

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE NATIONAL SECURITY ARCHIVE)
FUND, INC.,)
)
Plaintiff,)
)
v.)
)
UNITED STATES DEPARTMENT OF)
THE AIR FORCE,)
)
Defendant)
_____)

Civil No. 05-00571 (RMC)

ANSWER

First Defense

With respect to the requests that plaintiff labels Requests Numbers 57, 68 and 79, plaintiff failed to exhaust its administrative remedies in accordance with 5 U.S.C. §§ 552 and 704, and the Court accordingly lacks subject matter jurisdiction over the complaint.

Second Defense

What plaintiff labels Request Number 66 (a letter dated December 6, 2002, concerning the Soviet space program) was a request for declassification under Executive Order 12958 and not a request under the Freedom of Information Act. Plaintiff's allegations concerning that request fail to state a claim upon which relief can be granted.

Third Defense

What plaintiff labels Request Number 66 (a letter dated December 6, 2002, concerning the Soviet space program) was a request for declassification under Executive Order 12958 and not a request under the Freedom of Information Act. The Court lacks jurisdiction over the subject matter of that request.

Fourth Defense

Plaintiff alleges that what it labels Request No. 43 (a letter dated May 3, 1996) was sent to the Central Intelligence Agency and was forwarded in part to the United States Space Command. The United States Space Command was merged with the United States Strategic

Command on October 1, 2002. None of the foregoing entities (the Central Intelligence Agency, the United States Space Command, and the United States Strategic Command) are components of defendant, and the complaint does not otherwise allege that defendant or a component of defendant has been requested to provide documents responsive to Request No. 43. Accordingly, with respect to Request No. 43, the complaint fails to state a claim upon which relief can be granted.

Fifth Defense

Plaintiff alleges that what it labels Request No. 43 (a letter dated May 3, 1996) was sent to the Central Intelligence Agency and was forwarded in part to the United States Space Command. The United States Space Command was merged with the United States Strategic Command on October 1, 2002. None of the foregoing entities (the Central Intelligence Agency, the United States Space Command, and the United States Strategic Command) are components of defendant or are otherwise parties to this action. Accordingly, the complaint fails to join a necessary party with respect to Request No. 43.

Sixth Defense

Defendant has provided all documents requested in plaintiff's Request number 56, as refiled. Accordingly, any dispute related to Request number 56 is moot.

Seventh Defense

Defendant answers the specific numbered paragraphs of the complaint using the paragraph-numbering system of the complaint. Within each paragraph, a given sentence is deemed to include any following citations that are not themselves a complete sentence (*e.g.*, in paragraph 14, what we label the "first sentence" begins "In some cases . . ." and the "second sentence" begins "On many occasions . . ."). Defendant also adopts in this answer the request-numbering system used in the complaint.

1. This paragraph contains plaintiff's characterization of its action, to which no response is required. To the extent that a response may be deemed to be required, this paragraph is denied.

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

3. The first sentence contains plaintiff's characterization of its action, to which no response is required. To the extent that a response may be deemed to be required, defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the second sentence of this paragraph. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the second sentence of this paragraph, except that it is admitted that at least forty-nine of the requests at issue in the Complaint were refiled in July, August, and September 2004.

4. The first sentence contains conclusions of law and not averments of fact to which an answer is required, but to the extent that an answer is deemed to be required, the averments are denied. The second sentence is denied, except that (1) defendant lack knowledge or information sufficient to form a belief as to the truth or falsity of the averment that requested records were destroyed or lost while a FOIA request was pending; and (2) it is admitted that in some instances FOIA requests were not acknowledged, that in some instances defendant was unable to process requests or appeals within twenty business days, that in some instances defendant invoked extensions of time without explaining the circumstances that required those extensions, that in some instances defendant did not respond to inquiries about the status of requests, and that in some instances defendant inquired whether requesters remained interested in documents.

5. The first sentence is admitted. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averment of the second sentence that voicemail messages were left by plaintiff's General Counsel with agency personnel responsible for FOIA matters. The remainder of the second and third sentences contain plaintiff's summary and characterization of paragraphs 22 through 29 of the Complaint. Defendant hereby incorporates by reference as if fully set forth herein, its response below to paragraphs 22 through 29 of the Complaint.

