



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# **Review of the U.S. Department of the Interior's Actions Related to January 6, 2021**

**This is a revised version of the report prepared for public release.**

# Review of the U.S. Department of the Interior's Actions Related to January 6, 2021

## Results in Brief

### What We Reviewed

We reviewed the actions of the National Park Service (NPS) and U.S. Park Police (USPP) in preparing for the Women for America First (WFAF) demonstration at the Ellipse on January 6, 2021. Our review focused primarily on the NPS' permitting process and related activities, although we also considered information-sharing between the NPS, the USPP, and their law enforcement partners. In addition, we reviewed the USPP's law enforcement activities on January 6 with a particular focus on WFAF's demonstration, the National Mall, and the response at the U.S. Capitol.

### What We Learned

On December 19, 2020, WFAF first sought permission to hold a demonstration in Washington, DC on January 6, 2021, the date the U.S. Congress was scheduled to meet and certify Electoral College votes and officially declare the results of the 2020 presidential election. On December 29, WFAF requested to hold this demonstration at the Ellipse.

In preparation for WFAF's demonstration at the Ellipse, the NPS coordinated with WFAF on logistics, required documentation, and security. Throughout the permitting process, the NPS asked WFAF if it planned to march after the demonstration, and WFAF repeatedly stated it did not.

On January 1, 2021, the NPS issued a permit to WFAF authorizing it to conduct its demonstration at the Ellipse. Based on WFAF's application, the permit stated 5,000 people were expected to attend and that the permit did not authorize a march from the Ellipse. Also on January 1, the USPP and the NPS received confirmation from the U.S. Secret Service that President Trump would be attending WFAF's demonstration.

In the days leading up to its demonstration, WFAF requested changes to its permit application, including notifying the NPS on January 3 that it expected an increase in the number of anticipated attendees from 5,000 to eventually 30,000. During this time, the USPP and its law enforcement partners continued to assess potential security threats and threats of violence on January 6 but concluded that the information they had was not specific enough to be deemed credible.

On January 6, USPP officers began arriving at the Ellipse at around 4:00 a.m. By approximately 7:00 a.m., hundreds of people were waiting to enter the Ellipse for WFAF's

demonstration, which was scheduled to begin at 9:00 a.m. In addition, hundreds of attendees arrived at the Ellipse with backpacks and bags, which they abandoned around the National Mall because they were not permitted in the demonstration. Separately, USPP officers were confronted with large, sometimes aggressive crowds and reported numerous armed individuals around the National Mall. Throughout the morning, the USPP and other law enforcement officials arrested several people around the National Mall for assault and possession of firearms, and USPP officers arrested one individual outside the Washington Monument.

WFAF's demonstration began at approximately 9:00 a.m., and President Trump began his speech at approximately 12:00 p.m. Several times during his speech, the President called for the crowd to march to the U.S. Capitol at the conclusion of the demonstration. After the President's speech, many demonstration attendees began moving toward the U.S. Capitol.

At approximately 1:31 p.m., the USPP received a report that U.S. Capitol Police (USCP) and DC Metropolitan Police Department (MPD) officers were heavily engaged with protesters at the U.S. Capitol. At 1:45 p.m., the USCP and MPD requested USPP assistance. The USPP arrived at the U.S. Capitol at approximately 2:00 p.m.

### What We Found

The NPS complied with legal requirements in issuing the permit for WFAF's demonstration. However, NPS safety officials did not review WFAF's fire and life safety documentation or conduct a site inspection as required by NPS policy. The NPS did not comply with notice requirements regarding prohibited items at the Ellipse, including the prohibition on backpacks and bags, but did comply with notice requirements with respect to access restrictions around the Washington Monument on January 6. The NPS also failed to retain pre-demonstration photographs of the event site that could have been used to seek recovery for damages to Federal property. In addition, we found WFAF intentionally failed to disclose information to the NPS regarding its knowledge of a post-demonstration march. Finally, we found no evidence that the USPP failed to exercise its law enforcement responsibilities in accordance with policy on January 6 at both the Ellipse and the U.S. Capitol.



## I. SCOPE AND METHODOLOGY

We reviewed the actions of National Park Service (NPS) and U.S. Park Police (USPP) officials in preparing for and responding to events at the Ellipse and the U.S. Capitol in Washington, DC on January 6, 2021. Specifically, we reviewed NPS and USPP officials' actions before, during, and after Women for America First's (WFAF's) demonstration at the Ellipse and the USPP's response in and around the National Mall and the U.S. Capitol to determine whether their actions complied with applicable laws, regulations, and policies. In addition, we obtained information regarding the NPS and USPP's interactions, communications, and coordination with other law enforcement entities in managing the events on January 6.

We also examined the actions of WFAF, particularly with respect to its application for a permit from the NPS to conduct a demonstration at the Ellipse on January 6.<sup>1</sup>

The appendix includes a timeline of key events discussed in this report.

As part of our review, we interviewed more than 60 current and former employees of the U.S. Department of the Interior (DOI), including the former Secretary of the Interior, the former NPS Acting Director, DOI attorneys, NPS Division of Permits Management staff, and USPP command officials and officers. We reviewed DOI and USPP policies and procedures, collected and reviewed more than 30,000 pages of emails and documents provided by the DOI, and law enforcement radio recordings, photographs, and videos from January 6. We also reviewed over 3,000 pages of material that we received from WFAF in response to a subpoena issued by our office. We requested to speak with WFAF officers, but WFAF refused our request for a voluntary interview.<sup>2</sup>

Our oversight obligations focus on the DOI and its bureaus and subcomponents. However, in an effort to present a complete picture of the events on January 6 and the DOI entities' role in them, we requested and obtained information from other entities involved in these events and with which the DOI interacted. In particular, we sought and received information from the DC Metropolitan Police Department (MPD), the U.S. Capitol Police (USCP), the Federal Bureau of Investigation (FBI), the U.S. Secret Service (USSS), the U.S. Department of Homeland Security (DHS), the U.S. Department of Health and Human Services (HHS), and the Offices of Inspectors General for USCP, DHS, HHS, the U.S. Department of Defense (DoD), and the U.S. Department of Justice (DOJ). We also reviewed publicly available materials from the House Select Committee to Investigate the January 6th Attack on the United States Capitol (Select Committee).<sup>3</sup>

We conducted this review in accordance with the *Quality Standards for Investigations* issued by the Council of the Inspectors General on Integrity and Efficiency.

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<sup>1</sup> In November 2022, we referred to the U.S. Department of Justice (DOJ) our findings related to WFAF's failure to disclose to the NPS its knowledge of a post-demonstration march. In April 2023, DOJ declined to consider the matter for potential prosecution.

<sup>2</sup> We do not have the authority to compel testimony from non-DOI individuals or entities.

<sup>3</sup> The U.S. House of Representatives created the Select Committee "[t]o investigate and report upon the facts, circumstances, and causes relating to" the violent events that occurred at the Capitol on January 6, 2021. *Establishing the Select Committee to Investigate the January 6th Attack on the United States Capitol*, 117th Cong. (2021), H. R. Res. 503 § 3, 167 Cong. Rec. H3322–35 (daily ed. Jun. 30, 2021) (enacted).

## II. WHAT WE LEARNED

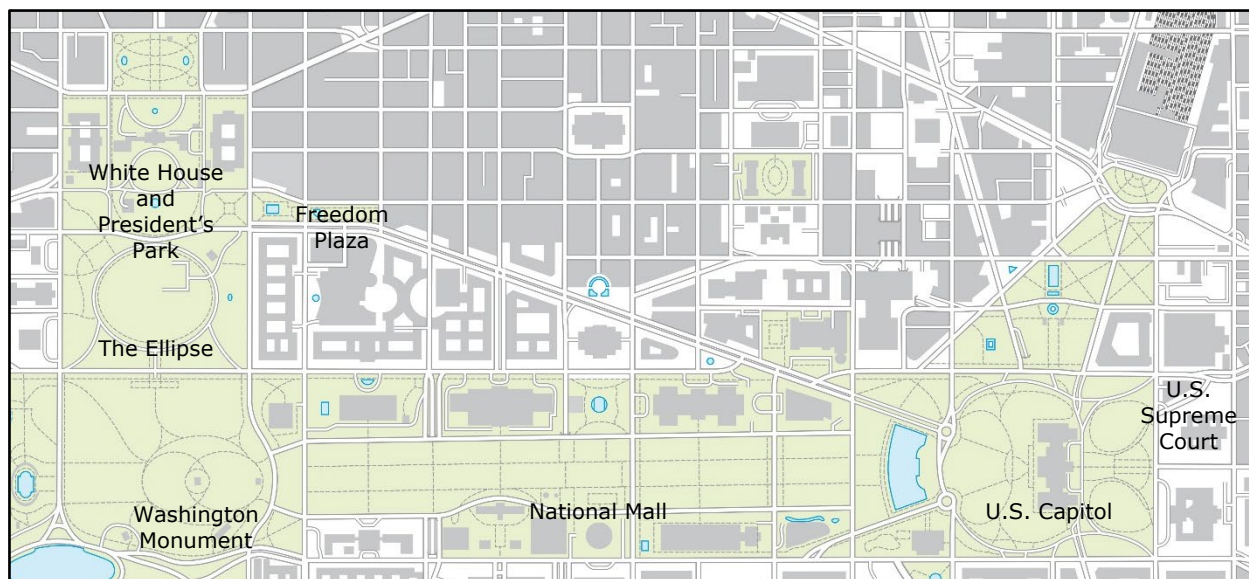
### A. The DOI's Responsibilities Relating to the Events of January 6, 2021

Different components of the DOI had responsibilities that connected with the events of January 6. In particular, the NPS, the USPP, and the USPP's Intelligence Branch played significant roles before and during the events of January 6.

#### 1. The NPS' Overall Responsibilities

The NPS, a bureau of the DOI, is charged with the care of the United States' national parks. Under the National Park Service Organic Act,<sup>4</sup> the Secretary of the Interior (Secretary), "acting through the Director of the National Park Service," is required to "promote and regulate the use of the National Park System," including NPS-administered "natural, historic, and recreation areas" (NPS park areas).<sup>5</sup> The USPP is a unit of the NPS authorized to conduct law enforcement in the national park system and, pursuant to local statutes, within the District of Columbia generally.<sup>6</sup> The demonstration that preceded the violence at the U.S. Capitol occurred at the Ellipse, which is part of President's Park—a national park—and thus, is under the control of the NPS. Figure 1, below, provides a map of the National Mall and surrounding areas, including President's Park.

**Figure 1: Map of the National Mall and Surrounding Areas in Washington, DC**



Source: Adobe stock illustration with DOI OIG annotations.

<sup>4</sup> 54 U.S.C. § 100101 note (Short Title of 1916 Act states "Act Aug. 25, 1916, ch. 408, §5, as added by Pub. L. 108-352, §10(a), Oct. 21, 2004, 118 Stat. 1397, provided that: 'This Act [see Tables for classification] may be cited as the 'National Park Service Organic Act'.'").

<sup>5</sup> 54 U.S.C. §§ 100101(a) and (b)(1), 100102, 100501. Throughout this report, we use the term "NPS park area(s)" consistent with the definition in 36 C.F.R. § 1.4(a) of "National Park System (Park area)" as "any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

<sup>6</sup> See U.S. Park Police, General Order (G.O.) 2101, "Arrest Authority," §§ 2101.01, "Purpose," and 2101.04, "Federal Laws and Regulations" (Oct. 25, 2017).

The grounds of the U.S. Capitol are a National Historic Site managed by the Architect of the Capitol.<sup>7</sup> The Office of the Chief Security Officer, which is part of the Architect of the Capitol, “is responsible for the maintenance, care and operation of the buildings, grounds and physical security enhancements of the U.S. Capitol Police, related campuswide physical security infrastructure and an off-site campus supporting all legislative branch agencies.”<sup>8</sup> The USCP is responsible for policing the U.S. Capitol buildings and grounds and “protecting Congress and the public, and maintaining order while protecting the U.S. Capitol.”<sup>9</sup> The USPP does not have primary responsibility for the U.S. Capitol and its grounds but can assist with any undeclared emergency, incident, or situation when requested by law enforcement in the National Capital Region.<sup>10</sup>

## 2. *The NPS Permitting Process for Demonstrations*

Most demonstrations of more than 25 people on NPS park areas in Washington, DC require a permit, which is a written authorization issued by the NPS.<sup>11</sup> Pursuant to NPS regulations, the National Capital Region’s Regional Director (Regional Director) is authorized to issue permits for demonstrations in NPS park areas in and around Washington, DC.<sup>12</sup> The permitting process is intended to advance a variety of organizational, logistical, and security goals<sup>13</sup> and help protect NPS park areas and Federal property.

NPS regulations define the term “demonstration” to include “demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers.”<sup>14</sup> As NPS policy explains, these activities constitute public expressions of views protected by the First Amendment of the U.S. Constitution as freedom of speech and freedom of assembly.<sup>15</sup>

The Regional Director oversees the Division of Permits Management for the National Mall and Memorial Parks (Permits Division), which processes permits for demonstrations in all NPS park areas

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<sup>7</sup> Nat’l Park Serv., “U.S. Capitol Grounds: Frederick Law Olmsted National Historic Site,” available at <https://www.nps.gov/places/u-s-capitol-grounds.htm>; see also U.S. Park Police, G.O. 2003, “U.S. Capitol and U.S. Supreme Court Buildings and Grounds,” § 2003.03, “Law Enforcement – U.S. Capitol Grounds and Buildings” (“The U.S. Capitol Grounds and Buildings comprise all properties that are under the jurisdiction of the Architect of the Capitol.”) (May 27, 2011).

<sup>8</sup> Architect of the Capitol, “Office of the Chief Security Officer,” available at <https://www.aoc.gov/about-us/organizational-structure/office-chief-security-officer>.

<sup>9</sup> 2 U.S.C. Chapter 29, Subchapter II: Powers and Duties; see also U.S. Park Police, G.O. 2003, § 2003.03, “Law Enforcement – U.S. Capitol Grounds and Buildings” (“The U.S. Capitol Police has the primary police responsibility for the U.S. Capitol Grounds and Buildings.”); U.S. Capitol Police, “USCP Fast Facts,” available at <https://www.uscp.gov/media-center/uscp-fast-facts>.

<sup>10</sup> Area law enforcement agencies, including USPP, participate in a mutual aid agreement that facilitates law enforcement cooperation in the National Capital Region.

<sup>11</sup> 36 C.F.R. § 7.96(g)(2)(i) (2020).

<sup>12</sup> *Id.* § 7.96(g)(3).

<sup>13</sup> For example, USPP officials and other law enforcement agencies told us that the NPS permitting process provides invaluable information when planning law enforcement requirements for demonstrations and events on NPS property.

<sup>14</sup> 36 C.F.R. § 7.96(g)(1)(i).

<sup>15</sup> Nat’l Park Serv., *Management Policies 2006*, § 8.6.3 “First Amendment Activities” (*Mgmt. Policies 2006*); Nat’l Park. Serv., *Reference Manual 53: Special Park Uses*, Release Number 1, App. 3 – First Amendment Activities, p. A3-1. The First Amendment to the U.S. Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. Const. amend. I.

in Washington, DC,<sup>16</sup> including the National Mall, Lincoln Memorial, and Washington Monument, as well as numerous other memorials, monuments, and historic sites throughout downtown Washington, DC. The demonstration at issue in this report occurred at the Ellipse, an NPS park area adjacent to the White House that is within the boundaries of President’s Park.

To apply for a permit to conduct a demonstration in an NPS park area in Washington, DC, an applicant<sup>17</sup> must complete an NPS form titled “Application for a Permit to Conduct a Demonstration or Special Event,” which is available from the Permits Division or on the Permits Division website.<sup>18</sup> The Permits Division relies on the application to obtain “preliminary information necessary to begin an assessment of the appropriateness and feasibility” of a proposed demonstration, including the “activities, design, and timeframe necessary to install, operate and load-out the proposed event.”<sup>19</sup>

In the application, Section 3 – Event Logistics, the applicant must state their name and telephone number; the date, time, and duration of the proposed event; and the nature and proposed location of the event.<sup>20</sup> The application must identify the anticipated number of participants, the equipment and facilities to be used, whether the event will include a march, and whether the applicant has information concerning potential attempts to disrupt the event.<sup>21</sup> In addition, the application must state the number of marshals who will maintain order at the event and the number of volunteers who will provide information and other assistance at the event.<sup>22</sup> Finally, the applicant must sign and date the application and submit it to the Permits Division to ensure receipt “at least 48 hours in advance of any proposed demonstration” and no more than 1 year in advance of the event.<sup>23</sup>

Pursuant to Federal regulations, “[a]ll demonstration applications . . . are deemed granted, subject to all limitations and restrictions applicable to said park area, unless denied within 24 hours of receipt.”<sup>24</sup> One example of a restriction applicable to the Ellipse is that certain “national celebration events have priority use of particular park areas,” such as the “Lighting of the National Christmas Tree and Christmas Pathway of Peace.”<sup>25</sup> This event has priority use of the “[n]orthern half of the oval portion of the Ellipse” between October and February of each year.<sup>26</sup> As such, the Permits Division may grant permit applications for other demonstrations to occur at the Ellipse between October and February only “to the extent that they do not significantly interfere with the National Celebration Events.”<sup>27</sup>

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<sup>16</sup> 36 C.F.R. § 7.96(a) (Applicability of regulations), (g)(2) (Permit requirements); Nat’l Park Serv., Nat’l Cap. Region, *Event Planning Guide: National Mall & Memorial Parks*, § 8.6, “National Capital Region Park Permits Contacts,” Version 1.1 (undated) (*Event Planning Guide*), available at <https://www.nps.gov/nama/learn/management/event-planning-guide.htm>.

