

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

ADAM MALIK,
800 N. Fielder Rd., Ste. 100 C
Arlington, TX 76012

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY
2707 MLK Jr Ave SE
Washington, D.C. 20528

U.S. CUSTOMS AND BORDER PROTECTION
1300 Pennsylvania Avenue
Washington, D.C. 20229

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES
111 Massachusetts Avenue NW
Washington, D.C. 20529

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT
500 12th Street SW
Washington, D.C. 20536

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION
3301 Metzert Road
College Park, MD 20740

FEDERAL BUREAU OF INVESTIGATION
935 Pennsylvania Avenue, NW
Washington, D.C. 20535

ALEJANDRO MAYORKAS
SECRETARY OF US DHS
245 Murray Lane Building SW

CIVIL ACTION NO. 1:22-cv-698

Washington, D.C. 20528	§
	§
CHRIS MAGNUS	§
COMMISSIONER OF THE U.S. CBP	§
1300 Pennsylvania Avenue	§
Washington, D.C. 20229	§
	§
UR JADDOU	§
DIRECTOR OF THE USCIS	§
111 Massachusetts Avenue NW	§
Washington, D.C. 20529	§
	§
TAE JOHNSON	§
ACTING DIRECTOR US ICE	§
500 12th Street SW	§
Washington, D.C. 20536	§
	§
DAVID FERRIERO	§
ARCHIVIST OF THE UNITED STATES	§
3301 Metzert Road	§
College Park, MD 20740	§
	§
AND	§
	§
CHRISTOPHER WRAY	§
DIRECTOR OF THE FBI	§
935 Pennsylvania Avenue, NW	§
Washington, D.C. 20535	§
	§
Defendants.	§

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. NATURE OF THE ACTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for declaratory, injunctive, and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff by Defendants U.S. Department of Homeland Security (“DHS”), U.S. Customs and Border Protection (“CBP”), U.S. Citizenship and Immigration Services (“USCIS”), U.S. Immigration and Customs Enforcement (“ICE”), National

Archives and Records Administration (“NARA”), U.S. Federal Bureau of Investigation (“FBI”), Alejandro (“Alejandro”), Ur Jadoo (“Jaddou”), Chris Magnus (“Magnus”), Tae Johnson (“Johnson”), David Ferriero (“Ferriero”), and Christopher Wray (“Wray”).

II. JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

3. This Court has jurisdiction over this action pursuant to 5 U.S.C. §552(a)(4)(B) (Freedom of Information Act), 5 U.S.C. §551 *et seq.*, 5 U.S.C. §555(b), §702, §704 and §706 (Administrative Procedure Act), and 28 U.S.C. §1331 (federal question) as this action arises under the Freedom of Information Act. 5 U.S.C. §552 *et seq.*

4. The aid of the Court is invoked under 28 USC §§ 2201 and 2202, authorizing a declaratory judgment.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B) because Plaintiff brings this action in the District of Columbia.

III. PARTIES

6. Plaintiff ADAM MALIK is a United States citizen and a resident of Carrollton, Texas.

7. Defendant U.S. Department of Homeland Security (“DHS”) is a department of the Executive branch of the United States Government, and is responsible for securing the nation's borders, in part by enforcing federal immigration laws and managing the immigration process. DHS is an agency within the meaning of 5 U.S.C. § 552(f). DHS has possession, custody, and control of records that are responsive to the FOIA that the Plaintiff has requested.

8. Defendant, U.S. Citizenship and Immigration Services (“USCIS”), a component entity of DHS, is responsible for the administration of immigration and naturalization adjudication,

establishing immigration services, policies, and priorities, and has custody and control of alien registration files. USCIS is an agency within the meaning of 5 U.S.C. §552(f). USCIS has possession, custody, and control of records that are responsive to the FOIA that the Plaintiff has requested.

9. Defendant, U.S. Immigration and Customs Enforcement (“ICE”), a component agency within the DHS, is responsible for enforcing federal immigration statutes. ICE is an agency within the meaning of 5 U.S.C. §552(f). ICE has possession, custody, and control of records that are responsive to the FOIA that the Plaintiff has requested.

10. Defendant, Customs and Border Protection (“CBP”), a component entity of DHS, is responsible for maintaining security and staffing ports of entry at the nation's borders. CBP is an agency within the meaning of 5 U.S.C. § 552(f). CBP has possession, custody, and control of records that are responsive to the FOIA that the Plaintiff has requested.

11. Defendant, Federal Bureau of Investigation (“FBI”) is the U.S. federal government’s lead law enforcement agency. The FBI is an “agency” within the meaning of 5 U.S.C. § 552(f)(1). FBI has possession, custody, and control of records that are responsive to the FOIA that the Plaintiff has requested.

12. Defendant, National Archives and Records Administration (“NARA”) is the U.S. federal government’s record keeper. The NARA is an “agency” within the meaning of 5 U.S.C. § 552(f)(1). NARA has possession, custody, and control of records that are responsive to the FOIA that the Plaintiff has requested.

13. Defendant Alejandro (“Alejandro”) is the Secretary of DHS. He oversees all functions of DHS and its agencies. He is sued only in his official capacity.

14. Defendant Ur Jadoo (“Jaddou”) is the Director of USCIS and is sued in her official capacity only. USCIS is a component of the Department of Homeland Security. She oversees all functions of USCIS.

15. Defendant Chris Magnus (“Magnus”) is the Commissioner of the CBP. He oversees all functions of CBP. He is sued only in his official capacity.

16. Defendant Tae Johnson (“Johnson”) is the Director of ICE. He oversees all functions of CBP. He oversees all functions of ICE. He is sued only in his official capacity.

17. Defendant David Ferriero (“Ferriero”) is the Archivist of the United States. He oversees all functions of NARA. He oversees all functions of NARA. He is sued only in his official capacity.

18. Defendant Christopher Wray (“Wray”) is the Director of the FBI. He oversees all functions of FBI. He is sued only in his official capacity.

