



DEPARTMENT OF THE ARMY
OFFICE OF THE ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY
9301 CHAPEK ROAD
FORT BELVOIR VA 22060-5527

September 26, 2023

Nikhel Sus
Citizens for Responsibility and Ethics in Washington
1101 K St., N.W., Suite 201
Washington, D.C. 20005

Dear Nikhel Sus:

This letter responds to your Freedom of Information Act (FOIA) request dated January 10, 2021. Your request is now in litigation, cited as *CREW v. DOJ, et al.*, 1:21-cv-572 (D.D.C.).

Your request is for:

1. All records from December 1, 2020 to January 6, 2021, relating to DOD, the National Guard, or the Army providing assistance or support to the D.C. Metropolitan Police Department in connection with the January 6, 2021 congressional session to count electoral votes.
2. All records reflecting the parameters for the National Guard's deployment to D.C. on January 6, 2021, including any limitations imposed on the number of personnel deployed, their movement within the District, or their use of force.
3. All communications with the D.C. Mayor's Office or the D.C. Metropolitan Police Department regarding the parameters for the National Guard's deployment to D.C. on January 6, 2021.

Our search yielded the attached responsive records. These records are part of a continuous rolling release over the course of the litigation. This release consists of 13 pages.

We have redacted material under Exemptions (b)5 and (b)6.

Exemption 5 of the FOIA 5 U.S.C. § 552(b)(5)

Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). Courts have interpreted Exemption 5 to encompass the privileges recognized by statute or case law in the civil discovery context. See *U.S. v. Weber Aircraft Corp.*, 465 U.S. 792, 800 (1984); *FTC v. Grolier Inc.*, 462 U.S. 19, 26 (1983) at 26, *NLRB v.*

Sears, Roebuck & Co., 421 U.S. 132, 149 (1975). In this case, the applicable privilege that serve as bases for citing Exemption 5 is the Deliberative Process Privilege.

Deliberative Process Privilege

Exemption 5 of the FOIA which protects from disclosure “interagency or intra-agency memorandums or letters which would not be available by law to a party. . . in litigation with the agency”: 5 U.S.C. Section 552(b)(5)(1994). Exemption 5 includes the “Deliberative Process Privilege,” which protects from release agency records that disclose the agency’s decision-making process. *NLRB V. Sears, Roebuck & Co.*, 421 U.S. 132, 95 S.Ct. 1504, 44 LEd.2d. 29 (1975) and *Jordan v. Department of Justice*, 591 F2d 75.3 (D.C. Cir. 1978) (en banc). In this case, the document you requested contains specific recommendations and frank opinions. As such, it forms part of the “give-and-take” between agency officials involved in the decision-making process. These recommendations and opinions do not necessarily represent the views of the Department of the Army. Release of such pre-decisional and deliberative exchanges would chill the open communication between Federal employees as they would fear that their developing thoughts and opinions would be shared with the public. Accordingly, this information is exempt from release under the deliberative process privilege of exemption (b)(5) of the FOIA.

Exemption 6 of the FOIA 5 U.S.C. § 552(b)(6)

Exemption (b)(6) of the FOIA protects from mandatory disclosure “personnel and medical files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” 5 U.S.C. § 552(b)(6) (2011). To qualify for protection under Exemption (b)(6), records must meet two criteria: (1) they must be “personnel and medical files and similar files,” (2) the disclosure of which “would constitute a clearly unwarranted invasion of personal privacy.” *Id.*; *United States Dep’t of State v. Washington Post Co.*, 456 U.S. 595, 599-603 (1982). The first prong is met if the information “appl[ies] to a particular individual” and is “personal” in nature. *New York Times Co. v. NASA*, 852 F.2d 602, 606 (D.C. Cir. 1988). The second prong requires courts to strike a “balance between the protection of an individual’s right to privacy and the preservation of the public’s right to government information.” *United States Dep’t of State v. Washington Post Co.*, 456 U.S. 595, 599 (1982). The “public interest” in the analysis is limited to the “core purpose” for which Congress enacted the FOIA: to “shed . . . light on an agency’s performance of its statutory duties.” *United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989).

