

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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May 4, 2020

The Honorable Mark T. Esper
Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington D.C. 20301

Dear Secretary Esper:

The Subcommittee on National Security is seeking documents related to the coronavirus outbreak on the USS Theodore Roosevelt and the subsequent dismissal of its commander, Captain Brett Crozier. As the principal oversight committee of the House of Representatives, we have a responsibility to evaluate the circumstances that compelled Captain Crozier to send his March 30, 2020, letter to Navy leadership and the chain of events that led to his relief from duty.

On March 26, 2020, the Subcommittee requested information about the availability of medical supplies and personal protective equipment (PPE) to Department of Defense personnel to respond to the coronavirus pandemic.¹ At that time, eight sailors onboard the USS Theodore Roosevelt had tested positive for the coronavirus.² Despite the Department's claim that its PPE and medical device inventories are "sufficient," the Subcommittee remains concerned given multiple reports of testing and other equipment shortages among the military services.³

¹ Letter from Chairman Stephen F. Lynch, Subcommittee on National Security, Committee on Oversight and Reform, to Secretary Mark T. Esper, Department of Defense (Mar. 26, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-03-26.SFL%20to%20Esper-DOD%20re%20Coronavirus%20Response.pdf>).

² *Eight Sailors from USS Theodore Roosevelt Have Coronavirus, Raising Concerns About Pandemic's Strain on Military, Defense Officials Say*, USA Today (Mar. 25, 2020) (online at www.usatoday.com/story/news/politics/2020/03/24/coronavirus-3-sailors-test-positive-military-readiness-affected/2910165001/).

³ Letter from Robert R. Hood, Assistant Secretary for Legislative Affairs, Department of Defense, to Chairman Stephen F. Lynch, Subcommittee on National Security, Committee on Oversight and Reform (Apr. 21, 2020); *Exclusive: Coronavirus Cleanup Crews on Infected Navy Ship Using T-Shirts for Masks*, San Francisco Chronicle (Apr. 8, 2020) (online at www.sfchronicle.com/bayarea/article/Coronavirus-cleanup-crews-on-infected-Navy-ship-15185784.php); *Navy, Pentagon Struggling with Lack of Reliable COVID-19 Testing*, USNI News (Apr. 10, 2020) (online at <https://news.usni.org/2020/04/10/navy-pentagon-struggling-with-lack-of-reliable-covid-19-testing>).

On March 30, 2020, Captain Crozier sent an urgent request for assistance to Navy leadership, which was published in the *San Francisco Chronicle* the following day.⁴ Two days later, then-Acting Secretary of the Navy Thomas Modly reportedly told a colleague, “Breaking news: Trump wants him fired.”⁵ The next day, on April 2, 2020, Acting Secretary Modly relieved Captain Crozier from command of the USS Theodore Roosevelt for sending his request “outside the chain of command” and to “20 or 30 other people”⁶ However, the email, which was later obtained by the *Washington Post*, suggests Captain Crozier sent his message to only ten other officials—not 20 or 30 as depicted by former Acting Secretary Modly.⁷

To date, 955 sailors onboard the USS Theodore Roosevelt have tested positive for coronavirus.⁸ On April 13, 2020, Chief Petty Officer Charles Robert Thacker, Jr. died from the disease.⁹

On April 7, 2020, the Subcommittee requested documents and communications related to the coronavirus outbreak on the USS Theodore Roosevelt and dismissal of Captain Crozier.¹⁰ To date, the Subcommittee has not received any responsive documents to this request.

Based on the facts known to date, the Subcommittee has grown increasingly concerned that the decision to remove Captain Crozier from duty may have been in retaliation for exposing shortfalls within the Department of the Navy for its response to the coronavirus pandemic and was unduly and politically influenced by President Trump.

On April 24, 2020, Acting Navy Secretary James McPherson and Chief of Naval Operations Admiral Michael Gilday provided you with an update on the Navy’s investigation

⁴ *Captain of Aircraft Carrier with Growing Coronavirus Outbreak Pleads for Help from Navy*, San Francisco Chronicle (Mar. 31, 2020) (online at www.sfchronicle.com/bayarea/article/Exclusive-Captain-of-aircraft-carrier-with-15167883.php#).

⁵ *Inside the Ouster of Capt. Brett Crozier*, Washington Post (Apr. 4, 2020) (online at www.washingtonpost.com/opinions/2020/04/04/trump-wants-him-fired-inside-ouster-capt-brett-crozier/).

