

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY)
AND ETHICS IN WASHINGTON,)
1101 K St. NW, Suite 201)
Washington, DC 20005,)
))
Plaintiff,)
))
v.)
))
U.S. DEPARTMENT OF JUSTICE,)
950 Pennsylvania Avenue NW)
Washington, DC 20530,)
))
U.S. DEPARTMENT OF HOMELAND)
SECURITY,)
245 Murray Lane SW)
Washington, DC 20528,)
))
U.S. DEPARTMENT OF DEFENSE,)
1600 Pentagon 3E788)
Washington, DC 20310,)
))
U.S. DEPARTMENT OF THE ARMY,)
104 Army Pentagon)
Washington, DC 20310,)
))
U.S. DEPARTMENT OF THE INTERIOR,)
1849 C St. NW)
Washington, DC 20240,)
))
Defendants.)

Case No. 1:21-cv-572 (RC)

**DEFENDANTS’ ANSWER TO PLAINTIFF’S COMPLAINT
FOR INJUNCTIVE AND DECLARATORY RELIEF**

Defendants, the U.S. Department of Justice (“DOJ”), the U.S. Department of Homeland Security (“DHS”), the U.S. Department of Defense (“DOD”), the U.S. Department of the Army

(“Army”),¹ and the U.S. Department of the Interior (“DOI”), answer Plaintiff’s Complaint, ECF No. 1, in correspondingly numbered paragraphs:

1. This paragraph contains Plaintiff’s characterization of its Complaint and this lawsuit, to which no response is required.
2. This paragraph contains Plaintiff’s characterization of its Complaint and this lawsuit, to which no response is required.
3. The allegations in this paragraph consist of legal conclusions regarding jurisdiction, to which no response is required.
4. The allegations in this paragraph consist of legal conclusions regarding venue, to which no response is required.
5. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
6. Defendants admit that DOJ is an agency within the meaning of 5 U.S.C. § 552(f)(1) and that the Federal Bureau of Investigation (“FBI”) is a component of DOJ. The remaining allegations in this paragraph consist of legal conclusions, to which no response is required.
7. Defendants admit that DHS is an agency within the meaning of 5 U.S.C. § 552(f)(1) and that the U.S. Secret Service (“Secret Service”), the Federal Protective Service, and the Office of Intelligence & Analysis are components of DHS. The remaining allegations in this paragraph consist of legal conclusions, to which no response is required.
8. Defendants admit that DOD is an agency within the meaning of 5 U.S.C. § 552(f)(1). The remaining allegations in this paragraph consist of legal conclusions, to which no

¹ The Army is part of DOD, which is the proper defendant in this action and separately named.

response is required.

9. Defendants deny except to admit that the Army is a component of DOD, which is an agency within the meaning of 5 U.S.C. § 552(f)(1). The remaining allegations in this paragraph consist of legal conclusions, to which no response is required.

10. Defendants admit that DOI is an agency within the meaning of 5 U.S.C. § 552(f)(1) and that the U.S. Park Police (“Park Police”) is a component of DOI. The remaining allegations in this paragraph consist of legal conclusions, to which no response is required.

11. The allegations in this paragraph characterize a news story, to which no response is required. Defendants respectfully refer the Court to that news story for a full and accurate statement of its contents.

12. The allegations in this paragraph characterize news stories, to which no response is required. Defendants respectfully refer the Court to those news stories for a full and accurate statement of their contents.

13. The allegations in this paragraph characterize news stories, to which no response is required. Defendants respectfully refer the Court to those news stories for a full and accurate statement of their contents.

14. The allegations in this paragraph characterize a tweet that describes a document, to which no response is required. Defendants respectfully refer the Court to that tweet and document for a full and accurate statement of their contents.

15. The allegations in this paragraph consist of Plaintiff’s characterization of FOIA requests, dated January 8, 2021, and January 10, 2021. Defendants lack knowledge or information sufficient to form a belief as to Plaintiff’s motive for submitting the FOIA requests.

16. Defendants admit that Plaintiff submitted FOIA requests to DOJ’s Office of

Information Policy,² the FBI, DOD, and the Army dated January 8, 2021. Defendants respectfully refer the Court to Plaintiff's referenced FOIA requests for a full and accurate statement of their contents.

17. Admitted. Defendants respectfully refer the Court to Plaintiff's referenced FOIA requests for a full and accurate statement of their contents.

18. Defendants admit that, on January 8, 2021, FOIA.gov automatically generated a message in response to Plaintiff's FOIA request, dated January 8, 2021, and referenced in paragraph 16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations that Plaintiff received this automatically generated message. Defendants admit that this same automatically generated message provided the confirmation ID 184816 for Plaintiff's FOIA request, dated January 8, 2021, and referenced in paragraph 16. Defendants respectfully refer the Court to the automatically generated message dated January 8, 2021, for a full and accurate statement of its contents.

