

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COUNCIL ON AMERICAN-ISLAMIC
RELATIONS-WASHINGTON,

Plaintiff,

v.

UNITED STATES CUSTOMS AND
BORDER PROTECTION, UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 2:20-cv-217-RSM

ANSWER TO PLAINTIFF'S
COMPLAINT

COME NOW, Defendants U.S. Customs and Border Protection (“CBP”) and U.S. Department of Homeland Security (“DHS”), by and through Brian T. Moran, United States Attorney, Western District of Washington, and Michelle Lambert, Assistant United States Attorney for said District, hereby answer Plaintiff’s Complaint, Dkt. 1, dated February 12, 2020, as follows.

In response to the numbered paragraphs of the Complaint, CBP¹ admits, denies, or otherwise avers as follows:

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¹ Although CBP is a component of DHS, CBP responds to this Complaint on behalf of Defendants as Plaintiff directed the FOIA request at issue to CBP. Compl., ¶ 19.

1 **INTRODUCTION**

2 The unnumbered paragraphs in the “Introduction” section of the Complaint, Compl., at
3 1-2, are characterizations of Plaintiff’s claims and conclusions of law, to which no response is
4 required. In addition, the “Introduction” section contains allegations that do not set forth a
5 Freedom of Information Act (“FOIA”) claim or aver facts in support of a FOIA claim to which
6 a response is required. To the extent that a response is deemed necessary, deny, except admit
7 that Plaintiff brings its claims pursuant to the FOIA and that Plaintiff filed a FOIA request with
8 CBP, to which the Court is respectfully referred for a complete and accurate statement of its
9 contents.

10 **JURISDICTION & VENUE**

11 1. Paragraph 1 contains conclusions of law, to which no response is required. To
12 the extent that a response is deemed necessary, CBP admits that this Court has jurisdiction
13 subject to the limitations of FOIA. CBP further avers that the cited authority speaks for itself.

14 2. Paragraph 2 contains conclusions of law, to which no response is required. To
15 the extent that a response is deemed necessary, CBP avers that the cited authority speaks for
16 itself.

17 3. Paragraph 3 contains conclusions of law to which no response is required. To
18 the extent that a response is deemed necessary, CBP avers that the cited authority speaks for
19 itself.

20 **PARTIES**

21 4. CBP is without knowledge or information sufficient to form a belief as to the
22 truth or falsity of the allegations in Paragraph 4. To the extent that a response is deemed
23 necessary, deny.

24 5. CBP admits that it is a federal agency within the meaning of 5 U.S.C. § 552 and
25 5 U.S.C. § 552a(a)(1). CBP denies the remaining allegations.

26 6. DHS admits that it is a federal agency within the meaning of 5 U.S.C. § 552 and
27 5 U.S.C. § 552a(a)(1). CBP denies the remaining allegations.

FACTUAL ALLEGATIONS

7. The allegations in Paragraph 7 do not set forth a FOIA claim or aver facts in support of a FOIA claim to which a response is required. To the extent that a response is deemed necessary, deny.

8. The allegations in Paragraph 8 do not set forth a FOIA claim or aver facts in support of a FOIA claim to which a response is required. To the extent that a response is deemed necessary, deny.

9. Deny. CBP objects to the term “directive” as vague and undefined.

10. Paragraph 10 contains Plaintiff’s characterization of a “purported directive,” to which the Court is respectfully referred for a complete and accurate statement of its contents. CBP objects to the term “directive” as vague and undefined. To the extent that a response is deemed necessary, deny.

11. Paragraph 11 contains Plaintiff’s characterization of a “directive,” to which the Court is respectfully referred for a complete and accurate statement of its contents. CBP objects to the term “directive” as vague and undefined. To the extent that a response is deemed necessary, deny.

12. Paragraph 12 contains Plaintiff’s characterization of a “directive,” to which the Court is respectfully referred for a complete and accurate statement of its contents. CBP objects to the term “directive” as vague and undefined. To the extent that a response is deemed necessary, deny.

13. The allegations in Paragraph 13 do not set forth a FOIA claim or aver facts in support of a FOIA claim to which a response is required. To the extent that a response is deemed necessary, deny.

14. The allegations in Paragraph 14 do not set forth a FOIA claim or aver facts in support of a FOIA claim to which a response is required. To the extent that a response is deemed necessary, deny.

1 15. The allegations in Paragraph 15 do not set forth a FOIA claim or aver facts in
2 support of a FOIA claim to which a response is required. To the extent that a response is
3 deemed necessary, deny.

4 16. The allegations in Paragraph 16 do not set forth a FOIA claim or aver facts in
5 support of a FOIA claim to which a response is required. To the extent that a response is
6 deemed necessary, deny.

7 17. The allegations in Paragraph 17 do not set forth a FOIA claim or aver facts in
8 support of a FOIA claim to which a response is required. To the extent that a response is
9 deemed necessary, deny.

10 18. The allegations in Paragraph 18 do not set forth a FOIA claim or aver facts in
11 support of a FOIA claim to which a response is required. To the extent that a response is
12 deemed necessary, deny.

