

QUESTIONS FOR THE RECORD
Majority

Committee on House Administration
Looking Ahead Series: Oversight of the United States Capitol Police
May 16, 2023

J. Thomas Manger, Chief
U.S. Capitol Police

Does USCP currently have a policy in place to protect whistleblowers?

No specific whistleblower protections are codified in the Legislative Branch. Per USCP Directive 2053.011, Anti-Discrimination and Anti-Harassment Policy, “[t]he Department strictly prohibits intimidation or retaliation against any employee who, in good faith, reports incidents of discrimination or harassment, participates or aids in an investigation of a complaint, or participates or assists in any way in a discrimination or harassment charge, investigation, or proceeding.”

- *If yes: What is that policy?*

See above answer.

- *Will you share a written copy of that policy with the Republicans and Democrats on this Committee?*

*Yes, see **attached**.*

Does rhetoric advocating to “defund the police” help or hurt your ability to recruit good officers and do your job?

The phrase “defund the police” is one that gained traction in the summer of 2020 in the aftermath of the death of George Floyd and was intended to decrease funding for police departments nationwide and decrease the number of police officers. Over the past few years, law enforcement recruitment has been a challenge throughout the country. This rhetoric has certainly not aided the Department in its recruiting efforts. The Department has still had very strong recruiting efforts over the past several years. For example, within the last 12 months (June 1, 2022-June 2, 2023), the Department has had an average of 1,125 applicants per month.

In your testimony, you said that USCP has closed almost all of the IG recommendations. Who decides when a recommendation has been completed or closed?

The Office of the Inspector General is the sole entity which decides whether a recommendation is closed.

- Will you provide a full accounting of all IG recommendations that have been closed or completed with a detailed description of what was done to complete that recommendation, who was responsible for completing it, and who approved it as completed?

See **attached** which lists all IG recommendations and how they were closed.

In its February 2022 report on the Capitol attack (GAO-22-105011), GAO found issues with the Capitol Police and the Capitol Police Board's procedures for obtaining outside assistance in an emergency as well as their approach to facility security. GAO recommended that you improve procedures for obtaining outside assistance and develop a process to assess risks.

Our understanding is that the Capitol Police has begun taking steps to address GAO's recommendations from that report. What is the current status of the Capitol Police's efforts to address the recommendations?

The Department has developed a framework to enhance and codify all emergency procedures under the umbrella of the Emergency Operations Plan (EOP). The EOP provides a framework under which all other aspects of emergency planning will fall. The EOP, along with the supporting policies, provide an organized and systematic method to address threats, hazards, and vulnerabilities before, during and after an incident. For example, the Critical Incident Response Plan (CIRP) supports the EOP and details the Department's processes for obtaining outside assistance from federal, state, local and DoD agencies. CIRP activation is tested quarterly by the Command Center. In support of the EOP, the CIRP will be converted to a support policy and will clearly define roles and responsibilities for the process of activating the CIRP. The EOP also sets forth how Congress is notified of emergencies. Finally, annual training and testing requirements for emergency operations will be included.

The Department has also drafted two new Directives, Appointment of Special Officers, which outlines the steps needed to swear in outside law enforcement officers as special officers of the Capitol Police, and Establishment of Staging Areas, related to receiving and processing outside support for an incident. The Directive Appointment of Special Officers also sets forth the statute that outlines procedures by the Capitol Police Board (CPB) to end an emergency declared by the Chief of Police. (Note, however, that our policies do not dictate how the CPB will revoke requests for assistance in the event of an emergency since that is a CPB function.) These Directives are attached.

- These recommendations were related to documenting procedures for obtaining outside assistance in an emergency, and documenting procedures related to physical security assessments. Instead, the Board has stated that its 2021 Manual of Procedures addresses the recommendations. However, GAO outlines in its report that the 2021 Manual does not sufficiently address these topics. When will the Board take action on these recommendations?

This is a question best addressed to the Capitol Police Board.

In March 2022, GAO reported that some Capitol Police officers had not received regular crowd control training prior to the January 6 attack, with some stating it had been more than 10 years since they received such training. GAO recommended that the Capitol Police provide more refresher crowd control training to prepare all officers for large-scale and potentially violent demonstrations, including officers who are not part of the Civil Disturbance Unit (CDU). Since then, Capitol Police has reported that it is taking actions to provide more training to its CDU officers, who represent a relatively small proportion of the sworn officers that may be called upon to respond to a January 6-style event.

In that context, what actions is Capitol Police taking to ensure that all officers receive regular training in crowd control for large-scale and potentially violent events?