We are withholding telephone numbers and other contact information for all Army personnel (e.g., e-mail addresses, telephone-line numbers) and third-party information under Exemption 6. 5 U.S.C. § 552(b)(6). See *Judicial Watch, Inc. v. United States*, No. 03-1160, 2004 WL 26736, at *4 (4th Cir. Jan. 6, 2004). Under the Exemption (b)(6) balancing test, the Supreme Court held in a similar case that disclosure of employee addresses “would not appreciably further the citizens’ right to be informed about what their Government is up to and, indeed, would reveal little or nothing about the employing agencies or their activities.” *United States Dep’t of Defense v. Fed. Labor Relations*

Auth., 510 U.S. 487 (1994). The same is true here regarding telephone numbers. Disclosure of the names, contact, and personal information of government employees would contribute little to the public's understanding of government activities. By contrast, such disclosure would constitute a "non-trivial" and "not insubstantial" invasion of government employees' privacy interests. Id. at 500, 501.

If you have any questions regarding this letter or the information furnished, please contact Lee Reeves at (202) 616-0773 or Lee.Reeves2@usdoj.gov.

Sincerely,

Paul V. DeAgostino

Paul V. DeAgostino
Senior Counsel

Message

From: Eifler, Brian S BG USARMY HQDA OCLL (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP
[B6]/CN=RECIPIENTS/CN=[B6]
Sent: 1/2/2021 10:59:13 PM
To: McCarthy, Ryan D HON USARMY HQDA SECARMY (USA) [B6] McConville, James C GEN
USARMY HQDA CSA (USA) [B6]
CC: McPherson, James E HON USARMY HQDA SECARMY (USA) [B6] Martin, Joseph M
GEN USARMY HQDA VCSA (USA) [B6] Piatt, Walter E LTG USARMY HQDA DAS (USA)
[B6] Flynn, Charles A GEN USARMY USARPAC (USA) [B6]
LaNeve, Christopher Charles MG USARMY FORSCOM (USA) [B6] [B6]
[B6] COL USARMY HQDA OCPA (USA) [B6] Hannah, Amy E BG USARMY
HQDA OCPA (USA) [B6] Yurkanin, Kathryn M SES USARMY HQDA OCLL (USA)
[B6] Horlander, Thomas A LTG USARMY HQDA ASA FM (USA)
[B6] COL USARMY HQDA ASA FM (USA)
Subject: Re: Request for DCNG
Attachments: smime.p7m

Ack sir. WILCO

BG Brian Eifler
Army Legislative Affairs
[B6] Pentagon
Office [B6]
Cell [B6]

From: "McCarthy, Ryan D HON USARMY HQDA SECARMY (USA)"

[B6]

Date: Saturday, January 2, 2021 at 5:48:23 PM

To: "Eifler, Brian S BG USARMY HQDA OCLL (USA)" [B6],
"McConville, James C GEN USARMY HQDA CSA (USA)"

[B6]

Cc: "McPherson, James E HON USARMY HQDA SECARMY (USA)"

[B6], "Martin, Joseph M GEN USARMY HQDA VCSA (USA)"

[B6], "Piatt, Walter E LTG USARMY HQDA DAS (USA)"

[B6] "Flynn, Charles A LTG USARMY HQDA DCS G-3-5-7 (USA)"

[B6], "LaNeve, Christopher Charles BG USARMY HQDA DCS G-
3-5-7 (USA)" [B6] COL USARMY

HQDA OCPA (USA)" [B6], "Hannah, Amy E BG USARMY

HQDA OCPA (USA)" [B6] "Yurkanin, Kathryn M SES USARMY

HQDA OCLL (USA)" [B6], "Horlander, Thomas A LTG

USARMY HQDA ASA FM (USA)" [B6]

[B6] COL USARMY HQDA ASA FM (USA)" [B6]

Subject: Re: Request for DCNG

Looks good. We won't have a decision until Monday morning after secdef mtg. Let's huddle
NLT lunchtime Monday for final go/no-go.

Thanks
RM

From: "Eifler, Brian S BG USARMY HQDA OCLL (USA)"

<[REDACTED] B6 [REDACTED]>

Date: Saturday, January 2, 2021 at 3:33:41 PM

To: "McCarthy, Ryan D HON USARMY HQDA SECARMY (USA)"

<[REDACTED] B6 [REDACTED]>, "McConville, James C GEN USARMY HQDA CSA (USA)" <[REDACTED] B6 [REDACTED]>

Cc: "McPherson, James E HON USARMY HQDA SECARMY (USA)"

