

FOIA Program Management Division

800 Independence Avenue, SW Washington, DC 20591

June 17, 2020

Douglas D. Johnson

RE: Freedom of Information Act (FOIA) Request 2020-006224

Dear Mr. Johnson:

This responds to your March 2, 2020 Freedom of Information Act (FOIA) request seeking the following for the period December 1, 2019 through February 29, 2019:

"[c] opies of any e-mails to or from (including e-mails cc'd, bcc'd, or forwarded to) and memoranda to or from (or copied to) Daniel (AKA Daniel K. or "Dan") Elwell, deputy administrator, Federal Aviation Administration (FAA), that:

(1) contain any mention or discussion of reports of possible or actual drone (UAS) activity, or the monitoring or investigation of possible or actual drone (UAS) activity, occurring in any of these states: Colorado, Nebraska, and/or Kansas; OR (2) that contain any reference whatever, regardless of exact terminology, to the multi-agency task force in which the FAA was a participant, which had as its purpose the investigation of reports of possible or actual drone (UAS) activity of unknown origin, or initially uncertain origin, in any of these states: Colorado, Nebraska, and/or Kansas. In addition, I request digital files of any photographs, PowerPoint slides, maps, audio recordings (including voicemail) or other audio-visual files received, gathered, sent, or shared regarding actual or possible drone (UAS) activity in Colorado, Nebraska, and Kansas."

Your request was assigned to FAA FOIA Program Management Division (AFN-400) for processing.

In a previous interim response¹ the FAA released 299 pages to you. This is the second production for this request. As our previous interim response noted, a records search was conducted in ProofPoint, the FAA's email archive system, of Daniel Elwell's email archive. At this time, we are releasing 11 pages responsive to your request, with some information withheld under Exemption 5 and Exemption 6 of the FOIA.

FOIA Exemption 5

We have withheld some communications under Exemption 5 of the FOIA. 5 U.S.C. § 552(b)(5). FOIA Exemption 5 protects from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency." 5

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¹ Production 1 (May 22, 2020) FAA released 299 pages

U.S.C. § 552(b)(5). FOIA Exemption 5 has been construed to exempt those documents normally privileged in the civil discovery context.

One such privilege is the deliberative process privilege, the general purpose of which "is to prevent injury to the quality of agency decisions." Nat'l Labor Relations Bd. v. Sears, Roebuck & Co., 421 U.S. 132, 151 (1975). The deliberative process privilege protects deliberative and pre-decisional internal communications, such as advice, opinions, and recommendations rendered by agency staff in the course of reaching a final determination or position on any particular matter under agency consideration. A number of the enclosed pages include FAA internal communications between federal employees, and this information has been redacted under Exemption 5, pursuant to the deliberative process privilege. To allow release of these records would discourage the open and frank discussions between agency employees that are helpful in developing coordinated positions when agencies share responsibility. It might also create confusion in those cases where recommendations and opinions are not adopted.

FOIA Exemption 6

Further, we have redacted privacy-sensitive and personally identifiable information under Exemption 6 of the FOIA (5 U.S.C. § 552(a)). Exemption 6 of the FOIA protects information about individuals "in personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). When applying Exemption 6, the FAA weighs the privacy interest of an individual against any public interest in the records. The information redacted under Exemption 6 includes the names, email addresses and cell phone numbers of government employees. The agency has determined that these individuals have a privacy interest in the redacted information, and that there is not an overriding public interest in its release. You have not asserted any public interest in disclosure of this information, and I find that there is none. Accordingly, this information has been redacted pursuant to Exemption 6.

This interim response does not include administrative appeal rights and corresponding instructions for filing an administrative appeal, as this is an interim response. Administrative appeal rights will be provided with the final response to this request.