In October of 2022, the Department designed mandatory on-line Civil Disturbance Unit (CDU) refresher training, including crowd control training, for all officers on the Department that must be completed by December 31, 2023. This training will be an annual requirement. Recently the Department determined it would also provide an in-person training block for all officers. This block, the length of which has not yet been determined, will train all officers on how to use their helmets, masks and PR-24 batons that have been issued to all members of the Department. Moreover, for events where more CDU assets are required than the Department can provide, it will still be the practice to acquire these assets from partner agencies with whom our dedicated CDU officers train rather than less-experienced non-CDU USCP officers. Additionally, for many years we have historically trained all new officers in the 40-hour Basic course which exceeds the guidelines published on June 6, 2023 by the National Tactical Officers Association and includes crowd control training. This is in addition to the CDU training they receive at the Federal Law Enforcement Training Center in Georgia. Any officers wishing to voluntarily join CDU training are able to join any of these CDU Basic classes, which are given several times a year to new officers. Finally, the Department also holds advanced CDU training several times a year for CDU specialty officers.

The Department currently has five platoons of 45 officers each plus five less lethal officers and five supervisors attached to each platoon for a total of 275 with an additional 30 officers also having received this training. Ultimately, the Department plans to have eight full platoons.

To be eligible for the CDU specialty assignment officers must:

- *Meet and maintain requirements to wear a respirator and comply with all relevant medical and fit testing required to wear a respirator.*
- *Complete a minimum of forty (40) hours of in-person Advanced CDU training annually.*
- *Maintain satisfactory performance and attend all CDU activations and deployments, unless absence is approved by the CDU Commander.*
- *In addition, supervisors must complete annual CDU Commanders training.*
- *Eligible officers and officials are rostered on dedicated squads and platoons. Platoons train together and deploy together.*
- *Officers on the CDU Specialty program are utilized to fill Crowd Management Unit (CMU) roles, Civil Disturbance (CDU) roles, and Bicycle Response Unit (BRU) roles as operationally required.*

In June 2021, the Republicans and Democrats Senate Committees on Homeland Security and Rules and Administration released a report entitled, “Examining the US Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6th. In that report, they provided 65 recommendations on how to improve Capitol security.

- What is the status of the recommendations from this report?

There are five recommendations that applied to the USCP in that report. The Department has closed all five. (Note unless noted, the responses were as of November 2022.)

Recommendation 1: Ensure USCP has sufficient civilian and sworn personnel, with appropriate training and equipment, in the roles necessary to fulfill its mission.

USCP Response: The Department has worked to hire, examine and implement updated policy, train, and procure new equipment for the safety of the sworn and civilian personnel. The Department is in the process of developing a Civil Disturbance Unit (CDU) directive. This directive will formalize the Unit's mission, objectives, and roles/responsibilities.

Over the past year, new CDU equipment, to include shields, have been purchased and are being stored in several temperature controlled areas according to manufacturer guidelines. They continue to be properly inventoried to include their storage location.

Since January 6, 2021, 24 SOD officers completed the FN-303 Less Lethal Launcher Operators Course. The Department maintains certificates of completion for the 24 SOD officers, along with a copy of the training invoice dated April 20, 2021. Additionally, 7 CDU instructors completed training to teach 40MM (impact and chemical) and hand deployed weapons on April 6-8, 2021. Lastly, the Department noted the National standard recommendation is that CDU deploy four grenadiers per active platoon and USCP currently follows this national standard whenever CDU is activated.

STATUS: COMPLETED

Recommendation 2: Require a department-wide operational plan for special events. These procedures should include a bureau-specific security plan, which informs the USCP-wide operational plan.

USCP Response: The Department has reformed its operational planning by implementing a new work process for publishing an Incident Action Plan (IAP). This process combines centralized coordination from the Emergency Planning Section (EPS) with operational planning contributions directly from field organizational elements. Within this process the Incident Commander completes written documentation of intent for the event (USCP-201) and each participating field element completes a standardized plan of action for its operations (USCP-202). The Department has successfully utilized this process on multiple occasions since January 6, 2021, to plan and prepare for events.

Included within Directive 1052.003 Incident Command System, is guidance that establishes operational plans for the incident commander to determine incident objectives and develop a strategy to be used while considering alternate strategies that may be employed for planned events, unplanned events and incident objectives that will be included in the IAP. These incident objectives will be conveyed to the incident management team and included in the IAP, if established for Department-wide distribution.

