

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

AUG 31 2011

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

**CHARLES LUDLAM** and

**PAULA HIRSCHOFF**

4020 Reno Road, NW

Washington, DC 20008,

*Plaintiffs,*

v.

C.

Case: 1:11-cv-01570

Assigned To : Sullivan, Emmet G.

Assign. Date : 8/31/2011

Description: FOIA/Privacy Act

**UNITED STATES PEACE CORPS**

Paul D. Coverdell Peace Corps Headquarters

1111 20th Street, NW

Washington, DC 20526,

*Defendant.*

**COMPLAINT**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Plaintiffs Charles Ludlam and Paula Hirschhoff seek the release of agency records requested by Plaintiffs under the FOIA from the Defendant Peace Corps. Specifically, Plaintiffs seek disclosure of the individual Country Reports (hereinafter, “country-by-country breakouts” or “breakout surveys”) prepared from the responses to the Peace Corps Volunteer 2009 Annual Volunteer Survey (“2009 AVS”) and the responses to the Peace Corps Volunteer 2010 Annual Volunteer Survey (“2010 AVS”). Upon information and belief, as many as 77 country-by-country breakouts of the Volunteer Surveys were prepared from the responses to the 2009 AVS, became effective in November 2009, and were distributed for review by Peace Corps staff. Upon information and belief, as many as 77 country-by-country breakouts of the Volunteer Survey Reports were prepared from the responses to the 2010 AVS, became effective in November 2010, and were distributed for review by Peace Corps staff. Upon information and belief, the Defendant Peace Corps has analyzed these survey responses on a program-by-program basis — such as teaching, agriculture, small enterprise development — and distributed this information for review by Peace Corps staff. Upon information and belief, these program-by-program breakouts are available on both a worldwide and a country-by-country basis (collectively, “Volunteer Survey Reports”).

### **Jurisdiction and Venue**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

### **Parties**

3. Plaintiffs Charles Ludlam and Paula Hirschhoff are individuals residing in Washington, DC. Both Mr. Ludlam and Ms. Hirschhoff twice served as Peace Corps Volunteers. From 1968 through 1970, Mr. Ludlam served in Nepal and Ms. Hirschhoff in Kenya. More recently, they served together in Senegal from 2005 through 2007. In each case, the Plaintiffs completed their term of service. In 1986, Mr. Ludlam was co-founder of Friends of Nepal, an association of Returned Peace Corps Volunteers who served in Nepal. Mr. Ludlam is a former elected member of the Board of Directors (2008–2009) of the National Peace Corps Association, which is a nonprofit organization that supports Returned Peace Corps Volunteers and the Peace Corps community through networking and mentoring to help guide former Volunteers through their continued service back home. In 2008, Mr. Ludlam served as an Advisor to the Obama/Biden Transition Team for the Peace Corps. Ms. Hirschhoff has served on the Board of Friends of Kenya, an association of Returned Peace Corps Volunteers who served in Kenya.

4. During their tenure as Volunteers in Senegal, Mr. Ludlam and Ms. Hirschhoff were invited by Senator Christopher Dodd to testify on July 25, 2007, on behalf of the 8,000 then-current Peace Corps Volunteers, at a hearing regarding the Peace Corps Volunteer Empowerment Act, S. 732 before the Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs of the Senate Foreign Relations Committee. In order to do so, they traveled to Washington, DC from Senegal at their own expense. Upon information and belief, the Peace Corps opposed the participation of Mr. Ludlam and Ms. Hirschhoff at the hearing. The testimony of Mr. Ludlam and Ms. Hirschhoff highlighted the need for the Peace Corps to listen to and

respect Volunteers, through mechanisms such as surveys of the Volunteers regarding agency and agency staff performance and effectiveness.

5. Plaintiffs Mr. Ludlam and Ms. Hirschhoff have been leading advocates for strengthening and revitalizing the Defendant Peace Corps through empowerment of the Volunteers, increased transparency, and fundamental reform. In support of their reform advocacy mission, Plaintiffs have attempted to use the FOIA to obtain and disseminate information about the performance of the Peace Corps to educate current and potential Volunteers, the Office of Management and Budget, the U.S. Congress, alumni of the Peace Corps, and the public.

6. Defendant Peace Corps is an independent agency within the Executive Branch of the United States Government. The Peace Corps' principal place of business and headquarters is in the District of Columbia. The Peace Corps is subject to the FOIA, and it is an "agency" within the meaning of 5 U.S.C. § 552(f).

**The President's Commitment to Open Government Is Binding on the Peace Corps**

7. On January 21, 2009, the President issued a *Memorandum for the Heads of Executive Departments and Agencies: The Freedom of Information Act (FOIA)* (74 Fed. Reg. 4683 (Jan. 26, 2009)), which requires any doubts with respect to disclosure to be resolved in favor of disclosure. The President stated in his *Memorandum*, "[t]he Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. . . . All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new

era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.”

