

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STAND TOGETHER AGAINST)	
RACISM AND RADICALISM IN)	
THE SERVICES, INC.,)	
222 East McKinney, Suite 100,)	
Denton, Texas 76201)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	
)	
U.S. DEPARTMENT OF DEFENSE,)	
1400 Defense Pentagon)	
Washington, DC 20301-1400)	
)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff, Stand Together Against Racism and Radicalism in the Services, Inc. (“STARRS” or “Plaintiff”), brings this action against Defendant U.S. Department of Defense to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and as grounds therefor alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff STARRS is a Texas not-for-profit corporation that seeks to educate Americans on the dangers of racist and radical ideologies infiltrating the U.S. military, with the goal of eliminating these divisive influences and maintaining a unified and cohesive fighting

force. Founded by a group of retired distinguished military officers, STARRS is concerned about efforts to teach and implement aspects of Critical Race Theory in U.S. military academies and throughout the U.S. Armed Forces. STARRS has grown to 3,281 members, including general officers, service academy graduates, retired and active-duty officers and enlisted, and other concerned civilians. STARRS seeks to become a dynamic and influential force to promote balance, unity, and adherence to the U.S. Constitution, and to prevent the politicization of the service academies and the U.S. Department of Defense. STARRS seeks access to records in the possession, custody, and control of Defendant.

4. Defendant, U.S. Department of Defense (“Defendant”), is an agency of the United States government headquartered at 1400 Defense Pentagon, Washington, DC 20301-1400. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

Request 1

5. On November 1, 2021, Plaintiff sent a FOIA request to the U.S. Air Force Academy (“USAFA”), a component of Defendant, seeking access to records related to the USAFA’s diversity and inclusion plans. Specifically, the request sought:

1. An assessment mandated by the Superintendent to be produced by September 2013 (see last paragraph on page 8 at attachment 2);
2. “Measurements” referenced in Annex 2, Goal D5 and Priorities 2.1 and 2.2, (see pages 33 and 34 at attachment 2); and
3. Cadet wing demographics (e.g., race, ethnicity, and gender) upon entry and graduation for each year between 2003 and 2021 and corresponding representation in cadet commander positions at wing, group, and squadron levels.

The number assigned to the request by the USAFA was 2022-00568-F.

6. On May 23, 2024, Plaintiff received a letter stating that USAFA was releasing certain records but withholding other records in response to Plaintiff's request.

7. On June 17, 2024, Plaintiff appealed the USAFA's determination to the Office of the Secretary of the Air Force. By an email dated June 25, 2024, Plaintiff received an acknowledgment that Plaintiff's appeal had been received.

8. As of the date of this Complaint, Defendant has failed to: (i) respond to Plaintiff's appeal, or (ii) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

Request 2

9. On August 15, 2024, Plaintiff sent another FOIA request to the USAFA seeking records of "cadet wing demographics (e.g., race, ethnicity, and gender) upon entry and graduation for the years 2022, 2023, and 2024 and corresponding representation in cadet commander positions at wing, group, and squadron levels."

10. On August 16, 2024, Plaintiff received an acknowledgment that the FOIA request had been received and that the number assigned to the request by the USAFA was 2024-06130-F.

11. As of the date of this Complaint, Defendant has failed to: (i) produce the records requested in the August 15, 2024 request or demonstrate that the records are lawfully exempt from disclosure; (ii) notify Plaintiff of the scope of any responsive records it intends to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

13. Defendant is in violation of FOIA.

14. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

15. Plaintiff has no adequate remedy at law.

16. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's appeal of the first request described above by July 25, 2024, at the latest. Because Defendant failed to respond to Plaintiff's appeal within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. In regard to Plaintiff's second request, Defendant was required to make a final determination by September 13, 2024, at the latest. Because Defendant failed to make a final determination on Plaintiff's request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies as to the second request as well.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the requests and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the requests; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: September 23, 2024

Respectfully submitted,

/s/ James F. Peterson
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