IV. LEGAL FRAMEWORK

19. FOIA was passed with the intent to allow individuals access to documents under agency control. When a request for information is made to an agency, that agency has 20 days to respond to the request. 5 U.S.C. 552(a)(6)(A)(I). The agency may grant itself a 10 workday extension where “unusual circumstances” exist. 5 U.S.C. 552(a)(6)(A)(I). Where an agency has failed to respond within the prescribed period, the person making the request is deemed to have exhausted his administrative remedies. 5 U.S.C. 552(a)(6)(C)(i). On complaint, the U.S. District Court may “enjoin the agency from withholding agency records and...order the production of any agency records improperly withheld from complainant.” 5 U.S.C. 552(a)(4)(B).

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. Plaintiff exhausted administrative remedies by completing Defendants’ administrative appeal process for all final FOIA request decisions issued by Defendants pertaining to Plaintiff’s

requests. Plaintiff is deemed to have exhausted administrative remedies where Defendants have not responded within the prescribed statutory period. 5 U.S.C. § 552(a)(6)(C)(i).

VI. STATEMENT OF FACTS

21. Plaintiff brings this action to redress violations of the Administrative Procedure Act (“APA”), and the Freedom of Information Act (“FOIA”). Defendants have failed to timely respond to Plaintiff’s FOIA requests and have failed to provide all documents requested.

22. Defendants are unlawfully withholding information sought by the Plaintiff. Defendants are unlawfully withholding information which Plaintiff is entitled to. No valid disclosure exemption allows Defendants to withhold the requested information. Defendants have failed to comply with the statutory mandates and deadlines imposed by the FOIA.

A. Government Agencies’ Acquisition of Plaintiff’s Personal Information.

23. Plaintiff is a licensed attorney in the State of Texas and has built a practice of representing individuals in U.S. Immigration and Naturalization matters, including matters brought against Defendants and in removal proceedings. Plaintiff occasionally represents clients in criminal and nation security investigations. Plaintiff also represents, and has represented in the past, clients who are under investigation by the FBI.

24. Plaintiff has also been previously targeted, for many years, by the Defendants in an effort to discriminate, harass, embarrass, retaliate, scare, and/or seek retribution against Plaintiff for the work that he does and for other reasons. Plaintiff has also been targeted due to his national origin, religion, race, ethnicity and other inherent characteristics.

25. Plaintiff has previously been employed by DHS through USCIS and ICE. Plaintiff has also had several employment applications and other dealing and interactions with the FBI.

26. As part of his work duties, Plaintiff travels across the United States and internationally in the representation of his clients. While many of Plaintiff's clients have no criminal history, others have been alleged to have committed significant offenses by Defendants in the past.

27. The nature of Plaintiff's practice requires that he be outside his office to see clients and potential clients. Plaintiff's primary source of communication with clients and potential clients is an iPhone, which he also uses to draft notes, conduct legal research, record legal strategy, record client communications, and access client files and documents.

28. To facilitate his extensive travel, Plaintiff applied for and received membership in CBP's Global Entry Trusted Traveler Program ("Global Entry"). DHS approved him for Global Entry on or about November 2014 and approved his renewal in 2019.

29. Membership in Global Entry requires a member to pass extensive and thorough security checks conducted by DHS. Plaintiff passed a DHS conducted background checks against criminal, law enforcement, customs, immigration, agriculture, and terrorist indices – a process that also includes fingerprinting. Plaintiff also passed an in-person interview with a DHS security officer.

30. On or about January 3, 2021, Plaintiff was attempting to reenter the United States after travel to Costa Rica. Plaintiff attempted to reenter through a Global Entry kiosk located at the Dallas-Fort Worth International Airport. Plaintiff was rejected entry at the kiosk and transferred to an in-person primary inspection, and then to a secondary inspection area.

31. While in secondary inspection, a CBP officer named Aaron Sullivan ("Officer Sullivan") informed Plaintiff that he was randomly selected for review of Global Entry eligibility.

32. Thereafter, Plaintiff was subjected to interrogation by a total of three officers, including Officer Sullivan, employee of DHS named Allen Brock ("Officer Brock"), and another employee

of DHS named Travis Cannon (“Officer Cannon”). Each employee of DHS separately interrogated Plaintiff about his law practice, personal life, parents, and his personal U.S. immigration history.

33. The officers interrogated Plaintiff about legal representation he had provided and continues to provide to certain clients and the identity of certain current and past clients of Plaintiff.

34. Plaintiff freely answered all questions about his personal life but refused to answer questions concerning clients that required revealing privileged information. Officer Sullivan reacted angrily when Plaintiff refused to disclose privileged information.

35. Officer Sullivan requested that Plaintiff unlock his iPhone so that the digital contents in Plaintiff’s iPhone could be inspected.

36. Plaintiff advised Officer Sullivan that the iPhone contained extensive privileged information and allowed for the accessing of privileged information that is stored remotely. Plaintiff further advised that he could not consent to the search of his iPhone.

37. In response, Officer Sullivan informed Plaintiff that DHS was seizing the iPhone and that the digital contents would be searched.

38. After being transferred from the secondary inspection area to the exit, Plaintiff was threatened to be illegally arrested and was physically assaulted by Officer Sullivan, in the presence of Officer Brock and at least one other unidentified employee of the DHS.

39. Officer Sullivan later personally created or directed other officers to create derogatory reports against the Plaintiff and his family members to cause harm to the Plaintiff. One such harm was to intentionally, willfully, and with the purpose to harm the Plaintiff create records that will create irreparable harm to the Plaintiff and his family by creating false reports and records in the US Government databases and disseminate it to other federal agencies like the FBI under the pretext of “national security” to evade judicial review as it was known that the Plaintiff was an

attorney and it was likely that he would resort to judicial relief. This is a tactic that the Defendants use regularly to target Americans including Lawyers for retribution, against other things, for the work the attorneys are involved in.¹ One additional known harm was to purposely and with the intent to harm, retaliate, and to seek retribution was to request and create false records to illegally have the Plaintiff's Global Entry revoked.

40. Other illegal acts are being uncovered on a regular basis as the plaintiff seek records, develop record through testimony in a different but related lawsuit pending at a different Federal District.

41. All of these illegal actions were taken with the assent and protection provided by CBP Chief Michael Pequano (currently the CBP Port Director at Oklahoma City airport).

