

U.S.C. § 552 *et seq.*, and that the TSA has implemented the Screening Passengers by Observation Techniques (“SPOT”) program.

2. Paragraph 2 of the Complaint consists of plaintiffs’ characterization of the TSA’s behavior detection programs and alleged complaints related thereto, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 2, except admits that the TSA has used behavior detection programs in airport screening areas.

3. The first and second sentences of paragraph 3 of the Complaint consist of plaintiffs’ characterization of purported statements concerning the TSA’s behavior detection programs, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the purported statements, which have not been identified. Defendant admits the allegations in the third sentence of paragraph 3.

4. Paragraph 4 of the Complaint consists of plaintiffs’ characterization of the purported purpose of this action, to which no response is required. To extent a response is required, defendant denies the allegations in paragraph 4 of the Complaint.

5. With respect to the allegations in paragraph 5 of the Complaint, defendant admits that plaintiffs submitted a FOIA request to the TSA on October 1, 2014 (the “FOIA Request”), that the TSA has not produced records in response to the request, and that plaintiffs purport to bring this action under the FOIA, 5 U.S.C. § 552 *et seq.* The remaining allegations in paragraph 5 consist of plaintiffs’ characterization of the FOIA Request, to which no response is required. To the extent a response is required, defendant respectfully refers the Court to the FOIA Request for a complete and accurate statement of its contents.

6. Defendant denies the allegations in paragraph 6 of the Complaint, except admits that by letter dated October 10, 2014, defendant denied plaintiffs' request for expedited processing of the FOIA Request and a waiver of processing fees.

7. Paragraph 7 of the Complaint consists of plaintiffs' allegations as to jurisdiction and venue, to which no response is required.

8. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Complaint.

9. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Complaint.

10. Defendant admits the allegations in paragraph 10 of the Complaint.

11. Paragraph 11 of the Complaint consists of plaintiffs' characterization of the TSA's behavioral detection programs, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 11, except admits that the TSA began using the SPOT program in 2007.

12. Paragraph 12 of the Complaint consists of plaintiffs' characterization of purported statements of government auditors, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the purported statements, which have not been identified.

13. Paragraph 13 of the Complaint consists of plaintiffs' characterization of a report by the Government Accountability Office ("GAO"), to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 13 and respectfully refers the Court to the report cited therein for a complete and accurate statement of its contents.

14. Paragraph 14 of the Complaint consists of plaintiffs' characterization of a Department of Homeland Security Inspector General's Office ("DHS-OIG") report, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 14 and respectfully refers the Court to the report cited therein for a complete and accurate statement of its contents.

15. Paragraph 15 of the Complaint consists of plaintiffs' characterization of a GAO report, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 15 and respectfully refers the Court to the report cited therein for a complete and accurate statement of its contents.

16. Paragraph 16 of the Complaint consists of plaintiffs' characterization of various media reports, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 16 and respectfully refers the Court to the reports cited therein for a complete and accurate statement of their contents.

17. Paragraph 17 of the Complaint consists of plaintiffs' characterization of statements made during congressional hearings, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 17 and respectfully refers the Court to the hearings cited therein for a complete and accurate statement of their contents.

18. Paragraph 18 of the Complaint consists of plaintiffs' characterization of a media report and a GAO report, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 18 and refers the Court to the media report and GAO report cited therein for a complete and accurate statement of their contents.

19. Paragraph 19 of the Complaint consists of plaintiffs' characterization of various media reports, to which no response is required. To the extent a response is required, defendant

denies the allegations in paragraph 19 and respectfully refers the Court to the reports cited therein for a complete and accurate statement of their contents.

20. Defendant admits the allegations in paragraph 20 of the Complaint except denies that the TSA has not made public the results of any investigation. Defendant avers that the results of an administrative inquiry were released under the FOIA, 5 U.S.C. § 552. Defendant further avers that DHS-OIG investigated the SPOT program and certain related reports have been made public.

21. Defendant admits that plaintiff submitted a FOIA request to the TSA on October 1, 2014. The remaining allegations in paragraph 21 of the Complaint consist of plaintiffs' characterization of the FOIA Request, to which no response is required. To the extent a response is required, defendant denies the remaining allegations in paragraph 21, and respectfully refers the Court to the text of the FOIA Request for a complete and accurate statement of its contents.

22. Defendant admits that plaintiffs sought expedited processing of the FOIA Request. The remaining allegations in paragraph 22 of the Complaint consist of plaintiffs' characterization of the grounds upon which plaintiffs based their request for expedited processing, to which no response is required. To the extent a response is required, defendant denies the remaining allegations in paragraph 22 and respectfully refers the Court to plaintiffs' request for expedited processing for a complete and accurate statement of its contents.

