

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CATO INSTITUTE,

Plaintiff,

v.

UNITED SPECIAL OPERATIONS
COMMAND, et al.,

Defendants.

Civil Action No. 25-1719 (RC)

ANSWER

Defendants, United States Special Operations Command (the “Command”) and United States Department of Defense (the “Department,” and, collectively with the Command, the “Defendants”), by and through undersigned counsel, respectfully submit this Answer to the Complaint (ECF No. 1) filed by Plaintiff Cato Institute under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Any allegations not specifically admitted, denied, or otherwise responded to below are hereby denied.

To the extent the Complaint refers to or quotes from external documents, statutes or other sources, Defendants may refer to such materials for their accurate and complete contents in response; however, Defendants’ references are not intended to be, and should not be construed to be, an admission that the cited materials are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this, or any other, action; or (c) admissible in this or any other action. Defendants expressly deny all allegations in the Complaint, including the relief sought, that are not specifically admitted to or otherwise qualified in this Answer. Defendants respond to the Complaint in like numbered paragraphs as follows:

1. This paragraph consists of Plaintiff's characterization of this action, to which no response is required. To the extent a response is required, Defendants admit that Plaintiff purports to bring this action under the FOIA.

PARTIES¹

2. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

3. The Command admits that it is a federal agency within the meaning of 5 U.S.C. § 552.

4. Defendants admit that the Department is a federal agency within the meaning of 5 U.S.C. § 552. The Command admits that it was established as a combatant command in accordance with 10 U.S.C. § 161.

JURISDICTION AND VENUE

5. This paragraph consists of legal conclusions regarding jurisdiction, to which no response is required. To the extent that a response is deemed required, Defendants admit that this Court has jurisdiction over claims involving proper FOIA requests, subject to the terms and limitations of FOIA.

6. This paragraph consists of legal conclusions regarding venue, to which no response is required. To the extent that a response is deemed required, Defendants admit that this Court has venue over claims involving proper FOIA requests, subject to the terms and limitations of FOIA.

APRIL 22, 2025 FOIA REQUEST TO USSOCOM

¹ Merely for ease of reference, Defendants replicate the headings contained in the Complaint. Although Defendants believe that no response is required to such headings (*see* Fed. R. Civ. P. 10(b)), to the extent a response is deemed required and to the extent those headings could be construed to contain factual allegations, those allegations are denied.

7. Defendants admit that Plaintiff submitted a FOIA request to the Command on April 22, 2025. The remainder of this paragraph consists of Plaintiff's characterization of its FOIA request, to which no response is required. To the extent a response is deemed required, Defendants aver that the request is the best evidence of its contents and respectfully refer this Court to that request for a complete and accurate statement of its contents. Defendants deny all allegations in this paragraph to the extent they are inconsistent therewith.

8. This paragraph contains Plaintiff's characterization of Exhibit 1 to the Complaint, to which no response is required.

9. Defendants admit the allegations in this paragraph.

10. This paragraph contains Plaintiff's characterization of Exhibit 2 to the Complaint, to which no response is required.

11. Defendants admit that they did not send any further correspondence to Plaintiff between May 12, 2025, and the date of the Complaint.

12. Paragraph 12 consists of conclusions of law to which no response is required.

13. Defendants admit that the Command has not indicated that the request involves a large volume of records. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of the allegations in this paragraph.

14. Defendants admit that the allegations in this paragraph.

15. This 15 consists of conclusions of law to which no response is required. To the extent that a response is deemed required, Defendants admit that the Command has not provided a response to Plaintiff.

16. Defendants lack knowledge or information sufficient to form a belief about Plaintiff's belief, as is alleged in this paragraph.

17. Defendants lack knowledge or information sufficient to form a belief about Plaintiff's belief, as is alleged in this paragraph.

COUNT I – USSOCOM'S FOIA VIOLATION

18. Defendants incorporate by reference their responses to all preceding paragraphs as if set forth fully herein.

19. This paragraph consists of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny they are in violation of FOIA.

20. Defendants admit the Command is a federal agency subject to FOIA.

22–24. These paragraphs consist of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny they are in violation of FOIA.

The remainder of the Complaint consists of Plaintiff's requests for reliefs, to which no response is required. To the extent that a response is deemed necessary, Defendants deny that Plaintiff is entitled to the relief requested or to any relief whatsoever.

DEFENSES

In further response to the Complaint, Defendants raise the following defenses. Defendants respectfully request and reserve the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known to Defendants throughout the course of this litigation.

FIRST DEFENSE

Defendants have not improperly withheld any records under FOIA, 5 U.S.C. § 552.

SECOND DEFENSE

This Court lacks subject matter jurisdiction over any of Plaintiff's requests for relief that exceed the relief authorized by the FOIA, 5 U.S.C. § 552.

THIRD DEFENSE

Plaintiff is not entitled to compel the production of responsive records protected from disclosure by one or more of the exemptions from or exclusions to the FOIA, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

FOURTH DEFENSE

This Court lacks jurisdiction over any matter to the extent that Plaintiff failed to satisfy prerequisites to suit, as well as over any requests or allegations that are not contained in the FOIA request properly at issue in this action.

FIFTH DEFENSE

Any information that Defendants have withheld, or will withhold, in response to Plaintiff's FOIA request may be exempt in whole or in part from public disclosure under FOIA, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

SIXTH DEFENSE

Plaintiff is neither eligible for nor entitled to attorney's fees or costs.

SEVENTH DEFENSE

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

Dated: July 3, 2025
Washington, DC

Respectfully submitted,

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