waited until after 7 p.m. to give people a chance to move out of the park.**¹¹⁵

Indeed, not all law enforcement units present at the scene supported clearing the area prior to the 7:00 p.m. curfew. The OIG's review of the clearing operation found that MPD Assistant Chief of Police Jeffery Carroll asked the USPP incident commander to delay the clearing until after 7:00 p.m.¹¹⁶ His request was denied.¹¹⁷

When asked at the Committee's second hearing why the USPP did not wait until after the curfew to initiate the clearing, Acting USPP Chief Monahan replied that they were under no legal obligation to do so, and that the curfew was not respected on a previous evening and therefore waiting would not have changed the outcome.¹¹⁸

Had the clearing begun shortly after 7:00 p.m., MPD would have been authorized to make arrests based on curfew violations, which would have required verifiably audible warnings. The threat of arrest frequently reduces crowd size, which would de-escalate the situation.

Further, Committee hearing witnesses and media reports described the widespread confusion caused by the pre-curfew timing of the sudden clearing operation.

Kishon McDonald, Washington, D.C. resident:

On June 1, 2020, I decided to join in the peaceful protest at Lafayette Park against racial injustice. I know there was a curfew imposed for that evening so I went there as part of my usual run and planned to run back home by the curfew time of 7 p.m.

...

I could not really understand what was going on or why they were responding in that manner seeing it was way before curfew—30 minutes before.¹¹⁹

¹¹⁵ June hearing, *supra* note 1, at 27–28 (prepared statement of Jonathan Turley, Shapiro Prof. of Public Interest Law, The Geo. Wash. U. Law School) (emphasis added).

¹¹⁶ DOI OIG REPORT, *supra* note 5, at 14.

¹¹⁷ *Id.* at 15.

¹¹⁸ July hearing, *supra* note 2, at 90.

¹¹⁹ June hearing, *supra* note 1, at 7 (prepared statement of Kishon McDonald, civil rights demonstrator).

Mr. McDonald added:

It was confusion first, because you know it is 30 minutes before curfew. Then you wonder why are they doing this. Like, what happened? You would have thought something drastically happened for that to change from a peaceful protest to, like, literally, like, 3 seconds they switch and turn into a military unit.¹²⁰

Amelia Brace, Seven News Correspondent:

In the late afternoon, the crowd received an alert on their phones announcing that DC was imposing a curfew starting at 7 p.m.¹²¹

Ms. Brace added:

But all I can tell you is that on that day, on June 1, the plan seemed to change, because we were expecting the curfew to be enforced at 7 p.m., and it was enforced at 6:30 p.m.

...

[W]e were there to report on what was happening, expecting the curfew to come into effect at 7 p.m. Then that line of police came through very early, very suddenly, and very quickly.¹²²

Adam DeMarco, Washington, D.C. National Guard:

I understood that a curfew imposed by the DC Mayor was not going into effect until 7 p.m., so I was not expecting any clearing operation to commence before then.

...

At around 6:20 p.m., after the Attorney General and General Milley departed Lafayette Square, the Park Police issued the first of three warning announcements to the demonstrators, directing them to disperse. I did not expect the announcements so early, as the curfew was not due to go into effect until 7 p.m., 40 minutes later.¹²³

Jonathan Allen, NBC News:

¹²⁰ *Id.* at 66 (verbal response).

¹²¹ *Id.* at 11 (prepared statement of Amelia Brace, U.S. correspondent, Seven News Australia).

¹²² *Id.* at 59–60, 66 (verbal responses).

¹²³ July hearing, *supra* note 2, at 119–20 (prepared statement of Adam DeMarco, Major, DCNG).

Someone announced over a loudspeaker that the city's curfew—7 p.m.—was approaching and the crowd would be hit with force if it didn't disperse on its own. But few could hear the warning clearly.

...

*Don't get pinned down in an area where arrests are being made because of curfew violations. Wait, it's still not 7 p.m. Try to find someone to talk to about what just happened.*¹²⁴

Matthew Yglesias, formerly of Vox:

The officers began their assault just after 6:30 p.m.—less than half an hour before a 7 p.m. curfew that had already been ordered by DC Mayor Muriel Bowser was set to take effect.

...

Doing it at 6:36 p.m. or so served no real purpose except to make the law enforcement action flagrantly abusive.¹²⁵

Federal agencies with a law enforcement presence on June 1 recognized the curfew as a significant enough policing tool that they cited it as an indicator of governmental response to protests all over the nation. A Situation Report from the Department of Homeland Security on June 1 at 4:13 a.m. summarized the status of the post-George Floyd nationwide protests, including those in Washington, D.C.: "Curfews put in place across the country due to civil unrest. Multiple instances of civil disturbances continue nationwide."¹²⁶ The document listed all 27 states that had at least one city with a curfew.¹²⁷

Similarly, an email from the "DOI, WatchOffice" on May 31, 2020, at 11:40 p.m. singled out the Washington, D.C. curfew in its brief summary on nationwide civil unrest: "Numerous protests and civil disturbances continue in multiple cities across the U.S. As of tonight, six states have declared a State of Emergency, and curfews have been imposed by numerous cities, including Washington D.C. The National Guard has been activated in at least 20 states."¹²⁸

At 6:02 p.m., roughly 30 minutes before the clearing began, a Security Specialist from the Office of the National Park Service Liaison to the White House forwarded an email

¹²⁴ Allen, *supra* note 37.