<sup>17</sup> An applicant can be either an individual or an organization. Nat’l Park Serv., National Mall & Memorial Parks, Div. of Permits Mgmt., NPS Form 10-941, “Application for a Permit to Conduct a Demonstration or Special Event in Park Areas” (NPS Form 10-941).

<sup>18</sup> 36 C.F.R. § 7.96(g)(3); *Event Planning Guide*, § 2.1.1 “Application Requirements.”

<sup>19</sup> *Event Planning Guide*, § 2.1 “Application for Public Gathering Permit.”

<sup>20</sup> NPS Form 10-941. *See also* 36 C.F.R. § 2.51(d) (2020).

<sup>21</sup> 36 C.F.R. § 2.51(d); NPS Form 10-941.

<sup>22</sup> NPS Form 10-941.

<sup>23</sup> 36 C.F.R. § 7.96(g)(3) and (4)(i).

<sup>24</sup> 36 C.F.R. § 7.96(g)(3).

<sup>25</sup> *Id.* § 7.96(g)(4)(ii)(A).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* § 7.96(g)(4)(ii)(A), (iv).

The Regional Director may deny a permit in writing on specified, narrow grounds if:

1. It conflicts with a “fully executed prior application for the same time and place” that “has been or will be granted” and “authoriz[es] activities which do not reasonably permit multiple occupancy of the particular area”;
2. “It reasonably appears that the proposed demonstration or special event will present a clear and present danger to the public safety, good order, or health”;
3. The proposed demonstration “is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for,” reasonably considering “possible damage to the park”; or
4. “The application proposes activities contrary to any of the provisions of this section or other applicable law or regulation.”<sup>28</sup>

If the Regional Director determines that the location of the proposed demonstration is not appropriate because of a conflicting use or because the location cannot reasonably accommodate the proposed use, the Regional Director “will” propose an alternate site to the applicant.<sup>29</sup>

Upon receipt of a permit application, a Permits Division employee reviews it for completeness.<sup>30</sup> To be considered complete, an application must be signed by the applicant or its representative and include the name and contact information of the applicant, identify whether the application is for a demonstration or a special event, and identify the proposed date, location, and anticipated number of participants.<sup>31</sup> If the application is not complete, a Permits Division employee coordinates with the applicant to obtain a complete application.<sup>32</sup> After the application is complete, it is assigned to a permit specialist to process it in the order of receipt.<sup>33</sup> Receipt of a completed application starts the 24-hour period after which the permit is deemed granted unless it is denied by the NPS.<sup>34</sup> The regulations state, however, that “where a permit has been granted, or is deemed to have been granted,” the Regional Director “may revoke that permit” under certain circumstances set forth in the regulation, which largely mirror the bases for denial of a permit in the first instance.<sup>35</sup>

According to the NPS *National Capital Region Event Planning Guide (Event Planning Guide)*, NPS permitting staff “is responsible for reviewing permit applications and coordinating with the applicant

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<sup>28</sup> 36 C.F.R. § 7.96(g)(4)(vii)(A) to (D).

<sup>29</sup> *Id.* § 7.96(g)(4)(vii)(A), (C).

<sup>30</sup> *Event Planning Guide*, § 2.1.1 “Application Requirements.”

<sup>31</sup> *Id.*; NPS Form 10-941.

<sup>32</sup> *Event Planning Guide*, § 1.1.1 “NPS Permitting Staffing.”

<sup>33</sup> *Id.* § 1.1.2 “NPS Permit Specialist.”

<sup>34</sup> 36 C.F.R. § 7.96(g)(3), (4)(i); *Event Planning Guide*, § 2.1.1 “Application Requirements.”

<sup>35</sup> 36 C.F.R. § 7.96(g)(3). The regulation states that “the Regional Director may revoke” a permit that has been granted or deemed granted “pursuant to paragraph (g)(6)” of the regulation. Paragraph (g)(6) states in pertinent part “[a] permit issued for a demonstration is revocable only upon a ground for which an application therefor would be subject to denial under paragraphs (g) (4) or (5). . . . During the conduct of a demonstration, a permit may be revoked by the ranking U.S. Park Police supervisory official in charge if continuation of the event presents a clear and present danger to the public safety, good order or health or for any violation of applicable law or regulation.”

to ensure the permit application is completed in full.”<sup>36</sup> An NPS permit specialist is assigned to the application and serves as the applicant’s primary point of contact, manages event compliance, and coordinates logistics with the USPP.<sup>37</sup> A preliminary consultation planning meeting may also be held with the applicant and the permit specialist “depending on the size, scope, and nature of the proposed event.”<sup>38</sup> If such a meeting does occur, the permit specialist “will consult with the applicant regarding requirements and logistics in order to produce an event that matches the expectations of the applicant, while ensuring proper use and resource protection of the parks.”<sup>39</sup> The *Event Planning Guide* states that the applicant must come to the meeting prepared to discuss and provide, if requested, a proposed site plan, an event schedule, a proposed safe haven and crowd management plan, and a proposed operations inventory including security, communication, sustainability, and first-aid plans.<sup>40</sup> The permit specialist also “leads the pre- and post-event walk-throughs and is the person with overall responsibility for event monitoring.”<sup>41</sup>

If the permit specialist requires that the applicant submit certain safety documents, such as a proposed safe haven and crowd management plan, the NPS has a policy titled the *NCA Fire and Life Safety Temporary Events Policy (NCA Fire and Life Safety Policy)* that requires the permit specialist to submit these safety documents to the NPS safety official for review and approval.<sup>42</sup> According to the *NCA Fire and Life Safety Policy*, required safety documentation may also include an emergency plan, crowd control management training certificates, flame retardant certifications, and manufacturer specification sheets.<sup>43</sup> The *NCA Fire and Life Safety Policy* further states that “[a]ll documents shall be submitted through the Park’s permit specialist, or event coordinator **at least 20 business days** prior to the proposed scheduled event”<sup>44</sup> and that “[d]ocument review may take a minimum of 10 business days.”<sup>45</sup> Neither the *NCA Fire and Life Safety Policy* nor NPS officials with whom we spoke could reconcile this 20- or 10-day requirement with NPS regulations, which—as noted above—require only that applicants submit their permit application “at least 48 hours in advance” and state that a permit application is deemed granted if it is not denied within 24 hours of receipt.

NPS regulations further provide that, before implementing a limitation on the public’s use of NPS park areas, the park superintendent must “prepare a written determination justifying” any public use limitation and must inform the public of any “use or activity restrictions or conditions” or “public use limits.”<sup>46</sup> The regulations further provide that the “the public shall be notified” of the restrictions or conditions “by one or more of the following methods: (1) [s]igns posted at conspicuous locations, such

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<sup>36</sup> *Event Planning Guide*, § 1.1.1 “NPS Permitting Staff.”

<sup>37</sup> *Id.* § 1.1.2 “NPS Permit Specialist.”

<sup>38</sup> *Id.* § 2.2 “Preliminary Consultation Planning Meeting.”

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* §§. 2.2.1 “Preliminary Consultation Planning Meeting Requirements,” 2.4 “Operations Inventory and Event Schedule.”

<sup>41</sup> *Id.* § 1.1.2 “NPS Permit Specialist.”

<sup>42</sup> *NCA Fire and Life Safety Policy* (Jun. 1, 2020) at 6 (requiring that “all temporary event documents be reviewed by the NCA-AHJ”). NCA-AHJ stands for the National Capital Area authority having jurisdiction and is defined in the policy as an “organization, office, individual or designee responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.” The title of the individual designated as the NCA-AHJ under the policy is the NCA-Fire and Emergency Manager. We refer to this position throughout this report as the “NPS safety official.”

<sup>43</sup> *NCA Fire and Life Safety Policy* at 6.

<sup>44</sup> *Id.* at 6 (emphasis in original).

<sup>45</sup> *Id.* at 7.

<sup>46</sup> 36 C.F.R. § 1.5(c), (e) (2020).



as normal points of entry” at the event; (2) “[m]aps available in the office of the superintendent and other places convenient to the public”; (3) publication of the information “in a newspaper of general circulation in the affected area”; or (4) “[o]ther appropriate methods, such as the removal of closure signs, use of electronic media, park brochures, maps and handouts.”<sup>47</sup>

The NPS typically grants permits for approximately 500 to 600 First Amendment demonstrations in Washington, DC each year.

### *3. The NPS’ Law Enforcement Components and Their Responsibilities*

The USPP provides law enforcement and visitor protection services before and during First Amendment demonstrations permitted by the NPS in Washington, DC. There are two components within the USPP whose coordinated efforts help facilitate these events. Specifically, the Special Events Unit has representatives that meet with the NPS and applicants early in the permitting process to collect event information with a focus on providing effective crowd management and security for the event. The Intelligence and Counter-terrorism Branch (USPP Intelligence Branch) provides comprehensive analysis of available law enforcement intelligence to the Special Events Unit to allow it to properly coordinate and plan for the law enforcement assets needed to support events. The USPP Intelligence Branch provides intelligence reports through emails, Information Bulletins, and Executive Briefs to USPP leadership and external law enforcement partners.<sup>48</sup>

## **B. Events Leading Up to January 6 (November 3, 2020 – January 5, 2021)**

### *1. November – December 2020: WFAF Holds NPS-Permitted Demonstrations Regarding the Results of the 2020 Presidential Election*

On November 3, 2020, former U.S. Vice President Joe Biden defeated then-President Donald Trump in the presidential election of 2020. President Trump refused to concede the election, asserting that he had won and that there was widespread election fraud. From November 2020 through January 2021, there were demonstrations in multiple U.S. cities related to the results of the presidential election.

WFAF organized some of these demonstrations. Founded in 2019, Women for America First is self-described as a group of women who “engage, inspire and empower women to get involved and make a difference” and “has decades of experience in politics, media, and grassroots activism.”<sup>49</sup> The stated mission of WFAF is threefold: “Support the America First Agenda,” “Elect New Leaders & Drain the Swamp,” and “Exercise the Power of the Women’s Vote.”<sup>50</sup>

Before January 6, WFAF organized two NPS-permitted demonstrations at Freedom Plaza<sup>51</sup> in

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<sup>47</sup> 36 C.F.R. § 1.7(a).

<sup>48</sup> Executive briefings are tailored to provide the USPP executive command staff and NPS executives with information specific to the DOI. Information Bulletins are a collection of intelligence information shared with both internal and external partners.

<sup>49</sup> Women for America First, “Our Story,” available at <https://wfaf.org/ourstory/>. Filing History for the Virginia-incorporated nonstock corporation “Women for America First,” Clerk’s Information System, State Corporation Commission, Commonwealth of Virginia, <https://cis.scc.virginia.gov/> (in Business Entity Search under Search, enter “Women for America First” in “Entity Name” field, then search; on Business Entity Search Results page, under “Entity ID,” click on hyperlinked ID; on Entity Information page, click on “Filing History”).

<sup>50</sup> Women for America First, “Our Story,” available at: <https://wfaf.org/ourstory/>.

<sup>51</sup> Freedom Plaza is an NPS park area near the White House.

Washington, DC regarding the 2020 election—one on November 14, which included a march to the U.S. Supreme Court, and one on December 12. On December 15, the NPS confirmed receipt of a permit that WFAF submitted to the Permits Division for a planned demonstration at Freedom Plaza on January 22 and 23, 2021, to coincide with the presidential inauguration.

2. *December 19 – December 23: WFAF Submits an Amended Permit Request for a Demonstration on January 6*

On December 19, 2021, President Trump issued a tweet that stated, “Big protest in D.C. on January 6th. Be there, will be wild!”<sup>52</sup> Shortly after President Trump’s tweet, the WFAF representative who had applied for the NPS permit sent her own tweet, stating, “The calvary is coming, Mr. President! JANUARY 6th | Washington, DC.”<sup>53</sup> On January 6, 2021, the U.S. Congress was scheduled to meet in a joint session to certify the Electoral College votes and officially declare the results of the 2020 presidential election in favor of Joe Biden.

Also on December 19, WFAF sought permission from multiple agencies (the NPS, MPD, and USCP, respectively) to hold a demonstration in Washington, DC on January 6, 2021. With respect to the NPS, WFAF requested to amend the date on its previously submitted application for a demonstration at Freedom Plaza from January 22 and 23, 2021, to January 6, 2021. (As discussed below, WFAF later submitted a request to change the location of its demonstration from Freedom Plaza to the Ellipse.) WFAF separately submitted permit applications to the MPD and USCP for approximately 50 people to march to the U.S. Capitol on January 6, 2021.<sup>54</sup> The MPD application stated that the route would leave an NPS park area and proceed down Pennsylvania Avenue to Constitution Avenue, ending with a gathering on U.S. Capitol grounds, which, as noted previously, is under the jurisdiction of the USCP. At the time WFAF submitted these requests, the MPD and the USCP were not issuing permits for large demonstrations or events due to COVID-19 restrictions.<sup>55</sup> Accordingly, the MPD denied WFAF’s permit request on December 21, and WFAF subsequently withdrew the permit application it had submitted to the USCP. We found no evidence WFAF told NPS, at any time, that it had submitted permit requests to the MPD and the USCP for a march to the U.S. Capitol, that the MPD had denied its request, or that WFAF had withdrawn its USCP request.

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<sup>52</sup> The American Presidency Project, Donald J. Trump Tweets, Tweets of Dec. 19, 2020, available at <https://www.presidency.ucsb.edu/documents/tweets-december-19-2020>. The President promoted the January 6 demonstration on Twitter several additional times before the event. For example, he tweeted, “See you in Washington, D.C., on January 6th. Don’t miss it. Information to follow!” on December 27, 2020. On January 1, 2021, he tweeted “The BIG Protest Rally in Washington, D.C., will take place at 11.00 A.M. on January 6th. Locational details to follow.” With respect to a WFAF video promoting the January 6 demonstration, he tweeted, “I will be there. Historic day!” on January 3, 2021. See The American Presidency Project, Donald J. Trump Tweets of Jan. 1, 2021, available at <https://www.presidency.ucsb.edu/documents/tweets-january-1-2021>; The American Presidency Project, Donald J. Trump Tweets of Jan. 3, 2021, available at <https://www.presidency.ucsb.edu/documents/tweets-january-3-2021>.

<sup>53</sup> Email from WFAF, March for Trump, Subj. “OMG the President Retweeted [WFAF representative] Today -- TWICE!” (Jan. 1, 2021, 11:02 p.m.) (referencing two retweets by President Trump on Jan. 1, 2021, of a tweet that the WFAF representative posted on Dec. 19, 2020).

<sup>54</sup> Both the MPD and the USCP permit applications were submitted by WFAF on December 19, 2020. Though WFAF’s permit request to the USCP was for a demonstration of 50 people on U.S. Capitol grounds, the request stated that participants planned to march to the U.S. Capitol grounds from Freedom Plaza.

<sup>55</sup> According to witness interviews and documentary evidence, the MPD prohibited gatherings of more than 25 people, while the USCP prohibited gatherings of more than 50 people. See, e.g., Gov’t of D.C., Administrative Issuance System, Exec. Off. of the Mayor, Mayor’s Order 2020-119: Modified Requirements to Combat Escalation of COVID-19 Pandemic During Phase Two, § V “Mass Gatherings” (Nov. 23, 2020) (published online in the D.C. Reg. Nov. 27, 2020) available at <https://dcregs.dc.gov/common/NoticeDetail.aspx?noticeId=N100424>.

WFAF began promoting the January 6 demonstration before any permits had been issued. For example, on December 20, 2020, WFAF stated, “President Trump has called for patriots to come to Washington DC on January 6th. After the massive and successful rallies our March for Trump team has put together on Nov. 14 and Dec. 12th we have already begun organizing for an even bigger protest on January 6th.”<sup>56</sup> The next day, on December 21, WFAF distributed an email message to its supporters, which stated:

PRESIDENT TRUMP HAS DRAWN A LINE IN THE SAND TO SAVE OUR REPUBLIC. THE SHOWDOWN WILL BE IN WASHINGTON DC ON JANUARY 6TH AND THE MARCH FOR TRUMP IS RALLYING ALL PATRIOTS FROM SEA TO SHINING SEA.<sup>57</sup>

### *3. December 21 – December 28: NPS Prepares and Coordinates Law Enforcement Activities*

At the same time WFAF was working with the Permits Division to obtain a permit for its demonstration at the Ellipse, various NPS law enforcement activities were also occurring, some of which were related to security for WFAF’s demonstration. For example, on December 21, the USPP informed the MPD and USCP of WFAF’s request to change the date of its demonstration to January 6. Based on the requested date change, the USPP informed officers in its Washington, DC field office that all time off would be cancelled for January 5 through January 7. The USPP ordered the cancellation of time off so it would have sufficient personnel available to cover its regular patrol duties across the Washington, DC area and provide a special detail of officers assigned to WFAF’s January 6 demonstration at the Ellipse.

