



Office of  
The Governor

No. 28 FY 20/21  
DATE January 15, 2021

**AN ORDER ACTIVATING THE MAINE NATIONAL GUARD  
AS A PRECAUTIONARY MEASURE TO PROTECT  
THE STATE HOUSE AND CAPITOL GROUNDS**

**WHEREAS**, the Federal Bureau of Investigation (FBI) has advised the Maine Department of Public Safety (DPS), which oversees the Maine Capitol Police and the Maine State Police, to be prepared for possible armed protests and civil unrest at State Capitols across the country preceding and during the inauguration of the President-Elect of the United States on January 20, 2021; and

**WHEREAS**, in response to the FBI advisory, the Commissioner of DPS and the Chief of the Maine State Police have, as part of their contingency planning, requested access to the Maine National Guard to support the Capitol, State, County, and Municipal Police as may be necessary to respond effectively to this threat; and

**WHEREAS**, the Commissioner of the Department of Veterans and Emergency Management is prepared to detail Maine National Guard personnel to provide such support to DPS; and

**WHEREAS**, I serve as the constitutional Commander in Chief of the military forces of the State pursuant to Me. Const. Art. V, Pt. 1, § 7 and 37-B M.R.S. § 103; and

**WHEREAS**, 37-B M.R.S. § 181-A(1) authorizes me to “order members of the state military forces to active state service in the case of, or imminent danger of, insurrection, invasion, tumult, riot, conspiracy to commit a felony or threat of violence to persons or property or upon the reasonable apprehension thereof; or for the safety of the inhabitants of this State; or, in the case of actual or imminent public disaster, to the aid of any civil authority;” and

**WHEREAS**, I have a duty under Me. Const. Art. V, Pt. 1, § 12 to faithfully execute 25 M.R.S. § 2904, which requires adequate security regarding use and occupancy of all parks, grounds, buildings, and appurtenances maintained by the State at the Capitol Area, as defined by 1 M.R.S. § 814(2) and DPS Regulation 16-219 C.M.R. Ch. 41 § 1(A); and

**WHEREAS**, I find that the FBI advisory identifies an imminent danger and threat to persons and property related to the State House and Capitol Area within the meaning of 37-B M.R.S. § 181-A(1); and

**NOW, THEREFORE**, I, Janet T. Mills, Governor of the State of Maine, pursuant to Me. Const. Art. V, Pt. 1, § 7 and 37-B M.R.S. Ch. 3, do hereby Order as follows:

**I. ORDERS**

- A. The Adjutant General of the State of Maine shall direct Maine National Guard personnel into Title 32 and/or State Active Duty status to perform safety and security missions in support of DPS in preparing for and handling the threat described above in a manner determined appropriate and necessary by DPS in consultation with the Adjutant General. Such missions may include, but are not limited to, safeguarding persons and property, providing crowd management and traffic control, and any other support function in furtherance of securing the State House and Capitol Area as defined by 1 M.R.S. § 814(2) and DPS Regulation 16-219 C.M.R. Ch. 41 § 1(A). This includes any land, building, personal property, and facilities owned, leased, occupied, used, or possessed by the State within the city limits of Augusta, Maine, including particularly the State House, Cross State Office Building, DHHS Building, Blaine House Complex, State Cultural Building, and all adjacent buildings and grounds.
- B. DPS is the lead agency responding to the identified imminent danger, and the National Guard is a supporting agency. DPS may direct the employment of the National Guard, up to and including exercising operational control of assigned National Guard forces. Nothing in this order abrogates or in any way alters the National Guard's regular chain of command and military discipline.
- C. Title 37-B M.R.S. § 185 shall govern Maine National Guard personnel performing missions pursuant to this Order. National Guard forces will provide support to civilian law enforcement as further described herein. DPS will make every effort to ensure civilian law enforcement officers are present with National Guard forces in sufficient strength to perform the direct law enforcement tasks when reasonably foreseeable. Upon assignment by the Commissioner of DPS, civilian law enforcement officers may direct the employment of National Guard members to assist law enforcement efforts (for example, assisting with arrests and searches) to restore order or protect persons or property. In the event too few law enforcement officers are available, the Commissioner of DPS is hereby authorized to permit commissioned officers in the National Guard to exercise the authority of law enforcement officers pursuant to 37-B M.R.S. § 185(4), in order to restore order or protect persons or property in the State House and Capitol Area. Any such determination by the Commissioner of DPS will be expeditiously communicated to the Adjutant General and the Office of the Governor.
- D. All State, county and municipal governments and law enforcement agencies shall cooperate with DPS and the Adjutant General in matters concerning this Order.
- E. Nothing in this order impairs or alters potential defenses, immunities, or justifications to include, without limitation, 17-A M.R.S. §§ 16, 107, & 108, the Maine Tort Claims Act, and 37-B M.R.S. § 185(1)-(3).

## II. EFFECTIVE DATE

This Order shall take effect on January 15, 2021 and shall be rescinded upon my determination based upon the assessment and recommendation of the Commissioner of DPS that the proximate threat giving rise to the issuance of this Order has receded.



Janet T. Mills  
Governor