

**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 produce records generated by the Inspection Division, the Office of Compliance, or the Office of General Counsel regarding any Assessment, Preliminary Investigation, or Full Investigation in which one or more incidents of “substantial non-compliance” with one or more Domestic Investigations and Operations Guide requirements were reported.

PARTIES

2. Plaintiff 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 and 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).

SEPTEMBER 14, 2020 FOIA REQUEST

7. On September 14, 2020, CATO INSTITUTE submitted a FOIA request to the FBI for “records generated by the Inspection Division, the Office of Compliance, or the Office of General Counsel regarding any Assessment, Preliminary Investigation, or Full Investigation in which one or more incidents of ‘substantial non-compliance’ with one or more DIOG requirements were reported, including but not limited to any electronic communications (ECs) employing file numbers in the 319 series (or successor series, if applicable).” The timeframe of the search is from October 1, 2008, to the present. Exhibit A.

8. On September 25, 2020, the FBI acknowledged receipt of the request and assigned reference number 1476924-000 to the matter. In this letter, the FBI acknowledged additional FOIA requests that CATO INSTITUTE submitted to the FBI, but only 1476924-000 is at issue in this case. Exhibit B.

9. On June 30, 2021, the FBI stated that it located “approximately 1,082 pages” of records potentially responsive to the request. The FBI also claimed that the “current average time is approximately 66 months to complete.” Exhibit C at 2-3.

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

**COUNT I – SEPTEMBER 14, 2020 FOIA REQUEST,
DEFENDANTS’ FAILURE TO ISSUE A DETERMINATION**

11. The above paragraphs are incorporated herein.
12. The request seeks the disclosure of agency records and was properly made.
13. FBI and DOJ are federal agencies and subject to FOIA.
14. The requested records are not exempt under FOIA.
15. Defendants have failed to issue a determination within twenty business days.

**COUNT II – SEPTEMBER 14, 2020 FOIA REQUEST,
DEFENDANTS’ FAILURE TO PRODUCE RECORDS**

16. The above paragraphs are incorporated herein.
17. The request seeks the disclosure of agency records and was properly made.
18. FBI and DOJ are federal agencies and subject to FOIA.
19. The requested records are not exempt under FOIA.
20. Defendants have failed to produce the records responsive to the request promptly.

WHEREFORE, CATO INSTITUTE asks the Court to:

- i. declare that Defendants have violated FOIA;
- ii. order Defendants to issue a determination on the request at issue in this case;
- iii. order Defendants to conduct a reasonable search for records responsive to the request;
- iv. order Defendants to promptly produce all non-exempt records responsive to the request;

- v. enjoin Defendants from withholding non-exempt public records under FOIA;
- vi. award CATO INSTITUTE attorneys' fees and costs; and
- vii. award such other relief the Court considers appropriate.

Dated: September 16, 2021

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorney for Plaintiff
CATO INSTITUTE

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