

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

LUCAS CALIXTO, et al.

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
THE ARMY, et al.,

*Defendants.*

Civil Action No.18-1551 (ESH)

**DEFENDANTS' RESPONSE TO THE COURT'S JANUARY 21, 2020 ORDER**

In accordance with the Court's January 21, 2020 Order (ECF No. 155), Defendants respectfully submit the following responses. The Court's order required Defendants to provide plaintiffs' counsel and the Court with updated reporting in the same format as ordered by the Court on October 22, 2019 (ECF 145). The Court also ordered that Defendants update the Court and the plaintiffs as to whether the number of DEPs discharged for non-MSSD reasons has increased to more than 521 MAVNIs. The number has increased, to 522.

**1. As of February 10, 2020, 931 individuals have been issued adverse MSSR notices under the Army's October 26, 2018 policy.**

a. How many are DTPs? **605**

Of those:

- (1) how many elected to submit written matters and or provided mitigating information? **186**
- (2) how many elected not to submit written matters/accepted the negative MSSR? **4**
- (3) how many have yet to respond/no response received? **346**
- (4) how many were marked no contact/undeliverable/return to sender? **69**

b. How many are DEPs? **326**

Of those:

- (1) how many elected to submit written matters and or provided mitigating information? **107**
- (2) how many elected not to submit written matters/accepted the negative MSSR? **26, includes one response returned where individual refused to sign.**
- (3) how many have yet to respond/no response received? **158**
- (4) how many were marked undeliverable/no contact? **35**

2. Of the approximately 67 individuals who received notifications pursuant to ¶5 of the October 26, 2018 policy: **67 individuals were offered reinstatement pursuant to the Army's October 26, 2018 policy.**

a. How many were DTPs? **35**

Of those:

- (1) how many accepted? **26**
- (2) how many declined? **1**
- (3) how many did not respond? **5**
- (4) how many were marked mail undeliverable? **3**

b. How many were DEPs? **32**

Of those:

- (1) how many accepted? **16**
- (2) how many declined? **0**
- (3) how many did not respond? **8**
- (4) How many were marked undeliverable/no contact? **8**

On February 11, 2020, Defendants provided Plaintiffs' counsel with the names of any MAVNIs who have been sent an MSSR notification that has been returned to the Army as undeliverable or who did not respond. Defendants will update this list for plaintiffs' counsel every three weeks, in accordance with the Court's order.

Dated: February 18, 2020

Respectfully submitted,

ALESSIO EVANGELISTA  
Attorney for the United States  
Acting under Authority Conferred by  
28 U.S.C. § 515

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