

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

THE REPORTERS COMMITTEE FOR )  
FREEDOM OF THE PRESS, )  
) )  
Plaintiff, )  
) )  
v. )  
) )  
FEDERAL BUREAU OF )  
INVESTIGATION )  
) )  
and )  
) )  
UNITED STATES )  
DEPARTMENT OF JUSTICE, )  
) )  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 18-cv-345 (RJL)

**ANSWER**

Defendants, the Federal Bureau of Investigation (“FBI”) and the United States Department of Justice (“DOJ”), by and through their undersigned counsel, hereby answer the separately numbered paragraphs and the prayer for relief contained in the Complaint filed by Plaintiff, the Reporters Committee for Freedom of the Press (“RCFP”), and for their Answer state as follows:

1. Paragraph 1 is admitted insofar as it alleges that Plaintiff brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Defendants are without sufficient knowledge or information to admit or deny the allegations concerning RCFP’s organizational goals.
2. Paragraph 2 is admitted insofar as it alleges that Plaintiff brings this action under the FOIA.

3. Defendants are without sufficient knowledge or information to admit or deny the allegations contained in paragraph 3.
4. Defendants admit that DOJ is an agency of the United States federal government headquartered at 950 Pennsylvania Avenue, NW, Washington, D.C. 20530. The remainder of paragraph 4 states a conclusion of law, to which no response is required.
5. Defendants admit that the FBI is a component of DOJ headquartered at 935 Pennsylvania Avenue, NW, Washington, D.C. 20535. Defendants deny that the FBI is an agency within the meaning of 5 U.S.C. §§ 551, 552(f). The remainder of paragraph 5 states a conclusion of law, to which no response is required.
6. Paragraph 6 states a conclusion of law, to which no response is required.
7. Paragraph 7 states a conclusion of law, to which no response is required.
8. Paragraph 8 contains Plaintiff's characterization of the contents of certain documents released in response to a prior FOIA request by a different entity. Defendants deny any characterization of these documents, which speak for themselves, and respectfully refer the Court to the documents for a complete and accurate statement of their contents.
9. Paragraph 9 contains Plaintiff's characterization of the contents of certain documents released in response to a prior FOIA request by a different entity. Defendants deny any characterization of these documents, which speak for themselves, and respectfully refer the Court to the documents for a complete and accurate statement of their contents.

10. Paragraph 10 contains Plaintiff's characterization of the contents of certain documents released in response to a prior FOIA request by a different entity, as well as Plaintiff's characterization of an article published by the Associated Press ("AP"). Defendants deny any characterization of these documents, which speak for themselves, and respectfully refer the Court to the documents for a complete and accurate statement of their contents.
11. Paragraph 11 contains Plaintiff's characterization of the contents of an article published by the *Washington Post*. Defendants deny any characterization of the article, which speaks for itself, and respectfully refer the Court to the article for a complete and accurate statement of its contents.
12. Paragraph 12 contains Plaintiff's characterization of the contents of an article published by the AP, as well as Plaintiff's characterization of a letter from Karen Kaiser to former Attorney General Eric Holder. Defendants deny any characterization of these documents, which speak for themselves, and respectfully refer the Court to the documents for a complete and accurate statement of their contents.
13. Paragraph 13 contains Plaintiff's characterization of the contents of a letter from Karen Kaiser to former Attorney General Eric Holder. Defendants deny any characterization of the letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.
14. Paragraph 14 contains Plaintiff's characterization of the contents of a letter from RCFP to former Attorney General Eric Holder and former FBI Director James Comey. Defendants deny any characterization of the letter, which speaks for itself,

and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

15. Paragraph 15 contains Plaintiff's characterization of the contents of a letter to the editor written by former FBI Director James Comey and published in the *New York Times*. Defendants deny any characterization of the letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

16. Paragraph 16 contains Plaintiff's characterization of the contents of a letter to the editor written by former FBI Director James Comey and published in the *New York Times*. Defendants deny any characterization of the letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

17. Paragraph 17 contains Plaintiff's characterization of a statement by Kathleen Carroll in response to James Comey's letter to the editor. Defendants deny any characterization of the statement, which speaks for itself, and respectfully refer the Court to the statement for a complete and accurate representation of its contents.