¹²⁵ Matthew Yglesias, *The Most Chilling Aspect of Trump's Monday Night Crackdown on Law-Abiding Protesters*, Vox (June 1, 2020), <https://www.vox.com/2020/6/1/21277610/monday-lafayette-square-tear-gas>.

¹²⁶ U.S. DEP'T OF THE INTERIOR, "46000405_007_Portfolio" internal records (received Nov. 15, 2022).

¹²⁷ *Id.*

¹²⁸ U.S. DEP'T OF THE INTERIOR, "Production_46000405_002" internal records (received Sept. 1, 2021).

with the subject line “Fw: [EXTERNAL] DC City-wide Curfew.” Sent to 74 NPS addresses, it said that the curfew would start at 7 p.m. for June 1 and 2.¹²⁹

At 3:30 p.m. the same day, David Vela, acting Director of the National Park Service, emailed DOI Secretary David Bernhardt, DOI Chief of Staff Todd Willens, and two other senior officials that “Mayor Bowser has imposed a 7 p.m. curfew for Monday and Tuesday, noting that essential personnel and members of the media are exempt.”¹³⁰

The president also mentioned the curfew in his remarks at the Rose Garden: “We are putting everybody on warning: Our seven o’clock curfew will be strictly enforced.”¹³¹

After the area was cleared, installation of the fencing took several hours and was not completed until the early hours of the following day. Delaying the clearing operation until the curfew began would have likely had a negligible impact on the time of its completion.¹³² In addition, the fence installation was delayed for 40 minutes after the clearing operation, during which time the president walked to St. John’s Church.¹³³ The administration decided it was unacceptable to wait 20 minutes for the curfew, allegedly because the fence installation needed to start as soon as possible, but delayed the fence installation 40 minutes for Trump to pose for photos in front of St. John’s church.

In May 2021, the Department of Justice argued in court that the government cannot be sued for the June 1 clearing in part because its purpose was to secure the president’s movements,¹³⁴ thereby making it the position of the Executive Branch that the Square was cleared for President Trump rather than the fence installation. The judge reportedly agreed, saying, “It seems to me you have to clear the square before he [Trump] walks to the church. Why is that not reasonable?”¹³⁵

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Statement by the President (June 1, 2020), <https://trumpwhitehouse.archives.gov/briefings-statements/statement-by-the-president-39/>.

¹³² See DOI OIG REPORT, *supra* note 5, at 33 (stating that fencing installation began at 7:30 p.m. and was not completed until 12:30 a.m. the next day).

¹³³ See *id.*

¹³⁴ See Spencer S. Hsu, *Justice Dept. Asks Judge to Toss Lawsuit against Trump, Barr for Violent Clearing of Lafayette Square*, WASH. POST (May 28, 2021), https://www.washingtonpost.com/local/legal-issues/trump-lafayette-square-civil-lawsuit/2021/05/28/c413c840-bfb3-11eb-b26e-53663e6be6ff_story.html.

¹³⁵ *Id.*

INVESTIGATION FINDING 2:

PRESIDENT TRUMP LIKELY INSTRUCTED AG BILL BARR TO DIRECT THE VIOLENT, SUDDEN CLEARING OPERATION FOR HIS PHOTO OP AT ST. JOHN'S CHURCH

PRESIDENT TRUMP WAS PERSONALLY MOTIVATED TO “DOMINATE” PROTESTERS AND SEND A SYMBOLIC MESSAGE OF STRENGTH

On May 31, 2020, the day before the violent, sudden clearing of protesters at Lafayette Square, news broke that President Trump had evacuated to a bunker inside the White House two days prior.¹³⁶ According to White House spokesperson Judd Deere, Trump was “shaken” by ongoing protests and worried about his safety.¹³⁷

As the news of his evacuation spread, the president was reportedly enraged because he thought retreating to the bunker made him look fearful and weak, and he wanted to reverse that perception by appearing publicly outside the White House gates.¹³⁸

In increasingly war-like terms, President Trump repeatedly and publicly demanded a harsh crackdown on protesters—many of whom he baselessly called “terrorists”—with government force, including the military if necessary.¹³⁹ On May 31, 2020, the president retweeted a message from another Twitter user that said, “This isn’t going to stop until the good guys are willing to use overwhelming force against the bad guys.”¹⁴⁰ That same day, the president praised on Twitter the use of the National Guard to “shut down” protests in Minneapolis with tear gas, pepper spray, and other weapons, and demanded the National Guard be deployed to quell demonstrations in other “Democrat run Cities and States [sic].”¹⁴¹

The morning of June 1, President Trump reportedly considered invoking the rarely used Insurrection Act, which would have allowed him to send active-duty military and

¹³⁶ Peter Baker & Maggie Haberman, *As Protests and Violence Spill Over, Trump Shrinks Back*, N.Y. TIMES (May 31, 2020, updated Nov. 5, 2020), <https://www.nytimes.com/2020/05/31/us/politics/trump-protests-george-floyd.html>.

¹³⁷ Jonathan Lemire & Zeke Miller, *Trump Took Shelter in White House Bunker as Protests Raged*, AP (May 31, 2020), <https://apnews.com/article/a2326518da6b25b4509beflec85f5d7f>.

¹³⁸ See, e.g., Michael D. Shear & Katie Rogers, *Trump and Aides Try to Change the Narrative of the White House Protests*, N.Y. TIMES (June 3, 2020), <https://www.nytimes.com/2020/06/03/us/politics/trump-protests.html>; Kevin Liptak & Betsy Klein, *Trump Claims He Went to Bunker for ‘Inspection’ amid Violent Protests*, CNN (June 3, 2020), <https://www.cnn.com/2020/06/03/politics/donald-trump-bunker/index.html>.

