U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

Privacy Office, Mail Stop 0655

March 8, 2023

SENT BY ELECTRONIC MAIL TO: foia@americanoversight.org

Mehreen Rasheed
American Oversight

Re: 2020-HQFO-01276

Dear Mr. Rasheed:

This is the electronic final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated June 10, 2020, and received by this office on June 10, 2020. You are seeking 1. Any database or spreadsheet used, for the tracking, monitoring, surveillance, or investigation of protesters, demonstrators, organizers, coordinators, members of the press, or other individuals present at protests or activities surrounding those protests sparked by the police killing of George Floyd on May 25, 2020, as clarified and amended on February 17, 2023 to, that you are seeking records like the spreadsheets tracking protest activity that the Federal Protective Service (FPS) has posted online, as well as to limit the search at HQ level to the Office of Operations Coordination (OPS). 2. Any guidance relating to the tracking information referenced in item one. (Date Range for Record Search: From 5/26/2020 To 6/16/2020).

This request was submitted to our office, as well as several other components at DHS, including but not limited to, CBP, ICE and I & A.

A search of OPS for documents responsive to your request produced three tracking spreadsheets related to the protests that originated at FPS, and as previously advised, and are available online at FPS Civil Unrest and Disturbance Records | Homeland Security (dhs.gov) per the dates of June 23, 2020, June 24, 2020, and August 21, 2020. Portions of the information that is available online is withheld pursuant to FOIA Exemptions 6, (b)(7)(C), (b)(7)(E) and (b)(7)(F), FOIA Exemptions 6, b7(C), b7(E), and b7(F).

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

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Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. This policy is available online. Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that has DHS withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law

FOIA Exemption 7(F) permits the government to withhold all information about any individual when disclosure of information about him could reasonably be expected to endanger the life or physical safety of any individual. This exemption also protects physical security at critical infrastructure sites

In addition to the information above, OPS located 10 pages of additional records including a tracking spreadsheet that originated with FPS. These records are being referred to that office for review and direct response to you. Their contact information is FOIA@hq.dhs.gov.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

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Provisions of FOIA allow DHS to charge for processing fees, up to $25, unless you seek a waiver of fees. In this instance, because the cost is below the $25 minimum, there is no charge.

You may contact the DHS FOIA Public Liaison at 202-343-1743 for any further assistance and to discuss any aspect of your request. You may also contact 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, 8601 Adelphi Road-OGIS, 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.

If you need to contact our office again about this matter, please refer to 2020-HQFO-01276. This office can be reached at FOIA@HQ.DHS.GOV or call 202-343-1743 or toll free 1-866-431-0486.

Sincerely,

Jimmy Wolfrey
Senior Director, FOIA Operations and Manag

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