

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,
1101 K Street, N.W., Suite 201
Washington, D.C. 20005

Plaintiff,

v.

U.S DEPARTMENT OF JUSTICE,
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

U.S. DEPARTMENT OF HOMELAND
SECURITY,
245 Murray Lane, S.W.
Washington, D.C. 20528,

U.S. DEPARTMENT OF DEFENSE,
1400 Defense Pentagon
Washington, D.C. 20301-1400

Defendants.

Civil Action No. 19-CV-00398-TSC

DEFENDANTS' ANSWER

Defendants United States Department of Justice (“DOJ”), United States Department of Homeland Security (“DHS”) and United States Department of Defense (“DOD”) (collectively, “Defendants”), by and through their undersigned counsel, hereby answers the Complaint filed by Citizens for Responsibility and Ethics in Washington (“CREW”) as follows.

1. This paragraph consists of Plaintiff’s characterization of this lawsuit, to which no response is required.

2. This paragraph consists of Plaintiff's characterization of this lawsuit, to which no response is required. To the extent a response is required, denied that the Defendants are in violation of the FOIA or that Plaintiff is entitled to the relief requested.

3. This paragraph contains legal conclusions regarding jurisdiction and venue to which no response is required.

4. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

5. The allegations in the first and second sentences are admitted. The third sentence contains legal conclusions to which no response is required.

6. The first sentence is admitted. The second sentence contains legal conclusions to which no response is required.

7. The first sentence is admitted. The second sentence contains legal conclusions to which no response is required.

8. This paragraph consists of legal conclusions to which no response is required.

9. This paragraph consists of legal conclusions to which no response is required.

10. This paragraph consists of legal conclusions to which no response is required.

11. This paragraph does not set forth a claim for relief or aver facts in support of a claim, and on that basis the allegations are denied.

12. This paragraph does not set forth a claim for relief or aver facts in support of a claim, and on that basis the allegations are denied

13. This paragraph does not set forth a claim for relief or aver facts in support of a claim, and on that basis the allegations are denied

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in the first sentence of this paragraph except that DOJ admits that CREW sent a FOIA request to OLC by email dated January 10, 2019. The Court is respectfully referred to Plaintiff's January 10, 2019 FOIA request for a complete and accurate statement of its contents.

15. DOJ admits that CREW requested expedition of its FOIA request, and respectfully refers the Court to CREW's FOIA request for a complete and accurate statement of its contents.

16. DOJ admits that, by letter dated February 12, 2019, OLC acknowledged receiving CREW's FOIA request on January 10, 2019. The remaining allegations in the paragraph characterize OLC's letter, and the Court is respectfully referred to OLC's February 12, 2019 letter for a full and accurate statement of its contents.

17. The allegations in the paragraph characterize OLC's February 12, 2019 letter to Plaintiff, and the Court is respectfully referred to that letter for a full and accurate statement of its contents.

18. Admitted.

19. This paragraph contains legal conclusions about the exhaustion of administrative remedies to which no response is required.

20. DHS admits that it received a FOIA request, dated January 10, 2019, from CREW and that the request was sent by email. The remaining allegations in the paragraph contain Plaintiff's characterization of its FOIA request to which no response is required. The Court is respectfully referred to Plaintiff's FOIA request for a complete and accurate statement of its contents.

21. DHS admits that CREW requested expedition of its request by letter dated January 10, 2019. The remaining allegations in the paragraph contain Plaintiff's characterization of its FOIA request. The Court is respectfully referred to Plaintiff's FOIA request for a complete and accurate statement of its contents.

22. Admitted.

23. DHS admits that it acknowledged receipt of CREW'S FOIA request by letter dated January 16, 2019. The remaining statements in the paragraph contain Plaintiff's characterization of DHS's January 16 letter. The Court is respectfully referred to DHS's January 16 letter for a complete and accurate statement of its contents.

24. DHS admits that it received a letter from CREW dated January 18, 2019, which was submitted by email, in response to DHS's letter of January 16, 2019. The remaining statements in the paragraph contain Plaintiff's characterization of DHS's January 16 letter and Plaintiff's January 18 letter. The Court is respectfully referred to the letters for a complete and accurate statement of their contents. To the extent a response is required, DHS denies the characterization of its January 16, 2019 letter set forth in Plaintiff's letter of January 18, 2019.

25. This paragraphs contains further characterizations of Plaintiff's January 18, 2019 letter to DHS. The Court is respectfully referred to the letter for a complete and accurate statement of its contents.

26. Admitted.

27. This paragraph contains legal conclusions about the exhaustion of administrative remedies to which no response is required.

28. DOD admits that it received a FOIA request from CREW dated January 10, 2019, which was sent by facsimile. The remaining statements in this paragraph consist of Plaintiff's

characterization of its FOIA request to DOD. The Court is respectfully referred to the FOIA request for a complete and accurate statement of its contents.

29. DOD admits that CREW requested expedition of its FOIA request. The remaining statements in this paragraph consist of Plaintiff's characterization of its reasons for requesting expedition to which no response is required. The Court is respectfully referred to the FOIA request for a complete and accurate statement of its contents.

30. Admitted that DOD provided CREW with a letter dated January 16, 2019. The remaining statements in this paragraph consist of Plaintiff's characterization of DOD's January 16, 2019 letter to which no response is required. The Court is respectfully referred to DOD's January 16 letter for a complete and accurate statement of its contents.

31. Admitted that DOD denied CREW's response for expedition by letter dated January 16, 2019. The remaining statements in this paragraph consist of Plaintiff's characterization of DOD's January 16, 2019 letter to which no response is required. The Court is respectfully referred to DOD's January 16 letter for a complete and accurate statement of its contents.

32. Admitted.

33. This paragraph contains legal conclusions about the exhaustion of administrative remedies to which no response is required.

34. In Paragraph 34, Plaintiff re-alleges Paragraphs 1-33 as if fully stated therein. Defendants thus incorporate by reference their answers to those paragraphs.

35. This paragraph contains legal conclusions to which no response is required.

36. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

37. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

38. In Paragraph 38, Plaintiff re-alleges paragraphs 1-33 as if fully stated therein. Defendants thus incorporate by reference their answers to those paragraphs.

39. This paragraph contains legal conclusions to which no response is required.

40. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

41. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

42. In Paragraph 38, Plaintiff re-alleges paragraphs 1-33 as if fully stated therein. Defendants thus incorporate by reference their answers to those paragraphs.

43. This paragraph contains legal conclusions to which no response is required.

44. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

45. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

The remainder of the Complaint sets forth Plaintiff's prayer for relief, to which no response is required. To the extent a response is required, Defendants deny that Plaintiff is entitled to any of the relief it seeks.

Each and every allegation of the Complaint not heretofore expressly admitted or denied is hereby denied.

DEFENSES

1. Defendants' actions did not violate the FOIA or any other statutory or regulatory provision.

2. Plaintiff is not entitled to compel production of records exempt from disclosure by one or more exemptions of the FOIA, 5 U.S.C. § 552.

WHEREFORE, having fully answered, Defendants pray that:

1. This Court enter judgment for Defendants and dismiss this action with prejudice;
and

2. Defendants be granted such further relief as the Court may deem just and proper.

Dated: March 27, 2019

Respectfully submitted,

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/s/ Nicholas Cartier
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