

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
TEXAS CIVIL RIGHTS PROJECT, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civ. A. No. 20-2389 (CJN)
)	
U.S. DEPARTMENT OF HOMELAND)	
SECURITY, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
_____)	

DEFENDANTS’ ANSWER TO PLAINTIFFS’ COMPLAINT

Pursuant to Rule 8, Federal Rules of Civil Procedure, Defendants U.S. Department of Homeland Security (“DHS”), U.S. Customs and Border Protection (“CBP”), and U.S. Immigration and Customs Enforcement (“ICE” and, together, “Defendants”), by and through their undersigned counsel, hereby respectfully submit this Answer to the Complaint filed by Plaintiffs Texas Civil Rights Project (“TCRP”) and the Institute for Constitutional Advocacy and Protection (“ICAP, and, together, “Plaintiffs”) on August 27, 2020 (“Complaint”).

DEFENDANTS’ RESPONSES TO THE NUMBERED PARAGRAPHS

In response to the enumerated paragraphs, as set forth in the Complaint, Defendants admit, deny and otherwise aver as follows. Any allegations not specifically admitted herein are hereby denied. Defendants respectfully request and reserve the right to amend, alter, and supplement the responses and defenses contained in this Answer as additional facts become known to Defendants. To the extent the Complaint refers to or quotes from external documents, statutes, or other sources, Defendants may refer to such materials for their accurate and complete contents in response; however, Defendants’ references are not intended to be, and should not be construed to be, an

admission that the cited materials: (a) are correctly cited or quoted by Plaintiffs; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

1. Paragraph 1 contains allegations that are immaterial to this action, and therefore, no response is required.

2. Paragraph 2 contains allegations that are immaterial to this action, and therefore, no response is required.

3. Defendants admit that Plaintiffs submitted three Freedom of Information Act (“FOIA”) requests to Defendants. Plaintiffs’ FOIA requests speak for themselves and are the best evidence of its contents, and Defendants respectfully refer the Court to the referenced requests and deny any allegation inconsistent with the requests’ plain language, meaning, or context.

4. The allegations contained in paragraph 4 constitute Plaintiffs’ conclusions of law as to subject matter jurisdiction, to which no response is required. ICE admits that documents were not provided prior to the filing of this suit and further avers that the statute speaks for itself. To the extent that a response is required, Defendants deny.

JURISDICTION AND VENUE¹

5. The allegation contained in paragraph 5 constitutes Plaintiffs’ conclusions of law as to jurisdiction, to which no response is required. To the extent that a response is required, Defendants admit that this Court has subject matter over this action subject to the terms and limitations of FOIA.

6. The allegation contained in paragraph 6 constitutes Plaintiffs’ conclusion of law as

¹ Merely for ease of reference, Defendants’ Answer replicates the headings contained in the Complaint. Although Defendants believe that no response is required to such headings, to the extent a response is deemed required and to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

to venue, to which no response is required. To the extent that a response is required, Defendants admit that venue is proper for this action in this judicial district.

PARTIES

7. Defendants admit that Plaintiffs submitted FOIA requests seeking the release of records to Defendants. The allegations otherwise contained in paragraph 7 consist of conclusions of law and Plaintiffs' characterization of themselves and do not set forth a claim of relief or aver facts in support of a claim, to which a response is required. To the extent that a response is required, Defendants deny, or are without knowledge or information sufficient to form a belief as to the truth of, the allegations contained in this paragraph.

8. Defendants admit that DHS is an agency of the federal government; CBP and ICE are component agencies of DHS headquartered in Washington, D.C.; and Defendants are subject to FOIA.

FACTS

I. Background

9-15. The allegations contained in paragraphs 9-15 are immaterial to this action and, therefore, no response is required. To the extent that a response is required, Defendants deny.