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

7. The first sentence contains conclusions of law, and not averments of fact to which an answer is required. To the extent, if any, that the sentence's references to alleged Air Force "practice[s]" of "not responding in a timely manner" or "not responding at all in some circumstances," are deemed to be averments of fact, defendant hereby incorporates by reference as if fully set forth herein its responses to the paragraphs of the complaint that allegedly detail such alleged practices. The second sentence contains plaintiff's summarization of allegations "detailed below" in paragraphs 773 and 774 of the Complaint. In response to the second sentence of this paragraph, defendant accordingly hereby incorporates by reference as if fully set forth herein its responses to paragraphs 773 and 774 of the complaint.

8. This paragraph contains plaintiff's further characterization of its action, to which no response is required. To the extent that a response may be deemed to be required, this paragraph is denied.

9. Admitted, except that it is denied that the Court has subject matter jurisdiction with respect to Requests Numbers 56, 57, 66, 68, and 79.

10. Admitted.

11. The first sentence is admitted. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the remaining sentences of this paragraph.

12. The first two sentences are admitted. The third sentence is denied except that it is admitted that the Air Force has possession and control over some records sought by plaintiff.

13. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the first sentence of this paragraph. The second sentence of this paragraph contains plaintiff's further characterization of its action, to which no response is required. To the extent that a response may be deemed to be required, defendant lacks

knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the second sentence of this paragraph.

14. This paragraph contains plaintiff's further characterization of its action, to which no response is required.

To the extent that this paragraph summarizes and characterizes facts averred with respect to the specific requests elsewhere in the complaint and to the extent, if any, that a response is deemed to be required, defendant hereby incorporates by reference as if fully set forth herein its responses to those more specific averments below.

To the extent, if any, that this paragraph is deemed to contain averments in addition to those set forth elsewhere in the complaint and responded to by incorporating by reference defendant's responses to those averments set forth elsewhere in the complaint, defendant further answers: To the extent, if any, that the averment that in some cases defendant has "failed even to acknowledge the FOIA filings at issue here" refers to any or all original requests, the averment is denied. Defendant denies that it has not yet acknowledged the refiling of requests 2, 3, 4, 5, 9, 12, 17, 18, 21, 27, 33, 34, 35, and 45. Defendant denies that it has not yet made a substantive response to requests 2, 3, 4, 5, 9, 10, 12, 17, 18, 21, 33, 34, 35, 57, 68, 72, 79, and 80. Defendant denies that it never completed its responses to requests 8, 56, and 65. Defendant admits that it made no substantive response to request 43 only because that request was not made to defendant or any component of defendant in the first place and no response from defendant, substantive or otherwise, was required.

To the extent that a response in addition to the foregoing response (including the foregoing incorporation by reference of responses made below to specific allegations) may be deemed to be required, defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of any remaining averments of this paragraph.

15. This paragraph contains plaintiff's further characterization of its action, to which no response is required.

To the extent that this paragraph summarizes and characterizes facts averred with respect to the specific requests elsewhere in the complaint and to the extent, if any, that a response is deemed to be required, defendant hereby incorporates by reference as if fully set forth herein its responses to those more specific averments below. To the extent, if any, that this paragraph is deemed to contain averments in addition to those set forth elsewhere in the complaint and responded to by incorporating by reference defendant's responses to those averments set forth elsewhere in the complaint, defendant further answers that defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments that no communication was received from defendant for seventeen years with respect to request 1, and for ten years with respect to requests 2, 4, 5, and 9; that defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments that the Air Force abruptly ceased contact with respect to requests 11 and 49; and that defendant denies that it ceased contact after only a year or two with respect to requests 20 and 27.

To the extent that a response in addition to the foregoing response (including the foregoing incorporation by reference of responses made below to specific allegations) may be deemed to be required, defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of any remaining averments of this paragraph.

16. The first sentence of this paragraph is plaintiff's characterization of 32 C.F.R. § 806.26, which speaks for itself. Defendant understands the second sentence to describe the difficulty that plaintiff perceives in determining which component of the Air Force has responsibility for particular documents. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the second sentence of this paragraph. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the third sentence of this paragraph, except to admit that it has from time to time reorganized parts of its functions.

17. To the extent the first sentence avers that many of the FOIA requests at issue were referred in whole or in part to other Air Force organizations or to agencies outside the Air Force having a substantial interest in the requested records for consultation or were forwarded to other Air Force organizations or to agencies outside the Air Force from which the records had originated for a release determination and direct response to the requester, the first sentence is admitted. Except to that extent the first sentence is denied. The second sentence is admitted. The third sentence is denied except (1) that it is admitted that Air Force components and other government agencies assign unique tracking numbers to FOIA requests, and (2) that defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments that FOIA requesters are confused or that the assignment of tracking numbers compounds any such confusion.

