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July 17, 2020

Via Email

Dena Kozanas
Chief Privacy Officer/Chief FOIA
Officer Privacy Office, Mail Stop
0655 Department of Homeland
Security 2707 Martin Luther King
Jr. Ave, SE Washington, D.C.
20528

Re: Freedom of Information Act Request re Deputation of Agency Personnel

Ms. Kozanas:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) submits this request under the Freedom of Information Act (“FOIA”) for records related to the mobilization of federal agency personnel in response to protests in Washington D.C.

In recent months, and prompted by the May 25, 2020 killing of George Floyd, communities across the country have gathered to demand accountability and change from their elected officials and from law enforcement. Peaceful protests have occurred in each of the 50 states and in the District of Columbia, where a substantial number of concerned citizens have exercised their First Amendment right to demonstrate.

In response to protests occurring in the nation’s capital, the federal government deployed law enforcement personnel from a number of federal agencies, including (among others) the United States Customs and Border Patrol (“CBP”). The decision to deploy federal law enforcement personnel, and the manner in which federal law enforcement personnel were deployed, escalated concerns about whether protestors could safely voice their demand for social justice and institutional reform. Rhetoric from federal officials, including the suggestion that governors treat demonstrations as a “battle space” to be dominated, exacerbated the concern around whether the influx of federal law enforcement officers would impede First Amendment rights.



On June 4, 2020, Washington D.C. Mayor Muriel Bowser requested that the federal government withdraw recently deployed law enforcement personnel from the city. The same day, city officials wrote to Attorney General Barr and federal officials, asking them to identify “[w]hat federal law enforcement personnel . . . have been sent to the District from other locations or, if already in the District, reprogrammed to respond to protests and demonstrations in the District of Columbia.” City officials likewise asked Attorney General Barr to identify the legal authority for mobilizing additional federal law enforcement personnel and the scope of their law-enforcement authority in the District.

Attorney General Barr responded on June 9, 2020. In his letter, Attorney General Barr indicated that the federal government had mobilized personnel from several federal agencies and components. The Attorney General indicated that those agencies were acting “within the scope” of their federal authorities that, “where useful and appropriate,” and agencies had been assigned “additional duties. . . to assist in the enforcement of federal law.” By way of example, the Attorney General indicated that the U.S. Marshall Service had “deputized officers from the Department of Homeland Security and from BOP, including its Special Operations Response Teams.”

In light of this background, LDF respectfully requests that DHS expeditiously process this request. In addition to engaging in litigation and advocacy, LDF engages in public education around issues of social justice and equality. Those efforts have included efforts to disseminate information about the protests and government response to protests prompted by the killing of Mr. Floyd.

I. Requests for Information

LDF acting on its own behalf, hereby requests that, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*, the Department of Homeland Security (“DHS”) provide information relating to federal law enforcement personnel being delegated authority to respond to protests and demonstrations in the District of Columbia, and the legal authority for such delegation.

LDF requests disclosure of the following records:

1. Records authorizing DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to protests and demonstrations occurring in Washington, D.C. between May 25, 2020, and the date of this request.
2. Records relating to authorization for DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to, protests and demonstrations occurring in Washington, D.C. between May 25, 2020, and the date of this request.
3. Any Interagency Agreement, Memorandum of Understanding, and/or other similar document, covering or related to the deployment of personnel, equipment, and/or



resources from DHS or its components to support law enforcement efforts undertaken in connection with protests and demonstrations occurring in Washington D.C. between May 25, 2020, and the date of this request.

4. Any records relating to the deputation of personnel from DHS or its component agencies to perform the functions of a Deputy U.S. Marshal in connection with law enforcement efforts undertaken in response to protests and demonstrations occurring in Washington D.C. between May 25, 2020 and the date of this request.

II. Fee Waiver Request

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), LDF requests the waiver of all fees associated with this request. LDF is a non-profit entity committed to protecting the legal rights of Black communities. The unprecedented deployment of law enforcement agency personal in Washington D.C., without proper delegation or legal authority raises concerns as to whether the federal government exceeded its authority and violated the rights of protestors. Disclosure of the information requested above is likely to contribute significantly to public understanding of DHS activities, because LDF will use such information to inform its public education and advocacy efforts, in line with previous efforts our organization has made in other contexts.¹

If all or any part of this request is denied, please provide us with a written statement of the grounds for the denial; citing the law or regulation under which you believe you may deny access. If this is the case, we also request that you inform us of the available remedies for review of the denial. It is essential that this request be responded to within 20 days, as required by § 552(a)(6).

If possible, we request that the information we request be provided in electronic format. The contact information is below. We appreciate your attention to this matter.

Sincerely,

Natasha C. Merle
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¹ For more information about the advocacy efforts of LDF, please visit www.naacpldf.org.