



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

November 9, 2023

Emma Lewis

Sent via email: [foia@americanoversight.org](mailto:foia@americanoversight.org)

Dear Ms. Lewis:

This letter responds to your Freedom of Information Act (FOIA) request dated January 11, 2021. Your matter is now in litigation in *American Oversight v. DOD, et al.*, 21-cv-624 (D.D.C.).

Your January 11, 2021, FOIA request is for all responsive records from December 31, 2020, through January 7, 2021:

1. All communications (including emails, email attachments, complete email chains, text messages (or messages on similar applications such as Signal or WhatsApp) and calendar invitations) sent or received by the officials listed below regarding events at the U.S. Capitol, U.S. National Mall, or surrounding grounds in Washington D.C. on January 6, 2021, including but not limited to the potential or actual deployment of law enforcement officers and/or National Guard troops, requests for assistance from members of Congress or Congressional staff, protests or armed activity at the Capitol, President Trump's rally, or concerns about security.
  2. All orders, directives, protocols, or guidance prepared, written, approved, or signed by the officials listed below, regarding events at the U.S. Capitol, U.S. National Mall, or surrounding grounds in Washington D.C. on January 6, 2021, including but not limited to the potential or actual deployment of law enforcement officers and/or National Guard troops, requests for assistance from members of Congress or Congressional staff, protests or armed activity at the Capitol, President Trump's rally, or concerns about security.
- Our search yielded the attached responsive records.

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 6 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 F.2d 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](mailto:Lee.Reeves2@usdoj.gov).

Sincerely,

*Paul V. DeAgostino*

Paul V. DeAgostino  
Senior Counsel

Message

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**From:** [REDACTED] LTC USARMY HQDA SECARMY (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP  
[REDACTED]/CN=RECIPIENTS/CN=[REDACTED]  
**Sent:** 1/4/2021 10:37:00 PM  
**To:** McPherson, James E HON USARMY HQDA SECARMY (USA) [REDACTED]@mail.mil]  
**CC:** [REDACTED] COL USARMY HQDA SECARMY (USA) [REDACTED]@mail.mil]; [REDACTED] MAJ  
USARMY HQDA SECARMY (USA) [REDACTED]@mail.mil]; [REDACTED] MAJ USARMY HQDA  
SECARMY (USA) [REDACTED]@mail.mil]  
**Subject:** WSJ prep materials  
**Attachments:** smime.p7m

Mr. McPherson,

A few updates for the prep for tomorrow's interview with [REDACTED]. Attached is the prep card [REDACTED] prepared today for the Secretary for the DCNG activation.

As far the COVID vaccine updates goes, LTG Dingle briefed during the G3 Synch that more than 23,000 vaccinations have been administered to those Army personnel in Tier 1A and we have approx. 500 personnel who have declined the vaccine.

We'll have this card printed out for you tomorrow when you arrive to the building after your morning trip.

Thank you!

Very Respectfully,

[REDACTED]  
LTC, USA  
Public Affairs Officer  
Office of the Under Secretary of the Army  
[REDACTED]@mail.mil

Message

**From:** McConville, James C GEN USARMY HQDA CSA (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP  
[REDACTED] B6 /CN=RECIPIENTS/CN=[REDACTED] B6]  
**Sent:** 1/4/2021 6:37:05 PM  
**To:** Eifler, Brian S BG USARMY HQDA OCLL (USA) [REDACTED] B6; McCarthy, Ryan D HON USARMY HQDA  
SECARMY (USA) [REDACTED] B6  
**CC:** McPherson, James E HON USARMY HQDA SECARMY (USA) [REDACTED] B6; Martin, Joseph M  
GEN USARMY HQDA VCSA (USA) [REDACTED] B6; Piatt, Walter E LTG USARMY HQDA DAS (USA)  
[REDACTED] B6; SMA USARMY HQDA SMA (USA)  
[REDACTED] B6; Flynn, Charles A GEN USARMY USARPAC (USA) [REDACTED] B6  
LaNeve, Christopher Charles MG USARMY FORSCOM (USA) [REDACTED] B6; [REDACTED] B6; TC  
USARMY HQDA SECARMY (USA) [REDACTED] B6; [REDACTED] B6; LTC USARMY HQDA OCLL (USA)  
[REDACTED] B6; Hannah, Amy E BG USARMY HQDA OCPA (USA) [REDACTED] B6  
**Subject:** RE: Uniform Requirements for Civil Disturbance support  
**Attachments:** smime.p7m

Thanks Brian.