18. To the extent that this paragraph avers that requesters have on occasion narrowed requests that are at issue here, it is admitted. Except to that extent, defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

19. Denied, except 1) that defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments concerning requests 11, 17, 19, 43, 44, 55, and concerning the May 30, 2000, appeal pertaining to request 48, and 2) that it is admitted that in some instances the Air Force did not adjudicate administrative appeals within 20 days (excepting Saturdays, Sundays, and legal public holidays).

20. Denied.

21. Denied.

22. Admitted, except that it is denied that the address element used was one that would have resulted in delivery of the letter to the Office of the Secretary instead of to the FOIA office supporting Headquarters Air Force and that the telefacsimile number to which the letter was sent was in the Office of the Secretary instead of that of the FOIA office supporting Headquarters Air Force.

23. Admitted.

24. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph, except that defendant admits John Espinal is listed as the principal agency FOIA Contact for the Air Force on the Department of Justice FOIA web site.

25. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

26. Admitted.

27. The first sentence is admitted. The second sentence is denied, except that it is admitted with respect to periods prior to Ms. Rollins's retirement in December 2004. The third sentence is admitted.

28. Admitted.

29. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

30. Admitted.

31. Defendant admits that “[HQ] USAF/DAQD” was the office symbol assigned to an office within its former Directorate of Administration and avers that its former Directorate of Administration has since been reorganized and redesignated.

32. This paragraph is plaintiff’s characterization of a July 22, 1987, letter from the Office of the Secretary of the Air Force. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph because, as characterized by plaintiff, the letter would have been a final action by the office that issued it on behalf of the Office of the Secretary and, consequently, would have been destroyed after six years.

33. Defendant admits that “DADF” formerly was the office symbol generally assigned to the office responsible for FOIA matters at each level of command and avers the office symbol assigned to the office responsible for FOIA matters has changed from time to time as the Air

Force has reorganized. Defendant admits that Pacific Air Forces is a component of the Air Force. Defendant admits that Third Air Division was a component of the Air Force. It has been disestablished.

34. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph: if plaintiffs accurately characterize the alleged letter of July 22, 1987, from the Office of the Secretary of the Air Force that would have been a final action by the office that issued it on behalf of the Office of the Secretary and, consequently, would have been destroyed after six years.

35. Admitted.

36. Admitted.

37-38. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

39. Admitted.

40-43. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

44. Admitted.

45-48. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

49. Admitted.

50. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

51. This paragraph is ambiguous. Defendant avers that "CS" is the organization abbreviation used within the Air Force for "Communications Squadron." Without the numerical designation of the Communications Squadron to which this paragraph refers defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

52 – 56. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

57. Denied. Defendant avers that portions of installation histories responsive to the request were released to plaintiff on September 1, 2004.

58-62. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

63. Admitted.

64. Defendant admits that the Center for Air Force History is a component of the Air Force. Defendant avers that the Center for Air Force history was redesignated the Air Force Historical Support Office (AFHSO) and later redesignated the Air Force Historical Studies Office (AFHSO).

65. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

66. Admitted.

67. Defendant admits that the Air Force Historical Support Office is a component of the Air Force. The Air Force Historical Support Office has been redesignated the Air Force Historical Studies Office (AFHSO).

68. Denied. Defendant avers the Air Force Historical Studies Office forwarded copies of “USAF Plans and Policies in South Vietnam, 1961-1963,” “USAF Plans and Policies in South Vietnam and Laos, 1964,” and “The Air Force in Vietnam: The Search for Military Alternatives” to plaintiff on May 6, 2005. Defendant further avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that “USAF Plans and Operations in Southeast Asia, 1965” was being referred to the Department of State, Office of the Secretary of Defense, and the Joint Chiefs of Staff for declassification review, and that “The Air Force in Southeast Asia: Toward a Bombing Halt” was being referred to the Joint Chiefs of Staff for declassification review.

69. Admitted.

70. Defendant admits that Air Force Systems Command was a component of the Air Force and avers that Air Force Systems Command was disestablished in 1992.

71. Admitted, except it is denied that the date of defendant's response was May 25, 1998, rather than May 25, 1988.

72. Admitted.

73. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

74. Defendant admits that the Air Force Historical Research Center is a component of the Air Force and avers that it has been redesignated the Air Force Historical Research Agency. Defendant admits that the Office of the Secretary of the Air Force is part of the Air Force.

75 – 76. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

77. The first sentence is admitted. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the remaining sentences of this paragraph.

78. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

79. Admitted.

80. Admitted.

81. Denied. Defendant avers the Air Force Historical Studies Office forwarded a copy of “Air Force Systems Command Chronology of the Cuban Crisis, 1 Apr – 21 Nov 1962, Supplement” to plaintiff on May 6, 2005. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that “Air Force Systems Command History, July – Dec 1962: Cuba and the Systems Command, v. 1, p. 59” was being referred to Air Force Material Command for declassification review, and that the request for “Air Force Systems Command History, Apr 1962 – 30 June 1963, v. 3, part 2” was being referred to Air Force Material

Command for search and declassification review, although the citation appeared to be incorrect because no document matched the dates or volume number provided by plaintiff.

82. Admitted.

83. This paragraph is ambiguous. "SAF/AADADF" appears to be a conflation of the office symbol for the Administrative Assistant to the Secretary of the Air Force and the office symbol assigned to an office within defendant's former Directorate of Administration. Defendant admits the office of the Administrative Assistant to the Secretary of the Air Force is part of the Air Force. Defendant admits its former Directorate of Administration was part of the Air Force and avers that the former Directorate of Administration has since been reorganized and redesignated. Except to that extent defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

84 – 86. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

87. Admitted.

88. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

89. Admitted.

90. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the two requested documents were being forwarded to the Department of Energy for possible declassification.

91. Admitted.

92 – 94. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

95. Admitted.

96. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

97. Admitted.

98. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested documents do not exist.

99 – 102. Admitted.

103. Denied.

104 – 106. Admitted.

107. Admitted.

108 – 111. Admitted.

112. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

113. Admitted.

114. This paragraph is ambiguous. Defendant avers that “MSS” is the organization abbreviation used within the Air Force for “Mission Support Squadron.” To the extent this paragraph avers a November 30, 1994, letter from 11 MSS/MSIS to Plaintiff, it is admitted. Except to that extent, without the numerical designation of the Mission Support Squadron to which this paragraph refers defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

115. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

116 – 119. Admitted.

120. Admitted.

121 – 124. Admitted.

125. Defendant admits that SAF/AAIS was the office symbol assigned to a function of the Administrative Assistant to the Secretary of the Air Force within the Office of the Secretary of the Air Force that has since been reorganized and redesignated.

126. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

127 – 128. Admitted.

129. Defendant admits that the Support Flight, 11th Communications Squadron (11 CS/SCS) is a component of the Air Force.

130 – 131. Admitted.

132. Denied. Defendant avers the request was transferred to the custodian of the requested records and that plaintiff was notified of the transfer on October 19, 2004.

133. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

134. Defendant admits that SAF/AAIA was the office symbol assigned to a function of the Administrative Assistant to the Secretary of the Air Force within the Office of the Secretary of the Air Force that has since been reorganized and redesignated.

135 – 137. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

138. Defendant admits that SAF/AAIS was the office symbol assigned to a function of the Administrative Assistant to the Secretary of the Air Force within the Office of the Secretary of the Air Force that has since been reorganized and redesignated.

139. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

140. Admitted.

141 – 142. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

143. Admitted.

144. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005 that, although the manuscripts for “Interdiction in Southern Laos, 1960-1968”

and “The Advisory Years to 1965” had been destroyed, copies of the documents as published by the Government Printing Office were available on the Air Force Historical Studies Office web site. Defendant further avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that “The War in Northern Laos, 1954-1973” was being referred to the Department of State and Central Intelligence Agency, for declassification review.

145 – 148. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

149. Admitted, except that defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averment that the letter referred to in this paragraph was dated April 19, 1994, rather than April 9, 1994.

150. Admitted.

151. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005 that it did not currently have the requested records, which were believed to have been prepared for the so-called “Goldberg Project” of the Department of Defense History Office.

152. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

153. Defendant admits Tactical Air Command was a component of the Air Force. Tactical Air Command was disestablished in 1992.

154. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

155. Defendant admits 1st Mission Support Squadron (1MSSq) was a component of the Air Force and avers its functions have been reorganized.

156-157. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

158. This paragraph is ambiguous. Defendant avers that “MSS” is an organizational abbreviation formerly used within the Air Force for Mission Support Squadron. Without the

numerical designation of the Mission Support Squadron to which this paragraph refers defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

159-162. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

163. Defendant admits Air Combat Command (ACC) is a component of the Air Force.

164. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

165. Defendant admits the National Air Intelligence Center (NAIC) was a component of the Air Force and avers the National Air Intelligence Center has been redesignated the National Air and Space Intelligence Center (NASIC).