8. The President’s *Memorandum* makes it clear that he seeks “to creat[e] an unprecedented level of openness in Government.” The “presumption of disclosure . . . [for] all decisions involving FOIA” advances the President’s goal to “establish a system of transparency, public participation, and collaboration. . . . Transparency promotes accountability and provides information for citizens about what their Government is doing. Information maintained by the Federal Government is a national asset. My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use. Executive departments and agencies should harness new technologies to put information about their operations and decisions online and readily available to the public. . . . Public engagement enhances the Government’s effectiveness and improves the quality of its decisions.”

9. The Attorney General issued a *Memorandum for Heads of Executive Departments and Agencies: The Freedom of Information Act (FOIA)* on March 19, 2009, available at <http://www.justice.gov/ag/foia-memo-march2009.pdf/>, which enacts the directives outlined in the President’s January 21, 2009 *Memorandum*. The Attorney General’s *Memorandum* states, “the Department of Justice will defend a denial of a FOIA request only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law.”

#### **The Peace Corps’ Annual/Biennial Volunteer Surveys**

10. In at least 2006 and 2008, the Peace Corps conducted Biennial Volunteer Surveys, generally fielded from May through August of the respective calendar year. Upon information

and belief, starting in 2009, the Peace Corps modified the survey period to occur annually. Thus, since 2009, the Peace Corps has generally conducted, from June through August of each calendar year, Annual Volunteer Surveys.

11. Upon information and belief, the Volunteer Survey Reports present the Peace Corps Volunteers' responses to the Annual Volunteer Surveys in statistical form for each of the questions posed in the survey. The statistics of the responses are reported in chart or table form and contain no information to permit identification of individual Volunteer respondents. Upon information and belief, these breakouts are available in electronic format.

12. Upon information and belief, the Peace Corps provides analyses of the responses of the Volunteers worldwide and also on a country-by-country and program-by-program basis for review by the staff of individual countries. The breakouts permit interested persons to compare the Volunteers' responses between countries and permit them to rank countries or programs from best to worst for each question posed in the survey.

13. Upon information and belief, the country-by-country and program-by-program analyses expose a wide disparity among the countries and the quality, effectiveness, and performance of the programs, as assessed by the Volunteers. Upon information and belief, the countries and programs that rank relatively well overall do so on a non-random basis, as these countries and programs tend to rank well on a broad range of questions. Likewise, upon information and belief, for countries and programs that rank relatively poorly overall tend to rank poorly on a broad range of questions, and a powerful correlation exists between the countries with low rankings and those with a high early quit (or "termination") rate of the Volunteers.

14. The country-by-country and program-by-program comparisons and rankings provide vital information to potential Peace Corps Volunteers and applicants to help them determine the comparative effectiveness and performance of programs in the countries to which they might be or have been invited to serve.

15. Upon information and belief, Volunteers typically commit themselves to 27 months of service, but a high percentage of the Volunteers quit early, a clear indication of widespread malaise in the Peace Corps. Upon information and belief, individual Volunteers in a particular country have a significant interest in determining whether they have been invited to serve in a well-managed or poorly-managed country program, whether the country has a high or low early quit rate, and the opinions of Volunteers serving in that country, whose interests most closely coincide with their own and who have the most detailed information from the perspective of the Volunteers in the field.

16. Upon information and belief, no personal identifying information can be gleaned from the statistics reported in the country-by-country breakouts of the Volunteer Surveys, as only the percentages for each multiple choice response for each question are tabulated. Upon information and belief, many questions permit “yes” or “no” responses and others permit answers on a scale (*e.g.*, best-to-worst or strongly agree to strongly disagree). Plaintiffs do not seek to obtain the answers to any open-ended questions that may be included in one or more of the 2009 or 2010 AVS.

**The Peace Corps Has Acknowledged that the Country-by-Country Breakouts of the Volunteer Surveys are Subject to Production Under FOIA**

17. The 2008 Volunteer Survey master (worldwide) report includes a section titled “Introduction to the 2008 Biennial Volunteer Survey Report” which states, in part, that “[c]opies of 2006 Volunteer Survey [individual] Country Reports are available through the OSIRP intranet

page.” Upon information and belief, “OSIRP” refers to the Peace Corps’ internal Office of Strategic Information, Research and Planning, which conducts the Volunteer Surveys.

18. Based on this information regarding the existence of country-by-country breakouts, on April 15, 2009, Charles Ludlam and Paula Hirschhoff filed a FOIA request seeking production of the country-by-country breakouts of the Peace Corps’ 2008 survey of the Volunteers. They sought production of the breakouts in electronic format.

19. This April 15, 2009 email constituted a valid request under FOIA. The request was assigned the tracking number FOIA-09-073.

