

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)
ACCURACY IN MEDIA, INC. et al.,	)
	)
Plaintiffs,	)
	)
v.	)
	)
DEPARTMENT OF DEFENSE et al.,	)
	)
Defendants.	)
_____	)

Case No. 14-1589 (EGS)

**DEFENDANTS’ ANSWER**

Defendants United States Department of Defense (“DOD”), United States Department of State (“State”), United States Department of Justice (“DOJ”), and United States Central Intelligence Agency (“CIA”), through undersigned counsel, hereby answer Plaintiffs’ Complaint (“Complaint”) as follows:

**First Affirmative Defense**

Plaintiffs have failed to state a claim for which relief may be granted.

**Second Affirmative Defense**

Some or all of the information Plaintiffs seek in their Freedom of Information Act (“FOIA”) requests are exempt from disclosure under FOIA, 5 U.S.C. § 552.

**Defendants’ Responses to the Numbered Paragraphs**

The unnumbered preliminary statement does not set forth a claim for relief or aver facts in support of a claim to which an answer is required.

Plaintiffs' inclusion of two footnotes in the Complaint does not comply with Federal Rule of Civil Procedure 10(b), which requires that allegations be stated "in numbered paragraphs, each limited as far as practicable to a single set of circumstances." As such, no response is required to these footnotes. To the extent a response is required, each footnote is discussed in the relevant numbered paragraph below.

Defendants respond to the numbered paragraphs of Plaintiffs' Complaint as follows:

1. Paragraph 1 consists of Plaintiffs' legal conclusions regarding jurisdiction and venue, to which no response is required.

2. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 2.

3. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 3.

4. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 4.

5. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 5.

6. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 6.

7. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 7.

8. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 8.

9. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 9.

10. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 10.

11. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 11.

12. Paragraph 12 does not set forth a claim for relief or aver facts in support of a claim to which an answer is required.

13. Defendants admit that DOD is a Department of the Executive Branch of the United States and is an agency within the meaning of 5 U.S.C. § 552(f)(1). Defendant DOD admits that Plaintiffs made FOIA requests to the ten component offices of DOD listed in paragraph 13. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in the second sentence of this paragraph.

14. Defendants admit that State is a Department of the Executive Branch of the United States and is an agency within the meaning of 5 U.S.C. § 552(f)(1).

15. Defendants admit that DOJ is a Department of the Executive Branch of the United States and is an agency within the meaning of 5 U.S.C. § 552(f)(1). Defendants admit that the Federal Bureau of Investigation (“FBI”) is the investigative component of DOJ. Defendants deny the allegation that DOJ is responsible for the FBI’s compliance with FOIA. The remainder of this paragraph does not set forth a claim for relief or aver facts in support of a claim to which an answer is required.

16. Defendants admit that CIA is a Department of the Executive Branch of the United States and is an agency within the meaning of 5 U.S.C. § 552(f)(1).

17. Defendant DOD denies that it received 17 separate FOIA requests from Plaintiffs. As alleged in the Complaint and admitted below, Plaintiffs submitted twelve FOIA request letters to DOD. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

18. Paragraph 18 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.<sup>1</sup>

19. Paragraph 19 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

20. Paragraph 20 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

21. Paragraph 21 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

22. Paragraph 22 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

23. Paragraph 23 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

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<sup>1</sup> Plaintiffs did not attach to their Complaint the documents referenced therein. These documents are also referenced in Defendants' Answer. At the Court's request, Defendants can provide the Court with copies of these documents.

24. Paragraph 24 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

25. Paragraph 25 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

26. Paragraph 26 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

27. Paragraph 27 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

28. Paragraph 28 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

29. Paragraph 29 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

30. Paragraph 30 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

31. Paragraph 31 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

32. Paragraph 32 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

33. Paragraph 33 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

34. Paragraph 34 consists of Plaintiffs' characterization of their FOIA requests, to which no response is required. Defendant DOD respectfully refers the Court to the requests themselves for a full and accurate statement of their contents.

