

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
CITIZENS FOR RESPONSIBILITY)	
AND ETHICS IN WASHINGTON,)	
)	
Plaintiff,)	
)	Civil Action No. 20-0212 (EGS)
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
_____)	

DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT

Defendant, the United States Department of Justice (“DOJ”) hereby answers the numbered paragraphs of Plaintiff’s Complaint (*see* ECF No. 1) in the above-captioned action. Defendant denies all allegations in the Complaint, including the relief sought, except as specifically admitted in this Answer. 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 Defendant through the course of the litigation.

In response to the specifically enumerated paragraphs as set forth in the Complaint, Defendants admit, deny, and otherwise aver as follows:

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, as well as legal conclusions, to which no response is required.
3. The allegations in this paragraph consist of legal conclusions regarding jurisdiction and venue, to which no response is required.

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

5. Defendant admits that it is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 701. The remaining allegations in this paragraph consist of legal conclusions, to which no response is required.

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

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

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

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

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

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

12. The allegations in this paragraph neither set forth a claim for relief nor allege facts in support of a claim for relief. Thus, no response is required.

13. The allegations in this paragraph neither set forth a claim for relief nor allege facts in support of a claim for relief. Thus, no response is required.

14. The allegations in this paragraph neither set forth a claim for relief nor allege facts in support of a claim for relief. Thus, no response is required.

15. The allegations in this paragraph neither set forth a claim for relief nor allege facts

in support of a claim for relief. Thus, no response is required.

16. Defendant admits that DOJ's Office of Information Policy ("OIP") received Plaintiff's Freedom of Information Act ("FOIA") request, dated November 19, 2019, on the same date. Defendant respectfully refers the Court to Plaintiff's referenced FOIA request for a full and accurate statement of its contents.

17. Defendant admits the allegation contained in the first sentence of this paragraph. Defendant denies that Plaintiff has not received a response of any kind from OIP regarding its November 19, 2019 FOIA request. DOJ avers that OIP acknowledged receipt of Plaintiff's request via letter dated December 13, 2019, and that it assigned Plaintiff's request tracking number DOJ-2020-000828. Defendant respectfully refers the Court to OIP's acknowledgment letter dated December 13, 2019 for a full and accurate statement of its contents. *See* Exhibit A (attached hereto). Defendant further avers that OIP corresponded with Plaintiff via email, on December 16 and 17, 2019, clarifying the scope of the records sought in its November 19, 2019 FOIA request, and the scope of the records sought in Plaintiff's second request, discussed below. Defendant respectfully refers the Court to these emails for a full and accurate statement of their contents. *See* Exhibit B (attached hereto).

18. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. DOJ's Executive Office for United States Attorneys ("EOUSA") avers that EOUSA has no record of receiving this request.

19. Admit.

20. The allegation contained in the first sentence of this paragraph consists of Plaintiff's characterization of its December 6, 2019 FOIA request that it submitted to both OIP and EOUSA, to which no response is required. To the extent that a response is required, Defendant respectfully refers the Court to the referenced FOIA request for a full and accurate statement of

its contents. Defendant admits that OIP received the December 6, 2019 expedition request submitted by Plaintiff to the Director of Public Affairs.

21. The allegation in this paragraph consists of Plaintiff's characterization of the FOIA request that it submitted to OIP, to which no response is required. Defendant respectfully refers the Court to the referenced December 6, 2019 FOIA request for a full and accurate statement of its contents.

22. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. EOUSA avers that it has no record of receiving this request or sending any communication to Plaintiff in response to this request.

23. OIP admits the allegations contained in the first and third sentences of this paragraph. OIP denies the allegation in the second sentence of this paragraph. OIP avers that its December 13, 2019 letter notified Plaintiff that "the Director has determined that your request for expedited processing should be denied." Defendant respectfully refers the Court to OIP's letter dated December 13, 2019 for a full and accurate statement of its contents. *See Exhibit C* (attached hereto).

24. Deny. As averred above at paragraph 17, OIP subsequently communicated with Plaintiff regarding both requests on December 16 and 17, 2019.

25. Defendant repeats and re-alleges paragraphs 1-24.

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

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

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

29. Defendant repeats and re-alleges paragraphs 1-28.

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

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

32. 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. Defendant hereby denies all allegations contained in the Complaint not expressly admitted or denied above.

DEFENSES

FIRST DEFENSE

Plaintiff is not entitled to information that is exempt from disclosure under the FOIA.

SECOND DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

THIRD DEFENSE

Plaintiff is not entitled to relief beyond what the FOIA provides.