20. On April 15, 2009, Mr. Ludlam received an email from the Peace Corps’ Acting FOIA/Privacy Officer acknowledging receipt of Mr. Ludlam’s FOIA request. The Officer also acknowledged that a response from the Peace Corps was due within 20 business days by May 11, 2009.

21. At 11:15 a.m. on May 11, 2009, the Peace Corps provided, in an electronic table form, the country-by-country breakouts of the Volunteer responses to question E11 of the Peace Corps 2008 Biennial Volunteer Survey. Question E11 asks “[t]o what extent does your Country Director interact with Volunteers to be aware of Volunteer issues and concerns?” These country-by-country breakouts regarding the performance of the Country Directors permits one to compare and rank the Country Directors. The Officer inquired whether this was the type of information requested by Mr. Ludlam.

22. Later the same day at 11:56 a.m., in a separate email communication, the Peace Corps FOIA Officer estimated that the request to produce, *inter alia*, the “tabulated results of the Peace Corps 2008 Volunteer Survey for each country” for all of the questions in the survey



would total over 6,000 pages and, therefore, the request would be subject to a reproduction charge of \$895.20.

23. Mr. Ludlam responded by email the same day at 12:15 p.m. stating that the proffered country-by-country breakouts for Question E11 were exactly the type of information he requested. He reiterated the FOIA request was for the documents in electronic form, as it would be an inefficient use of the public's resources to have government employees print the documents that were already stored in electronic format, copy those printed documents, and then to mail the paper copies. Mr. Ludlam further offered to reimburse the Peace Corps for the minimal time to transfer the electronic documents onto storage media discs and to supply a mini-external hard drive for downloading and transferring the documents.

24. In a response at 3:45 p.m. on May 11, the Peace Corps alleged that the requested information "is not available in the format [Mr. Ludlam] asked for" and that an employee will need to "spend an estimated 40 hours of programming at a rate of \$59.00 per hour to retrieve FOIAable portions of the Peace Corps 2008 Biennial Volunteer Survey. . . . This brings the total search costs to \$2,242.00."

25. On May 12, 2009, Mr. Ludlam responded by email to the Peace Corps, noting that the requested information already existed in electronic form. Mr. Ludlam noted that the introduction to the worldwide survey results for the 2008 Volunteer Survey explicitly "states that the 'post and regional' results are available on the 'OSIRP intranet page' at the Peace Corps."

26. The following day, on May 13, 2009, at 1:57 p.m. the Peace Corps responded by raising the requested search and duplication fee for a second time, requesting a payment of \$3,137.20 for the country-by-country breakouts.

27. Despite numerous attempts on May 13, May 15, May 20, May 21, and May 26 by Mr. Ludlam to reiterate that the information being sought was contained in documents already available in electronic form on the Peace Corps' intranet, the Peace Corps continued to stonewall Mr. Ludlam, asserting that the breakouts for the 2008 Volunteer Survey are "too large to send electronically or scan to a CD-Rom."

28. It bears noting that the country-by-country breakouts of the 2008 Volunteer Survey, which later were posted at [http://www.peacecorpswiki.org/2008\\_Biennial\\_Volunteer\\_Survey](http://www.peacecorpswiki.org/2008_Biennial_Volunteer_Survey), generally range from about 60 to 90 pages in length each. Even using the upper end of the range as the size for each document, the total number of pages encompassed by all 67 country-by-country breakouts is only 6030 pages. The size of each breakout of the 2008 Volunteer Survey in electronic PDF file format generally are not more than 600 kBs in size. The total memory occupied by the 67 Volunteer Survey Reports in electronic PDF file format is less than 40 MBs. The standard CD-ROM disc is capable of storing at least 500 or 600 MBs of data.

29. By email sent to the Peace Corps on May 27, 2009, Mr. Ludlam filed an appeal of the decisions regarding the document production format and costs for the breakouts for the 2008 Volunteer Survey.

30. This May 27, 2009 email constituted a valid appeal under FOIA.

31. At the time this appeal was pending, Mr. Ludlam and Ms. Hirschhoff were approached by a Peace Corps staffer who offered to search for the breakouts for the 2008 Volunteer Survey and found, within minutes, those very documents on the OSIRP webpage on the Peace Corps' intranet — precisely where Mr. Ludlam had repeatedly urged the Peace Corps FOIA officer to obtain the FOIA requested documents. In a matter of minutes, the Peace Corps staffer who located these documents emailed the electronic copies of the breakouts of the 2008

Volunteer Survey to Mr. Ludlam. Contrary to the Peace Corps' FOIA Officer's representations that the files were too large to copy onto a single CD-ROM disc, these documents were small enough that they were all attached to a single email — totaling less than 25 MBs in size. Mr. Ludlam and Ms. Hirschhoff posted the country-by-country breakouts on the PeaceCorpWiki website, <http://www.peacecorpswiki.org/>.

