

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

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MATTACHINE SOCIETY OF)	
WASHINGTON D.C.)	
)	
Plaintiff,)	
)	Civil Action No. 16-0773 (RCL)
v.)	
)	
UNITED STATES DEPARTEMENT)	
OF JUSTICE,)	
)	
Defendant.)	
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DEFENDANT’S ANSWER TO PLAINTIFF’S AMENDED COMPLAINT

Defendant, the United States Department of Justice (“DOJ” or the “Defendant”), by and through its undersigned counsel, hereby answers Plaintiff’s, Mattachine Society of Washington D.C. (“Plaintiff”) Amended Complaint as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The information that plaintiff seeks in its Freedom of Information Act (“FOIA”) request is exempt from disclosure under FOIA, 5 U.S.C. § 552.

Defendant Department of Justice hereby answers the Complaint in the following numbered paragraphs, which correspond to the Complaint’s numbered paragraphs:

The opening and unnumbered paragraph contains a characterization of Plaintiff’s Complaint and information regarding their counsel to which no response is required. To the extent a response is deemed required, Defendant denies that it improperly withheld records.

PRELIMINARY STATEMENT

1. Defendant admits that Executive Order 10450 was issued on April 27, 1953 by President Eisenhower. The remaining portions of paragraph 1 contain Plaintiff's characterizations to which no response is required.
2. Defendant avers that Executive Order 10450 is the best evidence of its contents.
3. Paragraph 3 contains Plaintiff's characterization of Executive Order 10450 to which no response is required.
4. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 4.
5. Paragraph 5 consists of Plaintiff's description of a 1950 Senate subcommittee report. Defendant avers that the Senate subcommittee report itself is the best evidence of its content.
6. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 6.
7. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 7.
8. These allegations consist of Plaintiff's characterization of steps taken by former FBI Director Hoover in reference to documents exhibited to the complaint. Defendant avers that the documents referenced are the best evidence of their content.
9. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 9.

10. Defendant denies the first sentence of paragraph 10. With respect to the remaining portions of this paragraph, Defendant is without knowledge or information sufficient to form a belief about the truth of this allegation.

11. The first sentence of paragraph 11 contains Plaintiff's characterization to which no response is required. Defendant is without knowledge or information sufficient to form a belief about the remaining allegations in paragraph 11.

12. Paragraph 12 consists of Plaintiff's characterization of Executive Order 10450 to which no response is required. Defendant avers that Executive Order 10450 is the best evidence of its contents.

13. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13.

14. Defendant is without knowledge or information sufficient to form a belief about the truth of allegations in this paragraph 14.

15. Defendant admits that Plaintiff submitted the subject FOIA request on January 25, 2013 and avers that the request is the best evidence of its contents.

16. Defendant denies the allegations in paragraph 16 and avers that it has processed approximately 1602 pages and has produced approximately 1203 pages of documents.

17. Paragraph 17 consists of Plaintiff's speculation as to the number of documents that should have been located in response to plaintiff's request to which no response is required.

18. Defendant denies the allegations in paragraph 18.

19. The allegations in paragraph 19 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

20. Defendant denies the first sentence of paragraph 20. The remainder of the paragraph contains the relief that Plaintiff seeks through this complaint to which a response is not required.

JURISDICTION AND VENUE

21. This statement contains Plaintiff's allegation concerning jurisdiction, to which no response is required. To the extent a response is required Defendant denies the allegation.

22. This statement contains Plaintiff's allegations concerning venue, to which no response is required.

PARTIES

23. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23.

24. Defendant admits the first two sentences of paragraph 24 except Defendant denies the characterization that the Department of Justice controls the FBI. Defendant denies the remaining allegations contained in paragraph 24 including allegations that it has improperly withheld records.

FACTUAL ALLEGATIONS

Executive Order 10450 . . .

25. Paragraph 25 consists of Plaintiff's characterization of Executive Order 10450 to which no response is required. Defendant avers that Executive Order 10450 is the best evidence of its contents.

