

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
ELECTRONIC PRIVACY	)	
INFORMATION CENTER	)	<b>Case No. 1:10-cv-00196-RMU</b>
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
NATIONAL SECURITY AGENCY;	)	
NATIONAL SECURITY COUNCIL	)	
	)	
Defendants.	)	
_____	)	

**ANSWER**

Defendant National Security Agency (“Defendant” or “NSA”), by and through its undersigned counsel, answers Plaintiff’s Complaint (“Complaint”) as follows. To the extent that any unnumbered headings in the Complaint are deemed to contain allegations, Defendant denies those allegations:

1. The allegations contained in paragraph 1 of the Complaint set forth Plaintiff’s characterization of the action to which no response is required. To the extent that a response is deemed necessary, these allegations are denied.
2. The allegations contained in paragraph 2 of the Complaint set forth conclusions of law to which no response is required.
3. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint, and, on that basis, denies the allegations.
4. Defendant denies the allegations contained within the first sentence of paragraph

4 of the Complaint, except admits that the NSA is an element of the Intelligence Community, that the NSA is a Defense agency, and that the Secretary of Defense exercises authority, direction, and control over the NSA. The allegations contained in the second sentence of paragraph 4 of the Complaint set forth conclusions of law to which no response is required.

5. The allegations contained in paragraph 5 of the Complaint set forth conclusions of law to which no response is required.
6. Defendant admits the allegations contained in paragraph 6 of the Complaint.
7. Defendant denies the allegations contained in paragraph 7 of the Complaint, except that Defendant admits that the full text of National Security Presidential Directive 54 has not been publicly released.
8. Defendant admits the allegations contained in paragraph 8 of the Complaint.
9. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained paragraph 9 of the Complaint, and, on that basis, denies the allegations.
10. The allegations contained in paragraph 10 of the Complaint set forth Plaintiff's characterization of the cited letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
11. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained paragraph 11 of the Complaint, and, on that basis, denies the allegations.
12. The allegations contained in paragraph 12 of the Complaint set forth Plaintiff's characterization of the cited letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement

of its contents.

13. Defendant admits the allegations contained in paragraph 13 of the Complaint.
14. Defendant admits the allegations contained in paragraph 14 of the Complaint.
15. Defendant admits the allegations contained in paragraph 15 of the Complaint.
16. The allegations contained in paragraph 16 of the Complaint set forth Plaintiff's characterization of the cited FOIA request, and thus no response is required. Defendant respectfully refers the Court to the cited FOIA request for the full and accurate statement of its contents.
17. The allegations contained in paragraph 17 of the Complaint set forth Plaintiff's characterization of the cited FOIA request, and thus no response is required. Defendant respectfully refers the Court to the cited FOIA request for the full and accurate statement of its contents.
18. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained paragraph 18 of the Complaint, and, on that basis, denies the allegations.
19. Defendant admits the allegations contained in paragraph 19 of the Complaint.
20. Defendant admits the allegations contained in paragraph 20 of the Complaint.
21. The allegations contained in paragraph 21 of the Complaint set forth Plaintiff's characterization of the cited July 1, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
22. The allegations contained in paragraph 22 of the Complaint set forth Plaintiff's characterization of the cited July 1, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.

23. The allegations contained in paragraph 23 of the Complaint set forth Plaintiff's characterization of the cited July 1, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
24. The allegations contained in paragraph 24 of the Complaint set forth Plaintiff's characterization of the cited July 30, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
25. Defendant admits the allegations contained in paragraph 25 of the Complaint.
26. The allegations contained in paragraph 26 of the Complaint set forth Plaintiff's characterization of the cited July 30, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
27. The allegations contained in paragraph 27 of the Complaint set forth Plaintiff's characterization of the cited July 30, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
28. Defendant admits the allegations contained in paragraph 28 of the Complaint.
29. The allegations contained in paragraph 29 of the Complaint set forth Plaintiff's characterization of the cited August 12, 2009 letter, and thus no response is required. Defendant admits that the August 12, 2009 letter granted Plaintiff's request for expedited processing. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.
30. The allegations contained in paragraph 30 of the Complaint set forth Plaintiff's characterization of the cited August 12, 2009 letter, and thus no response is

required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.