32. Upon information and belief, PeaceCorpWiki is a tax-exempt “collaborative project whose goal is to create a free, interactive, and up-to-date source of information about serving as a volunteer with the U.S. Peace Corps.” Upon information and belief, it currently contains nearly 8,000 pages of documents that “have been written and edited by (R)PCVs [Returned Peace Corps Volunteers] and Friends of Peace Corps from around the world.” Upon information and belief, since its founding in 2008, 653,929 individuals (through July 25, 2011) have visited the site and viewed nearly 3.2 million pages. Upon information and belief, new visits to the site comprise 65% of total visits, while repeat visits constitute 35%.

33. On June 24, 2009, the Acting Director of the Peace Corps Office of Management responded by email to Mr. Ludlam's appeal of the Peace Corps' denial of his FOIA request. The email noted that the breakouts for the 2008 Volunteer Survey for the 67 countries was already available on PeaceCorpWiki. The Peace Corps thus concluded that “it doesn't appear necessary for us [the Peace Corps] to continue to staff your request for these.”

34. The Acting Director's June 24 response to Mr. Ludlam's May 27 appeal was improper. The FOIA does not authorize an agency to refuse to produce documents because it believes that production is unnecessary. Rather, Mr. Ludlam was entitled to a proper determination by the Peace Corps that its refusal to provide the requested documents in

electronic form and the Peace Corps' demand for exorbitant document production fees were improper.

35. The Acting Director's response did not raise any objection to the fact that Plaintiffs had obtained a copy of the breakout survey results and raised no objection about their being posted on PeaceCorpWiki. Furthermore, the Acting Director's response did not contain any questions as to how Mr. Ludlam had obtained the documents.

36. Most important, the Acting Director's denial of Mr. Ludlam's appeal cited no grounds for the Peace Corps finding that the documents were not subject to production under FOIA. The denial did not assert "that disclosure would harm an interest protected by one of the [FOIA] statutory exemptions" or that "disclosure [of the breakouts from the 2009 and 2010 Volunteer Surveys] is prohibited by law" — the two broad categories under which the March 19, 2009 Attorney General's *Memorandum* stated as the "only" circumstances in which the Department of Justice will defend a denial of a FOIA request. *Supra* at ¶ 9.

37. Throughout the FOIA request and appeal process, the Peace Corps never gave any indication to Mr. Ludlam that production of these documents was prohibited or restricted under FOIA. The Peace Corps never indicated that the production of these documents was discretionary under FOIA. The only issues raised by the Peace Corps throughout this process pertaining to the breakouts of the 2008 Volunteer Surveys were the document production format (paper vs. electronic) and costs for producing the breakouts.

38. The Peace Corps acknowledgement that the breakouts of the 2008 Volunteer Surveys are subject to production under FOIA is binding on the Peace Corps in the current case. Upon information and belief, the type of information and statistical analyses documented in the breakouts of the 2009 and 2010 Volunteer Surveys are essentially identical to the type of

information and statistical analyses documented in the breakouts of the 2008 Volunteer Surveys. The Peace Corps has not articulated, as required under the Attorney General's *Memorandum*, a compelling argument as to how it "reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions" or that "disclosure [of the breakouts from the 2009 and 2010 Volunteer Surveys] is prohibited by law." Thus, the Peace Corps should, as ordered by the President, "adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA."

**The Peace Corps' Denial of the FOIA Request for  
Breakouts of the 2009 and 2010 Volunteer Surveys**

39. Relying on the Peace Corps' acknowledgement that the breakouts of the 2008 Volunteer Surveys were subject to production under FOIA, Mr. Ludlam filed a FOIA request for the country-by-country and program-by-program breakouts for the 2009 and 2010 surveys. In a 180-degree reversal of its position, the Peace Corps refused to produce the breakouts for the 2009 and 2010 Volunteer Surveys.

40. Mr. Ludlam and Ms. Hirschhoff's attempt to secure the breakouts for the 2009 and 2010 Volunteer Surveys began when Mr. Ludlam filed a FOIA request by email on December 16, 2010. He requested "a copy of the Peace Corps comprehensive survey of the Volunteers for 2009 and 2010, [including] the worldwide results [and] the breakouts of the results country by country and program by program for each country."

41. This December 16, 2010 email constitutes a valid request under FOIA. The request was assigned the tracking number FOIA Request No. 11-059.

42. Upon information and belief, the country-by-country and program-by-program breakouts of the responses to the Peace Corps Volunteer 2009 AVS and the responses to the

Peace Corps Volunteer 2010 AVS became available to Peace Corps staff in November of each of the respective calendar years.

43. Upon information and belief, the country-by-country and program-by-program breakouts of the 2009 and 2010 Volunteer Survey and/or the results of the statistical analysis of each question posed in the 2009 AVS and 2010 AVS are available in electronic form on the Peace Corps' OSIRP intranet page, just as were the country-by-country breakouts of the 2008 survey.

