

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

CATO INSTITUTE,)
1000 Massachusetts Ave. NW)
Washington, D.C. 20001)
)
Plaintiff,)
)
v.)
)
FEDERAL BUREAU OF INVESTIGATION,)
935 Pennsylvania Avenue, NW)
Washington, D.C. 20535)
)
U.S. DEPARTMENT OF JUSTICE,)
950 Pennsylvania Ave NW)
Washington, D.C. 20530)
)
Defendants.)

COMPLAINT

1. Plaintiff, CATO INSTITUTE, brings this Freedom of Information Act suit to force Defendants FEDERAL BUREAU OF INVESTIGATION (“FBI”) and U.S. DEPARTMENT OF JUSTICE (“DOJ”) to respond to its FOIA request and produce records pertaining to itself. FBI failed to respond to a FOIA request that was submitted over ten-months ago.

PARTIES

2. Plaintiffs CATO INSTITUTE is a public policy research organization—a think tank—dedicated to the principles of individual liberty, limited government, free markets, and peace. Its scholars and analysts conduct independent, nonpartisan research on a wide range of policy issues.

3. Defendant FEDERAL BUREAU OF INVESTIGATION is a federal agency, a component of U.S. DEPARTMENT OF JUSTICE, and subject to the Freedom of Information Act, 5 U.S.C § 552.

4. Defendant U.S. DEPARTMENT OF JUSTICE is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

5. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

DECEMBER 11, 2019, FOIA REQUEST

7. On December 11, 2019, CATO INSTITUTE submitted the following FOIA request to the FBI:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I hereby request any records regarding the Cato Institute utilizing the following search terms and parameters:

- Cato
- Cato Institute
- The Cato Institute
- Cato Benefactor
- Cato employee
- Cato contractor

I further request that the following search terms be utilized, in a separate search, in combination with the search terms above:

- Edward Snowden (and variants)
- Julian Assange (and variants)
- Wikileaks
- National Security Agency (and variants)
- Central Intelligence Agency (and variants)
- Department of State (and variants)
- Department of Homeland Security (and variants)
- Customs and Border Protection (and variants)
- Immigration and Customs Enforcement (and variants)
- Immigration
- Facial recognition
- Biometrics
- Encryption

- Foreign Intelligence Surveillance Act (and variants)
- Russia (and variants)
- North Korea (and variants)
- Sudan (and variants)
- China (and variants)
- Syria (and variants)
- Iraq (and variants)
- Iran (and variants).

Exhibit A.

8. CATO INSTITUTE also requested expedited processing and a fee waiver. Exhibit

A.

9. On December 11, 2019, upon submitting the request, CATO INSTITUTE received an automated email from the FBI's FOIA portal, which confirmed the receipt of the request.

Exhibit A.

10. Having heard no further communication from FBI for over 10 months since submitting the request, CATO INSTITUTE asked FBI for an estimated completion date of the request on November 4, 2020. In this email, CATO INSTITUTE included the original request and the FBI online portal's confirmation of the request submission. Exhibit B.

11. On November 5, 2020, FBI assigned reference number 1455301-000 to the matter.

Exhibit C.

12. FBI stated that the "search for responsive records is ongoing" and it does not know "which track it will fall." FBI further claimed, "Accordingly, the estimated date on which the FBI will complete action on [the] request is 1,695 days from the date the FBI opened the request." *Id.*

13. FBI added that CATO INSTITUTE may request an updated estimated date of completion "once the search has been completed." *Id.*

14. FBI never issued a determination regarding Plaintiff's request for a fee waiver or expedited processing.

15. As of the date of this filing, FBI has not complied with FOIA, has not issued a determination letter, and has produced no records responsive to the request.

COUNT I – FBI’S FOIA VIOLATION – FAILURE TO PRODUCE RECORDS

16. The above paragraphs are incorporated herein.
17. FBI and DOJ are federal agencies and subject to FOIA.
18. The requested records are not exempt under FOIA.
19. Defendants have failed to produce records responsive to the request.

COUNT II – FBI’S FOIA VIOLATION – FAILURE TO CONDUCT A REASONABLE SEARCH

20. The above paragraphs are incorporated herein.
21. FBI and DOJ are federal agencies and subject to FOIA.
22. The requested records are not exempt under FOIA.
23. Defendants have failed to conduct a reasonable search for the requested records.

WHEREFORE, CATO INSTITUTE asks the Court to:

- i. declare that Defendants have violated FOIA;
- ii. order Defendants to conduct a reasonable search for records and to promptly produce the requested records;
- iii. enjoin Defendants from withholding non-exempt public records under FOIA;
- iv. award CATO INSTITUTE attorneys’ fees and costs; and
- v. award such other relief the Court considers appropriate.

Dated: November 17, 2020

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorney for Plaintiff
CATO INSTITUTE

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