

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

GIFFORDS LAW CENTER TO PREVENT
GUN VIOLENCE,

Plaintiff,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES

Defendant.

Civil Action No. 17-2363 (RC)

DEFENDANT’S ANSWER TO THE COMPLAINT

Defendant, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“Defendant” or “ATF”), by and through the undersigned counsel, hereby answers plaintiff’s Complaint as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

In response to the specifically-enumerated paragraphs set forth in the Complaint, defendant admits, denies, and otherwise avers as follows:

1. This paragraph consists of plaintiff’s statement of the underlying action, to which no response is required; if a response is deemed necessary, defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

3. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

JURISDICTION AND VENUE

4. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
5. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

PARTIES

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
7. First sentence: Deny that defendant is a federal agency within the meaning of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(f)(1), and admit that defendant is headquartered in Washington, D.C. Second sentence: Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this sentence.

FACTUAL ALLEGATIONS

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of

the allegations in this paragraph.

14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

16. Admit that defendant received one FOIA request from plaintiff on October 10, 2017, which speaks for itself and is the best evidence of its contents. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

17. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

Plaintiff's First FOIA Request

18. Admit that defendant received a FOIA request from plaintiff through a letter, which speaks for itself and is the best evidence of its contents and date of transmittal.

19. Admit.

20. Admit that plaintiff sought a waiver of search and duplicating fees.

21. First Sentence: Admit. Second Sentence: Deny that defendant assigned plaintiff's request an internal reference number of "2018-0118be". Third Sentence: Admit.

22. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

23. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

24. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

25. Admit.

Plaintiff's Second FOIA Request

26. Deny and aver that defendant has no record of any "Second FOIA Request" by the Law

Center to Prevent Gun Violence or the Giffords Law Center for any of the records identified in paragraph 26.

27. Deny and aver that defendant has no record of any “Second FOIA Request” by the Law Center to Prevent Gun Violence or the Giffords Law Center.

28. Deny and aver that defendant has no record of any “Second FOIA Request” by the Law Center to Prevent Gun Violence or the Giffords Law Center.

29. Deny and aver that defendant has no record of any “Second FOIA Request” by the Law Center to Prevent Gun Violence or the Giffords Law Center.

30. This paragraph consists of plaintiff’s legal conclusions, to which no response is required.

31. This paragraph consists of plaintiff’s legal conclusions, to which no response is required.

32. Deny and aver that defendant has no record of any response to an alleged “Second FOIA Request” by the Law Center to Prevent Gun Violence or the Giffords Law Center.

33. Admit, insofar as defendant has not responded to a plaintiff’s “Second FOIA Request” as defendant has no record of receiving such a request.

34. Defendant admits that no records have been produced, nor appeal rights provided as they related to plaintiff’s First FOIA Request. Defendant denies the remaining allegations related to the First FOIA Request. Defendant denies all allegations in this paragraph as they relate to the “Second FOIA Request” as defendant has no record of receiving such a request.

35. This paragraph consists of plaintiff’s legal conclusions, to which no response is required.

CLAIM FOR RELIEF

36. Defendant incorporates by reference the foregoing answers as if full set forth herein.

37. This paragraph consists of plaintiff’s legal conclusions, to which no response is required.

The remainder of the Complaint consists of plaintiff’s claims for relief, to which no response is required. To the extent that a response is required, defendant denies that plaintiff is

entitled to any of the relief requested, or to any relief whatsoever.

Each and every allegation not heretofore expressly admitted or denied is denied.

Dated: December 19, 2017

Respectfully submitted,

JESSIE K. LIU,
D.C. BAR # 47284
United States Attorney
for the District of Columbia

DANIEL F. VAN HORN
D.C. BAR # 924092
Chief, Civil Division

/s/ Marina Utgoff Braswell
MARINA UTGOFF BRASWELL
D.C. Bar # 416587
Assistant United States Attorney
United States Attorney's Office
555 4th Street, N.W. – Civil Div.
Washington, D.C. 20530
(202) 252-2561
Marina.Braswell@usdoj.gov