44. On December 29, 2010, the Peace Corps FOIA Officer acknowledged receipt of Mr. Ludlam's FOIA request. The FOIA Officer represented to Mr. Ludlam that a response to the FOIA request would issue within 20 business days.

45. On March 1, 2011, the Peace Corps FOIA Officer reported that there was "no record" of surveys being conducted in 2009 and 2010.

46. Later the same day on March 1, Mr. Ludlam forwarded a copy of the 2008 Biennial Volunteer Survey results to the Peace Corps FOIA Officer, indicating it was the type of document being sought under the pending FOIA request.

47. In a response sent on March 17, the FOIA Officer represented to Mr. Ludlam that "[t]here is no biennial report available . . . ." Instead, the FOIA Officer provided the worldwide summaries from the 2009 and 2010 AVS. Mr. Ludlam's FOIA request had been for "comprehensive survey of the Volunteers" and he had never referenced "biennial" survey reports.

48. The response further stated that "[t]he individual country survey results and Volunteers' answers to the surveys are being withheld pursuant to 5 U.S.C. §§ 552 (b)(5) and (b)(6). Exemption 5 protects inter-agency or intra-agency communications that are protected by

legal privileges (the deliberative process), the general purpose of which is to ‘prevent injury to the quality of agency decisions.’ Exemption 6 protects information involving matters of personal privacy.” It went further to suggest that the individual responses contain “personally identifiable, private information.”

49. On March 18, Mr. Ludlam filed an appeal of the denial of his FOIA request for the breakouts of the 2009 and 2010 Volunteer Surveys to Earl Yates, Associate Director for Management at the Peace Corps. Although the original FOIA request sought the Volunteers’ responses to “open-ended questions,” Mr. Ludlam explicitly removed that request from his appeal. Mr. Ludlam and Ms. Hirschhoff do not seek the production of the Volunteer responses to any open-ended questions. In his appeal, Mr. Ludlam noted that the Peace Corps had previously acknowledged that the breakouts for the 2008 Volunteer Surveys were FOIAable, and the only issue pertinent to their production was the format and cost to produce the information to the requestor.

50. This March 18, 2011 email constituted a valid appeal under FOIA.

51. The Peace Corps acknowledged Mr. Ludlam’s appeal by email later in the day on March 18, 2011.

52. Later the same day, Mr. Ludlam provided supplemental information regarding the basis for his appeal. He reminded the Peace Corps FOIA appeals officer that the Peace Corps had, pursuant to FOIA requests, just produced to Mr. Ludlam the country-by-country data on early quit or termination rates. Those documents revealed that 35 Peace Corps countries had suffered an early termination rate of 40% or more in recent years. Upon information and belief, this was the first acknowledgment by the Peace Corps that its earlier reports that the early termination rate was closer to 10% were misleading and erroneous. The early termination rate

data is not qualitatively different from the type of information disclosed in the breakouts of the Volunteer Surveys, as they both present only statistical information and neither provides any information that would identify any particular individual.

53. By letter on April 15, 2011, Earl Yates denied Mr. Ludlam's appeal seeking the release of the breakouts for the 2009 and 2010 Volunteer Surveys. Although the letter made passing reference to the Peace Corps' implicit acknowledgement that the breakouts of the 2008 Volunteer Surveys were subject to production under FOIA, it did not explain why this precedent was not binding on the Peace Corps with respect to the breakouts for the 2009 and 2010 Volunteer Surveys. Mr. Yates made no attempt to explain any differences between the country-by-country survey responses, which the Peace Corps was refusing to produce, and the country-by-country early termination rates, which it had just produced to the Mr. Ludlam and Ms. Hirschhoff under FOIA.

54. Although in his appeal, Mr. Ludlam explicitly removed the request for the Volunteers' responses to open-ended questions, which could arguably contain personally identifiable information, the Peace Corps again denied the request for the breakouts of the 2009 and 2010 Volunteer Surveys under 5 U.S.C. § 552(b)(5) and (b)(6), as containing "opinions, recommendations, and personally identifiable information."

55. Upon information and belief, the breakouts for the 2008, 2009, and 2010 Volunteer Surveys contain the same type of information in essentially the identical format — *i.e.*, statistics of the responses which are reported in chart or table form and contain no information to permit identification of individual Volunteer respondents.



56. Faced with a final denial of their request for the breakouts of the 2009 and 2010 Volunteer Surveys, Mr. Ludlam and Ms. Hirschhoff were forced to file this lawsuit to compel production of these important documents.

**The Public's Interest in Improving the Management of the Peace Corps**

57. On January 14, 2011, the ABC News investigative news magazine television show "20/20" aired a scathing and devastating report about the murder in Benin of a Peace Corps Volunteer whistle blower, Kate Puzey, by a Peace Corps staff member in March 2009. The report further detailed the despicable treatment of female Volunteers who had been raped or sexually assaulted.