166-167. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

168. Defendant admits the Air Intelligence Agency (AIA) is a component of the Air Force. Defendant admits Air Combat Command (ACC) is a component of the Air Force.

169. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

170. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

171. Defendant admits the Air Intelligence Agency (AIA) is a component of the Air Force. Defendant admits the National Air and Space Intelligence Center (NASIC) is a component of the Air Force.

172 – 177. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

178. Defendant admits the Aeronautical Systems Division (ASD) is a component of the Air Force. Aeronautical Systems Division has been redesignated the Aeronautical Systems Center (ASC).

179. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

180. Defendant admits the Air Force District of Washington (AFDW) was a component of the Air Force. Defendant avers that it was redesignated the 11th Wing in 1995. Defendant further avers the AFDW to which this paragraph refers is organizationally different from the AFDW reestablished in 2005.

181. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

182. Admitted.

183 – 186. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

187. Defendant admits the General Litigation Division, Air Force Legal Service Agency (AFLSA/JACL) is a component of the Air Force.

188. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

189. Admitted.

190 – 191. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

192. Defendant admits that the request was refiled on August 5, 2004, but avers that only one document, “USAF Ballistic Missile Programs” by Bernard Nalty, was listed in the refiled request.

193. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that, "USAF Ballistic Missile Programs, 1967-1968," was being referred to the Department of Energy for declassification review.

194. Admitted.

195. Admitted.

196-197. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

198. Admitted.

199. Admitted.

200. Admitted.

201. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

202. Admitted.

203. Admitted.

204. Denied.

205. Admitted.

206. Admitted.

207. Admitted.

208. Admitted.

209. Admitted.

210. Admitted.

211. Admitted, except that it is denied that the date of plaintiff's response was November 18, 2004, rather than November 18, 2002.

212. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

213. Admitted.

214. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

215. Admitted.

216. Admitted.

217. Admitted.

218. Admitted.

219. Admitted.

220. Admitted.

221. Admitted.

222. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

223. Admitted.

224. Admitted.

225. Admitted.

226. Admitted.

227. Admitted.

228. Admitted.

229. Admitted.

230. Admitted.

231. Admitted

232. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

233. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

234 . Admitted.

235 – 246. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

247. Admitted.

248. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested documents were being referred to the Department of Energy for declassification review.

249 – 253. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

254. Admitted.

255. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested document was being referred to the Department of Energy for declassification review.

256-263. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

264. Admitted.

265. Admitted.

266. Admitted.

267. Admitted.

268. Admitted.

269. Admitted.

270. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

271. Admitted.

272-273. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

274. Admitted.

275 – 278. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

279. Admitted.

280. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested document was being referred to the Department of Energy for declassification review.

281. Admitted.

282. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

283. Admitted.

284. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

285. Admitted.

286. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

287. Admitted.

288. Admitted.

289. Admitted.

290. Admitted.

291. Admitted.

292. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

293. Admitted.

294. Admitted.

295. Denied. Defendant avers the additional information was provided in a telefacsimile dated August 7, 1997, rather than August 6, 1997.

296-297. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

298. Admitted.

299. Admitted.

300. Admitted.

301. Admitted.

302. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

303. Admitted.

304. Admitted.

305. Admitted.

306. Admitted.

307. Admitted.

308. Admitted.

309. Admitted.

310-311 Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

312. Admitted.

313. Admitted.

314. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

315. Admitted.

316. Admitted.

317. Admitted.

318. Admitted.

319. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

320. Admitted.

321. Admitted.

322. Admitted.

323. Admitted.

324-326. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs

327. Admitted.

328. Admitted.

329. Admitted.

330. Admitted.

331. Defendant admits the first sentence of this paragraph. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of the second sentence of this paragraph.

332. Admitted.

333. Admitted.

334-335. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

336. Admitted.

337. Admitted.

338-339. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

340. Admitted.

341. Admitted.

342-343. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

344. Admitted.

345. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

346. Admitted.

347. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

348. Admitted. Defendant avers that the December 5, 1997, appeal was also denied on September 29, 1998.

349. Admitted.

350. Admitted.

351. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

352. Admitted.

353. Admitted.

354. Admitted.

355. Admitted.

356. Admitted.

357. Admitted.

358. Admitted.

359. Admitted.

360. Admitted.

361. Admitted.

362. Admitted.

363. Admitted.

364. Admitted.

365. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

366. Admitted.

367. Admitted.

368. Admitted.

369. Admitted.

370. Admitted.

371. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

372. Admitted.

373. Admitted.

374. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

375. Admitted.

376. Admitted.

377. Admitted.

378. Admitted.

379-381. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

382. Admitted.

383. Admitted.

384. Admitted.

385. Admitted.

386. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

387. Admitted..

388. Admitted.

389. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

390. Admitted.

391. Admitted.

392. Admitted.

393. Admitted.

394. Admitted.

395. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

396. Admitted, except that it is denied that the letter was dated March 24, 1995, rather than dated March 21, 1995.

397-398. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

399. Admitted.

400. Admitted.

401. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

402. Admitted, except that it is denied that plaintiff's refiled request was submitted to 11MSS/IMD rather than to 1MSS/IMD.

403. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

404. Admitted.

405. Admitted.

406. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

407. Admitted.

408 – 411. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

412. Admitted.

413. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested document was being reviewed for declassification.

414-416. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

417. Admitted.

418. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested document was being referred to the Department of Energy for declassification review.

419 – 420. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

421. Admitted.

422. Denied. Defendant avers the Air Force Historical Studies Office notified plaintiff on May 6, 2005, that the requested document could not be found in its indices, and that the originator of the document no longer had a copy and believed that it had been retired to the National Archives.

423. Admitted.

424. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

425. Admitted.

426. Admitted.

427. Admitted.

428. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

429. Admitted.

430. Admitted.

431. Admitted.

432. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

433. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

434. Admitted.

435. Admitted.

436. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph, except that defendant admits that it has not released any responsive records.

437. Admitted.

438. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

439. Admitted.

440. Admitted.

441. Admitted.

442. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

443. Admitted.

444. Admitted.

445. Admitted.

446. Admitted.

447. Admitted.

448. Admitted.

449. Admitted.

450 - 452. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

453. Admitted.

454. Admitted.

455. Admitted.

456. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

457. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

458. Admitted.

459. Admitted.

460. Admitted.

461. Admitted.

462-466. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

467. Admitted.

468. Admitted.

469. Admitted.

470. Admitted.

471. Admitted.

472. Admitted.

473. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph concerning a letter of January 4, 2005; with respect to the letter of October 29, 2004, the averments are admitted..

474. Admitted.

475. Admitted.

476. Admitted.

477. Admitted.

478. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

479. Admitted.

480. Admitted.

481. Admitted.

482. Admitted.

483. Admitted.

484. To the extent the first sentence of this paragraph refers to a telephone conversation mentioned in a letter dated February 24, 1998, from Joyce Battle to “[M]Sgt [Gery D.] Huelseman,” the first sentence of this paragraph is admitted. To the extent, if any, that the first sentence makes other averments, defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of such averments. The second sentence of this paragraph is admitted.

485. Admitted.

486. Admitted.

487. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

488. Admitted.

489. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

490. Admitted.

491 – 499. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs. Defendant avers that United States Space Command is not a component of the Air Force but was a Unified Combatant Command within the Department of Defense. Defendant further avers that United States Space Command merged with United States Strategic Command on October 1, 2002, and that the United States Strategic Command is not a component of the Air Force but is a Unified Combatant Command within the Department of Defense.

500-510. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

511. Admitted.

512. Admitted.

513. Admitted.

514. Admitted.

515. Admitted.

516. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

517. Admitted.

518. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

519. Admitted.

520. Admitted.

521. Admitted.

522. Admitted.

523. Admitted.

524. Admitted.

525. Admitted.

526. Admitted.

527. Admitted.

528. Admitted.

529. Admitted.

530. Admitted.

531. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

532. Denied. Defendant avers that the May 15, 2001, letter stated that withheld information bracketed in green had been redacted by the State Department while information bracketed in red had been redacted by Air Combat Command.

533. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

534. Admitted.

535. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

536. Admitted.

537. Admitted.

538. Admitted.

539. Admitted.

540. Admitted.

541. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

542 - 546. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

547. Admitted.

548. Admitted.

549. Admitted.

550. Admitted.

551. Admitted.

552. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

553. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

554. Admitted.

555 – 567. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

568. Admitted.

569. Admitted.

570. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

571. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

572. Admitted.

573. Admitted.

574. Admitted.

575. Admitted.

576. Admitted.

585. Admitted.

586-587. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

588. Admitted.

589. Admitted.

590-591. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

592. Admitted.

593. Admitted.

594. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

595. Admitted.

596. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

597. Admitted.

598. Admitted

599-601. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

602. Admitted.

603. Admitted.

604. Admitted, except it is denied that the letters were sent to defendant rather than to plaintiff.

605. Admitted.

606. Admitted.

607. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

608. Admitted.

609. It is denied that HQ PACAF/SCT wrote to plaintiff on January 19, 1999, rather than on January 13, 1999. The averments of this paragraph are otherwise admitted.

610. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

611. Admitted.

612. Admitted.

613. Admitted.

614. Admitted.

615. Admitted.

616. Admitted.

617. Admitted.

618. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

619. Denied. Defendant avers that on September 23, 2004, and on April 20, 2005, defendant released what plaintiff's refiled request referred to as the "two remaining outstanding documents."

620-623. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

624. Admitted.

625. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

626. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

627. Admitted.

628. Admitted.

629. Admitted.

630. Admitted.

631. Admitted.

632. Admitted.

633. Admitted.

634. Admitted.

635. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

636. Admitted.

637. Admitted.

638. Admitted.

639. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

640. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

641. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

642. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

643. Admitted.

644. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

645. Admitted.

646. Admitted.

647. Admitted.

648. Admitted.

649. Admitted.

650. Admitted.

651. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

652. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

653. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

654. Admitted.

655. Admitted.

656. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

657. Admitted.

658 – 662. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

663. Admitted.

664. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

665. Admitted.

666. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

667. Admitted.

668. Admitted.

669. It is admitted that defendant has not completed processing of this request. Insofar as this paragraph avers that defendant has not taken any steps involved in processing the request, the averments are denied: Defendant avers the responsive record has been referred to United States Strategic Command, an agency outside the Air Force having a substantial interest in the

requested records, for declassification review and recommendation. Defendant further avers processing of the request cannot be completed until the United States Strategic Command declassification recommendation is received

670. Admitted.

671. Admitted.

672. Admitted.

673. Admitted.

674. Admitted.

675. Admitted.

676. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

677. Admitted.

678. Admitted.

679. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

680. Admitted.

681. Admitted.

682. Admitted.

683. Admitted.

684. Admitted.

685. Admitted.

686 – 687. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

688. Admitted.

689. Admitted.

690. Denied. Defendant avers that release of the record referred by the Department of State was denied on May 11, 2005.

691. This paragraph is plaintiff's characterization of a December 6, 2002, request for mandatory declassification review under Executive Order 12958 from Yufeng Mao, which speaks for itself.

692. Admitted.

693. Admitted.

694. It is denied that the request referred to by this paragraph was a "FOIA request." The paragraph is otherwise admitted.

695. Admitted.

696. Denied. Defendant avers the request to which this paragraph refers was acknowledged on January 9, 2003, and that plaintiff was informed that additional time was needed to complete processing it on February 14, 2003.

697. Admitted.

698. Admitted.

699. Admitted.

700. Admitted.

701. Denied. Defendant avers that an April 14, 2004, letter to Malcolm Byrne notified plaintiff that defendant could neither confirm nor deny the existence of responsive records (a "Glomar" response.) Defendant further avers that it did not receive an administrative appeal.

702. Admitted.

703. Admitted.

704. Admitted.

705. Admitted.

706. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

707. Admitted.

708. Denied, except it is admitted that on March 24, 2003, plaintiff supplemented its appeal of the March 7, 2003, decision.

709. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

710. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

711. Admitted.

712. Admitted.

713. Admitted.

714. Admitted.

715. Admitted.

716. Admitted.

717. Admitted.

718. Admitted.

719. Admitted.

720. Admitted.

721. Denied. Defendant avers that on May 11, 2005, defendant responded to this request by notifying plaintiff that the Air Force could not confirm or deny the existence or non-existence of the documents requested (a "Glomar" response).

722. Admitted.

723. Admitted.

724. Admitted.

725. Admitted.

726. Admitted.

727. Admitted.

728. Admitted.

729. Admitted.

730. Admitted.

731. Admitted.

732. Admitted.

733. Admitted.

734. Admitted.

735. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

736. Admitted.

737. Admitted.

738. Admitted.

739 – 743. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

744. Admitted.

745. Admitted.

746. Admitted.

747. Admitted.

748. Admitted.

749. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

750. Admitted.

751. Admitted.

752. Admitted.

753. Admitted.

754 – 756. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of these paragraphs.

757. Denied. Defendant avers that a “no records” response was sent to the plaintiff on June 21, 2004. Defendant further avers that it did not receive an administrative appeal.

758. Admitted.

759. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

760. Admitted.

761. Admitted.

762. Admitted.

763. Denied, except that it is admitted that with respect to the second document listed in the request, defendant has neither released the document nor denied the request.

764. Admitted.

765. Admitted.

766. Admitted.

767. Admitted.

768. Admitted.

769. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

770. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

771. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph.