The Command and Coordination Bureau (CCB) will be the entity responsible for overseeing the operational planning for major events. CCB is currently drafting a new Department directive that will memorialize this new process. This Directive will standardize the planning document format(s); standardize the communication to participating personnel of planning criteria; document supervisory review and approval, as well as designate the specific organizational element responsible for overseeing the operational planning and execution process.

Since last November, as the CCB has continued to refine the operational planning process, the Incident Commander, with collaboration from the EPS and the major event coordinator, completes written documentation of the overall plan and intent of the event, the IAP; each participating field element completes a standardized plan of action for its operations, an Incident Support Plan (ISP). In the calendar year 2022, the Department has completed over 200 IAPs, and for 2023, nearly 130 IAPs have been completed to date.

The new Planning directive that memorializes the current planning process in place is within the review process prior to final approval and publication.

STATUS: COMPLETED

Recommendation 3: Establish the Civil Disturbance Unit (“CDU”) as a formal, permanent component of USCP and ensure that its dedicated officers are properly trained and equipped at all times.

USCP Response: On August 4, 2022, the Department published Bulletin 22.134, Civil Disturbance Unit Specialty Assignment. This bulletin was distributed to all department employees via email and outlined the specialty pay incentive available to officers and officials selected for this dedicated assignment in addition to programmatic requirements such as participation period, mandatory in-service training, and the application process. The platoons have since been established, adequately staffed, trained and outfitted, and are drafted for events based on current intelligence available.

The Department is also in the process of developing a Special Response Group directive, which will formalize CDU’s mission, objectives, roles/responsibilities and reporting requirements.

STATUS: COMPLETED

Recommendation 4: Consolidate and elevate all USCP intelligence units into an Intelligence Bureau, led by a civilian Director of Intelligence reporting to the Assistant Chief of Police for Protective and Intelligence Operations; ensure the Bureau is adequately staffed and all agents and analysts are properly trained to receive and analyze intelligence information; and develop policies to disseminate intelligence information to leadership and rank-and-file officers effectively.

USCP Response: As of June of 2023, the Department submitted a recommended reorganization plan to the Capitol Police Board and Congressional Oversight Committees. Part of that recommended reorganization plan will include an established Intelligence Bureau. This reorganizational plan is still pending approval.

STATUS: PENDING APPROVAL

Recommendation 5: Update its Incident Command System Directive to address how Incident Commanders are to communicate priorities, strategies, tactics, and threat assessment to front-line officers prior to and during an incident and ensure that the Directive is followed.

USCP Response: On September 1, 2022, the Department published and implemented Directive 1052.003, Incident Command System. This policy now includes any ICS training for operational commanders required by Training Services Bureau or CCB. In addition, the Coordination Division is working with the Training Services Bureau to develop a comprehensive training plan that incorporates courses from the Independent Study Program developed by the FEMA Emergency Management Institute.

The Department required all employees to take the ICS 100 and ICS 200 independent study courses after Jan 6th. The Emergency Planning Section and TSB require all recruits to take these two courses as a part of their Recruit Officer Candidate training to sustain this standard of all sworn personnel having taken these two courses.

STATUS: COMPLETED

- Based on those recommendations, has the Intelligence and Interagency Coordination Division (IICD) implemented its recommendation that all intel analysts have a top-secret clearance?

All analysts have obtained a Top Secret clearance or are in the process of being adjudicated for one.

- Based on those same recommendations, has the IICD revised relevant standard operating procedure to require supervisory review and approval for intelligence products to ensure its products are supported by relevant intelligence information and internally consistent.

All finished intelligence products are reviewed by a Supervisory Intelligence Research Specialist with more complex products also reviewed by the Director of Intelligence. Intelligence products that will be distributed to USCP officers and/or external partners are also reviewed by the Assistant Chief of Police for Protective and Intelligence Operations. Routine Law Enforcement Coordination forms are reviewed by veteran analysts with more complex requests elevated for supervisory review.

On January 6th, was there ever an order given to fall back and secure the building?

Tactical decisions such as a fall back order are typically given by commanders in the field and on January 6th both USCP and MPD officials ordered officers to fall back as necessary during the fighting. The Civil Disturbance Unit (CDU) is designed for officers to maintain in formation in dealing with crowds. On the 6th, platoon formations were compromised because officers had to split up to protect multiple locations, and they were further compromised due to the sheer number of rioters that had to be held back. If officers fail to fall back when large groups breach their formations, officers get trapped in the crowd, and the Department has to use a wedge or other formation to then go in and rescue them, putting the officers conducting the rescue at risk. When officers are outnumbered and there is no likelihood of success and/or arrests are logistically impossible, officers have to fall back.