Sincerely,

DEDRA L Digitally signed by DEDRA L GOODMAN Date: 2020.06.17
15:56:49 -04'00'

Dedra Goodman Manager, Freedom of Information Act Program Management Division

FW: 16 January Mid-West Observables Update and Summation of Activities

Date: Thu, 16 Jan 2020 08:02:23 -0500

Good morning,

The following is a summary of activities over the past five days by FAA and our Federal partners as well as State and local authorities in response to the continued drone sightings in the Mid-West. Phil/Andrew, you are welcome to package the update for the Hill." IF you have any questions please let me know. claudio

Background: The FAA engaged with state and local law enforcement and public safety authorities on December 19, 2019, after multiple reports of "UAS" sightings in Colorado. Reports had initiated in Colorado on December 17, 2019, and extended into Nebraska, Kansas, Minnesota and Illinois. Cooperative engagement between the FAA, FBI, DOJ, DHS and state/local authorities in affected counties has continued throughout the period of sightings. FAA has invested an extensive amount of time and attention from two ASH LEAP agents and several FSDO ASIs in an effort to utilize all available FAA information and resources to attempt to confirm the sightings and identify operators, as well as engage and support federal, state, and local law enforcement response and investigative efforts.

Most Recent Update: FAA participated in an interagency telcon with DHS, DOJ and FBI on January 14, 2020, to discuss the status of law enforcement and federal activities related to the UAS sightings in Colorado, Nebraska, and Kansas.

Reported sightings in Colorado, Nebraska, and Kansas have significantly diminished in the past week. FAA and the Colorado Information Analysis Center (CIAC) have run ground operations this past weekend and failed to observe any UAS activity; both organizations have suspended operations at this time. FAA LEAP agents surveyed sheriffs in multiple counties in Colorado and, working with the FBI Omaha Field Office, reached out to Nebraska county sheriffs; none reported activity over the past weekend, and the consensus is activities in their counties have either stopped or moved on. Additionally, it is possible citizens have grown tired of reporting.

Neither the Omaha nor the Denver FBI Field Offices have opened investigations, and FBI HQ has not received any request from their field offices or local LE for deployment of their UAS detection assets. DOJ and FBI noted none of the thresholds for their C—UAS use under 6 USC 124n have been met; therefore, the FBI was not contemplating deploying any technical resources. DHS also agreed no threshold had been met for DHS to deploy technical resources under 6 USC 124n.

In response to concerns the Army or one of their contractors was conducting UAS operations or testing and evaluation, on January 13, the FAA contacted multiple offices within in the Pentagon in both the Army and the Office of the Secretary. All provided negative responses. Combined with previous DOD engagement with USAF and NORAD/NORTHCOM, there is high confidence these are not covert military activities.

On January 13, the Morgan County, CO Sheriff, who established the Drone Sightings Task Force two weeks ago, announced he will be standing down the Task Force and is no longer investigating. Further, the latest press release from the Colorado Department of Public Safety provides their investigative findings of the Colorado sightings and concludes with their decision to scale back proactive operations, although they will continue to respond to and investigate reports of suspicious activity. The weblink to their press statement can be found here:

https://www.colorado.gov/pacific/dhsem/news/news-release-update-colorado-department-public-safety-investigations-reports-suspicious-drone

On January 15, after analyzing video of purported drone activity in Illinois, Chicago FSDO ASIs were able to correlate the lights to commercial air traffic on approach to Chicago O'Hare airport.

(b) (6) (b) (5), (b) (6)

FAA will continue to coordinate with local, state, and federal law enforcement and public safety authorities to monitor the situation and provide updates as information warrants.

Fwd: Latest DRONE Sighting NOW in Illinois—about 1 hour from Chicago

"Stubblefield, Angela (FAA)" <angela h stubblefield@faa gov> From: To: "Burleson, Carl (FAA)" <carl burleson@faa gov>, "Blum, Daniel (FAA)" hu, 09 Jan 2020 12:06:03 -0500 Date: FYI I asked AS for a status check on discussion with FBI on detection systems Angela Sent from my iPad Angela Stubblefield Chief of Staff 267-7576 office (b) (6) cell Begin forwarded message: From: "oltzman, Joshua (FAA)" <<u>Joshua oltzman@faa gov</u>>
Date: January 9, 2020 at 9:02:32 AM ES
To: "Stubblefield, Angela (FAA)" <<u>Angela Stubblefield@faa</u>
Subject: Latest DRONE Sighting NOW in Illinois Stubblefield@faa gov>, "Manno, Claudio (FAA)" < Claudio Manno@faa gov>

Good morning Angela and Claudio:

Last night, Bam received a call from an officer Eglin PD report drone activity similar to what has been reported in Colorado and Nebraska. At the time of the call the officer was following the drones and speeds varied 10 to over 30 mph. The officer advised it was 10 to 12 drones and dispatch received over two dozen calls reporting activity.