In addition, on December 22, the USPP participated in the first of a series of calls with its Washington, DC area law enforcement partners, including the MPD, USCP, USSS, FBI, and others, to discuss the demonstrations planned for January 6. The following day, the USPP Intelligence Branch provided an intelligence report to USPP officials and other Washington, DC-area law enforcement agencies stating:

Along with our federal, state, and local partners, we continue to evaluate calls for a “Stop the Steal / MAGA 3” event being scheduled to take place on Wednesday, 6 January 2021 in Washington, DC. While many specifics concerning the event such as time and location are not yet finalized, all available evidence indicates that we should expect an event similar to those that occurred on 14 November 2020 and 12 December 2020 in Washington, DC.<sup>58</sup> We have observed indications that opposition groups are aware of the event and plan to counter-protest such an event as they have in the past.

Finally, in the week before January 6, the USPP Intelligence Branch issued several external intelligence reports concerning threats of violence on January 6 to its law enforcement partners in the Washington, DC area, including the USSS, DHS, DOJ, USCP, FBI, and MPD. The Intelligence Branch also issued an internal executive brief on December 28 that was directed to the USPP executive command staff, including the Acting Chief, Deputy Chiefs, and several other officials, regarding

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<sup>56</sup> Email from WFAF, March for Trump, Subj. “Triggered Attacker Arrested During Our Food Drive” (Dec. 20, 2020, 1:07:52 p.m.).

<sup>57</sup> Email from WFAF, March for Trump, Subj. “TRUMP: Patriots Needed In DC On January 6th” (Dec. 21, 2020, 2:04 p.m.).

<sup>58</sup> As noted previously, the demonstrations held on November 14 and December 12, 2020, in Washington, DC were organized by WFAF and permitted by the NPS. For both demonstrations, WFAF requested to march to the U.S. Supreme Court after the demonstration concluded. During but primarily after the demonstrations had concluded, there were sporadic violent clashes between politically opposed groups across Washington, DC. In connection with the December demonstration, the USPP and MPD made over 30 arrests for various crimes, including assault and possession of prohibited weapons and ammunition.

possible demonstrations in Washington, DC on January 6. This executive brief stated that “individuals may display more aggressive and desperate behavior” on January 6 than that observed in prior demonstrations “as they interpret 6 January as their final opportunity to act on their grievances.” The USPP Intelligence Branch executive brief also noted that there had been calls on social media for protesters to outnumber and overcome law enforcement.

#### *4. December 28 – December 29: WFAF Submits a New Permit Application and Communicates Plans With the NPS*

On December 28, WFAF informed the NPS that it had appointed a different person to oversee the January 6 demonstration. As a result of this change, the NPS required WFAF to submit a new permit application. On December 29, WFAF did so. The new application changed the name of the representative signing on behalf of the applicant, WFAF; changed the location from Freedom Plaza to the Ellipse; and requested a starting date of January 4 for set up and an ending date of January 7 for breakdown of the event. WFAF’s December 29 permit application stated that 5,000 people were expected to attend the January 6 demonstration.

WFAF’s December 29 application also provided information that addressed the permit application’s “Event Logistics” section, which requires the permit applicant to provide information about expected event speakers, a complete schedule of activities, and any “proposed routes for any marches or parades.”<sup>59</sup> In response to this section of its December 29 permit application, WFAF stated, “Speaking program in development and will take place on stage and run from approx. 9am – 5pm.” WFAF’s permit application did not request or reference a planned march.

Also on December 29, the permit specialist assigned to process WFAF’s application sent an email to WFAF providing guidance on the documents and information that the NPS would require from WFAF to process its application, including site plans and an emergency plan. Later on December 29, the WFAF representative replied to the permit specialist’s email, stating, “Thank you so much for speaking with me and accepting our permit application for the ellipse.”

Also on December 29, the USPP participated in a call organized by MPD. The call with local law enforcement and Fire and Emergency Medical Service partners was to discuss First Amendment permits filed for January 6, 2021, which included WFAF’s planned demonstration, tactical de-confliction, contingencies, and January 6 impacts on inaugural preparation.

#### *5. December 30: The NPS and WFAF Discuss Demonstration Logistics and Set-Up*

On December 30, an NPS park ranger for President’s Park who works with demonstration applicants sent a detailed email to the WFAF representative recounting a telephone call between the two of them the previous evening regarding the permit application. This email discussed in detail WFAF’s proposed plans for its January 6 event at the Ellipse. According to the email:

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<sup>59</sup> The permit specialist told us that the USPP gathers potential march information so that it can invite those whose jurisdiction is affected to planning meetings with the applicant.

- The WFAF representative told the NPS that WFAF planned “to remain on the Ellipse and not to use Freedom Plaza” and that it “did not intend to march to the US Capitol” on January 6.
- The WFAF representative told the NPS that its January 6 demonstration “had the potential of a high-level VIP that may have security concerns/issues.”

With respect to the “high-level VIP,” the park ranger asked that WFAF “[p]lease let the NPS/USPP [know] as soon as possible so that they can advise and plan for this person’s participation.” The park ranger explained in the email that, as they had discussed on the telephone call, “the only armed people permitted on NPS property is the United States Park Police.”<sup>60</sup>

The park ranger went on to state that a current construction project on the south side of the White House could obstruct views of the White House from the Ellipse and that nothing could be set up within the vista sight line, the 150-foot-wide space running from the White House through the center of the Ellipse and the grounds of the Washington Monument to the Jefferson Memorial. She also identified information that WFAF needed to provide for the NPS to process its permit application, including a list of all equipment, a complete timeline from event set up to break down, the manufacturer’s specifications for the proposed flooring material, contact information for all contractors, a site layout drawing, fire and life safety information, and site security plans.

Also on December 30, the NPS hosted another call with WFAF to discuss planning for the January 6 demonstration. Participants included the permit specialist who handled WFAF’s permit, the WFAF representative, a WFAF project manager,<sup>61</sup> USPP officers, the park ranger for President’s Park, and USCP and MPD officers. The NPS stated that it invites the USPP to event logistics calls with applicants and also invites “outside agencies if [an event] skirts their jurisdiction” or there will be a march to that outside agency’s jurisdiction. During this call, the permit specialist and the park ranger for President’s Park asked the WFAF representative if WFAF planned to have demonstration attendees march to the U.S. Capitol after the January 6 demonstration at the Ellipse concluded. The WFAF representative responded that WFAF did not plan to march to the U.S. Capitol after the demonstration and that the demonstration would be only a rally at the Ellipse.<sup>62</sup> The permit specialist and the park ranger for President’s Park both explained to us that they asked WFAF if it planned to march to the U.S. Capitol on January 6 because WFAF had done so after its demonstration on Freedom Plaza in November 2020 and had intended to march (but ultimately did not) after its demonstration on Freedom Plaza in December 2020.<sup>63</sup> The permit specialist’s contemporaneous notes from the December 30 call included a notation stating “no march.”

At 5:43 p.m. on December 30, the WFAF representative submitted a request to amend WFAF’s permit application to begin setup for the January 6 demonstration on January 2 rather than January 4. The same evening, the permit specialist emailed the WFAF representative confirming receipt of the

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<sup>60</sup> The park ranger for President’s Park told us that applicants do not always understand that they cannot use off-duty armed police officers for security. She also said that the NPS tells applicants that, if any of their VIP guests have a security detail, applicants must contact the USPP for further discussion and coordination.

<sup>61</sup> This individual was a contractor that WFAF hired to oversee the production, logistics, and operations for the demonstration.

<sup>62</sup> We note, however, that contemporaneous WFAF promotional materials for its January 6 demonstration at the Ellipse called the demonstration a “March for Trump.” *See, e.g.*, Email from WFAF, March for Trump, Subj. “Triggered Attacker Arrested During Our Food Drive” (Dec. 20, 2020, 1:07:52 p.m.).

<sup>63</sup> In addition, on December 30, 2020, the FBI sent information to the USPP Intelligence Branch about online posts calling for Trump supporters to “march into the capit[o]l building.”

amended application. The permit specialist's email included guidance that the permit specialist had provided to WFAF earlier that day, which stated that WFAF was required to provide the NPS the following items as part of its permit application:

1. A COMPLETE list of equipment
2. A COMPLETE timeline from load in, run of show[, ] and load out
3. PROPOSED flooring material manufacturer's specification sheet along with photos of both side[s].<sup>64</sup>
4. List of ALL contractors and their contact information
5. List of designated POCs [points of contact] and [their] contact information
6. CADD [Computer-Aided Design and Drafting] drawing of the site showing the layout-remember [that] NOTHING can be set up within the Vista [sight] line
7. All NCA [National Capital Area] Fire and Life Safety information submitted for approval
8. Trash plan
9. Site Security plans
10. COVID-19 mitigation plans
11. Emergency plans

Later that evening, the WFAF representative sent the NPS the first of multiple emails providing seven of the 11 items the permit specialist had requested. Specifically, WFAF provided:

- A complete list of equipment
- A complete timeline
- A list of all contractors and their contact information
- A list of designated POCs and their contact information
- The CADD drawing of the site showing the layout (with a site plan)
- A trash plan
- COVID-19 mitigation plans

Missing from WFAF's submission were the required fire and life safety documents (including manufacturer specifications for generators and lighting equipment it planned to use), which also required crowd control management training certificates for its crowd control volunteers as requested by the NPS. WFAF also did not provide at that time the flooring specifications, site security plan, and the emergency plans. The WFAF representative told the permit specialist that WFAF would provide the remaining items once the NPS approved its site plan.

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<sup>64</sup> On December 30, 2020, WFAF requested approval for a type of flooring to be used on top of the Ellipse turf, but the NPS informed WFAF that the material was not acceptable. That same day, WFAF submitted a request for a different type of flooring, which the NPS subsequently approved.

At the time WFAF provided information on December 30, WFAF had not confirmed that the President would attend the January 6 demonstration. However, WFAF's equipment list did include audio and lighting equipment titled "POTUS Audio Package" and "POTUS Lighting Package."<sup>65</sup> The park ranger for President's Park told us that, even though WFAF would not confirm it, "that's when [she] knew" the President was going to be at the demonstration.

6. *December 31: The NPS Issues a Permit Authorizing WFAF to Install Flooring and Discusses the Vista Sight Line With WFAF*

On December 31, the NPS hosted another telephone call with WFAF to discuss its planned January 6 demonstration. USPP, USCP, and MPD officers were also on the call. A USCP officer told us that during the meeting, WFAF representatives raised the possibility that the President might attend the event.

Following the call, the NPS issued a permit to WFAF authorizing it to install flooring materials at the Ellipse turf on January 2 and 3, 2021. The permit specialist told us that the permit was limited to flooring installation because WFAF had not yet submitted all of the safety documentation that was required by the NPS' *NCA Fire and Life Safety Policy*.<sup>66</sup> Later in the day on December 31, the NPS sent the permit allowing installation of the flooring and the event documentation WFAF previously submitted to USPP and MPD officials.

Also on December 31, a WFAF contractor asked the NPS if WFAF could set up its stage within the vista sight line at the Ellipse. As summarized previously, the vista sight line is a 150-foot-wide space running from the White House through the center of the Ellipse and the grounds of the Washington Monument to the Jefferson Memorial. The WFAF contractor told the park ranger for President's Park that it believed the NPS had granted similar requests in the past and specifically referenced a 2019 event by a different applicant. The WFAF contractor also asked if WFAF could adjust the chain link fencing around the National Christmas Tree, which was located at the center of the Ellipse. That same evening, the NPS superintendent for President's Park denied WFAF's request to set up its stage within the vista sight line but agreed to allow the edge of its stage to abut the outer limit of the vista sight line, which was the same approach that had been approved for the 2019 event cited by WFAF.<sup>67</sup> The superintendent also denied WFAF's request to reposition the fencing around the National Christmas Tree.

While WFAF was discussing with the NPS the placement of its stage within the vista sight line, the USPP Intelligence Branch issued an intelligence report to law enforcement agencies in the Washington, DC area about events expected to take place on January 6. The report stated:

While there continues to be minor fluctuations and changes in some data, our overall assessment remains unchanged. At this time we continue to expect fairly large crowds to gather in the District beginning on 5 January 2021. Groups with diametrically opposed beliefs and ideologies will both be present, and if these groups are allowed to come into

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<sup>65</sup> POTUS stands for "President of the United States."

<sup>66</sup> See *NCA Fire and Life Safety Policy* at 6 (requiring site layout plans, tent floor diagrams, emergency plan, crowd control management training certificates, and details on equipment used during the event).

<sup>67</sup> Multiple NPS employees told us that it was a common practice to prohibit structures (including stages, lighting, and chairs) that would impede the vista sight line. The NPS told us that this practice was intended to maintain the historic landscape design of the National Mall without interference from structures that impair visibility. The NPS also told us that this was an unwritten practice and that placing structures in the vista sight line was not prohibited by any law or NPS rule, regulation, or written policy.

close contact with each other, violence is almost certain.

#### 7. January 1: The NPS Issues an Amended Permit and Continues Law Enforcement Discussions

On January 1, WFAF submitted to the NPS additional permitting documentation that NPS policy required it to submit to hold its demonstration at the Ellipse. The documentation that WFAF submitted set forth the layout (with a site plan) of WFAF’s demonstration, its emergency and medical plans, and some but not all of the required fire and life safety documents. Later that day, the permit specialist provided the NPS’ safety official with the documents WFAF submitted in response to the *NCA Fire and Life Safety Policy* requirements.

After receiving this information, the NPS issued an amended permit to WFAF authorizing it to conduct the January 6 demonstration and install the remainder of its event equipment beyond just the flooring. Based on the information WFAF had provided to the NPS, the amended permit stated that 5,000 people were expected to attend the demonstration. The amended permit also stated that “[t]his permit does not authorize a march from the Ellipse.” In the Activity Overview section, the amended permit identified WFAF’s featured speakers and stated that WFAF would “not conduct an organized march from the Ellipse at the conclusion of the rally. Some participants may leave to attend rallies at the United States Capitol to hear the results of Congressional certification of the Electoral College count” (see Figure 2, below). Each of the amended permits later issued by the NPS for WFAF’s demonstration included these same provisions.

**Figure 2: Activity Overview Section of WFAF’s Amended Permit**

PERMIT #21-0278 (AMENDED)  
PERMITTEE: WOMEN FOR AMERICA FIRST  
LOCATION: ELLIPSE, SOUTHWEST QUADRANT, AND SOUTHEAST QUADRANT; SOUTH OF TREE LIGHTING SITE  
DATE: JANUARY 2-8, 2021 (06:30 AM – 7:30 PM)

**Activity Overview:**  
Women for America First will conduct a first amendment rally “March for Trump” to demand transparency and protect election integrity. The rally will feature speakers from Women for America First, Congressional Representatives, Roger Stone, Julio Gonzalez, Rudy Giuliani, Diamond and Silk. Women for America First will not conduct an organized march from the Ellipse at the conclusion of the rally. Some participants may leave to attend rallies at the United States Capitol to hear the results of Congressional certification of the Electoral College count.

Source: NPS.

After receiving the amended permit, WFAF sent an email to its subscribers about President Trump’s reposting of a WFAF tweet promoting WFAF’s demonstration on January 6. In the email, WFAF stated that the President “retweeted the [TrumpMarch.com] flyer and link to the March For Trump Bus Tour and the event we’re planning for January 6th. The calvary is indeed coming, Mr. President!”<sup>68</sup>

<sup>68</sup> Email from WFAF, March for Trump, Subj. “OMG the President Retweeted [WFAF representative] Today -- TWICE!” (Jan. 1, 2021, 11:02 p.m.) (referencing two retweets by President Trump on Jan. 1, 2021 of a tweet that the WFAF representative posted on Dec. 19, 2020).



The email also stated, “As you might imagine the President’s public call means that more people than we can count are coming.”<sup>69</sup>

Also on January 1, the USPP and the NPS received confirmation from the USSS that President Trump would be attending WFAF’s demonstration at the Ellipse on January 6. After learning this information, the USPP initiated a plan to bring approximately 45 officers from its New York field office to Washington, DC to support the USPP’s law enforcement operations on January 6. USPP officials said they decided to supplement the USPP’s Washington, DC force because they believed the President’s attendance would likely increase the number of people who would attend the demonstration. The USPP did not further revise its staffing or operational plan after this date.

The USPP Intelligence Branch continued to share information, and, on January 1, it sent an intelligence report to its law enforcement partners regarding WFAF’s January 6 demonstration, stating:

As conditions continue to evolve for events on 6 January in the District, the latest National Park Service permitting activities are pointing to one ‘main’ event being held on the Ellipse. The organizer for this event, Women For America First, has applied for a permit for 5,000 individuals, but it is possible that this number will grow. While this information is the latest available, it is not yet confirmed and the information from various organizers has been changing daily.

8. *January 1: NPS Reverses Its Earlier Decision Prohibiting Structures Within the Vista Sight Line*

Also on January 1, at 5:26 p.m., the White House Deputy Chief of Staff of Operations sent an email titled, “January 6th setup” to DOI Secretary David Bernhardt, copying Deputy Secretary Katharine MacGregor and White House Chief of Staff Mark Meadows. In his email, the White House Deputy Chief of Staff of Operations stated:

[W]e are working with the organization that is hosting the event on the 6<sup>th</sup> on the ellipse for POTUS to speak at. They are trying to get a center stage position so that POTUS is speaking with the White House directly behind him, not 30’ off center, which is the desire of the White House and the President as well. We are looking for NPS to give the organization a waiver for the “vista site line” so POTUS is center to the WH.

In the same email, the White House Deputy Chief of Staff of Operations included a “brief synopsis from the host” that restated WFAF’s request “to obtain a visual of the white house as our backdrop.” The White House Deputy Chief of Staff of Operations did not clarify how he had been working with the organization hosting the event. At 5:56 p.m., DOI Secretary Bernhardt responded to the White House, “We’ll look into the issue and get back to folks as appropriate.”