- If so, who made that call?

Both USCP and MPD officials.

What is the standard protocol for officers

There is no standard protocol for “falling back” since it depends on the situation on the ground. Generally, CDU officers are equipped to fight back against a crowd outside and would not typically go into the Capitol. However, given the importance of protecting the Members and staff, once the Capitol is ordered closed, non-CDU officers typically retreat to the Capitol to defend the interior and depending on the situation CDU officers may also retreat to defend the Members and staff inside the buildings. Additionally, when a CDU platoon is vastly outnumbered, it will fall back to reformulate its defenses. This is a tactical decision and it can only be made based upon the totality of the circumstances.

How many federal agencies responded to the Capitol on January 6th? Please provide a list of each agency, or sub agency, state police, or other law enforcement entity.

*See **attached**.*

How many agencies or state and local police had undercover officers on capitol grounds on January 6th?

The USCP does not know how many undercover agents from outside entities, if any, were present on Capitol Grounds on January 6th. It is possible of the approximately 20 federal, state and local agencies that responded to the Capitol that some of the response involved officers who normally work undercover. The number is not known to USCP.

Were any federal officers authorized by USCP to be operating on Capitol grounds on January 6th?

This question is unclear. Several agencies have pre-existing jurisdictional authority to make arrests on Capitol Grounds including the Metropolitan Police Department, the United States Park Police and the United States Secret Service. Other federal agencies that came onto the Grounds to assist the USCP also have authority as federal agencies to assist the USCP such as the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

What is the procedure for federal agencies who have an employee or officer who is coming on capitol groups [sic] as a result of their work?

*See **attached** Standard Operating Procedure AC-000-61, Admittance of Law Enforcement Officers (LEOS)/Agents with Firearms into the Capitol Buildings.*

Are there any policies in place governing how many hours an officer should be able to work, to ensure safety?

Yes. USCP officers are generally prohibited from working more than sixteen hours in a twenty-four hour day or more than sixty-four hours of additional duty during the bi-weekly pay period. This prohibition is set forth in Article 18 of the Collective Bargaining Agreement between the Department and the FOP/U.S. Capitol Police Labor Committee, Directive 2051.005 Additional Duty Approval, and SOP No. COP-USB-003 Additional Duty Substitution Request.

- Does the Department follow these policies?

Yes.

USCP officers we have spoken with have claimed there to be a lack of command structure and accountability. How many command level vacancies does the USCP currently have?

Defining “command level vacancies as the ranks of Inspector and above, the USCP currently has approximately 11 command level vacancies to include:

*Assistant Chief of Police for Protective and Intelligence Operations
Assistant Chief of Police for Uniformed Operations
Operational Services Bureau Commander
Protective Services Bureau Commander
Training Services Bureau Commander
Uniformed Services Bureau Commander
DPD Commander
Investigations Division Commander
Senate Division Commander
Special Operations Division Commander
Command Center Commander*

As Chief Manger has testified, he intentionally left upper-management command vacancies open because he is promoting from the lower ranks up. Every promotion leaves a vacancy in the rank below the new promotee’s rank so the strategy has been to move from the bottom up rather than from the top down. Therefore, having high-ranking staff in acting positions is not unexpected. That said, the Department is currently running promotional processes for Inspector, Deputy Chief and Assistant Chief.

According to the organizational chart, your bureaus are commanded by Deputy Chiefs. How many Deputy Chiefs would the USCP have at full current strength?

Under the Department’s current structure, the USCP would have five (5) Deputy Chiefs at full strength.

How many Bureaus are currently commanded by someone in an “acting” capacity?

Currently, there are four USCP Bureaus commanded by individuals in an “acting” capacity to include the Operational Services Bureau, the Protective Services Bureau, the Training Services Bureau, and the Uniformed Services Bureau.

Can USCP please provide to the Republican and Democratic staff of the Committee on House Administration the following items:

- All the most updated versions of the Post Requirement Lists (PRLs) Chief Manger has completed, approved, and sent out to Division Commanders since his arrival and after January 6th;

See attached

- All Department wide manpower and/or staffing studies completed since his arrival and after January 6th;

The USCP has historically tracked sworn resource allocation and usage to determine the UCSP’s total staffing needs through a variety of methods. The following overview provides a summary of the Department’s larger-scale sworn resource allocation and manpower reviews. This does not include the sworn manpower and resource allocation analyses that are conducted daily as part of the Department’s regular and institutionalized staff and resource management.

