

Connecticut Debate Association

Novice Scrimmage

September 25, 2021

This House regrets General Milley's reported actions with respect to China.

Tournament Director's Note

In their new book, *Peril*, Bob Woodward and Robert Costa report details of calls General Mark A. Milley (pronounced "mill-e"), Chairman of the Joint Chiefs of Staff, made to his Chinese counterparts in late 2020 and early 2021. General Milley has confirmed that calls were made, but he has not confirmed the reported details as to their exact content. As indicated by the phrase in the motion, "reported actions", the intention is that this debate be conducted with the assumption that the reported details are correct.

While the motion refers to General Milley, debaters should consider the implications for other military personnel, other Presidents, and other contexts.

US Constitution, Article II, Section 2

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

Title 5, United States Code, §3331

United States Uniformed Services Oath of Office

This is the oath all officers must take upon accepting their commission:

"I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Biden Expresses Confidence in Mark Milley After Reports of General's Talks With China

The Wall Street Journal, By Gordon Lubold and Lindsay Wise, Sept. 15, 2021

Republicans call for ouster of joint chiefs chairman over his discussions with his Chinese counterpart at end of Trump presidency

WASHINGTON—President Biden is standing behind his senior military adviser, Chairman of the Joint Chiefs of Staff Army Gen. Mark Milley, after Republicans called for his ouster following reports he had been in touch with his Chinese counterpart to ease tensions in the frenetic waning days of the Trump administration.

"I have great confidence in Gen. Milley," Mr. Biden said at an event.

Gen. Milley has faced a barrage of criticism from some Republicans over media coverage of a coming book by two Washington Post writers that reports the general called his Chinese counterpart to assure him that the U.S. wouldn't attack China. And, according to reports on the book, Gen. Milley went so far as to say he would notify his counterpart, Gen. Li Zuocheng, before the U.S. struck, if that decision was made.

The U.S. has warned adversaries in the past before such attacks occur, including before a strike in Syria on Russian interests in April 2017.

The calls took place on Oct. 30, days before the November election, and on Jan. 8, two days after Mr. Trump's supporters stormed the capital in Washington in an effort to subvert the outcome of the presidential election, according to the reporting on the book. The calls were reported on Tuesday in articles about the book, "Peril," written by Bob Woodward and Robert Costa and scheduled for publication on Sept. 21. The Wall Street Journal hasn't reviewed a copy.

Mr. Trump said Tuesday he "never even thought of attacking China" and said Gen. Milley should be tried for treason if

the reports are true.

White House spokeswoman Jen Psaki struck back at Mr. Trump, urging reporters to consider the context of the alleged calls.

“Beyond reports in this book, there’s been widespread reporting and commentary from members of his own cabinet—the former president’s cabinet—including high-ranking national-security officials, questioning the former president’s stability, his behavior, and his suitability to oversee the national security of the United States,” she said.

Gen. Milley’s term as chairman of the joint chiefs of staff expires in October 2023.

A spokesman for Gen. Milley acknowledged the calls had taken place. Such calls to military counterparts are routine and vital to improving mutual understanding, reducing tensions and “providing clarity and avoiding unintended consequences or conflict,” said the spokesman, Army Col. Dave Butler.

“His calls with the Chinese and others in October and January were in keeping with these duties and responsibilities conveying reassurance in order to maintain strategic stability,” Col. Butler said in a statement.

Sen. Marco Rubio (R., Fla.), said Gen. Milley “worked to actively undermine the sitting commander in chief of the United States Armed Forces and contemplated a treasonous leak of classified information to the Chinese Communist Party in advance of a potential armed conflict.”

Democratic lawmakers defended Gen. Milley.

“It is a shame when you reach a point in America’s history that is necessary,” Sen. Dick Durbin of Illinois, the No. 2 Senate Democrat, “and I think he did the responsible thing to keep America out of war.”

Gen. Milley will appear before the Senate Armed Services Committee on Sept. 28 to address questions about Afghanistan but the issue of the calls to China is expected to come up.

Conservative critics of Gen. Milley have been animated by his comments on issues such as an academic discourse called critical race theory, and by what some believe are efforts to conduct social engineering across the military on gender and race.

“I personally find it offensive that we are accusing the United States military, our general officers, our commissioned, noncommissioned officers of being, quote, ‘woke’ or something else, because we’re studying some theories that are out there,” Gen. Milley said in June in a House hearing, after being questioned on reports that critical race theory was being taught at the U.S. Military Academy.