¹³⁹ See, e.g., Justine Coleman, *Trump Lauds Use of National Guard in Minneapolis, Urges Other Cities to Follow Suit*, THE HILL (May 31, 2020), <https://thehill.com/homenews/administration/500351-trump-lauds-use-of-national-guard-in-minneapolis-urges-other-cities>.

¹⁴⁰ The former president’s Twitter account was suspended, but the original message he retweeted can still be found here: <https://twitter.com/bucksextton/status/1266940291216543744>.

¹⁴¹ See Coleman, *supra* note 139 (quoting the eventually suspended account).

National Guard forces to confront protesters, even over the objections of governors who normally must approve the deployment of their states' National Guard troops.¹⁴² Ultimately, Attorney General Bill Barr and Chairman of the Joint Chiefs of Staff Mark Milley reportedly dissuaded President Trump from doing so.¹⁴³

Later that morning, President Trump held a video teleconference call in which he demanded various governors take harsher action against protesters.¹⁴⁴ In an audio recording of the call, the president told governors he wanted to “clamp down very, very strong” against demonstrations.¹⁴⁵ He also said, among other things:

You have to dominate. If you don't dominate, you're wasting your time. They're going to run all over you, you'll look like a bunch of jerks. You have to dominate

....

...

But we found out many things, it's like a movement, and **it's a movement that if you don't put it down**, it'll get worse and worse, this is like Occupy Wall Street. It was a disaster until one day, somebody said, that's enough and they just went in and **wiped them out** and that's the last time we ever heard the name Occupy Wall Street

...

If you're weak and don't **dominate the streets**, they're gonna stay [with] you until you finally do it, and you don't want that.

...

It's like we're talking about a war, which it is a war in a certain sense, and we're going to end it fast.¹⁴⁶

President Trump, accompanied on the teleconference by Chairman Milley, Secretary of Defense Mark Esper, and Attorney General Barr, also signaled an unprecedented level of “domination” for Washington, D.C., in particular:

There's no retribution. So I say that and the word is dominate. If you don't dominate your city and your state, they're gonna walk away with you. **And**

¹⁴² Michael S. Schmidt & Maggie Haberman, *Trump Aides Prepared Insurrection Act Order During Debate Over Protests*, N.Y. TIMES (June 25, 2021), <https://www.nytimes.com/2021/06/25/us/politics/trump-insurrection-act-protests.html>.

¹⁴³ Peter Baker et al., *How Trump's Idea for a Photo Op Led to Havoc in a Park*, N.Y. TIMES (June 2, 2020, updated Sept. 17, 2020), <https://www.nytimes.com/2020/06/02/us/politics/trump-walk-lafayette-square.html>.

¹⁴⁴ Ed O'Keefe, *Trump Tells “Weak” Governors They “Have to Dominate” as Civil Unrest Divides the Nation*, CBS NEWS (June 1, 2020), <https://www.cbsnews.com/news/trump-united-states-governors-weak-dominate-protest-civil-unrest/>.

¹⁴⁵ *Id.*

¹⁴⁶ READ: *President Trump's Call with US Governors over Protests*, CNN (June 1, 2020), <https://www.cnn.com/2020/06/01/politics/wh-governors-call-protests/index.html> (emphasis added).

we're doing it in Washington, in DC, we're going to do something that people haven't seen before. But we're going to have total domination.¹⁴⁷

The president also spoke numerous times about his plans to deploy the National Guard. Secretary Esper confirmed the execution of this plan in a statement for the record to the U.S. House Committee on Armed Services, **"At the request of the President,** I directed the Secretary of the Army to order the deployment of additional DCNG [Washington, D.C. National Guard] personnel to protect Federal functions, persons, and property."¹⁴⁸

The Trump administration also considered using the U.S. Department of Defense's Active Denial System (ADS), sometimes referred to as a "pain ray" or "heat ray," at Lafayette Square on June 1.¹⁴⁹ Originally intended only for military battle, the ADS projects invisible radiofrequency radiation to inflict severe pain on its targets without causing observable physical injury.¹⁵⁰ As Major Adam DeMarco of the DCNG stated in his written responses to Committee questions for the record, he was copied on an email sent the morning of June 1 by "the lead military police officer in the Department of Defense for the National Capital Region, asking if the DC National Guard possessed 'a Long Range Acoustic Device (LRAD) or the Active Denial Systems (ADS).'"¹⁵¹

The email described the ADS's ability to inflict "a sensation of intense heat on the surface of the skin" and noted that the "ADS can provide our troops a capability they currently do not have, the ability to reach out and engage potential adversaries at distances well beyond small arms range, and in a safe, effective, and non-lethal manner."¹⁵² The email's language—describing protesters as "adversaries" and law enforcement as "troops"—is notable.

¹⁴⁷ *Id.* (emphasis added).

¹⁴⁸ *Secretary of Defense Mark T. Esper Statement the Record (As Prepared) to the HASC Hearing on DOD Authorities and Roles Related to Civilian Law Enforcement*, U.S. Dep't of Defense (July 9, 2020), <https://www.defense.gov/Newsroom/Speeches/Speech/Article/2269970/secretary-of-defense-mark-t-esper-statement-for-the-record-as-prepared-to-the-h/> (emphasis added). As Major Adam DeMarco testified at the July 28 hearing, until this point the National Guard had been activated in Washington, D.C. only to assist with the mayor's pandemic response. See July hearing, *supra* note 2, at 119.

