



U.S. Department of Justice

United States Marshals Service

Office of General Counsel

*CG-3, 15th Floor
Washington, DC 20530-0001*

September 29, 2020

Austin Evers
American Oversight
1030 15th Street NW
Suite B255
Washington, DC 20005
foia@americanoversight.org

Re: Freedom of Information Act Request No. 2020USMS35365
Subject: COVID-19 Infections of BLM Officers

Dear Requester:

The United States Marshals Service (USMS) is responding to your Freedom of Information Act (FOIA) request for all records dealing with screening and testing for the coronavirus infection on fellow officers and agents that are assisting local authorities with BLM protests.

Pursuant to your request, the USMS conducted a search for records responsive to your request within the Investigative Operations Division, Tactical Operations Division, and the District Offices of the District of Columbia Superior Court and District Court and located 1 page of responsive documentation. These pages are released to you with portions withheld pursuant to Exemptions (b)(6), (b)(7)(C), and (b)(7)(F) of the FOIA, 5 U.S.C. § 552(b).

FOIA Exemption (b)(6) allows an agency to withhold personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Records that apply to or describe a particular individual, including investigative records, qualify as "personnel," "medical," or "similar files" under Exemption 6. FOIA Exemption (b)(7)(C) protects records or information compiled for law enforcement purposes to the extent that the production of such records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy. A discretionary release of such records is not appropriate. See United States Department of Justice (DOJ) v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989).

Finally, FOIA Exemption (b)(7)(F) protects law enforcement information that "could reasonably be expected to endanger the life or physical safety of any individual." 5 U.S.C. § 552(b)(7)(F) (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110175, 121 Stat. 2524. Courts have routinely upheld the use of Exemption (b)(7)(F) to protect the identities of law enforcement agents, as well as protect the names and identifying information of non-law enforcement federal employees, local law enforcement personnel, and other third persons in

connection with particular law enforcement matters. See Rugiero v. DOJ, 257 F.3d 534, 552 (6th Cir. 2001); Johnston v. DOJ, No. 97-2173, 1998 WL 518529, *1 (8th Cir. Aug. 10, 1998).

Accordingly, the personally identifiable information of law enforcement officers and government employees was withheld from the responsive documentation. The disclosure of such sensitive information contained in records compiled for law enforcement purposes to the public could subject law enforcement officers and other government personnel to harassment and unwelcome contact. This could disrupt and impede official agency activity, as well as endanger the safety of law enforcement officials. Additionally, the personally identifiable information of third parties named in the records was withheld. The disclosure of third party information could constitute an unwarranted invasion of personal privacy and subject the individuals to embarrassment, harassment, and undue public attention. Individuals have a recognized privacy interest in not being publicly associated with law enforcement investigations, not being associated unwarrantedly with alleged criminal activity, and controlling how communications about them are disseminated.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with the United States Marshals Service (USMS) determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account on the following website: <https://foiastar.doj.gov>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may also contact Charlotte Luckstone or our FOIA Public Liaison at (703) 740-3943 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Charlotte Luckstone
Associate General Counsel
FOIA/PA Officer
Office of General Counsel

From: (b) (6), (b) (7)(C), (b) (7)(F)
To: (b) (6), (b) (7)(C), (b) (7)(F)
Subject: National Guard Members Responding To D.C. Protests Have Tested Positive For Coronavirus
Date: Tuesday, June 9, 2020 7:19:47 PM

Gents, FYSA.

<https://www.forbes.com/sites/jemimamcevoy/2020/06/09/national-guard-members-responding-to-dc-protests-have-tested-positive-for-coronavirus/>

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(b) (6), (b) (7)(C)