

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY,

Defendant.

Civil Action No. 23-0046 (JEB)

ANSWER

Defendant United States Department of Homeland Security (“Defendant” of “DHS”), by and through undersigned counsel, respectfully submits this Answer to the Complaint, ECF No. 1, filed by Plaintiff Citizens for Responsibility and Ethics in Washington under Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

To the extent 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 in response; however, Defendant’s references are not intended to be, and should not be construed to be, an admission that the cited materials are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this, or any other, action; or (c) admissible in this, or any other, action. Defendant expressly denies all allegations in the Complaint, including the relief sought, that are not specifically admitted to or otherwise qualified in this Answer. Defendant responds to the Complaint in like numbered paragraphs as follows:

1. This paragraph consists of Plaintiff’s characterization of its lawsuit and conclusions of law, to which no response is required. To the extent that a response is required, Defendant only

admits that Plaintiff has sought, through a FOIA request, records from the United States Secret Service.

2. This paragraph contains of Plaintiff's request for relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

Jurisdiction and Venue¹

3. This paragraph does not contain allegations of fact but rather conclusions of law regarding jurisdiction, to which no response is required. To the extent that a response is deemed required, Defendant admits that this Court has jurisdiction over claims involving proper FOIA requests, subject to the terms and limitations of FOIA.

4. This paragraph does not contain allegations of fact but rather conclusions of law regarding venue, to which no response is required. To the extent that a response is deemed necessary, Defendant admits that venue lies in this judicial district for a proper claim under FOIA.

Parties

5. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in this paragraph.

6. Defendant admits that it is a federal agency within the meaning of the FOIA and the United States Secret Service is a component of DHS. The remainder of this paragraph consists of conclusions of law, to which no response is required.

¹ 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 required and to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

Factual Background

7. The allegations in this paragraph do not set forth claims of relief or aver facts in support of a claim, and thus, the Court should strike them as immaterial and impertinent matters pursuant to Rule 12(f). To the extent the allegations seek to provide background facts in support of allegations of public interest, Defendants admit there is some public interest in the records sought but presently lacks knowledge or information sufficient to form a belief as to the extent of that public interest, including as compared to any countervailing interests.

8. The allegations in this paragraph do not set forth claims of relief or aver facts in support of a claim, and thus, the Court should strike them as immaterial and impertinent matters pursuant to Rule 12(f). To the extent the allegations seek to provide background facts in support of allegations of public interest, Defendants admit there is some public interest in the records sought but presently lacks knowledge or information sufficient to form a belief as to the extent of that public interest, including as compared to any countervailing interests.

9. Defendant admits that it received plaintiff's FOIA request dated October 21, 2022. Defendant avers that the October 21, 2022, FOIA request is the best evidence of its contents and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

10. Defendant admits that Plaintiff's October 21, 2022, FOIA request sought a fee waiver. Defendant avers that the request for a fee waiver is the best evidence of its contents and respectfully refers the Court to the request for a fee waiver for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

11. Defendant admits that a confirmation email was sent to Plaintiff's October 21, 2022, FOIA request, and that the matter was assigned case number 20230100. Defendant avers

that the correspondence is the best evidence of its contents and respectfully refers the Court to the correspondence for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

12. Defendant admits that its last correspondence with Plaintiff was on October 21, 2022.

CREW'S CLAIM FOR RELIEF

**DHS Wrongful Withholding of Records Responsive to
CREW's FOIA Request**

13. Defendant realleges and incorporates by reference all of the preceding paragraphs of this Answer as if fully stated herein.

14. Defendant admits only that Plaintiff submitted a FOIA request to DHS on October 21, 2022, and denies the remaining allegations in this paragraph.

15. Defendant denies the allegations in this paragraph.

16. Defendant denies the allegations in this paragraph.

17. Defendant denies the allegations in this paragraph.

18. The allegations in this paragraph set forth Plaintiff's request for relief, to which no response is required. To the extent a response is deemed necessary, Defendant denies that Plaintiff is entitled to the relief requested or any relief whatsoever.

Requested Relief

The remaining paragraphs set forth Plaintiff's prayer for relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

DEFENSES

Defendant reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to this Complaint become known to Defendant through the course of this litigation. Defendant does not assume the burden of proving any of these defenses or elements of them where the burden is properly placed on Plaintiff as a matter of law.

FIRST DEFENSE

Plaintiff is not entitled to compel the production of any record or portion of any record protected from disclosure by one or more of the exclusions or exemptions to the FOIA or the Privacy Act, 5 U.S.C. § 552a.

SECOND DEFENSE

Plaintiff failed to reasonably describe the records sought.

THIRD DEFENSE

Plaintiff is neither eligible nor entitled to attorney's fees or costs in this matter

FOURTH DEFENSE

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

FIFTH DEFENSE

Defendant's actions or inactions did not violate the FOIA or any other statutory or regulatory provision.

SIXTH DEFENSE

Defendant conducted an adequate search for documents responsive to Plaintiff's FOIA request.

SEVENTH DEFENSE

Defendant has not improperly withheld records requested by Plaintiff under FOIA.

Dated: March 27, 2023
Washington, DC

Respectfully submitted,

MATTHEW M. GRAVES, D.C. Bar. #481052
United States Attorney

BRIAN P. HUDAK
Chief, Civil Division

By: /s/ Stephanie R. Johnson

STEPHANIE R. JOHNSON
Assistant United States Attorney
United States Attorney's Office
District of Columbia
601 D Street, NW
Washington, DC 20530
(202) 252-7874
Stephanie.Johnson5@usdoj.gov

Attorneys for Defendant