FOURTH DEFENSE

Plaintiff has failed to exhaust administrative remedies under the FOIA

Dated March 4, 2020

Respectfully submitted,

TIMOTHY J. SHEA, D.C. Bar. No. 437437
United States Attorney

DANIEL F. VAN HORN, D.C. Bar No. 924092
Chief, Civil Division

By: /s/ Christopher C. Hair

CHRISTOPHER C. HAIR, PA Bar No. 306656

Assistant United States Attorney

555 Fourth Street, N.W.

Washington, D.C. 20530

(202) 252-2541

christopher.hair@usdoj.gov

Counsel for Defendant

Exhibit A



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW,
Washington, DC 20530-0001

Telephone: (202) 514-3642

December 13, 2019

Hajar Hammado
Citizens for Responsibility and Ethics in Washington (CREW)
1101 K Street, N.W. Suite 201
Washington, DC 20005
hhammado@citizensforethics.org

Re: DOJ-2020-000828

Dear Hajar Hammado:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on November 19, 2019 in which you requested records pertaining to travel costs related to U.S. Attorney John Durham's review into the origins of the government's investigation into interference in the 2016 election.

The records you seek require a search in and/or consultation with another Office, and so your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2018). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our records search to discuss either of these options. Any decision with regard to the application of fees will be made only after we determine whether fees will be implicated for this request.

We regret the necessity of this delay, but we assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact this Office by telephone at the above number or you may write to the Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison, Valeree Villanueva, at the telephone number listed above to discuss any aspect of your request.

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Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448.

Sincerely,
Initial Request Staff
Office of Information Policy
U.S. Department of Justice

Exhibit B

From: [Hajar Hammado](#)
To: [Hotchkiss, Eric \(OIP\)](#)
Cc: [Conor Shaw](#); [Anne Weismann](#)
Subject: Re: Your FOIA Requests DOJ-2020-000828 and DOJ-2020-0001224
Date: Tuesday, December 17, 2019 11:13:17 AM

Hi Eric,

This looks good to me! Thanks for chatting with me yesterday - let me know if you need anything additional.

All Best,
Hajar

On Mon, Dec 16, 2019 at 3:19 PM Hotchkiss, Eric (OIP) <Eric.Hotchkiss@usdoj.gov> wrote:

Good afternoon Ms. Hammado,

Thank you for speaking with me this afternoon regarding your two FOIA requests referenced above. You clarified that your first request (DOJ-2020-000828) is seeking records regarding the costs of trips taken by Attorney General Barr that relate to US Attorney Durham's review of the origins of the government's investigation into interference in the 2016 election (Durham's Review). Additionally, you explained that your second related request (DOJ-2020-001224) is seeking all financial records of Durham's Review. Please let me know if you have any further questions regarding this matter, or if you have anything to add to the above.

Thanks for your time,

Eric Hotchkiss

Senior Government Information Specialist

Office of Information Policy

202-616-5456

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Hajar Hammado | Policy Assistant

CREW | Citizens for Responsibility and Ethics in Washington

202-894-7058 | h Hammado@citizensforethics.org

1101 K St. NW, Suite 201, Washington DC 20005

CREW | Citizens for Responsibility and Ethics in Washington

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Exhibit C



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

December 13, 2019

Hajar Hammado
Citizens for Responsibility and Ethics
in Washington (CREW)
1101 K St NW
Washington, DC 20005
hhammado@citizensforethics.org

Re: DOJ-2020-001224
DRH:VAV:GMG

Dear Hajar Hammado:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated December 5, 2019 and received in this Office on December 6, 2019, which you requested records pertaining to budgets, salaries, expenses and costs for U.S. Attorney John Durham's review into the origins of the government's investigation into interference in the 2016 election.

You have requested expedited processing of your request pursuant to the Department's standard involving "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." See 28 C.F.R. § 16.5(e)(1)(iv) (2018). Pursuant to Department policy, we directed your request to the Director of Public Affairs, who makes the decision whether to grant or deny expedited processing under this standard. See id. § 16.5(e)(2). Please be advised the Director has determined that your request for expedited processing should be denied. Although your request for expedited processing has been denied; it has been assigned to an analyst in this Office and our processing of it has been initiated.

To the extent that your request requires a search in another Office, consultations with other Department components or another agency, and/or involves a voluminous amount of material, your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2018). Accordingly, we will need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our

records search to discuss either of these options. Any decision with regard to the application of fees will be made only after we determine whether fees will be implicated for this request.

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the analyst handing your request, Georgianna Gilbeaux, by telephone at the above number or you may write to them at the above address. You may contact our FOIA Public Liaison, Valeree Villanueva, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001; telephone at 202-514-3642.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request for expedited processing, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal at <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically submitted within ninety days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in blue ink that reads "Valeree J. Villanueva". The signature is written in a cursive style with a small "for" written below the name.

Douglas R. Hibbard
Chief, Initial Request Staff