¹⁴⁹ See Temple-Raston, *supra* note 82.

¹⁵⁰ *Active Denial System FAQs*, U.S. DOD Non-Lethal Weapons Program, Joint Intermediate Force Capabilities Off., <https://jnlwp.defense.gov/About/Frequently-Asked-Questions/Active-Denial-System-FAQs/> (last visited May 31, 2023). Claims of the safety and ethical propriety of the "heat ray" have not been corroborated. Tim Elfrink, *Safety and Ethics Worries Sidelined a 'Heat Ray' for Years. The Feds Asked about Using It on Protesters*, WASH. POST, (Sept. 17, 2020), <https://www.washingtonpost.com/nation/2020/09/17/heat-ray-protesters-trump-dc/>.

¹⁵¹ July hearing, *supra* note 2, at 121.

¹⁵² *Id.*

“

POTUS is back inside the house. He gave us all a fist and a good job on the way by.”

”

– A Member of the U.S. Marshals Service

After the president returned to the White House, he indicated his satisfaction with law enforcement’s handling of the violent, sudden clearing operation. On June 1, 2020, at 7:18 p.m. a member of the U.S. Marshals Service wrote in an email to other service members, “POTUS is back inside the house. He gave us all a fist and a good job on the way by.”¹⁵³

A separate incident later in the evening of June 1 near the Gallery Place neighborhood involving DCNG helicopters is further evidence of a presidential directive to send a symbolic message of strength. Two DCNG helicopters hovered as low as 50 feet above protestors. The U.S. Army performed a review of the incident, which was, in turn, reviewed by the U.S. Department of Defense’s Office of Inspector General (DOD OIG). The DOD OIG concluded that “The evidence supports a determination that the decision by DCNG officials, including [Brigadier General] 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.”¹⁵⁴ Over the course of the investigation, Brigadier General Ryan testified as follows:

In his DAIG testimony, BG Ryan testified that the SECARMY provided him two tasks on June 1, 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 [Major General] Walker” supported the

¹⁵³ U.S. DEP’T OF THE INTERIOR, “46000405_006_Portfolio” internal records (received Jun 13, 2022).

¹⁵⁴ U.S. DOD, OIG, REPORT NO. DODIG-2021-089, OVERSIGHT REVIEW: DC NATIONAL GUARD’S USE OF HELICOPTERS ON JUNE 1, 2020 (2021), <https://media.defense.gov/2021/May/28/2002731290/-1/-1/1/DODIG%20REPORT%20NO.%202021-089..PDF>.

conversation between MG Walker that all resources were to be deployed in support of this emergency situation.¹⁵⁵

PRESIDENT TRUMP “ACTIVATED” BILL BARR TO DIRECT THE SUDDEN CLEARING OPERATION

During his teleconference with state governors on the morning of June 1, President Trump stated that he intended to “activate Bill Barr and activate him very strongly” in response to the protests around Lafayette Square and the White House.¹⁵⁶ The president made this remark specifically in the context of demanding the protests be forcefully “dominated” across the country.¹⁵⁷ *The Washington Post* reported that on June 1, the Department of Justice stated that “Trump had directed Barr to personally ‘lead’ the response to the unrest.”¹⁵⁸

That afternoon, as confirmed by the OIG’s 2021 special review, the USSS informed the USPP incident commander the president planned to make an “off-the-record” visit to the vicinity of Lafayette Square.¹⁵⁹ According to an unredacted version of the OIG report and its non-public interview transcripts, an FBI official called Acting USPP Chief Monahan around this time in the afternoon to request the clearing operation begin sooner, but Mr. Monahan denied this request because he didn’t believe the various law enforcement teams would be ready in time.¹⁶⁰

Shortly thereafter, the USSS and the USPP agreed on a final operational plan to use civil disturbance officers armed with special equipment, rather than a less adversarial approach, to clear the protesters.¹⁶¹

According to *Washington Post* reports, unnamed government officials said plans for the president to visit St. John’s Church were finalized around 6:00 p.m.¹⁶² MPD Chief Peter Newsham reportedly also learned at this time that President Trump intended to walk to the church, and MPD officers heard via radio communications just moments later that the protesters would be cleared by force.¹⁶³ Another Washington,

¹⁵⁵ *Id.*

¹⁵⁶ *READ: President Trump’s Call with US Governors over Protests*, CNN (June 1, 2020), <https://www.cnn.com/2020/06/01/politics/wh-governors-call-protests/index.html>.

¹⁵⁷ *Id.*

¹⁵⁸ Leonnig et al., *Barr Ordered Removal*, *supra* note 13.

¹⁵⁹ DOI OIG REPORT, *supra* note 5, at 9–10; see also *supra* note 8.

¹⁶⁰ DOI OIG REPORT, *supra* note 5, at 10; U.S. DOI, OIG, “Lafayette Park Congressional Release One” work papers (received July 12, 2021).

¹⁶¹ DOI OIG REPORT, *supra* note 5, at 9–11.

¹⁶² See Davis et al., *Officials Challenge Trump Claim*, *supra* note 13; Leonnig et al., *Barr Ordered Removal*, *supra* note 13.

¹⁶³ See Davis et al., *Officials Challenge Trump Claim*, *supra* note 13.

