

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OPEN SOCIETY JUSTICE
INITIATIVE,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE, CRIMINAL DIVISION, *et al.*,

Defendants.

Civil Action No. 20-0706 (RC)

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

Defendants, the United States Department of Justice Criminal Division; the United States Department of Justice, Civil Division; the Executive Office for United States Attorneys; and the United States Department of Homeland Security, by undersigned counsel, respectfully submit this answer to the complaint filed by Plaintiff Open Society Justice Initiative.

AFFIRMATIVE DEFENSES

1. The complaint fails to state a claim upon which relief can be granted.
2. Some of the information sought by Plaintiff is exempt from release under one or more exemptions of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended.
3. The Court lacks subject matter jurisdiction to award relief that exceeds that authorized by FOIA.
4. Plaintiff is not entitled to attorneys' fees.
5. Plaintiff failed to exhaust administrative remedies.
6. Plaintiff's claim under the Administrative Procedure Act fails because they have an adequate alternative remedy under FOIA.
7. Plaintiff voluntarily withdrew the request it submitted to U.S. Citizenship and Immigration Services.

RESPONSES TO THE NUMBERED PARAGRAPHS

All allegations in the complaint, including the relief sought, are denied except to the extent specifically admitted herein. Defendants admit, deny, or otherwise respond to the numbered paragraphs in the complaint as follows:

Preliminary Statement¹

1. Defendants admit that Plaintiff purports to bring this action under FOIA. Defendants deny that Plaintiff is entitled to the requested relief.

2. Defendants admit that denaturalization involves the revocation of United States citizenship. Defendants lack knowledge or information sufficient to form a belief about the other allegations and subjective characterizations in this paragraph.

3. Defendants admit that some denaturalization cases are civil in nature. Defendants lack knowledge or information sufficient to form a belief about the other allegations and subjective characterizations in this paragraph.

4. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

5. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

6. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

7. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

¹ For ease of reference, Defendants refer to the headings and titles in Plaintiff's complaint. But to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

8. Admitted.
9. Denied.
10. Defendants deny that Plaintiff is entitled to the requested relief.

Jurisdiction and Venue

11. Defendants admit that the Court has jurisdiction to award relief authorized by FOIA.
12. Defendants admit that venue is proper in this district.

Statutory Background

13. Defendants refer to the cited authorities for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.
14. Defendants refer to the cited authorities for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.
15. Defendants refer to the cited authorities for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.
16. Defendants refer to the cited authorities for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.
17. Defendants refer to the cited authorities for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.

Parties

18. Defendants lack knowledge or information sufficient to form a belief about the allegations in this paragraph.
19. The Criminal Division admits that it is a component within an agency subject to FOIA and that it is responsible for certain denaturalization cases. The Criminal Division lacks

knowledge and information sufficient to form a belief as to whether it has possession and control of records requested by Plaintiff.

20. The Civil Division admits that it is a component within an agency subject to FOIA and that it is responsible for certain denaturalization cases. The Civil Division admits that it has possession and control of certain records responsive to Plaintiff's request.

21. EOUSA admits that it is a component within an agency subject to FOIA and that United States Attorneys prosecute criminal and civil cases and defend civil cases on behalf of the federal government. EOUSA admits that it has possession and control of certain records responsive to Plaintiff's request.

22. DHS and USCIS admit that DHS is responsible for enforcing federal immigration laws and that USCIS received Plaintiff's request and forwarded it to DHS. DHS and USCIS lack knowledge and information sufficient to form a belief as to whether they possess and control records requested by Plaintiff.

23. This paragraph does not contain any allegations.

Factual Background

A. The Federal Government's Practice of Denaturalization Is a Matter of Significant Public Interest.

24. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

25. USCIS admits that it has dedicated a team to digitizing historical immigration-related fingerprint data with the intention of referring approximately 1,600 people to the Department of Justice for prosecution based on a review of an estimated 700,000 immigration files. Defendants lack knowledge or information sufficient to form a belief about the other allegations and subjective characterizations in this paragraph

26. The Civil Division refers to the referenced press release for a complete and accurate statement of its contents and denies any allegations inconsistent therewith. Defendants lack knowledge or information sufficient to form a belief about the other allegations and subjective characterizations in this paragraph.

27. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

28. Denied.

29. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

30. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

31. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

32. Defendants lack knowledge or information sufficient to form a belief about the allegations and subjective characterizations in this paragraph.

B. OSJI's FOIA Request

33. Admitted.

34. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

1. Data Requested

35. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

36. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

37. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

2. Full Records Requested

38. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

39. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

40. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

41. Defendants refer to the FOIA request for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

C. Agency Responses and Exhaustion of Administrative Remedies

42. Admitted.

43. USCIS refers to the referenced documents for a complete and accurate statement of their contents and denies any allegations inconsistent therewith.

44. EOUSA refers to the referenced documents for a complete and accurate statement of their contents and denies any allegations inconsistent therewith.

45. The Criminal Division refers to the referenced documents for a complete and accurate statement of their contents and denies any allegations inconsistent therewith. The Criminal Division admits that it has not issued a final response to Plaintiff's request.

46. The Civil Division refers to the referenced documents for a complete and accurate statement of their contents and denies any allegations inconsistent therewith. The Civil Division denies the other allegations and subjective characterizations in this paragraph.

47. The Criminal Division and Civil Division refer to the referenced documents for a complete and accurate statement of their contents and deny any allegations inconsistent therewith. The Criminal Division and Civil Division deny the other allegations and subjective characterizations in this paragraph.

48. DHS refers to the referenced document for a complete and accurate statement of its contents and denies any allegations inconsistent therewith. DHS denies the other allegations in this paragraph.

49. Defendants refer to the referenced documents for a complete and accurate statement of their contents and deny any allegations inconsistent therewith. Defendants deny the other allegations in this paragraph.

50. Defendants admit that Plaintiff has constructively exhausted administrative remedies.

Causes of Action

First Cause of Action *Against All Defendants*

Violation of the Freedom of Information Act, 5 U.S.C. § 552, and 6 C.F.R. § 5.6(c) Promulgated Thereunder, for Failure To Disclose Responsive Agency Records

51. Defendants incorporate herein their responses to the foregoing paragraphs.

52-57. Defendants deny Plaintiff's claim and deny that Plaintiff is entitled to any of the requested relief.

Second Cause of Action
Against All Defendants

**Violation of the Freedom of Information Act, 5 U.S.C. § 552,
for Failure to Conduct an Adequate Search of Agency Records**

58. Defendants incorporate herein their responses to the foregoing paragraphs.

59-65. Defendants deny Plaintiff's claim and deny that Plaintiff is entitled to any of the requested relief.

Third Cause of Action
Against All Defendants

**Violation of Administrative Procedure Act, 5 U.S.C. §§ 706(1) & (2),
for Failure to Respond to the Request for Agency Records**

66. Defendants incorporate herein their responses to the foregoing paragraphs.

67-70. Defendants deny Plaintiff's claim and deny that Plaintiff is entitled to any of the requested relief.

Prayer for Relief

Defendants deny that Plaintiff is entitled to the requested relief.

Dated: April 16, 2020

Respectfully submitted,

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