

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

HUMAN RIGHTS DEFENSE CENTER,

1028 N. Federal Highway
Lake Worth Beach, FL 22460

Plaintiff,

v.

**U.S. DEPARTMENT OF VETERANS
AFFAIRS,**

810 Vermont Avenue, NW
Washington, DC 20420

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 Department of Veterans Affairs.

JURISDICTION AND VENUE

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendants 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 5 U.S.C. §(a)(4)(B) and 28 U.S.C. §1391.

PARTIES

4. Plaintiff Human Rights Defense Center is a nonprofit charitable organization incorporated in the state of Washington, with a principal office in Lake Worth Beach, Florida.
5. Defendant United States Department of Veterans Affairs (“VA”) is an agency under 5 U.S.C. § 552(f)(1) and 5 U.S.C. § 701.

FACTS

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, the Human Rights Defense Center (“HRDC”) gathers information from governmental entities around the country and publishes the information in its journals and on its websites.
8. HRDC publishes and distributes books, magazines, and other information containing news and analysis about prisons, jails, and other detention facilities, prisoners’ rights, court rulings, management of prison facilities, prison conditions, and other matters about the rights and interests of incarcerated individuals.
9. HRDC publishes two magazines: *Prison Legal News* and *Criminal Legal News*.
10. *Prison Legal News* (“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 about ten times that number. *PLN* also maintains a website that receives around 100,000 visitors per month based on site analytics.

11. *Criminal Legal News* (“*CLN*”) is a legal journal launched in 2017. *CLN* reports on criminal law decisions from the state 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.
12. Through its publishing arm, HRDC also publishes books about the criminal justice system and legal issues affected prisoners.

The United States Department of Veterans Affairs

13. The VA comprises the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration. The VA operates a Police Service, as part of its Office of Operations, Security, and Preparedness, to provide to protect the Veterans, staff, and visitors who use any of its 170 Medical Centers.

Request at Issue

14. On July 20, 2019, HRDC emailed the VA, at vacofoiaservice@va.gov, a FOIA request for records of litigation against the VA Police Services.
15. The FOIA request sought:

HRDC requests certain records regarding litigation against Department of Veterans Affairs Police and its employees or agents created from January 1, 2010 until the present. In cases except those involving traffic-related claims, HRDC limits its request to claims and cases in which the government paid \$1,000 or more. These payments include but are not limited to settlements, damages, attorney fee awards, and sanctions, irrespective of the identity of the plaintiff or claimant. In traffic-related claims, HRDC limits its request to those in which the government paid greater than \$30,000.

For each case or claim described above, HRDC requests the following records, provided in electronic native format where possible, and otherwise in electronic format:

- 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.
- A record that shows the amount of money involved in the resolution and to whom it was paid.

16. As a member of the media, HRDC also sought a fee waiver.
17. The VA did not respond.
18. On October 21, 2019, HRDC sent an email request to vacofoiaservice@va.gov for the status of the FOIA request.
19. The VA did not respond.
20. On March 13, 2020, HRDC followed up by email to OSVAFOIA@va.gov, requesting an update on the status of the request.
21. On March 18, 2020, Mr. Richard Ha, an OSVA FOIA / Privacy Officer, emailed the VACO FOIA Service Inbox, copying HRDC, and asked that office to respond to the FOIA request.

22. On March 26, 2020, Ms. Doloras Johnson, the Director the VACO FOIA Service sent a letter to HRDC acknowledging receipt of the original FOIA request. The letter noted that the request had been assigned tracking number 20-04094-F. It also noted that the request was forwarded to the VA's Office of General Counsel, and that the Office of General Counsel would reply directly.
23. On September 3, 2020, HRDC followed up by phone with the contact the VA had designated in the Office of General Counsel, Ms. Renee Baxter. Ms. Baxter returned the call, shared that she was no longer assigned to FOIA matters, and would forward the message asking for an update on the status of the FOIA request to the correct parties. HRDC heard nothing further.
24. On September 8, 2020, HRDC again asked about the status of the request, by leaving a voice mail at Ms. Baxter's number and emailing ogcfoiarequests@va.gov.
25. The VA did not respond.
26. HRDC never received a response to its FOIA request to the VA.

HRDC'S CLAIM FOR RELIEF

27. HRDC incorporates paragraphs 1 - 26 by reference.
28. The VA wrongly withheld documents responsive to HRDC's properly submitted FOIA request.
29. HRDC has a statutory right to the records it seeks, and there is no basis for the VA to withhold them.

30. As a result, by failing to release the records specifically requested by HRDC, the VA has violated FOIA.

REQUESTED RELIEF

HRDC therefore respectfully requests that this Court:

1. Declare that the records sought by HRDC are subject to FOIA,
2. Order the VA to disclose the requested records,
3. Award costs and attorneys' fees under 5 U.S.C. § 552 (a)(4)(E), and
4. Grant any other relief that the Court considers just and proper.

Respectfully submitted,

/s/ Deborah M. Golden
Deborah M. Golden, D.C. Bar #470578
The Law Office of Deborah M. Golden
1415 H St. NE
Washington, D.C. 20002
Telephone: (202) 630-0332
deb.golden@gmail.com

Counsel for Plaintiff

Dated: September 23, 2020