

Matthew Z. Crotty, WSBA 39284  
CROTTY & SON LAW FIRM, PLLC  
905 W. Riverside Ave. Ste. 404  
Spokane, WA 99201  
Telephone: (509) 850-7011  
Facsimile: (509) 703-7957  
Email: matt@crottyandson.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

ARLYN WOOD,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF THE  
ARMY,

Defendant.

Case No.

**COMPLAINT FOR VIOLATION OF  
THE FREEDOM OF INFORMATION  
ACT (FOIA)**

**I. INTRODUCTION**

1. This case arises out of the United States Army's ("Army") repeated failures to comply with the Freedom of Information Act (FOIA).

2. Plaintiff, Arlyn Wood, is an honorably discharged and retired U.S. Army combat veteran whose post 9/11 military service includes tours of duty in Iraq, Turkey, the Republic of Georgia, and against Al Qaeda and Al Shabaah in North, East, and West Africa. Mr. Wood is

1 also a father and, since at least 2015, he has sought, from the Army, records regarding, *inter alia*,  
2 investigations the Army conducted regarding the abuse and neglect of his minor children.

3 **II. JURISDICTION AND VENUE**

4  
5 3. Plaintiff incorporates the above paragraphs as if pled verbatim herein.

6 4. This Court has subject matter jurisdiction pursuant to 5 U.S.C. §552(a)(4)(B) and  
7 28 U.S.C. § 1331.

8  
9 5. Venue is proper under 28 U.S.C. § 1391(e) and 5 U.S.C. § 552(a)(4)(B) as Mr.  
10 Wood resides in this District and FOIA provides, in relevant part, “that the district court of the  
11 United States in the district in which the complainant resides...has jurisdiction to enjoin the agency  
12 from withholding agency records and to order the production of any agency records improperly  
13 withheld from the complainant.”  
14

15 **III. PARTIES**

16 6. Plaintiff incorporates the above paragraphs as if pled verbatim herein.

17  
18 7. Mr. Wood resides in Kirkland, Washington and maintained a residence in Kirkland,  
19 Washington, or elsewhere in the Western District of Washington, during all times relevant to this  
20 lawsuit.

21  
22 8. Defendant, U.S. Army, is an agency of the United States Government under 5  
23 U.S.C. § 552(f) and is headquartered at 300 Army Pentagon, Washington, DC 20310-300. The  
24 Army has possession, custody, and control of records to which Mr. Wood seeks access.

25 **IV. STATEMENT OF FACTS**

1 9. Plaintiff incorporates the above paragraphs as if pled verbatim herein.

2 10. On or about November 3, 2015, Mr. Wood submitted a FOIA request to the Army  
3 that sought records concerning Mr. Wood's participation in (and involuntary removal from) the  
4 Captains Career Course and emails that Gerald Smith sent or received regarding Mr. Wood. (FOIA  
5 Request No. 1)

6  
7 11. On or about December 10, 2015, the Army acknowledged receipt of Mr. Wood's  
8 November 3, 2015, FOIA request, thanked Mr. Wood for his "participation in the Army Freedom  
9 of Information Act Program" and told Mr. Wood that the FOIA request was forwarded to the U.S.  
10 Army's Human Resources Command for processing. The Army assigned a control number, FP  
11 16-0233, to the above-referenced FOIA request.

12  
13 12. This is the Army's only response to FOIA Request No. 1.

14 13. As of the date of this Complaint, the Army has not produced a single document  
15 responsive to FOIA Request No. 1.

16 14. As of the date of this Complaint, the Army has not given Mr. Wood any justification  
17 for its refusal to produce or otherwise respond to FOIA Request No. 1.

18  
19 15. On February 23, 2016, Mr. Wood submitted a FOIA request to the Army requesting  
20 that the Army's Criminal Investigative Division (CID) produce all "CID 0055-215-CID 277 case  
21 records." (FOIA Request No. 2)

22  
23 16. As of the date of this Complaint, the Army has not responded, at all, to FOIA  
24 Request No. 2.

1           17.     On February 23, 2016, Mr. Wood submitted a FOIA request to the Army requesting  
2 that the Army's Criminal Investigative Division (CID) produce all "CID 0094-215-CID 277 case  
3 records." (FOIA Request No. 3)

4           18.     As of the date of this Complaint, the Army has not responded, at all, to FOIA  
5 Request No. 3.