[REDACTED] B6 [REDACTED], "Martin, Joseph M GEN USARMY HQDA VCSA (USA)" <[REDACTED] B6 [REDACTED]>, "Piatt, Walter E LTG USARMY HQDA DAS (USA)" <[REDACTED] B6 [REDACTED]>, "Flynn, Charles A LTG USARMY HQDA DCS G-3-5-7 (USA)"

<[REDACTED] B6 [REDACTED]>, "LaNeve, Christopher Charles BG USARMY HQDA DCS G-3-5-7 (USA)" <[REDACTED] B6 [REDACTED]>

[REDACTED] B6 [REDACTED] COL USARMY HQDA OCPA (USA)"

<[REDACTED] B6 [REDACTED]>, "Hannah, Amy E BG USARMY HQDA OCPA (USA)" <[REDACTED] B6 [REDACTED]>, "Yurkanin, Kathryn M SES USARMY HQDA OCLL (USA)" <[REDACTED] B6 [REDACTED]>, "Horlander, Thomas A LTG USARMY HQDA ASA FM (USA)"

[REDACTED] B6 [REDACTED], [REDACTED] B6 [REDACTED] COL USARMY HQDA ASA FM (USA)" <[REDACTED] B6 [REDACTED]>

Subject: Request for DCNG

Mr. Secretary and Chief,

This is our running estimate:

B5

B5

[REDACTED] B5 [REDACTED] Also, the House will be in tomorrow (Sun 3 Jan) to convene the 117th Congress, vote on the Speaker, and then administer the Oath of Office to members. Details of notification is below.

Pending your questions or guidance, we remain in coordination mode.

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B5

People First! Winning matters! Army Strong!

Brian S. Eifler

BG, USA

Army Legislative Liaison

Pentagon Room **B6**

Office **B6**

Cell: **B6**

NIPR **B6**

SIPR

B6

Message

From: Piatt, Walter E LTG USARMY HQDA DAS (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP
[B6]/CN=RECIPIENTS/CN=[B6]
Sent: 12/31/2020 10:29:06 PM
To: McCarthy, Ryan D HON USARMY HQDA SECARMY (USA) [B6]
CC: LaNeve, Christopher Charles MG USARMY FORSCOM (USA) [B6] Pearce, Michele A
SES USARMY HQDA OGC (USA) [B6] McPherson, James E HON USARMY HQDA SECARMY
(USA) [B6] McConville, James C GEN USARMY HQDA CSA (USA)
[B6] Martin, Joseph M GEN USARMY HQDA VCSA (USA)
[B6] COL USARMY 101 ABN DIV (USA) [B6]
[B6] COL USARMY USACC (USA) [B6] Flynn, Charles A GEN
USARMY USARPAC (USA) [B6]
Subject: FW: DCNG 5-6 January 2021 Support and Contingency Plan
Attachments: smime.p7m

Mr. Secretary,

I just spoke with MG Walker he expects that he will receive a formal request by 4 JAN (or this weekend) and is fully prepared to support. MG Walker will continue with planning but will not commit until the formal request is received and approved.

This mission is for 5 and 6 JAN. We are postured to process this request upon receipt.

V/R
Walt

LTG Walt Piatt
Director of the Army Staff
[B6]

People First! Winning matters!

From: Walker, William J MG USARMY NG DCARNG (USA) [B6]
Sent: Thursday, December 31, 2020 5:13 PM
To: McCarthy, Ryan D HON USARMY HQDA SECARMY (USA) [B6]; Piatt, Walter E LTG
USARMY HQDA DAS (USA) [B6]; Hokanson, Daniel R GEN USARMY NG OCNGB (USA)
[B6]; Sasseville, Marc H Lt Gen USAF NG OCNGB (USA) [B6];
Jones, Omar J IV MG USARMY MDW (USA) [B6]
Cc: Dean, Aaron R II BG USARMY NG DCARNG (USA) [B6] [B6] CSM
USARMY NG DCARNG (USA) [B6]; Maldonado, Mark A Brig Gen USAF NG DCANG (USA)
[B6]; Ryan, R Kenneth [B6] BG USARMY NG DCARNG (USA)
[B6] COL USARMY NG DCARNG (USA) [B6]
Subject: DCNG 5-6 January 2021 Support and Contingency Plan

CLASSIFICATION: UNCLASSIFIED

The Honorable Ryan D. McCarthy,
Secretary of the Army
The Pentagon, Washington, D.C.

