

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

**LAURA POITRAS,**

Plaintiff,

v.

**U.S. DEPARTMENT OF HOMELAND SECURITY,  
ET AL.,**

Defendants.

Case No. 1:15-cv-1091 (KBJ)

**ANSWER**

Defendants the Department of Homeland Security (DHS), the Department of Justice (DOJ), and the Office of the Director of National Intelligence (ODNI) set forth their affirmative defenses and answers to the Freedom of Information Act (“FOIA”) complaint of Plaintiff Laura Poitras as follows:

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. This paragraph consists of legal conclusions and Plaintiff’s characterizations of the nature of her action, to which no response is required.

**PARTIES**

2. Defendants are without information sufficient to confirm or deny the allegations in this paragraph.

3. This paragraph does not set forth a claim for relief or aver facts in support of a claim to which an answer is required.

4. Defendants admit the allegations contained in the first and third sentences of this paragraph. The second sentence of this paragraph consists of a legal conclusion, which does not require a response.

5. Defendants admit the allegations contained in the first and third sentences of this paragraph. The second sentence of this paragraph consists of a legal conclusion, which does not require a response.

6. Defendants admit the allegations contained in the first sentence of this paragraph. The second sentence of this paragraph consists of a legal conclusion, which does not require a response.

#### **JURISDICTION AND VENUE**

7. This paragraph consists of legal conclusions, which do not require a response.

8. This paragraph consists of legal conclusions, which do not require a response.

#### **FACTUAL ALLEGATIONS**

9-26. These paragraphs do not set forth a claim for relief or aver facts in support of a claim to which an answer is required. To the extent an answer is required, the allegations in these paragraphs are denied.

27. DHS admits that Plaintiff submitted FOIA requests to DHS, U.S. Customs and Border Protection (“CBP”), U.S. Citizenship and Immigration Services (“CIS”), and the Transportation Security Administration (“TSA”) by letters dated January 24, 2014. DHS denies that a January 24, 2014 FOIA request letter was delivered to U.S. Immigration and Customs Enforcement (“ICE”). DHS denies the remaining allegations in this paragraph on the ground that the FOIA requests speak for themselves.

28. DOJ admits that Plaintiff submitted a FOIA request to FBI by letter dated January 24, 2014. DOJ denies the remaining allegations in this paragraph on the ground that the FOIA request speaks for itself.

29. ODNI admits that Plaintiff submitted a FOIA request to ODNI by letter dated January 24, 2014. ODNI denies the remaining allegations in this paragraph on the ground that the FOIA request speaks for itself.

30. DHS admits that DHS sent a letter to Plaintiff dated February 3, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

31. DHS admits that Plaintiff sent DHS a letter dated March 5, 2014 via fax on March 19, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

32. DHS admits that DHS sent a letter to Plaintiff dated March 26, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

33. DHS admits only that it has not yet fully resolved Plaintiff's FOIA request.

34. This paragraph consists of a legal conclusion, to which no response is required.

35. This paragraph consists of a legal conclusion, to which no response is required.

36. DHS admits.

37. DHS admits only that DHS and CBP have not yet fully resolved Plaintiff's FOIA request. The remaining allegations in this paragraph constitute a legal conclusion, to which no response is required.

38. This paragraph consists of a legal conclusion, to which no response is required.

39. This paragraph consists of a legal conclusion, to which no response is required.

40. DHS admits that CIS sent Plaintiff a letter dated January 30, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

41. DHS admits that Plaintiff sent CIS a letter dated March 19, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

42. DHS admits that CIS sent Plaintiff a letter dated April 2, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

43. DHS admits that Plaintiff sent a letter to CIS dated May 6, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

44. DHS admits that CIS sent Plaintiff a letter dated July 7, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

45. DHS admits that CIS has not provided documents in response to Plaintiff's FOIA request.

46. This paragraph consists of a legal conclusion, to which no response is required.

47. This paragraph consists of a legal conclusion, to which no response is required.

48. DHS denies that the USPS website's tracking feature indicates that Plaintiff's FOIA request to ICE was delivered on January 25, 2014. DHS avers that the tracking feature indicates that the request was delivered on January 28, 2014 to a Washington, DC address with the zip code 20526; the correct zip code for ICE's FOIA office is 20536.

49. DHS admits only that DHS and ICE have not yet fully resolved Plaintiff's FOIA request. The remaining allegations in this paragraph constitute a legal conclusion, to which no response is required.