6           19.     On February 8, 2018, Mr. Wood submitted a FOIA request to the Army that  
7 requested records related to Mary Ellen Kauffman, the Family Advocacy Program Manager for  
8 Stuttgart, Germany. (FOIA Request No. 4)

9           20.     On February 14, 2018, the Army acknowledged receipt of Mr. Wood's February 8,  
10 2018, FOIA request and told Mr. Wood that the FOIA request was forwarded to the HQ, U.S.  
11 Army Europe, G6 "for action and direct response to you." The Army assigned a control number,  
12 FP 18-010416, to the above-referenced FOIA request.

13           21.     This is the Army's only response to FOIA Request No. 4.

14           22.     As of the date of this Complaint, the Army has not produced a single document  
15 responsive to FOIA Request No. 4.

16           23.     As of the date of this Complaint, the Army has not given Mr. Wood any justification  
17 for its refusal to produce or otherwise respond to FOIA Request No. 4.

18           24.     On February 8, 2018, Mr. Wood submitted a FOIA request to the Army that  
19 requested records related to Mary Ellen Kauffman, the Family Advocacy Program Manager for  
20 Stuttgart, Germany and any charges that Ms. Kauffman filed against Mr. Wood. (FOIA Request  
21 No. 5)

1           25.     On February 14, 2018, the Army acknowledged receipt of Mr. Wood's February 8,  
2 2018, FOIA request and told Mr. Wood that the FOIA request was forwarded to the HQ, U.S.  
3 Army Europe, G6 "for action and direct response to you." The Army assigned a control number,  
4 FP 18-010417, to the above-referenced FOIA request.

5           26.     This is the Army's only response to FOIA Request No. 5.

6           27.     As of the date of this Complaint, the Army has not produced a single document  
7 responsive to FOIA Request No. 5.  
8

9           28.     As of the date of this Complaint, the Army has not given Mr. Wood any justification  
10 for its refusal to produce or otherwise respond to FOIA Request No. 5.

11           29.     On July 9, 2018, Mr. Wood submitted a FOIA request to the Army that sought:

- 12           • All complaints that Arlyn Wood made to any Europe-based branch of the U. S.  
13 Army's Criminal Investigative Command/Criminal Investigative Division from  
14 January 1, 2012 to the present day regarding Teodora Simona Wood a/k/a Popa  
15 a/k/a Borşoş.
- 16           • All documents, including, without limitation, emails, letters, text messages,  
17 or other tangible means of written communication made by Nicole G. Staples  
18 regarding Arlyn Wood from January 1, 2017 to the present day.
- 19           • All documents, including, without limitation, emails, letters, text messages,  
20 or other tangible means of written communication made by Sarah Kamp regarding  
21 Arlyn Wood from January 1, 2017 to the present day.
- 22           • All documents, including, without limitation, emails, letters, text messages,  
23 or other tangible means of written communication made by Konrad Braun  
24 regarding Arlyn Wood from January 1, 2017 to the present day.
- 25           • All emails sent that Sarah Kamp sent (to any person) or received (from any  
26 person) regarding Arlyn Wood during the January 1, 2018 – present day.
- 27           • All documents that relate to or are associated with any order, directive, or  
28 like request that Arlyn Wood be permanently or temporarily barred from entering  
any U.S. Military installation in Europe from January 1, 2018, to the present day.

1  
2 • Each document that relates to or is associated with any “temp bar for  
3 USAG-Stuttgart” regarding Arlyn Wood during the January 1, 2018 to the present  
4 day timeframe.

5 • All documents that Christopher Knight sent (to any person) or received  
6 (from any person) regarding Arlyn Wood from January 1, 2017 to the present day.

7 • All documents that Anthony or Tony Black sent (to any person) or received  
8 (from any person) regarding Arlyn Wood from January 1, 2017 to the present day.

9 • All documents that Lt Col Erik Dutkiewicz sent (to any person) or received  
10 (from any person) regarding Arlyn Wood from January 1, 2017 to the present day.

11 • All documents that Melody Freese sent (to any person) or received (from  
12 any person) regarding Arlyn Wood from January 1, 2017 to the present day.

13 • All documents that Andrew Shattuck sent (to any person) or received (from  
14 any person) regarding Arlyn Wood from January 1, 2017 to the present day.

15 • All documents that any employee or agent of the SOCEUR J2 received  
16 (from any person) or sent (to any person) regarding Arlyn Wood from January 1,  
17 2017 to present day.