Mr. Secretary,

Sir, this afternoon I received a call from [REDACTED] **B6** District of Columbia Homeland and Security Management Agency (HSEMA) requesting DCNG support on 5 and 6 January 2021 to assist the MPD and Fire and Emergency Medical Services (FEMS). Mr. Secretary we have yet to receive a formal request for assistance, however our MPD liaison advises the request will be for the DCNG to augment 30 Traffic Control Points and six Metro Stations. Sir, FEMS is going to request the 33rd Civil Support Team assist them.

Sir, [REDACTED] **B5** to assist the District on both days with two 12 hour shifts. Mr. Secretary, the attached slides outline the plan to support the two District agencies upon receipt of a formal request and your approval.

Mr. Secretary, we remain in continuous communication with Federal and District Government law enforcement authorities and as of 1700 hours this evening, no Federal requests for assistance have been made, and with the possible exception of the U.S. Secret Service, none are anticipated. Sir, the Secret Service will let us know by Monday if they will request our support.

Mr. Secretary, I am standing by to answer any questions. Sir, I will provide additional details and any updates as they become available. Happy New Year Sir.

Most respectfully,

MG Walker

WILLIAM J. WALKER
Major General, USA
23rd Commanding General
District of Columbia National Guard

"Protecting the Capital and Defending the Nation since 1802"

[REDACTED] **B6**

Message

From: McConville, James C GEN USARMY HQDA CSA (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP
[B6] CN=RECIPIENTS/CN=[B6]
Sent: 1/3/2021 5:22:00 PM
To: Piatt, Walter E LTG USARMY HQDA DAS (USA) [B6]
CC: Martin, Joseph M GEN USARMY HQDA VCSA (USA) [B6] McPherson, James E HON
USARMY HQDA SECARMY (USA) [B6]; Flynn, Charles A GEN USARMY USARPAC (USA)
[B6] COL USARMY 101 ABN DIV (USA) [B6]
[B6] COL USARMY HQDA CSA (USA) [B6] [B6] COL
USARMY 101 ABN DIV (USA) [B6] COL USARMY HQDA SECARMY
(USA) [B6] COL USARMY HQDA DCS G-3-5-7 (USA)
[B6] MAJ USARMY 11 ADA BDE (USA)
[B6] LaNeve, Christopher Charles MG USARMY FORSCOM (USA)
[B6]
Subject: Re: DC request for NG Support
Attachments: smime.p7m

Rgr DAS

GEN James C. McConville
40th Chief of Staff of the Army

B6

PEOPLE FIRST! WINNING MATTERS!

From: "Piatt, Walter E LTG USARMY HQDA DAS (USA)" <[B6]>
Date: Sunday, January 3, 2021 at 12:13:55 PM
To: "McConville, James C GEN USARMY HQDA CSA (USA)"
<[B6]>
Cc: "Martin, Joseph M GEN USARMY HQDA VCSA (USA)"
<[B6]>, "McPherson, James E HON USARMY HQDA SECARMY
(USA)" <[B6]>, "Flynn, Charles A LTG USARMY HQDA DCS
G-3-5-7 (USA)" <[B6]>, [B6] COL USARMY HQDA
SECARMY (USA)" <[B6]>, [B6] COL USARMY
HQDA CSA (USA)" <[B6]>, [B6] COL
USARMY HQDA VCSA (USA)" <[B6]>
COL USARMY HQDA SECARMY (USA)" <[B6]>
[B6] COL USARMY HQDA DCS G-3-5-7 (USA)" <[B6]>
[B6] MAJ USARMY HQDA DCS G-3-5-7 (USA)"
[B6] >, "LaNeve, Christopher Charles BG USARMY HQDA DCS
G-3-5-7 (USA)" <[B6]>
Subject: RE: DC request for NG Support

Chief,

I spoke with the SA. With the updated information provided he is prepared for his 1300hr phone call.

Bottom line: [B5] Key activities that we are monitoring is 1. Lead federal agency designation 2. Full commitment of other federal agencies 3. Increase numbers of demonstrators (currently only estimated at 2 - 20K)

The SA indicated he will want to do a hot wash after his call. Time is TBD. BG LaNeve and I are prepared to take that hot wash via SVTC bridge [B6] to receive any updated guidance from the SA and incorporate in our staff planning effort and will send an update later today for the 0730 huddle tomorrow.

I will let all know on this e-mail once we have a time. But SA is not directing ASL participation he just wants to pass planning guidance back to us.