**From:** Eifler, Brian S BG USARMY HQDA OCLL (USA) [REDACTED] B6  
**Sent:** Monday, January 4, 2021 1:23 PM  
**To:** McCarthy, Ryan D HON USARMY HQDA SECARMY (USA) [REDACTED] B6; McConville, James C GEN  
USARMY HQDA CSA (USA) [REDACTED] 7E  
**Cc:** McPherson, James E HON USARMY HQDA SECARMY (USA) [REDACTED] B6; Martin, Joseph M  
GEN USARMY HQDA VCSA (USA) [REDACTED] B6; Piatt, Walter E LTG USARMY HQDA DAS (USA)  
[REDACTED] B6; SMA USARMY HQDA SMA (USA) [REDACTED] B6  
Flynn, Charles A LTG USARMY HQDA DCS G-3-5-7 (USA) [REDACTED] B6; LaNeve, Christopher Charles BG  
USARMY HQDA DCS G-3-5-7 (USA) [REDACTED] B6; LTC USARMY HQDA SECARMY  
(USA) [REDACTED] B6; TC USARMY HQDA OCLL (USA)  
[REDACTED] B6; Hannah, Amy E BG USARMY HQDA OCPA (USA) [REDACTED] B6  
**Subject:** Uniform Requirements for Civil Disturbance support

Gentlemen,

Per the CSA discussion on uniforms, Sec 1064 of the NDAA:

“Whenever a member of the armed forces (including the National Guard) or Federal law enforcement personnel provide support to Federal authorities to respond to a civil disturbance, each individual employed in the capacity of providing such support shall visibly display— “(1) the individual’s name or other individual identifier that is unique to that individual; and “(2) the name of the armed force, Federal entity, or other organization by which such individual is employed. “(b) EXCEPTION.—The requirement under subsection (a) shall not apply to individuals referred to in such subsection who— “(1) do not wear a uniform or other distinguishing clothing or equipment in the regular performance of their official duties; or “(2) are engaged in undercover operations in the regular performance of their official duties.”

Brian S. Eifler  
BG, USA  
Army Legislative Liaison  
Pentagon Room [REDACTED] B6  
Office: [REDACTED] B6  
Cell: [REDACTED] B6  
NIPR: [REDACTED] B6  
SIPR: [REDACTED] B6  
SIPR: [REDACTED] B6

NIPR

**B6**

Message

**From:** McCarthy, Ryan D HON USARMY HQDA SECARMY (USA) [/O=EASF/OU=EXCHANGE ADMINISTRATIVE GROUP (CN=RECIPIENTS/CN= [REDACTED] B6 ]]  
**Sent:** 12/31/2020 11:05:33 PM  
**To:** Piatt, Walter E LTG USARMY HQDA DAS (USA) [REDACTED] B6 Walker, William J MG USARMY NG DCARNG (USA) [REDACTED] B6 ]; Hokanson, Daniel R GEN USARMY NG OCNGB (USA) [REDACTED] B6 ; Sasseville, Marc H Lt Gen USAF NG OCNGB (USA) [REDACTED] B6 ; Jones, Omar J IV MG USARMY MDW (USA) [REDACTED] B6  
**CC:** Dean, Aaron R II BG USARMY NG DCARNG (USA) [REDACTED] B6 [REDACTED] B6 [REDACTED] B6 CSM USARMY NG DCARNG (USA) [REDACTED] B6 Maldonado, Mark A Brig Gen USAF NG DCANG (USA) [REDACTED] B6 Ryan, R Kenneth (Ken) BG USARMY NG DCARNG (USA) [REDACTED] B6 [REDACTED] B6 COL USARMY NG DCARNG (USA) [REDACTED] B6 LaNeve, Christopher Charles MG USARMY FORSCOM (USA) [REDACTED] B6  
**Subject:** Re: DCNG 5-6 January 2021 Support and Contingency Plan  
**Attachments:** smime.p7m

Ack. I'm on the phone with MG Walker. Let's digest information before we do anything.

Thanks  
RM

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**From:** "Piatt, Walter E LTG USARMY HQDA DAS (USA)" [REDACTED] B6  
**Date:** Thursday, December 31, 2020 at 5:29:58 PM  
**To:** "Walker, William J MG USARMY NG DCARNG (USA)" [REDACTED] B6 "McCarthy, Ryan D HON USARMY HQDA SECARMY (USA)" [REDACTED] B6 "Hokanson, Daniel R GEN USARMY NG OCNGB (USA)" [REDACTED] B6 "Sasseville, Marc H Lt Gen USAF NG OCNGB (USA)" [REDACTED] B6 "Jones, Omar J IV MG USARMY MDW (USA)" [REDACTED] B6  
**Cc:** "Dean, Aaron R II BG USARMY NG DCARNG (USA)" [REDACTED] B6 [REDACTED] B6 CSM USARMY NG DCARNG (USA)" [REDACTED] B6 "Maldonado, Mark A Brig Gen USAF NG DCANG (USA)" [REDACTED] B6 "Ryan, R Kenneth (Ken) BG USARMY NG DCARNG (USA)" [REDACTED] B6 [REDACTED] B6 COL USARMY NG DCARNG (USA)" [REDACTED] B6 "LaNeve, Christopher Charles BG USARMY HQDA DCS G-3-5-7 (USA)" [REDACTED] B6  
**Subject:** RE: DCNG 5-6 January 2021 Support and Contingency Plan

MG Walker,

ACK. Thank you for the call. We are prepared to process the formal request as soon as you receive it.

V/R

Walt

LTG Walt Piatt

Director of the Army Staff

**B6**

People First! Winning matters!

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**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] [B6] CSM USARMY NG DCARNG (USA) [B6]; Maldonado, Mark A Brig Gen USAF NG DCANG (USA) [B6]; Ryan, R Kenneth (Ken) BG USARMY NG DCARNG (USA) [B6] [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 Dr. Chris Rodriguez, Director of the 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, we anticipate [B5] DCNG Guardsmen will be required 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"

[B6]