This activity was reported by E-ROC last night:

PREL M NFO FROM FAA OPS ELGN L/UAS NC DENT/1900C/E-ROC ELGN L - BARTLETT L REPORTED APPROX MATELY 24 UAS TRAVEL NG BETWEEN ELGN AND BARTLETT HOVER NG AT 400 FEET OVER VAR OUS LOCAT ONS (POL CE DEPT SCHOOL WATER TREATMENT PLANT) NO ACFT OBSERVED ELGN PD NOT FED AT 847-289-2700 WOC 7-3333 RC/TH

Bam reported the office confirmed there were two types of drones, one or two large (approx 6 foot fixed wing quad rotor with what appeared to be a pusher prop) and 8+ smaller quad copter drones. All had red and white lights. A few times they appeared to hover, but mostly they flew eastbound.

One quadcopter was low enough the officer was able to illuminate it with his cruiser's spot light. The officer was able to followed them for about an hour in his cruiser.

I have shared this information with (b) (6) at FBI CIRG. This is the first sighting in Illinois which now is the fifth state (Colorado, Nebraska, Minnesota, Kansas, and now Illinois).

Josh

Jos ua Ho zma

Ac g Depu y Assoc a e Adm s a o

Secu y a d Haza dous Ma e a s Safe y (ASH)

ede a Ava o Adm s a o (AA)

(O) 202-267-7980

(M)(b) (6)

Update on CO/NE drone activity

"Stubblefield, Angela (FAA)" <angela h stubblefield@faa gov> From:

ue, 07 Jan 2020 07:25:42 -0500

"Blum, Daniel (FAA)" <daniel blum@faa gov>,(b) (6) (b) (6) <carl burleson@raa gov> "Burleson, Carl (FAA)" To:

Attachments: Senator Fischer Drone Activity alking Points 01 07 2020 docx (684 9 kB)

Date:

Good morning,
As you know, there was a large interagency meeting yesterday in Colorado, and Steve is talking with Sen Fischer this morning. Attached is the latest update about the meeting BLUF is that no one knows who is operating these aircraft, and some reports that have been debunked turned out to be manned fixed wing aircraft he meeting participants agreed to establish a multi-agency task force on the issue, in which FAA LEAP and FSDO will participate.

Steve, I will bring you a hard copy of the memo as well I believe Phil and I will be on the line for the call with the Senator to support as needed



Memorandum

Date: January 3, 2020

To: Steve Dixon, Administrator

From: Joshua Holtzman, Acting Deputy Associate Administrator, Office of Security and

Hazardous Materials Safety

Subject: January 7 Telcon with Senator Fischer (R-NE)

Event Overview: You are scheduled to hold a telephone call with Senator Fischer this afternoon to discuss FAA actions in response to the on-going unidentified drone activity in Colorado and Nebraska. Multiple FAA offices have been working together to investigate this issue. Talking points reflect FAA actions taken to date as well as current situation.

Talking Points:

At this time, we are supporting Federal, state, and local stakeholders in identifying the operator(s) of the UAS reported in western Nebraska and eastern Colorado. The FAA understands the interest in identifying the operator(s) and mitigating any potential risks these UAS could pose to the safety of other aircraft and people and property on the ground.