D.C. public safety official said it seemed like the USPP's plan to move the perimeter had suddenly been "hurried up" at this time.¹⁶⁴

Video footage confirms Attorney General Barr was in Lafayette Square as early as 6:08 p.m.¹⁶⁵ In his written statement, Major DeMarco recounted seeing the attorney general walk with Chairman of the Joint Chiefs of Staff, General Mark Milley, to the security perimeter along the north end of Lafayette Square. According to Major DeMarco:

Attorney General Barr walked right up to the line of Park Police and DC National Guard, in front of the demonstrators, then walked down the line of Park Police officers and National Guardsmen.¹⁶⁶

Public video footage showed Attorney General Barr speaking briefly with one of the USPP commanding officers in Lafayette Square at 6:11 p.m., shortly before the violent, sudden clearing operation began.¹⁶⁷



¹⁶⁴ *Id.*

¹⁶⁵ *A Video Timeline of the Crackdown on Protesters before Trump's Photo Op* / Visual Forensics, WASH. POST (June 8, 2020), <https://www.youtube.com/watch?v=JxYmILDyaOA>.

¹⁶⁶ July hearing, *supra* note 2, at 119 (prepared statement of Adam DeMarco, Major, DCNG).

¹⁶⁷ *Hearing on Protests Across U.S. and Lafayette Square Incident*, C-SPAN (video of July 28, 2020 hearing) (relevant footage begins at the 1:38:47 mark) <https://www.c-span.org/video/?474263-1/hearing-protests-us-lafayette-square-incident>.

As previously described, Committee staff's review of non-public evidence shows that MPD Assistant Chief of Police Jeffrey Carroll requested that the clearing operation be delayed until at least 7:00 p.m., when the city-wide curfew would go into effect.¹⁶⁸

MPD: So when -- when Major Adamchik called me to tell me they were getting ready to start their -- their plan, I said, "Wait till curfew. If you wait till curfew, then when you do your thing, we would be at the same time." He said, "I can't wait till curfew. We --we have to go now."

...

OIG: ... your understanding was that you were going to wait and -- and do your operations after seven.

MPD: Exactly.

OIG: When you spoke to Adamchik, he said no.

MPD: He said --

OIG: He's not gonna wait.

MPD: He said he couldn't -- he said he couldn't wait, so --

OIG: Did he give any explanation as to why?

MPD: He said, "The Attorney General is here. We gotta go now." That's it. And I didn't inquire any further.¹⁶⁹

The USPP incident commander allegedly told Mr. Carroll, "The Attorney General is here. We gotta go now" at approximately 6:12 p.m.¹⁷⁰ Ten minutes later, the USPP issued the first of its insufficient warnings to disperse. At 6:32 p.m., the USPP and its law enforcement partners began their surge into the crowd, nearly a half hour before the curfew.

The pressure that AG Barr created to clear the Square ahead of schedule was similarly evidenced in a separate report in *The Washington Post*:

The plan [to clear the Square] was to be executed the following afternoon, according to the Justice Department official, who was not authorized to comment ahead of Barr addressing the matter himself publicly and spoke on the condition of anonymity. But when Barr went to survey the scene, he was "surprised" to find the perimeter had not been extended and huddled with law enforcement officials, the Justice Department official said.

¹⁶⁸ See also DOI OIG REPORT, *supra* note 5, at 14–15.

¹⁶⁹ U.S. DOI OIG, "Lafayette Park Congressional Release One" work papers (received July 12, 2021).

¹⁷⁰ *Id.*

"He conferred with them to check on the status and basically said: 'This needs to be done. Get it done,'" the Justice Department official said.¹⁷¹

The Committee's review of non-public evidence included an interview with the USPP officer in which he recounts that conversation. According to the USPP officer, Attorney General Barr approached him and asked, "Are these people still going to be here when POTUS [President of the United States] comes out?" The USPP officer recalled that, until that moment, he was not aware that the president would be coming into the park.

When asked about his response to hearing that the president would be entering the park, the USPP officer described lowering his head, as seen in the video footage, and expressing disbelief. According to the officer, Attorney General Barr "did not respond verbally He just looked at me and gave me this grin that I've seen before when—in other things where the attorney general has been interviewed. He just kinda grinned at me. And that was when my head kinda ducked down and—'cause I could not believe what had just been said to me. And at that point, that was when his protection detail got him moving away from this intersection of the park."¹⁷²

These interactions between Attorney General Barr and law enforcement officials, some of which have never been publicly released, provide the clearest explanation to date for the sudden timing and violent nature of the June 1 clearing operation.

At 7:01 p.m., eleven minutes after concluding his Rose Garden speech, President Trump began his walk across Lafayette Square to St. John's Church.



¹⁷¹ See Leonnig et al., *Barr Ordered Removal*, *supra* note 13.

¹⁷² U.S. DOI OIG, "Lafayette Park Congressional Release Two" work papers (received Aug. 30, 2021).