B. CBP's History of Misconduct and Impunity

42. CBP has a long history of troubling enforcement tactics and mistreatment of people in its custody. Journalists, human rights observers, and non-governmental organizations— including Plaintiffs—have extensively documented unlawful and abusive policing practices by CBP officials. This includes the use of racial profiling, unjustified shootings and other use of excessive force, as well as unlawful arrests and deportations.² CBP created and operates with a “secret division” to target Americans and violate their constitutional and civil rights with a free pass at the borders.³ CBP created a separate list for lawyers and targeted lawyers for their work like the

¹ <https://www.propublica.org/article/documents-show-trump-officials-used-secret-terrorism-unit-to-question-lawyers-at-the-border>

² See generally *Hold CBP Accountable: Stopping U.S. Customs and Border Protection (CBP) Abuse*, <https://holdcbpaccountable.org/abuses/>; see also, e.g., John Washington, “Kick Ass, Ask Questions Later”: A Border Patrol Whistleblower Speaks Out About Culture of Abuse Against Migrants, *The Intercept* (Sept. 20, 2018), <https://theintercept.com/2018/09/20/border-patrol-agent-immigrant-abuse/>; Garrett M. Graff, *The Green Monster: How the Border Patrol Became America's Most Out-of-Control Law Enforcement Agency*, *Politico* (Nov./Dec. 2014), <https://www.politico.com/magazine/story/2014/10/border-patrol-the-green-monster-112220>.

³ <https://news.yahoo.com/cbp-launches-review-secretive-division-that-targeted-journalists-lawmakers-americans-100035634.html>

Plaintiff in this case.⁴ CBP misconduct, including the use of racially derogatory language and the repeated physical and verbal abuse of individuals in the agency's custody, has caused significant public concern.⁵

43. CBP's concerning tactics have been ongoing for decades.⁶ In July 2019, media outlets reported that thousands of CBP officers were members of a Facebook group in which CBP officers mocked a father and his toddler who drowned while attempting to enter the United States.⁷ The same Facebook group members engaged in abusive, racist language about members of Congress—and then attempted to delete the posts.⁸ In the same month, journalists reported that CBP officers forced a noncitizen to walk in front of other detainees holding a sign identifying himself as attracted to men,⁹ detained children in “poor conditions that are not pure by products

⁴ <https://www.nbcnews.com/politics/immigration/u-s-officials-made-list-reporters-lawyers-activists-question-border-n980301>

⁵ See, e.g., American Civil Liberties Union of San Diego & Imperial Counties, et al., *Administrative Complaint Re: U.S. Border Patrol's Verbal Abuse of Detained Individuals* (July 2020), <https://www.aclusandiego.org/wp-content/uploads/2020/07/2020-07-07-OIG-Complaint-4-FINAL.pdf>; Garrett M. Graff, *The Border Patrol Hits a Breaking Point*, Politico (July 15, 2019), <https://www.politico.com/magazine/story/2019/07/15/border-patrol-trump-administration-227357>; Univ. of Chicago Law School Int'l Human Rights Clinic, et al., *Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection*, at 10-13 (May 2018), <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1001&context=ihr>; Sara Campos & Guillermo Cantor, Am. Immigr. Council, *Deportations in the Dark: Lack of Process and Information in the Removal of Mexican Migrants*, at 13-16 (Sept. 2017), <https://www.americanimmigrationcouncil.org/research/deportations-dark>; Guillermo Cantor & Walter Ewing, Am. Immigr. Council, *Still No Action Taken: Complaints Against Border Patrol Agents Continue to Go Unanswered*, at 8 (Aug. 2017), <https://www.americanimmigrationcouncil.org/research/still-no-action-taken-complaints-against-border-patrol-agents-continue-go-unanswered>.

⁶ See, e.g., Daniel E. Martinez, Guillermo Cantor & Walter Ewing, Am. Immigr. Council, *No Action Taken: Lack of CBP Accountability in Responding to Complaints of Abuse* (May 2014), <https://www.americanimmigrationcouncil.org/research/no-action-taken-lack-cbp-accountability-responding-complaints-abuse>; Cantor & Ewing, *Still No Action Taken*, *supra* n. 3 (examining records of alleged misconduct by Border Patrol employees).

⁷ A.C. Thompson, *Inside the Secret Border Patrol Facebook Group Where Agents Joke About Migrant Deaths and Post Sexist Memes*, ProPublica (July 1, 2019, 10:55 AM), <https://bit.ly/2YyJXfu>.

⁸ *Id.*; see also Ryan Deveraux, *Border Patrol Agents Tried to Delete Racist and Obscene Facebook Posts. We Archived Them*, The Intercept (July 5, 2019), <https://theintercept.com/2019/07/05/border-patrol-facebook-group/>.

⁹ Nick Valencia et al., *Border Patrol agents allegedly tried to shame a migrant by making him hold a sign reading 'I like men,' emails show*, CNN (July 4, 2019, 4:58 PM), <https://cnn.it/2mPKOes>.

of overcrowding,”¹⁰ sexually assaulted a child in CBP custody, and retaliated against other children for protesting the conditions of their confinement.¹¹

44. CBP continually evades responsibility for its actions and operates in a culture of secrecy and impunity. Complaints by migrants who have come forward to raise allegations of verbal, physical, and sexual abuse go unheard and unchecked.¹²

45. Earlier last year, CBP successfully obtained “security agency” status, shielding “all CBP employee names from subsequent responses to [FOIA] requests or other public disclosures for CBP employee data.”¹³

46. Building on this trend towards further secrecy, CBP recently sought approval from the National Archives and Records Administration (NARA) to destroy various types of records pertaining to its misconduct.¹⁴ These include documents held by CBP, including witness testimony and other evidence, due to complaints made to the DHS Office of Civil Rights and Civil Liberties (CRCL); complaints raised under the Prison Rape Elimination Act (PREA); and internal complaints and criminal investigations concerning CBP personnel. In some cases, records could be destroyed in as soon as four years.¹⁵

¹⁰ Jacob Soboroff & Julia Ainsley, *Migrant kids in overcrowded Arizona border station allege sex assault, retaliation from U.S. agents*, NBC News (July 9, 2019, 8:30 PM), <https://nbcnews.to/2LbfbGP>; see also Simon Romero et al., *Hungry, Scared and Sick: Inside the Migrant Detention Center in Clint, Tex.*, N.Y. Times (July 9, 2019), <https://nyti.ms/2L7dREA>.