At 6:01 p.m., DOI Deputy Secretary MacGregor sent an email titled “Legal Question” to the NPS Acting Director and copying the Principal Deputy Solicitor, the Deputy Solicitor for Parks & Wildlife, and the Principal Deputy Assistant Secretary for Fish, Wildlife and Parks. The email requested the “regulation, Handbook citation, or internal guidance regarding permitting within the sightline of Washington Monument in President’s [P]ark.” The Principal Deputy Solicitor and the Deputy Solicitor

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<sup>69</sup> Email from WFAF, March for Trump, Subj. “OMG the President Retweeted [WFAF representative] Today -- TWICE!” (Jan. 1, 2021, 11:02 p.m.).

for Parks & Wildlife responded to the Deputy Secretary's email, stating that they found nothing in DOI regulations that addressed permitting within the vista sight line. In addition, the NPS Acting Director consulted with the President's Park superintendent, who confirmed that the NPS did not have any written regulations or policies preventing event applicants from locating structures in the vista sight line.<sup>70</sup> Later that evening, the NPS Acting Director responded to Deputy Secretary MacGregor, stating that she "just confirmed with the Park that they are also not aware of any regulations or even written policies" that prohibit event structures within the vista sight line.

At 8:10 p.m., the WFAF contractor emailed the President's Park superintendent requesting that the NPS reconsider WFAF's request to locate its stage within the vista sight line. The WFAF contractor's request stated that locating the event in the center of the Ellipse would allow for more organized event setup and would "properly display the majestic views of the White House in the way it was intended to be viewed." The WFAF contractor's email also stated that "[t]he permit holder [WFAF] has hosted multiple events around the District highlighting locations that are central to democracy," adding, "[t]he White House represents the pinnacle of democracy and for this event specifically it would provide an unprecedented backdrop for a monumental event."

In an email sent at 9:52 p.m., the President's Park superintendent stated that he would grant WFAF's request to locate its stage within the vista sight line. The superintendent wrote in his email that "a central theme of your event is to connect it to the White House and the Presidency" and that the construction fence impaired the view and detracted "from the visual message you are working to achieve." The President's Park superintendent's email also noted that other areas of the Ellipse outside the vista sight line were limited due to the presence of the National Christmas Tree and other infrastructure. Finally, the email asked the WFAF contractor to work with NPS staff to limit the visual impact to the vista sight line.

Later that evening, the President's Park superintendent told the NPS Acting Director that he had granted WFAF's request to locate its stage within the vista sight line. The NPS Acting Director then emailed the Secretary and Deputy Secretary that "a resolution has been reached."

#### *9. January 2: The NPS Photographs the Site and an NPS Safety Official Voices Concerns Regarding the Timing of the Safety Documentation Review*

On January 2, before WFAF began installing the stage for its demonstration, an NPS park guide took photos of the area with a cell phone to document the site conditions as required by NPS policy.

That same morning, an NPS safety official responded to an email sent by the permit specialist on January 1 and copied the superintendents for the National Mall and President's Park. In his email, the NPS safety official stated that receiving WFAF's safety documentation the day before event set up was "simply not reasonable or acceptable" because it did not provide his office with enough time to review the documentation and conduct an inspection.

The permit specialist forwarded the NPS safety official's email to an attorney with the DOI's Office of the Solicitor (SOL) (SOL attorney 1). SOL attorney 1 responded that, under governing NPS regulations as interpreted by the Federal courts, "permits are deemed granted unless denied." The attorney also stated that, generally, Federal courts have found that "initial reviews of permit

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<sup>70</sup> The President's Park superintendent also emailed the NPS Acting Director a 2018 NPS report that cited the 1934–35 Olmsted Plan as the basis for the NPS' practice.

application[s] should take no more than 48 hours” and “that is a reasonable time in the eyes of the court.” SOL attorney 1 also stated that, with respect to the Fire Life and Safety for Temporary Events package that WFAF had submitted, NPS safety officials had to “review the material and identify any problems or changes.” Only “[i]f the review generates concerns or questions” could the NPS “either ask for more [time] or deny” the permit. SOL attorney 1 stated, “They cannot simply refuse to do it because of an arbitrary non-regulation based time line.”

When we asked the NPS safety official about how NPS responded to this guidance, he told us that the NPS did not review the documentation submitted by WFAF or inspect the stage because NPS safety officials did not have enough time to do so.

*10. January 3: The NPS and WFAF Have Ongoing Discussions Regarding the Number of Expected Attendees at the January 6 Demonstration, and the NPS Coordinates With the USSS*

At 12:25 p.m. on January 3, WFAF sent a widely disseminated email stating, “January 6th is going to be a historic day. All the rallies in the cold, all of the thousands of miles, and all of the stress has all been for SAVE AMERICA from a hostile globalist takeover.”

That same day, a White House liaison sent a text message to the WFAF contractor regarding the President’s attendance at WFAF’s January 6 demonstration at the Ellipse. This message stated, “POTUS expectations are intimate and then send everyone over to the Capitol.”<sup>71</sup> During her interview with Select Committee investigators,<sup>72</sup> the White House liaison stated that this text message was intended to convey to the WFAF contractor that the President expected to have a small stage at the Ellipse with a limited number of speakers and that the President planned to call for a march to the U.S. Capitol during his speech at the Ellipse.<sup>73</sup> The White House liaison also stated that, because the White House controlled the list of speakers at the January 6 demonstration at the Ellipse, WFAF was concerned that its speakers would not have the opportunity to address the crowd at the Ellipse and that WFAF therefore planned to set up another stage outside the Supreme Court for its speakers.<sup>74</sup>

Since the President was confirmed to be attending WFAF’s demonstration on January 6, the NPS coordinated with the USSS regarding the demonstration. Specifically, on January 3, the President’s Park superintendent met with WFAF representatives and the USSS at the Ellipse to discuss WFAF’s planned demonstration. During that meeting, for the first time, WFAF told the NPS that it expected at least 20,000 to 30,000 people to attend the demonstration. Later that evening, the President’s Park superintendent emailed USPP and NPS officials relaying this information to them.

Early in the afternoon on January 3, DOI Secretary Bernhardt, along with others from the DOJ and DHS, participated in a call hosted by the Acting DoD Secretary and other Defense officials to discuss

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<sup>71</sup> Select Committee Collection, text message from White House liaison to the WFAF contractor and campaign advisor (Jan. 3, 2021, 10:10 a.m.).

<sup>72</sup> We requested to interview the WFAF representative and the WFAF president, but they declined our request. We therefore relied on documents produced by WFAF in response to a subpoena issued by our office as well as on publicly available information, including the Select Committee’s Final Report (Final Report) and Supporting Materials Collection (collectively, Select Committee Collection), available at U.S. Gov’t Publ’g Off., “Select January 6th Committee Final Report and Supporting Materials Collection” at <https://www.govinfo.gov/collection/january-6th-committee-final-report?path=/GPO/January%206th%20Committee%20Final%20Report%20and%20Supporting%20Materials%20Collection>. We note that the Select Committee gathered documents from and interviewed various WFAF representatives and affiliated persons. *See id.*

<sup>73</sup> Select Committee Collection, Interview of White House liaison, Tr. at 79:22-25, 80:11-81:4, 81:7-14.

<sup>74</sup> *Id.*, Tr. at 81:15-82:4.

interagency law enforcement coordination for the demonstrations planned throughout Washington, DC on January 5 and January 6. DOI Secretary Bernhardt told us that the participants discussed the DOJ serving as the lead Federal agency to address the planned demonstrations that might occur on January 6, but he did not specifically recall what else was discussed.

*11. January 4: WFAF Tells a Potential Speaker That the President Will Call for a March, and WFAF Requests to Increase the Number of Participants at the Demonstration*

On January 4, 2021, the WFAF representative sent a text message to a potential speaker,<sup>75</sup> stating:

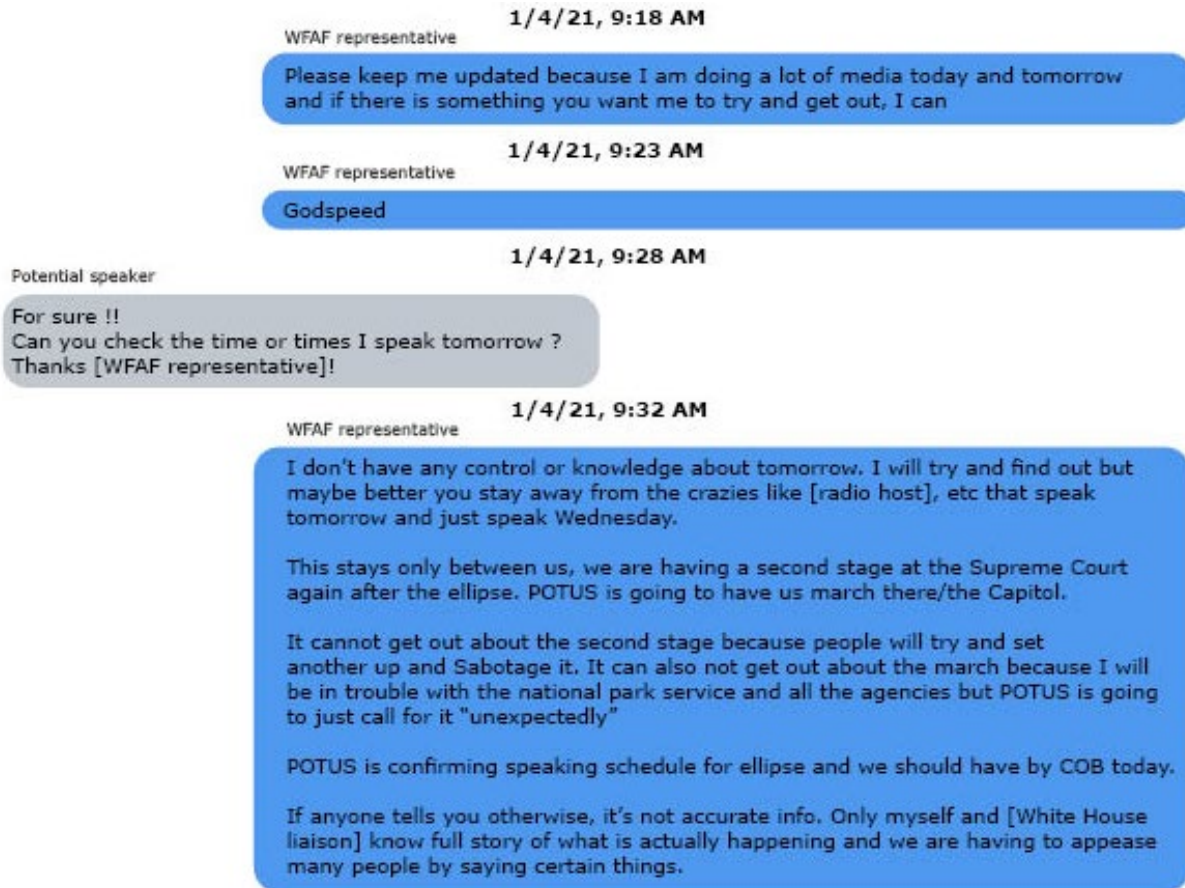
This stays only between us, we are having a second stage at the Supreme Court again after the ellipse. POTUS is going to have us march there/the Capitol . . . It can also not get out about the march because I will be in trouble with the national park service and all the agencies but POTUS is going to just call for it “unexpectedly[.]”

When shown a chain of text messages that included WFAF’s message cited above (see Figure 3 for the complete chain), the park ranger for President’s Park told us it “bl[ew her] mind” because the NPS had repeatedly asked WFAF whether there would be a march. According to the park ranger for President’s Park, the WFAF representative “was just adamant there was gonna be no march.” In addition, when we showed the text message to the permit specialist, she told us “we asked [the WFAF representative] repeatedly if she was going to do a march . . . So, um, basically she lied to all of us.” The permit specialist also told us that WFAF would not have been in trouble with the NPS, despite “hav[ing] been caught in not telling the truth.” Instead, the permit specialist said the NPS would have asked WFAF for more information about the march to “make sure that things [were] conducted in a safe manner.”

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<sup>75</sup> Text message from the WFAF representative to a potential event speaker (Jan. 4, 2021, 9:32 a.m.).

**Figure 3: Text Messages Between the WFAF Representative and a Potential Speaker**



Source: WFAF.

On January 4 at 10:19 a.m., WFAF sent an email to the NPS requesting to increase the anticipated number of demonstration participants to 20,000 people. Upon receiving WFAF’s email request, the permit specialist replied to WFAF, copying another SOL attorney (SOL attorney 2) and officials from the USPP, MPD, USCP, DC’s Homeland Security and Emergency Management Agency, and DC Fire and Emergency Medical Services Department. In that email, the permit specialist stated that, in light of the increase in the anticipated number of participants from 5,000 to 20,000, WFAF would have to provide documentation confirming it had arranged for additional medical support services during the demonstration, as required by NPS policy. WFAF provided a new medical plan in response to the NPS request later that day, at 2:35 p.m.

On January 4, at 4:36 p.m., the WFAF representative requested to further increase the anticipated number of participants to 30,000. At 7:41 p.m., the permit specialist sent the amended permit reflecting WFAF’s requested size increase to 30,000 expected participants to WFAF, the USPP, MPD, USCP, and DC Fire and Emergency Medical Services Department officials.

*12. January 4: The NPS Continues Law Enforcement Coordination and Assesses Potential Threats*

Throughout the day on January 4, DOI, NPS, and USPP officials continued coordinating with internal and interagency partners to prepare for the January 6 demonstrations in Washington, DC, including but

not limited to WFAF's demonstration, and to assess potential security threats.

At 3:00 p.m., the MPD hosted its final call regarding January 6 demonstrations with its Washington, DC-area law enforcement partners, including the USPP and other agencies. In addition, several USPP officers met with the USSS to discuss the security plan for WFAF's demonstration at the Ellipse because the President was planning to attend.

Also on January 4, DC's Homeland Security and Emergency Management Agency established a Microsoft Teams Chat that included officials from the USPP, NPS personnel, and other law enforcement agencies for information sharing purposes related to the demonstrations expected to occur on January 5 and 6 in Washington, DC. Additionally, the Acting DoD Secretary hosted another interagency coordination call with DOI Secretary Bernhardt, the Acting Attorney General, and other DoD and Washington, DC officials to discuss the demonstrations planned for January 6. When we spoke to Secretary Bernhardt, he recalled that he and the other participants on the call believed the agencies had the resources they needed to handle the demonstrations planned for January 6.

Meanwhile, USPP officials continued to provide and receive information assessing the threat level for January 5 and 6. For example, on January 4, a USPP liaison officer who was detailed to the FBI's Joint Terrorism Task Force received an updated assessment from the FBI. The assessment stated that the FBI, USCP, MPD, USSS, and the U.S. Supreme Court Police had not identified any specific, credible threats for January 6.

Also on January 4, the USPP Intelligence Branch sent an intelligence report to its law enforcement partners, including USSS, DHS, DOJ, DoD, FBI, MPD, and USCP, stating that President Trump had promoted WFAF's demonstration on Twitter the day before and that "this has dramatically increased interest in this event which will draw increased numbers of supporters as well as counter-protestors." The report also stated that, after the President finished speaking at the demonstration, "we still expect a large portion of this group to depart the Ellipse at some point and march to the U.S. Capitol." Regarding the possibility of violence, the report said that "[w]e continue to monitor and investigate social media statements forecasting non-specific acts of violence in the District associated with events schedule[d] for 6 January 2021." The USPP Intelligence Branch's report stated, however, that, "[w]hile the probability of sporadic violent actions is likely if opposing groups are allowed to come into physical contact with each other, at this time we have no indication of any acts of violence being pre-planned by any specific individual(s) or groups."

The USPP also received information from its law enforcement partners that indicated that some of the information from social media included calls for insurrection and "to occupy the [U.S.] Capitol" building on January 6. The USPP and these law enforcement partners shared this information with each other for "situational awareness"; however, they considered these kinds of social media postings unverified and not credible. Moreover, on January 5, the USCP sent a list of demonstrations to a USPP Intelligence Branch officer; the communication stated the USCP had assessed the probability of potential threats happening at the U.S. Capitol on January 6 as "highly improbable" or "remote."

### *13. January 5: WFAF Promotes the Demonstration, and the NPS Issues the Final Amended Permit, Continues Law Enforcement Coordination, and Assesses Threats*

On the afternoon of January 5, the WFAF contractor emailed the permit specialist to request approval to place a jumbotron in the south side of the intersection between 16th Street and Constitution Avenue, between the Ellipse and the Washington Monument. The NPS requested additional information

concerning the jumbotron, which the WFAF contractor provided. That evening, the NPS issued the final amended permit reflecting the addition of the jumbotron.<sup>76</sup>

At 4:14 p.m. that afternoon, WFAF sent an email to its supporters with logistics information about the January 6 demonstration. WFAF's email included a list of items that would be prohibited from being brought to the Ellipse. This list included backpacks and bags exceeding 12 inches by 14 inches by 5 inches, aerosols, drones or other unmanned aircraft systems, and explosives. WFAF also updated its website with this information. A WFAF subcontractor stated that the prohibited items were based on a list the USSS had provided to the subcontractor for a previous event.