35. Defendant DOD admits that Plaintiffs sent DOD Department of the Army ("Army") a FOIA request dated March 31, 2014. The remaining allegations in paragraph 35 consist of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

36. The first and last sentences of paragraph 36 consist of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The remainder of this paragraph states legal conclusions to which no response is required. To the extent that a

response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

37. The first sentence of paragraph 37 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The remainder of this paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

38. Defendant DOD admits that the Army sent Plaintiffs a letter dated June 19, 2014. No response is required to Plaintiffs' characterization of this letter, and Defendant DOD respectfully refers the Court to the letter itself for a full and accurate statement of its contents. Defendant DOD denies the remaining allegations in this paragraph; Defendant DOD avers that the Army does not have a record of receiving a letter from Plaintiffs dated June 20, 2014. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

39. Defendant DOD denies the allegations contained in the first sentence of paragraph 39. Defendant DOD avers that the Army sent a letter to Plaintiffs dated April 3, 2014 (Attachment 1). Defendant DOD admits that, to date, the Army has not produced any responsive records or demonstrated that any records are exempt from disclosure. The remainder of this paragraph states a legal conclusion to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

40. Defendant DOD admits that Plaintiffs sent the Secretary of the Navy Chief of Naval Operations (“Navy”) a FOIA request dated March 31, 2014. The remaining allegations in paragraph 40 consist of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

41. Paragraph 41 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

42. Paragraph 42 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

43. Defendant DOD admits that the Navy sent an email to Plaintiffs on April 16, 2014, acknowledging receipt of Plaintiffs’ FOIA request. Defendant DOD admits that the Navy sent an email to Plaintiffs on April 23, 2014. The remaining allegations in this paragraph constitute Plaintiffs’ characterization of the April 23, 2014 email, to which no response is required. Defendant DOD respectfully refers the Court to the email itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

44. Defendant DOD admits that the Office of the Commander, Naval Forces Europe and Africa/U.S. Sixth Fleet sent Plaintiffs a letter dated May 7, 2014, denying Plaintiffs’ requests for expedited processing and statutory fee waivers. Defendant DOD respectfully refers the Court



to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

45. Defendant DOD admits that by letter dated June 16, 2014, Plaintiffs administratively appealed the Navy's May 7, 2014 denial of Plaintiffs' requests for expedited processing and news media status. Defendant DOD avers that when the Navy received Plaintiffs' appeal, the exhibits referenced in paragraph 45 of the Complaint were not attached to the June 16, 2014 letter. Defendants further state that the inclusion of the bullet points in paragraph 45 of the Complaint does not comply with Federal Rule of Civil Procedure 10(b), which requires that allegations be stated "in numbered paragraphs, each limited as far as practicable to a single set of circumstances." As such, no response is required to these bullet points. Moreover, these bullet points state legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

46. Defendant DOD denies that the Navy sent Plaintiffs letters dated June 30, 2014, and June 20, 2014. Defendant DOD avers that DOD's Defense Freedom of Information Policy Office sent Plaintiffs a letter dated June 20, 2014, acknowledging receipt of Plaintiffs' June 16, 2014 appeal on June 18, 2014 (Attachment 2). Defendant DOD further avers that DOD's Defense Freedom of Information Policy Office sent Plaintiffs a letter dated June 30, 2014, transferring Plaintiffs' June 16, 2014 appeal to the Navy (Attachment 3). The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

47. Defendant DOD admits the allegations in the first two sentences of paragraph 47. The third sentence in paragraph 47 states a legal conclusion to which no response is required. To the extent that a response is required, Defendant DOD denies the allegation. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph. The remainder of paragraph 47 does not set forth a claim for relief or aver facts in support of a claim to which an answer is required.