772. Defendant avers that defendant provided plaintiff on June 25, 2004, with a computer printout that described responsive documents along with instructions for ordering

copies of the documents; defendant admits that it has not otherwise released documents responsive to the request or denied the request.

773. This paragraph is plaintiff's characterization of the annual agency FOIA reports of the Army, Navy, and Air Force, which reports speak for themselves.

774. Defendant denies this paragraph to the extent that it avers that the Air Force is not committed to improving its handling of FOIA requests, and admits that such improvements are not reflected by reports from the two preceding prior years and that in those years the number of open requests increased.

775. This paragraph contains conclusions of law and not averments of fact to which a response is required; to the extent that a response may be deemed to be required, the averments of this paragraph are denied.

776. The first two sentences of this paragraph contain plaintiff's characterization of 32 C.F.R. § 286.4(d)(2) [defendant assumes that this was the citation intended by the complaint's reference to "32 C.F.R. § 286.4(2)"], the terms of which speak for themselves. To the extent that a further answer may be deemed to be required, defendant denies that § 286.4(d)(2) establishes a two-tier system (the regulation requires "a minimum" of "three processing tracks"), denies that the regulation provides that "simple" requests must be "processed before 'complex' requests," and denies that the regulation requires the Air Force to notify individuals of an opportunity to "limit their requests for further processing" except to the extent that such limitation would change the request to qualify for a faster processing track. The third sentence is admitted.

777. The first sentence of this paragraph contains plaintiff's characterization of 32 C.F.R. § 286.4, the terms of which speak for themselves. The second and third sentences are denied. Defendant avers that processing is initiated on a first-in, first-out basis but that referrals to other agencies for declassification review often result in out-of-order completion of processing.

778. Defendant reasserts and incorporates by reference as if fully set forth herein its answers in paragraphs 1-777 above.

779. This paragraph contains conclusions of law and not averments of fact to which a response is required.

780. This paragraph contains conclusions of law and not averments of fact to which a response is required.

781. This paragraph contains conclusions of law and not averments of fact to which a response is required. To the extent that an answer may be deemed to be required, defendant denies that plaintiff has exhausted its administrative remedies with respect to requests 57, 68, and 79; and defendant denies that plaintiff has filed any request pursuant to the Freedom of Information Act with defendant with respect to requests numbers 43 and 66.

782. This paragraph contains conclusions of law and not averments of fact to which a response is required.

783. Defendant hereby incorporates by reference as if fully set forth herein its answers in paragraphs 1-782 above.

784. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the averments that defendant failed to comply with statutory time limits with respect to requests 17, 19, 43, 44, and 55, and with respect to the May 30, 2001, appeal concerning request 48. It is admitted that in the other cited instances, the defendant did not complete its adjudication of the appeal within 20 working days.

785. This paragraph contains conclusions of law and not averments of fact to which a response is required.

786. This paragraph contains conclusions of law and not averments of fact to which a response is required.

787. Defendant hereby incorporates by reference as if fully set forth herein its and incorporates by reference as if fully set forth herein its answers in paragraphs 1-786 above.

788. Defendant strives to process FOIA requests in a timely and efficient manner. It is admitted that, due to the number, volume, and complexity of requests made by plaintiff and other

requesters, to the classified nature of much of the material subject to such requests, and to other factors, defendant is often unable to complete processing requests or appeals within the statutory time limits. To the extent, if any, that the paragraph is deemed to incorporate averments elsewhere in the complaint concerning the timing of particular requests and responses to requests, defendant hereby incorporates by reference as if fully set forth herein its responses to those averments.

789. It is admitted that in some instances defendant has not set forth the unusual circumstances that require an extension of time to process FOIA requests or specified a date on which a determination is to be expected. To the extent, if any, that the paragraph is deemed to incorporate averments elsewhere in the complaint concerning the timing of particular requests and responses to requests, defendant hereby incorporates by reference as if fully set forth herein its responses to those averments.

790. Denied.

791. Denied.

792. This paragraph contains conclusions of law and not averments of fact to which a response is required. To the extent, if any, that the paragraph is deemed to incorporate averments elsewhere in the complaint concerning the timing of particular requests and responses to requests, defendant hereby incorporates by reference as if fully set forth herein its responses to those averments.

793 – 813. These paragraphs contain plaintiff's prayer for relief and not averments of fact to which an answer is required. To the extent that an answer may be deemed to be required, defendant denies that plaintiff is entitled to the relief prayed for or to any relief whatsoever.

Respectfully submitted,

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