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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

CIVIL BEAT LAW CENTER FOR THE
PUBLIC INTEREST, INC.,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC SAFETY,

Defendant.

CIVIL NO. 1CCV-23-0000943

DEFENDANT DEPARTMENT OF PUBLIC
SAFETY'S ANSWER TO COMPLAINT FILED
ON JULY 20, 2023; CERTIFICATE OF SERVICE

Honorable Gary W.B. Chang

No Trial Date Set

DEFENDANT DEPARTMENT OF PUBLIC SAFETY'S
ANSWER TO COMPLAINT FILED ON JULY 20, 2023

Defendant DEPARTMENT OF PUBLIC SAFETY, State of Hawai'i (DPS), by and
through its above-named attorneys, answers Plaintiff's complaint, filed July 20, 2023, as follows:

FIRST DEFENSE

1. The Complaint fails to state a cause of action against DPS upon which relief can
be granted.

SECOND DEFENSE

1. DPS is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint and on that basis denies them.

2. DPS admits the allegations contained in paragraphs 2, 3, 4, 6, 7 and 8 of the Complaint.

3. In response to the allegations contained in paragraph 5 of the Complaint, the allegation calls for a legal conclusion and leaves Plaintiff to its proof.

4. In response to the allegations contained in paragraph 9, DPS admits that in its denial of Plaintiff's request for the data dictionaries of the Offendertrak and Intake Service Center computer programs it cited the "frustration of a legitimate government function" exemption in Hawaii Revised Statutes section 92F-13(3) and the security risk if the data dictionaries requested were disclosed. However, DPS denies the allegation in Paragraph 9 that its denial of Plaintiff's request for Offendertrak's data dictionary was a "vague suggestion that the material is proprietary" and asserts that its denial and its response to Plaintiff's request for reconsideration of its denial both stated that the Offendertrak computer program is a proprietary computer program bought from a private vendor and containing proprietary intellectual property.

5. DPS denies the allegations contained in paragraphs 10, 11 and 12 of the Complaint.

6. DPS denies each and every allegation not specifically admitted above.

THIRD DEFENSE

The records requested by Plaintiff include government records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function.

FOURTH DEFENSE

Plaintiff's request for Offendertrak's data dictionary concerns proprietary commercial information to which DPS does not own the intellectual property rights. It is public knowledge that the Offendertrak software program is owned by Motorola Solutions. On July 1, 2019, Sophie Cocke stated in an article in the Honolulu Star-Advertiser that Offendertrak was developed by Motorola. The first response to an internet search of "Offendertrak" is the website of its owner, Motorola Solutions. A representative of Motorola Solutions has been informed of Plaintiff's lawsuit.

FIFTH DEFENSE

Plaintiff has failed to join an indispensable party to this case, namely Motorola Solutions.

SIXTH DEFENSE

The State reserves the right to amend its answer to plead other defenses of which it becomes aware during the course of discovery herein.

WHEREFORE, DPS prays as follows:

- A. That the complaint be dismissed with prejudice;
- B. DPS is awarded its fees and costs incurred herein; and
- C. That the Court award such relief for DPS as it may deem just and proper.

DATED: Honolulu, Hawai'i, August 9, 2023.

ANNE E. LOPEZ
Attorney General
State of Hawai‘i

/s/ Lisa M. Itomura
LISA M. ITOMURA
Deputy Attorney General

Attorneys for Defendant
DEPARTMENT OF PUBLIC SAFETY

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CERTIFICATE OF SERVICE

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I hereby certify that on the date indicated below a true and correct copy of the foregoing document was duly served via the State of Hawai'i Judiciary Electronic Filing and Service System to the following at the email address indicated below:

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Attorneys for Plaintiff

DATED: Honolulu, Hawai'i, August 9, 2023.

ANNE E. LOPEZ
Attorney General
State of Hawai'i

/s/ Lisa M. Itomura
LISA M. ITOMURA
Deputy Attorneys General

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DEPARTMENT OF PUBLIC SAFETY