II. TRCP's and ICAP's Requests

16. DHS and ICE admit that they received TCRP's FOIA requests dated June 24, 2020. TCRP's FOIA requests speak for themselves and are the best evidence of their contents. Defendants respectfully refer the Court to the FOIA requests for a complete and accurate description of their contents, and deny any allegation inconsistent with the requests' plain language, meaning, or context.

17. ICE admits only that an acknowledgment to Plaintiffs' FOIA request was provided to Plaintiffs and that the ICE FOIA Office assigned the request tracking number 2020-ICFO-

78204. ICE denies the remaining allegations contained in the first sentence of Paragraph 17 and respectfully refers the Court to its acknowledgment letters for complete and accurate descriptions of their contents. DHS avers that DHS acknowledged receipt of Plaintiff's FOIA request and referred it to ICE on August 13, 2020, and respectfully refers the Court to this August 13, 2020 letter for an accurate and complete statement of its contents.

18. CBP admits that it received ICAP's FOIA and fee waiver requests dated May 21, 2020, and respectfully refers the Court to the cited FOIA request for a complete and accurate description of its contents, and denies any allegation inconsistent with the request's plain language, meaning, or concept. CBP also respectfully refers the Court to its acknowledgment letter for complete and accurate descriptions of its contents and denies any allegation inconsistent with the letter's plain language, meaning, or concept.

19. Paragraph 19 is a statement of law, to which no response is required.

20. Paragraph 20 contains conclusions of law, to which no response is required. To the extent that a response is required, as to the first sentence of paragraph 20, Defendants ICE and CBP admit that a final response to the FOIA requests were not provided prior to the filing of this suit, and Defendant DHS avers that it sent Plaintiff an acknowledgement letter dated August 13, 2020 and referred the request in its entirety to ICE. Defendants deny all other allegations.

21. The allegations contained in paragraph 21 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

CAUSES OF ACTION

COUNT I Violation of FOIA TCRP against DHS

22. Defendants incorporate by reference their responses set forth above.

23. The allegations contained in paragraph 23 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

24. The allegations contained in paragraph 24 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

25. The allegations contained in paragraph 25 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

COUNT II
Violation of FOIA
TCRP against ICE

26. Defendants incorporate by reference their responses set forth above.

27. As to paragraph 27, Defendants admit that prior to the filing of this suit, a final response was not provided as to the FOIA request directed to ICE and assigned request number 2020-ICFO-78204.

28. The allegations contained in paragraph 28 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

29. The allegations contained in paragraph 29 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants admits that a final response to the FOIA request directed to ICE was not provided prior to the filing of this suit. Defendants deny the remaining allegations

COUNT III
Violation of FOIA
Plaintiff ICAP against CBP

30. Defendants incorporate by reference their responses set forth above.

31. The allegations contained in paragraph 31 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

32. The allegations contained in paragraph 32 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

33. The allegations contained in paragraph 33 constitute Plaintiffs' conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

PRAYER FOR RELIEF

The remainder of Plaintiffs' Complaint contains Plaintiffs' requested relief, to which no response is required. To the extent that these paragraphs may be deemed to contain factual allegations, Defendants deny all allegations contained in the Complaint except as may have been expressly admitted, and deny that Plaintiffs are entitled to any relief.

DEFENSES

First Defense

As to some or all of the claims asserted in this action, Plaintiffs have failed to state a claim upon which relief may be granted under FOIA.

Second Defense

Plaintiffs are not entitled to compel the production of responsive records protected from

disclosure by one or more of the exemptions or exclusions to the FOIA.

Third Defense

The Court lacks jurisdiction over the subject matter of this Complaint for any relief that exceeds the relief authorized by statute under 5 U.S.C. § 552.

Fourth Defense

Plaintiffs have failed to describe the requested records with sufficient particularity as required by FOIA.

Fifth Defense

Plaintiffs are neither eligible for nor entitled to attorney fees or costs.

Date: October 8, 2020

Respectfully submitted,

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