NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON VA 22204-1373

December 11, 2020

Office of Information and Privacy

Austin Evers
American Oversight
1101 K Street NW Suite 201
Washington, DC 20005

Dear Requester:

This letter is in final response to your Freedom of Information Act (FOIA) request to the National Guard Bureau (NGB) dated June 10, 2020 for the following records from May 26, 2020 to the date the search is conducted:

1. Any database, spreadsheet, or other document used or potentially 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 (including purportedly unlawful activities) sparked by the police killing of George Floyd on May 25, 2020, including potential or purported unlawful activity, "civil unrest," "civil disturbance," or threats to public safety. Tracking and surveillance includes any identification, observation, monitoring, or recording of individuals, groups, or social media accounts, whether by physical or electronic means, including but not limited to the use of aircraft, drones, international mobile subscriber identity (IMSI) catcher devices, facial recognition technology, or other software, and

2. Any guidance (including directives, memoranda, protocols, or other records reflecting guidance) developed by or provided to your agency regarding the tracking, monitoring, surveillance, or investigation of protesters, demonstrators, organizers, coordinators, members of the press, or other individuals present at the nationwide protests or activities surrounding those protests (including purportedly unlawful activities) sparked by the police killing of George Floyd on May 25, 2020, including potential or purported unlawful activity, "civil unrest," "civil disturbance," or threats to public safety. Tracking and surveillance includes any identification, observation, monitoring, or recording of individuals, groups, or social media accounts, whether by physical or electronic means, including but not limited to the use of aircraft, drones, international mobile subscriber identity (IMSI) catcher devices, facial recognition technology, or other software.

Your request was received by the NGB on June 11, 2020 and assigned case #J-20-0133.

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A search for responsive documents by knowledgeable staff in the NGB's Law Enforcement Support Branch failed to locate any documents that would be responsive to your request. The FOIA applies only to existing records and there is no requirement to create a records in order to respond to a FOIA request.

If you are not satisfied with this response you have the right to appeal to Ms. Joo Chung, Director of Oversight and Compliance, Office of the Secretary of Defense at: ODCMO Directorate for Oversight and Compliance, 4800 Mark Center Drive, ATTN: DPCLTD, FOIA Appeals, Mailbox #24, Alexandria, VA 22350-1700. An appeal may also be made on-line through the OSD FOIA request portal at http://pal.whs.mil/palMain.aspx, or by e-mail to OSD.FOIA-APPEAL@mail.mil. If you use e-mail, please have the words "FOIA Appeal" in the subject of the email. Your appeal must be postmarked or electronically transmitted within 90 days of the date of this response and should include copies of your original request and this response, as well as a discussion of the reasons supporting your appeal.

For any further assistance and to discuss any aspect of your request, you have the right to contact the NGB FOIA Public Liaison Officer, Melissa Walker, by email at osd.foialiaison@mail.mil.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration (NARA) to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: NARA-OGIS, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at (877) 684-6448 or by facsimile at (202) 741-5769.

As a result of increases in the Health Protection Condition (HPCON) level, our offices are limited to mission-essential personnel only and maximizing the use of telework for other personnel. This means that we are unable to handle requests or responses sent via traditional methods and can only respond to electronic inquiries while under elevated HPCON levels. This concludes this office's processing of your request. If you have questions regarding your request, please contact my office by e-mail: ngb.foia@mail.mil.

Sincerely,

Jennifer Nikolaisen
Chief, Office of Information and Privacy
Freedom of Information Act/Privacy Officer

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