Gen. Milley, along with Defense Secretary Lloyd Austin, Secretary of State Antony Blinken and national security adviser Jake Sullivan have been criticized, particularly by Republicans, for the Biden administration’s handling of the drawdown of forces from Afghanistan last month.

Waiting for General Milley

The Wall Street Journal, By The Editorial Board, Sept. 15, 2021

The Chairman of the Joint Chiefs has more explaining to do.

Donald Trump’s behavior as a candidate and President unhinged some of America’s vital institutions, including the press and the FBI. It would be disturbing to find out that military leaders also responded to the President’s norm-breaking by betraying their institutional obligations.

That’s the implication of a report of national-security freelancing by Chairman of the Joint Chiefs of Staff Gen. Mark Milley at the end of Mr. Trump’s term. Congress needs to find out how much is true—not because of partisan demands for retribution against the general, but because even the appearance of attenuating civilian control of the military is damaging to democracy.

A forthcoming book by journalists Bob Woodward and Robert Costa alleges that Gen. Milley called China’s top military commander shortly before the November election and said, “If we’re going to attack, I’m going to call you ahead of time. It’s not going to be a surprise.” After the Jan. 6 Capitol riot and a call with House Speaker Nancy Pelosi, Gen. Milley tried to increase his control over nuclear launch procedures out of fear of what Mr. Trump might do.

Mr. Woodward’s opaque method makes it impossible to judge the accuracy of his reporting. He relates conversations he didn’t hear based on sources whose motives aren’t explained. Those on the right now demanding Gen. Milley’s head based on Mr. Woodward’s book were rightly cautious of the journalist’s insider accounts of GOP presidencies.

Yet the statement from Gen. Milley’s spokesman released Wednesday contains no denials. It merely says the general’s “calls with the Chinese and others in October and January” were intended to “maintain strategic stability” and were “communicated with the Department of Defense and the interagency.” It says the nuclear-weapons meeting in January “was to remind uniformed leaders in the Pentagon of the long-established and robust procedures in light of media

reporting on the subject.”

Four-star generals have always been political actors, though the trend has accelerated in recent years as they try to please a wider range of constituencies. Gen. Milley was nominated by Mr. Trump in 2018 but sought to distance himself amid the summer 2020 riots. He apologized for appearing with President Trump in Lafayette Square in June after U.S. Park Police moved against protesters outside the White House, publicized his opposition to using troops to suppress riots, and expressed support for Black Lives Matter protests.

Gen. Milley should be asked to clarify, under oath, the context of his communications with China and nuclear launch procedure when he testifies before the Senate on Sept. 28. America’s military brass rightly has deconfliction channels open with adversaries when their forces are in proximity, but promising a tip off before the President ordered an attack would be an outrageous usurpation.

While the military reviewing “long-established” nuclear protocols is hardly a scandal, the book suggests this was done after his calls with Mrs. Pelosi. Generals can take her calls, but she’s not in the chain of command.

Mr. Trump was erratic in the final days of his term, staging an unprecedented if doomed political effort to overturn an American election. But if Gen. Milley genuinely felt the President was that much of a global menace, he should have sounded the alarm and resigned. Figures like William Barr and Don McGahn constrained Mr. Trump’s worst instincts without eviscerating political norms.

Chairmen of the Joint Chiefs are typically respected across the political aisle. Gen. Milley’s reputation is already damaged by a botched Afghanistan withdrawal and a Kabul drone strike that killed civilians and is still unexplained. Even if Mr. Biden retains confidence in Gen. Milley, as he said Wednesday, the general’s credibility is in doubt. If the book’s account isn’t accurate, he needs to say so explicitly and specifically.

If Americans are to trust their democratic institutions, and the world’s other powers are to trust America’s defense commitments, it needs to be clear that the military is under the elected President’s control.

Preventing war: Why Gen. Mark Milley's secret calls to China deserve a medal

USA TODAY, by Gregg Zoroya, Sept. 18, 2021

The Joint Chiefs chairman may well have saved American lives by thwarting a Chinese miscalculation in the closing weeks of the Trump administration.

Those calling for the head of Mark Milley have it all wrong. The four-star general and chairman of the Joint Chiefs of Staff may well have saved American lives by thwarting a deadly Chinese miscalculation in the closing weeks of the Trump administration.

