

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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May 20, 2024

Mr. Thomas Faust
Director
District of Columbia Department of Corrections
3924 Minnesota Ave., NE
Washington, DC 20019

Dear Director Faust:

The Committee on the Judiciary is conducting oversight of the District of Columbia Department of Corrections' (DOC) decision to withhold information pertaining to a defendant housed in your facility. Since January of last year, Representative Troy E. Nehls, a member of the Committee, has made several requests for information and documents concerning an incident involving Ronald Colton McAbee, a former inmate in one of your detention facilities pursuant to an intergovernmental agreement with the United States Marshal Service (USMS).¹

On September 5, 2022, an altercation occurred between Mr. McAbee and Lieutenant Crystal Lancaster, a DOC employee, that resulted in the discharge of chemical munitions in McAbee's face.² According to an account of the incident, this use of force was not only unprompted, but may have violated the commonly used Use of Force Model used by correctional agencies.³ On January 9, 2023, Representative Nehls submitted a Freedom of Information (FOIA) request to DOC, USMS, and Metropolitan Police Department (MPD) for the relevant body camera footage of Lieutenant Lancaster's encounter with McAbee.⁴

On January 10, 2023, MPD stated it did not have ownership of the camera footage because Lieutenant Lancaster is not an employee of MPD.⁵ USMS denied the FOIA request on

¹ Email from Taylor Reaves, Counsel to Rep. Troy Nehls, to Mark Pittella, Counsel to Department of Justice (Feb. 14, 2023).

² Letter from Sarah McAbee to Dep't of Justice (Sep. 6, 2022)

³ *Id.*

⁴ Email from District of Columbia Mayor's Office of Legal Counsel, to Taylor Reaves, Counsel to Rep. Troy Nehls (Aug. 8, 2023).

⁵ Email from Lisa Archie-Mills, FOIA Specialist, Metropolitan Police Department to Taylor Reaves, Counsel to Rep. Troy Nehls (January 10, 2023).

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the basis that the footage and information is in DOC custody.⁶ On January 19, 2023, DOC denied the request—despite receiving a waiver for the footage from Mr. McAbee—alleging that the release would constitute “a clearly unwarranted invasion of personal privacy and is exempt from disclosure”⁷

On January 30, 2023, Representative Nehls also sent a preservation of evidence request to Mayor Bowser.⁸ On February 21, 2023, DOC notified Representative Nehls that it had decided to release the footage “in the consideration of public interest.”⁹ However, the DOC later retracted that promise, claiming there had been a “miscommunication” and that the footage would not be disclosed.¹⁰ On May 22, 2023, Representative Nehls appealed the FOIA decision.¹¹ Additionally, Representative Nehls explained that his FOIA request for Lieutenant Lancaster’s body camera footage was not exempt from disclosure as individuals are entitled to “full and complete information” regarding the affairs of government as well as the acts of those who represent them as public officials and employees.¹² On August 8, 2023, the denial of Representative Nehls’s FOIA request was upheld by the Executive Office of Mayor Muriel Bowser.¹³

On February 14, 2024, the Subcommittee on Crime and Federal Government Surveillance of the Committee on the Judiciary held an oversight hearing of the USMS with Director Ronald Davis.¹⁴ At that hearing, Representative Nehls again sought information and answers regarding the incident concerning Mr. McAbee, explaining his multiple attempts to access the footage and his continued concerns surrounding the repeated denials to view the footage.¹⁵ In response, Director Davis responded that he would “commit my team to working with yours to see how we can be responsive to your request.”¹⁶ Unfortunately in April, USMS relayed once again that they would be unable to assist Representative Nehls in obtaining the footage despite their apparent commitment to assistance.¹⁷

⁶ Email from Office of General Counsel, United States Marshals Service to Taylor Reaves, Counsel to Rep. Troy Nehls (Jan. 23, 2023).

⁷ Email from District of Columbia Mayor’s Office of Legal Counsel, to Taylor Reaves, Counsel to Rep. Troy Nehls (Aug. 8, 2023).

⁸ See Letter from Troy Nehls, Member of Congress, to Mayor Muriel Bowser, Mayor of District of Columbia (January 30, 2023).

⁹ Email from Oluwasegun Obebe, DC Dep’t of Corrections to Taylor Reaves, Counsel to Rep. Troy Nehls (Feb. 21, 2024).

¹⁰ *Id.*

¹¹ Email from the Office of the General Counsel, Department of Corrections, to Taylor Reaves, Counsel to Rep. Troy Nehls (June 5, 2023).

¹² D.C. Code § 2-531.

¹³ *Id.*

¹⁴ *Oversight of the United States Marshals Service: Hearing Before the Sub. Comm. on Crime and Federal Government Surveillance House Jud. Comm.* 118th Cong. 1-65 (2024).

¹⁵ *Id* at 24.

¹⁶ *Id* at 25.

¹⁷ Email from Taylor Reaves, Counsel to Rep. Troy Nehls, to Mark Pittella, Counsel to Department of Justice (Feb. 14, 2023).

It has been over 15 months since Rep. Nehls attempted to obtain the relevant footage, and the Committee has serious concerns about the DOC's continued lack of transparency, obstruction, and unwillingness to work to provide the requested information. While DOC claims to provide for an "orderly, safe, secure and humane environment,"¹⁸ the alleged incident that occurred with Mr. McAbee on September 5, 2022, suggests otherwise. Any allegation of the mistreatment of a federal detainee should be taken seriously and fully investigated. The DOC's repeated attempts to prevent a Member of Congress from obtaining the body camera footage hinders Congress's ability to conduct oversight and to adequately assess whether the DOC has failed to hold officers accountable for their alleged misconduct.

As such, the Committee seeks to understand the DOC's repeated denial of Representative Nehls's request to obtain the body camera footage. Accordingly, to inform our oversight of this issue, please provide the following information:

1. The body camera footage of Lieutenant Crystal Lancaster on September 5, 2022, from the hours of 10:00 a.m. to 1:00 p.m. in the C2B pod in the D.C. Department of Corrections;
2. All documents and communications referring or relating to Representative Nehls's request to obtain the body camera footage of Lieutenant Crystal Lancaster on September 5, 2022, from the hours of 10:00 a.m. to 1:00 p.m. in the C2B pod in the D.C. Department of Corrections, including but not limited to documents and communications regarding Representative Nehls's FOIA request and the DOC's decision to deny that request and subsequent appeal;
3. All documents and communications referring or relating to the investigation of the incident between Ronald Colton McAbee and Lieutenant Crystal Lancaster on September 5, 2022; and
4. Information regarding any disciplinary proceedings or actions taken against Lieutenant Crystal Lancaster during her tenure at DOC.

The Committee on the Judiciary has jurisdiction to conduct oversight over federal inmates pursuant to Rule X of the Rules of the House of Representatives. Please provide this information as soon as possible, but no later than 5:00 p.m. on May 27, 2024. Please be advised that the Committee may be forced to resort to compulsory process if these requests remain outstanding.

¹⁸ Mayor Muriel Bowser, About DOC, DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS (last accessed May 16, 2024).

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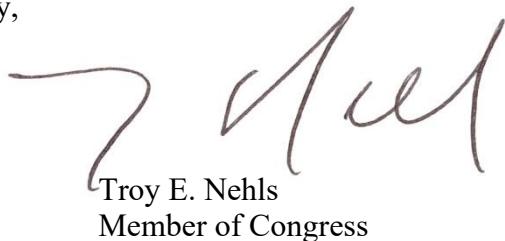
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Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman



Troy E. Nehls
Member of Congress

cc: The Honorable Jerrold L. Nadler, Ranking Member