



Wiggin and Dana LLP  
800 17th Street, NW  
Suite 520  
Washington, DC 20006  
www.wiggin.com

David H. Laufman  
202.800.2477  
203.782.2889 fax  
dlaufman@wiggin.com

August 28, 2020

The Hon. Raul M. Grijalva  
Chair  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, DC 20515

Re: Responses to Questions for the Record

Dear Chairman Grijalva:

On behalf of my client, Adam D. DeMarco, I am forwarding the enclosed written responses to Questions for the Record that he received concerning the July 28, 2020 hearing of the House Committee on Natural Resources ("Committee") titled "Unanswered Questions About the US Park Police's June 1 Attack on Peaceful Protestors at Lafayette Square."

The responses that Mr. DeMarco is submitting concern events he participated in while activated as a reservist in the District of Columbia National Guard. Accordingly, as in the case of his July 28 testimony before the Committee, Mr. DeMarco is providing this information to the Committee pursuant to the Military Whistleblowers Protection Act, 10 U.S.C. § 1034.

Sincerely,

David H. Laufman

Enclosure

**Adam D. DeMarco**

**Responses to Questions for the Record**

**Committee on Natural Resources  
U.S. House of Representatives**

**“Unanswered Questions About the U.S. Park Police’s June 1 Attack  
on Peaceful Protestors at Lafayette Square”**

**Hearing Date: July 28, 2020**

- 1. You testified that the device law enforcement used on June 1, 2020, at Lafayette Square to provide the mandatory warnings to protestors to disperse was not a Long Range Acoustic Device (LRAD), but a standard hand-held megaphone. Please provide any knowledge you may have about whether there was an LRAD on site that day, whether any LRAD was used at all, whether anyone attempted to use an LRAD, and whether there was any intended use of an LRAD. Please identify anyone else who would have knowledge of whether an LRAD was used, procured for use, or attempted to be procured for use at Lafayette Square on June 1, 2020.**

At approximately 11:35 am on June 1, while I was still at Ft. Belvoir, I was copied on an email from the Provost Marshal of Joint Force Headquarters National Capital Region (JFHQ-NCR), the lead military police officer in the Department of Defense for the National Capital Region, asking if the DC National Guard possessed “a Long Range Acoustic Device (LRAD or the Active Denial Systems (ADS).” The email stated that “ADS can provide our troops a capability they currently do not have, the ability to reach out and engage potential adversaries at distances well beyond small arms range, and in a safe, effective, and non-lethal manner. The ADS can immediately compel an individual to cease threatening behavior or depart through application of a directed energy beam that provides a sensation of intense heat on the surface of the skin. The effect is overwhelming, causing an immediate repel response by the targeted individual.”

At approximately 12:04 pm, I responded that the DC National Guard was not in possession of either an LRAD or an ADS.

That evening, after the DC National Guard had deployed to Lafayette Square, I asked my U.S. Park Police (USPP) liaison, Sgt. Glick, if the USPP had an LRAD on-site. He responded that the USPP did not have an LRAD on-site, and that the USPP typically uses the DC Metropolitan Police Department’s LRAD when such a device is needed.

Sgt. Glick then asked if the DC National Guard possessed an LRAD in its equipment inventory. I replied that I would inquire about the possibility of obtaining an LRAD.

According to a Situation Update Brief by JFHQ-DC on June 1 at 6:00 pm, at that time there was a pending request for an LRAD by the DC National Guard to JFHQ-NCR. To my knowledge, however, there was no LRAD on-site at or near Lafayette Square on June 1.

On June 2, I began working with JFHQ-NCR to learn if they could procure an LRAD. I made an informal request to the Provost Marshal at JFHQ-NCR about the feasibility of procuring an LRAD. The Provost Marshal subsequently received a response from Marine Corps Base Quantico, advising that Marine Corps Base Quantico had several LRADs on-site. I subsequently advised logistics officials in the DC National Guard, but they informed me that they were no longer seeking to procure an LRAD from the JFHQ-NCR.

