

Congress of the United States

Washington, DC 20510

August 17, 2022

The Honorable Sean O'Donnell
Acting Inspector General
Department of Defense
4800 Mark Center Drive
Alexandria, VA 22350-1500

Dear Acting Inspector General O'Donnell,

We request that the Office of the Inspector General (OIG) conduct an independent review to determine whether the Chairman of the Joint Chiefs of Staff, General Mark Milley, engaged in potential misconduct.

Several books, including *Peril* by Bob Woodward and Robert Costa, contain explosive statements by General Milley, which need scrutiny.

Our reading of *Peril* suggests that General Milley may have: 1) tampered with the statutory chain of command; 2) undermined the Constitutional principle of civilian control of the military; 3) violated military code by making derogatory public statements about the Commander-in-chief and partisan political statements to the press; and 4) provided inaccurate sworn testimony.

Since General Milley's controversial statements and actions first surfaced in the press and at hearings before the House and Senate Armed Services Committees on September 28-29, 2021, we have been seeking answers to our questions without success.

General Milley has provided assurances in testimony and letters that his "actions were consistent with law, the statutory chain of command, and civilian control of the military." He also claims that he did not portray the President in a "negative light."

His alleged statements in the books tell a very different story.

For this reason, General Milley has been repeatedly asked this question: Are you accurately portrayed in the books – yes or no? He keeps dodging the question with the same lame excuse: "I have never read the books." And when we attempted to bore in on the root cause issues driving that question, he stonewalls, leaving us a laundry list of unanswered questions.

Those questions were first raised in a letter to him dated April 11, 2022. So we have retooled and fleshed them out in the attached memorandum. They encompass our concerns.

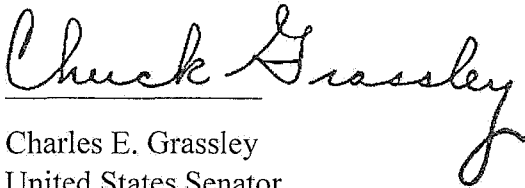
The nation's highest-ranking military officer may have posed a grave threat to a Constitutional principle that has guided and protected our democracy since George Washington and the Revolutionary War.

Our concerns go right to the heart of our democracy. They are too important to be swept under the rug. So we now call on the IG to address and resolve these issues.

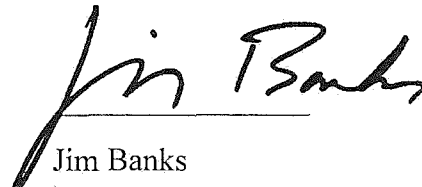
Since General Milley refuses to answer our questions, we ask the IG to conduct an independent review to get to the bottom of this matter. Using authority under the IG Act along with any needed resources, the IG should verify all the pertinent facts bearing on our concerns to determine whether General Milley violated or ignored any laws, regulations, policies, procedures, or Constitutional principles.¹ And if he did, then the IG should consider recommending appropriate disciplinary action.

Your full cooperation would be appreciated.

Sincerely,



Charles E. Grassley
United States Senator



Jim Banks
Member of Congress

Attachment

¹ Nearly all of *Peril's* interviews were tape-recorded.

Issues for Review

Chain of Command

Background

General Milley allegedly told the authors of the book *Peril* that he was “certain Trump had gone into serious mental decline ... and could go rogue and order military action or the use of nuclear weapons, without going through required procedures.” He had to “take any and all necessary precautions” to prevent that from happening. He “wanted to find a way to **inject**, if not require, that **second opinion**.” He made it clear “that he, the Chairman of the JCS, must be **directly involved**.” He “**had to be in the loop**.” He needed to “**pull a Schlesinger² ... to contain Trump and maintain the tightest possible control of ... command authority**.” To execute his plan, he **summoned senior operations officers from the National Military Command Center (NMCC) to his office**. According to the book, most had never been in the Chairman’s office and “seemed nervous and bewildered to be there.” **He made each one take an “oath” not to “act” on the President’s orders without checking with him first**. He went around the room and gave each one what appears to be a direct order. He asked each one: “Got it?” And each one said: “Yes sir.”