Background on LE Engagement: ASH Law Enforcement Assistance Program (LEAP) agent has spoken with Sheriffs from Washington, Lincoln, and Yuma Counties to gather additional information and provide assistance. From this interaction, we have learned that reports have been received from both law enforcement and local citizens with Washington County Sheriff, Jon Stivers, and his Deputy providing first-hand accounts. Each agency contacted advised at least one deputy has witnessed the activity. The activity reported occurs primarily between the hours of 1800 and 2200 MST and demonstrate the pattern of multiple "drones" flying a grid type pattern and remaining airborne for several hours at a time in less than optimum flying conditions (high winds and storm-like conditions). The number of drones reported operating at one range from between 2 and 16 and appear to be approximately 6 feet width and length. Flight time has been 2 to 3 hours continuous. All reports indicate flight is between 200 and 300 feet. However, several people interviewed stated it was hard to determine height due to the darkness and lack of clouds. On other sightings, lights were also reported to be either flashing or steady white, red, or green. One report mentioned flashing blue lights. In recent days, some reports have suggested that there is a "mothership" drone that has 20 or more drones operating in its vicinity. Reports

are extending in a southerly direction with activity continuing in the original two counties. Lincoln County is the latest Colorado County to report activity.

- There have also been reported sightings in nine Nebraska Counties and in Rice County, Minnesota.
- Since the reports are now in the national news, the sheriffs and other law enforcement have been inundated with calls. Law Enforcement has been consistent in stating that no criminal codes have been violated, and there is still no positive confirmation that these observables are UAS.
- No operators have been identified yet, but our LEAP agent and Flight Standards District Office Aviation Safety Inspectors in Colorado continue to research possible operator options.
- —The two leading potential explanations point to possible survey work:
- 1) A new pipeline has been proposed in the Julesburg Basin, an area northeast Colorado on the Colorado/Nebraska border and the counties where the sightings have taken place are adjacent to that basin; and
- 2) Colorado recently enacted more strict EPA-related laws leaving some to speculate that the aircraft are conducting IR surveillance for gas leak detection.
- In conversations with Law Enforcement, FAA Law Enforcement Assistance Program (LEAP) has suggested flying helicopter assets in the areas of the observed operations.
 - Minnesota Highway Patrol launched a fixed wing asset on New Year's Day but was unable to locate the drones or the operators.
 - Nebraska State Patrol were scheduled to fly a helo surveillance operation late last week, but the mission was cancelled due to concerns of operating in close proximity to multiple drones. An aerial mission did take place Sunday night with patrol assets; however, no activity was observed. There is a possibility more flights might take place throughout the week.
 - Colorado State Patrol had a big operation planned for Monday evening involving multiple LE agencies and a fixed wing aviation asset. FAA LEAP agent and Aviation Safety Inspectors were supporting operation, and we are waiting feedback from the mission.
- Three two-person teams of Aviation Safety Inspectors from the Denver FSDO conducted ground surveillance of the drone activities in Yuma and Morgan Counties in Colorado last Friday evening with no reported sightings.
- FAA has also engaged FBI locally (Denver and Omaha) and in DC at the HQ level on the possible deployment of their detection assets and additional man-power in an effort to locate the operators. FBI Field Offices in Denver and Omaha are internally coordinating on those options with FBI HQ.
- **DOD** Engagement: NORTHCOM/NORAD has been contacted and does not have any information, other than they are aware of the reports. *AFOSI from F.E. Warren AFB have also confirmed no DOD involvement in or knowledge of the operations.*

Air Traffic and UAS Office Checks: Air Traffic Organization System Operations indicated they have not given any authorizations matching this area. The Western Service Center reported they have no "swarm" Certificates of Authorization for that area and are not aware of any special DoD missions of this nature. There are no Part 107's approvals for this type of operation.

- Five of the seven UAS test sites have reported back that they are not involved in these operations. We are waiting to hear back from two others.
- We have contacted entities (UAS companies, pipeline operators, colleges, etc.) that have received permission to operate UAS in these areas, but to date, none of these approved operators have been determined to be the source of the UAS operations.

General Aviation Airport engagement: FAA Airports District Offices that cover these areas have contacted GA airports in the vicinity of the reported UAS flights to make sure they are aware of them, that they brief pilots, and that pilots/airport authorities call LE and FAA if they see anything of significance.