¹¹ See Soboroff & Ainsley, *supra*.

¹² See, e.g., Martinez, Cantor & Ewing, *No Action Taken*, *supra* n. 4; Cantor & Ewing, *Still No Action Taken*, *supra* n. 3.

¹³ Ken Klippenstein, *Exclusive: Customs and Border Protection Gains an Extra Layer of Secrecy*, The Nation (Feb. 4, 2020), <https://www.thenation.com/article/politics/cbp-security-agency/> (quoting a CBP internal memo obtained by The Nation); Jessica K. Lang, *U.S. Customs and Border Protection Designated ‘Security Agency,’* The Nat’l Law Review (Feb. 24, 2020), <https://www.natlawreview.com/article/us-customs-and-border-protection-designated-security-agency>.

¹⁴ 85 FR 47248, National Records and Archives Administration (NARA), *Notice of Availability of Proposed Records Schedules, Request for Comments*; Alice Speri, *Homeland Security Wants to Erase Its History of Misconduct*, The Intercept (Oct. 6, 2020, 11:57 AM), <https://theintercept.com/2020/10/06/homeland-security-dhs-misconduct-records-erasure/>.

¹⁵ *Id.*

47. Rather than accountability, CBP instead enjoys an astronomical budget of \$18.2 billion for FY 2020—a 19% increase over FY 2019—and an increased number of personnel.¹⁶ Most troubling, CBP’s reach has gone beyond its law enforcement mandate to patrol the U.S. borders and monitor trade.

48. For example, in April of 2019, DHS surreptitiously implemented a pilot program in which CBP officers were tasked with the unprecedented role of conducting sensitive threshold screening interviews, known as “credible fear interviews,” that determine whether asylum-seekers can present their claims before an immigration judge.¹⁷ This screening role has been historically undertaken by asylum officers, who are trained in asylum law and in dealing with individuals suffering trauma after enduring persecution and arduous journeys to the United States. The assignment of CBP officers to this role drew criticism and concern, given the agency’s historical function as a law enforcement agency and its well-documented animosity towards asylum seekers.¹⁸

¹⁶ Executive Office of the President, *Border Security 2020 Fact Sheet: Strengthening Border Security and Immigration Enforcement*, https://www.whitehouse.gov/wp-content/uploads/2019/03/FY20-Fact-Sheet_Immigration-Border-Security_FINAL.pdf.

¹⁷ See Molly O’Toole, *Border Patrol agents, rather than asylum officers, interviewing families for ‘credible fear’*, L.A. Times (Sept. 19, 2019, 5:50 AM), <https://lat.ms/2mqC263>; Julia Ainsley, *Stephen Miller wants Border Patrol, not asylum officers, to determine migrant asylum claims*, NBC News (July 29, 2019, 7:31 PM), <https://nbcnews.to/2YpVQni>; Nick Miroff, *U.S. asylum screeners to take more confrontational approach as Trump aims to turn more migrants away at the border*, Wash. Post (May 7, 2019), <https://wapo.st/2JzaEe4>; Geneva Sands et al., *White House Backs Stephen Miller Proposal to Let Border Patrol Agents to Conduct Asylum Interviews*, CNN (May 8, 2019, 1:27 PM), <https://cnn.it/2ntS5AZ>.

¹⁸ See, e.g., John Washington, *Bad Information: Border Patrol Arrest Reports Are Full of Lies That Can Sabotage Asylum Claims*, The Intercept (Aug. 11, 2019, 12:20 PM), <https://bit.ly/2Kx6Zir>; Amnesty International, *‘You Don’t Have Any Rights Here’: Illegal Pushbacks, Arbitrary Detention & Ill-Treatment of Asylum-Seekers in the United States*, at 17. (2018), <https://www.amnesty.org/en/latest/research/2018/10/usa-treatment-of-asylum-seekers-southern-border/>; Shaw Drake et al., Human Rights First, *Crossing the Line: U.S. Border Agents Illegally Reject Asylum Seekers* (May 2017), <http://bit.ly/2pb69jd>; U.S. Comm’n on Int’l Religious Freedom, *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal* (2016), <https://bit.ly/2uydMQ8>.

C. FBI'S History of Misconduct and Impunity

49. The FBI has had a long and problematic history with targeting and surveilling people of the Muslim faith. The United States House of Representatives Committee on the Judiciary recently held a hearing on Discrimination and the Civil Rights of the Muslim, Arab, and South Asian American Communities on Tuesday, March 01, 2022.¹⁹

50. The U.S. Supreme Court has ruled in *Tanvir v. Tanzin* that individuals can sue federal law-enforcement officials for damages under the Religious Freedom Restoration Act of 1993 (RFRA). The Court was not persuaded by the FBI's argument that "state secret" investigations cannot be litigated without posing an unacceptable risk to national security.²⁰ Such a broad position would render virtually any FBI investigation as unable to be litigated in Court based solely on the FBI's blanket assertion that a matter concerns state secrets or poses a risk to national security.

51. Plaintiffs in the *Tanvir v. Tanzin* case sued the FBI after they were placed on the national "no fly list" in retaliation for their decision to not assist the FBI by becoming informants in the Muslim community. FBI had provided the plaintiffs with no reasoning as to why they were placed on the "no fly list," and there was no evidence to suggest that plaintiffs posed any security threat to the United States or to the public generally. After being approached by the FBI and given the request to become informants, plaintiffs rejected the FBI's request and were subsequently put on the "no fly list" and prohibited from seeing their families overseas for years.²¹

¹⁹ <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=4857> (A YouTube video of the hearing is also available at that page).

