

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

THE JAMES MADISON PROJECT *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

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Case No. 1:16-cv-2531 (RJL)

ANSWER

Defendants, the United States Department of Justice (“DOJ”), the Central Intelligence Agency (“CIA”), the Office of the Director of National Intelligence (“ODNI”), and the Department of Homeland Security (“DHS”), by and through undersigned counsel, hereby answer Plaintiffs’ Complaint as follows:

The unnumbered introductory paragraph in Plaintiffs’ Complaint consists of Plaintiff’s characterization of this lawsuit and conclusions of law, to which no response is required.

In response to the numbered paragraphs of the Complaint, Defendants respond as follows:

1. This paragraph consists of a legal conclusion to which no response is required.
2. This paragraph consists of a legal conclusion to which no response is required.
3. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.
4. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

5. Defendants admit that DOJ is an agency and that the National Security Division (“NSD”) and the Federal Bureau of Investigation (“FBI”) are components of DOJ. The remainder of this paragraph consists of legal conclusions to which no response is required.

6. Defendants admit that the CIA is an agency. The remainder of this paragraph consists of legal conclusions to which no response is required.

7. Defendants admit that ODNI is an agency. The remainder of this paragraph consists of legal conclusions to which no response is required.

8. Defendants admit that DHS is an agency. The remainder of this paragraph consists of legal conclusions to which no response is required.

9. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

10. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

11. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

12. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

13. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

14. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

15. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

16. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

17. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. Defendants respectfully refer the Court to the cited documents for a complete and accurate statement of their contents.

18. Defendants admit that Plaintiffs submitted a FOIA request to the National Security Division of the Department of Justice dated November 30, 2016. The remainder of this paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

19. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

20. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

21. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

22. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

23. Defendants admit the first sentence in this paragraph. The second sentence of this paragraph is a legal conclusion to which no response is required.

24. This paragraph consists of legal conclusions to which no response is required.

25. Defendants admit that Plaintiffs submitted a FOIA request to the FBI dated November 30, 2016. The remainder of this paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

26. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

27. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

28. Defendants admit the first sentence in this paragraph. The second sentence of this paragraph is a legal conclusion to which no response is required.

29. This paragraph consists of legal conclusions to which no response is required.

30. Denied. The CIA has no record of receiving the FOIA request Plaintiffs describe in this paragraph.

31. Denied. The CIA has no record of receiving the FOIA request Plaintiffs describe in this paragraph.

32. Denied. The CIA has no record of receiving the FOIA request Plaintiffs describe in this paragraph.

33. Denied. The CIA has no record of receiving the FOIA request Plaintiffs describe in this paragraph.

34. Denied. The CIA has no record of receiving the FOIA request Plaintiffs describe in this paragraph.

35. Defendants admit that Plaintiffs submitted a FOIA request to ODNI dated November 30, 2016. The remainder of this paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

36. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

37. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

38. Admitted. Defendants respectfully refer the Court to the cited document for a complete and accurate statement of its contents.

39. Defendants admit the first sentence in this paragraph. The second sentence of this paragraph is a legal conclusion to which no response is required.

40. This paragraph consists of legal conclusions to which no response is required.

41. Defendants admit that Plaintiffs submitted two FOIA requests to the DHS dated November 30, 2016. The remainder of this paragraph consists of Plaintiffs' characterization of their FOIA requests and Defendants respectfully refer the Court to those requests for a complete and accurate statement of their contents.

42. This paragraph consists of Plaintiffs' characterization of their FOIA requests and Defendants respectfully refer the Court to those requests for a complete and accurate statement of their contents.

43. This paragraph consists of Plaintiffs' characterization of their FOIA requests and Defendants respectfully refer the Court to those requests for a complete and accurate statement of their contents.

44. Defendants admit the first two sentences of this paragraph. Defendants admit that the FOIA request submitted to DHS Intelligence and Analysis ("I&A") remained pending as of December 30, 2016, the date the Complaint was filed. Defendants further aver that on January 11, 2017, I&A sent Plaintiffs a response letter, producing responsive documents and referring others to another government agency.

45. Defendants admit that DHS had not provided a response to Plaintiffs' FOIA request as of December 30, 2016, the date the Complaint was filed. Defendants further aver that on January 11, 2017, DHS I&A sent Plaintiffs a response letter, producing responsive documents and referring others to another government agency. The second sentence of this paragraph is a legal conclusion to which no response is required.

46. This paragraph consists of legal conclusions to which no response is required.

47. Defendants admit that Plaintiffs submitted a FOIA request to the FBI dated November 30, 2016. The remainder of this paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

48. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

49. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

50. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

51. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

52. Defendants admit that the FBI had not provided a substantive response to Plaintiffs' FOIA request as of December 30, 2016, the date the Complaint was filed. Defendants further aver that on January 31, 2017, the FBI sent a response letter to Plaintiffs notifying them that their request failed to reasonably describe the records sought and that the FOIA request had been closed. The second sentence of this paragraph consists of a legal conclusion to which no response is required.

53. This paragraph consists of legal conclusions to which no response is required.

54. Defendants admit that Plaintiffs submitted a FOIA request to the FBI dated November 30, 2016. The remainder of this paragraph consists of Plaintiffs' characterization of

their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

55. This paragraph consists of Plaintiffs' characterization of their FOIA request and Defendants respectfully refer the Court to that request for a complete and accurate statement of its contents.

56. Defendants admit the first sentence in this paragraph. The second sentence of this paragraph is a legal conclusion to which no response is required.

57. This paragraph consists of legal conclusions to which no response is required.

The remaining unnumbered paragraph, including subparts (1) through (4), constitutes a prayer for relief to which no response is required. To the extent a response is deemed necessary, Defendants deny that Plaintiffs are entitled to the relief requested or to any relief whatsoever.

Defendants hereby deny all allegations in Plaintiffs' Complaint not expressly admitted or denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs' failure to exhaust administrative remedies with respect to one or more of their claims precludes judicial review over those claims.

2. Plaintiffs are not entitled to compel production of records exempt from disclosure by one or more exemptions of the FOIA, 5 U.S.C. § 552.

Dated: February 8, 2017

Respectfully submitted,

CHAD A. READLER

Acting Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director

/s/ R. Charlie Merritt

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2017, a copy of the foregoing pleading was filed electronically via the Court's ECF system which sent notification of such filing to counsel of record.

/s/ R. Charlie Merritt

R. CHARLIE MERRITT

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