Update from Multiagency Meeting in Colorado on January 6: A multiagency meeting was held in Brush, CO, hosted by the Morgan County Sheriff yesterday. Seventy-seven people attended, including FAA LEAP and Denver FSDO, sheriffs from 12 Colorado counties, Nebraska sheriffs from Chase, Cheyenne, Deuel, Kimball, Perkins, and Lincoln counties, the Nebraska State Patrol, and DOD representatives from F.E. Warren AFB, including Air Force Office of Special Investigations.

- Based on information received during the meeting, it appears sightings and reports have decreased in the original counties of northeast Colorado and have moved northeast into Nebraska and further south into Lincoln County, encroaching on El Paso County Colorado.
- Participants agreed the only way to address the issue is to identify the operator/s and, based on the amount of media attention the issue has received, reporting has become somewhat unreliable. Examples include:
 - A person in Nebraska claimed responsibility for shooting down a drone in connection with a "shots fired" report in McCook, NE last week. Individual posted a picture of a damaged drone. When interviewed by Nebraska State Police, the individual stated he made the story up and the photo was taken from the internet. The photo was confirmed to be from the internet and not connected.
 - Reports of finding a drone in the field, which turned out to be false reporting.
 - Numerous pictures taken by cell phones claiming to be fixed wing drones. Upon further analysis, it has been determined that the pictures were of fixed wing aircraft.
- FBI suggested the activity may be legitimate in nature and could be fixed wing aircraft and, thus, requested the LE in attendance provide some type of Public Service Announcement to their residents about shooting at aircraft. There were no further comments on possible FBI deployment of UAS detection/C-UAS mitigation assets.

- The meeting concluded with participants agreeing to establish a Drone Task Force. Sheriff Martin from Morgan County in Colorado agreed to take the lead in the task force. The task force will consist of several sheriff offices in Colorado and Nebraska (actual participants still TBD), FAA LEAP and Denver FSDO, FBI, and the Colorado Information Analysis Center (CAIC). The CAIC will serve to collect and disseminate information as well as the hub for coordinating operations for the Task Force.

The FAA will continue to work closely with our federal, state, and local LE partners to identify what these aircraft are (if they are, indeed, UAS or are manned aircraft) and who is operating them.

If they are UAS, this is an exemplar of why Remote Identification requirements, such as those put forward in the FAA's recently released Notice of Proposed Rulemaking, are critical to safety and security of UAS integration into the National Airspace System.

RE: 16 January Mid-West Observables Update and Summation of Activities

From: "Manno, Claudio (FAA)" <claudio manno@faa gov> "Stubblefield, Angela (FAA)" <angela h stubblefield@faa gov>,(b) (6) To: , "Burleson, Carl (FAA)" <carl burleson@faa gov>, "Newman, Philip (FAA)" <philip newman@faa gov>, "Giacini, Cc: ndrew F (FAA) <andrew F qiacini@faa qov>, "Manzelli, Brianna (FAA)"
brianna manzelli@faa qov>, "Bahrami, Ali (FAA)" <ali bahrami@faa qov>, "O'Donnell, Michael J (FAA)" <michael j odonnell@faa gov>, "Merkle, Jay (FAA)" <jay merkle@faa gov>, "Bristol, eri (FAA)" <teri bristol@faa gov>, "Arel, imothy (FAA)" <timothy arel@faa gov>, "Shaffer, Kirk (FAA)" <kirk shaffer@faa gov>, "Lenfert, Winsome A (FAA)" <winsome a lenfert@faa gov>, "Shiffer, Jeannie (FAA)" <jeannie shiffer@faa gov>, "Garg, Arjun (FAA)" <arjun garg@faa gov>, "McNall, Pat (FAA)" <pat mcnall@faa gov>, "Bury, Mark (FAA)" <mark bury@faa gov>, " oward, Katherine (FAA)" <katherine howard@faa gov>, " oltzman, Joshua (FAA)" <joshua holtzman@faa gov>, "Feddersen, Brett (FAA)" <bre>set feddersen@faa gov>, "Papier, Leesa J (FAA)" <leesa j papier@faa gov> hu, 16 Jan 2020 10:43:38 -0500 Date: Great, Thanks caudo From: Stubb ef e d, Ange a H (FAA) <Ange a H Stubb ef e d@faa gov> Thursday, January 16, 2020 10 40 AM To (b) (6) (FAA) < Caud o (FAA) < Caud o Manno@faa gov> (b) (6)