Since 2007, the sworn utility staffing number has been reevaluated a number of times, and applied to each operational element of the Department, to ensure that it remains a valid tool for calculating staffing and overtime requirements to meet the overall agency mission. Use of this methodology has increased security and protection of the Capitol Complex through the creation of, among other things, K9 specialty units, enhanced Truck Interdiction Posts (TIPs) (including improved technology), use of pre-screeners, and enhanced screening in House and Senate Galleries and garages. This methodology has also been reviewed and supported by the GAO. Individual Bureaus and Divisions within the Department continue to use this method to determine sworn resource allocations and to create Division-specific manpower assessments, post requirement lists, and targeted staffing plans for special events.

Pursuant to an OIG Audit initiated at the request of the Capitol Police Board, between April and June 2016, the Department conducted a review of all full-time and recurring part-time internal posts manned by sworn employees to determine which, if any, could be restructured or civilianized. As a result of that review, the Department was able to convert a number of sworn positions within the Command Center and Communications Section to civilian positions, and to reduce the sworn staffing requirements on other

internal posts. See Analysis of United States Capitol Police Internal Post Assignments, Rep. No. OIG-2016-08 (June 2016).

Since 2016, the Department has continued to review sworn staffing post requirements and, where possible, to convert such posts to allow coverage by civilian FTEs or contractors. For example, in 2022, the USCP implemented a Contract Security Officer Program as a means to create an immediate force multiplier and address staffing shortfalls. The USCP analyzed specific posts that could be completed by Contract Security Officers without negatively impacting the security of the campus or creating an officer safety issue. The Contract Security Officer Program also provides measureable benefits to the USCP in that it allows current sworn officers to have additional time off and/or additional time for training, and provides the USCP with a greater ability to adjust our security posture as needed. There are presently 68 Contract Security Officers working within the Department.

Following the events of January 6, 2021, the Department utilized an outside contractor, Morse, Nichols & Associates, to conduct an overall assessment of sworn staffing and Department operations within the Uniformed Services Bureau and Operational Services Bureau. The contractor was also asked to create a number of data tracking mechanisms, including a Uniformed Services Bureau Staffing Analysis and Strategic Action Plan, an Operational Services Bureau Strategic Action Plan, and a 2021 Interim Strategic Sworn Recruitment and Retention Plan (2021 Plan). The Department has implemented a number of the recommended actions from the 2021 Plan, including the creation of a Lateral Hiring Program, a Rehired Annuitant Program, and engagement of a professional marketing program to assist the Department in creating a more focused recruitment plan to attract a larger number of career law enforcement candidates. The Department continues to utilize the 2021 Plan as it seeks to further refine its recruitment and retention efforts to meet the authorized number of sworn employees.

Finally, within the 2023 Appropriations Act, Public Law 117-31, the Department was tasked with developing an overall Concept of Operations plan (ConOps). It is expected that the ConOps will also involve an overall manpower assessment to include the status and utilization of sworn and civilian employees throughout the Department. A contract for an external contractor to conduct the studies necessary to complete the ConOps has been sent out for competition, and we expect to complete the plan within the Fiscal Year 2024.

- Any internal control reports or recommendations at the Executive Team level to reduce the overtime burden on officers.

See previous answer.

- A detailed explanation of how the Chief of Police is monitoring and addressing his main issue "burnout" from overtime.

See previous answer. In addition, the Department has made its budgetary requests, recruiting efforts and the forthcoming Concept of Operations focused on increasing the number of sworn staff which is the best way to ensure there is less "burnout" from forced overtime. As noted below, these efforts have already begun to bear fruit as between June 3, 2022 and June 9, 2023, fourteen (14) classes have graduated from the USCP Training Academy resulting in the addition of 263 full-time sworn officers.

Is there any study ongoing that will arrive at recommendations of how the USCP can complete its mission with an overtime level that would NOT "burnout" officers?

As a part of the Concepts of Operations Plan, the Department has contracted to perform a thorough study of current and projected staffing levels as well as the use of additional duty projections necessary to meet the Department's mission. The study will also identify by mission area and USCP posts, the functions and locations that may safely be staffed by Capitol Security Officers or other similar resources. In this way, the Department will be able to meet all mission requirements while simultaneously addressing officer "burnout."

In addition, the Department continues to press toward the goal of recruiting and training a sufficient number of recruit officers to join the sworn workforce and enable the Department to lessen the overtime requirements on all officers. Of note, between June 3, 2022 and June 9, 2023, fourteen (14) classes have graduated from the USCP Training Academy resulting in the addition of 263 full-time sworn officers.

