

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

_____)	
PUBLIC CITIZEN,)	
1600 20th Street NW)	
Washington, DC 20009,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 21-cv-489
)	
UNITED STATES CENTRAL)	
COMMAND,)	
7115 South Boundary Boulevard)	
MacDill Air Force Base)	
Florida 33621,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the production of records from the United States Central Command (CENTCOM) relating to the use of private contractors in Afghanistan. CENTCOM has failed to produce records responsive to this request for more than three years.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper under 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff Public Citizen is a non-profit public-interest organization that works before Congress, regulatory agencies, and the courts to advance the interests of consumers and to educate the public on a wide range of consumer protection issues. Public Citizen works to promote

openness in government and collects and disseminates information related to governmental actions and practices. Public Citizen submitted the FOIA request at issue in this action.

4. Defendant CENTCOM is an agency of the United States. CENTCOM has possession of and control over the records that Public Citizen seeks.

FACTUAL BACKGROUND

5. On August 14, 2017, Public Citizen submitted a FOIA request to CENTCOM for certain records related to communications between CENTCOM and Erik Prince, the former head of the security contractor Blackwater Worldwide. Specifically, Public Citizen's request sought: "All communications—including but not limited to letters, faxes, and emails, including all attachments to emails—concerning the use of private contractors in Afghanistan from or to any staff or members of the United States Central Command (CENTCOM) to or from Erik Prince." The request sought records created or received by CENTCOM between June 1, 2017, and the date of processing of the request.

6. In its FOIA request, Public Citizen sought a full waiver of fees because disclosure of the requested information would be in the public interest and not for commercial use.

7. On June 18, 2018, Public Citizen emailed CENTCOM to request an update on its request. The email also noted that CENTCOM had not provided an acknowledgement or tracking number. By email on June 18, 2018, CENTCOM stated that it had received Public Citizen's FOIA request in August 2017 and had assigned it case number 17-0596.

8. CENTCOM also acknowledged receipt of Public Citizen's request by letter dated June 19, 2018. CENTCOM's letter stated that it had received the request on August 15, 2017, that it had assigned the request case number 17-0596, and that the request was number 253 in CENTCOM's processing queue.

9. On December 11, 2018, Public Citizen emailed CENTCOM to request an update on the status of and estimated completion date for its request. CENTCOM responded that the request was number 223 in CENTCOM's processing queue; it did not provide an estimated date of completion.

10. On August 23, 2019, CENTCOM asked Public Citizen by email to inform CENTCOM if Public Citizen was no longer interested in the requested information and wished to withdraw its FOIA request.

11. By email to CENTCOM on August 27, 2019, Public Citizen responded that Public Citizen continued to be interested in its FOIA request and asked that CENTCOM continue processing Public Citizen's FOIA request. In that email, Public Citizen also asked CENTCOM for an estimated completion date for the request. CENTCOM did not respond.

12. On November 11, 2019, Public Citizen requested by email an update on the status of and estimated completion date for its request. CENTCOM responded by email on November 25, 2019, that the request was number 164 in CENTCOM's processing queue; it did not provide an estimated date of completion.

13. On March 27, 2020, Public Citizen requested by email an update on the status of and estimated completion date for its request. CENTCOM responded by email on March 30, 2020, that the request was number 152 in CENTCOM's processing queue; it did not provide an estimated date of completion.

14. On January 29, 2021, Public Citizen requested by email an update on the status of and estimated completion date for its request. CENTCOM responded by email on January 29, 2021, that the request was number 147 in CENTCOM's processing queue; it did not provide an estimated date of completion.

15. Under 5 U.S.C. § 552(a)(6)(A)(i), CENTCOM had 20 working days to make a determination with respect to Public Citizen's FOIA request. More than 20 working days have passed since Public Citizen submitted the August 14, 2017 request, and Public Citizen has not received from CENTCOM a determination concerning its request or any records in response to the request.

CAUSE OF ACTION

16. Public Citizen has a right under FOIA to the records requested in its FOIA request and to a fee waiver.

17. CENTCOM's failure to disclose the requested records has no legal basis.

PRAYER FOR RELIEF

WHEREFORE, Public Citizen requests that this Court:

- A. Declare that CENTCOM's withholding of the requested records is unlawful;
- B. Order CENTCOM to make the requested records available to plaintiff at no cost and without delay;
- C. Award plaintiff its costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- D. Grant such other and further relief as this Court may deem just and proper.

Dated: February 25, 2021

Respectfully submitted,

/s/ Wendy Liu

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