

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

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

COMPLAINT

1. Plaintiff CATO INSTITUTE brings this suit to force Defendants FEDERAL BUREAU OF INVESTIGATION and U.S. DEPARTMENT OF JUSTICE to comply with Plaintiff’s FOIA request for records pertaining to technical assistance to local police departments, as indicated using classifications 343A and 343V.

PARTIES

2. Plaintiff CATO INSTITUTE (“CATO”) 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. CATO is the FOIA requester in this case.

3. Defendant FEDERAL BUREAU OF INVESTIGATION (“FBI”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

4. Defendant U.S. DEPARTMENT OF JUSTICE (“DOJ”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552. DOJ is the FBI’s parent agency.

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).

APRIL 19, 2023 FOIA REQUEST TO FBI

7. On April 19, 2023, CATO submitted a FOIA request to the FBI for the following records:

1. Form FD-1057 and FD-1087 records in which the Case ID# field contains 343A or 343V;
 2. Other records in which the Case ID# field contains 343A or 343V;
 3. Policies, procedures, guidelines, or other records that govern or apply to the FBI's provision of technical assistance to local police departments (also known as 343A/343V matters);
 4. Policies, procedures, guidelines, or other records that govern or apply to the creating, handling, or storage of records in which the Case ID# field contains 343A or 343V.
8. A true and correct copy of the FOIA request is included in Exhibit 1.
9. On April 25, 2023, the FBI mailed two letters to CATO acknowledging receipt of the FOIA request, dividing the FOIA requests into two requests for processing, and assigning two reference numbers to the matter. Reference number 1590406-000 was assigned to Items 1, 2, and 4 of the FOIA request, and reference number 159360 was assigned to Item 3 of the request.
10. A true and correct copy of both acknowledgement letters are included in Exhibit 1.
11. On April 25, 2023, the FBI sent two letters stating the FOIA request “does not provide enough detail to enable personnel to locate records with a reasonable amount of effort”

and is “overly broad in scope,” and asking CATO to re-submit its FOIA request with “more narrowed and detailed information.”

12. A true and correct copy of both letters from the FBI asking CATO to narrow the scope of its request are included in Exhibit 1.

13. On April 26, 2023, CATO sent two letters to the Director of the Office of Information Policy at the DOJ appealing the FBI’s denial of the FOIA requests. In the letter, CATO requested that its requests be remanded to the FBI for immediate processing.

14. A true and correct copy of both CATO’s letters to the DOJ are included in Exhibit 1.

15. On April 26, 2023, the DOJ sent two letters acknowledging receipt of CATO’s appeal of its FOIA request denial.

16. A true and correct copy of both acknowledgement letters are included are included in Exhibit 1.

17. On May 11, 2023, the FBI sent two letters to CATO stating it completed its search for responsive records and made the records available in the FBI’s electronic FOIA Library (The Vault) and provided a link to the website. In these letters, the FBI also stated additional records potentially responsive to the request may exist and instructed CATO to email foipaquestions@fbi.gov if it wished for the FBI to conduct a search of the indices to its Central Records System.

18. A true a correct copy of both response letters from the FBI are included in Exhibit 1.

19. On May 26, 2023, CATO sent an email to foipaquestions@fbi.gov asking for a further search and processing of the FOIA requests. Further, CATO asked the FBI to search cross-

reference files or electronic surveillance, technical surveillance, or microphone surveillance files for responsive records, and to query FBI field offices for potentially responsive documents, including those deemed automatically declassified. Additionally, CATO asked the FBI to search for records generated pursuant to “sensitive investigative matters,” “assessments,” and “undisclosed participation” as well as records located within the FBI’s SharePoint system and other systems used for electronic communications, dissemination of FBI alerts, and intelligence products.

20. A true and correct copy of CATO’s letter to the FBI is included in Exhibit 2.

21. On June 1, 2023, the FBI confirmed its receipt of additional correspondence regarding the FOIA request and stated the correspondence was “forwarded to the assigned analyst for review and determination.”

22. A true and correct copy of the FBI’s acknowledgement message is included in Exhibit 2.

23. On June 8, 2023, the DOJ sent a letter to CATO in response to CATO’s appeals affirming the FBI’s actions, and stating the FOIA requests were “not reasonably described.”

24. A true and correct copy of the DOJ’s appeal response letter is included in Exhibit 1.

25. On June 12, 2023 and June 13, 2023, the FBI sent two letters acknowledging receipt of the FOIA requests.

26. A true and correct copy of both acknowledgement letters are included in Exhibit 2.

27. On July 5, 2023, the FBI sent a letter to CATO stating it was “unable to identify additional records subject to the FOIPA that are responsive to [the] request.” Further, the FBI

stated that records regarding the request were previously reviewed and released and administratively closed the matter.

28. The records released by the FBI housed in its online FOIA Library (The Vault) do not encompass all records responsive to CATO's FOIA request.

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

**COUNT I—APRIL 19, 2023 FOIA REQUEST
FBI'S FOIA VIOLATION**

30. The above paragraphs are incorporated by reference.

31. Plaintiff's FOIA request seeks the disclosure of agency records and was properly made.

32. Defendant FBI is a federal agency subject to FOIA.

33. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

34. Defendant FBI has failed to conduct a reasonable search for records responsive to the request.

35. Defendant FBI has failed to issue a complete determination within the statutory deadline.

36. Defendant FBI has failed to produce all non-exempt records responsive to the request

WHEREFORE, Plaintiff asks the Court to:

- i. declare that Defendants have violated FOIA;

- ii. order Defendants to conduct a reasonable search for records responsive to the requests;
- iii. order Defendants to produce all non-exempt requested records or portions of records promptly;
- iv. enjoin Defendants from withholding non-exempt public records under FOIA;
- v. award Plaintiff attorneys' fees and costs; and
- vi. award such other relief the Court considers appropriate.

Dated: August 1, 2023

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

Attorneys for Plaintiff
CATO INSTITUTE

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