Later on January 5, at approximately 9:30 p.m., the USSS sent the NPS a list of items it planned to prohibit attendees from bringing to the demonstration at the Ellipse on January 6. The list prohibited items such as backpacks, bags, and explosives, which were included in WFAF's email to its supporters. The USSS list also included, however, items that were not included in the email WFAF sent to its supporters, such as ammunition, body armor, flammable liquids, and weapons of any kind.<sup>77</sup>

Although threats of violence were still appearing on social media, as of January 5, the USPP did not believe these reports were specific enough to be deemed credible. That morning, the USPP Intelligence Branch sent an intelligence report to its law enforcement partners, including USSS, DHS, DOJ, DoD, FBI, MPD, and USCP, about WFAF's demonstration on January 6. The report stated, "[n]o significant updates. Still receiving reports of social media postings calling for violence or other illegal acts on 5-6 January. At this time none of these reports have been verified or deemed credible." The report also stated, "[l]arge crowds expected to gather at and travel between the Ellipse and the U.S. Capitol." In addition, the intelligence report erroneously stated that the number of attendees expected to attend WFAF's demonstration was 20,000, rather than the revised estimate of 30,000 provided to the USPP and reflected in the amended permit issued by the NPS on January 4.<sup>78</sup>

Also on January 5, the FBI circulated a situational information report identifying the potential for violence in Washington, DC based on social media posts calling for violence and "war" on January 6. The USPP liaison officer at the FBI's Joint Terrorism Task Force received that report but did not share it with his USPP colleagues; he instead sent a subsequent email that he received summarizing the initial report. The summary stated that, although no threats were noted, the situational information report was shared with partner agencies for their awareness.

Throughout the day on January 5, law enforcement agencies continued preparing for WFAF's January 6 demonstration at the Ellipse. A USPP Intelligence Branch official participated in a virtual

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<sup>76</sup> Also on January 5, the NPS issued its first record of determination relating to access to certain sites on the National Mall. This issue is discussed in the next section because the record of determination was not posted until January 6.

<sup>77</sup> When the USSS is in charge of security for an NPS-permitted event, the USSS provides the NPS with a list stating what items the public will not be permitted to bring into the event space.

<sup>78</sup> It is unclear why the USPP Intelligence Branch's intelligence report contained the wrong estimate of anticipated number of attendees. When we asked USPP officials, they could not recall why the intelligence report stated 20,000 rather than 30,000. Regardless, the misstatement in the intelligence report did not appear to have an impact on the USPP's preparations for the demonstration. As discussed above, the permit specialist provided the updated estimates (both the 20,000 and later, the 30,000) to USPP officials on January 4, though not specifically to Intelligence Branch officials (NPS regulation and policy did not require the permit specialist to send this information specifically to USPP Intelligence Branch officials). Moreover, our review did not include an examination of whether the misstated estimate in the intelligence report affected other law enforcement agencies' preparations for the demonstration, but we received no information suggesting it did. We further note that, as discussed above, the permit specialist sent the amended permit reflecting the increase in anticipated number of attendees to 30,000 to the MPD, USCP, and DC Fire and Emergency Medical Services Department officials on January 4 at the same time she sent this information to the USPP.

situation room for the demonstrations planned for January 5 and 6 that was set up by the DHS for law enforcement partners to coordinate and discuss potential security measures for these demonstrations. A USPP SWAT commander also met with USSS officials to coordinate security for WFAF's demonstration at the Ellipse.

### **C. The Events of January 6, 2021**

There were multiple demonstrations across Washington, DC on January 6, mostly protesting the outcome of the 2020 presidential election.<sup>79</sup> Our review focused on WFAF's demonstration at the Ellipse and the USPP's response at the U.S. Capitol because these were the events in which the DOI and its bureaus and subcomponents were involved and thus within our oversight jurisdiction.

#### *1. WFAF Holds the Demonstration at the Ellipse*

While the USSS was primarily responsible for security at WFAF's demonstration at the Ellipse,<sup>80</sup> the USPP and other law enforcement agencies assisted the USSS and addressed specific security concerns on the National Mall outside of the Ellipse. For example, as described in more detail below, the USPP and other law enforcement agencies addressed the hundreds of abandoned personal bags outside of the Ellipse and attempted to manage the aggressive crowds, including numerous individuals with weapons and military gear, at some of the monuments on the National Mall.

##### *a. Law Enforcement Presence and Preparations Early On January 6*

USPP officers began arriving at the Ellipse around 4:00 a.m. The USPP assigned approximately 190 USPP officers to oversee security at WFAF's demonstration. The USPP officers who were leading the effort included an incident commander, an operations chief, and a deputy operations chief. Other USPP officers overseeing security at the Ellipse included K-9 officers, traffic control officers, criminal investigators, the USPP's Horse Mounted Patrol, and seven react teams, each consisting of approximately 15 officers positioned in strategic areas around the National Mall who were able to quickly respond to security issues. The USPP also had a 16-officer SWAT team and four tactically trained HHS medics at the Ellipse, who were there to assist the USPP. In addition, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) had a tactical team on standby to assist the USPP SWAT team if needed during the demonstration.

Besides its officers at the Ellipse, the USPP assigned approximately 120 officers to maintain the USPP's regular patrols across the Washington, DC area. The USPP also assigned liaison officers to the command posts at other law enforcement agencies, including at the MPD, USSS, DOJ, and FBI, to monitor the January 6 demonstrations. USPP and NPS personnel participated in virtual interagency chatrooms organized by other agencies, including the DHS, the National Capital Region Threat Intelligence Consortium, and Washington, DC's Homeland Security and Emergency Management Agency. These chatrooms allowed the agencies to quickly share law enforcement information about the demonstrations.

At 5:54 a.m. on January 6, the USPP Intelligence Branch issued the following report regarding

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<sup>79</sup> There were two smaller events permitted by the NPS and other events on the grounds of the U.S. Capitol on January 6. These events are not addressed in this report because they do not relate directly to the matters within the scope of this review.

<sup>80</sup> This was because the U.S. President was attending the demonstration and because the Ellipse is part of the White House complex.



January 6 “Scheduled Events” with its law enforcement partners:

**\*\*Large crowds expected to gather at and travel between the Ellipse and the U.S. Capitol\*\***

0000-16:30: NPS Permit 21-0278: Women for America First will hold a rally on the Ellipse. President Trump is scheduled to speak at this event around 1100 hours. The permit application states that 20,000 people will attend this event. It is expected that a portion of this group will march to the U.S. Capitol prior to 1300 hrs.

By approximately 7:00 a.m. on January 6, 2 hours before WFAF’s demonstration was set to begin, hundreds of people were already in a line to enter the Ellipse.

*b. Hundreds of Attendees Abandon Personal Bags Outside of the Ellipse*

As early as 7:30 a.m., USPP officers started reporting that hundreds of people had arrived at the entrance to the Ellipse with bags and other prohibited items. Once attendees realized that bags could not be brought into the Ellipse area, they began abandoning them in various locations on the ground and in trees on the National Mall (see Figure 4).

**Figure 4: Abandoned Bags on Constitution Avenue Outside of the Ellipse on January 6, 2021**



Source: USPP. This photo was modified by the  
OIG to obscure features.

USSS officers and demonstration volunteers collected many of the abandoned bags and placed them into piles on Constitution Avenue, and USPP K-9 officers then swept the bags for explosives. The officers said that they were unable to sweep all the bags because there were so many, and some of them were buried under piles of other bags.

At 10:46 a.m. on January 6, several hours after people had begun arriving at the Ellipse, the President's Park superintendent completed a record of determination concerning a "public use limitation" at the Ellipse, as required by NPS regulations.<sup>81</sup> The record of determination stated that the NPS was imposing a "public use limitation" that prohibited the public from bringing certain items to WFAF's demonstration at the Ellipse on January 6. The prohibited items set forth in the record of determination included over 20 items, such as weapons, bicycles, body armor, laser pointers, backpacks and bags exceeding 18 inches by 13 inches by 7 inches, packages, drones, toy guns, and pepper spray. The record of determination stated that this public use limitation came at the request of the USSS in consultation with the USPP to help ensure public safety during WFAF's demonstration. The written determination concluded by stating that notice of this public use limitation "will be on the tickets and entrance way signage" pursuant to 36 C.F.R. § 1.7. The NPS did not, however, make this information, including the list of prohibited items, available to the public through any means.

*c. USPP Officers Face Aggressive Crowds on the National Mall*

At 7:18 a.m. on January 6, the NPS posted on its website a different record of determination providing notice of a temporary public use limitation relating to the area around the Washington Monument. More specifically, to address potential security and crowd management concerns due to several demonstration events, the NPS had decided that it would "temporarily partially restrict access to the plaza" surrounding the Washington Monument on January 6 and 7, 2021.<sup>82</sup> In accordance with 36 C.F.R. § 1.5(a), the NPS prepared a written record of determination authorizing this partial restriction. In its record of determination, the NPS explained this temporary restriction, stating that access would be limited on January 6 and 7 to only "authorized government personnel and to those people with tickets to enter the Washington Monument." The record of determination further stated that this "temporary closure to the public use limitation of the plaza, which is bounded by 50 flag poles and identified in the enclosed map, will begin at 6:00 am on January 6 and extend until January 7 at 6 pm." The record of determination concluded that "notice of this temporary and partial closure will be made by use of temporary fencing and other barriers, for areas affected by this closure and by notices to the public."

In keeping with this record of determination, the NPS arranged bike rack fencing around the area but left some gaps in the fencing to allow ticket holders to enter. It did not post any other public notices or signage at the site stating that only authorized government personnel or Washington Monument ticket holders were permitted in the plaza area on January 6 and 7.

When USPP officers and NPS park rangers arrived at the Washington Monument around 9:00 a.m., there were already hundreds of people inside the plaza around the Monument despite the NPS' efforts to close the area. As USPP and NPS officials began asking people to leave, USPP officers reported in their post-event incident reports that some people refused to do so. One USPP officer arrested an individual after he opened a portion of the fencing surrounding the plaza, entered the closed area, and stated that the area was open to everyone. After the individual was arrested, the crowd started to follow

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<sup>81</sup> Nat'l Park Serv., Off. of the Nat'l Park Serv. Liaison to the White House, *Record of Determination for a Partial and Temporary Park and Roadway Closures and Public Use Limitation for the January 6, 2020 for the Women for America First Permitted Event* (Jan. 6, 2021) (Record of Determination for the WFAF Demonstration) (issued pursuant to 36 C.F.R. § 1.5).

<sup>82</sup> This record of determination was finalized on January 5, 2021, but, as noted above, it was not posted until January 6. Nat'l Park Serv., Nat'l Mall & Mem. Parks, *Record of Determination for a Temporary Modification in Use of the Park Area Around the Washington Monument for January 6 and 7, 2021* (Jan. 5, 2020) (Record of Determination for the Washington Monument Plaza). This was separate from the Record of Determination for the WFAF Demonstration issued the morning of January 6, 2021.

the USPP officers as they walked away with the individual under arrest. The arresting officer called for backup, and the officers and NPS staff in the area retreated inside the Washington Monument security facility and locked the door. There were nearly 20 people locked inside the security facility, including the individual under arrest, the NPS park rangers, private security officers who worked at the Washington Monument, and USPP officers. They stayed inside the Washington Monument security facility while people outside banged on the glass with flagpoles, sticks, and fists. The group remained inside the Monument for about 25 minutes until additional USPP officers arrived. The officers were able to leave the building with the individual under arrest after the additional support arrived and the crowd outside the Washington Monument dispersed.

Following that incident, the NPS and USPP decided to close the Washington Monument for the rest of the day.

Shortly after the incident at the Washington Monument was resolved, USPP officers at the Lincoln Memorial reported a large crowd of 500 to 800 people entering the Lincoln Memorial wearing gas masks and carrying shields and banners. The USPP officers requested the assistance of a USPP react team to manage the crowd. As the react team was on its way, a deputy operations chief radioed the USPP officers at the Lincoln Memorial and instructed them that they should only monitor the crowd and not take any law enforcement actions unless there was an incident that warranted their direct involvement. The deputy operations chief told us that he gave that direction because he heard how the crowd at the Washington Monument reacted to the USPP's arrest of an individual and believed that, even though demonstration activity was not permitted inside the Lincoln Memorial,<sup>83</sup> it was not advisable to risk antagonizing the crowd by confronting them. About 15 minutes after the call for assistance was made, a USPP officer radioed that the crowd had taken pictures and then left the area.

*d. The USPP Encounters Weapons and Other Security Risks During WFAF's Demonstration*

In addition to abandoned bags and aggressive crowds, USPP officers and other law enforcement officers reported observing numerous individuals around the National Mall who were armed with weapons, including firearms, pepper spray, and pipes. They also received reports of individuals wearing body armor or riot gear.

The USSS told us that it screened approximately 28,000 people entering the Ellipse on January 6, which was close to the anticipated number of participants set forth in the amended permit the NPS issued on January 4. Only individuals who actually entered the Ellipse, however, were screened for weapons and other prohibited items. Photos and videos we reviewed showed that many people gathered on the National Mall and Washington Monument grounds during the demonstration and did not enter the Ellipse (see Figure 5).

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<sup>83</sup> 36 C.F.R. § 7.96(g)(3)(ii)(B) (prohibiting demonstration activity inside the Lincoln Memorial).

**Figure 5: Photo of the Washington Monument and the Ellipse at 10:36 a.m. on January 6, 2021**



Source: USPP.

The USPP received reports on the morning of January 6 that USSS officers encountered people seeking to enter the Ellipse wearing ballistic helmets and body armor and carrying radio equipment and “military grade backpacks.” According to the USSS, its officers confiscated hundreds of prohibited items during the screening process, including knives, pepper spray canisters, brass knuckles, gas masks, tasers, body armor, and batons.

Throughout the morning, the USPP and other law enforcement agencies arrested several people around the National Mall for assault and for possession of firearms, including possession of an AR-15 assault rifle. A USPP officer at the scene reported that one person climbed on top of the Washington Monument’s security facility and that another had a pitchfork. In addition, hundreds of cars were illegally parked on NPS property near the National Mall. The USPP said it did not remove or ticket the hundreds of illegally parked vehicles because it could not do so while still maintaining security on the National Mall.

The demonstration started at approximately 9:00 a.m., and, at approximately 12:00 p.m., the President began his speech. During his speech, the President stated several times that the crowd would march to the U.S. Capitol at the conclusion of the demonstration. The demonstration ended when the President finished his speech, and, after that, many people in the crowd began moving toward the U.S. Capitol. Some people remained around the National Mall or went in other directions.

Near the end of the President’s speech, at approximately 1:10 p.m., the USPP received reports that law enforcement officers had identified two possible explosive devices near the U.S. Capitol. Upon receiving these reports, USPP officers conducted additional sweeps for explosives around the National Mall. USPP officers stated they did not identify any actual or suspected explosives during their sweeps.

## *2. The USPP Responds to USCP's Requests for Assistance at the U.S. Capitol*

Around the time the President's speech ended, at approximately 1:10 p.m., the USPP began receiving reports that a large group had breached the fence line at the west front of the U.S. Capitol; they also heard, though, that the USCP was handling the situation and were not requesting USPP assistance at that time. It was also reported that the USCP were investigating three suspicious devices found near the U.S. Capitol.

At 1:31 p.m., the USPP received a report that USCP officers "were heavily engaged [with] protestors at the west front of the Capitol" and that "chemical munitions and physical altercations [were] on going." Other reports received during this time confirmed that MPD officers were also heavily engaged with protestors. At approximately 1:45 p.m., the MPD and USCP requested USPP assistance at the U.S. Capitol. The MPD specifically requested USPP officers equipped with pepper ball weapons systems.<sup>84</sup> The USPP radio log stated that the U.S. Capitol upper stairs were breached at 1:49 p.m.

In response to USCP and MPD requests, the USPP sent 16 officers from the Ellipse to the U.S. Capitol. These officers arrived at approximately 2:00 p.m. Thirteen of these officers were from the USPP's SWAT team, and three were USPP command officials. Two of the USPP command officials were positioned with the SWAT officers to act as on the ground leadership at the U.S. Capitol. The other USPP command official went to the USCP's command post at the U.S. Capitol to coordinate operations with the USCP and other law enforcement entities.

Upon their arrival at the U.S. Capitol, USPP officers encountered law enforcement officers without gas masks who were suffering from the effects of pepper spray and other chemical irritants that had been used by both other law enforcement officers and rioters on the scene. Six HHS medics who joined the USPP SWAT team at the U.S. Capitol assisted the injured officers and continued doing so for the rest of the day.<sup>85</sup>

The USPP SWAT officers carried pepper balls, foam baton rounds, stinger balls, and other nonlethal weapons systems with them to the U.S. Capitol.<sup>86</sup> In addition, the USPP SWAT commander coordinated with the ATF unit that had been assigned to assist the USPP during WFAF's demonstration and released the ATF to respond on its own to the U.S. Capitol. Three other USPP SWAT officers remained on the National Mall in case a response was needed there. Later that afternoon, at approximately 4:00 p.m., a U.S. Marshals Service special operations group joined the three SWAT officers positioned on the National Mall to supplement the USPP's force there.

According to information reported by the USPP and other law enforcement agencies, individuals at the U.S. Capitol attacked law enforcement officers with flag poles, sticks, pipes, bottles, a fire extinguisher, chairs, bricks, fireworks, rocks, pepper spray, and other weapons. USPP SWAT officers told us that they deployed nonlethal munitions, including pepper balls, foam baton rounds, stinger

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<sup>84</sup> Pepper ball weapons systems are referred to as nonlethal weapons and are generally used by law enforcement for crowd control. Pepper balls are plastic balls that are shot out of a pepper ball launcher, which is like a paintball gun. The plastic balls contain a pepper-based powder that causes irritation to the eyes, skin, and lungs.

