

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

AMERICAN CIVIL LIBERTIES UNION OF VIRGINIA, AMERICAN CIVIL LIBERTIES UNION OF MARYLAND, AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA, and AMERICAN CIVIL LIBERTIES UNION OF DELAWARE,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, and U.S. CUSTOMS AND BORDER PROTECTION,

Defendants.

Case No.: 1:17-cv-00441-LMB-IDD

**DEFENDANTS' ANSWER**

The U.S. Department of Homeland Security (“DHS”) and U.S. Customs and Border Protection (“CBP”) (collectively, “Defendants”), by and through their undersigned counsel, hereby answer the numbered paragraphs of Plaintiffs’ Complaint, ECF No. 1, in the above-captioned action.

1. The allegations contained in this paragraph consist of Plaintiffs’ characterization of their Complaint, to which no response is required.

2. The allegations contained in the first sentence of this paragraph consist of Plaintiffs’ characterization of their FOIA request, which does not require a response and to which Defendants respectfully refer the Court for a full and accurate statement of its contents.

Defendants admit the allegations contained in the second sentence of this paragraph.

3. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request is attached to Plaintiffs' Complaint as Exhibit A, and respectfully refer the Court to the request for a full and accurate statement of its contents.

4. The allegations contained in this paragraph consist of statements of law or legal conclusions, and do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants respectfully refer to the Court to the Executive Orders for a full and accurate statement of their contents.

5. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required.

6. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize judicial decisions and refer the Court to the contents of those decisions for a true and accurate statement of their contents.

7. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize news reports and refer the Court to the cited reports for a true and accurate statement of their contents.

8. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is

deemed required, Defendants aver that the allegations in this paragraph purport to characterize official DHS statements and news reports and refer the Court to the cited materials for a true and accurate statement of their contents.

9. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize news reports and refer the Court to the cited materials for a true and accurate statement of their contents.

10. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required.

11. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize a news report and refer the Court to the cited materials for a true and accurate statement of their contents.

12. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize a news report and refer the Court to the cited materials for a true and accurate statement of their contents.

13. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize

news reports and refer the Court to the cited materials for a true and accurate statement of their contents.

14. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required.

15. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize a news report and refer the Court to the cited materials for a true and accurate statement of their contents.

16. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize a news report and refer the Court to the cited materials for a true and accurate statement of their contents.

17. The allegations contained in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required.

18. Defendants admit that more than 20 business days have elapsed since CBP received the FOIA request, but otherwise deny the allegations in this paragraph.

19. The allegations contained in this paragraph consist of legal conclusions regarding jurisdiction, to which no response is required.

20. The allegations contained in the first and second sentences of this paragraph consist of legal conclusions regarding venue, to which no response is required. The allegations contained in the third sentence of this paragraph do not set forth a claim for relief or aver facts in

support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in the third sentence of this paragraph purport to characterize a news report and refer the Court to the cited materials for a true and accurate statement of their contents. The allegations contained in the fourth sentence of this paragraph consist of legal conclusions regarding venue, to which no response is required.

21. The allegations contained in this paragraph consist of legal conclusions regarding assignment to this division, to which no response is required, or do not set forth a claim for relief or aver facts in support of a claim to which a response is required. To the extent a response is deemed required, Defendants aver that the allegations in this paragraph purport to characterize a news report and refer the Court to the cited materials for a true and accurate statement of their contents.

22. Defendants lack knowledge or information sufficient to form a belief as to the allegations in this paragraph.

23. Defendants admit that DHS is a department of the Executive Branch of the United States Government. The remainder of the allegations contained in this paragraph consist of legal conclusions, to which no response is required.

24. Defendants admit that CBP is a component of DHS. The remainder of the allegations contained in this paragraph consist of legal conclusions, to which no response is required.

25. The allegations contained in this paragraph consist of legal conclusions, to which no response is required.

26. Defendants admit that Plaintiffs sent a FOIA request dated February 2, 2017 to CBP's Baltimore Field Office and CBP's FOIA Officer at CBP's Headquarters. Defendants lack

knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph.

27. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

28. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

29. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

30. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

31. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

32. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

33. The allegations contained in this paragraph consist of Plaintiffs' characterization of their FOIA request, which does not require a response. To the extent a response is deemed required, Defendants aver that a true and correct copy of the request received by Defendants is attached as Exhibit A to Plaintiffs' Complaint, and respectfully refer the Court to the request for a full and accurate statement of its contents.

34. Defendants admit that CBP's Baltimore Field Office and CBP's Headquarters received the FOIA request on February 3, 2017.

35. Defendants deny the allegations in this paragraph.

36. Admitted.

37. Admitted.

38. The allegations contained in this paragraph consist of legal conclusions regarding exhaustion, to which no response is required.

39. This paragraph repeats and re-alleges the allegations contained in paragraphs 1 through 38. To the extent a response is deemed required, Defendants refer the Court to their responses to paragraphs 1 through 38 of the Complaint.

40. The allegations contained in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations contained in this paragraph.

41. The allegations contained in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations contained in this paragraph.

42. This paragraph repeats and re-alleges the allegations contained in paragraphs 1 through 38. To the extent a response is deemed required, Defendants refer the Court to their responses to paragraphs 1 through 38 of the Complaint.

43. The allegations contained in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations contained in this paragraph.

44. The allegations contained in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations contained in this paragraph.

45. The allegations contained in this paragraph consist of legal conclusions, to which no response is required.

46. This paragraph repeats and re-alleges the allegations contained in paragraphs 1 through 38. To the extent a response is deemed required, Defendants refer the Court to their responses to paragraphs 1 through 38 of the Complaint.



47. The allegations contained in this paragraph consist of legal conclusions, to which no response is required.

48. The allegations contained in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations contained in this paragraph and aver that the agency has granted Plaintiffs' request for expedited processing.

49. The allegations contained in this paragraph consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations contained in this paragraph and aver that the agency has granted Plaintiffs' request for expedited processing.

The remaining paragraphs of the Complaint consist of Plaintiffs' requested relief, to which no response is required.

Defendants hereby deny all allegations of the Complaint not otherwise specifically answered above.

### **FIRST DEFENSE**

This action is one of multiple related actions involving coordinated FOIA requests submitted to CBP by the American Civil Liberties Union and its affiliates. Depending on the course of the litigation, re-litigation of one or more issues or claims in this action may be precluded.

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Dated: August 29, 2017

Respectfully submitted,

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/s/

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*Attorneys for Defendants U.S. Department of Homeland  
Security and U.S. Customs and Border Protection*

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will transmit a true and correct copy of the same to the following:

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Date: August 29, 2017

\_\_\_\_\_/s/  
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*Attorneys for Defendants U.S. Department of Homeland Security and U.S. Customs and Border Protection*