

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY
INFORMATION CENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF HOMELAND SECURITY,

Defendant.

Civil Action No. 18-545-KBJ

DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT

Defendant United States Department of Homeland Security (“DHS”), by and through undersigned counsel, hereby answers the complaint of Plaintiff Electronic Privacy Information Center (“EPIC”).

AFFIRMATIVE DEFENSES

1. The complaint fails to state a claim upon which relief can be granted.
2. Some of the information sought by Plaintiff is exempt from release under one or more exemptions of the Freedom of Information Act (“FOIA”).
3. The Court lacks subject-matter jurisdiction to award relief that exceeds that authorized by FOIA.

RESPONSES TO THE NUMBERED PARAGRAPHS

All allegations in the complaint, including the relief sought, are denied except to the extent specifically admitted herein. Defendant admits, denies, or otherwise answers the numbered paragraphs in the complaint as follows:

1. Defendant admits that this action purports to be brought under FOIA. Defendant denies that Plaintiff is entitled to the requested relief.

2. This paragraph does not contain allegations, but instead purports to characterize the complaint. Defendant refers to the complaint as a whole for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

Jurisdiction and Venue¹

3. Defendant admits that jurisdiction is proper for relief authorized by FOIA.

4. Defendant admits that venue is proper.

Parties

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

6. Admitted.

Facts

Background

7. Denied.

8. Denied.

9. Defendant refers to the video of the referenced oversight hearing for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

10. Defendant refers to the referenced factsheet for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

¹ Defendant has included the headings listed in the complaint simply to assist in reading the pleadings and does not admit the accuracy of those headings.

11. Defendant refers to the referenced records for a complete and accurate statement of their contents and denies any allegations inconsistent therewith.

12. Defendant refers to the referenced records for a complete and accurate statement of their contents and denies any allegations inconsistent therewith.

13. Defendant refers to the referenced factsheet for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

14. Defendant refers to the referenced factsheet for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

15. Defendant refers to the referenced document for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

16. Defendant refers to the referenced document for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

17. Defendant refers to the referenced report for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

18. Defendant refers to the referenced factsheet for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

19. Defendant refers to the referenced solicitation for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

20. Defendant lacks knowledge or information sufficient to form a belief about the allegations of this paragraph because it does not refer to a particular memorandum.

21. Defendant refers to the referenced memorandum for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

22. Defendant refers to the referenced memorandum for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

23. Defendant refers to the referenced memorandum for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

24. Defendant refers to the referenced memorandum for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

25. Defendant refers to the referenced memorandum for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

26. Defendant refers to the referenced factsheet for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

EPIC's FOIA Request

27. Defendant admits that EPIC submitted a FOIA request on or around September 9, 2016. Defendant lacks knowledge or information sufficient to form a belief about the other allegations of this paragraph.

28. Admitted.

29. Defendant refers to the referenced FOIA request for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

30. Admitted.

31. Admitted.

32. Defendant lacks knowledge or information sufficient to form a belief about the allegations of this paragraph.

EPIC's Constructive Exhaustion of Administrative Remedies

33. Denied.

34. Denied.

35. Denied.

Count I

Violation of FOIA: Failure to Comply with Statutory Deadlines

36. Defendant incorporates its answers to paragraphs 1 through 35 as set forth herein.

37. Denied.

38. Denied.

Count II

Violation of FOIA: Unlawful Withholding of Agency Records

39. Defendant incorporates its answers to paragraphs 1 through 38 as set forth herein.

40. Denied.

41. Denied.

42. Denied.

Requested Relief

Defendant denies that Plaintiff is entitled to any of the requested relief.

WHEREFORE, having fully answered, Defendant respectfully requests that Plaintiff's complaint be dismissed with prejudice and that this Court award Defendant such other and further relief as the Court may deem just and proper.

* * *

Dated: April 27, 2018

Respectfully Submitted,

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