Milley spoke twice with his Chinese counterpart, Gen. Li Zuocheng of the People’s Liberation Army, during this period, according to “Peril,” a new book by Bob Woodward and Robert Costa of The Washington Post.

Both times, it was to caution Li not to make a terrible mistake.

China claims control of 80% of the South China Sea, something the United States and other nations reject. The result is that American naval forces conduct fleet exercises in those waters or sail through to demonstrate freedom of navigation rights.

The Chinese hate this, complain bitterly and yet accept these are not acts of war.

But what if one day they concluded otherwise? What if they decided, because of a wider-ranging series of extreme circumstances, that a U.S. destroyer steaming into the sea was this time part of some coordinated attack. They would believe that every second they failed to act only compounded the hazard to Chinese lives.

They might sink it. The United States would be compelled to respond in equal or greater measure. China might then do the same, and where would the violence end? Might there be war?

According to “Peril,” the Chinese had intelligence in October that the United States was planning such an attack. At the same time, President Donald Trump was engaging in ever more belligerent rhetoric toward China.

That’s when Milley made his first call to Li, with whom he had a long working relationship, assuring him four days before the election that no U.S. attack was coming.

Gen. Mark Milley, chairman of the Joint Chiefs of Staff, testifies on Capitol Hill on June 23, 2021.

The second call was two days after Trump provoked a mob into storming the U.S. Capitol to stop Congress from performing its constitutional duty of officially declaring Joe Biden the next president of the United States.

Milley calmed Chinese fears of conflict

Is it any surprise Li and his officers were distressed by the sight of Trump supporters driving lawmakers from

Congress? That kind of usurpation of government, even if for only a matter of hours, had never happened in the United States and is inconceivable in totalitarian regimes such as Beijing.

How could the Chinese not worry what a desperate Trump might do next?

As with the October call, Milley would have been remiss not to prevent a disastrous Chinese error. "We are 100 percent steady. ... Democracy can be sloppy sometimes," Milley assured Li, according to the book.

"From all I can see today," says James Stavridis, a retired Navy admiral and a former NATO Supreme Allied commander, "Milley's actions were within his remit to maintain open lines of communication with friends and foes alike, avoid potential miscalculation, and maintain military-to-military stability during a very tense period."

Perspective needed on other actions

Much has been made of two other Milley actions.

There have been calls for his resignation over a comment the book says Milley made to Li during the October phone call: "General Li, you and I have known each other for now five years. If we're going to attack, I'm going to call you ahead of time. It's not going to be a surprise."

Treason, some say, even if the United States has a history of giving adversaries a heads up before an attack, as in Syria in 2017. Whether this was a questionable throwaway line to diffuse tension, or something more imprudent, Milley can explain when he testifies Sept. 28 before the Senate Armed Services Committee.

He has also come under fire for reportedly inserting himself in any decision process should Trump direct a nuclear strike. Critics call this an unconstitutional attenuation of presidential control, though then-Defense Secretary James Schlesinger did the same thing in 1974 when President Richard Nixon faced impeachment.

Many say it would have been better, rather than making phone calls to Li or discussing nuclear codes, if Milley had resigned and alerted the public about how unstable and dangerous he believed Trump was. That would have certainly been a profound move. But it would have stripped Milley of the ability as the nation's top military officer to intervene and diffuse a potentially lethal miscalculation in the South China Sea.

The general has plenty of things to answer for when he testifies next week, not the least of which is his disastrous withdrawal of U.S. forces from Afghanistan.

But preventing war with China is not one of them.

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The military can't legally save us from a president bent on using nukes

Sept. 23, 2021, 5:30 AM EDT / Updated Sept. 23, 2021, 10:28 AM EDT

MSNBC, By Michael A. Cohen, MSNBC Opinion Columnist

Military intervention between Trump and China wasn't exactly legal, but it ultimately prevented nuclear war.

Gen. Mark Milley, the chairman of the Joint Chiefs of Staff, has quite the knack for placing himself in the middle of political controversies.

Milley's latest mess might be the most profound.

Last year, he was forced to publicly apologize after, dressed in full combat fatigues, he accompanied former President Donald Trump on his now-infamous walk across Lafayette Square near the White House grounds, moments after peaceful demonstrators protesting George Floyd's murder were tear-gassed.