18. Paragraph 18 contains Plaintiff's characterization of the contents of a letter from Gary Pruitt to former Attorney General Eric Holder and former FBI Director James Comey. Defendants deny any characterization of the letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

19. Defendants admit that the AP submitted a FOIA request to the FBI on November 6, 2014, and that this request was assigned tracking numbers 1313500-000 and

1313504-000. The remainder of paragraph 19 contains Plaintiff's characterization of the FOIA request. Defendants deny any characterization of the FOIA request, which speaks for itself, and respectfully refer the Court to the FOIA request for a complete and accurate statement of its contents.

20. Defendants admit that RCFP submitted two FOIA requests to the FBI on October 31, 2014, and that these requests were assigned tracking numbers 1319113-000 and 1319138-000. The remainder of paragraph 20 contains Plaintiff's characterization of the FOIA requests. Defendants deny any characterization of the FOIA requests, which speak for themselves, and respectfully refer the Court to the FOIA requests for a complete and accurate statement of their contents.

21. Defendants admit that RCFP and the AP sued DOJ and the FBI in the U.S. District Court for the District of Columbia on August 27, 2015, in relation to the FOIA requests referenced in paragraphs 19-20. Plaintiff's further allegation that this earlier lawsuit is "related" states a conclusion of law, to which no response is required.

22. Paragraph 22 contains Plaintiff's characterization of a report by the DOJ Office of the Inspector General ("OIG"). Defendants deny any characterization of the OIG report, which speaks for itself, and respectfully refer the Court to the OIG report for a complete and accurate statement of its contents.

23. Paragraph 23 contains Plaintiff's characterization of articles by the AP and RCFP. Defendants deny any characterization of these articles, which speak for themselves, and respectfully refer the Court to the articles for a complete and accurate statement of their contents.

24. Admitted.

25. Paragraph 25 contains Plaintiff's characterization of the contents and purpose of RCFP's December 5, 2017, FOIA request (tracking number 1391028-000). Defendants deny any characterization of the FOIA request, which speaks for itself, and respectfully refer the Court to the FOIA request for a complete and accurate statement of its contents. Defendants are without sufficient knowledge or information to admit or deny the allegations concerning RCFP's purpose in filing this FOIA request. To the extent paragraph 25 could be construed as challenging the adequacy of Defendants' prior search for responsive records, Defendants deny that their prior search was inadequate.

26. Paragraph 26 contains Plaintiff's characterization of the contents of RCFP's December 5, 2017, FOIA request (tracking number 1391028-000). Defendants deny any characterization of the FOIA request, which speaks for itself, and respectfully refer the Court to the FOIA request for a complete and accurate statement of its contents.

27. Paragraph 27 states a conclusion of law, to which no response is required.

28. Paragraph 28 contains Plaintiff's characterization of the contents of a December 11, 2017, letter by the FBI concerning RCFP's December 5, 2017, FOIA request (tracking number 1391028-000). Defendants deny any characterization of the FBI's letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

29. Paragraph 29 contains Plaintiff's characterization of the contents of a December 11, 2017, letter by the FBI concerning RCFP's December 5, 2017, FOIA request

(tracking number 1391028-000). Defendants deny any characterization of the FBI's letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

30. Paragraph 30 contains Plaintiff's characterization of the contents of a January 23, 2018, letter by the FBI concerning RCFP's December 5, 2017, FOIA request (tracking number 1391028-000). Defendants deny any characterization of the FBI's letter, which speaks for itself, and respectfully refer the Court to the letter for a complete and accurate statement of its contents.