23. Defendant admits that plaintiffs sought a waiver of search, review, and duplication fees. The remaining allegations in paragraph 23 of the Complaint consist of plaintiffs' characterization of the grounds upon which plaintiffs based their request for a waiver of fees, to which no response is required. To the extent a response is required, defendant denies

the remaining allegations in paragraph 23 and respectfully refers the Court to plaintiffs' request for a waiver of fees for a complete and accurate statement of its contents.

24. Defendant admits that by letter dated October 10, 2014, it denied plaintiffs' request for expedited processing and a waiver of fees. The remaining allegations in paragraph 24 of the Complaint consist of plaintiffs' characterization of defendant's October 10, 2014 letter, to which no response is required. To the extent a response is required, defendant denies the remaining allegations in paragraph 24 and respectfully refers the Court to the October 10, 2014 letter for a complete and accurate statement of its contents.

25. Defendant admits that by letter dated December 8, 2014, plaintiffs appealed defendant's denial of their requests for expedited processing and a waiver of fees and that defendant has not issued a determination of their appeal. The remaining allegations in paragraph 25 consist of legal conclusions, to which no response is required.

26. Defendant admits the allegations in paragraph 26 of the Complaint.

27. Defendant denies the allegations in paragraph 27 of the Complaint.

28. Defendant denies the allegations in paragraph 28 of the Complaint.

29. Paragraph 29 of the Complaint consists of plaintiffs' characterization of the FOIA, to which no response is required. To the extent a response is required, defendant respectfully refers the Court to the statute cited in paragraph 29 for a complete and accurate statement of its contents.

30. Paragraph 30 of the Complaint consists of plaintiffs' characterization of the FOIA, to which no response is required. To the extent a response is required, defendant respectfully refers the Court to the statute and regulation cited in paragraph 30 for a complete and accurate statement of their contents.

31. Paragraph 31 of the Complaint consists of plaintiffs' characterization of the FOIA Request, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 31.

32. The first sentence of paragraph 32 of the Complaint consists of a legal conclusion, to which no response is required. To the extent a response is required, defendant denies the allegations in the first sentence of paragraph 32. The remaining allegations in paragraph 32 consist of plaintiffs' characterization of their mission and work, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 32.

33. Paragraph 33 of the Complaint consists of plaintiffs' characterization of their mission and work, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33.

34. Paragraph 34 of the Complaint consists of plaintiffs' characterization of their purported intentions with respect to any information obtained through the FOIA Request, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34.

35. Defendant denies the allegations in paragraph 35 of the Complaint.

36. Paragraph 36 of the Complaint consists of plaintiffs' characterization of the purported public interest in the documents plaintiffs seek through the FOIA Request, to which no response is required. To the extent a response is required, defendant denies that there is a dearth of public information about the TSA's behavior detection programs and denies knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in paragraph 36.

37. Paragraph 37 of the Complaint consists of plaintiffs' characterization of their purported intention with respect to any information obtained through the FOIA Request, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37.

38. Defendant denies the allegations in paragraph 38 of the Complaint.

39. Paragraph 39 of the Complaint consists of a legal conclusion, to which no response is required. To the extent a response is required, defendant denies the allegations in paragraph 39.

40. Paragraph 40 consists of plaintiffs' characterization of their intentions with respect to the information they seek through the FOIA Request, to which no response is required. To the extent a response is required, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40.

41. Defendant denies the allegations in paragraph 41 of the Complaint.

42. Defendant denies the allegations in paragraph 42 of the Complaint.

43. Defendant denies the allegations in paragraph 43 of the Complaint.

44. Defendant denies the allegations in paragraph 44 of the Complaint.

45. The remaining paragraphs of the Complaint consist of plaintiffs' request for relief, to which no response is required. To the extent a response is required, defendant denies that plaintiffs are entitled to any relief.

DEFENSES

FIRST DEFENSE

The Court lacks subject matter jurisdiction over the Complaint in whole or in part because plaintiffs failed to exhaust administrative remedies.

SECOND DEFENSE

The Complaint should be dismissed in whole or in part for failure to state a claim upon which relief can be granted.

THIRD DEFENSE

Defendant has exercised due diligence in processing the FOIA Request and exceptional circumstances exist that necessitate additional time for defendant to complete its processing of the FOIA Request. *See* 5 U.S.C. § 552(a)(6)(C).

FOURTH DEFENSE

Some or all of the requested documents are exempt from disclosure. *See* 5 U.S.C. § 552(b).

FIFTH DEFENSE

The Court lacks subject matter jurisdiction over plaintiffs' requests for relief that exceed the relief authorized by statute under the FOIA, 5 U.S.C. § 552 *et seq.*

SIXTH DEFENSE

Plaintiffs are not entitled to expedited processing under 5 U.S.C. § 552(a)(6)(E), or a waiver of fees under 5 U.S.C. § 552(a)(4)(A)(iii).

Dated: New York, New York
April 22, 2015

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