48. Defendant DOD admits that Plaintiffs sent DOD Department of the Air Force (“Air Force”) a FOIA request dated March 31, 2014. The remainder of this paragraph consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

49. Paragraph 49 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

50. Paragraph 50 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

51. Defendant DOD denies the allegations in paragraph 51. Defendant DOD avers that the Air Force responded to Plaintiffs’ March 31, 2014 FOIA request in a letter dated July 1, 2014 (Attachment 4), in which the Air Force informed Plaintiffs that “[t]he Operations, Plans and Requirements conducted an appropriate search for responsive records and indicated they have no equity in the request. Therefore, a ‘no records’ determination was made.” The other

Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

52. Defendant DOD denies that the Air Force failed to respond to Plaintiffs' FOIA request and aver that the Air Force responded to Plaintiffs' request in a letter dated July 1, 2014 (Attachment 4). Defendant DOD admits that the Air Force has not disclosed any documents. The remainder of this paragraph states legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

53. Defendant DOD admits that Plaintiffs sent the Air Force a FOIA request dated April 7, 2014. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

54. Paragraph 54 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

55. Defendant DOD admits that the Air Force has not yet responded to Plaintiffs' April 7, 2014 FOIA request. Defendant DOD avers that the Air Force has conducted, and is in the process of further conducting, searches for records responsive to Plaintiffs' request. The remainder of this paragraph states legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants

lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

56. Defendant DOD admits that Plaintiffs sent the United States Marine Corps (“Marine Corps”) a FOIA request dated March 31, 2014. The remaining allegations in paragraph 56 consist of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

57. Paragraph 57 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

58. Paragraph 58 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

59. Defendant DOD denies that the Marine Corps sent an email to Plaintiffs on April 8, 2014, acknowledging receipt of Plaintiffs’ FOIA request. The Marine Corps has no record of this email, but Defendant DOD admits that it is possible that the Marine Corps’s computer system generated an automatic acknowledgement receipt. Defendant DOD admits that the Marine Corps sent an email to Plaintiffs on April 23, 2014. The remaining allegations in this paragraph constitute Plaintiffs’ characterization of the April 23, 2014 email, to which no response is required. Defendant DOD respectfully refers the Court to the email itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

60. Defendant DOD denies the allegations in paragraph 60. Defendant DOD avers that the Marine Corps sent a letter to Plaintiffs dated April 21, 2014 (Attachment 5), stating that it had “referred item 3 of your request to the Marine Corps Security Force Regiment . . . for direct response to you.” Defendant DOD respectfully refers the Court to the letter itself for a full and accurate statement of its contents. Defendant DOD further avers that the letter was delivered via email on April 21, 2014. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

61. Defendant DOD denies the allegations in the first sentence of paragraph 61. Defendant DOD avers that the Marine Corps sent Plaintiffs two additional communications in response to Plaintiffs’ FOIA request: the letter dated April 21, 2014 (Attachment 5), and a letter dated April 23, 2014, referenced in paragraph 59 of the Complaint and in paragraph 59 above. Defendant DOD admits the allegations in the second sentence of paragraph 61. The third sentence of paragraph 61 states a legal conclusion, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegation. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

62. Defendant DOD admits that Plaintiffs sent the United States European Command (“European Command”) a FOIA request dated March 31, 2014. The remaining allegations in paragraph 62 consist of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

63. Paragraph 63 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

64. Paragraph 64 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

65. Defendant DOD admits that European Command sent Plaintiffs a letter dated May 22, 2014 (Attachment 6), denying Plaintiffs' request for expedited processing. Defendant DOD avers that in this letter, European Command did not specifically address Plaintiffs' request for news media status, but it informed Plaintiffs that they had been "placed . . . in the 'other' category for fee purposes. Requesters in this category receive two hours of free search and the first 100 pages at no cost." The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

66. Defendant DOD denies that European Command received Plaintiffs' administrative appeal dated June 30, 2014. Defendant DOD further avers that Plaintiffs did not submit a copy of their June 16, 2014 appeal – referenced in paragraph 45 of the Complaint – to European Command. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

67. Defendant DOD denies the allegations in paragraph 67. Defendant DOD avers that European Command sent Plaintiffs an email on July 3, 2014 (Attachment 7), but further avers that paragraph 67 does not accurately quote the July 3, 2014 email. Defendant DOD respectfully refers the Court to the email itself for a full and accurate statement of its contents.