²⁰ See Mansoor, S. Muslim Americans bring the fight against surveillance to the Supreme Court. Time. Retrieved February 28, 2022, from https://time.com/6097712/muslim-american-surveillance-supreme-court-sept-11/?utm_source=Pew+Research+Center&utm_campaign=bf14de7030-EMAIL_CAMPAIN_2021_09_21_12_18&utm_medium=email&utm_term=0_3e953b9b70-bf14de7030-400753929

²¹ *Tanvir v. Tanzin* (formerly *Tanvir v. Holder and Tanvir v. Lynch*). Center for Constitutional Rights. (n.d.). Retrieved from <https://ccrjustice.org/tanvir-v-tanzin>

52. The FBI maintains over 15,000 informants, and tens of thousands of unofficial informants. Recruiting Muslim informants has been an FBI priority as the agency seeks to expand its surveillance of the Muslim community.

53. Such recruitment of informants not only pertained to public spaces, but also to places of religious worship. The FBI actively worked and succeeded in recruiting Muslim informants to surveil mosques that the FBI was investigating.²²

54. The FBI's further interaction with the Muslim community at airports in the United States and abroad demonstrates its targeted course of action pertaining to who it believes could be a threat to national security.

55. Research suggests that "the FBI's contact with Muslims is often not reliant upon actual indications of criminal activity, but instead the contact is predicated upon the suspicion of *who* is engaged in these behaviors. Under racialized state surveillance, these actions become hyperscrutinized and deemed worthy of FBI assessment."²³

56. Such brazen attempts by the FBI to recruit informants is consistent with its past behavior in stopping and interrogating Muslim travelers at airports in the United States for questioning.

D. Plaintiff's FOIA Requests and Defendants' Failure to Respond.

57. By separate letters to each of the Defendants, except for CBP which was submitted through an online portal, Plaintiff submitted FOIA requests for documents, records and videos pertaining to the Plaintiff and the January 3, 2021, incident made the basis of the requests.

²² Totenberg, N. (2021, November 8). *Supreme Court to hear arguments on FBI's surveillance of Mosques*. NPR. Retrieved from <https://www.npr.org/2021/11/08/1052567444/supreme-court-to-hear-arguments-on-fbis-surveillance-of-mosques>

²³ Alimahomed-Wilson, S. (n.d.). *When the FBI knocks: Racialized - rutgers center for ...* Retrieved from <https://csrr.rutgers.edu/wp-content/uploads/2020/01/when-the-fbi-knocks.pdf>

E. Defendant CBP's Failure to Timely Comply with Plaintiff's First Request.

58. Plaintiff submitted a FOIA request to Defendant CBP on January 7, 2021.

59. Plaintiff specifically requested records of:

“All information pertaining to the seizure of my iphone at the DFW airport on January 3, 2021, All information pertaining to the use and handling of my iphone. All information pertaining to the use and handling of the information obtained from and/or through my iphone. All information obtained from and/or through my iphone. All information regarding the destruction of information obtained from and/or through my iphone. All information pertaining to the Filter Team's review of information obtained from and/or through my iphone. All information pertaining to CBP's coordination of the review of the above information with the US Attorney's Office. All information pertaining to the revocation of my Global Entry. All information pertaining to my selection for secondary inspection at DFW airport on January 3, 2021. All emails pertaining to me since December 20, 2020.”

60. On information and belief, little to no responsive documents or reasoning as to the denial of the requested records were ever provided to Plaintiff.

61. Plaintiff appealed CBP's denial on March 22, 2021.

62. On information and belief, no decision regarding Plaintiff's appeal has been rendered or communicated to Plaintiff.

63. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to CBP.

64. CBP has wrongfully withheld the requested records from Plaintiff.

F. Defendant CBP's Failure to Timely Comply with Plaintiff's Second Request.

65. Plaintiff submitted a second FOIA request to Defendant CBP through the CBP's online FOIA portal on March 22, 2021.

66. Plaintiff's FOIA request provided the following description:

“A copy of the video(s) from all cameras located at the DFW airport’s CBP secured area from January 03, 2021, that show Officer Brock Allen and Supervisory Officer Aaron Sullivan escorting the subject... from the secondary inspection area on the second floor to the exit on the first floor, where Supervisory officer Aaron Sullivan became aggressive and assaulted... from behind. The incident took place approximately around 21:17 CST.”

67. On April 6, 2021, CBP issued a final disposition indicating that no records were found.

68. On May 20, 2021, Plaintiff filed an appeal and stated the following in his appeal:

“This appeal is made of CBP’s cursory FOIA response because the government has not stated or shown in its response that its search performed was adequate, or reasonably calculated to uncover all relevant material or records, or any explanation of how the search for responsive material or records was done and the form and location of the files searched. See, e.g., *American Immigr. Council v. DHS*, 905 F.Supp.2d 206, 215 (D.D.C. 2012) (search not adequate where agency failed to state what kinds of records the offices keep, which records or databases the offices searched through, or how the offices conducted their searches).”

69. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to CBP.

70. CBP has wrongfully withheld the requested records from Plaintiff.

G. Defendant CBP’s Failure to Timely Comply with Plaintiff’s Third Request.

71. Plaintiff submitted a third FOIA request to Defendant CBP on June 8, 2021.

72. Plaintiff’s FOIA request to CBP requested copies of records, including:

“1. Information or document(s) that references the protocol or the rule regarding the keeping of the video records at the CBP secure locations inside the airports in general and DFW airport terminal D (Immigration and Customs inspection area) specifically. 2. Information or document(s) that names the agency or entity, other than CBP, that may have a copy of the camera recordings from DFW airport’s CBP secured area terminal D from January 03, 2021, approximately around 21:17 CST. 3. The Standard Operating Procedures (SOP) on how the video records are kept, handled, held, retained, transferred, entrusted, or saved by/with a separate/different agency/entity, specifically for CBP DFW airport. Or what happens to the video recordings at the DFW airport’s CBP secured area terminal D from January 03, 2021, approximately around 21:17 CST

(Immigration and Customs inspection area) when they are no longer “retained.” 4. Information or document(s) that name(s) of the agency/office/department/individual/entity that may have a copy of the video that is subject of this foia, or the name(s) of the agency/office/department/individual/entity that is the custodian of the records that includes the video from DFW airport’s CBP secured area terminal D from January 03, 2021, approximately around 21:17 CST.”