<sup>85</sup> Four HHS medics were assigned to support the USPP SWAT officers during the demonstration at the Ellipse. Two additional HHS medics joined the team when they heard the request for assistance at the U.S. Capitol.

<sup>86</sup> Foam baton rounds are small foam projectiles fired from 40mm launchers. Stinger balls are small rubber projectiles fired from various launching systems. Both types of munitions are used by law enforcement as a crowd management tool and can cause temporary pain and incapacitation.

balls, and pepper spray in response to violent and aggressive attacks by these individuals. USPP SWAT officers did not report suffering any physical injuries that day.

A USPP command official said that at approximately 3:00 p.m. on January 6, while he was at the USCP command, he offered to send 40 additional officers, additional pepper ball munitions, an aviation unit for medevac, motorcycle units for dignitary escort, and officers with the USPP's Horse Mounted Patrol to the U.S. Capitol. The USCP did not accept the USPP's offer, so the USPP did not send these additional resources to the U.S. Capitol.<sup>87</sup>

USPP command officials stated that they kept USPP react teams and other USPP officers staged around the National Mall because hundreds of people were still there and USPP command officials were concerned that violence could erupt on the National Mall at any point. Intelligence reports we reviewed reflected that law enforcement agencies did have such ongoing concerns that the violence at the U.S. Capitol could spread throughout Washington, DC, though ultimately it did not.

Shortly before 5:00 p.m., the USPP SWAT personnel that had been sent to the U.S. Capitol returned to their vehicles around the U.S. Capitol area and remained there until later that evening. Just before 6:00 p.m., USPP command officials redeployed the USPP react teams that had been staged near the U.S. Capitol to other areas on the National Mall in the event violence broke out there. Later that evening, USPP officers arrested a person who attempted to climb the statue inside the Lincoln Memorial, which had been closed.

#### **D. DOI Activities After January 6, 2021**

In the days following January 6, both the NPS and the DOI's law enforcement components continued to be involved in activities related to the demonstrations at the Ellipse and at the U.S. Capitol. The USPP maintained an increased law enforcement presence on the National Mall for several days after January 6. The NPS closed areas around the National Mall, including around the White House, at the request of the USSS. To meet the increased security needs, the USPP cancelled days off for its officers through January 9. USPP command officials also requested and obtained assistance from the Washington, DC National Guard in securing the National Mall.

In the weeks after January 6, the NPS surveyed damages to NPS property resulting from the events of January 6. The NPS calculated over \$213,000 in damages to the Ellipse turf. The NPS also found some damage to the turf surrounding the Washington Monument. The NPS did not seek monetary recovery from WFAF or other third parties that may have been responsible for the damage to NPS property. NPS officials stated they did not seek recovery because they could not attribute the damage to a specific event.

Following the events of January 6, Washington, DC-area law enforcement agencies initiated an interagency effort to improve coordination and communication among agencies during demonstrations and events that pose a security concern. Officials from the USPP and DOI's Office of Law Enforcement and Security participated in the effort, which they said has improved interagency communication between DOI law enforcement components and their law enforcement partners in the National Capital Region.

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<sup>87</sup> We do not have clear evidence as to why this offer was not accepted.

### III. WHAT WE FOUND

We found that the NPS generally complied with relevant law and policy in performing its official duties with respect to the demonstration at the Ellipse on January 6. We identified, however, certain instances where the NPS failed to comply with its own policy and with regulations when it did not review WFAF's fire and life safety documentation, conduct a site inspection, provide notice to the public of use restrictions on public land, or retain pre-demonstration photographs of the event site. In making these findings, though, we recognize that the NPS was operating under time constraints in the days leading up to WFAF's January 6 demonstration at the Ellipse.

We also found that WFAF intentionally failed to disclose information to the NPS during the permitting process regarding a march to the U.S. Capitol. Finally, we found no evidence that the USPP acted inconsistently with relevant guidance when it conducted law enforcement activities at the Ellipse or that its response at the U.S. Capitol was inconsistent with its law enforcement responsibilities in the National Capital Region.

#### **A. The NPS Complied With Legal Requirements In Issuing the Permit for WFAF's Demonstration, But NPS Safety Officials Did Not Review WFAF's Fire and Life Safety Documentation or Conduct a Site Inspection in Accordance with NPS Policy**

##### *1. The NPS Complied With NPS Permitting Regulations with Respect to Timing and Other Procedural Requirements*

The evidence showed that the NPS processed WFAF's permit application consistent with its regulations for demonstration permits in NPS park areas in Washington, DC. As discussed previously, NPS regulations require applicants to submit a permit application "at least 48 hours in advance of any proposed demonstration."<sup>88</sup> Further, all demonstration applications "are deemed granted, subject to all limitations and restrictions applicable to said park area, unless denied within 24 hours of receipt."<sup>89</sup> We note that Federal courts have in a number of cases upheld as reasonable regulations requiring the submission of permit applications 48 hours in advance of a planned demonstration, including the NPS regulation at issue here.<sup>90</sup>

At the NPS' direction, WFAF submitted a new permit application for its demonstration at the Ellipse on December 29, 2020, which was more than 48 hours in advance of its proposed demonstration on January 6. The NPS accepted WFAF's application that same day but requested additional information that the NPS said it would need to process WFAF's application. On December 31, 2020, the NPS issued a permit to WFAF allowing it to begin installation of its flooring for the demonstration,<sup>91</sup> and on

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<sup>88</sup> 36 C.F.R. § 7.96(g)(3). As discussed previously, this requirement "will be waived" by the Regional Director "if the size and nature of the activity will not reasonably require the commitment of park resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period." *Id.*

<sup>89</sup> 36 C.F.R. § 7.96(g)(3). Even after a permit has been granted, the Regional Director has the power to revoke a permit pursuant to § 7.96(g)(6).

<sup>90</sup> *See, e.g., Quaker Action Grp. v. Morton*, 516 F.2d 717, 735 (D.C. Cir. 1975) (*Quaker Action IV*) ("[W]e approve the existing [regulation] requiring applicants to apply for a permit at least 48 hours in advance of a planned public gathering. This provides the Park Service ample notice and time to process the application."); *A.N.S.W.E.R. Coal. v. Kempthorne*, 537 F. Supp. 2d 183, 199 (D.D.C. 2008) (upholding NPS regulation); *see also NAACP v. Richmond*, 743 F.2d 1346, 1357 (9th Cir. 1984) ("The only advance notice requirements to be upheld by courts have been dramatically shorter than 20 days.").

<sup>91</sup> As noted above, the NPS did not grant the permit in full because it was waiting for WFAF to submit all the required safety documentation.

January 1, WFAF submitted the additional documentation the NPS had requested. This additional documentation included WFAF’s site plan, its emergency and medical plans, and some, but not all, of the fire and life safety documentation required by the NPS’ *NCA Fire and Life Safety Policy*.<sup>92</sup> Within 24 hours of receiving this additional documentation, the NPS issued WFAF an amended permit on January 1 authorizing it to conduct its demonstration at the Ellipse. Thus, the NPS issued the permit within the time contemplated by NPS regulations.

The evidence also showed that the NPS complied with NPS policy to issue demonstration permits “without any requirement for fees, cost recovery, bonding, or insurance.”<sup>93</sup> Such payments “may not be required since the inability to pay . . . might prevent the exercise of a Constitutional right.”<sup>94</sup> We found that, consistent with its policy, the NPS did not require WFAF to pay an application fee, obtain liability insurance, or obtain a bond to cover the cost of repairs or restorations in the event of damage to NPS park areas during the demonstration on January 6.

## 2. *The NPS Managed the Permitting Process in Accordance with Guidance Pertaining to First Amendment Issues*

NPS policy regarding demonstrations like WFAF’s is informed by the unique protections afforded to speech under the First Amendment and related jurisprudence. More specifically, Federal courts have consistently held that, under the First Amendment, the NPS is required to manage its permitting process in a content-neutral manner without regard to the political views or party affiliation of organizations seeking to host demonstrations on NPS property.<sup>95</sup> Related jurisprudence has likewise consistently held that public areas in the seat of the Federal Government in Washington, DC, such as the National Mall and the Ellipse, possess “unmistakable symbolic significance” for the exercise of First Amendment rights.<sup>96</sup> Activities in these public spaces receive the strongest First Amendment protections, and “the government’s ability to permissibly restrict expressive conduct [in these areas] is very limited.”<sup>97</sup>

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<sup>92</sup> As discussed subsequently, the NPS was seemingly unaware of missing fire and life safety documentation because the NPS safety official did not review this information after the permit specialist sent it to him on January 1.

<sup>93</sup> Nat’l Park Serv., *Mgmt. Policies 2006*, at § 8.6.3 “First Amendment Activities.”

<sup>94</sup> Nat’l Park Serv., Director’s Order #53: *Special Park Uses*, § 9.1 “First Amendment Activities” (Feb. 23, 2010) (amended by Memoranda dated Aug. 31, 2010, and Nov. 20, 2020). NPS event guidelines state that the NPS may seek to recover the costs for damages from event organizers, including for First Amendment demonstrations. *Event Planning Guide*, § 3.1 “Charges.” We discuss cost recovery below.

<sup>95</sup> See, e.g., *A.N.S.W.E.R. Coal. v. Kempthorne*, 537 F. Supp. 2d 183, 194 (D.D.C. 2008) (“In public forums such as the areas within the Pennsylvania Avenue National Historic Park at issue in this case, the government’s ability to permissibly restrict expressive conduct is very limited: the government may enforce reasonable time, place and manner restrictions as long as the restrictions are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication.”) (internal citations omitted).

<sup>96</sup> *Id.* at 194; see also *A.N.S.W.E.R. Coal. v. Basham*, 845 F.3d 1199, 1215 (D.C. Cir. 2017) (stating that Freedom Plaza, the White House sidewalk, and Lafayette Park are “areas [that] have historic and symbolic importance” and quoting *Quaker Action IV*, in which the Supreme Court stated, “[T]he White House sidewalk, Lafayette Park, and the Ellipse constitute a unique situs for the exercise of First Amendment rights”); *ISKCON of Potomac, Inc. v. Kennedy*, 61 F.3d 949, 951-52 (D.C. Cir. 1995) (describing the Mall as “an area of particular significance in the life of the Capital and the Nation” that, among other uses, “is the place where men and women from across the country will gather in the tens of thousands to voice their protests or support causes of every kind. It is here that the constitutional rights of speech and peaceful assembly find their fullest expression.”).

<sup>97</sup> See *Price v. Barr*, 514 F. Supp. 3d 171, 186 (D.D.C. 2021) (“In a traditional public forum—parks, streets, sidewalks, and the like—the government may impose reasonable time, place, and manner restrictions on private speech, but restrictions based on content must satisfy strict scrutiny, and those based on viewpoint are prohibited. The same standards apply in designated public forums.”) (internal citations omitted).



Nonetheless, as explained in NPS policy, “the NPS may reasonably regulate” First Amendment speech “to protect park resources and values, and to protect visitor safety.”<sup>98</sup> The policy allows “certain aspects” of demonstrations to be regulated, “such as the time when, the place where, and the manner in which the activity is conducted.”<sup>99</sup> The policy also provides, however, “that it is the conduct associated with the exercise of these rights that is regulated, and never the content of the message.”<sup>100</sup> Moreover, when the NPS “allows one group to use an area or facility for expressing views, it must provide other groups with a similar opportunity, if requested . . . provided that all permit conditions are met.”<sup>101</sup> Additionally, “[t]he Superintendent and park staff should be particularly careful to be neutral in his or her judgment, and not favor organizations with which they may be personally familiar, or whose ‘message’ they may personally support.”<sup>102</sup>

We found that NPS officials, including the superintendent of President’s Park and the permit specialist, managed the permitting process in a content-neutral manner consistent with the above requirements. The evidence showed that the permit specialist, superintendent, and park ranger for President’s Park provided clear and timely guidance to WFAF throughout the permitting process and did not engage in discussions related to the content of WFAF’s planned demonstration. In the correspondence we reviewed pertaining to the permitting process, we saw little to no substantive discussion regarding the subject matter of WFAF’s demonstration, nor did we find evidence that the NPS favored or disfavored WFAF over other groups in granting its permit. Finally, no witnesses with whom we spoke reported any bias or unfair treatment by the NPS. We therefore concluded that the NPS conducted the permitting process in the requisite content-neutral manner.

3. *We Found No Evidence That the NPS Had Information That WFAF’s Demonstration Presented a Clear and Present Danger Such That Denying the Permit Would Have Been Permissible*

In keeping with the strong First Amendment protections described previously, it is under only rare circumstances that a permit can be denied. This is because the Supreme Court has held that “‘public places’ historically associated with the free exercise of expressive activities, such as streets, sidewalks, and parks,” are “public forums” where the government’s ability “to limit expressive activity [is] sharply circumscribed.”<sup>103</sup> In these public forums, the Government’s regulation of political speech “must be subjected to the most exacting scrutiny,” whereby the Government must “show that ‘the regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end.’”<sup>104</sup>

The NPS’ regulations reflect these principles, providing that the NPS can deny a permit application if “[i]t reasonably appears that the proposed demonstration or special event will present a clear and

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<sup>98</sup> Nat’l Park Serv., Director’s Order #53: *Special Park Uses*, § 9.1 “First Amendment Activities.”

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> Nat’l Park Serv., *Mgmt. Policies 2006*, at § 8.6.3 “First Amendment Activities.”

<sup>102</sup> Nat’l Park Serv., Director’s Order #53: *Special Park Uses*, § 9.1 “First Amendment Activities.”

<sup>103</sup> *U.S. v. Grace*, 461 U.S. 171, 177 (1983) (internal citations omitted); *Perry Educ. Ass’n v. Perry Loc. Educators’ Ass’n*, 460 U.S. 37, 45 (1983).

<sup>104</sup> *Boos v. Barry*, 485 U.S. 312, 321 (1988) (internal citations omitted).

present danger to the public safety, good order, or health.”<sup>105</sup> The regulations do not define or provide guidance on what constitutes “clear and present danger” sufficient to deny a permit. Federal case law articulating the “clear and present danger” standard, however, states that there must be clear evidence that a “substantive evil[]” will follow the speech and that the threat of such evil occurring is real and imminent.<sup>106</sup> The Supreme Court has clarified that “the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”<sup>107</sup> Thus, speech—even speech advocating violence or lawlessness—is insufficient to deny a permit under the “clear and present danger” standard unless there is evidence that the speech is likely to incite “imminent lawless action.”

As an initial matter, we found no evidence that the NPS considered denying or revoking WFAF’s permit on safety grounds, and we obtained no information that the USPP, the SOL, or any other entity within the DOI suggested or even considered the possibility that it would have been proper to deny or revoke the permit on this basis. Although our office did not conduct an overall analysis and assessment of information potentially available to NPS or others in the days before January 6, the evidence that we reviewed also did not suggest that the NPS had information that should have prompted it independently to conclude that WFAF’s demonstration presented a clear and present danger in advance of the event. For example, in the days leading up to January 6, the USPP received intelligence reports identifying social media posts suggesting possible civil disobedience and violence on January 6, including threats to occupy or storm the U.S. Capitol or a State capitol building; calls for people to come to Washington, DC, in some cases armed; and calls to occupy the U.S. Capitol or other Federal buildings. None of this information, however, was specific to WFAF’s demonstration at the Ellipse. Further, at the time the USPP received this information, neither it nor any of its law enforcement partners—including the FBI, USCP, USSS, MPD, and the U.S. Supreme Court police—deemed the threats specific enough to be credible. Given these facts, we did not identify any clear trigger for the NPS to have considered denying the permit based on a “clear and present danger.”

In the course of our review and analysis of the standards for denying a permit, we also interviewed SOL attorney 1 regarding these issues. This individual had responsibility for NPS-related matters and had answered questions from the NPS regarding certain timing issues pertaining to WFAF’s demonstration. SOL attorney 1 likewise emphasized that the standards for denying a permit were “high” and opined that the information the NPS and USPP had before WFAF’s demonstration at the Ellipse, including potential acts of violence in Washington, DC on January 6, was not specific enough to WFAF’s demonstration to warrant denial of the permit under the clear and present danger standard. When we asked SOL attorney 1 why the information the NPS had before WFAF’s demonstration did not rise to the level of “clear and present danger,” SOL attorney 1 expressed the belief that establishing “clear and present danger” would require evidence that there would be extreme violence, and that this could not be a mere suspicion but would instead require “actionable intelligence that met a pretty high standard for reliability.” Put another way, based on the evidence the NPS had at the time, SOL attorney 1 concluded—even after the events of January 6—that there had been insufficient evidence for the NPS to conclude that allowing WFAF’s demonstration to proceed was likely to incite “imminent lawless action,” the standard required to deny a permit. Although SOL attorney 1’s analysis is not

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<sup>105</sup> 36 C.F.R. § 7.96(g)(4)(vii)(B). Additional grounds for the NPS to deny a permit application, such as if a proposed event (1) conflicts with another event, (2) is of such a nature or duration that it cannot be reasonably accommodated in the area applied for, or (3) is contrary to other applicable laws or regulations. *Id.* § 7.96(g)(4)(vii)(A), (C), and (D), were not applicable here.

<sup>106</sup> *Schenck v. United States*, 249 U.S. 47, 52 (1919); *Texas v. Johnson*, 491 U.S. 397, 419 (1989).