The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

68. Defendant DOD denies the allegations in the first three sentences of paragraph 68. The remainder of this paragraph states legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

69. Defendant DOD admits that Plaintiffs sent United States Central Command (“Central Command”) a FOIA request dated March 31, 2014. The remaining allegations in paragraph 69 consist of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

70. Paragraph 70 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

71. Paragraph 71 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

72. Defendant DOD denies the allegations in paragraph 72. Defendant DOD avers that by letter dated April 9, 2014 (Attachment 8), Central Command informed Plaintiffs that the requested information “falls under United States Africa Command’s (AFRICOM) purview. Since you simultaneously submitted your FOIA request to AFRICOM, USCENTCOM is

administratively closing your FOIA request.” Defendant DOD further avers that this letter was sent as an attachment to an email to Plaintiffs’ lawyer on April 14, 2014 (Attachment 9).

73. Defendant DOD admits the allegations in the first sentence of paragraph 73. Defendant DOD denies the allegations in the second sentence of paragraph 73. The remainder of this paragraph states legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

74. Defendant DOD admits that Plaintiffs sent United States Africa Command (“Africa Command”) a FOIA request, but deny that it was dated March 31, 2014, and aver that it was dated March 21, 2014. The remaining allegations in paragraph 74 consist of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

75. Paragraph 75 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

76. Paragraph 76 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

77. Defendant DOD admits that by letter dated April 14, 2014, Africa Command denied Plaintiffs’ request for expedited processing. Defendant DOD avers that although Africa Command did not specifically address Plaintiffs’ requests for news media and public interest



statutory fee waivers, Africa Command placed Plaintiffs in the “other” category for fee purposes, and told Plaintiffs that requesters in this category receive two hours of free search and the first 100 pages of duplication at no cost. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

78. Defendant DOD denies the allegations in paragraph 78. Defendant DOD has no record of an appeal filed by Plaintiffs dated June 12, 2014. Defendant DOD further avers that Africa Command has no record of any appeal filed by Plaintiffs. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

79. Defendant DOD denies the allegations in paragraph 79. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

80. Defendant DOD denies the allegations in paragraph 80. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

81. Defendant DOD admits that Plaintiffs sent United States Special Operations Command (“Special Operations”) a FOIA request dated March 31, 2014. The remaining allegations in paragraph 81 consist of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

82. Paragraph 82 consists of Plaintiffs’ characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

83. Paragraph 83 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

84. Defendant DOD denies the allegations in paragraph 84. Defendant DOD avers that Special Operations sent a letter to Plaintiffs dated August 29, 2014 (Attachment 10), acknowledging receipt of Plaintiffs' request. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

85. Defendant DOD admits the allegations in the first sentence of paragraph 85. Defendant DOD denies that Special Operations has not responded to Plaintiffs' FOIA request, but admits that Special Operations has not produced documents in response to the request. Defendant DOD avers that Special Operations has conducted, and is in the process of further conducting, searches for records responsive to Plaintiffs' FOIA request. The remainder of this paragraph states legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

86. Defendant DOD admits that Plaintiffs sent the Office of the Secretary of Defense and the Joint Staff ("OSD/JS") a FOIA request dated March 31, 2014. The remaining allegations in paragraph 86 consist of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

87. Paragraph 87 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

88. Paragraph 88 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

89. Defendant DOD admits the allegations in paragraph 89. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

90. Defendant DOD admits the allegations in paragraph 90. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

91. Defendant DOD denies the allegations in paragraph 91. Defendant DOD avers that by letter dated June 11, 2014 (Attachment 11), DOD's Defense Freedom of Information Policy Office informed Plaintiffs that "[d]ue to an extremely heavy FOIA workload, [they] are unable to complete [Plaintiffs' June 6, 2014] appeal within the statutory time requirement." The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