31. Defendant admits the allegations contained in paragraph 31 of the Complaint.

32–35 The allegations contained in paragraphs 32–35 of the Complaint set forth Plaintiff’s characterization of the cited August 14, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.

36. Defendant admits the allegations contained in paragraph 36 of the Complaint.

37–42 The allegations contained in paragraphs 37–42 of the Complaint set forth Plaintiff’s characterization of the cited October 26, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.

43. Defendant admits the allegations contained in paragraph 43 of the Complaint.

44. Defendant admits the allegations contained in paragraph 44 of the Complaint.

45–47 The allegations contained in paragraphs 45–47 of the Complaint set forth Plaintiff’s characterization of the cited November 24, 2009 letter, not allegations of fact, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full and accurate statement of its contents.

48. Defendant denies the allegations contained in paragraph 48 of the Complaint, except admits that the NSA Associate General Counsel for Litigation responded to Plaintiff in a letter dated December 18, 2009.

49. Defendant admits the allegations contained in paragraph 49 of the Complaint.

50. The allegations contained in paragraph 50 of the Complaint set forth Plaintiff’s characterization of the cited December 18, 2009 letter, and thus no response is required. Defendant respectfully refers the Court to the cited letter for the full

and accurate statement of its contents.

51. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 51 of the Complaint, and, on that basis, denies the allegations.
52. In response to the recital contained in paragraph 52 of the Complaint, Defendant incorporates by reference the responses to paragraphs 1 through 51 of the Complaint as if fully set forth herein.
- 53–57 The allegations contained in paragraphs 53–57 of the Complaint set forth conclusions of law to which no response is required. To the extent that a response is deemed necessary, these allegations are denied. Defendant respectfully refers the Court to the cited statutory provision for the full and accurate statement of its contents.
58. In response to the recital contained in paragraph 58 of the Complaint, Defendant incorporates by reference the responses to paragraphs 1 through 57 of the Complaint as if fully set forth herein.
- 59–63 The allegations contained in paragraphs 59–63 of the Complaint set forth conclusions of law to which no response is required. To the extent that a response is deemed necessary, these allegations are denied.
64. In response to the recital contained in paragraph 64 of the Complaint, Defendant incorporates by reference the responses to paragraphs 1 through 63 of the Complaint as if fully set forth herein.
- 65–68 Defendant avers that no response is required to the allegations contained in paragraphs 65–68 of the Complaint because they are directed only to Defendant National Security Council.
69. In response to the recital contained in paragraph 69 of the Complaint, Defendant

incorporates by reference the responses to paragraphs 1 through 68 of the Complaint as if fully set forth herein.

70–73 Defendant avers that no response is required to the allegations contained in paragraphs 70–73 of the Complaint because these allegations are addressed by the pending Partial Motion to Dismiss filed by Defendant.

The remainder of the Complaint sets forth Plaintiff’s request for relief, to which no response is required. To the extent that a response is required, Defendant denies that Plaintiff is entitled to any relief. Any allegation not expressly answered is hereby denied.

FIRST DEFENSE

The allegations of the Complaint fail to state a claim on which relief may be granted.

SECOND DEFENSE

Plaintiff is not entitled to compel the production of records protected from disclosure by one or more exemptions to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

DATED: March 25, 2010

Respectfully Submitted,

TONY WEST  
Assistant Attorney General

RONALD C. MACHEN  
United States Attorney

ELIZABETH J. SHAPIRO  
Deputy Director

/s/ Joshua Wilkenfeld  
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*Counsel for Defendant*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing filing has been furnished via CM/ECF to counsel for Plaintiff, John Verdi, Esq., of the Electronic Privacy Information Center, on this 25th day of March, 2010.

*/s/ Joshua Wilkenfeld*

Joshua Wilkenfeld