This summer, he got in a spat with Republican Rep. Matt Gaetz, of Florida, at a congressional hearing and then was extensively quoted telling reporters how he allegedly tried to block Trump's effort to overturn the election on Jan. 6.

But Milley's latest mess might be the most profound — not because of what it says about him, but in the ways it lays bare the tenuous nature of our democratic institutions.

According to recently released excerpts from the new book "Peril" by Washington Post journalists Bob Woodward and Robert Costa, in fall 2020, Milley became increasingly concerned that Trump was mentally unstable. Milley reportedly sought to prevent Trump from launching a nuclear strike and reached out to a Chinese military leader to reassure him that a U.S. attack against Beijing was not imminent.

His actions have led some prominent Republicans like Sen. Marco Rubio, of Florida, to label his elections as "treasonous" and call on him to resign (in an email to reporters, Trump called Milley a "dumbass.")

Most of these accusations are hysterical and can be safely ignored. But Milley's actions raise serious, and in some respects unanswerable, questions about one of the most sacrosanct norms in American democracy — civilian control of

the military — and its applicability when it comes to an issue like the use of nuclear weapons.

Milley was confronted with a problem that our constitutional system is simply not equipped to handle. He was legitimately concerned that Trump was mentally unstable, in serious decline and might do something incredibly stupid or tragic.

In calling his military counterpart in Beijing, Milley sought to put at ease increasingly anxious Chinese military officials concerned about the possibility of a surprise U.S. military attack. Milley told his counterpart that the “United States was not going to suddenly attack China without any warning — whether it be through diplomatic, administrative or military channels,” according to an Associated Press report on Woodward and Costa's book.

By all accounts, Milley's call to the Chinese was not secret, as other key government agencies were informed. Indeed, it appears the impetus for his call in October 2020 came from then-Secretary of Defense Mark Esper. Moreover, Milley was trying to prevent China from miscalculating or overreacting to events in the United States.

Seeking to defuse tensions and avert a dangerous military escalation by Beijing is laudable behavior. It's on the question of a nuclear strike where things get messy.

Milley reportedly reviewed the procedures for launching nuclear weapons with top military officials, telling them, according to The Washington Post, that “the president alone could give the order — but, crucially, that he, Milley, also had to be involved.”

The problem here is that the president can order a nuclear strike and bypass the chairman of the Joint Chiefs of Staff completely. Milley is not in the chain of command, and by interjecting himself in the process, he risks the appearance that he is putting his judgment above that of the president.

In Milley's defense, it doesn't appear that he was actively seeking to overrule the president or telling his staff not to carry out the theoretical order from Trump. Rather, he sought to ensure that any presidential decision to use force would go through proper military procedure. If, for example, a lower-level official concluded that Trump had issued an illegal order — but didn't have the confidence to disobey — Milley was, in effect, telling all those under his command that he had their back.

It's also possible that Milley may have inflated the risks of nuclear strike and exaggerated his own role in averting that possibility. As was the case in his supposed efforts to block Trump from overthrowing the election, there's an argument to be made that Milley was acting as much out of hubris as he was genuine concern.

But then again, when the president has unilateral authority to launch a nuclear strike — and doesn't need permission from Congress or sign-off from other members of the Cabinet — perhaps an abundance of caution is warranted.

This is clearly an area in need of serious reform, either by placing greater restrictions on the ability of the president to launch nuclear missiles or forbidding the first use of U.S. nukes without congressional authorization. Legislation has been introduced by Sen. Ed Markey, D-Mass., and Rep. Ted Lieu, D-Calif., to do just that — and it's long overdue that Congress gives it full consideration. But while these commonsense measures would lessen the potential for a global tragedy, they don't completely get to the nub of the issue regarding Milley's actions.

The fact is, Milley acted because he strongly suspected the president had lost his mind. As things stand now, there is literally nothing he could do about that. The 25th Amendment allows the vice president and Cabinet to relieve the president of power if they believe the president is not able to carry out their duties. This is a constitutional tool that is only as strong as the political courage to carry it out. As the Trump presidency showed, this is an attribute upon which the American people cannot rely.

Even if one believes Milley stepped over the line, what options did he have if he truly believed the president was mentally unwell?

As for Congress, it can impeach the president, but only for actions already taken — not those that may potentially happen in the future. As we saw twice during the Trump presidency, impeachment — even in the face of grievous impeachable acts — falls victim to the pull of domestic politics.