92. Defendant DOD denies the allegations in this paragraph except to admit that OSD/JS received Plaintiffs' appeal in mid-June. Defendant DOD avers that by letter dated July 2, 2014 (Attachment 12), the Office of the Secretary of Defense denied Plaintiffs' appeal for expedited processing and granted Plaintiffs' request for news media status. Defendant DOD further avers that by letter dated September 19, 2014 (Attachment 13), DOD's Office of Freedom

of Information denied twelve pages of records responsive to Plaintiffs' request, pursuant to FOIA exemption 1, 5 U.S.C. § 552(b)(1). Defendant DOD further avers that after the Complaint was filed, Plaintiffs appealed this determination by letter dated September 29, 2014 (Attachment 14). Defendant DOD further avers that by letter dated October 8, 2014 (Attachment 15), DOD's Freedom of Information Division acknowledged Plaintiffs' appeal and wrote that "[d]ue to a an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement." The third sentence of paragraph 85 states a legal conclusion to which no response is required. To the extent that a response is required, Defendant DOD denies this allegation. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

93. Defendant DOD admits that Plaintiffs sent the Defense Intelligence Agency ("DIA") a FOIA request dated April 7, 2014. The remaining allegations in paragraph 93 consist of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

94. Paragraph 94 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

95. Paragraph 95 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

96. Defendant DOD admits the allegations in paragraph 96. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

97. Defendant DOD admits the allegations contained in the first sentence of paragraph 97. Defendant DOD admits that the DIA has not to date responded to Plaintiffs' April 7, 2014 FOIA request. The remainder of this paragraph states legal conclusions, to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

98. Defendant DOD admits that Plaintiffs sent the DIA a FOIA request dated May 28, 2014. The remaining allegations in paragraph 98 consist of Plaintiffs' characterization of the request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

99. Paragraph 99 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant DOD respectfully refers the Court to the request itself for a full and accurate statement of its contents.

100. Defendant DOD admits that the DIA denied Plaintiffs' request for expedited processing and did not grant Plaintiffs' requests for statutory fee waivers. Defendant DOD avers that this letter was dated June 30, 2014, rather than May 28, 2014, as alleged in the Complaint. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

101. Defendant DOD admits the allegations in the first sentence of paragraph 101. The remainder of paragraph 101 consists of Plaintiffs' characterization of their July 7, 2014 appeal letter, to which no response is required. Defendant DOD respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

102. Paragraph 102 consists of Plaintiffs' characterization of their July 7, 2014 letter, to which no response is required. Defendant DOD respectfully refers the Court to the letter itself for a full and accurate statement of its contents.

103. Defendant DOD admits the allegations contained in the first and second sentences of paragraph 103. Defendant DOD admits that the DIA has not to date ruled on Plaintiffs' administrative appeal. The remainder of paragraph 103 states a legal conclusion to which no response is required. To the extent that a response is required, Defendant DOD denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

104. Defendant State admits that Plaintiffs sent it a FOIA request dated February 21, 2014. The remaining allegations in paragraph 104 and footnote 1 consist of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant State respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

105. Defendant State admits that Plaintiffs sent State a letter dated May 5, 2014. The remaining allegations in paragraph 105 consist of Plaintiffs' characterization of this letter, to which no response is required. Defendant State respectfully refers the Court to the letter itself

for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

106. Defendant State admits that Plaintiffs sent State a letter dated August 5, 2014. The remaining allegations in paragraph 106 consist of Plaintiffs' characterization of this letter, to which no response is required. Defendant State respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

107. Defendant State admits that it sent a letter to Plaintiffs dated March 21, 2014, granting Plaintiffs a fee waiver and denying their request for expedited processing. The remaining allegations in paragraph 107 consist of Plaintiffs' characterization of this letter, to which no response is required. Defendant State respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

108. Defendant State admits the allegations contained in paragraph 108. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

109. Defendant State admits the allegations contained in the first sentence of paragraph 109. The second sentence of paragraph 109 states a legal conclusion, to which no response is required. To the extent that a response is required, Defendant State denies the allegation. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

110. Defendant State admits that Plaintiffs sent it a FOIA request dated April 7, 2014. The remaining allegations in paragraph 110 and footnote 2 consist of Plaintiffs' characterization

of their FOIA request, to which no response is required. Defendant State respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

111. Defendant State admits that it sent Plaintiffs a letter dated April 21, 2014, granting Plaintiffs' fee waiver request but denying their request for expedited processing. Defendant State respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

112. Defendant State admits that Plaintiffs sent State a letter dated July 1, 2014. The remaining allegations in paragraph 112 consist of Plaintiffs' characterization of their letter, to which no response is required. Defendant State respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

113. Defendant State admits that it sent Plaintiffs a letter dated August 25, 2014, upholding the decision to deny Plaintiffs' request for expedited processing. The remaining allegations in the first sentence of paragraph 113 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant State respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The second sentence of paragraph 113 states a legal conclusion, to which no response is required. To the extent that a response is required, Defendant State denies the allegation. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.



