

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

HUMAN RIGHTS DEFENSE CENTER)
1028 N Federal Highway)
Lake Worth FL 33460)
Plaintiff,)
)
v.)
)
UNITED STATES CUSTOMS AND)
BORDER PROTECTION)
1300 Pennsylvania Ave. NW)
Washington, DC 20229)
)
Defendant.)
_____)

Civil Action No.

COMPLAINT

1. This lawsuit is an action under the Freedom of Information Act, 5 U.S.C. §552, et seq., seeking production of records responsive to requests submitted by the Human Rights Defense Center to the United States Customs and Border Protection.

JURISDICTION AND VENUE

- 2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201(a) and 2202.
- 3. Venue is appropriate in this Court under to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §1391.

PARTIES

4. Plaintiff Human Rights Defense Center (“HRDC”) is a nonprofit charitable organization incorporated in the state of Washington, with principal offices in Lake Worth Beach, Florida.

5. Defendant United States Customs and Border Protection (“CBP”) is a component of the U.S. Department of Homeland Security and an agency under 5 U.S.C. §552(f)(1) and 5 U.S.C. § 701.

FACTUAL ALLEGATIONS

Human Rights Defense Center's Background and Mission

6. The Human Rights Defense Center (previously named Prison Legal News) has spent the last thirty years dedicated to public education, prisoner education, advocacy, and outreach to support the rights of prisoners and to further basic human rights.

7. To accomplish its mission, HRDC gathers information from governmental entities around the country and reports the information in its publications and on its websites.

8. HRDC publishes two monthly magazines: *Prison Legal News (PLN)* and *Criminal Legal News (CLN)*.

9. *PLN* is a legal journal that reports news and litigation about carceral facilities. *PLN* has published monthly since 1990 and has around 9,000 subscribers in all 50 states. Based on reader survey results the estimated actual readership is around ten times that number. *PLN*'s subscribers include lawyers, journalists, judges, courts, public libraries, and universities. *PLN* also maintains a website that receives around 100,000 visitors each month.

10. *CLN* is a legal journal launched in November, 2017. *CLN* reports on criminal law decisions from the states and federal systems, focusing on legal developments affecting the fact and duration of confinement. *CLN* also covers civil rights litigation against police, prosecutors, and court systems.

11. Through its publishing arm, HRDC also publishes books about the criminal justice system and legal issues affecting prisoners.

The U.S. Customs and Border Patrol

12. CBP was created on March 1, 2003, but it traces its roots to the U.S. Customs Service created on July 31, 1789. With more than 60,000 employees, it is one of the world's largest enforcement organizations. It aspires to be the nation's premier law enforcement agency.

Request at Issue

13. On February 21, 2019, HRDC submitted a FOIA request to CBP through the online portal, foiaonline.gov. The FOIA request sought certain records of litigation against CBP.

14. The request sought:

1. Records, regardless of physical form or characteristics, sufficient to show for all claims or lawsuits brought against the USCBP and/or any of its agents or employees in which payments totaling \$1,000 or more were disbursed from January 1, 2010 to the present:

- The name of all parties involved;
- The case or claim number; • The jurisdiction in which the case or claim was brought (e.g., U.S. District Court for the District of Columbia, D.C. Superior Court, etc.);
- The date of resolution;
- The amount of money involved in the resolution and to whom it was paid.

2. For each case or claim detailed above:

- The complaint or claim form and any amended versions;
- The verdict form, final judgment, settlement agreement, consent decree, or other paper that resolved the case.

15. CBP assigned the request tracking number CBP- 2019-030668.

16. On February 25, 2019, CBP emailed a notice to HRDC that the request tracking number had been changed to CBP-OCC-2019-030668.

17. On April 11, 2019, CBP requested a clarification and claimed that the original request was not detailed enough to allow for a search.

18. On April 22, 2019, HRDC responded by submitting a letter through the on-line portal.

19. In its letter, HRDC disputed that the original request was not specific enough to allow for a search.

20. That said, HRDC made two concessions: CBP did not need to produce any documents related to vehicle accidents where the total payout was less than \$30,000; and HRDC listed cases meeting the new criteria, retrieved created from the Treasury Department's Judgment Fund database and included CBP's internal file numbers.
21. HRDC's letter also noted that the list would not be comprehensive if any payments were processed outside of Treasury.
22. On May 15, CBP emailed a notice to HRDC that the request tracking number had been changed to back to CBP-2019-030668.
23. On June 25, 2019, CBP emailed a notice to HRDC that the request tracking number had been changed once again to CBP-OCC-2019-030668.
24. On July 24, 2019, CBP emailed a notice to HRDC that the request tracking number had been changed yet another time to CBP-2019-030668.
25. HRDC has received no other communication from CBP.
26. HRDC never received a response to its FOIA request.

HRDC 'S CLAIM FOR RELIEF

27. HRDC incorporates paragraphs 1 through 26 by reference.
28. CBP wrongly withheld documents responsive to HRDC's properly submitted request.
29. HRDC has a statutory right to the records it seeks, and there is no basis for CBP to withhold them.
30. As a result, by failing to release the records specifically requested by HRDC, CBP has violated FOIA.
31. HRDC has a legal right to the responsive documents.

REQUESTED RELIEF

HRDC therefore respectfully requests that this Court:

1. Declare that the records sought by HRDC are subject to FOIA;
2. Order the CPB to disclose the requested records;
3. Award costs and attorney's fees under 5 U.S.C. §552(a)(4)(E); and
4. Grant such other relief as the Court may consider just and proper.

Respectfully submitted,

/s/ Deborah M. Golden _____

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