THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

AMERICAN OVERSIGHT, 1030 15th Street NW, B255)
Washington, DC 20005)
Plaintiff,)
v.) Civil No. 1:21-cv-637
U.S. DEPARTMENT OF)
DEFENSE, 1600 Pentagon 3E788)
Washington, DC 20301-1600)
U.S. ARMY,)
Office of the Army General Counsel)
101 Army Pentagon)
Washington, DC 20310-0104)
Defendants.)

JOINT STATUS REPORT

Plaintiffs and Defendants respectfully submit this Joint Status Report to advise the Court on the status of Plaintiff's Freedom of Information Act (FOIA) requests.

1. DOD and Army previously indicated that the agencies had completed their searches and production of records. DOD made a production to Plaintiff on September 22, 2021. Army completed its search for responsive records and its search identified no responsive records. Plaintiff inquired about searches for text message communications responsive to the FOIA requests.

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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,

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

Civil Division

MARCIA BERMAN

Assistant Branch Director

<u>/s/ Lisa Newman</u>

Lisa Newman (TX Bar No. 24107878)

Trial Attorney

U.S. Department of Justice

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