

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

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ELECTRONIC PRIVACY )  
INFORMATION CENTER, )  
1718 Connecticut Avenue, N.W. )  
Suite 200 )  
Washington, D.C. 20009, )  
) )  
Plaintiff, )  
) )  
v. )  
) )  
UNITED STATES DEPARTMENT )  
OF JUSTICE, )  
950 Pennsylvania Avenue, N.W. )  
Washington, D.C. 20530-0001, )  
) )  
Defendant. )

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Civil Action No. 18-1814 (TNM)

**ANSWER**

Defendant, the United States Department of Justice, by and through the undersigned counsel, hereby responds to the Complaint filed by Plaintiff, Electronic Privacy Information Center, in this case brought under the Freedom of Information Act (“FOIA”).

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Plaintiff has failed to exhaust its administrative remedies with respect to certain claims raised in the Complaint.

\* \* \* \* \*

In response to the numbered paragraphs and sentences of the Complaint, Defendant admits, denies, or otherwise responds as follows:

1. This paragraph contains Plaintiff's characterization of this action, to which no response is required.

2. This paragraph contains Plaintiff's characterization of this action and its two Freedom of Information Act ("FOIA") requests, to which no response is required.

### **JURISDICTION AND VENUE<sup>1</sup>**

3. This paragraph contains Plaintiff's legal conclusion concerning jurisdiction, to which no response is required.

4. This paragraph contains Plaintiff's legal conclusion concerning venue, to which no response is required.

### **PARTIES**

5. This paragraph contains Plaintiff's characterization of itself, its membership, and its goals. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in this paragraph.

6. This paragraph contains Plaintiff's characterization of itself and its activities. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in this paragraph.

7. Defendant admits that the Department of Justice is a federal agency of the United States within the meaning of 5 U.S.C. § 552(f)(1), and has its headquarters in Washington, D.C.

### **FACTS**

8. This paragraph contains Plaintiff's opinions and legal conclusions, to which no response is required. Additionally, this paragraph does not allege facts pertaining to Plaintiff's FOIA cause of action, and thus no response is required on that basis as well.

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<sup>1</sup> Defendant has included the headings listed in the Complaint simply to assist in reading the Answer and does not admit the accuracy of those headings.

9. This paragraph contains Plaintiff's characterization of this action and its two FOIA requests, to which no response is required.

10. – 20. These paragraphs contain Plaintiff's opinions, legal conclusions and allegations of fact that do not pertain to Plaintiff's FOIA requests or FOIA case of action, and thus no responses are required. Defendants submit that the statutes and legal cases cited by Plaintiff speak for themselves and are the best evidence of their contents. Additionally, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

#### **EPIC'S FOIA Requests**

21. – 25. Deny that Defendant's Executive Office for United States Attorneys ("EOUSA") received this FOIA request and thus no acknowledgment of receipt could have been given.

26. – 28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations, except to admit that Plaintiff submitted a FOIA request on December 6, 2017, and that it was assigned a tracking number.

29. – 32. Admit that Plaintiff submitted a FOIA request dated June 21, 2017, and the Court is respectfully referred to that request for a complete and accurate statement of its contents.

33. Deny.

34. – 35. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations, except to admit that a tracking number was assigned to Plaintiff's June 21, 2017 FOIA request.

#### **EPIC'S Constructive Exhaustion of Administrative Remedies**

36. – 40. These paragraphs contain legal conclusions, to which no response is required, except to admit that to date EOUSA has not completed processing Plaintiff's FOIA requests.

#### **Count I**

41. Defendant re-answers paragraphs 1-40 as if set forth in full herein.

42. – 43. These paragraphs contain legal conclusions, to which no response is required, except to admit that to date EOUSA has not completed processing Plaintiff’s FOIA requests.

**Count II**

44. This paragraph contains a legal conclusion, to which no response is required.

1.<sup>2</sup> Defendant re-answers paragraphs 1-40 as if set forth in full herein.

2. – 3. These paragraphs contain legal conclusions, to which no response is required.

**Count III**

45. Defendant re-answers paragraphs 1-40 as if set forth in full herein.

46. – 48. These paragraphs contain legal conclusions, to which no response is required.

**Count IV**

49. Defendant re-answers paragraphs 1-40 as if set forth in full herein.

50. This paragraph contain legal conclusions, to which no response is required.

The remainder of the Complaint contains Plaintiff’s requested relief, to which no response is required, but insofar as a response is deemed required, Defendant denies that Plaintiff is entitled to the requested relief or any relief whatsoever.

Each and every allegation not heretofore expressly admitted or denied is denied.

Respectfully submitted,

JESSIE K. LIU, D.C.  
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United States Attorney  
for the District of Columbia

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

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<sup>2</sup> Plaintiff has mis-numbered the paragraphs in the Complaint.

/s/ Marina Utgoff Braswell

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