58. Undoubtedly, the airing of the "20/20" report raised the public's awareness and concern for the safety of the Peace Corps Volunteers, of whom nearly 60% are women. Mr. Ludlam and Ms. Hirschhoff seek to maintain the public's attention and awareness on these crucial safety issues in order to spur the Peace Corps to undertake the urgent and necessary reforms to improve its management and oversight.

59. In their testimony before the Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs of the Senate Foreign Relations Committee at a hearing regarding the Peace Corps Volunteer Empowerment Act, S. 732 on July 25, 2007, Mr. Ludlam and Ms. Hirschhoff spoke in favor of granting Volunteers whistle blower rights that had previously been granted to all government agency employees in the 1978 Whistle Blower Act. Upon information and belief, an expansion of the Whistle Blower Act to cover the Peace Corps Volunteers was opposed by the Peace Corps itself. Less than two years later, Kate Puzey was murdered, in part because the Peace Corps did not protect her from retaliation by a Peace Corps staff member against whom she lodged her complaint.

60. Mr. Ludlam and Ms. Hirschhoff are Returned Peace Corps Volunteers dedicated to improving the quality and management of the Peace Corps for current and future Volunteers who pledge to serve communities around the world as the public face of the United States for up to two or more years. On July 24, 2009, they published a comprehensive reform plan for the Peace Corps titled “Plan to Strengthen and Expand the Peace Corps: Priorities for President Obama’s First Term,” *available at* <http://peacecorpswiki.org/images/LudlamHirschhoff.pdf/>. The Plan is a comprehensive, twenty-point plan that spans 155 pages and was drafted over four years by Mr. Ludlam and Ms. Hirschhoff, incorporating comments from the Returned Peace Corps Volunteer Community.

61. The “Plan to Strengthen and Expand the Peace Corps: Priorities for President Obama’s First Term” includes a detailed analysis of the country-by-country breakouts prepared from the 2008 Volunteer Survey. In performing the analysis, Mr. Ludlam and Ms. Hirschhoff found that while 46% of the Volunteers who responded to the 2008 AVS agreed that the country in which they served would benefit if the Peace Corps program was “refocused/redesigned,” upwards of 70% of Volunteers in several countries agreed with that sentiment. Their work also uncovered that while 51% of the Volunteers who responded to the 2008 AVS rated their Peace Corps Country Director’s interactions with the country and the program favorably, more than 70% of the Volunteers in at least 15 countries rated their Country Director’s interactions as mediocre or worse.

62. To the extent that the July 24, 2009 publication of the “Plan to Strengthen and Expand the Peace Corps: Priorities for President Obama’s First Term” has put pressure on the Peace Corps to reform the low-ranked countries and countries with a high early quit rate, it is

precisely the type of attention that advocates for improving the Peace Corps' response to the needs of its Volunteers like Mr. Ludlam and Ms. Hirschhoff intend.

63. In a May 11, 2011 statement to the House Foreign Affairs Committee regarding Peace Corps reform and the "20/20" expose, Mr. Ludlam and Ms. Hirschhoff reaffirmed their lead reform proposal to mandate that the Peace Corps establish listening mechanisms to encourage Volunteers to offer constructive input regarding staff performance and program effectiveness on a confidential basis. They seek to empower Volunteers to reform the Peace Corps *from the inside*. They also seek to empower applicants and future Peace Corps Volunteers by publicizing metrics of the agency's performance so that the applicants can determine which programs are well managed in order to encourage reform *from the outside*." If the applicants are empowered to be selective in accepting an invitation to serve, the Peace Corps will face effective *external* pressure to reform. If the Peace Corps finds it difficult to persuade applicants to serve in the worst managed programs in countries with the highest early quit rates and the worst survey responses, it would feel pressure to intervene to fundamentally overhaul or shutter these programs. There are powerful incentives for reform. Utilizing this pressure to spur the Peace Corps to take reform seriously is precisely what Mr. Ludlam and Ms. Hirschhoff hope to accomplish.

**The Public Significance and the Public's Interest  
In the Breakouts from the Peace Corps' Volunteer Surveys**

64. The public has demonstrated its interest in the information and documents, such as the breakouts from the 2008 Volunteer Surveys, that were made available on the PeaceCorpsWiki website. Upon information and belief, and as described above, since the founding of the PeaceCorpsWiki website in 2008 through July 25, 2011, over 650,000 individuals have visited the site and viewed nearly 3.2 million pages. Upon information and

belief, new visits to the site comprise 65% of total visits and nearly 3,000 people visit the site on an average day. Upon information and belief, as of July 25, 2011, over 16,000 individuals have reviewed the breakouts from the 2008 Volunteer Surveys on the PeaceCorpsWiki website since their posting in 2009. Undoubtedly, among the individuals viewing the website are individuals applying to serve as future Peace Corps Volunteers.