In the previous House Appropriations hearing you testified that officers can now get leave anytime whereas in the recent Senate Appropriations hearing you testified that days off for officers are being cancelled, can you elaborate on why there's a difference between these 2 prior hearings?

The Chief has never testified that officers can get leave whenever they want. In his House Appropriations testimony on March 29, 2023 he testified as follows:

[W]e still are forcing officers to work overtime that they wouldn't necessarily volunteer for. We're holding them over at the end of their shifts. We're canceling days off to make sure we have enough folks for a particular event. I know that this is not a sustainable strategy. The only way we're going to be able to fix that is to get our staffing levels up to what I've asked for in FY 24, so that we will have the ability to ensure officers get their days off and have that appropriate work life balance.

The reopening of the campus has also increased demands on Department personnel. In an effort to increase the amount of available leave, after January 6th, the Department increased the amount of available leave per division from 12% to 15%. The Department also goes well above 15% when Congress is out of session in order to afford even more officers with an opportunity for time off. In addition, the Department's recent budget requests provide justifications for the

increased staffing which would also serve to permit greater leave for officers by decreasing the amount of hold overs and drafts on officers' days off.

What efforts are underway within USCP to address concerns with retirement benefits within the Department?

The Department has taken several steps to assist with retirement benefits. The retirement date was recently extended again from 57 to 60, through October of 2026. This provides officers an additional three years to add to their pensions. The USCP also recently "shrunk" its pay scale so officers hit the maximum salary more quickly and raised the maximum annual payable rate which translates to potentially higher salaries. Other changes would require legislation since much of the USCP retirement system including how it is calculated is set by statute.

- What retirement benefits are you looking to improve to entice the experienced officers to stay here as well as retain the newer officers?

In addition to the above, the Department regularly meets with the Union and discusses its proposals such as permitting additional duty to be added to an officer's base pay for retirement benefits and changing the retirement percentage used to calculate the retirement annuity. However, as noted above, these would require legislation and appropriated funds to change.

The Department has already obtained Capitol Police Board approval to reclassify certain categories of officers who qualify as 1811's. The Department is also in the process of developing a proposal to provide Law Enforcement Availability Pay (LEAP) to these sworn employees. Since LEAP consists of the officer's base salary plus 25%, it will be useful to these officers in boosting their high-3 average salaries and ultimately achieving a higher retirement benefit.

What is the USCP use of lethal force policy?

***Attached** is Directive 1020.004, Use of Force. The Department is about to issue a revised policy within the next month.*

What is the USCP definition of a Capitol Lockdown?

A Capitol lockdown is when all exterior Capitol doors are locked and no one is permitted to enter or leave the building except during an approved evacuation.

What is the USCP's use of lethal force policy in a Capitol Lockdown?

*The Department's policy on the use of lethal force does not change based on a Capitol lockdown. Indeed, the USCP's Directive 1030.001, Securing the Capitol Complex During Active Threats (**attached**), specifically cites the existing use of force policy as applicable.*

Do your officers and analyst in the IICD currently all hold Secret or Top Secret Clearances?

Yes.

- If not please provide the number of each that do or do not have a Secret or Top Secret clearance.

One newly hired analyst is in the process of being adjudicated for a Top Secret Clearance.

Is it Standard Operating Procedure for all officers to complete an after action after a mass incident like January 6th?

*All officers are invited to provide input to an after action after a planned event or critical incident. This request is communicated in the Incident Action Plan (IAP) and/or a dedicated bulletin. A dedicated email, AARComments@uscp.gov, has been set up to collect comments on each after action. **Attached** are a few sample of those invitations.*

What agencies, entities or individuals has USCP provided USCP radio in full or in part from January 6th?

- Please provide a list of each recipient and details of what was provided.

The U.S. Attorney's Office (USAO) was provided the six main channels used on January 6th. The Committee on House Administration (CHA) and Senate Sergeant at Arms (SSAA) was recently provided every channel that was in use on January 6th.

- What was the review process for providing these recordings?

Before the USCP provided the radio communications to the USAO they were reviewed to see if any sensitive information such as code names and evacuation locations were revealed. There was no additional review by the USCP before release to CHA and the SSAA.

- Did the USCP allow the Capitol Police Board to review the recordings prior to providing the recordings?

As noted above, the SSAA was provided the radio communications from January 6th and was in the process of reviewing the communications when they were provided by the Department to CHA. There were no redactions made to any of the recordings provided to either CHA or the SSAA.

- Who approved the release of the USCP radio recordings?

The Chief of Police.

What agencies or entities has USCP provided USCP surveillance footage from January 6, 2021 to?