AFTERMATH OF THE VIOLENT CLEARING OF PROTESTERS ON JUNE 1

ST. JOHN'S CHURCH, OTHER LAW ENFORCEMENT, AND MILITARY PERSONNEL SWIFTLY CONDEMNED THE VIOLENT, SUDDEN CLEARING OPERATION

In the days following the sudden, violent clearing operation, President Trump expressed his enthusiastic support for law enforcement's conduct. In a June 3, 2020, interview with Sean Spicer, his former press secretary, President Trump said the crackdown had been "handled very well" and that his walking to St. John's Church for a photo op was "a great idea."¹⁷³

In contrast, the Rev. Mariann Budde, bishop of the Episcopal Diocese of Washington, of which St. John's Church is a part, testified at the Committee's first hearing about the severe impact the violent clearing operation and surprise photo op had on her ministry. Although not present at Lafayette Square at the time, Bishop Budde described her reaction:

These actions, and in particular the use of violence against peaceful protesters, were antithetical to the teachings of the Bible and what we stand for as a Church. When our government announced its intention to use military force against American citizens in the Rose Garden that day, it struck me as an escalation of violence that could cause unnecessary human suffering. Then to see the government carry out that threat moments later—tear-gassing Americans engaged in peaceful protests—I was horrified. It was dehumanizing and in violation of the protesters' right to be in that space. Then, when the president held up a Bible outside of our church, as if to claim the mantle of spiritual authority over what just transpired, I knew that I had to speak out. Nowhere does the Bible condone the use of violence against the innocent, especially those who are standing up for justice. This was a misappropriation of scripture, and a usurpation of our sacred space.¹⁷⁴

According to Bishop Budde, the Trump administration neither asked for permission to use St. John's as a backdrop for the photo op, nor apologized for the offense.¹⁷⁵

¹⁷³ Morgan Chalfant, *Trump Says Removal of Protesters 'Handled Very Well'*, THE HILL (June 3, 2020), <https://thehill.com/homenews/administration/501047-trump-says-removal-of-protesters-handled-very-well>.

¹⁷⁴ June hearing, *supra* note 1, at 31 (prepared statement of Right Reverend Mariann Budde, Bishop, Episcopal Diocese of Washington).

¹⁷⁵ *Id.* at 49 (verbal response); see also *id.* at 31 (prepared statement).

The Arlington County government, which had provided Arlington County Police Department (ACPD) personnel to assist with crowd control pursuant to a mutual aid agreement with NPS, abruptly recalled all ACPD officers back from Washington, D.C., immediately after the clearing.¹⁷⁶ Libby Garvey, chair of the Arlington County Board, explained the recall:

This was an abuse and perversion of the mutual aid agreement. You have an agreement with someone, and suddenly you find yourself in a very different situation than what you agreed to . . . We're not having our officers put in danger for a photo-op. . . . The idea of mutual aid is to protect people and you help people and you do the right things. This was just an absolute abuse . . . a breach of trust."¹⁷⁷

National Guard Major Adam DeMarco, in testimony for the Committee's second hearing, described how his fellow National Guardsmen felt similarly disturbed by the operation:

I started talking to other soldiers, soldiers that are in my unit, soldiers that I have a supervisory authority over, and they were expressing many of the same consternations and concerns. So, I knew that it wasn't just me who had witnessed this, and felt that there was something both morally and legally wrong.¹⁷⁸

Several other members of the National Guard—who did not participate in the actual clearing operation but were called to serve in a support capacity behind the lines—spoke out harshly about the clearing, saying it destroyed the public goodwill the National Guard had worked hard to build and caused Guard members to seek psychological help.¹⁷⁹

Condemnation of the violent clearing operation came from the highest military ranks. On June 4, 2020, former Secretary of Defense and retired Marine General James Mattis issued an unprecedented written statement denouncing the attack:

¹⁷⁶ Melissa Quinn, *Arlington County Pulls Officers from D.C. After Tear Gas Used on Protesters*, CBS NEWS (June 2, 2020), <https://www.cbsnews.com/news/arlington-county-virginia-officers-washington-dc-tear-gas-protesters/>.

¹⁷⁷ *Id.*

¹⁷⁸ July hearing, *supra* note 2, at 127 (verbal response).

¹⁷⁹ Daniel Lippman, 'What I Saw Was Just Absolutely Wrong': National Guardsmen Struggle with Their Role in Controlling Protests, POLITICO (June 9, 2020), <https://www.politico.com/news/2020/06/09/national-guard-protests-309932>; Thomas Gibbons-Neff, Eric Schmitt & Helene Cooper, *Aggressive Tactics by National Guard, Ordered to Appease Trump, Wounded the Military, Too*, N.Y. TIMES (June 10, 2020), <https://www.nytimes.com/2020/06/10/us/politics/national-guard-protests.html>.

When I joined the military, some 50 years ago, I swore an oath to support and defend the Constitution. Never did I dream that troops taking that same oath would be ordered under any circumstance to violate the Constitutional rights of their fellow citizens—much less to provide a bizarre photo op for the elected commander-in-chief, with military leadership standing alongside.

. . . Militarizing our response, as we witnessed in Washington, D.C., sets up a conflict—a false conflict—between the military and civilian society. **It erodes the moral ground that ensures a trusted bond between men and women in uniform and the society they are sworn to protect**, and of which they themselves are a part.¹⁸⁰

A week later, Chairman of the Joint Chiefs of Staff Mark Milley apologized for appearing alongside President Trump at Lafayette Square that day. As part of a graduation speech to students at the National Defense University, he said, “I should not have been there. My presence in that moment, and in that environment, created the perception of the military involved in domestic politics.”¹⁸¹

DOJ ENTERED INTO A SETTLEMENT AGREEMENT TO RESOLVE VARIOUS LAWSUITS

On April 13, 2022, the U.S. Department of Justice (DOJ) announced that it had entered into a settlement agreement to resolve parts of various civil lawsuits related to the events of June 1.¹⁸² The primary result of this settlement was merely to require the USPP and the USSS to make incremental changes to their policies on handling public demonstrations. According to DOJ, the USPP changes include the following:

- Require officers to wear fully visible badges and nameplates, including on outerwear, tactical gear, and helmets;
- Implement guidelines concerning the use of non-lethal force, including de-escalation tactics;
- Adopt clearer procedures for issuing dispersal warnings and permitting demonstrators to disperse; and

¹⁸⁰ Jeffrey Goldberg, *James Mattis Denounces President Trump, Describes Him as a Threat to the Constitution*, THE ATLANTIC (June 3, 2020), <https://www.theatlantic.com/politics/archive/2020/06/james-mattis-denounces-trump-protests-militarization/612640/> (emphasis added).