65. The public, and especially applicants to serve in the Peace Corps, have a substantial public and personal interest in the release of the country-by-country and program-by-program breakouts of the 2009 and 2010 Volunteer Survey Reports. The questions posed to Peace Corps Volunteers in the 2008 AVS seek to assess, *inter alia*, the Volunteers' goals and impact on the communities in which they serve; the support the Volunteers receive from the Defendant Peace Corps and the host country in which they serve; factors such as work, relationships, and isolation that contribute to stress on the Volunteers; factors on how safe and informed about their safety Volunteers feel; and the Volunteers overall assessment of their Peace Corps experience.

66. Indeed, the safety of Volunteers, and the support some victims of violence received from the Peace Corps and the host country in which they serve, have been the subject of numerous new articles and television news programs that demonstrate the public interest in the Peace Corps Volunteers' responses to the 2009 AVS and the 2010 AVS. *See, e.g.*, Brian Ross and Anna Schecter, *Peace Corps Volunteers To Testify Before Congress About Sexual Assault*, ABC News, May 11, 2011, *available at* <http://abcnews.go.com/Blotter/peace-corps-volunteers-testify-congress-sexual-assault/story?id=13574590>; Jeffrey Anderson, *Safety at risk for Peace Corps volunteers, Audit finds lax security measures*, The Washington Times, June 17, 2010, *available at* <http://www.washingtontimes.com/news/2010/jun/17/volunteers-for-peace-corps-at->

risk-of-violence/print/; Philippe Djegal, *Peace Corps Murder Raises Questions On Safety Of Volunteers*, KESQ Television, News Channel 3 (Palm Springs, Cal.), Jan. 14, 2011, *available at* <http://www.kesq.com/news/26502628/detail.html>; Nima Elbagir, *U.S. Peace Corps volunteer fatally shot in Lesotho*, CNN, Sep. 5, 2010, *available at* [http://articles.cnn.com/2010-09-05/world/lesotho.peace.corps.death\\_1\\_peace-corps-lesotho-volunteer?\\_s=PM:WORLD](http://articles.cnn.com/2010-09-05/world/lesotho.peace.corps.death_1_peace-corps-lesotho-volunteer?_s=PM:WORLD).

67. Upon information and belief, with only the breakouts from the 2008 Volunteer Surveys being publicly available, Volunteers do not have up-to-date information regarding the management of the programs in each country. With the appointment of a new Country Director, programs that have been mismanaged can be turned around in a relatively short period of time. The reverse is also possible. The refusal of the Peace Corps to provide the breakouts from the 2009 and 2010 Volunteer Surveys means that applicants and other interested parties may be misled about the comparative rank of a given country, including the country to which they have been invited to serve.

68. The refusal of the Peace Corps to release the breakouts from the 2009 and 2010 Volunteer Surveys seems to disable the Peace Corps itself from using the survey results to target poorly managed countries for overhaul. By ranking the programs one-against-another, the Peace Corps itself can identify the programs which might need to be shuttered. By breaking out the program-by-program results for each country, the Peace Corps can target the least well-managed programs. By ranking the Country Directors and other staff, it can better determine which staff should be given extended employment contracts.

69. Upon information and belief, many of the questions posed to the Peace Corps Volunteers in the 2009 AVS and the 2010 AVS are identical or highly analogous to the questions in the 2006 and 2008 Biennial Volunteer Surveys.

70. The Peace Corps' Office of Strategic Information, Research and Planning acknowledges that the results of the Biennial and Annual Volunteer Surveys are important and need to be read and analyzed in the context of the survey results from other survey years. For example, the Peace Corps "encourages" the readers of the breakouts of the 2008 Volunteer Survey "to compare these 2008 results with the 2006 survey results to note trends and changes over time." The breakouts of the 2008 Volunteer Survey are already publicly available. It is important for the American public, some of whom will be the future Peace Corps Volunteers, to have access to the breakouts of the 2009 and 2010 Annual Volunteer Surveys so that they too can "note trends and changes over time" in the way the Defendant Peace Corps is administered in the countries served by the Volunteers.

71. The information on the PeaceCorpsWiki website, such as the breakouts from the 2008 Volunteer Survey, would allow an applicant to learn how Peace Corps Volunteers assess the quality of their volunteer experience and the management and support received in each country served by the Peace Corps. This information would also equip Volunteers who are invited to serve in countries that rank relatively poorly in the Volunteer Surveys with the background information with which to raise legitimate questions.