73. Plaintiff’s third FOIA request to this Defendant was assigned tracking number CBP-2021-071560.

74. In a response dated July 1, 2021, CBP identified some of Plaintiff’s request, but withheld all records that were requested. Specifically, CBP indicated that:

“1. 460 pages of an internal CBP Handbook are withheld in full pursuant to Title 5 U.S.C. § 552 (b)(7)(E). 2. No records. 3. 908 pages of an internal CBP Handbook are withheld in full pursuant to Title 5 U.S.C. § 552 (b)(7)(E). 4. No records.”

75. Plaintiff appealed the second denial on August 2, 2021.

76. In a form letter denying Plaintiff’s appeal, CBP stated the following:

“In response to these requests, we were informed by OCC that there are pending lawsuits regarding the encounter at DFW Airport on January 3, 2021 (one involving you as a plaintiff and another involving you on behalf of a client) that are currently being litigated by you and CBP. Given the ongoing litigations, we consider all records related to your FOIA request and appeal to be, until the litigation has been completed, exempt from disclosure under Exemption (b)(7)(A) (5 U.S.C. § 552 (b)(7)(A) of the FOIA.”

77. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to CBP.

78. CBP has wrongfully withheld the requested records from Plaintiff.

H. Defendant CBP’s Failure to Timely Comply with Plaintiff’s Fourth Request.

79. Plaintiff submitted a fourth FOIA request to Defendant CBP on February 8, 2022.

80. Plaintiff’s FOIA request to CBP requested copies of records, including:

1. Copies of all applications made by the subject for Global Entry Applications.
2. Any information, documents, records related to the subject's Global Entry Applications.
3. Any notes or records created by CBP employees or contractors related to the Global Entry account or membership.
4. Any and all information, data, records, notes, documents, logs that were considered AND became the basis the revocation of the subject's Global Entry membership.
5. Copy of the report or log that was created by Supervisory CBP Officer Aaron Sullivan out of DFW airport that was also considered as the basis of the revocation for the subject's Global entry.

81. Plaintiff also requested Expedited Processing of this fourth FOIA request. Plaintiff's request for Expedited Processing was denied by CBP on February 16, 2022, with its reasoning vaguely being:

“Does not meet the requirements per DHS regulations.”

82. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to CBP.

83. CBP has wrongfully withheld the requested records from Plaintiff.

I. Defendant USCIS's Failure to Timely Comply with Plaintiff's Request.

84. Plaintiff submitted a FOIA request to Defendant USCIS on March 8, 2021.

85. Plaintiff's FOIA request to USCIS requested copies of records pertaining to Plaintiff's name found in USCIS's email systems and/or other communication methods containing Plaintiff's name. Plaintiff further provided USCIS with a date range for this search. Plaintiff further requested his personnel file, human resources file, employment applications and background/security checks, and all records pertaining to Plaintiff held by USCIS.

86. In a letter dated March 18, 2021, USCIS indicated that they received Plaintiff's FOIA request on March 12, 2021.

87. In a letter dated May 19, 2021, USCIS stated:

“After assessing your request for email communication and employment records, and consistent with 6 C.F.R. § 5.3(b), USCIS FOIA determined your request did not describe the records sought in sufficient detail to enable our personnel to locate such records with a reasonable amount of effort.”

88. Further, USCIS stated:

“We have completed the review of all documents and have identified 568 pages that are responsive to your request. Enclosed are 516 pages released in their entirety and 31 pages released in part. We are withholding 4 pages in full. In our review of these pages, we have determined they contain no reasonably segregable portion(s) of non-exempt information.”

89. Plaintiff followed-up with USCIS on June 8, 2021, by further clarifying his March 8, 2021 request for records. Specifically, Plaintiff mentioned several names of managers within USCIS whose emails possibly contained information regarding Plaintiff. Plaintiff also clarified his timeline for searching USCIS’s employment records and requested an update regarding records pertaining to his background and security checks.

90. On July 28, 2021, USCIS again sent Plaintiff a letter seeking clarification regarding the records that were being requested.

91. In a letter dated August 23, 2021, USCIS responded that the agency would be withholding identified records pertaining to Plaintiff’s request.

92. Specifically, USCIS stated the following:

“Seventeen pages of material which were referred to another government agency have been returned to this agency for direct response to you. These documents are being withheld in full pursuant to 5 U.S.C. § 552(b)(1) and (b)(3) of the FOIA.

Exemption (b)(1) exempts from mandatory disclosure information which is currently and properly classified pursuant to an Executive Order in the interest of national defense or foreign policy.

Exemption (b)(3) Pertains to information exempt from disclosure by statute.”

93. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to USCIS.

94. USCIS has wrongfully withheld the requested records from Plaintiff.

J. Defendant FBI's Failure to Timely Comply with Plaintiff's First Request.

95. Plaintiff submitted a FOIA request to Defendant FBI on July 31, 2018, after Plaintiff's FOIA request to USCIS was transferred to the FBI for response.

96. Plaintiff received a response from FBI almost two years after the initial FOIA request was made. On June 11, 2020, FBI stated in a letter:

“The referred material has been reviewed pursuant to Title 5, U.S. Code, Section 552, and it was determined that all of the information was compiled for law enforcement purposes and was therefore withheld in its entirety by the FBI pursuant to FOIA exemption (b)(7)(E).”

97. Plaintiff timely appealed the FBI's decision. The FBI received Plaintiff's appeal on August 12, 2020.

98. In a letter dated October 13, 2020, the FBI affirmed its decision to withhold the requested records in their entirety.

99. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the FBI.

100. FBI has wrongfully withheld the requested records from Plaintiff.

K. Defendant FBI's Failure to Timely Comply with Plaintiff's Second Request.

101. Plaintiff submitted a second FOIA request to Defendant FBI on March 8, 2021.

102. Plaintiff's FOIA request to FBI requested copies of records pertaining to Plaintiff's name found in FBI's email systems and/or other communication methods containing Plaintiff's name.

Plaintiff further provided FBI with a date range for this search. Plaintiff further requested his

personnel file, human resources file, employment applications and background/security checks, and all records pertaining to Plaintiff held by FBI.

103. In a letter dated March 19, 2021, the FBI acknowledged receipt of Plaintiff's FOIA request and indicated that the request was in processing.

104. On May 6, 2021, Plaintiff wrote a letter to the FBI requesting the FBI to provide an estimated completion date for providing responsive records as nearly two months had passed since Plaintiff's initial FOIA request.