The USCP has provided USCP surveillance footage from January 6th to the FBI, the Committee on House Administration, the January 6th Select Committee, the Government Accountability Office (GAO), Senate Committee on Homeland Security and Governmental Affairs and Senate Rules. In addition, the Department gave specific requested clips to the House Impeachment Managers.

- Please provide a list of each recipient and details of what was provided.
 - *FBI: all cameras for 8 hours from 12:00 to 20:00*
 - *GAO: same as FBI*
 - *Committee on House Administration: Same as January 6th Select Committee*
 - *Senate Rules: 24 hours all cameras*
 - *Senate Committee on Homeland Security and Governmental Affairs: Same as Rules*
 - *House Impeachment Managers: Approximately 15 specific clips*
 - *January 6th Select Committee: All exterior cameras and all interior cameras from the Capitol (including Capitol Visitor's Center) from 0600 to 2000, along with all interior cameras from Cannon, Longworth and Rayburn from 0600 to 1200.*
- What was the review process for providing these recordings?
 - *FBI: None of the footage was reviewed before being provided initially but is reviewed and approved by the USCP Office of the General Counsel before it can be used at any trial, hearing, plea or sentencing.*
 - *Senate Rules: Footage was not reviewed before being provided initially and, as far as the USCP is aware, has not been used publically.*
 - *Senate Committee on Homeland Security and Governmental Affairs: Footage was not reviewed before being provided initially and, as far as the USCP is aware, has not been used publically.*
 - *House Impeachment Managers: Footage was not reviewed before releasing to managers and was used in public hearings without prior approval from the USCP.*
 - *January 6th Select Committee: Footage reviewed and approved by the USCP Office of the General Counsel before being used in hearings.*
 - *GAO: Footage was not reviewed before being provided initially but GAO had to seek approval before using in public report and did so in a few instances.*

- *Committee on House Administration: After the change in majorities in 2023, CHA requested the same footage as was provided to January 6th Select Committee and that footage was not reviewed before being provided initially. CHA then previewed one clip for the USCP, that clip was approved and used on the Tucker Carlson Show. The USCP was not shown approximately 40 other clips before they were aired on the Tucker Carlson Show. Last month the Department was asked to review about 19 clips and did so.*
- Did the USCP allow the Capitol Police Board to review the recordings prior to providing the recordings?

For each prosecution case, the USCP Office of the General Counsel sends notice to counsel for the Capitol Police Board informing them of the request but absent any security sensitivities, the Board does not approve of any request. The USCP sent all of the clips requested for use by CHA to Board counsel to obtain their views on release. Certain clips requested by the January 6th Committee (mostly related to Senate evacuation routes) were shown to the Senate Sergeant at Arms before the USCP approved the clips or requested edits.

- Who approved the release of the USCP radio [sic] recordings?
- *In each case, the approval of the footage was ultimately approved by the Chief of Police. As noted above, the USCP Office of the General Counsel approves individual clips for release.*

You said there was a different set of rules for executive team and leadership related to media policy. Please provide these written policies. If they are not written please explain why and provide written detail of that policy.

*The Chief testified that “senior staff” have different rules for the ethics policy which includes writing books. The USCP follows the House ethics rules which requires any “senior staff” to get approval before publishing a book. Those same ethics rules for book approval do not apply to non-senior staff. (Note the definition of “senior staff” is based solely upon salary which for 2023 is any staff paid more than \$141,020.) The USCP media policy, **attached**, is not different for any employee on the Department. This policy is currently being revised. We have also **attached** the Department’s social media policy which is also being revised.*

Are there any other policies that are different for sworn officers and executive leadership at USCP?

There are several policies that are different for officers and supervisors such as disciplinary policies, additional duty policies, and requirements for statutory employees such as the Chief, Assistant Chiefs, CAO and General Counsel. In addition, the collective bargaining agreement only applies to members of the bargaining unit who must be no higher in rank than Private First Class. In general, however, the Directives and SOPs for the Department apply to all Department employees.

Is outside earned income required to be reported by officers or the USCP executive team?

No. When making a request for outside employment all Department personnel must state the amount they expect to earn from the outside employment. The actual amount made, however, is not reportable.

Are USCP Officers subject to House Ethics rules?

Yes all USCP employees are subject to the House Ethics rules.

If so, are there limits on outside earned income for individuals above a certain salary?

Yes, Senior Staff cannot earn in excess of \$31,815.

Did any of your executive leadership team if any of them had any contact with the Inspector General prior to his being selected as IG?

No one from the executive leadership had any contact with the Inspector General prior to his hire.