V/R

Walt

LTG Walt Piatt

Director of the Army Staff

[B6]

People First! Winning matters!

From: LaNeve, Christopher Charles BG USARMY HQDA DCS G-3-5-7 (USA)

<[B6]>

Sent: Sunday, January 3, 2021 10:26 AM

To: McCarthy, Ryan D HON USARMY HQDA SECARMY (USA)

<[B6]>

Cc: McConville, James C GEN USARMY HQDA CSA (USA)

[B6]; Martin, Joseph M GEN USARMY HQDA VCSA (USA)

[B6] McPherson, James E HON USARMY HQDA SECARMY (USA) [B6] Piatt, Walter E LTG USARMY HQDA DAS (USA)

[B6] Flynn, Charles A LTG USARMY HQDA DCS G-3-5-7 (USA)

[B6] COL USARMY HQDA SECARMY (USA)

[B6] COL USARMY HQDA CSA (USA)

[B6] COL USARMY HQDA VCSA (USA) <[B6]> COL USARMY HQDA

SECARMY (USA) <[B6]> COL USARMY

HQDA DCS G-3-5-7 (USA) < [REDACTED] B6 MAJ
USARMY HQDA DCS G-3-5-7 (USA) < [REDACTED] B6 >
Subject: DC request for NG Support

Mr. Secretary,

I have attached 2 slide decks for you. We will be using these Monday morning for the update.

<!--[if !supportLists]-->• <!--[endif]-->**Deck one is a recommendation slide, timeline of events, task and purpose of the requested assets, and a picture depicting the locations of the TCPs / Metro CPs, and the requested start points the demonstrators stated on-line or on their request / permits.**

<!--[if !supportLists]-->• <!--[endif]-->**Deck two is the DCNG presentation in more detail.**

B5

Proposed Timeline for upcoming events:

<!--[if !supportLists]-->• <!--[endif]-->**0730 4 JAN: Update to SA**

<!--[if !supportLists]-->• <!--[endif]-->**0915 4 JAN: Update to A/SD .**

<!--[if !supportLists]-->• <!--[endif]-->**1400 4 JAN: Conditions Check with DC NG**

<!--[if !supportLists]-->• <!--[endif]-->**0600 5 JAN: Department of Homeland Security Virtual Situation OPs Center operational (OD will monitor)**

VR/

Chris

Christopher C. LaNeve

BG, USA

Director of Operations, Readiness, & Mobilization HQDA, G-3/5/7 Pentagon

Room **B6**

Office: **B6**

Mobile: **B6**

SVOIP: **B6**

Tandberg: **B6**

NIPR: **B6**

SIPR: **B6**

Message

From: McConville, James C GEN USARMY HQDA CSA (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP
[B6]/CN=RECIPIENTS/CN=[B6]
Sent: 1/1/2021 11:11:26 PM
To: [B6] CW5 USARMY HQDA CSA (USA) [B6]
CC: [B6] COL USARMY HQDA CSA (USA) [B6] MAJ
USARMY HQDA CSA (USA) [B6]
Subject: Re: Conference Call Tomorrow w/SA
Attachments: smime.p7m

DC

I will be available; please send me the info.
HAPPY NEW YEAR!

GEN James C. McConville
40th Chief of Staff of the Army

[B6]

[B6]

PEOPLE FIRST! WINNING MATTERS!

From: "[B6] CW5 USARMY HQDA CSA (USA)"

[B6]

Date: Friday, January 1, 2021 at 4:51:19 PM

To: "McConville, James C GEN USARMY HQDA CSA (USA)"

[B6]

Cc: [B6] COL USARMY HQDA CSA (USA)"

[B6]

[B6]

MAJ USARMY HQDA CSA (USA)"

[B6]

Subject: Conference Call Tomorrow w/SA

Happy New Year Sir!

SA would like to conduct a conference call tomorrow at 1130EST to discuss DCNG support 5-6 Jan. He understands you may be traveling and may be unavailable. Attendees are VCSA, DAS, MG Walker and BG LaNeve.

Sir, pending your response I will send the dial-in info to you via text. Thanks!.

VR~

[B6]

[B6]

CW5, GS

[B6]

201 Army Pentagon, Room [B6]

Washington, DC 20310-0200

COMM: [B6] DSN: [B6]

NIPR

[B6]

SIPR

Follow CSA on Twitter: @ArmyChiefStaff

Like his FB Page: <https://www.facebook.com/USArmyChiefofStaff>