<sup>107</sup> *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

dispositive for purposes of our review, it is consistent with our own assessment of the issues.

In short, given well-established law “sharply circumscribing” the Government’s ability to limit free speech, we do not have a basis to conclude that the NPS somehow acted improperly by failing to withdraw or deny the permit based on a clear and present danger analysis.

4. *The President’s Park Superintendent Had the Discretion to Allow WFAF to Place Its Stage Within the Vista Sight Line*

We found that it was within the President’s Park superintendent’s discretion to grant WFAF’s request to place its stage within the vista sight line. Although the NPS had an unwritten practice of not allowing demonstrators to place event structures in the vista sight line, this practice was not based on any legal, regulatory, or policy prohibition. It was instead a practice implemented to maintain “the historic and aesthetic integrity of the cultural landscape in President’s Park.”<sup>108</sup> In addition, the NPS had granted exceptions to this practice in the past.<sup>109</sup> Thus, at the time of WFAF’s permit application and demonstration, the superintendent had the authority to grant exceptions to the practice and indeed, had done so in the past. Even after the NPS formalized its historic practice in a September 2021 policy that generally prohibits impeding the vista sight line, the policy maintains the superintendent’s discretion to approve exceptions to that policy.<sup>110</sup>

Beyond the absence of any formal policy on this topic at the time the superintendent granted WFAF’s request, we found no evidence in either witness statements or documents that either the superintendent or the NPS Acting Director knew that the White House had contacted DOI Secretary Bernhardt or Deputy Secretary MacGregor regarding WFAF’s request. We do not suggest that there would have been impropriety even if these officials had been aware of these communications; however, the fact that neither the superintendent nor the NPS Acting Director had any apparent awareness of these discussions minimizes the possibility that the NPS decisionmakers were swayed by considerations other than WFAF’s own request.

5. *NPS Policy Conflicts with Federal Regulations with Respect to the Timing of Certain Permitting Submissions, and NPS Safety Officials Failed to Review WFAF’s Fire and Life Safety Documentation and Did Not Conduct a Site Inspection in Accordance With NPS Policy*

We concluded that the NPS’ *NCA Fire and Life Safety Policy* is inconsistent with Federal regulations. We also found that NPS safety officials did not review WFAF’s fire and life safety documentation and took no action to ensure that a site inspection occurred as required by the *NCA Fire and Life Safety Policy*.

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<sup>108</sup> See Nat’l Park Serv., President’s Park, *Superintendent’s Compendium*, § III.F, “Permits process and permit conditions: The Evaluation of Visual Impact Analysis for Permitted Temporary Structures on the National Mall” (updated Sept. 22, 2021) (*Superintendent’s Compendium for President’s Park*).

<sup>109</sup> As recently as 2019, a permit applicant obtained the NPS’ authorization to place a structure at the Ellipse at the outer edge of the vista sight line. The President’s Park superintendent also recalled an event in 2011 when the Obama Administration advocated in favor of allowing the event applicant to place a baseball scoreboard within the vista sight line, which the NPS allowed. Several NPS employees with whom we spoke also remembered these events and corroborated the superintendent’s statements.

<sup>110</sup> The new policy states in pertinent part, “To maintain this vista site line, the setup of equipment is strictly prohibited unless specifically approved, in writing, by the Park Superintendent and included in any issued NPS permit.” See *Superintendent’s Compendium for President’s Park*, § III.F “Permits process and permit conditions: The Evaluation of Visual Impact Analysis for Permitted Temporary Structures on the National Mall.”

The NPS' *NCA Fire and Life Safety Policy* conflicts with Federal regulations, which only require that an applicant submit a permit application "at least 48 hours in advance" of a proposed demonstration and state that a permit application is "deemed granted" if it is not "denied within 24 hours of receipt."<sup>111</sup> In contrast, the *NCA Fire and Life Safety Policy*, which requires that "all temporary event documents be reviewed and approved by" NPS safety officials, states that "[a]ll documents shall be submitted through the [p]ark's permits specialist, or event coordinator, **at least 20 business days** prior to the proposed scheduled event"<sup>112</sup> and notes that "[d]ocument review may take a minimum of 10 business days."<sup>113</sup> The *NCA Fire and Life Safety Policy* also requires the NPS safety official or a designee to "[r]eview all outdoor event documents, within 10 business days of submittal" and "[p]erform Fire and Life Safety inspections."<sup>114</sup> Finally, the *NCA Fire and Life Safety Policy* states that "[e]vent operation or occupancy shall not be permitted without [NPS safety official] approval" and that "[f]ire and life safety inspections will be conducted during event set-up and while the event is in progress."<sup>115</sup>

The *NCA Fire and Life Safety Policy*'s requirement that documents be submitted "at least 20 business days prior" to a proposed demonstration or event is inconsistent with NPS regulations, which require submission of documents only 48 hours in advance. Because Federal regulations prevail over inconsistent agency policy, we consider the relevant regulations to be the binding guidance in this instance.

As also discussed previously, Federal regulations provide that permit applications that are not denied within 24 hours of receipt are deemed granted. Here, WFAF submitted fire and life safety documentation on January 1 in response to the permit specialist's request, which the permit specialist sent to the NPS safety official later that day.<sup>116</sup> On the morning of January 2, an NPS safety official emailed the permit specialist telling her that receiving WFAF's documentation on January 1 was "simply not reasonable or acceptable" because it did not provide safety officials with enough time to review the documentation or conduct a site inspection. This email was forwarded to SOL attorney 1, who advised that, under Federal law, NPS safety officials were required to review the documentation submitted by WFAF "and identify any problems or changes" within the time frames set forth in the regulations. SOL attorney 1 also told the NPS that under governing law, "initial reviews of permit application[s] should take no more than 48 hours." Only if the safety official's review generated "concerns or questions" could the NPS safety officials ask for more time or, if more time was not available, deny the permit. What NPS safety officials could not do, according to SOL attorney 1, was "simply refuse" to review the package "because of an arbitrary non-regulation based time line" like the one set forth in the *NCA Fire and Life Safety Policy*.

When we asked the NPS safety official why the NPS did not review WFAF's fire and life safety documentation or perform a site visit, the safety official told us that NPS safety officials did not have time to do so. We note, though, that NPS safety officials received WFAF's fire and life safety

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<sup>111</sup> As discussed previously, Federal courts have upheld these timelines as reasonable.

<sup>112</sup> *NCA Fire and Life Safety Policy* at 6 (emphasis in original).

<sup>113</sup> *Id.* at 7.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* at 16.

<sup>116</sup> As previously discussed, the permit specialist told WFAF that these documents were required in order for the NPS to finish processing its permit application. These documents were required under the *NCA Fire and Life Safety Policy*. See *NCA Fire and Life Safety Policy* at 6, 7-10.

documentation on January 1, and that WFAF finished constructing its stage at the Ellipse on January 4. Even accounting for the Federal holiday (January 1), NPS safety officials had four days from the time the safety documentation was received until the demonstration on January 6 to review WFAF's fire and life safety documentation and almost 48 hours to inspect WFAF's stage and conduct a site visit. These timeframes fell within regulations governing the NPS. NPS safety officials did not, however, attempt to review WFAF's fire and life safety documentation and took no action to ensure that a site inspection occurred. Nor did they conduct fire and life safety inspections during WFAF's set up for its demonstration or while the demonstration was ongoing. These failures violated NPS policy, and NPS officials acknowledged that the absence of safety inspections put the public and NPS resources at risk.

## **B. The NPS Did Not Comply With Regulations Regarding Public Notice With Respect to Prohibited Items at WFAF's Demonstration But Did Comply With Respect to Access Restrictions at the Washington Monument**

As described previously, Federal regulations allow the superintendent of a national park to impose restrictions on the use of public land if the superintendent determines that such restrictions are necessary for public health or safety.<sup>117</sup> In addition, the superintendent must prepare a written determination justifying the restrictions.<sup>118</sup> When a superintendent exercises this authority to impose restrictions on park land, the NPS is required to notify the public of those restrictions by one or more of the following methods: (1) signs posted at conspicuous locations, such as normal points of entry and reasonable intervals along the boundary of the affected park locale; (2) maps available in the office of the superintendent and other places convenient to the public; (3) publication in a newspaper of general circulation in the affected area; or (4) other appropriate methods, such as the removal of closure signs, use of electronic media, park brochures, maps, and handouts.<sup>119</sup>

We concluded that the NPS did not comply with regulations regarding public notice with respect to prohibited items at WFAF's demonstration but did so with respect to access limitations at the Washington Monument.

### *1. The NPS Did Not Provide Required Notice Regarding Prohibited Items at the Ellipse*

According to the written determination by the National Mall and Memorial Parks superintendent dated January 6, 2021, at 10:46 a.m., the NPS imposed a "public use limitation" that prohibited the public from bringing certain items to WFAF's demonstration. The prohibited items set forth in the record of determination included weapons, bicycles, body armor, laser pointers, backpacks and bags exceeding dimensions of 18 inches by 13 inches by 7 inches, packages, drones, toy guns, and pepper spray. The record of determination stated that this public use limitation came at the request of the USSS in consultation with the USPP to help ensure public safety during WFAF's demonstration. The record of determination concluded by stating that notice of this public use limitation "will be on the tickets and entrance way signage" pursuant to 36 C.F.R. § 1.7.<sup>120</sup>

Despite the language in the record of determination, the NPS did not provide any notice to the public of the items that were prohibited from being brought to the Ellipse. This information did not appear on

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<sup>117</sup> 36 C.F.R. § 1.5(a).

<sup>118</sup> *Id.* § 1.5(c). The superintendent's written determination must be made available to the public upon request. *Id.*

<sup>119</sup> *Id.* § 1.7(a).

<sup>120</sup> We did not find evidence that tickets were issued for the demonstration.

entrance way signage, nor did the NPS comply with other notice methods set forth as options under 36 C.F.R. § 1.7. Even though the timing of the record of determination meant that some options, such as a newspaper, were not feasible, the NPS did not take advantage of other permissible approaches that may have been more practical. It did not, for example, post signs “at conspicuous locations” at the event site, nor did it use “other appropriate methods” such as providing notice online or through other electronic media or issuing a press release or through radio announcements or handouts. Accordingly, the NPS failed to comply with the notice requirements contained in NPS regulations, specifically, 36 C.F.R. § 1.7.

We cannot speculate on the extent to which providing this information may have affected the behavior of demonstration attendees, but it is clear that many members of the public brought items that were prohibited by the NPS’ record of determination. As discussed previously, on the morning of January 6, many demonstrators abandoned their bags outside of the Ellipse after learning they would not be allowed to enter the Ellipse with them. USPP officers and other law enforcement officials had to monitor and sweep the hundreds of abandoned bags for explosives and other threats to public safety and were in fact unable to examine all of them. We acknowledge that WFAF had emailed its supporters and posted on its website on January 5 a list of prohibited items that did include backpacks and bags, but the list was itself outdated and also inconsistent with the information in the NPS’ record of determination. In addition, the relevant regulations and the record of determination place obligations on the NPS itself that cannot be delegated to an event organizer or others. We also note that the record of determination and the underlying guidance refer to “other appropriate” means of communication, such as social media, radio or television announcements, and signage at the event itself. Under these circumstances, we cannot conclude that the NPS met its obligations to provide notice to the public under § 1.7.

## *2. The NPS Complied With Regulations Regarding Public Notice of Access Restrictions at the Washington Monument*

With respect to the plaza surrounding the Washington Monument, the NPS prepared a separate record of determination dated January 5, 2021, stating that it would “partially restrict access to the plaza that surrounds the Washington Monument to authorized government personnel and to those people with tickets to enter the Washington Monument.”<sup>121</sup> The record of determination also advised that “notice of this temporary and partial closure will be made by use of temporary fencing and other barriers, for areas affected by this closure and by notices to the public.”<sup>122</sup>

The NPS publicly posted its record of determination on its website at 7:18 a.m. on January 6. It also surrounded the plaza area with temporary fencing with gaps in the fencing to allow Washington Monument ticket holders to enter. These actions were sufficient for the NPS to satisfy the notice requirements of 36 C.F.R. § 1.7, which require only that the NPS notify the public of public use limitations “by one or more” methods, including “other appropriate methods, such as . . . use of electronic media.” Publicly posting its record of determination on its website in the morning on January 6 satisfied this requirement.

As noted above, however, people began lining up to enter the Ellipse at around 7:00 a.m. on the morning of January 6, before the notice was posted on the NPS’ website. Further, there were no signs

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<sup>121</sup> Nat’l Park Serv., Nat’l Mall & Mem. Parks, *Record of Determination for a Temporary Modification in Use of the Park Area Around the Washington Monument for January 6 and 7, 2021* (Jan. 5, 2020).

<sup>122</sup> *Id.*

posted at the location itself explaining the nature of the access restriction. The absence of such signage combined with the temporary bike rack fencing with gaps in the fencing may have made it unclear to some members of the public that the area was in fact closed (other than for ticket holders). Indeed, when USPP officers and NPS park rangers arrived at the Washington Monument at around 9:00 a.m. on January 6 to secure the area, there were already hundreds of people inside the plaza surrounding the Washington Monument. Also as discussed above, the USPP had arrested a man who had entered the restricted area and told the public that the plaza area was open to everyone, after which an aggressive crowd followed the arresting officers until they retreated inside the Washington Monument security facility for their safety. Having called for backup, USPP and NPS officials remained locked in the security facility for about 25 minutes while the crowd banged on the glass of the facility with flagpoles, sticks, and their fists. It was not until backup officers arrived and the crowd dispersed that the USPP officers and other NPS officials could leave the security facility with the man under arrest.

### **C. The NPS Failed to Retain Pre-Demonstration Photographs of the Event Site as Required by the NPS' Event Planning Guide That Might Have Permitted the NPS to Seek Recovery for Damages to Federal Property**

The NPS failed to retain the pre-event photographs it took to document the condition of the site prior to the demonstration and thus made the decision that it would not attempt to recover costs for damages caused by WFAF's demonstration.

The NPS' *Event Planning Guide* requires the NPS to inspect event sites before an event begins and after the event has concluded to fully document any damage to NPS property that may occur during a permitted event.<sup>123</sup> The *Event Planning Guide* states that, during pre- and post-event walkthroughs, "[p]hotographs shall be taken in addition to notes to document findings."<sup>124</sup> If the NPS identifies damage caused by the event, the permittee is responsible for all costs associated with the damage, including damage caused by demonstrations protected under the First Amendment.<sup>125</sup> In practice, photographic or similar evidence is an important part of the NPS' ability to establish and value damage that may have occurred.

As discussed above, an NPS permit monitor used a Government-issued smart phone to photograph the Ellipse on January 2 before WFAF began unloading materials and equipment to install its flooring and stage at the Ellipse. However, the permit monitor did not back up the photos to his computer, and these photos were lost. Thus, even though the NPS identified over \$213,000 in damages to the Ellipse caused by WFAF's demonstration, it determined that it would not seek recovery for the damages because it did not have sufficient evidence to attribute the damages to WFAF's demonstration.

### **D. WFAF Intentionally Failed to Disclose Information to the NPS During the Permitting Process Regarding a March to the U.S. Capitol**

We concluded that WFAF intentionally failed to disclose information to the NPS during the permitting process regarding a march to the U.S. Capitol.

As the preceding sections described in detail, the NPS requires extensive information from permit

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<sup>123</sup> *Event Planning Guide* §§ 2.6 "Pre-event Walk Through," 2.8 "Post-event Walk Through."

<sup>124</sup> *Id.* § 3.1 "Charges."

<sup>125</sup> *Id.*

applicants to help ensure that the NPS has the information necessary to protect public spaces and resources and to promote the safety and security of event participants.<sup>126</sup> The entire regulatory and policy framework surrounding the permitting process is intended to effectuate these goals. Although NPS permitting forms do not explicitly require applicants to attest that they have provided truthful information to the best of their knowledge, we have no hesitation in concluding that an applicant for a permit should not knowingly provide false information to the NPS during the permitting process.<sup>127</sup>

As part of the permitting process, the required NPS permit application specifically asked the applicant to provide information to the NPS regarding “proposed routes for any marches.”<sup>128</sup> The NPS repeatedly asked WFAF if it planned to march from the Ellipse to the U.S. Capitol on January 6. The NPS explained that it did so because it “kept hearing that there was going to be [a march]” and because WFAF’s original permit application for an event in late January at Freedom Plaza, which its January 6 permit application replaced, stated that WFAF intended to march from Freedom Plaza to the U.S. Capitol.

During a telephone call with a park ranger for President’s Park on December 29, WFAF told the NPS that WFAF did not intend to march to the U.S. Capitol on January 6. Consistent with this statement, WFAF’s permit application submitted on December 29 made no mention of a march, stating that the “[s]peaking program” for WFAF’s planned demonstration was “in development and w[ould] take place on stage and run from approx. 9 am – 5 pm.” Similarly, in a call on December 30 with the NPS, the USPP, and its law enforcement partners (including the USCP and MPD), the NPS again asked if WFAF planned to have demonstration attendees march to the U.S. Capitol after its demonstration at the Ellipse concluded. WFAF again responded that it did not plan to march to the U.S. Capitol after the demonstration and that the demonstration would be only a rally at the Ellipse.