⁶ Department of Defense, *Department of the Navy Press Briefing with Acting Secretary of the Navy Thomas B. Modly and Chief of Naval Operations Admiral Michael Gilday* (Apr. 2, 2020) (online at www.defense.gov/Newsroom/Transcripts/Transcript/Article/2137932/departments-of-the-navy-press-briefing-with-acting-secretary-of-the-navy-thomas/).

⁷ *How an Outbreak on the USS Theodore Roosevelt Became a Defining Moment for the U.S. Military*, Washington Post (Apr. 16, 2020) (online at www.washingtonpost.com/national-security/how-an-outbreak-on-the-uss-roosevelt-became-a-defining-moment-for-the-us-military/2020/04/16/2735f85c-7f24-11ea-8de7-9fdff6d5d83e_story.html).

⁸ *U.S. Navy COVID-19 Updates*, Navy Live: The Official Blog of the U.S. Navy (Apr. 27, 2020) (online at <https://navylive.dodlive.mil/2020/03/15/u-s-navy-covid-19-updates/>).

⁹ U.S. Pacific Fleet Public Affairs, *Navy Identifies USS Theodore Roosevelt Sailor Who Died of COVID-19*, (Apr. 16, 2020) (online at www.navy.mil/submit/display.asp?story_id=112672).

¹⁰ Letter from Chairman Stephen F. Lynch, Subcommittee on National Security, Committee on Oversight and Reform, to Secretary Mark T. Esper, Department of Defense (Apr. 7, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-04-07.SFL%20to%20Esper-DOD%20re%20Coronavirus%20%28003%29.pdf>).

into the coronavirus outbreak onboard the USS Theodore Roosevelt.¹¹ According to multiple reports, Acting Secretary McPherson and Admiral Gilday recommended to you that Captain Crozier be reinstated as commander of the ship.¹²

On April 29, 2020, Acting Secretary McPherson changed his mind and directed Admiral Gilday to conduct a “follow-on command investigation” to “build on the good work of the initial inquiry to provide a more fulsome understanding of the sequence of events, actions, and decisions of the chain of command surrounding the COVID-19 outbreak aboard USS Theodore Roosevelt.”¹³

As coronavirus continues to spread, leaders across the military services should feel empowered to raise concerns about the safety of the men and women under their command and expect to be heard by top leaders at the Pentagon. It is critical for Congress to have a complete accounting and thorough understanding of the circumstances that may have left Captain Crozier with no other choice but to send his March 30, 2020, letter to Navy leadership, and the chain of events that led to his relief from duty. Given the previous recommendation of Acting Secretary McPherson and Admiral Gilday to reinstate Captain Crozier, your delay in providing documents to Congress raises additional questions about potential political interference in military affairs.

For these reasons, the Subcommittee requests that you produce by May 15, 2020, all documents and communications related to the USS Theodore Roosevelt’s March 4-9, 2020, port visit to Da Nang, Vietnam, and subsequent coronavirus outbreak, sent to or from the following personnel from March 1, 2020, to the present:

1. Secretary of Defense Mark T. Esper;
2. Chairman of the Joint Chiefs of Staff General Mark A. Milley;
3. Acting Secretary of the Navy Thomas B. Modly;
4. Chief of Naval Operations Admiral Michael M. Gilday;
5. Vice Chief of Naval Operations Admiral Robert P. Burke;
6. U.S. Pacific Fleet Commander Admiral John C. Aquilino;
7. 7th Fleet Commander Vice Admiral William R. Merz;
8. Department of the Navy Surgeon General Rear Admiral Bruce L Gillingham;
9. Carrier Strike Group 9 Commander Rear Admiral Stuart P. Baker; and
10. USS Theodore Roosevelt Captain Brett E. Crozier.

¹¹ Department of Defense, *Press Release: Statement on the Status of the United States Navy Inquiry Into COVID-19 Outbreak on the USS Theodore Roosevelt* (Apr. 24, 2020) (online at www.defense.gov/Newsroom/Releases/Release/Article/2164861/statement-on-the-status-of-the-united-states-navy-inquiry-into-covid-19-outbrea/source/GovDelivery/).

¹² *Navy Recommends Capt. Brett Crozier be Reinstated*, USA Today (Apr. 24, 2020) (online at www.usatoday.com/story/news/politics/2020/04/24/navy-recommends-reinstatement-fired-carrier-captain-brett-crozier/3023380001/).

¹³ Office of the Navy Chief of Information, *Statement by Acting Secretary of the Navy James E. McPherson on Preliminary Inquiry* (Apr. 29, 2020) (online at www.navy.mil/submit/display.asp?story_id=112791).

The Honorable Mark T. Esper
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The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Stephen F. Lynch
Chairman
Subcommittee on National Security

Enclosure

cc: The Honorable Glenn Grothman, Ranking Member

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.