13 19. The first sentence in Paragraph 19 does not set forth a FOIA claim or aver facts
14 in support of a FOIA claim to which a response is required. The remaining allegations in
15 Paragraph 19 consist of Plaintiff's characterization of its FOIA request. CBP admits that it
16 received a FOIA request from Plaintiff, a copy of which is attached to this Answer as Exhibit
17 A. CBP further avers that the contents of the FOIA request speaks for itself and respectfully
18 refers the Court to the request for a complete and accurate statement of its contents. CBP
19 denies any remaining allegations in Paragraph 19.

20 20. Paragraph 20 consists of Plaintiff's characterization of its FOIA request. CBP
21 further avers that the contents of the FOIA request speaks for itself and respectfully refers the
22 Court to the request for a complete and accurate statement of its contents. CBP denies any
23 remaining allegations in Paragraph 20.

24 21. CBP admits that an email acknowledging Plaintiff's FOIA request and assigning
25 it tracking number CBP-OFO-2020-024470 was sent to Aaron Korthuis on January 9, 2020.
26 The email speaks for itself and the Court is respectfully referred to the email for a complete and
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1 accurate statement of its contents. CBP is without knowledge or information sufficient to form
2 a belief as to the truth or falsity of the allegation of when Plaintiff received the email.

3 22. The allegations in Paragraph 22 do not set forth a FOIA claim or aver facts in
4 support of a FOIA claim to which a response is required. To the extent that a response is
5 deemed necessary, CBP avers that the FOIA statute speaks for itself and denies any
6 characterization of FOIA inconsistent with the language of the statute. CBP admits that it has
7 not provided Plaintiff with a request of an extension.

8 23. The allegations in Paragraph 23 consist of uncited assertions of fact which are
9 not material to a FOIA claim and to which no response is required. To the extent that a
10 response is deemed necessary, deny.

11 24. The allegations in Paragraph 24 do not set forth a FOIA claim or aver facts in
12 support of a FOIA claim to which a response is required. To the extent that a response is
13 deemed necessary, deny.

14 25. The allegations in Paragraph 25 consist of Plaintiff's characterization of a Press
15 Release that does not set forth a FOIA claim or aver facts in support of a FOIA claim to which
16 a response is required. To the extent that a response is deemed necessary, deny CBP.

17 26. The allegations in Paragraph 26 do not set forth a FOIA claim or aver facts in
18 support of a FOIA claim to which a response is required. To the extent that a response is
19 deemed necessary, deny.

20 27. The allegations in Paragraph 27 do not set forth a FOIA claim or aver facts in
21 support of a FOIA claim to which a response is required. To the extent that a response is
22 deemed necessary, CBP is without knowledge or information sufficient to form a belief as to
23 the truth or falsity of the allegations in Paragraph 27.

24 28. CBP is without knowledge or information sufficient to form a belief as to the
25 truth or falsity of the allegations in Paragraph 28. To the extent that a response is deemed
26 necessary, deny.

CLAIM FOR RELIEF

**Violation of Freedom of Information Act
(Failure to Provide Timely Response to FOIA Request)**

29. CBP incorporates by reference its responses contained in the preceding paragraphs of this Answer as if fully set forth herein.

30. The allegations in Paragraph 30 consist of legal conclusions, to which no response is required. To the extent that a response is deemed necessary, CBP avers that the FOIA statute speaks for itself and denies any characterization inconsistent with the language of the statute.

31. The allegations in Paragraph 31 consist of legal conclusions, to which no response is required. To the extent that a response is deemed necessary, CBP avers that the FOIA statute speaks for itself and denies any characterization inconsistent with the language of the statute.

32. The allegations in Paragraph 32 consist of legal conclusions, to which no response is required. To the extent that a response is deemed necessary, CBP avers that the FOIA statute speaks for itself and denies any characterization of the FOIA inconsistent with the language of the statute.

33. The allegations in Paragraph 33 consist of legal conclusions, to which no response is required. To the extent that a response is deemed necessary, CBP avers that the FOIA statute speaks for itself and denies any characterization of the FOIA inconsistent with the language of the statute.

34. The allegations in Paragraph 34 consist of legal conclusions, to which no response is required. To the extent that a response is deemed necessary, CBP avers that the FOIA statute speaks for itself and denies any characterization of the FOIA inconsistent with the language of the statute. CBP further avers that Plaintiff is not entitled to the requested relief.

1 **PRAYER FOR RELIEF**

2 The remainder of Plaintiff's Complaint sets out Plaintiff's prayer for relief, to which no
3 response is required. To the extent that a response is deemed necessary, CBP avers that
4 Plaintiff is not entitled to the requested relief.

5 **GENERAL DENIAL**

6 Pursuant to Rule 8(b)(3), CBP denies all allegations in the Complaint which it has not
7 otherwise specifically admitted or denied herein.

8 **DEFENSES**

- 9 1. Plaintiff has failed to state a claim upon which relief may be granted under FOIA.
- 10 2. Plaintiff has not established a right to attorney's fees.
- 11 3. To the extent that the Complaint refers to or quotes from external documents or other
12 sources, CBP's answer may refer to these materials; however, CBP's references are not
13 intended to be, nor should they be construed to be, and admission that the materials cited in
14 Plaintiff's Complaint are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this, or any
15 other, action; or (c) admissible in this, or any other, action.
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- 17 4. CBP reserves the right to amend, supplement, and assert additional affirmative
18 defenses.

19 WHEREFORE, CBP respectfully requests that the Court dismiss all claims in the
20 Complaint and grant it such other relief as may be just and appropriate.

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