

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

ROGER HALL, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 04-0814 (HHK)
CENTRAL INTELLIGENCE AGENCY,)	ECF
)	
Defendant.)	
_____)	

**CIA’S RESPONSE TO PLAINTIFF AIM’S STATEMENT OF
FACTS AS TO WHICH THERE IS NO GENUINE DISPUTE**

Pursuant to Federal Rules of Civil Procedure 56 and Local Rule 7(h), defendant Central Intelligence Agency (“CIA”) respectfully submits its Response to Plaintiff AIM’s Statement of Material Facts.

1. Admit that on February 7, 2003, AIM joined in the FOIA request of Roger Hall and Studies Solution Results that was submitted to the CIA. That document speaks for itself, and plaintiff’s characterization is denied to the extent inconsistent with that document. Koch Decl., Ex. 1.

2. Admit that Plaintiffs filed the instant complaint, which speaks for itself, in May 2004 and not 2005. Dkt. No. 1.

3. The Court’s April 13, 2005 Order speaks for itself. Plaintiff’s characterization is denied to the extent inconsistent with that document. Dkt. No. 30.

4. The Court’s April 13, 2005 Order speaks for itself. Plaintiff’s characterization is denied to the extent inconsistent with that document. Dkt. No. 30.

5 and 6. Admit that on or about April 22, 2005 AIM wrote the agency a letter. The document speaks for itself. AIM’s Statement of Material Facts (“SMF”), Ex. A. Plaintiff’s

characterization is denied to the extent inconsistent with that document.

7. Admit that the CIA sent plaintiff a letter dated May 26, 2005. That document speaks for itself, and plaintiff's characterization is denied to the extent inconsistent with that document. AIM's SMF, Exh. B.

8 - 13. Admit that on April 26, 2005, AIM submitted a FOIA request to the CIA. That document speaks for itself, and plaintiff's characterization is denied to the extent inconsistent with that document. AIM's SMF, Exh. C.

14. Admit that the CIA sent plaintiff a letter dated June 1, 2005. That document speaks for itself, and plaintiff's characterization is denied to the extent inconsistent with that document. AIM's SMF, Exh. D.

15 - 18. Admit that on or about June 29, 2005, AIM sent a letter to the CIA. That document speaks for itself, and plaintiff's characterization is denied to the extent inconsistent with that document. AIM's SMF, Exh. E.

19. Admit that on or about July 19, 2005 CIA sent plaintiff a letter. That document speaks for itself, and plaintiff's characterization is denied to the extent inconsistent with that document. AIM's SMF, Exh. F.

20. The Court's Memorandum and Opinion speaks for itself. Plaintiff's characterizations are denied to the extent inconsistent with that document. Dkt. No. 30.

21. The Koch Declaration speaks for itself and, to the extent it is mischaracterized, plaintiff's assertions in this paragraph and its footnote are denied.

22. Admit. The Koch Declaration speaks for itself and, to the extent it is mischaracterized, plaintiff's assertions in this paragraph and its footnote are denied.

23. The Vaughn Indices submitted by the Agency speak for themselves, and

plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. Nos. 54 and 109.

24. Immaterial and denied.

25. Mr. DiMaio's Declaration speaks for itself and, to the extent it is mischaracterized, plaintiff's assertions in this paragraph are denied. Dkt. No. 109.

26. Admit.

27. Mr. DiMaio's Declaration speaks for itself and, to the extent it is mischaracterized, plaintiff's assertions in this paragraph are denied. Dkt. No. 109.

28. Mr. Koch Declaration speaks for itself and, to the extent it is mischaracterized, plaintiff's assertions in this paragraph and its footnote are denied. Dkt. No. 54.

29. The Declarations of Messrs. Koch and DiMaio speak for themselves and, to the extent they may be mischaracterized, the Agency denies. Dkt. Nos. 54 and 109.

30 - 32. Mr. DiMaio's Declaration speaks for itself and, to the extent it may be mischaracterized, plaintiff's assertions in this paragraph are denied. Dkt. No. 109.

33 - 34. Mr. Koch's Declaration speaks for itself and, to the extent it may be mischaracterized, plaintiff's assertions in this paragraph and its footnote are denied. Dkt. No. 54.

35. The Memorandum and Opinion speaks for itself and to the extent that it may be mischaracterized, it is denied.

36. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Deny that the birthdates were the sole reason for the CIA's declining to search for records of the roughly 1700 individuals included in Item 5. Dkt. No. 54 (Koch Decl. ¶¶ 24 - 25).

37. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to

the extent inconsistent with that document. Dkt. No. 54.

38. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54.

39. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶ 28).

40. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶ 26).

41. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶ 28).

42. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶¶ 33 and 36).

43. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶ 36).

44. Plaintiff's assertions regarding "most of its records" in this paragraph are vague. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶ 36).

45. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. The issue of non-payment of fees was not the only reason Items 5 and 7 were administratively closed. Dkt. No. 54 (Koch Decl. ¶ 38).

46. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to the extent inconsistent with that document. The issue of non-payment of fees was not the only reason Items 5 and 7 were administratively closed. Dkt. No. 54 (Koch Decl. ¶ 37).

47. Mr. Koch's Declaration speaks for itself. Plaintiff's characterization is denied to

the extent inconsistent with that document. Dkt. No. 54 (Koch Decl. ¶ 39). It is admitted that two years after this matter had been administratively closed for plaintiff's failure to narrow the request, AIM did ultimately remove "previous FOIA" requests from Item 7, the CIA did not construe that a sufficient or a proper narrowing of Item 7. The request continued to be overly burdensome and was therefore not accepted.

48. The letter speaks for itself. See response to paragraph 47, supra.

49. The Vaughn Indices speak for themselves. Dkt. Nos. 54 and 109. Insofar as AIM may be implying that the CIA did not respond to its Item 8-related request the Agency states as follows. In response to Plaintiff AIM's Item 8-related request, by letter dated July 13, 2007, the CIA released four documents, three of which were provided in segregable form. Additional materials were withheld. See Koch July 13, 2007 Letter, attached to opening brief as Exh. A.

50. Admit that the CIA sent a letter dated 1 June 2005 to plaintiff. That document speaks for itself, and plaintiff's characterization is denied to the extent inconsistent with this document. Dkt. No. 54 (Koch Decl. Exh. 12).

51. Immaterial. The Protective Order speaks for itself. Dkt. No. 68.

52. Mr. Dimaio's Declaration speaks for itself and does contain a discussion of Exemption 1 information. Dkt. 109 (DiMaio Decl. ¶¶ 11-14).

53. Mr. Dimaio's Declaration speaks for itself and plaintiff's characterizations are denied to the extent inconsistent with this document. Dkt. 109 (DiMaio Decl. ¶ 25).

54. Immaterial. Mr. Toll's Affidavit speaks for itself and plaintiff's characterizations are denied to the extent inconsistent with this document. Dkt. 114.

55 - 63. Immaterial.

64. Immaterial. Additionally, this paragraph appears to challenge the adequacy of the

CIA's search. In demonstrating that a FOIA search is adequate, "the agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents. . . The question is not whether there might exist any other documents possibly responsive to the request, but rather whether the search for those documents was adequate.'" Steinberg v. DOJ, 23 F.3d 548, 551 (D.C. Cir. 1994) (internal citation omitted) (emphasis in original). Thus, whether additional documents on a topic might exist is immaterial to whether an adequate search was conducted.

65 - 71. Immaterial.

72. Immaterial. This paragraph appears to challenge the adequacy of the CIA's search. In demonstrating that a FOIA search is adequate, "the agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents. . . The question is not whether there might exist any other documents possibly responsive to the request, but rather whether the search for those documents was adequate.'" Steinberg v. DOJ, 23 F.3d 548, 551 (D.C. Cir. 1994) (internal citation omitted) (emphasis in original). Thus, whether additional documents on a topic might exist is immaterial to whether an adequate search was conducted.

73 -79. Immaterial.

80. Immaterial. This paragraph appears to challenge the adequacy of the CIA's search. In demonstrating that a FOIA search is adequate, "the agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents. . . The question is not whether there might exist any other documents possibly responsive to the request, but rather whether the search for those documents was adequate.'" Steinberg v. DOJ, 23 F.3d 548, 551 (D.C. Cir. 1994) (internal citation omitted) (emphasis in original). Thus, whether additional documents on a topic might exist is immaterial to whether an adequate search was conducted.

81 – 83. Immaterial.

84. Immaterial. Additionally, this paragraph appears to challenge the adequacy of the CIA's search. In demonstrating that a FOIA search is adequate, "the agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents. . . The question is not whether there might exist any other documents possibly responsive to the request, but rather whether the search for those documents was adequate.'" Steinberg v. DOJ, 23 F.3d 548, 551 (D.C. Cir. 1994) (internal citation omitted) (emphasis in original). Thus, whether additional documents on a topic might exist is immaterial to whether an adequate search was conducted.

85. Immaterial.

86. Immaterial. This paragraph appears to challenge the adequacy of the CIA's search. In demonstrating that a FOIA search is adequate, "the agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents. . . The question is not whether there might exist any other documents possibly responsive to the request, but rather whether the search for those documents was adequate.'" Steinberg v. DOJ, 23 F.3d 548, 551 (D.C. Cir. 1994) (internal citation omitted) (emphasis in original). Thus, whether additional documents on a topic might exist is immaterial to whether an adequate search was conducted.

87. Immaterial.

88. Immaterial. This paragraph appears to challenge the adequacy of the CIA's search. In demonstrating that a FOIA search is adequate, "the agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents. . . The question is not whether there might exist any other documents possibly responsive to the request, but rather whether the search for those documents was adequate.'" Steinberg v. DOJ, 23 F.3d 548,

551 (D.C. Cir. 1994) (internal citation omitted) (emphasis in original). Thus, whether additional documents on a topic might exist is immaterial to whether an adequate search was conducted.

Respectfully submitted,

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