114. Defendant FBI admits that Plaintiffs sent it a FOIA request dated February 21, 2014. The remaining allegations in paragraph 114 consist of Plaintiffs' characterization of their request, to which no response is required. Defendant FBI respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

115. Paragraph 115 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant FBI respectfully refers the Court to the request itself for a full and accurate statement of its contents.

116. Defendant FBI admits that it sent a letter to Plaintiffs dated March 14, 2014. The remaining allegations in paragraph 116 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant FBI respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

117. Defendant FBI admits that Plaintiffs sent it a letter dated March 31, 2014. The remaining allegations in paragraph 117 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant FBI respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

118. Paragraph 118 consists of Plaintiffs' characterization of their March 31, 2014 letter, to which no response is required. Defendant FBI respectfully refers the Court to the letter itself for a full and accurate statement of its contents.

119. Defendant FBI admits that Plaintiffs sent the FBI a letter dated August 5, 2014. The remaining allegations in paragraph 119 consist of Plaintiffs' characterization of the letter, to

which no response is required. Defendant FBI respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

120. Defendant FBI denies that it sent a letter to Plaintiffs dated July 8, 2014. The letter to which paragraph 120 of the Complaint refers was sent by DOJ's Office of Information Policy (Attachment 16). The remaining allegations in paragraph 120 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant FBI respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

121. Defendant FBI admits that Plaintiffs sent it a letter dated July 10, 2014. The remaining allegations in paragraph 121 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant FBI respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

122. Defendant FBI admits the allegations in the first, second, and third sentences of paragraph 122. Defendant FBI avers that the FBI has conducted, and is in the process of further conducting, searches for records responsive to Plaintiffs' FOIA requests. The fourth sentence of paragraph 122 states a legal conclusion to which no response is required. To the extent that a response is required, Defendant FBI denies this allegation. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

123. Defendant FBI denies the allegations in the first, second, and fourth sentences of paragraph 123. Defendant FBI avers that the letters to which the allegations in this paragraph

refer were sent to Plaintiffs by DOJ's Office of Information Policy. Defendant FBI avers that the letters were dated August 19, 2014 (Attachment 17), and September 9, 2014 (Attachment 18). Defendant FBI respectfully refers the Court to the letters themselves for a full and accurate statement of their contents. The third and fifth sentences of paragraph 123 state legal conclusions, to which no response is required. To the extent that a response is required, Defendant FBI denies the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

124. Defendant CIA admits that Plaintiffs sent it a FOIA request dated February 24, 2014. The remaining allegations in paragraph 124 consist of Plaintiffs' characterization of their request, to which no response is required. Defendant CIA respectfully refers the Court to the request itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

125. Paragraph 125 consists of Plaintiffs' characterization of their FOIA request, to which no response is required. Defendant CIA respectfully refers the Court to the request itself for a full and accurate statement of its contents.

126. Defendant CIA admits that Plaintiffs sent CIA a letter dated August 5, 2014. The remaining allegations in paragraph 126 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant CIA respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

127. Defendant CIA admits that it sent a letter to Plaintiffs dated April 14, 2014. The remaining allegations in paragraph 127 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant CIA respectfully refers the Court to the letter itself for

a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

128. Defendant CIA admits that Plaintiffs sent it a letter dated July 1, 2014. The remaining allegations in paragraph 128 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant CIA respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

129. Defendant CIA admits that it sent a letter to Plaintiffs dated July 17, 2014. The remaining allegations in paragraph 129 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant CIA respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

130. Defendant CIA admits that Plaintiffs sent it a letter dated July 25, 2014. The remaining allegations in paragraph 130 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant CIA respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

131. Defendant CIA admits that it sent a letter to Plaintiffs dated July 31, 2014. The remaining allegations in paragraph 131 consist of Plaintiffs' characterization of the letter, to which no response is required. Defendant CIA respectfully refers the Court to the letter itself for a full and accurate statement of its contents. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

131. Paragraph 131 [sic]<sup>2</sup> “restate[s] paragraphs 1-130.” Defendants incorporate by reference their answers to the relevant paragraphs.