26. Paragraph 26 consists of Plaintiff's characterization of Executive Order 10450 to which no response is required. Defendant avers that Executive Order 10450 is the best evidence of its contents.

27. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

THE FBI's "Sex Deviate Program" As Foundation for EO 10450

28. Paragraph 28 consists of Plaintiff's characterization regarding a memo by former FBI Director Hoover. Defendant avers that the memorandum referenced is the best evidence of its contents.

29. Paragraph 29 consists of Plaintiff's characterization regarding a memo by former FBI Director Hoover. Defendant avers that the memorandum referenced is the best evidence of its contents.

30. Paragraph 30 consists of Plaintiff's characterization regarding a memo by former FBI Director Hoover. Defendant avers that the memorandum referenced is the best evidence of its contents.

31. Paragraph 31 consists of Plaintiff's summary of attachments to the complaint. Defendant avers that that the attachments themselves are the best evidence of its content.

32. Paragraph 32 consists of Plaintiff's summary of a letter attached to the complaint. Defendant avers that the letter is the best evidence of its content.

33. Paragraph 33 consists of Plaintiff's summary of an attachment to the complaint. Defendant avers that that the attachment itself is the best evidence of its content.

34. Paragraph 34 consists of Plaintiff's summary of an attachment to the complaint. Defendant avers that that the attachment itself is the best evidence of its content.

35. Paragraph 35 consists of Plaintiff's summary of an attachment to the complaint. Defendant avers that that the attachment itself is the best evidence of its content.

36. Paragraph 36 consists of Plaintiff's summary of attachments to the complaint. Defendant avers that that the attachments themselves are the best evidence of its content.

37. Paragraph 37 consists of Plaintiff's summary of an attachment to the complaint. Defendant avers that that the attachment itself is the best evidence of its content.

38. Paragraph 38 consists of Plaintiff's summary of an attachment to the complaint. Defendant avers that that the attachment itself is the best evidence of its content.

President Eisenhower Issues EO 10450 . . .

39. Paragraph 39 consists of Plaintiff's characterization of EO 10450. Defendant avers that Executive Order 10450 is the best evidence of its contents.

40. Paragraph 40 cites to a section of EO 10450. Defendant avers that Executive Order 10450 is the best evidence of its contents.

41. Paragraph 41 consists of Plaintiff's characterization of EO 10450. Defendant avers that Executive Order 10450 is the best evidence of its contents.

42. Paragraph 42 consists of Plaintiff's characterization of EO 10450. Defendant avers that Executive Order 10450 is the best evidence of its contents.

43. Paragraph 43 consists of Plaintiff's characterization of EO 10450. Defendant avers that Executive Order 10450 is the best evidence of its contents.

44. Paragraph 44 consists of Plaintiff's characterization of EO 10450. Defendant avers that Executive Order 10450 is the best evidence of its contents.

45. Paragraph 45 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

46. Paragraph 46 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

47. Paragraph 47 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

48. Paragraph 48 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

49. Paragraph 49 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

50. Paragraph 50 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

51. Paragraph 51 consists of Plaintiff's summary of an attachment. Defendant avers that that the attachment itself is the best evidence of its content.

52. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 52.

The Mattachine FOIA Request

53. Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 53.

54. Defendant admits that Plaintiff submitted a FOIA request on or about January 25, 2013. Defendant avers that the request itself is the best evidence of its content.

55. Defendant admits that it responded to the subject FOIA request by letter dated April 17, 2015 and that it released 253 pages of responsive documents at that time. Defendant denies the remaining allegations in paragraph 55.

56. Defendant admits that its letter of April 17, 2015, stated that that certain pages of responsive documents were exempt from disclosure pursuant to applicable FOIA exemptions. Defendant avers that the April 17, 2015 letter is the best evidence of its content.

57. Defendant admits the allegations in paragraph 57. Defendant avers that the May 5, 2015 letter referenced is the best evidence of its content.

58. Defendant admits the allegations in paragraph 58.

59. Defendant admits the allegations in paragraph 59. Defendant avers that the May 12, 2015 letter is the best evidence of its content.

