

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT – DIVISION 6

THE WHITE CORPORATION, INC., d/b/a)
THE ABILENE REFLECTOR-CHRONICLE,)
)
Plaintiff,)
)
vs.) **Case No. 2020-CV-000488**
)
KANSAS BUREAU OF INVESTIGATION,)
)
Defendant.)

DEFENDANT KANSAS BUREAU OF INVESTIGATION’S
ANSWER TO PLAINTIFF’S AMENDED PETITION

Defendant Kansas Bureau of Investigation (KBI), for its Answer to Plaintiff’s Amended Petition, states:

1. It admits the allegations in paragraph 1.
2. It admits the allegations in paragraph 2.
3. It admits the allegations in paragraph 3.
4. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 4, and it therefore denies the same.
5. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 5, and it therefore denies the same.

6. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 6, and it therefore denies the same.

7. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 7, and it therefore denies the same.

8. It admits the allegations in paragraph 8.

9. It denies the allegations in paragraph 9.

10. It admits the allegations in paragraph 10.

11. It denies the allegations in paragraph 11.

12. It admits the allegations in paragraph 12.

13. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 13, and it therefore denies the same.

14. It admits the allegations in paragraph 14.

15. It admits the allegations in paragraph 15.

16. It admits the allegations in paragraph 16.

17. It admits the allegations in paragraph 17.

18. It admits the allegations in paragraph 18.

19. It admits in part and denies in part the allegations in paragraph 19. Specifically, KBI admits to investigating possible evidence destruction and interference with law enforcement by the Dickinson County Sheriff, Gareth Hoffman, or persons under his command, but it denies its investigation began “in about early May of 2018.”

20. It denies the allegations in paragraph 20.

21. It admits the allegations in paragraph 21.

22. It admits the allegations in paragraph 22.
23. It admits the allegations in paragraph 23.
24. It admits the allegations in paragraph 24.
25. It admits the allegations in paragraph 25.
26. It admits the allegations in paragraph 26.
27. It admits the allegations in paragraph 27.
28. It admits the allegations in paragraph 28.
29. It admits the allegations in paragraph 29.
30. It admits the allegations in paragraph 30.
31. It admits the allegations in paragraph 31.
32. It denies the allegations in paragraph 32.
33. It admits the allegations in paragraph 33.
34. It admits the allegations in paragraph 34.
35. It admits the allegations in paragraph 35.
36. It admits the allegations in paragraph 36.
37. It admits the allegations in paragraph 37.
38. It admits the allegations in paragraph 38, absent inclusion of the word “discretionary.”
39. It denies the allegations in paragraph 39.
40. It denies the allegations in paragraph 40.
41. It admits the allegations in paragraph 41.
42. It denies the allegations in paragraph 42.

43. It admits the allegations in paragraph 43.

44. It admits the allegations in paragraph 44.

45. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 45, and it therefore denies the same.

46. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 46, and it therefore denies the same.

47. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 47, and it therefore denies the same.

48. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 48, and it therefore denies the same.

49. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 49, and it therefore denies the same.

50. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 50, and it therefore denies the same.

51. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 51, and it therefore denies the same.

52. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 52, and it therefore denies the same.

53. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 53, and it therefore denies the same.

54. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 54, and it therefore denies the same.

55. It is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 55, and it therefore denies the same.

56. It admits the allegations in paragraph 56.

57. It admits the allegations in paragraph 57.

58. It adopts and reiterates its answers to paragraphs 1-57 above.

59. The allegations in paragraph 59 appear to call for a legal conclusion, but to the extent paragraph 59 includes any factual allegations, it denies the same.

60. The allegations in paragraph 60 appear to call for a legal conclusion, but to the extent paragraph 60 includes any factual allegations, it denies the same.

61. The allegations in paragraph 61 appear to call for a legal conclusion, but to the extent paragraph 61 includes any factual allegations, it denies the same.

62. The allegations in paragraph 62 appear to call for a legal conclusion, but to the extent paragraph 62 includes any factual allegations, it denies the same.

63. The allegations in paragraph 63 appear to call for a legal conclusion, but to the extent paragraph 63 includes any factual allegations, it denies the same.