**2. Please provide any information regarding the audibility of the mandatory warnings that you may not have had a chance to present at the hearing or would like to clarify, or respond to.**

The warnings to disperse issued by the USPP at Lafayette Square on June 1, 2020, did not come from an LRAD. Rather, I observed that the device used to give the warnings was a red-and-white megaphone laying on a bench near the statue of President Andrew Jackson in the middle of Lafayette Square. An individual I later learned was the USPP Incident Commander gave the warnings using a handheld microphone attached to the megaphone.

As I stated in my previous testimony, at the time of the warnings the individual giving the warnings (*i.e.*, the USPP Incident Commander) was approximately 50 yards from the demonstrators. I was positioned approximately 30 yards from the Incident Commander, and approximately 20 yards from the front line of the demonstrators. From my position, the USPP warnings to disperse were barely audible and I was only able to discern several words.

**3. Please describe any knowledge you may have, or statements you may have heard from others, regarding whether any law enforcement used rubber bullets on protesters. Please include any observations or knowledge you may have about which law enforcement agency used rubber bullets.**

I do not possess any first-hand knowledge that rubber bullets were used against protesters on June 1. But I observed Stingball grenades affixed to the ballistic vests of law enforcement officers deployed to Lafayette Square. (I was unable to determine the law enforcement agency with which these officers were associated.)

Several days later, a DC National Guardsman who was at Lafayette Square on June 1 told me that he saw protesters being shot with these non-lethal munitions. This DC National Guardsman told me how disturbed he was at seeing an innocent civilian being shot with rubber bullets and falling to the ground in front of him—seemingly indiscriminately.

4. **You mentioned the pre-positioning of M4 carbines by National Guardsmen by transferring them from Fort Belvoir to the DC Armory. When did this transfer occur and how did you become aware of it? Do you have any knowledge of whether any ammunition was also pre-positioned? If so, how did you become aware of it?**

According to contemporaneous information I was receiving from another DC National Guardsman in my unit, this transfer of weapons occurred on June 1, 2020, at approximately 1:30 pm. The order to transfer the weapons to the DC Armory had come from the Commander of the 260<sup>th</sup> Regiment, a unit of the DC National Guard.

On June 4, 2020, I received notice from the logistics component of the DC National Guard that ammunition (not further described) was arriving at the DC Armory from supporting states, including Missouri and Tennessee.

On or about June 5, 2020, I learned from officers in the Joint Operations Center at the DC Armory that 5.56 mm and 7.62mm ammunition had been transferred to the DC Armory.

On or about June 12, 2020, I learned from the chief operations officer (J-3) for the DC National Guard that approximately 7,000 rounds of ammunition had been transferred to the DC Armory.

5. **Acting Chief Monahan testified that the US Park Police used Stinger Balls. Please describe what a Stinger Ball is and how it works. Are there any Army rules or regulations that would be violated if Stinger Balls were used on a peaceful crowd?**

According to the Department of Defense's *Non-Lethal Weapons (NLW) Reference Book*, non-lethal weapons are defined as "weapons, devices and munitions that are explicitly designed and primarily employed to incapacitate targeted personnel or materiel immediately, while minimizing fatalities, permanent injury to personnel, and undesired damage to property in the targeted area or environment" A "Stingball grenade" is among the types of munitions classified as a non-lethal weapon. It is "a hand-thrown or shotgun launched rubber grenade that releases rubber pellets and delivers blunt trauma effects against single and multiple targets

to deny access, move, and/or suppress individuals. Stingball grenade uses include crowd control, detainee operations, and cordon and search operations.”

It is my understanding that the U.S. Army’s use of non-lethal weapons and riot control agents is governed by the Department of Defense’s *Law of War Manual*, and by Executive Order No. 11850, issued on April 8, 1975 (40 Fed. Reg. 16187). I defer to legal experts on how these rules would apply, in a given scenario, to the U.S. Army’s use of Stingball grenades “on a peaceful crowd.” As I testified, however, DC National Guardsmen deployed to Lafayette Square on June 1, 2020, were not equipped with lethal or non-lethal munitions.