

documents produced by West Point total nearly 2,300 pages and 8 videos. West Point has not withheld any documents in full under the FOIA exemptions.

NAVAL ACADEMY

3. The Naval Academy has completed reasonable searches designed to find all information in its possession responsive to Plaintiffs requests, and has provided all such responsive material, with the exception of Request No. 3. The parties currently are negotiating the response to Request No. 3. *See infra*.

4. The Naval Academy provided some of this information prior to the commencement of this litigation, further information on May 6, 2015, and completed its response on May 26, 2015. The documents produced by the Naval Academy total nearly 4,000 pages. The vast majority of these documents were produced in full, but some contain redactions pursuant to FOIA Exemptions 5 and 6, 5 U.S.C. §§ 552(b)(5) & 552(b)(6).¹ The Naval Academy has not withheld any documents in full under the FOIA exemptions.

AIR FORCE ACADEMY

5. The Air Force Academy has fully responded to items 1, 2, and 11 of Plaintiffs' requests and currently is in the process of conducting reasonable searches designed to find all information in its possession that is responsive to the remaining items of Plaintiffs requests. The Air Force Academy anticipates that it will complete its response to those items by July 23, 2015. The documents produced by the Air Force thus

¹ Exemption 5 protects "inter-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). Exemption 6 protects information about individuals in "personnel and medical files and similar files" when disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." *Id.* § 552(b)(6)

far total 17 pages. To date, the Air Force Academy has not withheld any documents in full under the FOIA exemptions.

6. The parties currently are negotiating the Air Force Academy's response to Request No. 3. *See infra*.

SAMPLE APPLICATIONS (REQUEST NO. 3)

7. Plaintiffs' Request No. 3 seeks numerical data regarding the number of applicants to the Military Service Academies, and a random sample of such applications. At the April 24, 2015 conference, the parties agreed, and the Court ordered, that Defendant first would produce one representative application from each Military Service Academy by March 26, 2015, before the parties negotiate the scope of any random sample.

8. On March 26, 2015, Defendant provided to Plaintiffs the requested numerical data, and a representative application packet (the "Sample Packets") for each respective Academy. The Sample Packets contain redactions pursuant to Exemptions 5 and 6, 5 U.S.C. §§ 552(b)(5) & 552(b)(6).

9. On June 15, 2015, Plaintiffs sent an email to Defendant requesting additional information about the Sample Packets, including both additional descriptions of redacted information and some substantive follow-up questions. On June 17, 2015, Defendant informed Plaintiffs that it intends to respond to many of their questions about the Sample Packets, including providing some additional descriptions of the redacted information. Defendant further informed Plaintiffs that, with respect to their substantive follow-up questions, Defendant is evaluating whether and to what extent disclosure is possible for each question, and whether Defendant can disclose the requested additional

information without conveying exempt information. Defendant is in the process of collecting and evaluating this follow-up information.

10. The parties have agreed that they will have a phone conference to discuss the definition of “packet” for each Military Service Academy, once outstanding issues relating to redactions are resolved. At this early stage of the process, it is not clear whether an agreement will be reached as to the definition of “packet.” And until open issues are resolved, it cannot yet be determined if there is an agreeable timeframe for providing a random sample of applications.

REQUEST NO. 11

11. In Request No. 11, Plaintiffs seek “[a]ll records of sexual violence, including but not limited to harassment and assault, and records reflecting the number and handling of these reports” since 2001.

12. Defendant has provided 1,096 pages of material responsive to this request, which consist of annual reports for 2006-2013 to Congress regarding sexual harassment and violence at the three Military Service Academies. These reports are the most complete and comprehensive source for the information sought in Request No. 11, and they only have been required since 2006 (thus, reports do not exist for the period before 2006).

13. On May 6, 2015, Defendant informed Plaintiffs that, to the extent their request seeks every document associated with every claim of sexual harassment at one of the Academies since 2001, that request is overly broad and unduly burdensome. *See Service Women’s Action Network v. U.S. Dept. of Defense*, 888 F. Supp. 2d 282, 291 (D. Conn. 2012).

Dated: June 23, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2015, the foregoing Defendant's Status Report was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Emily B. Nestler

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