Questions

- The justification General Milley gave for his actions appears to rest on shaky ground. In the book, General Milley justifies his decision to inject himself into the chain of command as necessary to prevent President Trump from launching an unprovoked nuclear attack against China. Yet he testified to Congress that he was “certain, guaranteed certain, that President Trump had no intent to attack” the Chinese. So why would he tell the authors of *Peril* that he had to “take any and all precautions” to prevent an attack that he was so certain would not happen?
- By law, the Chairman of the JCS has no command authority and is not a member of the statutory chain of command. Yet he appears to have given the NMCC senior operations officers a direct order not to act without checking with him first. In doing that, did he alter or interfere with the statutory chain of command in an unauthorized or improper manner? If not, explain?

² When President Nixon faced a crisis over impeachment and resignation, Secretary of Defense Schlesinger feared he might order an unprovoked nuclear strike and reportedly took extralegal steps to prevent it. General Milley characterizes his order to NMCC senior operations officers as “pulling a Schlesinger.”

- Before giving an order to NMCC operations officers, did General Milley take his concerns directly and immediately to the top civilian leader in the statutory chain of command, the Acting Secretary of Defense Chris Miller, or Deputy Secretary of Defense David Norquist, since Miller had not been confirmed? If not, why not?
- Did the top civilian command authority approve his order to the NMCC? If not, who did?
- The book *Peril* suggests he did not share his decision to “pull a Schlesinger outside the tightest possible circle.” Who was in this circle? Please provide the names and titles of those involved. Did anyone object?
- Are General Milley’s orders to the NMCC still in place, or have they been rescinded and, if so, by whom?

Civilian Control of the Military

Questions

- “Pulling a Milley” is very different from “pulling a Schlesinger.” While Milley is a 4-star general and our most senior military officer, Secretary Schlesinger was the top civilian in the chain of command. Explain why “pulling a Milley” did not violate our Constitutional principle of civilian control of the military?
- He allegedly told the authors of *Peril*: He “**felt no absolute certainty that the military could control or trust Trump.**” Besides showing utter contempt for President, those words seem incompatible with the principle of civilian control of the military. Isn’t the commander-in-chief supposed to exercise control of the military and not vice versa?
- Were General Milley’s statements and actions consistent with the principle of civilian control of the military?

Contemptuous Words about Commander-in-Chief

Background

Law and regulation prohibit military personnel from making partisan political statements to the press and disrespectful remarks about the commander-in-chief. We are referring to 10USC888 and DoD Directive 1344.10 or any other pertinent rules and regulations.

General Milley appears to have made numerous statements in the book *Peril* about the commander-in-chief that could be characterized as disrespectful. Though he testified he did not portray the President in a “negative light” and was “not qualified to assess his mental health,” in *Peril*, he states that he was “certain Trump had gone into serious mental decline ... is now all but manic, screaming at officials and constructing his own alternate reality ... could go rogue ... And he felt no absolute certainty that the military could control or trust Trump.” His concerns about the President’s mental health

also surfaced in *Peril* in the context of a conversation with Mr. Pompeo at the general's quarters in which General Milley "confided that he believed Trump was in a mental decline."

Questions

- Do General Milley's alleged statements to the authors about President Trump violate applicable laws and regulations? If not, please explain?
- Are his statements in the books consistent with his testimony? If not, he will need to explain any discrepancies.

Draft Milley Resignation Letter

Background

General Milley's draft resignation letter, dated June 8, 2020, is reportedly featured in a new book entitled "The Divider: Trump in the White House" by Peter Baker and Susan Glasser. This letter was given wide coverage in recent press reports. General Milley's statements in the letter suggest -- once again -- utter contempt and disrespect for the President. He is also highly critical of the President's foreign policy decisions, which was one reason why President Truman fired General MacArthur. While the unsent letter was written when Trump was President, it was released to the press in the midst of heated controversy surrounding the former President's role in the January 6th riot at the Capitol and his potential reemergence as a presidential candidate. The timing of the letter's release suggests it may have been used for partisan political purposes.

Questions

- Please review General Milley's draft 2020 resignation letter to determine whether it contains disrespectful -- and even accusatory -- statements about the President? Since these words were written when Trump was President but presumably not released to the public until after he left office, they may not violate law, regulation, policy, or practice. Please clarify the applicability of relevant rules under these circumstances?
- Since General Milley chose to release this letter in the middle of a pitched battle between the two parties over the political future of former President Trump, how could his disrespectful words about Trump be characterized as anything but pure, unadulterated partisan politics? If he engaged in partisan political activity, did he violate law, regulation, policy or practice?