19. Defendants admit that, by letter dated January 14, 2021, DOD's Office of the Secretary of Defense acknowledged receipt of Plaintiff's FOIA request, dated January 8, 2021, and referenced in paragraph 16, assigned the FOIA request case number 21-F-0403, and granted expedited processing. The remainder of this paragraph purports to characterize the letter from the Office of the Secretary of Defense dated January 14, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

20. Defendants admit that, by letter dated January 14, 2021, DOJ's Office of Information Policy acknowledged receipt of Plaintiff's FOIA request, dated January 8, 2021, and

² DOJ has a decentralized system for processing FOIA requests, and each component "handl[es] requests for its records." 28 C.F.R. § 16.1(c). Here, Plaintiff submitted FOIA requests to two of DOJ's components: the Office of Information Policy and the FBI.

referenced in paragraph 16, assigned the FOIA request tracking number FOIA-2021-00559, and granted expedited processing. The remainder of this paragraph purports to characterize the letter from the Office of Information Policy dated January 14, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

21. Defendants deny the allegations in this paragraph. Defendants aver that, by letter dated March 19, 2021 (not January 21, 2021), the FBI acknowledged receipt of Plaintiff's FOIA request, dated January 8, 2021, and referenced in paragraph 16, and assigned the FOIA request number 1492270-0 (not 1486993-000). The FBI also sent a separate letter, dated March 19, 2021, to Plaintiff. Defendants respectfully refer the Court to the two separate letters from the FBI dated March 19, 2021, for a full and accurate statement of their contents.

22. Defendants deny the allegations contained in this paragraph.

23. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. As noted, the FBI sent Plaintiff two separate letters dated March 19, 2021, regarding Plaintiff's FOIA request, dated January 8, 2021, and referenced in paragraph 16. Defendants also point out that, by letter dated March 17, 2021, the Army acknowledged receipt of Plaintiff's FOIA request dated January 8, 2021, and referenced in paragraph 16, and assigned the request case numbers FA-21-1297 / FP-21-010892. Defendants respectfully refer the Court to these letters for a full and accurate statement of their contents.

24. Defendants admit that Plaintiff submitted a FOIA request to DOJ's Office of Information Policy dated January 10, 2021. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

25. Admitted. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

26. Defendants admit that, by letter dated January 15, 2021, DOJ's Office of Information Policy acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 24, assigned the FOIA request tracking number FOIA-2021-00561, and granted expedited processing. The remainder of this paragraph purports to characterize the letter from the Office of Information Policy dated January 15, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

27. Defendants admit that the letter from the Office of Information Policy dated January 15, 2021, is the only communication that DOJ's Office of Information Policy has sent to Plaintiff regarding its FOIA request dated January 10, 2021, and referenced in paragraph 24.

28. Defendants admit that Plaintiff submitted a FOIA request to the FBI dated January 10, 2021. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

29. Admitted. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

30. Defendants admit that, by letter dated January 21, 2021, the FBI acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021,³ and referenced in paragraph 28, and assigned the FOIA request number 1486993-000. Defendants respectfully refer the Court to the letter from the FBI dated January 21, 2021, for a full and accurate statement of its contents. The remainder of this paragraph purports to characterize a separate letter from the FBI, also dated January 21, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

31. Admitted. Defendants respectfully refer the Court to the FBI's letter dated

³ The FBI's letter notes that Plaintiff's request was dated January 11, 2021. This appears to be a scrivener's error.

February 4, 2021, for a full and accurate statement of its contents.

32. Defendants admit that the two separate letters from the FBI dated January 21, 2021, and its third letter dated February 4, 2021, are the only communications that the FBI has sent to Plaintiff regarding its FOIA request dated January 10, 2021, and referenced in paragraph 28.

33. Defendants admit that Plaintiff submitted a FOIA request to DOD dated January 10, 2021. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

34. Admitted. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

35. Defendants admit that, by letter dated January 14, 2021, DOD's Office of the Secretary of Defense acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 33, assigned the FOIA request case number 21-F-0408, and granted expedited processing. The remainder of this paragraph purports to characterize the letter from the Office of the Secretary of Defense dated January 14, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

36. Defendants admit that the Office of the Secretary of Defense sent Plaintiff a letter dated January 22, 2021, regarding its FOIA request dated January 10, 2021, and referenced in paragraph 33. The remaining allegations in this paragraph purport to characterize the letter from the Office of the Secretary of Defense dated January 22, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

37. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Defendants point out that, by letter dated March 4,

2021, the U.S. National Guard Bureau (“National Guard Bureau”) acknowledged receipt of Plaintiff’s FOIA request, dated January 10, 2021, and referenced in paragraph 33, and assigned the request number J-21-0076. Defendants respectfully refer the Court to the letter from the National Guard Bureau dated March 4, 2021, for a full and accurate statement of its contents

38. Defendants admit that Plaintiff submitted a FOIA request to the Army dated January 10, 2021. Defendants respectfully refer the Court to Plaintiff’s referenced FOIA request for a full and accurate statement of its contents.