105. The FBI sent Plaintiff correspondence asking if Plaintiff would limit the scope of his FOIA. Plaintiff responded that he did not wish to limit the scope of his FOIA request.

106. Plaintiff never received any sort of response from the FBI regarding his FOIA request after the communication concerning limiting the scope of the request.

107. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the FBI.

108. The FBI has wrongfully withheld the requested records from Plaintiff.

L. Defendant ICE's Failure to Timely Comply with Plaintiff's Request.

109. Plaintiff submitted a FOIA request to Defendant ICE on March 8, 2021.

110. Plaintiff's FOIA request to ICE requested copies of records pertaining to Plaintiff's name found in ICE's email systems and/or other communication methods containing Plaintiff's name. Plaintiff further provided ICE with a date range for this search. Plaintiff further requested his personnel file, human resources file, employment applications and background/security checks, and all records pertaining to Plaintiff held by ICE.

111. Plaintiff's FOIA request was delivered by mail to Defendant's address on March 16, 2021.

112. On May 6, 2021, Plaintiff emailed ICE to seek clarification on the timeline for producing the records in his FOIA request. Plaintiff never received a response from ICE.

113. To date, ICE has not provided the records requested by Plaintiff in his FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

114. ICE has wrongfully withheld the requested records from Plaintiff.

M. Defendant NARA's Failure to Timely Comply with Plaintiff's Request.

115. Plaintiff submitted a FOIA request to Defendant NARA on June 8, 2021.

116. Plaintiff's FOIA request to NARA requested copies of records pertaining to Plaintiff's personal file, background and security clearance, medical records, and any other information or records held in relation to his employment.

117. Plaintiff's FOIA request was transmitted by both fax and USPS mail.

118. To date, Plaintiff has not received the records requested by in the FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

119. NARA has wrongfully withheld the requested records from Plaintiff.

VII. CLAIMS FOR RELIEF

**FIRST CAUSE OF ACTION
DECLARATORY JUDGEMENT ACT**

120. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.

121. Plaintiff contends that Defendants' actions violate 5 U.S.C. § 552(a)(6)(A) and 6 C.F.R. § 5.6(c).

**SECOND CAUSE OF ACTION
INJUNCTIVE RELIEF**

122. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.

123. Plaintiff contends that Defendant should be required to expedite Plaintiff's FOIA request and make the requested documentation, records, data, files, information, etc. available to plaintiff forthwith.

**THIRD CAUSE OF ACTION
VIOLATION OF THE FOIA – IMPROPER WITHHOLDING OF AGENCY RECORDS**

124. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.

125. Plaintiff has a legal right under the FOIA to obtain agency records described in his FOIA requests.

126. No legal basis exists for Defendants' failure to adequately search for and promptly disclose responsive agency records in accordance with requirements set forth in the FOIA.

127. Defendants' failure to make reasonable efforts to search for responsive agency records, and its wrongful withholding of agency records sought in connection with Plaintiff's FOIA requests, violates the FOIA.

128. Defendants' wrongful withholding of the agency records sought in connection with Plaintiff's requests violates the FOIA.

129. Plaintiff has exhausted all of his administrative remedies.

**FOURTH CAUSE OF ACTION
VIOLATION OF THE FOIA – FAILURE TO MAKE A DETERMINATION AND
PROMPTLY PRODUCE RESPONSIVE DOCUMENTS**

130. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.

131. Defendants are obligated under 5 U.S.C. § 552(a)(6)(A)(i) to make a determination on Plaintiffs' FOIA Request within twenty business days. In unusual circumstances, Defendant may invoke an extension no longer than ten days. 5 U.S.C. § 552(a)(6)(B)(i).

132. Defendants have failed to make a determination within thirty days, the maximum amount of time permitted under the statute.

133. Defendants are obligated to produce responsive records promptly under 5 U.S.C. § 552(a)(3)(A)(i).

134. Defendants have failed to promptly produce responsive records.

135. Defendants' failure to make a determination within the statutory time frame and produce responsive records promptly violates 5 U.S.C. §§ 552(a)(3)(A), (a)(6)(A)(i), and (a)(6)(B)(i).

136. Defendants exceeded the legal response time of twenty days in 5 U.S.C. §552(a)(6)(A)(i) and failed to provide written notice if a ten-day extension was needed in the "unusual circumstances" set forth in 5 U.S.C. § 552(a)(6)(B) and 6 C.F.R. § 5.6(c).

**FIFTH CAUSE OF ACTION
VIOLATION OF THE FOIA – FAILURE TO CONDUCT AN ADEQUATE SEARCH
FOR RESPONSIVE RECORDS**

137. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.

138. Defendants have custody and control over the records Plaintiff seeks through his FOIA request.

139. Defendants bear the burden of proving beyond material doubt that it performed an adequate search for responsive records.

140. Defendants are obligated under 5 U.S.C. § 552(a)(3) to conduct a reasonable search for records responsive to Plaintiff's FOIA requests. Defendants failed to conduct such a search.

141. Defendants possess the records Plaintiff seeks and Plaintiff has a legal right to ~~the~~ such records. No legal basis exists for Defendants' failure to search for them.

142. Defendants' failure to conduct a reasonable search for records responsive to Plaintiff's requests violates 5 U.S.C. § 552(a)(3).

**SIXTH CAUSE OF ACTION
VIOLATION OF THE FOIA – FAILURE TO EXPEDITE**

143. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.
144. Plaintiff sought expedited treatment of his FOIA request pursuant to 5 U.S.C. § 552(a)(6)(E).
145. Defendant denied Plaintiffs' request for expedited processing on February 16, 2022.
146. Defendant wrongfully denied Plaintiff's request for expedited processing of Plaintiff's FOIA request.
147. Defendant has failed to provide records as soon as practicable for Plaintiffs' request.
148. Defendant's failure to provide records as soon as practicable for Plaintiff's request for expedited processing violates 5 U.S.C. § 552(a)(6)(E)(iii).

**SEVENTH CAUSE OF ACTION
VIOLATION OF THE FOIA – REQUEST FOR ATTORNEY FEES**

149. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.
150. Plaintiff contends that Defendants should be required to pay for Plaintiff's attorney fees and related cost in accordance with the FOIA for all violations under the FOIA, for having to bring this suit and any related matters.

