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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY, Plaintiff, -v- U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF HOMELAND SECURITY, and the OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE, Defendants.	22 Civ. 3003 (KPF) **ANSWER**

Defendants the U.S. Department of State ("State"), the U.S. Department of Homeland Security ("DHS"), and the Office of the Director of National Intelligence ("ODNI"; collectively with State and DHS, "Defendants"), by their attorney, Damian Williams, United States Attorney for the Southern District of New York, hereby answer the complaint under the Freedom of Information Act ("FOIA") of plaintiff the Knight First Amendment Institute at Columbia University ("Plaintiff") upon information and belief as follows:

1. Paragraph 1 consists of Plaintiff's characterization of a presidential proclamation and of this action, to which no response is required. Defendants respectfully refer the Court to the relevant proclamation for a complete and accurate statement of its contents. To the extent a

response is deemed required, admit that this is an action brought pursuant to FOIA and that Plaintiff submitted FOIA requests to Defendants.

2. Paragraph 2 consists of Plaintiff's characterization of executive orders and presidential proclamations, to which no response is required. Defendants respectfully refer the Court to the relevant orders and proclamations for a complete and accurate statement of their contents.

3. Paragraph 3 consists of Plaintiff's characterization of the alleged response of "[c]ivil society organizations and others" to executive orders and presidential proclamations, to which no response is required. To the extent a response is deemed required, Defendants deny knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

4. Paragraph 4 consists of Plaintiff's characterization of a presidential proclamation and a report, to which no response is required. Defendants respectfully refer the Court to the relevant proclamation and report for a complete and accurate statement of their contents.

5. Paragraph 5 consists of Plaintiff's characterization of FOIA requests that it submitted to State, DHS, and ODNI (together, "FOIA Requests," or individually, "FOIA Request"), to which no response is required. Defendants admit that Plaintiff submitted the relevant FOIA Requests and otherwise respectfully refer the Court to the FOIA Requests for a complete and accurate statement of their contents.

6. Paragraph 6 consists of Plaintiff's characterization of its rationale for filing this action, to which no response is required. To the extent a response is deemed required, deny that Plaintiff is entitled to relief.

7. Paragraph 7 consists of legal conclusions concerning jurisdiction, to which no response is required.

8. Paragraph 8 consists of legal conclusions concerning venue, to which no response is required.

9. Deny knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9, except to the extent this paragraph contains legal conclusions, to which no response is required.

10. Paragraph 10 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, admit that State is an agency for purposes of FOIA and admit that it may have possession and control of certain records responsive to Plaintiff's FOIA Request.

11. Paragraph 11 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, admit that DHS is an agency for purposes of FOIA and admit that it may have possession and control of certain records responsive to Plaintiff's FOIA Request.

12. Paragraph 12 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, admit that ODNI is an agency for purposes of FOIA and admit that it may have possession and control of certain records responsive to Plaintiff's FOIA Request.

13. Paragraph 13 consists of Plaintiff's characterization of an executive order, memorandum, and news report, to which no response is required. Defendants respectfully refer the Court to the relevant executive order, memorandum, and news report for a complete and accurate statement of their contents.

14. Paragraph 14 consists of Plaintiff's characterization of rules issued by State, to which no response is required. Defendants respectfully refer the Court to the relevant rules for a complete and accurate statement of their contents.

15. Paragraph 15 consists of Plaintiff's characterization of State and DHS policies, to which no response is required. Defendants respectfully refer the Court to the relevant policies for a complete and accurate statement of their contents.

16. Paragraph 16 consists of Plaintiff's characterization of comments submitted by "civil society organizations" in response to agency policies, to which no response is required. Defendants respectfully refer the Court to the relevant comments for a complete and accurate statement of their contents.

17. Paragraph 17 consists of Plaintiff's characterization of a presidential proclamation, to which no response is required. Defendants respectfully refer the Court to the relevant proclamation for a complete and accurate statement of its contents.

18. Paragraph 18 consists of Plaintiff's characterization of and quotation from a document submitted in litigation, to which no response is required. Defendants respectfully refer the Court to the relevant document for a complete and accurate statement of its contents.

19. Paragraph 19 consists of Plaintiff's characterization of government policy and a presidential proclamation, to which no response is required. Defendants respectfully refer the Court to the relevant policy and proclamation for a complete and accurate statement of their contents.

20. Paragraph 20 consists of Plaintiff's characterization of the FOIA Requests, to which no response is required. Defendants respectfully refer the Court to the relevant requests for a complete and accurate statement of their contents.