39. Defendants admit that, on January 10, 2021, FOIA.gov automatically generated a message in response to Plaintiff’s FOIA request, dated January 10, 2021, and referenced in paragraph 38. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff received this automatically generated message. Defendants admit that this same automatically generated message provided the confirmation ID 185206 for Plaintiff’s FOIA request, dated January 10, 2021, and referenced in paragraph 38. Defendants respectfully refer the Court to the automatically generated message dated January 10, 2021, for a full and accurate statement of its contents.

40. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Defendants aver that, by letter dated March 17, 2021, the Army acknowledged receipt of Plaintiff’s FOIA request, dated January 10, 2021, and referenced in paragraph 38, and assigned the request case numbers FA-21-1326 / FP-21-011191. Defendants respectfully refer the Court to the letter from the Army dated March 17, 2021, for a full and accurate statement of its contents.

41. Defendants admit that Plaintiff submitted a FOIA request to DHS dated January 10, 2021. Defendants respectfully refer the Court to Plaintiff’s referenced FOIA request for a full

and accurate statement of its contents.

42. Admitted. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

43. Defendants admit that, by letter dated January 20, 2021, DHS's Privacy Office acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 41, assigned the FOIA request tracking number 2021-HQFO-00392, granted expedited handling, and conditionally granted a fee waiver. The remainder of this paragraph purports to characterize the letter from the Privacy Office dated January 20, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

44. The allegations in this paragraph purport to characterize the letter from DHS's Privacy Office dated January 20, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

45. Defendants admit that, by letter dated January 21, 2021, DHS's Privacy Office acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 41, assigned the FOIA request tracking number 2021-FPFO-00060, granted expedited handling, and conditionally granted a fee waiver. The remainder of this paragraph purports to characterize the letter from DHS's Privacy Office dated January 21, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

46. Defendants admit that, by letter dated January 21, 2021, the Secret Service acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 41, assigned the FOIA request FOIA File No. 20210320, and granted expedited processing. Defendants respectfully refer the Court to the letter from the Secret Service dated January 21, 2021, for a full and accurate statement of its contents.

47. Defendants admit that the Secret Service sent Plaintiff a letter dated March 1, 2021, regarding Plaintiff's FOIA request dated January 10, 2021, and referenced in paragraph 41. The remaining allegations in this paragraph purport to characterize the letter from the Secret Service dated March 1, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

48. Defendants admit that, by letter dated March 3, 2021, the Federal Protective Service issued a final response to Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 41. The remainder of this paragraph purports to characterize the letter from DHS's Privacy Office dated March 3, 2021, and Defendants respectfully refer the Court to that letter for a full and accurate statement of its contents.

49. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Defendants point out that, by letter dated March 25, 2021, DHS's Office of Intelligence & Analysis acknowledged receipt of Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 41, assigned the FOIA request tracking number 2021-IAFO-00164, granted a fee waiver, and granted expedited processing. Defendants respectfully refer the Court to the letter from the Office of Intelligence & Analysis dated March 25, 2021, for a full and accurate statement of its contents.

50. Defendants admit that Plaintiff submitted a FOIA request to the Park Police dated January 10, 2021. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

51. Admitted. Defendants respectfully refer the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

52. Defendants admit that, on January 10, 2021, foiaonline.gov automatically

generated a message that assigned Plaintiff's FOIA request, dated January 10, 2021, and referenced in paragraph 50, tracking number DOI-NPS-2021-001744. Defendants respectfully refer the Court to the message that was automatically generated on January 10, 2021, for a full and accurate statement of its contents.

53. Defendants admit that the message automatically generated on January 10, 2021, through foiaonline.gov is the only communication that DOI or its components have sent to Plaintiff regarding its FOIA request dated January 10, 2021, and referenced in paragraph 50.

54. Defendants incorporate by reference their answers to all of the preceding paragraphs.

55. The allegations in this paragraph consist of legal conclusions, to which no response is required.

56. The allegations in this paragraph consist of legal conclusions, to which no response is required.

57. The allegations in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations.

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paragraphs.

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82. The allegations in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations.

83. The allegations in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations.

84. The allegations in this paragraph consist of legal conclusions, to which no response is required.

The remaining paragraphs of the Complaint contain Plaintiff's requested relief, to which no response is required. To the extent a response is required, Defendants deny the allegations contained in the remaining paragraphs of the Complaint and note that Plaintiff is not entitled to any relief.

Defendants deny all allegations in the Complaint not expressly admitted or denied.

First Defense

Plaintiff's FOIA requests are overbroad and/or not reasonably described.

Second Defense

Plaintiffs are not entitled to compel production of information exempt from disclosure under FOIA.

Dated: April 14, 2021

Respectfully submitted,

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Acting Assistant Attorney General

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/s/ Bradley Craigmyle
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