**EIGHTH CAUSE OF ACTION
VIOLATION OF THE APA – ARBITRARY AND CAPRICIOUS**

151. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.
152. Defendants' action in withholding the requested information was arbitrary and capricious under 5 U.S.C. §551 *et seq.*, 5 U.S.C. § 555(b), §702, §704 and §706, the Administrative Procedure Act.

153. Defendants have willfully and unreasonably delayed and refused to provide Plaintiff with the information requested under FOIA in a timely manner, despite a showing of “exceptional need or urgency”.

**NINTH CAUSE OF ACTION
VIOLATION OF THE APA – EQUAL ACCESS TO JUSTICE ACT**

154. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.

155. The Defendants’ delay is without justification and has forced the Plaintiff to resort to this Court for relief, and the Plaintiff is entitled to attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d)(2).

156. Plaintiff will seek attorney’s fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

**TENTH CAUSE OF ACTION
VIOLATION OF THE FOIA – PATTERN AND PRACTICE OF FAILING TO TIMELY
ADJUDICATE FOIA PROCESSING REQUESTS**

157. All previous paragraphs are incorporated as though fully set forth herein.

158. Since receiving Plaintiff’s FOIA requests, the Defendants has failed to adjudicate it, in violation of the FOIA. This has been done multiple times and with various agencies of the DHS and the FBI, therefore creating a pattern.

159. Defendant’s failure to properly and lawfully handle Plaintiff’s multiple requests for adjudicating and properly processing is part of a pattern and practice by Defendant’s FOIA office.

160. Plaintiff has personal and ongoing interest, and a legal right under the FOIA, in being able to make FOIA requests through the expedited processing provisions of the Act.

161. Defendant’s chronic failure to timely respond to FOIA processing requests like those from requestors violates the letter and purpose of the Act by depriving FOIA requestors of timely

information allowing them to determine what their government is up to in real time.

162. Plaintiff has constructively exhausted his administrative remedies with respect to expedited processing.

**ELEVENTH CAUSE OF ACTION
APPOINTMENT OF SPECIAL MASTER**

163. All previous paragraphs are incorporated as though fully set forth herein.

164. Should the Court rule that a search may be made of the responsive records being held by the Defendants, this Court, pursuant to Fed. R. Civ. P. 53, and its inherent powers, has the authority to order that the search and review of all the records, including information and documents that may be claimed by the Defendants to be related to an “exception” under the FOIA and/or related to “national security,” be conducted by a Special Master or neutral third-party subject matter expert and under the supervision of this Court or a Magistrate Judge pursuant to protocols reviewed by the parties and approved by this Court or a Magistrate Judge.

165. The protocols should permit Plaintiff to have a duplicate copy of the list of documents and information to be searched prior to any search, permit Plaintiff to contest any findings by a Special Master or third-party subject matter expert that a particular matter is not covered under an exception and/or national security by *in camera* review of this Court or a Magistrate Judge and prohibit Defendants from withholding any such documents and information until first approved by this Court or a Magistrate Judge.

166. Defendants should be required to bear the entire cost of the Special Master or third-party subject matter expert.

VIII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

- A. Assume jurisdiction over this matter;

- B. Find and Declare that Defendants violated 5 U.S.C. §§ 552(a)(6)(A) and (B), 552(a)(3)(A), and 6 C.F.R. §§ 5.5(c) and 5.6(c) by failing to provide a timely response to Plaintiff's FOIA requests;
- C. Find and Declare that Defendants violated 5 U.S.C. § 552(a)(6)(B) and 6 C.F.R. § 5.6(b) by failing to provide adequate notice within twenty (20) days of the "unusual circumstances" that prevented Defendants from processing Plaintiff's FOIA requests in a timely fashion;
- D. Find and Declare that Defendants violated 5 U.S.C. § 552(a)(6)(B) by failing to provide the date on which a determination is expected to be dispatched;
- E. Find and Declare that Defendants' failure to conduct an adequate search violates 5 U.S.C. § 552(a)(3);
- F. Find and Declare that Defendant's failure to process the Plaintiffs' FOIA request as soon as practicable violates 5 U.S.C. § 552(a)(6)(E);
- G. Find and Declare that Defendant's failure to process the Plaintiffs' FOIA request as soon as practicable violates 5 U.S.C. § 552(a)(6)(E);
- H. Order Defendants to conduct an adequate and comprehensive search, within all records that the agency has possession or access to, for records responsive to the FOIA requests filed by Plaintiff under 5 U.S.C. § 552(a)(3);
- I. Order Defendants to produce all records responsive to Plaintiff's FOIA requests as soon as practicable in accordance with its grant of expedited treatment under 5 U.S.C. § 552(a)(6)(E)(iii), within 30 days, or alternatively on an expedited schedule established by the Court;

- J. Order Defendants to disclose the requested records in their entirety and make copies available to Plaintiff;
- K. Preliminarily and permanently enjoin and restrain Defendants and any of their agents or other persons, departments, or components acting for, with, by, through, or under them from withholding the agency records at issue in this case, or frivolously claiming exemptions under FOIA;
- L. Find and Declare that Defendants' denial of Plaintiff's request for expedited processing violated the Freedom of Information Act in that Plaintiff demonstrated that substantial due process rights would be impaired by the failure to process immediately and thus established an "exceptional need or urgency";
- M. Should the Court determine that any documents or information should be produced appoint a Special Master and determine the appropriate protocols as articulated in the Eleventh cause of action;
- N. Order the Defendants to pay for all costs related to the Eleventh cause of action;
- O. Find and Declare that the agency action in this case was "arbitrary and capricious" thus violating the Administrative Procedure Act;
- P. Provide for expeditious proceedings in this action;
- Q. Award Plaintiffs reasonable attorneys' fees and other litigation costs pursuant to 5 U.S.C. § 552(a)(4)(E) and any other applicable statute or regulation; and
- R. Grant such other relief as the Court may deem just, equitable, and appropriate.

Dated: March 11, 2022

Respectfully Submitted,

/s/ Blerim Elmazi

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