So even if one believes Milley stepped over the line, what options did he have if he truly believed the president was mentally unwell? It's not as if Milley is some guy off the street. He is the president's top uniformed military adviser. His insights into the president's mental state are relevant.

It should almost go without saying that civilian control of the military is a fundamental and essential attribute of representative democracy. But so too is avoiding nuclear holocaust. It's not realistic or wise to expect a military officer of Milley's rank and stature to allow a presidential order to be carried out if it's issued by a president who he believes is not in full possession of their faculties. Most of us would rather Milley refuse a presidential order to use nuclear weapons. But we also shouldn't want generals making that call.

As things currently stand, there is no good way to square the circle. Some commentators argue the onus is on the

American people to never again elect a president as unstable and unqualified as Trump. Relying on the judgment of the American electorate is hardly a long-term solution. After all, they elected Trump — and could do it again if he runs in 2024.

What we need is for Congress to put a mechanism in place whereby the chairman of the Joint Chiefs of Staff can warn congressional leaders of their concern about the president's mental state and its potential impact on the use of military force. Indeed, since the military does not — and should not — involve itself in domestic politics, this could have greater impact than current constitutional tools, which rely on the actions of political leaders.

Such an effort would be highly fraught and may not even be a real solution — for example, if the congressional leadership is of the same party as the president. But this is a conversation America needs to start having. No general or military officer should ever be placed in the position of deciding between doing their duty and preventing the launch of a war by a mentally unstable president.

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Mark Milley Says Calls to Chinese General Were Within His Duties

The Wall Street Journal, By Gordon Lubold, Sept. 17, 2021

Top U.S. general under fire over reports of talks with Chinese counterpart at end of Trump term

ATHENS—The Pentagon's top military officer, Gen. Mark Milley, said he would mount a vigorous defense of two calls he placed to his Chinese counterpart in the tumultuous last days of the Trump administration, describing an effort to calm Beijing's nerves and avert a military conflict.

“These are routine calls in order to discuss issues of the day, to reassure both allies and adversaries in this case, in order to ensure strategic stability,” Gen. Milley, chairman of the Joint Chiefs of Staff, told reporters traveling with him on a military jet Friday. “And these are perfectly within the duties and responsibilities of the chairman.”

Gen. Milley was speaking publicly for the first time since reports on a new book revealed he made two calls to his Chinese counterpart, one in October 2020 and another in January. Beijing had grown concerned that President Donald Trump was considering attacking China as tensions between the two nations rose in the South China Sea and Mr. Trump's own rhetoric grew more fiery, according to media reporting on the book “Peril,” due out next week by Washington Post reporters Bob Woodward and Robert Costa.

That prompted Gen. Milley to reach out to his Chinese counterpart to reassure Beijing that the U.S. wouldn't strike, and that if an attack were to occur, Gen. Milley would give his counterpart a heads-up, according to reporting on the book. Reports of those calls inflamed conservative Republican criticism of Gen. Milley, who some critics believe should step down or be fired.

Gen. Milley made about 20 calls to his counterparts between October and January, including to military leaders in Afghanistan, Canada, Israel, Japan, Korea, Kuwait, North Atlantic Treaty Organization, Pakistan, Qatar, Russia, Saudi Arabia, the United Arab Emirates and the U.K., officials said.

The call between Gen. Milley and his Chinese counterpart, Gen. Li Zuocheng, on Jan. 8 followed another call two days earlier between a top Pentagon policy official and his counterpart in China, according to U.S. defense officials. That call was authorized by the acting defense secretary, Chris Miller, who was also apprised of the Milley call, officials said.

Gen. Milley has been condemned by some of the same critics on the right for his positions on gender and race in the military, on the teaching of controversial social and political theory at the U.S. Military Academy, and for his role in the drawdown of troops from Afghanistan.

Gen. Milley, traveling to Athens to attend a NATO conference of defense ministers, said he wanted to wait until he could testify in the Senate on Sept. 28 to provide more clarity about his actions instead of using the media to defend himself.

“I will go into any level of detail Congress wants to go into,” he said.

President Biden is standing by Gen. Milley, whose term runs to October 2023, as are a number of top Democrats and former officials like John Bolton, who was one of Mr. Trump's national-security advisers.