Have you reviewed all communications or interviewed your executive leadership team to confirm you have all relevant information to answer this question?

Yes.

- Please provide copies of any communication you identify when conducting this review.

Not applicable.

You said there may be a role for the Office of the USCP General Counsel in an IG investigation. What role does the General Counsel's office play in IG investigations?

The Office of General Counsel (OGC) generally has no role in any IG investigation. The OGC may contact the IG if an employee or person/entity outside of the USCP raises a complaint to the OGC that is appropriate for IG investigation. The OGC also advises its clients as to when referral of a complaint to the IG is likely appropriate. The only other communication the OGC has with the IG regarding any investigation occurs when a lawsuit has been filed against the Department raising issues that were the subject of an IG investigation. When a lawsuit has been filed concerning a subject matter covered by an IG investigation, the OGC will obtain the

investigation and supporting materials in order to properly defend the Department against any claims.

- Has the General Counsel's office ever provided information from the IG to the executive leadership team?

The OGC does not provide materials it receives from the OIG in the course of a litigation matter to the executive leadership team. Depending on the nature of the lawsuit, and the significance of the IG materials to the lawsuit, the OGC may discuss information related to an IG investigation with its client in discussing the overall strategy and assessment of a particular litigation matter.

- Do you have the ability to review communication between the General Counsel's office and the Chief of Police's office past and present?

Yes

- Were there any communications between the General Counsel and any previous Chief of Police or Acting Chief of Police related to complaints to the Inspector General?

Yes but the contents of these communications are protected by the attorney-client privilege.

- Do you agree it is inappropriate for the USCP General Counsel to receive any information from the USCP IG related to complaints made about the executive leadership team given the General Counsel serves as a member of the executive leadership team?

No. When an employee sues the Department and raises issues in the lawsuit that are the subject of an IG investigation, it is critical for the OGC to obtain information and materials concerning the IG investigation from the IG in preparing and executing a defense strategy. The OGC otherwise would not be privy to information an employee would have given to the IG.

You said you did not agree there was retaliation against officers, but you said you were aware of the complaints. How many officers made complaints to the IG about the leadership at USCP on January 6th in the days following?

The Department became aware that certain civilian employees made complaints to the IG related to their employment in the intelligence division only as a result of subsequent litigation brought by those employees. The Department has no knowledge regarding how many officers or civilian employees made complaints to the IG about the leadership at USCP on January 6 or in the days following. Accordingly, this is a question better answered by the IG.

- How many complaints referenced failures by the intelligence division at USCP?

The Department has no knowledge as to any specific IG complaint. This is a question better answered by the IG.

- How many officers made complaints?

The Department has no knowledge regarding how many officers or civilian employees made complaints to the IG. This is a question better answered by the IG.

- How many of those officers are no longer with USCP?

The Department has no knowledge regarding how many officers or civilian employees made complaints to the IG and, thus, is unable to say of those persons who made complaints, how many continue to be employed with the Department. Of the four employees who the Department was made aware through litigation had filed a complaint with the IG, none are currently employed with the Department for reasons unrelated to their IG complaints.

- Were any of those officers asked to sign non-disclosure agreements?

As to the employees the Department has knowledge of, they were not asked to sign non-disclosure agreements. One employee is subject to a settlement agreement related to litigation, which includes a confidentiality provision.

- Did any of the officers who filed complaints with the IG sign non-disclosure agreements, whether asked to or not?

The Department is aware of only one employee being subject to a settlement agreement related to litigation, which includes a confidentiality provision. None of the remaining employees of which the Department had knowledge are subject to any non-disclosure agreement.

- Will you provide detailed information about each of these officers status with the USCP following January 6th including PIPs, evaluations, investigations, as well as who within the department was in charge of any investigation into the officers (including if anyone involved temporarily), which officers oversaw an investigation, including any changes to the officers overseeing the investigation (and why any change was made), and the outcome and findings of any investigation. If you will not, please explain why not.

No. The information requested includes confidential information obtained during litigation, which may not be shared, as well as confidential personnel information as to the employee's performance and personnel benefits requests. The Department conducted no investigations into the employees, other than an investigation into any litigation claims made by the employees.

Has Ms. Pittman been contributing payments to her retirement since going on Leave Without Pay?

No.

You said during the hearing that you would provide records requested by Members of this Committee by Friday, May 26th. Specifically, you said you would provide the details of Ms. Pittman's separation agreement. We ask that you provide this and any other relevant information related to Ms. Pittman by 5pm on Friday, May 26th.

*See **attached** summary of separation agreement.*

If not, why hasn't this been tasked?

Not applicable.