¹⁸¹ Dan Lamothe, *Pentagon’s Top General Apologizes for Appearing alongside Trump in Lafayette Square*, WASH. POST (June 11, 2020), <https://www.washingtonpost.com/national-security/2020/06/11/pentagons-top-general-apologizes-appearing-alongside-trump-lafayette-square/>.

¹⁸² U.S. DOJ, Off. of Public Affairs, Press Release, Justice Department Announces Civil Settlement in Lafayette Square Cases (Apr. 13, 2022), <https://www.justice.gov/opa/pr/justice-department-announces-civil-settlement-lafayette-square-cases>.

- Strengthen pre-event planning and on-site coordination between the USPP and other law enforcement agencies.¹⁸³

Some of these policy changes may help prevent future abuses, but others may *encourage* future abuses. For example, section IV.D. of the USPP’s new General Order on “Demonstrations and Special Events” specifically allows the Incident Commander to “elect to deploy the Civil Disturbance Unit” when he or she determines “basic crowd control techniques are insufficient.”¹⁸⁴ This provision essentially codifies the USPP’s authority to use riot-control personnel, tactics, and weapons against protesters, based on the discretion of a USPP officer, much like what occurred on June 1.

The violent, sudden clearing operation at Lafayette Square was not the result of unclear standard procedures or insufficiently precise policies. As discussed above, the USPP already had a policy requiring force to be reasonable under the circumstances and requiring the use of de-escalation tactics where possible. The USPP was also operating under the terms of the 2015 legal settlement and policy changes. None of these policies or requirements prevented the violence of June 1. The USPP also failed to impose any meaningful internal accountability for such plainly excessive uses of force, as described in the December 2021 GAO report.

THE DEPARTMENT OF THE INTERIOR TOOK VARIOUS BUT LIMITED ACTIONS FOR ACCOUNTABILITY

Office of Inspector General releases “special review” of June 1 clearing operation.

On June 8, 2021, DOI’s OIG released a report on its “special review” of the June 1 clearing operation.¹⁸⁵ Because the OIG’s oversight is limited by statute to DOI programs and operations, it examined only the actions of the USPP; the USSS’ and White House’s actions were not included within the review’s scope. The Department of Homeland Security OIG, led by embattled Inspector General Joseph V. Cuffari, has statutory oversight authority over the USSS but declined to investigate USSS’ involvement in the violent, sudden clearing operation.

Of note, DOI’s OIG limited the scope of its review to examining the incident “primarily from an operational perspective,” including how the USPP developed and executed the violent, sudden clearing operation in coordination with its law enforcement

¹⁸³ *Id.*

¹⁸⁴ USPP, GEN. ORDER NO. 2301, DEMONSTRATIONS AND SPECIAL EVENTS 4 (2022), <https://www.nps.gov/aboutus/foia/upload/GO-2301-Demonstrations-and-Special-Events.pdf>.

¹⁸⁵ DOI OIG REPORT, *supra* note 5.

partners. The OIG also reviewed “the USPP’s reasons for dispersing protesters from the area.”¹⁸⁶

Regarding the USPP’s justification for the clearing operation, the OIG concluded:

The evidence we obtained did not support a finding that the USPP cleared the park to allow the President to survey the damage and walk to St. John’s Church. Instead, the evidence we reviewed showed that the USPP cleared the park to allow the contractor to safely install the antiscale fencing in response to destruction of property and injury to officers occurring on May 30 and 31. Further, the evidence showed that the USPP did not know about the President’s potential movement until mid- to late afternoon on June 1—hours after it had begun developing its operational plan and the fencing contractor had arrived in the park.¹⁸⁷

This conclusion is consistent with this investigation’s finding that one of the Trump administration’s primary stated justifications for the clearing was the installation of security fencing, which did indeed occur. However, as described in detail in this report, neither the fencing installation rationale nor the OIG’s conclusion adequately explains the *manner* in which the clearing operation was executed—namely, its sudden timing and excessive use of force.

The OIG’s conclusion narrowly states that it found no evidence that the USPP cleared the area on June 1st *expressly* to allow President Trump to walk through it and visit St. John’s Church. That conclusion, however, does not address the question of whether the president’s anticipated movement *influenced or effectively caused* the precise timing and manner of the clearing—to wit, nearly a half-hour before the public curfew, with unexpectedly violent tactics and force.

The OIG special review had additional limitations. First, an extensive review of the OIG report and various non-public working materials from the OIG revealed that the special review took USPP personnel’s assertions at face value, often in spite of evidence to the contrary. For example, the report notes that USPP personnel learned between 3 and 5 p.m. on June 1st that the president intended to visit the area at some point that day but accepts Acting USPP Chief Monahan’s and the incident commander’s assertions that this information had absolutely no effect on the timing or manner of the clearing operation.

¹⁸⁶ *Id.* (Results in Brief).

¹⁸⁷ *Id.*

The report similarly dismisses the effect of the attorney general's presence in Lafayette Square, as evidenced by testimony from law enforcement officers on the scene, as detailed earlier in this report.