72. Upon information and belief, the majority of Peace Corps Volunteers, many who commit themselves to two or more years of service in poorly developed, foreign communities, are young adults, with little experience outside of the home or college environment, and are easily intimidated by the Peace Corps management. Upon information and belief, the Peace Corps routinely intimidates Volunteers who speak out about the mismanagement of the agency. Because many of the Volunteers are vulnerable and inexperienced with the media and Congress, they tend to be ineffective in organizing themselves in favor of reform initiatives. Mr. Ludlam

and Ms. Hirschhoff, both of whom served twice as Peace Corps Volunteers, are passionate about the ideals of the Peace Corps and committed to advocating for and empowering the new and future generations of Peace Corps Volunteers. Publicizing the Volunteers' views as expressed in the 2009 and 2010 AVS is one of the ways in which to empower future Volunteers.

73. The assessments of the Volunteers on issues of safety, the support they receive, the stress they experience, the goals and impact the Volunteers have on their community in which they serve, and their overall assessment of their Peace Corps experience is of tremendous public interest. Such information is vital to future Volunteers, to whom the Peace Corps owes the full disclosure of all relevant information as possible in order to allow future Volunteers to make a fully informed and knowledgeable decision on where and how to volunteer and serve a community.

74. This information is also important for the American public, as the Peace Corps is, in many of the communities served by the Volunteers, the public face of the United States. The way the Volunteers perceive their interactions with the communities and their assessments of the Peace Corps experience are of interest to the American public.

**CAUSE OF ACTION:**

**Violation of the Freedom of Information Act for  
Wrongful Withholding of Agency Records**

75. Plaintiffs repeats and reallege paragraphs 1 – 74.

76. Plaintiffs have properly requested the country-by-country and program-by-program breakouts of the 2009 and 2010 Volunteer Survey Reports under FOIA.

77. The Defendant Peace Corps has wrongfully withheld the breakouts prepared from the responses to the 2009 and 2010 Annual Volunteer Surveys, requested by Plaintiffs under the FOIA.

78. Plaintiffs have exhausted the applicable administrative remedies with respect to the Defendant Peace Corps' wrongful withholding of the breakouts prepared from the responses to the 2009 and 2010 Annual Volunteer Surveys, requested by Plaintiffs under the FOIA.

79. Plaintiffs are entitled to injunctive and other relief with respect to the release and disclosure of the breakouts of the Volunteer Survey Reports prepared from the responses to the 2009 and 2010 Annual Volunteer Surveys, as requested by Plaintiffs under the FOIA.

**Requested Relief**

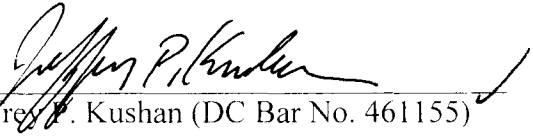
WHEREFORE, Plaintiffs pray that this Court:

- A. order Defendant Peace Corps to immediately locate the requested records in their entirety, *i.e.*, the country-by-country breakouts and the program-by-program breakouts (worldwide and country-by-country) prepared from the responses to the 2009 and 2010 Annual Volunteer Surveys;
- B. order Defendant Peace Corps, upon location of the documents, to disclose the requested statistical analyses of the Volunteers' responses to the 2009 and 2010 Annual Volunteer Surveys in their entirety and make copies available to Plaintiffs Charles Ludlam and Paula Hirschhoff in electronic form;
- C. enjoin the Peace Corps from objecting to or obstructing the publication of or posting on the PeaceCorpsWiki website the country-by-country breakouts and the program-by-program breakouts (worldwide and country-by-country) prepared from the responses to the 2009 and 2010 Annual Volunteer Surveys;



- D. enjoin Defendant Peace Corps in the future from denying FOIA requests for breakouts of Volunteer Surveys, including but not limited to the breakouts for the 2011 Volunteer Survey;
- E. enjoin Defendant Peace Corps in the future from assessing costs for the reproduction of documents requested under FOIA in paper form that are available in electronic form;
- F. order Defendant Peace Corps in the future to meet the statutory deadlines for production of documents and, if deadlines are not met, to waive any costs of production of documents;
- G. order Defendant Peace Corps to post all documents online that are produced in response to FOIA requests — including all documents produced since January 1, 2005 — and post a log of the requests and agency responses to them on the website of the Peace Corps;
- H. enjoin Defendant Peace Corps from denying FOIA requests for breakouts of surveys that the Peace Corps may be compelled by legislation pending in the Congress to conduct, namely “annual Volunteer surveys . . . regarding the effectiveness of Peace Corps programs and staff and the safety of volunteers.” (*See* S. 1280, 112th Cong. § 8E (2011), Kate Puzey Peace Corps Volunteer Protection Act of 2011);
- I. award Plaintiffs its costs and reasonable attorneys’ fees incurred in this action as provided by 5 U.S.C. § 552(a)(4)(E) and 28 U.S.C. § 2412; and
- J. grant such other relief as the Court may deem just and proper.

Respectfully submitted,



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August 31, 2011