

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LOIS MOORE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 20cv1027 (RCL)
)	
UNITED STATES CENTRAL)	
INTELLIGENCE AGENCY)	
)	
Defendant.)	
_____)	

ANSWER

Defendant Central Intelligence Agency (“CIA”) hereby answers the allegations in the corresponding paragraphs of Plaintiffs’ Complaint (the “Complaint”), ECF No. 1, as follows:

Preliminary Statement: The Plaintiffs’ Preliminary Statement is not an allegation of the Complaint but rather consists of Plaintiffs’ characterization of events that provide an explanation as to why Plaintiffs made a FOIA request to the Defendant CIA, to which no response is required.

JURISDICTION

1. Paragraph 1 states a legal conclusion regarding jurisdiction and venue to which no response is required. To the extent a response is required, Defendant admits that the Court has jurisdiction over this action pursuant to FOIA 5 U.S.C. §552(a)(4)(B), as limited by the relief available under FOIA, and that venue is proper in this District pursuant to FOIA, 5 U.S.C. § 552(a)(4)(B).

PARTIES

2. The allegations in Paragraph 2 contains information regarding Plaintiff Lois Moore to which Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegation.

3. The allegations in Paragraph 3 contains information regarding Plaintiff Robert Moore to which Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegation.

4. The allegations in Paragraph 4 contains information regarding Plaintiff Jana Orear to which Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegation.

5. The allegations in Paragraph 5 contains information regarding Plaintiff Christianne O'Malley to which Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegation.

6. The allegations in Paragraph 6 contains information regarding Plaintiff Mark Sauter to which Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegation.

7. Defendant admits the allegations in the first sentence of Paragraph 7 that Defendant is an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). With respect to the second sentence of Paragraph 7, Defendant is processing Plaintiffs' FOIA request and is currently without sufficient information to admit or deny the allegations regarding the Defendant's possession of responsive records. To the extent a response to the allegations in the second sentence of Paragraph 7 is required, Defendant denies.

FACTS

8. The allegations in Paragraph 8 contain Plaintiffs' characterizations of the FOIA request to which no response is required. To the extent that a response is required, Defendant admits that it received a FOIA request on November 25, 2019, and refers this Court to the Plaintiffs' FOIA request for a complete, true, and accurate statement of its contents.

9. The allegations of Paragraph 9 consists of Plaintiffs' characterization of the FOIA request, to which no response is required. To the extent that a response is required, Defendant admits that Plaintiffs requested that Defendant produce records in "PDF" format, and respectfully refers the Court to that FOIA request for a full and accurate statement of its contents.

10. Defendant admits that it acknowledged receipt of the FOIA request in writing on December 10, 2019. The remaining allegations of Paragraph 10 consists of Plaintiffs' selective quote from the CIA's acknowledgement letter, to which the Defendant admits that the selected quote is from the December 10, 2019, acknowledgment, and Defendant respectfully refers the Court to the acknowledgement letter for its full content.

11. Defendant admits that, at the time of the filing of the complaint, the Defendant had no further response to Plaintiffs' FOIA request. Defendant denies all other allegations and characterizations contained in Paragraph 11.

12. The allegations in Paragraph 12 contain Plaintiffs' legal conclusions to which no response is required. To the extent that a response is required, Defendant admits that Plaintiffs have generally exhausted their administrative remedies for this action pursuant to the FOIA.

COUNT I

13. Defendant incorporates its responses set forth above.

14. Paragraph 14 consists of Plaintiffs' characterizations and conclusions of law, to which no response is required. To the extent that a response is required, Defendant admits that Plaintiff made a FOIA request for records, but denies the remaining allegations.

COUNT II

15. Defendant incorporates its responses set forth above.

16. Paragraph 16 consists of conclusions of law, to which no response is required. To the extent that a response is required, Defendant admits that Plaintiffs requested a waiver of search and review fees and copying costs under 5 U.S.C. §§ 552(a)(4)(A)(ii) and 552(a)(4)(A)(iii) (news media), and that Plaintiffs described Plaintiff Sauter a member of the news media. Defendant is without sufficient information to admit or deny the allegations regarding Plaintiff Sauter's status as a representative of the news media or his entitlement to a waiver of search and review fees under FOIA.

The remaining paragraph of the Complaint consist of Plaintiffs' request for relief that require no answer. To the extent that a response is required, Defendant denies that Plaintiffs are entitled to the relief requested.

Defendant denies each and every allegation in the Complaint that has not been expressly admitted in this Answer.

DEFENSES

Defendant 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 the Defendant through the course of this litigation. Without waiving, limiting, modifying or

amending the foregoing, Defendant asserts the following additional and affirmative defenses, in the alternative where appropriate, and to the extent the pleadings and the evidence so indicate.

FIRST DEFENSE

To the extent Plaintiffs' FOIA request seeks matters that are not "agency records," the Court lacks the authority to compel the agency to produce such matters.

SECOND DEFENSE

Defendant has exercised due diligence in responding to Plaintiffs' FOIA request however, exceptional circumstances exist that necessitate additional time for Defendant to produce records in response to Plaintiffs' FOIA request.

THIRD DEFENSE

Some of the information contained in the records sought by Plaintiffs, if any such records exist, may be exempt from disclosure under one or more exemptions of FOIA, 5 U.S.C. § 552, subparagraph (b), which will be identified when Defendant completes its search for and review of records that may be responsive to Plaintiffs' FOIA request.

FOURTH DEFENSE

To the extent that Plaintiffs' present FOIA request is identical to or otherwise overlaps with Plaintiffs' previous FOIA request adjudicated in *Sauter v. Department of State*, No. 20-cv-01027 (RCL), which was dismissed with prejudice in favor of Defendant CIA, Defendant asserts the defenses of *res judicata* and collateral estoppel. Specifically, Defendant directs the Court to Plaintiffs' Amended Complaint in that matter at ECF No. 12, Defendant's Motion for Partial Summary Judgement at ECF Nos. 30 and 45, and the Court's Memorandum Opinion Granting Defendant's Motion at ECF No. 47.

Dated: June 3, 2020

Respectfully submitted,

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