Taken collectively, these facts undermine the OIG's conclusion that the president's anticipated visit and the attorney general's in-person urgings on the president's behalf had no influence on the clearing operation.

Second, the OIG was significantly hampered by its inability to examine the actions of the USSS. As the agency specifically charged with protecting the president and his movements, the USSS' role in the June 1st clearing is critical to understanding what happened that day and why. This is particularly true in light of the fact that, according to the OIG report and other materials provided for the Committee's review, the USSS deployed into the street ahead of schedule and escalated conflict with the protesters, just minutes after Attorney General Barr appeared in the square. The Department of Homeland Security OIG has declined to investigate the USSS' role in the Lafayette Square incident. Joseph V. Cuffari, the Inspector General for the Department of Homeland Security, is currently under a "wide-ranging" investigation by the Council of the Inspectors General on Integrity and Efficiency into "dozens of allegations of misconduct, including partisan decision-making, investigative failures and retaliation against whistleblowers."¹⁸⁸

DOI issued new law enforcement policies and procedures and established a Law Enforcement Task Force

On Oct. 3, 2022, DOI published new, department-wide law enforcement policies and procedures,¹⁸⁹ one requiring body-worn and vehicle-mounted cameras,¹⁹⁰ and a second on the use of force.¹⁹¹ Ongoing oversight of the implementation of these new policies will be essential to ensuring the USPP's compliance and accountability.

¹⁸⁸ Lisa Rein, *Probe Widens into Federal Watchdog Over Missing Jan. 6 Secret Service Texts*, WASH. POST (April 6, 2023), <https://www.washingtonpost.com/politics/2023/04/06/homeland-security-watchdog-secret-service-texts/>.

¹⁸⁹ See DOI, Press Release, Interior Department Announces New Law Enforcement Policies to Advance Transparent and Accountable Policing Practices (Oct. 3, 2022), <https://www.doi.gov/pressreleases/interior-department-announces-new-law-enforcement-policies-advance-transparent-and->

¹⁹⁰ DOI, DEPARTMENTAL MANUAL, PT. 446, CH. 41, BODY WORN CAMERAS AND VEHICLE MOUNTED CAMERAS, 446 DM 41 (effective Oct. 3, 2022), <https://www.doi.gov/sites/doi.gov/files/elips/documents/446-dm-41-body-worn-cameras-and-vehicle-mounted-cameras.pdf>.

¹⁹¹ DOI, DEPARTMENTAL MANUAL, PT. 446, CH. 20, USE OF FORCE. 446 DM 20 (effective Oct. 3, 2022), <https://doi.gov/sites/doi.gov/files/elips/documents/446-dm-20-use-of-force.pdf>.

On July 7, 2021, DOI Secretary Deb Haaland established a Law Enforcement Task Force to “focus on ways to strengthen trust in DOI law enforcement programs; ensure appropriate policy and oversight is implemented; and ensure supportive resources are available for officer mental health, wellness, and safety.”¹⁹²

RATHER THAN ENCOURAGING PEACE, PRESIDENT TRUMP FANNED THE FLAMES OF EXTREMISM

As discussed, President Trump was intent on demonstrating “strength” against protesters he viewed as opposing him. On the day before June 1, he elevated extremist calls for a violent government response to the nationwide protests. His show of force the next day sent a clear signal that the President of the United States supported these extreme voices and tactics. Many of his supporters and enablers continued and escalated these calls in the following days.

The New York Times

Opinion

Tom Cotton: Send In the Troops

The nation must restore order. The military stands ready.

By Tom Cotton

Mr. Cotton, a Republican, is a United States senator from Arkansas.

June 3, 2020



The toxic combination of these two elements—normalizing and even encouraging calls for political violence, while also demonstrating that violence is acceptable, even necessary, against opponents of MAGA extremism—was a disturbing precursor for the electoral denialism, extremist conspiracy theories, and Jan. 6, 2021 insurrection that were all to come.

¹⁹² DOI, Off. of Law Enforcement & Security, Press Release, DOI Law Enforcement Task Force, <https://www.doi.gov/oles/doi-law-enforcement-task-force>.

CONCLUSION

The violent, sudden clearing of peaceful protesters from Lafayette Square by the USPP and other law enforcement agencies on June 1, 2020, remains a dark, painful stain on our nation's history. While millions of Americans were reeling from yet another heinous murder of a Black man at the hands of police, the Trump administration turned federal law enforcement against the very people who were petitioning for change. Despite the swift backlash and widespread condemnation, the Trump administration never gave an adequate explanation to justify the violent nature or sudden timing of the clearing operation that day. The country has been forced to move forward without apology or accountability.



Based on the Committee staff's comprehensive review of public and non-public evidence, this report provides the American people with the fullest possible record and explanation of the violent, sudden clearing operation of June 1. The totality of the evidence strongly suggests that President Trump, in an effort to retaliate against Black Lives Matter protesters for causing him public embarrassment, "activated" Attorney General Bill Barr to ensure the people peacefully demonstrating at Lafayette Square that day were "dominated" to the president's liking. The report also finds that the violent nature and sudden timing of the clearing—nearly a half hour before the city-wide curfew, with the crowd size still at its peak—can only be adequately explained by the president's capricious decision to walk across the square and pose for a photo in front of St. John's Church immediately following his Rose Garden speech.

Genuine reform of federal law enforcement is sorely needed, as exemplified by the USPP's violation of use-of-force policies and principles with impunity. However, policies and principles are dead letters if the country's most powerful leaders simply refuse to respect them.