31. Admitted.

32. Admitted.

33. Defendants restate their responses to paragraphs 1-32 of the Complaint.

34. Defendants admit that DOJ is an agency subject to the FOIA and that the FBI is a component of DOJ. Defendants deny that the FBI is an agency within the meaning of 5 U.S.C. §§ 551, 552(f).

35. Paragraph 35 states a conclusion of law, to which no response is required.

36. Paragraph 36 states a conclusion of law, to which no response is required.

37. Paragraph 37 states a conclusion of law, to which no response is required.

38. Paragraph 38 states a conclusion of law, to which no response is required.

39. Paragraph 39 states a conclusion of law, to which no response is required.

Defendants deny that they have "violat[ed] . . . their obligations under the law."

40. Defendants restate their responses to paragraphs 1-39 of the Complaint.

41. Defendants admit that DOJ is an agency subject to the FOIA and that the FBI is a component of DOJ. Defendants deny that the FBI is an agency within the meaning of 5 U.S.C. §§ 551, 552(f).
42. Paragraph 42 states a conclusion of law, to which no response is required.
43. Paragraph 43 states a conclusion of law, to which no response is required.
44. Defendants admit that they have not yet produced any records in response to RCFP's December 5, 2017, FOIA request (tracking number 1391028-000).
45. Defendants admit that they have not yet cited any exemptions in response to RCFP's December 5, 2017, FOIA request (tracking number 1391028-000).
46. Defendants admit that they have not yet identified whether disclosure of any records sought in RCFP's December 5, 2017, FOIA request (tracking number 1391028-000) could foreseeably harm a protected interest or whether disclosure is otherwise prohibited by law. Defendants deny that they have "failed" to make these determinations.
47. Paragraph 47 states a conclusion of law, to which no response is required.
48. Denied.
49. Defendants restate their responses to paragraphs 1-48 of the Complaint.
50. Defendants admit that DOJ is an agency subject to the FOIA and that the FBI is a component of DOJ. Defendants deny that the FBI is an agency within the meaning of 5 U.S.C. §§ 551, 552(f).
51. Paragraph 51 states a conclusion of law, to which no response is required.
52. Paragraph 52 states a conclusion of law, to which no response is required.



53. Defendants admit that they have not yet completed their search in response to RCFP's December 5, 2017, FOIA request (tracking number 1391028-000).

Defendants deny that they have "failed" to do so.

54. Denied.

The remaining unnumbered paragraph constitutes a prayer for relief, to which no response is required. To the extent a response is deemed required, Defendants deny that Plaintiff is entitled to the relief requested or any relief whatsoever.

Defendants deny each and every allegation in the Complaint not expressly admitted or denied herein.

#### **DEFENSES**

1. The FBI is not an "agency" within the meaning of the FOIA, *see* 5 U.S.C. §§ 551, 552(f).
2. Defendants' actions or inactions did not violate the FOIA or any other statutory or regulatory provision.
3. Plaintiff is not entitled to compel production of any records exempt from disclosure by one or more exemptions enumerated in the FOIA.
4. Defendants have exercised due diligence in processing Plaintiff's FOIA request, but exceptional circumstances exist that necessitate additional time for Defendants to continue their processing of the FOIA request. *See* 5 U.S.C. § 552(a)(6)(C).

WHEREFORE, having fully answered, Defendants pray:

1. That this Court enter judgment for Defendants and dismiss this action with prejudice; and

2. That Defendants be granted such further relief as this Court deems just and proper.

Dated: March 23, 2018

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

ELIZABETH J. SHAPIRO  
Deputy Director, Federal Programs Branch

/s/ Joseph C. Dugan  
JOSEPH C. DUGAN  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave., N.W., Rm. 7225  
Washington, D.C. 20530  
Tel.: (202) 514-3259  
Fax: (202) 616-8470  
E-mail: Joseph.Dugan@usdoj.gov

*Attorneys for Defendants*