60. Defendant admits the allegations in paragraph 60. Defendant avers that the May 12, 2015 letter is the best evidence of its content.

61. Defendant admits the allegations in paragraph 61. Defendant avers that the June 12, 2015 document referenced is the best evidence of its content.

62. Defendant admits that by letter dated June 23, 2015, the FBI released an additional 254 pages of responsive documents. Defendant avers that the June 23, 2015 letter is the best evidence of its content.

63. Defendant admits that its letter of June 23, 2015, stated that that certain pages of responsive documents were exempt from disclosure pursuant to applicable FOIA exemptions. Defendant avers that the June 23, 2015 letter is the best evidence of its content.

64. Defendant admits the allegations in paragraph 64.

65. Defendant admits the allegations in paragraph 65. Defendant avers that the August 13, 2015 document referenced is the best evidence of its content.

66. Defendant admits that its letter of September 2, 2015, stated that the FBI referred one document, totaling six pages to OIP for processing and that the document was exempt from disclosure pursuant to an applicable FOIA exemption. Defendant avers that the September 2, 2015 letter is the best evidence of its content.

67. Defendant admits that its letter of September 28, 2015, stated that the FBI referred 75 pages to OIP for processing and that certain pages of responsive documents were exempt from disclosure pursuant to applicable FOIA exemptions. Defendant avers that the September 28, 2015 letter is the best evidence of its content.

68. Defendant admits the allegations in paragraph 68. Defendant avers that the October 20, 2015 document referenced is the best evidence of its content.

69. Defendant admits that by letter dated October 30, 2015, the FBI provided a letter to plaintiff stating that enclosed were 140 pages. Defendant avers that the October 30, 2015 letter is the best evidence of its content.

70. Defendant admits the allegations in paragraph 70. Defendant avers that the October 30, 2015 document referenced is the best evidence of its content.

71. Defendant admits the allegations in paragraph 71. Defendant avers that the December 10, 2015 document referenced is the best evidence of its content.

72. Defendant admits that it responded to the subject FOIA appeal by letter dated February 25, 2016, but denies that the February 25, 2016 letter responded to all outstanding appeals. On May 10, 2016, Defendant responded to Plaintiff's June 12, 2015 appeal, Plaintiff's August 13, 2015 appeal, and Plaintiff's December 10, 2015 appeal informing Plaintiff that pursuant to Department of Justice Regulation 28 C.F.R. § 16.8(b)(2) the aforementioned appeals were closed based upon the filing of the instant litigation. Defendant avers that the February 25, 2016 letter is the best evidence of its content.

73. The allegations in paragraph 73 concerns Plaintiff's claim for relief to which no response is required. To the extent a response is required, Defendant denies the allegations and denies that Plaintiff is entitled to the relief it seeks, or to any relief at all

COUNT I

74. Defendant incorporates herein by reference all of the allegations contained in paragraphs 1-73.

75. The allegations in paragraph 75 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

76. Defendant admits the allegations in paragraph 76. Defendant avers that the February 25, 2016 document referenced is the best evidence of its content.

77. The allegations in paragraph 77 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

78. The allegations in paragraph 78 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

79. The allegations in paragraph 79 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

COUNT II

80. Defendant incorporates herein by reference all of the allegations contained in paragraphs 1-79.

81. The allegations in paragraph 81 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

82. Defendant admits the allegations in paragraph 82. Defendant avers that the February 25, 2016 document referenced is the best evidence of its content.

83. The allegations in paragraph 83 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

84. The allegations in paragraph 84 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

85. The allegations in paragraph 85 constitute conclusions of law to which no response is required. To the extent these allegations may be deemed allegations of fact, Defendant denies the allegations.

PRAYER FOR RELIEF

The remainder of Plaintiff's Amended Complaint constitutes a prayer for relief to which no response is required. To the extent a response is required, Defendant denies the allegations and denies that Plaintiff is entitled to the relief it seeks, or to any relief at all.

All allegations not specifically responded to above are denied.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendant respectfully prays that the Court deny Plaintiff any relief.

* * *

Dated: November 1, 2016

Respectfully Submitted,

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