

2. DOD and Army conveyed to Plaintiff that when an employee separates from DOD or Army he or she turns in the government-issued phone, and the phone is wiped. For those custodians no longer with the agency, the text messages were not preserved and therefore could not be searched, although it is possible that particular text messages could have been saved into other records systems such as email. For those custodians still with the agency, the agencies have initiated a search for text messages responsive to the FOIA requests.

3. Given the posture of the FOIA requests at issue and the Parties' intentions to confer and work together to resolve any remaining issues, the Parties do not yet know whether summary judgment briefing will be necessary. Thus, the Parties respectfully propose that the Court defer entering a briefing schedule at this time. The Parties further propose that they file a joint status report by May 10, 2022, updating the Court on the status of the case.

Dated: March 10, 2022

Respectfully submitted,

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