50. This paragraph consists of a legal conclusion, to which no response is required.

51. This paragraph consists of a legal conclusion, to which no response is required.

52. DHS admits that TSA sent a letter to Plaintiff dated February 6, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

53. DHS admits that Plaintiff sent a letter to TSA dated March 19, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

54. DHS admits that TSA did not acknowledge receipt of Plaintiff's March 19, 2014 letter. DHS also admits that TSA sent a letter to Plaintiff dated March 26, 2014. DHS denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

55. DHS admits only that DHS and TSA have not yet fully resolved Plaintiff's FOIA request.

56. This paragraph consists of a legal conclusion, to which no response is required.

57. This paragraph consists of a legal conclusion, to which no response is required.

58. DOJ admits that FBI sent a letter to Plaintiff dated February 19, 2014. DOJ denies the remaining allegations on the ground that the letter speaks for itself.

59. DOJ admits that the Executive Office for the U.S. Attorneys sent Plaintiff a letter dated May 21, 2015. DOJ denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

60. DOJ admits that Plaintiff sent a letter dated May 29, 2015 to DOJ's Office of Information Policy (OIP). DOJ denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

61. DOJ admits.

62. DOJ admits that DOJ's OIP sent Plaintiff a letter dated July 1, 2015. DOJ denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

63. DOJ admits that DOJ's OIP sent Plaintiff a letter dated July 7, 2015. DOJ denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

64. DOJ admits only that FBI and DOJ have not yet fully resolved Plaintiff's FOIA request.

65. This paragraph consists of a legal conclusion, to which no response is required.

66. This paragraph consists of a legal conclusion, to which no response is required.

67. ODNI admits that ODNI sent Plaintiff a letter dated January 31, 2014. ODNI denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

68. ODNI admits that ODNI sent Plaintiff a letter dated February 25, 2014. ODNI denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

69. ODNI admits that Plaintiff sent ODNI a letter dated March 21, 2014. ODNI denies the remaining allegations in this paragraph on the ground that the letter speaks for itself.

70. ODNI admits.

71. ODNI denies the allegations in this paragraph.

72. ODNI only that it has not yet fully resolved Plaintiff's FOIA request.

73. This paragraph consists of a legal conclusion, to which no response is required.

74. This paragraph consists of a legal conclusion, to which no response is required.

#### **CAUSES OF ACTION**

75. This paragraph re-alleges allegations in paragraphs 1-74, to which no additional response is required.

76. This paragraph consists of a legal conclusion, to which no response is required.

77. This paragraph consists of a legal conclusion, to which no response is required.

78. This paragraph consists of a legal conclusion, to which no response is required.

The remaining paragraphs of the Complaint concern Plaintiff's requested relief and thus require no response. To the extent a response is required, Defendants deny the allegations and aver that Plaintiff is not entitled to any relief.

Each and every allegation of the complaint not otherwise answered in the above paragraphs is denied.

**AFFIRMATIVE DEFENSES**

**First Defense**

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**Second Defense**

Defendants object to the complaint to the extent that it imposes obligations upon defendants which exceed those imposed by FOIA. In particular, Defendants aver that Plaintiff improperly failed to exhaust administrative remedies before bringing the present action, and the causes of action with respect to those requests should be dismissed for lack of subject matter jurisdiction.

**Third Defense**

Plaintiff is not entitled to compel the production of records protected from disclosure by any applicable FOIA exemptions or exclusions.

**Fourth Defense**

Defendants have insufficient knowledge or information on which to form a belief as to whether Defendants have any additional, as yet unstated, defenses available. Defendants reserve the right to assert additional defenses in the event any additional defenses would be appropriate.

August 19, 2015

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

MARCIA BERMAN  
Assistant Branch Director,  
Federal Programs Branch

*/s/ Samuel M. Singer*

SAMUEL M. SINGER  
D.C. Bar. No. 1014022  
Trial Attorney, Federal Programs Branch  
Civil Division  
United States Department of Justice  
20 Massachusetts Ave., NW, Room 6138  
Washington, DC 20001  
Tel: (202) 616-8014 | Fax: (202) 616-8470  
samuel.m.singer@usdoj.gov

*Counsel for Defendant*

**Certificate of Service**

I hereby certify that on August 19, 2015, I electronically filed the foregoing Answer with the Clerk of the Court using the CM/ECF system, which will send notice of this filing to all parties.

*/s/ Samuel M. Singer*  
SAMUEL M. SINGER