

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON, *et al.*,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT

Defendant.

Civil Action No. 20-03120 (CKK)

ANSWER

Defendant, United States Immigration and Customs Enforcement (“ICE”), by and through undersigned counsel, respectfully submit this Answer to the Complaint filed by Plaintiffs Citizens for Responsibility and Ethics in Washington (“CREW”), the National Immigration Project of the National Lawyers Guild (“NIPNLG”), and Project South. Defendant responds specifically to each numbered paragraph of the Complaint as follows.

RESPONSES TO THE NUMBERED PARAGRAPHS

Defendant responds below to the separately numbered paragraphs and prayer for relief contained in the Complaint. To the extent that any allegation is not expressly admitted herein, it is denied. Moreover, to the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents; however, Defendant’s references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiffs; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

1. This paragraph contains Plaintiffs' characterization of this action, to which no response is required. To the extent a response is required, Defendant admits that this action purports to be brought under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* ("FOIA").

2. The paragraph contains Plaintiffs' characterization of this action and conclusions of law, not allegations of fact, to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to admit or deny the genesis of Plaintiffs' FOIA request in this action.

3. The paragraph contains Plaintiffs' characterization of this action and conclusions of law, not allegations of fact, to which no response is required. To the extent a response is required, Defendant admits that Plaintiff purports to seek the relief indicated.

Jurisdiction and Venue¹

4. The allegations contained in this paragraph consist of conclusions of law regarding jurisdiction, to which no response is required. To the extent a response is required, Defendant admits that this Court has jurisdiction subject to the terms and limitations of FOIA.

5. The allegations contained in this paragraph consist of Plaintiffs' conclusions of law regarding venue, to which no response is required. To the extent a response is required, Defendant admits that venue is proper in this judicial district under FOIA.

Parties

6-8. The allegations contained in these paragraphs consist of Plaintiffs' characterization of their organizations, to which no response is required. To the extent a response is required,

¹ Merely for ease of reference, Defendant replicates the headings contained in the Complaint. Although, Defendant believes that no response is required to such headings, to the extent a response is deemed required and to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

9. Defendant admits that the ICE is a federal agency subject to FOIA. The remaining allegations consist of Plaintiffs' conclusions of law, to which no response is required. To the extent a response is required, Defendant denies the remaining allegations contained in this paragraph.

Factual Background

10-16. The allegations contained in these paragraphs do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is required, Defendant denies these allegations.

CREW's FOIA Request

17. Defendant admits that CREW submitted a FOIA request to ICE on September 21, 2020. Defendant respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies all allegations inconsistent therewith.

18. Defendant admits that CREW's FOIA request sought a fee waiver.

19. Defendant denies that it has not responded to CREW's request, as Defendant sent a letter dated November 6, 2020 that acknowledged the FOIA request and assigned it a tracking number. Defendant admits that it has not issued a determination to CREW's request.

20. The paragraph contains conclusions of law, not allegations of fact, to which no response is required.

NIPNLG and Project South's FOIA Request

21. Defendant admits that NIPNLG and Project South submitted a FOIA request to ICE on September 21, 2020. Defendant respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies all allegations inconsistent therewith.

22. Defendant admits that NIPNLG's and Project South's FOIA request sought a fee waiver.

23. Defendant denies that it has not responded to NIPNLG's and Project South's FOIA request, as Defendant sent a letter dated November 6, 2020 that acknowledged the FOIA request and assigned it a tracking number. Defendant admits that it has not issued a determination to NIPNLG's and Project South's request.

24. The paragraph contains conclusions of law, not allegations of fact, to which no response is required.

Plaintiffs' Claims for Relief

COUNT 1

(Wrongful Withholding of Records Responsive to CREW's FOIA Request)

25. Defendant incorporates by reference its responses set forth above.

26-30. The allegations contained in Paragraphs 26-30 consist of Plaintiffs' conclusions of law, to which no response is required. To the extent that factual allegations are made, Defendant denies the allegations. To the extent that a response is required to any other allegations, Defendant denies the allegations.

COUNT 2

(Wrongful Withholding of Records Responsive to NIPNLG's and Project South's FOIA Request)

31. Defendant incorporates by reference its responses set forth above.

32-36. The allegations contained in Paragraphs 32-36 consist of Plaintiffs' conclusions of law to which no response is required. To the extent that factual allegations are made, Defendant denies the allegations. To the extent that a response is required to any other allegations, Defendant denies the allegations.

Requested Relief

The remainder of Plaintiffs' Complaint contains Plaintiffs' requested relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiffs are entitled to the requested relief or to any relief whatsoever.

DEFENSES

Defendant respectfully requests and reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known to it through the course of this litigation.

FIRST DEFENSE

Plaintiffs are not entitled to compel the production of records protected from disclosure by one or more of the exemptions or exclusions to the FOIA.

SECOND DEFENSE

This Court lacks subject matter jurisdiction over any of Plaintiffs' requests for relief that exceed the relief authorized by FOIA.

* * *

Date: December 3, 2020

Respectfully submitted,

MICHAEL R. SHERWIN
Acting United States Attorney

DANIEL F. VAN HORN,
D.C. BAR # 924092
Chief, Civil Division

By: /s/ Kristin D. Brudy-Everett
KRISTIN D. BRUDY-EVERETT
Assistant United States Attorney
Judiciary Center Building
555 4th St., N.W.
Washington, D.C. 20530
(202) 252-2536
Kristin.Brudy-Everett@usdoj.gov

Counsel for Defendant