Based on WFAF’s representations, the NPS issued an amended permit on January 1 that stated “[t]his permit does not authorize a march from the Ellipse”<sup>129</sup> and that WFAF would “not conduct an organized march from the Ellipse at the conclusion of the rally. Some participants may leave to attend rallies at the United States Capitol to hear the results of Congressional certification of the Electoral College count.” Subsequently, based on WFAF’s email requests to increase the anticipated number of participants and to approve use of a jumbotron, the NPS issued amended permits on January 4 and January 5, respectively. Both of the amended permits issued by the NPS reiterated the statements in the January 1 permit stating that WFAF would “not conduct an organized march from the Ellipse at the conclusion of the rally.”

In fact, however, the evidence showed that, by at least January 4, WFAF expected that President Trump would call for people to march from the Ellipse to the U.S. Capitol during his speech at the Ellipse on January 6. WFAF’s representative stated this explicitly and in detail in a text message to a potential event speaker. In particular, WFAF’s representative said, “This stays only between us, we are having a second stage at the Supreme Court again after the ellipse. POTUS is going to have us march

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<sup>126</sup> See *supra* sections II.A.2 and II.B.5.

<sup>127</sup> Indeed, because of these conclusions, we referred the information discussed in this report to the DOJ in November 2022. In April 2023, DOJ declined to consider the matter for potential prosecution.

<sup>128</sup> NPS Form 10-941.

<sup>129</sup> It is unlikely that the NPS could issue a permit authorizing a march from the Ellipse to the U.S. Capitol without coordinating with the MPD and U.S. Capitol officials. Regardless, as noted in the facts, the NPS did not authorize WFAF to conduct a march from the Ellipse to the U.S. Capitol, and WFAF’s requests to the MPD and USCP to conduct a march from the Ellipse to the U.S. Capitol were denied by the MPD and withdrawn from the USCP, respectively.



there/the Capitol.” The same text message also established that WFAF knew this information was contrary to what it had disclosed to the NPS and its law enforcement partners regarding whether there would be a march from the Ellipse to the U.S. Capitol on January 6, and that WFAF “would be in trouble with the national park service and all the agencies” if the information about the expected march “g[ot] out.”

NPS officials expressed surprise after reading the WFAF representative’s January 4 text message. One official stated it “bl[ew her] mind” because the NPS repeatedly asked WFAF whether there would be a march and, according to the NPS official, the WFAF representative “was just adamant there was gonna be no march.” Another NPS official with whom we spoke similarly stated, “we asked [the WFAF representative] repeatedly if she was going to do a march . . . So, um, basically she lied to all of us.” NPS officials stated that, even though knowledge of the march would not have led to denial of WFAF’s permit, it would have affected how they prepared for the demonstration and engaged with other affected jurisdictions and law enforcement officials. Specifically, NPS officials stated that, had they known there would be a march from the Ellipse to the U.S. Capitol, they would have requested information from WFAF regarding the planned march route and expected time of the march and coordinated with law enforcement and other relevant officials.<sup>130</sup> They also stated that they would have made sure WFAF had enough marshals to help safely direct people from the Ellipse to the march route and that the appropriate roads were closed.<sup>131</sup> The NPS officials explained that these actions would have been taken to ensure that the march was “conducted in a safe manner” and “that the Capitol [wa]s aware that there’s a march coming up to their jurisdictions.”<sup>132</sup>

We acknowledge that there was some suggestion in various intelligence reports and potentially in other communications regarding a potential march. This, however, does not absolve WFAF from its responsibility to provide accurate information to the NPS in the permitting process itself. Moreover, even if WFAF was not the official “organizer” of the march, we concluded that it actively concealed information that it knew the NPS viewed as important to its preparations for WFAF’s January 6 demonstration. We therefore concluded that WFAF intentionally failed to disclose information to the NPS and its law enforcement partners that it knew was material to the government’s preparations for the demonstration at the Ellipse.

## **E. We Found No Evidence That the USPP Failed to Exercise Its Law Enforcement Responsibilities in Accordance With Policy on January 6**

### *1. There Was No Evidence That the USPP Failed to Exercise Its Responsibilities at the Ellipse in Accordance with Policy*

Based on our review, we concluded that there was no evidence that the USPP failed to exercise its responsibilities at the January 6 demonstration at the Ellipse in accordance with relevant policy.

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<sup>130</sup> For example, one NPS official explained that “we never would have denied a march but we would need to know, like, a point A to a point B, what route are you taking, so that the appropriate jurisdictions could become involved to permit such a march . . . it would have been coordinated through law enforcement for like a march step-off time, that type of stuff.”

<sup>131</sup> For example, one NPS official told us that “when someone’s doing a march, um, they have . . . march marshals . . . people to help facilitate, make sure people are going in the right direction, it’s being conducted in a safe manner,” and further, that the NPS “would have . . . made sure that the roads were closed, made sure that they had enough marshals.” Another NPS official stated that “if we had known it was a march” her concern would have been how the demonstrators would leave the Ellipse.

<sup>132</sup> This same NPS official noted that, because the U.S. Capitol has its “own specific rules,” it was her view that WFAF would have had “to get an additional permit from the Capitol in order to march to their jurisdiction.”

The most pertinent policy is General Order 2301, “Demonstrations and Special Events.”<sup>133</sup> General Order 2301 provides the USPP with guidelines for managing demonstrations and special events in the National Capital Region.<sup>134</sup> It requires the USPP to cooperate and engage in advance planning with the MPD and enables it to request additional manpower for demonstrations and special events in the National Capital Region.<sup>135</sup> It also counsels USPP officers to use discretion when “making arrests for minor infractions” and cautions that “[h]arsh actions by the police could precipitate hostile actions by participants in public gatherings.”<sup>136</sup>

More broadly, the USPP bases its staffing posture for First Amendment demonstrations on the anticipated size and location of an event and the intelligence information it receives. We did not, however, identify any specific policy or other guidance that defines a particular level of staffing.

In the afternoon on January 4, the USPP received information from the NPS permit specialist that WFAF increased the number of expected participants to 20,000, and then 30,000.<sup>137</sup> Leading up to January 6, the USPP worked with its law enforcement partners in an effort to effectively manage the demonstration and ensure it had sufficient manpower to manage the event.

The evidence that we reviewed established that the USPP assigned its full Washington, DC force to be on duty on January 6 and cancelled leave for local USPP officers from January 5 to January 7. The USPP also brought additional officers from the USPP’s New York field office to Washington, DC as it had done for WFAF’s December 2020 demonstration. Specifically, the USPP assigned 219 officers and staff to WFAF’s demonstration, including 38 officers from the USPP’s New York Field Office and 6 emergency medics from HHS.<sup>138</sup> Another 120 USPP officers were on duty on January 6 policing other areas in the Washington, DC metropolitan area that were under USPP jurisdiction. This increase in staffing allowed the USPP to have a significant law enforcement presence at WFAF’s demonstration at the Ellipse as well as law enforcement coverage for the USPP’s regular patrols around the Washington metropolitan area.

As discussed above, there were incidents at the Washington Monument and the Lincoln Memorial on January 6 in which the USPP were involved. Ultimately, both incidents were resolved without any reported injuries to the public, USPP officers, or NPS non-law enforcement personnel.<sup>139</sup> In light of these facts, including the information the USPP had available to it at the time and USPP law enforcement officials’ discretion in managing its law enforcement operations, we have no basis to conclude that the USPP failed to comply with governing policies while engaging in law enforcement operations at the Ellipse.

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<sup>133</sup> U.S. Park Police, G.O. 2301 (Feb. 23, 2004).

<sup>134</sup> *Id.* § 2301.01, “Purpose.”

<sup>135</sup> *Id.* § 2301.04, “Coordination Between the United States Park Police and Metropolitan Police of the District of Columbia.”

<sup>136</sup> *Id.* § 2301.05, “Responsibilities.”

<sup>137</sup> As noted in the discussion above, it is unclear whether the USPP officials who received this information from the NPS permit specialist forwarded it to the USPP Intelligence Branch. We note that the NPS’ *Event Planning Guide* states in section 1.1.2 that “[t]he NPS Permit Specialist . . . coordinates the logistics with the U.S. Park Police” but the guide does not specifically direct the permit specialist to forward information to the USPP Intelligence Branch. Regardless, we did not find the misstatement in the intelligence report had a material impact on the USPP’s preparations for the demonstration at the Ellipse.

<sup>138</sup> Approximately 24 of the assigned officers were unavailable to work that day.

<sup>139</sup> We are also unaware of any reported injuries to non-DOI law enforcement officials who may have been at those locations.

## 2. *We Found No Evidence Suggesting That the USPP's Response at the U.S. Capitol Was Inconsistent With Its Law Enforcement Responsibilities*

As discussed above, the USPP does not have primary law enforcement responsibility over the U.S. Capitol and its grounds, and before entering U.S. Capitol buildings or making arrests, the USPP must obtain the consent of the U.S. Capitol Police.<sup>140</sup> Moreover, pursuant to a mutual aid agreement, the USPP may provide assistance with law enforcement operations at the U.S. Capitol during an emergency, incident, or situation but only if its assistance is requested by the USCP or the MPD.

The evidence that we reviewed showed that, after WFAF's demonstration at the Ellipse ended, many people who were at the Ellipse began walking toward the U.S. Capitol. Shortly thereafter, the USPP began receiving reports that protestors had breached the fence line at the U.S. Capitol but that the USCP was not requesting USPP assistance at that time. At approximately 1:45 p.m., however, the USCP and the MPD did seek USPP assistance at the U.S. Capitol. The evidence that we obtained showed that the USPP responded immediately, sending 16 officers from the Ellipse to the U.S. Capitol armed with pepper ball and other nonlethal weapons systems. The USPP SWAT commander also released the ATF unit that had been assigned to assist the USPP at the Ellipse so it could respond on its own to the U.S. Capitol.

After this initial response, a USPP command official offered to send an additional 40 USPP officers to the U.S. Capitol, as well as additional pepper ball munitions, USPP Horse Mounted Patrol officers, and other resources. The USCP did not accept the USPP command official's offer, however, so these additional resources were not sent. Shortly before 6:00 p.m., the USPP began redeploying its officers from the U.S. Capitol to other areas on the National Mall.

In light of the above, we found no information suggesting that the USPP's law enforcement decisions were outside of its discretion or inconsistent with its law enforcement responsibilities as articulated in USPP policy and the National Capital Region mutual aid plan.

## IV. CONCLUSION

We concluded that the NPS complied with legal requirements in issuing the permit for WFAF's demonstration but also found that NPS safety officials did not review WFAF's fire and life safety documentation or conduct a site inspection in accordance with NPS policy. In addition, we found that the NPS did not provide the requisite notice of prohibited items at the Ellipse on January 6 although it did comply with requirements to provide notice of access restrictions at the Washington Monument. We likewise found that the NPS did not retain pre-demonstration photographs of the event site as required by the NPS' *Event Planning Guide* that could have been used to recover damages to Federal property. As to WFAF, we concluded that it intentionally failed to disclose information to the NPS during the permitting process regarding a march to the U.S. Capitol. Finally, we found no evidence that the USPP failed to exercise its law enforcement responsibilities in accordance with policy on January 6 at both the Ellipse and the U.S. Capitol.

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<sup>140</sup> U.S. Park Police, G.O. 2003, § 2003.03, "Law Enforcement – U.S. Capitol Grounds and Buildings." As described above, the USCP is the entity with primary law enforcement responsibility at the U.S. Capitol.

## APPENDIX: Timeline of Events

<b>2020</b>	
<b>November 3</b>	Former U.S. Vice President Joe Biden defeats President Donald Trump in the presidential election.
<b>November 14</b>	WFAF holds a demonstration at Freedom Plaza in Washington, DC, followed by a march to the U.S. Supreme Court.
<b>December 12</b>	WFAF holds a second demonstration at Freedom Plaza. No march follows the demonstration.
<b>December 15</b>	WFAF submits a permit request to NPS for a demonstration at Freedom Plaza on January 22 and 23.
<b>December 19</b>	<p>President Trump tweets: "Big protest in D.C. on January 6<sup>th</sup>. Be there, will be wild!"</p> <p>WFAF requests NPS approval for a new date of January 6 for its demonstration. WFAF submits separate permit requests to MPD and USCP for a January 6 march to the U.S. Capitol.</p>
<b>December 21</b>	<p>USPP cancels Washington, DC officers' leave requests for January 5 through January 7.</p> <p>MPD denies WFAF's permit request for a January 6 march.</p>
<b>December 22</b>	USPP begins discussions with law enforcement partners to prepare for demonstrations on January 6.
<b>December 23</b>	<p>USPP issues an intelligence report anticipating that WFAF's January 6 demonstration will be similar to its demonstrations on November 14 and December 12.</p> <p>WFAF withdraws its permit request submitted to USCP.</p>
<b>December 29</b>	<p>WFAF submits a new permit request reflecting the new WFAF representative at the direction of NPS for its January 6 demonstration at the Ellipse.</p> <p>WFAF tells NPS it will not march to the U.S. Capitol on January 6.</p>
<b>December 30</b>	<p>NPS and WFAF continue event logistics discussions.</p> <p>WFAF again tells NPS it will not march to the U.S. Capitol on January 6.</p>
<b>December 31</b>	<p>WFAF tells NPS President Trump might attend the January 6 demonstration.</p> <p>NPS grants WFAF's request to install flooring materials at the Ellipse on January 2.</p> <p>President's Park superintendent denies WFAF's request to place its stage within the vista sight line.</p>
<b>2021</b>	
<b>January 1</b>	<p>WFAF submits additional permitting documentation to NPS, including additional safety documentation.</p> <p>NPS permit specialist sends safety documentation to NPS safety official.</p>

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NPS issues amended permit to WFAF authorizing its January 6 demonstration at the Ellipse with an estimated 5,000 people attending that expressly states WFAF “will not conduct an organized march.”

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USPP and NPS receive confirmation from USSS that President Trump will be attending WFAF’s January 6 demonstration.

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USPP initiate plan to bring approximately 45 USPP officers from New York to Washington, DC.

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President’s Park superintendent reverses earlier decision and grants WFAF’s request to place its stage within the vista sight line.

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**January 2**

NPS park guide takes photos (later lost) of site conditions at the Ellipse.

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WFAF begins installing its flooring.

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NPS safety official tells NPS his office does not have enough time to review WFAF’s safety documentation or conduct a site inspection.

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**January 3**

NPS coordinates with USSS regarding WFAF’s demonstration in light of President Trump’s attendance at the event.

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WFAF tells NPS that it expects at least 20,000 to 30,000 people to attend demonstration.

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DOI Secretary Bernhardt, Acting DoD Secretary, and officials from DOJ and DHS participate in a call to discuss interagency law enforcement coordination for demonstrations planned throughout Washington, DC on January 5 and 6.

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**January 4**

WFAF texts potential speaker that President Trump will call for a march “unexpectedly” at the demonstration but emphasizes that “[t]his stays only between us” because WFAF will “be in trouble with the national park service.”

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WFAF requests to amend its permit to 20,000 and then 30,000 anticipated participants.

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NPS issues amended permit for 30,000 anticipated participants that expressly states WFAF “will not conduct an organized march” and sends amended permit to WFAF, USPP, USCP, MPD, and other DC officials.

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MPD hosts final call regarding January 6 demonstrations with law enforcement partners, including USPP.

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**January 5**

USPP meets with USSS to discuss the security plan for WFAF’s demonstration.

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DOI Secretary Bernhardt, Acting DoD Secretary, Acting Attorney General, and other DoD and Washington, DC officials participate in a call to discuss demonstrations planned for January 6 in Washington, DC.

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NPS issues final amended permit for WFAF’s demonstration.

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NPS issues a record of determination restricting access to Washington Monument plaza on January 6 but does not publicize it until 7:18 a.m. on January 6.

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WFAF sends list of prohibited items to its supporters that its subcontractor had received from USSS for a prior event and posts list on its website.

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USSS sends NPS its list of prohibited items.

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**January 6**

*4:00 a.m. (approx.)* – USPP officers begin arriving at the Ellipse.

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*7:00 a.m. (approx.)* – Hundreds of people form a line to enter the Ellipse.

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*7:18 a.m.* – NPS posts on its website its record of determination restricting access to Washington Monument plaza.

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*7:30 a.m. (approx.)* – Abandoned bags begin accumulating on the National Mall, some of which USPP officers sweep for explosives.

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*9:00 a.m. (approx.)* – WFAF’s demonstration begins. USPP officers and NPS park rangers begin asking people to leave Washington Monument plaza. Some people refuse to leave, resulting in one arrest.

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*10:46 a.m.* – NPS completes its record of determination setting forth the USSS’ list of prohibited items but does not make this information available to the public.

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*12:00 p.m. (approx.)* – President Trump begins speaking at WFAF’s demonstration and states several times that the crowd will march to the U.S. Capitol at the conclusion of the demonstration.

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*1:10 p.m. (approx.)* – President Trump finishes speaking and the demonstration concludes. Many demonstration attendees begin walking toward the U.S. Capitol.

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*1:31 p.m. (approx.)* – USPP receives report that USCP and MPD officers are heavily engaged with protesters at the U.S. Capitol.

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*1:45 p.m.* – USCP and MPD request USPP assistance at the U.S. Capitol.

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*2:00 p.m. (approx.)* – 16 USPP officers from the Ellipse arrive at the U.S. Capitol.

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*3:00 p.m. (approx.)* –USPP command official offers to send 40 additional officers and other law enforcement resources to the U.S. Capitol, but USCP does not accept the offer.

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*5:00 p.m. (approx.)* – USPP officers depart U.S. Capitol and return to their vehicles nearby.

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*6:00 p.m. (approx.)* – USPP redeploys officers from the U.S. Capitol area to the National Mall; USPP arrest one person at the Lincoln Memorial.

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