

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON; AMERICAN CIVIL
LIBERTIES UNION OF MONTANA; and
AMERICAN CIVIL LIBERTIES UNION OF
NORTH DAKOTA,

Plaintiffs,

v.

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

Defendants.

Case No. C17-0562RSL

**DEFENDANTS' ANSWER TO
COMPLAINT**

The U.S. Department of Homeland Security (“DHS”) and U.S. Customs and Border Protection (“CBP”) (collectively, “Defendants”) 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

1 Plaintiffs' characterizations of their FOIA request, which does not require a response and to
2 which Defendants respectfully refer the Court for a full and accurate statement of its contents.
3 Defendants admit the allegations contained in the second sentence of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

3 14. The allegations contained in this paragraph consist of legal conclusions regarding
4 venue, to which no response is required.

5 15. The allegations contained in this paragraph consist of legal conclusions regarding
6 assignment to this division, to which no response is required.

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

9 17. Defendants admit that DHS is an agency of the United States Government. The
10 remainder of the allegations contained in this paragraph consist of legal conclusions, to which no
11 response is required.

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

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

18 20. Defendants admit that Plaintiffs sent a FOIA request dated February 2, 2017, to
19 CBP's Seattle Field Office and CBP's FOIA Officer at CBP's Headquarters.

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

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

1 a full and accurate statement of its contents.

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

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

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

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

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

27 28. Admitted.

28 29. Defendants admit the allegations contained in the first and second sentence of this

1 paragraph. The remainder of the allegations contained in this paragraph consist of Plaintiffs'
2 characterization of CBP's automated notice acknowledging receipt of Plaintiffs' FOIA request,
3 which does not require a response. To the extent a response is deemed required, Defendants
4 respectfully refer the Court to the notice for a full and accurate statement of its contents.

5 Defendants further aver that, on May 26, 2017, the agency granted Plaintiffs' requests for a fee
6 waiver and for expedited processing, having aggregated Plaintiffs' FOIA request with eighteen
7 other FOIA requests submitted by the American Civil Liberties Union and its affiliates for that
8 purpose.

9 30. The allegations contained in this paragraph consist of Plaintiffs' characterization
10 of CBP's automated notice acknowledging receipt of Plaintiffs' FOIA request, which does not
11 require a response. To the extent a response is deemed required, Defendants aver that a true and
12 correct copy of the notice is attached as Exhibit C to Plaintiffs' Complaint, and respectfully refer
13 the Court to the notice for a full and accurate statement of its contents.

14 31. Admitted.

15 32. Admitted.

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

18 34. This paragraph repeats and re-alleges the allegations contained in paragraphs 1
19 through 33. To the extent a response is deemed required, Defendants refer the Court to their
20 responses to paragraphs 1 through 33 of the Complaint.

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

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

25 37. This paragraph repeats and re-alleges the allegations contained in paragraphs 1
26 through 33. To the extent a response is deemed required, Defendants refer the Court to their
27 responses to paragraphs 1 through 33 of the Complaint.

28 38. The allegations contained in this paragraph consist of legal conclusions, to which

1 no response is required.

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

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

6 41. This paragraph repeats and re-alleges the allegations contained in paragraphs 1
7 through 33. To the extent a response is deemed required, Defendants refer the Court to their
8 responses to paragraphs 1 through 33 of the Complaint.

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

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

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

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

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

22
23 **FIRST DEFENSE**

24 This action is one of multiple related actions involving coordinated FOIA requests
25 submitted to CBP by the American Civil Liberties Union and its affiliates. Depending on the
26 course of the litigation, collateral estoppel may preclude re-litigation of one or more issues in this
27 action.

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Dated: June 29, 2017

Respectfully submitted,

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*Attorneys for Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of June, 2017, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

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/s/ Chetan A. Patil
CHETAN A. PATIL

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