Bur eson, Car (FAA) < car bur eson@faa gov> Newman, Ph
(FAA) < Ph p Newman@faa gov> G ac n , Andrew F (FAA) < Andrew F G ac n @faa gov> Manze , Br anna (FAA) < Br anna Manze @faa gov> Bahram ,
A (FAA) < a bahram @faa gov> O Donne , M chae J (FAA) < m chae odonne @faa gov> Merk e, Jay (FAA) < Jay Merk e@faa gov> Br sto , Ter (FAA) < ter br sto @faa gov> Are , T mothy (FAA) < tmothy are @faa gov> Shaffer, K rk (FAA) < K rk Shaffer@faa gov> Lenfert, W nsome A (FAA) <
w nsome a enfert@faa gov> McNa , Pat (FAA) Bur eson, Car (FAA) <car bur eson@faa gov> Newman, Ph p <pat mcna @faa gov> Bu y, Mark (FAA) <mark bury@faa gov> Howard, Kather ne (FAA) <kather ne howard@faa gov> Ho tzman, Joshua (FAA) <Joshua Ho tzman@faa gov> Feddersen, Brett (FAA) < Brett Feddersen@faa gov> Pap er, Leesa J (FAA) < eesa pap er@faa gov> Subject: Re 16 Janua y M d West Observab es Update and Summat on of Act v t es Thanks, Claudio. I will also provide this to OST as S1 has had calls with Senators Gardner and/or Fischer as well. Angela Sent from my iPad Angela Stubblefield Chief of Staff FAA 202 267 7576 office (b) (6) cell On Jan 16, 2020, at 10:37 AM, (b) (6) wrote: <image002 jpg> Thanks C aud o Apprec ate the cont nued focus and support At some point AG will need to follow up with Congressional staff if not being done a ready. The January 15th observation below is instructive, a though doubt tw be p cked up n the med a! F ghts on approach to ORD s not near y as sexy as drones and "mother sh ps... From: Manno, C aud o (FAA) < Claudio Manno@faa gov > Sent: Thursday January 16, 2020 8 02 AM To: (b) (6)
(FAA) < car burie (b) (6) > Stubb ef e d, Ange a H (FAA) <<u>Angela Stubblefield@faa gov</u>> Bur eson, Car Cc: Newman, Ph p (FAA) < Philip Newman@faa gov> G ac n , Andrew F (FAA) < Andrew F Giacini@faa gov> Manze , Br anna (FAA) <Brianna Manzelli@faa gov> Bahram , A (FAA) <ali bahrami@faa gov> O Donne , M chae J (FAA) <michael j odonnell@faa gov> Merk e, Jay (FAA) <ali bahrami@faa gov> Are , T mothy (FAA) <ti>timothy arel@faa gov> Shaffer, K rk (FAA) <kirk Shaffer@faa gov> Are , T mothy (FAA) <ti>timothy arel@faa gov> Shaffer, K rk (FAA) <kirk Shaffer@faa gov> Lenfert, W nsome A (FAA) <winsome a lenfert@faa gov> Sh ffer, Jeann e (FAA) <<u>Jeannie Shiffer@faa gov</u>> Garg, Ar un (FAA) <<u>Arjun Garg@faa gov</u>> McNa, Pat (FAA) <pat mcnall@faa gov> Bu y, Mark (FAA) <mark bury@faa gov> Howard, Kather ne (FAA) <katherine howard@faa gov> Manno, C aud o (FAA) <<u>Claudio Manno@faa gov</u>> Ho tzman, Joshua (FAA) <<u>Joshua oltzman@faa gov</u>> Feddersen, Brett (FAA) <<u>Brett Feddersen@faa gov</u>> Pap er, Leesa J (FAA) < leesa j papier@faa gov> Subject: FW 16 January M d West Observab es Update and Summat on of Act v t es Good morning, The following is a summary of activities over the past five days by FAA and our Federal partners as well as State and local authorities in response to the continued drone sightings in the Mid-West. Phil/Andrew, you are welcome to

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