132. Paragraph 132 contains conclusions of law, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations.

133. Paragraph 133 “restate[s] paragraphs 1-132.” Defendants incorporate by reference their answers to the relevant paragraphs.

134. Defendants deny the allegations in paragraph 134. Defendants aver that by letter dated September 19, 2014 (Attachment 13), DOD’s Office of Freedom of Information denied 12 pages of records responsive to Plaintiffs’ request, pursuant to FOIA exemption 1, 5 U.S.C. § 552(b)(1). Defendants aver that they have conducted, and are in the process of further conducting, searches for records responsive to Plaintiffs’ FOIA requests.

135. Paragraph 135 contains conclusions of law, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations.

136. Paragraph 136 “restate[s] paragraphs 1-135.” Defendants incorporate by reference their answers to the relevant paragraphs.

137. The first sentence of paragraph 137 contains conclusions of law, to which no response is required. To the extent a response is deemed required, Defendants FBI and DOD deny the allegations. Defendants FBI and DOD admit in part and deny in part the allegations in the second sentence of paragraph 137. Defendant DOD admits that the Army, Air Force, Marine Corps, European Command, Central Command, and the DIA failed to grant Plaintiffs news media status. Defendant FBI admits that it failed to grant Plaintiffs news media status. Defendant DOD denies that Special Operations and the Office of the Secretary of Defense failed to grant Plaintiffs news media status. Defendant DOD avers that both Special Operations and the

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<sup>2</sup> The Complaint contains two paragraphs labeled “131.”

Office of the Secretary of Defense granted Plaintiffs news media status (Attachments 10 and 12). The remaining allegations in paragraph 137 contain conclusions of law, to which no response is required. To the extent a response is deemed required, Defendants FBI and DOD deny the allegations. The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

138. Paragraph 138 “restate[s] paragraphs 1-138.” Defendants incorporate by reference their answers to the relevant paragraphs.

139. The first sentence of paragraph 139 contains conclusions of law, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations. Defendants admit in part and deny in part the allegations in the second sentence of paragraph 139. Defendant FBI admits that it has not granted Plaintiffs’ requests for fee waivers. Defendant DOD admits that the Army, Air Force, Central Command, and the DIA have not granted Plaintiffs’ requests for fee waivers. Defendant DOD admits that the Marine Corps denied Plaintiffs’ request for a waiver of all fees. Defendant DOD avers, however, that the Marine Corps placed Plaintiffs in the “other” category for fee purposes (Attachment 5). Requesters in this category receive two hours of free search and the first 100 pages of duplication at no cost. Defendant DOD further avers that European Command placed Plaintiffs in the “other” category for fee purposes (Attachment 6). Defendant DOD further avers that Special Operations and the Office of the Secretary of Defense granted Plaintiffs news media waivers (Attachments 10 and 12). Defendants State and CIA aver that they granted Plaintiffs’ requests for fee waivers (Attachments 19 and 20). The other Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

The unnumbered paragraph beginning with “WHEREFORE” constitutes Plaintiffs’ request for relief, to which no response is required. To the extent a response is deemed required, Defendants deny that Plaintiffs are entitled to the requested relief or any other relief from Defendants.

Defendants hereby deny all allegations in Plaintiffs’ Complaint not expressly answered or qualified herein.

Dated: December 22, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 22, 2014, I filed the attached Defendants' Answer electronically with the Clerk of the United States District Court for the District of Columbia through the CM/ECF system, which caused the following counsel of record to be served by electronic means:

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