18 • All documents that any employee of agent of the AFRICOM J2 received  
19 (from any person) or sent to any person) regarding Arlyn Wood from January 1,  
20 2017 to present day.

21 • All documents that Christine Charles sent (to any person) or received (from  
22 any person) regarding Arlyn Wood from January 1, 2017 to the present day.

23 • All documents that Steven Crawford sent (to any person) or received (from  
24 any person) regarding Arlyn Wood from January 1, 2017 to the present day. (FOIA  
25 Request No. 6)

1 30. As of the date of this Complaint the Army has not responded, at all, to FOIA  
2 Request No. 6.

3 31. On August 7, 2018, Mr. Wood appealed the Army's constructive denial of FOIA  
4 Request No. 6.

5 32. Over twenty (20) business days have elapsed since the Army received Mr. Wood's  
6 six FOIA requests and August 7, 2018 FOIA appeal.

7 33. The Army did not respond to the Mr. Wood's August 7, 2018, FOIA appeal within  
8 twenty (20) business days of receiving Mr. Wood's FOIA appeal.

9 34. Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), the Army's response to all of Mr. Wood's  
10 FOIA requests were due within twenty business days of the dates said FOIA requests were made.

11 35. As of the date of this Complaint, the Army has failed to produce any records  
12 responsive to any of the above-referenced FOIAs request or demonstrate that the responsive  
13 records are exempt from production.

14 36. Because the Army has failed to comply with the time limit set forth in 5 U.S.C. §  
15 552(a)(6)(A)(i)&(ii), Mr. Wood is deemed to have exhausted any and all administrative remedies  
16 with respect to the FOIA requests per 5 U.S.C. § 552(a)(6)(C).

17 37. The above facts make clear that the Army is improperly withholding the records  
18 subject to Mr. Wood's FOIA requests.

19  
20  
21  
22  
23 **V. CLAIM FOR RELIEF**  
24 **(Violation of FOIA 5 U.S.C. § 552)**

25 38. Plaintiff incorporates the above paragraphs as if pled verbatim herein.  
26  
27  
28

1 39. As described above, the Army's failure to respond to Mr. Wood's six FOIA  
2 requests violated the statutory deadline imposed by the FOIA set forth in 5 U.S.C. § 552  
3 (a)(6)(A)(ii).

4 40. Mr. Wood has exhausted the applicable administrative remedies with respect to his  
5 six FOIA requests. 5 U.S.C. § 552(a)(6)(C).

6 41. Mr. Wood is entitled to injunctive relief compelling the release and disclosure of  
7 the requested agency records.  
8

9 42. Defendant is unlawfully withholding records requested by Mr. Wood pursuant to 5  
10 U.S.C. § 552.  
11

12 43. Mr. Wood is being irreparably harmed by reason of the Army's unlawful  
13 withholding of requested records, and Mr. Wood will continue to be irreparably harmed unless the  
14 Army is compelled to conform its conduct to the law's requirements. Mr. Wood needs the requested  
15 information to protect his childrens' interests and safety as well as Mr. Wood's own reputation as  
16 such protection is needed so Mr. Wood can gain employment and enjoy certain volunteering  
17 opportunities.  
18  
19

## 20 VI. DEMAND FOR RELIEF

21 Mr. Wood demands:

22  
23 A. That the Court order the Defendant to conduct a search for any and all records responsive  
24 to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to  
25 lead to the discovery of records responsive to Plaintiff's FOIA requests.  
26  
27  
28

1 B. Order Defendant to produce, by a date certain, any and all non-exempt records responsive  
2 to Plaintiff's FOIA requests and a index of any responsive records withheld under a claim of  
3 exemption.

4 C. Enjoin Defendant from continuing to withhold any and all non-exempt records responsive  
5 to Plaintiff's FOIA requests.

7 D. Award plaintiff costs, attorneys' fees, and other reasonable expenses pursuant to 5 U.S.C.  
8 § 552(a)(4)(E).

9 E. Award plaintiff additional relief as the Court deems just and equitable.

10 DATED this September 7, 2018.

11  
12 CROTTY & SON LAW FIRM, PLLC

13  
14 Matthew Z. Crotty  
15 Matthew Z. Crotty, WSBA 39284  
16 905 W. Riverside Ave. Ste. 404  
17 Spokane, WA 99201  
18 Telephone: (509) 850-7011  
19 Facsimile: (509) 703-7957  
20 Email: matt@crottyandson.com  
21  
22  
23  
24  
25  
26  
27  
28