64. The allegations in paragraph 64 appear to call for a legal conclusion, but to the extent paragraph 64 includes any factual allegations, it denies the same.

65. The allegations in paragraph 65 appear to call for a legal conclusion, but to the extent paragraph 65 includes any factual allegations, it denies the same.

66. Paragraph 66 appears to call for neither an admission nor a denial, but to the extent paragraph 66 includes any factual allegations, it denies the same.

67. It admits the allegations in paragraph 67.

68. It admits the allegations in paragraph 68.
69. It adopts and reiterates its answers to paragraphs 1-68 above.
70. Paragraph 70 appears to call for neither an admission nor a denial, but to the extent paragraph 70 includes any factual allegations, it denies the same.
71. It denies the allegations in paragraph 71.
72. It admits the allegations in paragraph 72.
73. It adopts and reiterates its answers to paragraphs 1-72 above.
74. It admits the allegations in paragraph 74.
75. It denies the allegations in paragraph 75.
76. The allegations in paragraph 76 appears to call for a legal conclusion, but to the extent paragraph 76 includes any factual allegations, it denies the same.
77. The allegations in paragraph 77 appear to call for a legal conclusion, but to the extent paragraph 77 includes any factual allegations, it denies the same.
78. It denies the allegations in paragraph 78.
79. It adopts and reiterates its answers to paragraphs 1-78 above.
80. It admits the allegations in paragraph 80.
81. It admits the allegations in paragraph 81.
82. It denies the allegations in paragraph 82.
83. It denies the allegations in paragraph 83.
84. It denies the allegations in paragraph 84.
85. It denies the allegations in paragraph 85.
86. It denies the allegations in paragraph 86.

87. It denies every allegation that is not expressly admitted in this Answer.

AFFIRMATIVE DEFENSES

In its defense to Plaintiff's claims, Defendant asserts:

1. The KBI has fully complied with the requirements of the Kansas open records act, K.S.A. 45-215 *et seq.*, in handling Plaintiff's request for records.

2. The KBI's response to Plaintiff's request for records was timely made in good faith and with a reasonable basis in fact and law to believe, pursuant to K.S.A. 45-221(a)(10)(A)-(E), that disclosure of the records is not in the public interest; may interfere with prospective law enforcement action, criminal investigation or prosecution; may reveal the identity of a confidential source or undercover agent; may reveal confidential investigative techniques or procedures not known to the general public; and may endanger the life or physical safety of any person.

3. Defendant explained in its April 29, 2020 response to Mr. Horan that it generally does not disclose criminal investigation records, but there are exceptions to that practice. Although it did not delineate all exceptions to that practice, it identified that one exception is when it receives a court order compelling disclosure of such records, for instance, when a court determines disclosure of certain records is appropriate pursuant to K.S.A. 45-221(a)(10)(A)-(F).

4. Case law directs that in order for disclosure of criminal investigation records to be "in the public interest," more than mere public curiosity is required. The records must pertain to a matter which **affects** the community at large. *See Harris Enterprises, Inc. v. Moore*, 241 Kan. 59 (1987).

5. While public curiosity regarding these and virtually all KBI investigations is understandable, it is not in the public interest that these records be disclosed.

6. If the KBI disclosed the records requested pursuant to an open record request, virtually anyone could request and obtain access to them, for any reason. The requested records, like most criminal investigation records, contain sensitive material and are laden with personally identifiable information. Disclosing criminal investigation records in response to an open records request typically has the effect of negatively impacting witnesses' cooperation in investigations and their willingness to be interviewed and provide statements in connection with criminal investigations. This often impedes both pending and future investigations and prosecutions.

PRAYER FOR RELIEF

The KBI asks that the Plaintiff take nothing by his petition; that the KBI be granted judgment in its favor as to all of Plaintiff's claims and allegations; that any costs of this action be assessed against Plaintiff; that Plaintiff not be awarded attorney fees; and that the KBI be granted such additional relief as the Court deems just and equitable.

Respectfully submitted by:

KANSAS BUREAU OF INVESTIGATION

/s/ Laura M. Graham

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed electronically on the date and at the time of its electronic file-stamp by the Clerk of the Shawnee County District Court, providing electronic notice to the following:

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/s/ Laura M. Graham
Laura M. Graham