21. Paragraph 21 consists of Plaintiff's characterization of the FOIA Requests, to which no response is required. Defendants respectfully refer the Court to the relevant requests for a complete and accurate statement of their contents.

22. Paragraph 22 consists of Plaintiff's characterization of and quotation from the FOIA Requests, to which no response is required. Defendants respectfully refer the Court to the relevant requests for a complete and accurate statement of their contents.

23. Paragraph 23 consists of Plaintiff's characterization of and quotation from an email from State dated February 23, 2022, to which no response is required. Defendants admit that State sent the relevant email dated February 23, 2022, and respectfully refer the Court to the relevant email for a complete and accurate statement of its contents.

24. Paragraph 24 consists of Plaintiff's characterization of its email dated March 3, 2022, to which no response is required. Defendants admit that State received the relevant email dated March 3, 2022, and respectfully refer the Court to the relevant email for a complete and accurate statement of its contents.

25. Paragraph 25 consists of Plaintiff's characterization of and quotation from State's email dated March 3, 2022, to which no response is required. Defendants admit that State sent the relevant email dated March 3, 2022, and respectfully refer the Court to the relevant email for a complete and accurate statement of its contents.

26. Admit that State has not released records responsive to the FOIA Request to date, and aver that State's search for and review of records potentially responsive to Plaintiff's FOIA Request are ongoing.

27. Paragraph 27 consists of Plaintiff's characterization of and quotation from a letter from DHS dated March 11, 2022, to which no response is required. Defendants admit that DHS

sent the relevant letter dated March 11, 2022, and respectfully refer the Court to the relevant letter for a complete and accurate statement of its contents.

28. Admit that DHS has not released records responsive to the FOIA Request to date, and aver that DHS's search for and review of records potentially responsive to Plaintiff's FOIA Request are ongoing.

29. Paragraph 29 consists of Plaintiff's characterization of ODNI's letter dated February 24, 2022, to which no response is required. Defendants admit that ODNI sent the relevant letter dated February 24, 2022, and respectfully refer the Court to the relevant letter for a complete and accurate statement of its contents.

30. Admit that ODNI has not released records responsive to the FOIA Request to date, and aver that ODNI's search for and review of records potentially responsive to Plaintiff's FOIA Request are ongoing.

31. Paragraph 31 consists of legal conclusions and Plaintiff's characterization of FOIA, to which no response is required. To the extent a response is deemed required, admit that more than 30 working days passed between the submission of the FOIA Requests and the filing of the complaint.

32. Paragraph 32 consists of legal conclusions and Plaintiff's characterization of FOIA, to which no response is required.

33. Paragraph 33 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, deny.

34. Paragraph 34 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, deny.

35. Paragraph 35 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, deny, except admit that more than 30 working days passed between the submission of the FOIA Requests and the filing of the complaint.

36. Paragraph 36 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, deny.

37. Paragraph 37 consists of legal conclusions, to which no response is required. To the extent a response is deemed required, deny.

38. The portion of the complaint titled "Prayer for Relief" following paragraph 37 contains Plaintiff's request 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 it seeks or to any relief.

DEFENSES

For further defenses, Defendants allege as follows:

FIRST DEFENSE

Some or all of the requested records or information may be exempt from disclosure, in whole or in part, under 5 U.S.C. § 552(b).

SECOND DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief to the extent they exceed the relief authorized under FOIA, 5 U.S.C. § 552.

THIRD DEFENSE

To the extent that Defendants have exercised due diligence in processing Plaintiff's FOIA Requests and exceptional circumstances exist, Defendants should be allowed additional time to process the requests. 5 U.S.C. § 552(a)(6)(C).

FOURTH DEFENSE

Plaintiff has not established that it is entitled to expedited processing. *See* 5 U.S.C. § 552(a)(6)(E).

FIFTH DEFENSE

Plaintiff has not established that it is entitled to a fee waiver. *See* 5 U.S.C. § 552(a)(4)(A).

SIXTH DEFENSE

Plaintiff has not established that it is eligible for or entitled to attorney fees or litigation costs under 5 U.S.C. § 552(a)(4)(E).

Defendants may have additional defenses which are not known at this time but which may become known through further proceedings. Accordingly, Defendants reserve the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE Defendants respectfully request that the Court: (1) dismiss the complaint with prejudice; (2) enter judgment in favor of Defendants; and (3) grant such further relief as the Court deems just and proper.

Dated: May 18, 2022
New York, New York

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

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