

personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff David Josar is an individual U.S. citizen residing in Maryland. Plaintiff has been an employee of the U.S. Department of State since May 2010 as a Foreign Service Officer. In his capacity as a Foreign Service Officer at the Department of State, he is tasked regularly to collect records to fulfill Freedom of Information Act (FOIA) and Privacy Act (PA) requests. He is familiar with the Department of State's FOIA process, including how documents are stored by the Department of State; how Department of State employees fulfill FOIA requests; and what documents the Department of State uses to track where, how, by whom, and how much time is expended to conduct FOIA searches. Plaintiff has a master's degree in journalism from Northwestern University and, as a former reporter with 20 years of experience, has filed hundreds of FOIA requests including with the Department of Justice, the FBI, the Nuclear Regulatory Commission, the Department of Defense, the Department of Health and Human Services, the U.S. European Command, the Department of Housing and Urban Development, and the Federal Aviation Administration. He has also led seminars and training for other reporters on the use of FOIA and public records.
4. Defendant Department of State is a Department of the Executive Branch of the United States Government headquartered in Washington, D.C., and an agency within the meaning of 5 U.S.C. § 552(f).

Statement of Facts

5. On June 20, 2020, Plaintiff submitted a request to the Department of State pursuant to FOIA and the Privacy Act relating to various records about him, his wife, and his minor daughter; part of that request included Privacy Act waivers signed by his wife and him on behalf of his minor daughter. (Attachment A.)
6. Nov., 5, 2019, at approximately 8 p.m., State Department colleague and Diplomatic Security Agent Joe Newberry showed up at the Plaintiff's

residence where he was assigned in Hyderabad, India. Newberry began drinking whiskey and made multiple false, inappropriate allegations against the Plaintiff. Less than 12 hours later as is required by the Foreign Affairs Manual, specifically 12 FAM 270 Security Reporting Requirements, Plaintiff reported Newberry's actions to Hyderabad Consul General Joel Reifman via email and requested a meeting. Based upon records obtained by the Plaintiff, Newberry never reported the allegations he made against the Plaintiff to his supervisor or up his chain of command. Most of the requested records under the FOIA/PA requests relate to actions the Department of State took after the Plaintiff reported Newberry's behavior.

7. The Plaintiff has never had any disciplinary action taken against him; maintains a valid security clearance; and has never had his security clearance suspended. In May 2022, he received the State Department's Heroism Award from Secretary of State Anthony Blinken for his on-the-ground efforts in Kabul to evacuate over 110,000 people.
8. The June 2020 FOIA was acknowledged by the Department of State and assigned two case numbers, F2020-07454 and F02020-00993
9. On August 4, 2021, the Department of State provided 373 pages of documents, including a heavily-redacted "Report of Investigation," in response to the June 2020 FOIA. In some instances, FOIA exceptions were provided; in some instances, there was no explanation as to why records were not provided; in other instances, no explanations were given as to whether a record was even located. The documents illuminated the existence of numerous other releasable documents covered by the FOIA request that existed but were not provided.
10. In September 2021, the Plaintiff had email exchanges and phone conversations with Michael Caramelo, chief of Diplomatic Security/Management/FOIA-PA, who signed the letter accompany the response to the June 2020 FOIA. The Plaintiff asked for additional documents and explanations as to why other documents were not provided. Caramelo told the Plaintiff he could file an administrative appeal.
11. On Sept. 30, 2021, Plaintiff filed an administrative appeal that was acknowledged by the Department. The Appeal was given the number

- A-2022-00031. To date, no formal response outside of the acknowledgement letter or a single record has been produced. (Attachment A.)
12. On Sept. 30, 2021, Plaintiff filed a second FOIA/PA, asking for additional records, including copies of his files with Personnel Security and Suitability, which adjudicates Department of State employee security clearance; copies of his records with the Office of Conduct, Suitability and Discipline, which address employee conduct issues; as well as records that would have documented his June 2020 FOIA request and how it was compiled. This was acknowledged by the Department and given the number F2022-00993. Not a single record has been produced. (Attachment A.)
 13. The vast majority of records the Plaintiff has requested are administrative and personnel documents related to the Plaintiff.
 14. On October 16, 2021, Plaintiff filed a complaint with the U.S. Equal Employment Opportunity Commission's Washington Field Office regarding gender and age discrimination against him by the State Department, including the Bureau of Diplomatic Security. The State Department, without admitting fault, reached a financial settlement with the Plaintiff. The complaint was dismissed on Nov. 16, 2022.
 15. As part of the discovery process in the EEOC complaint, the Plaintiff was provided and became aware of hundreds of other records that were not produced but appear to have been releasable under his June 2020 FOIA/PA request, the 2020 FOIA/PA appeal, and the subsequent September 2021 FOIA request.
 16. One releasable record under FOIA produced in the discovery process for the EEOC complaint was an email exchange and memo involving Eric Poindexter, chief of the Adverse Actions Division, Personnel Security and Suitability, Bureau of Diplomatic Security. In the email, Poindexter raised concerns about a suspension memo, drafted by Diplomatic Security Special Agent Matthew Kears, asking that Poindexter's team review whether the Plaintiff's security clearance should be suspended. The Plaintiff called Poindexter to point out multiple factual errors in the Kears memo, and the Plaintiff asked for access to documents in Poindexter's office about him. Poindexter said he could not discuss the situation with the Plaintiff,

but told the Plaintiff that he could file a Privacy Act request for the records, which would have been covered by the September 2021 FOIA/PA request. To date, no records have been provided by the Department of State regarding records about the Plaintiff with Personnel Security and Suitability, including the email exchange with Poindexter. (Attachment B.)

17. Another record produced in the EEOC discovery process but that was not produced in response to the Plaintiff's FOIAs was a "Memorandum of Interview." The "Memorandum of Interview" was one of the redacted documents that was part of the "Report of the Investigation." The "Memorandum of Interview" produced in discovery was a summary of a 10-minute phone conversation Special Agent Matthew Kearshe had with the Plaintiff's ex-wife. On May 27, 2022, the Plaintiff emailed Caramelo asking why this "Memorandum of Interview" was not included in documents produced by the Department in response to the June 2020 FOIA. Caramelo categorized the interview with the Plaintiff's ex-wife as a "ruse interview." On May 31, Caramelo responded: "There are a myriad of ways of requesting document ... as a result you will see discrepancies in the review determinations between these access methods." In that same email response, Caramelo added that a "de novo search of your original request resulted in approximately 700 additional pages for review." This exchange was nine months after Caramelo had provided 373 pages of documents indicating the June 2020 FOIA request was fulfilled. (Attachment C.)
18. On June 3, 2022, a virtual meeting was held between the Plaintiff, Caramelo, Lorraine Hartmann of the Department of State's FOIA Appeals Division, and several other State employees. Caramelo said he would work on providing the missing documents requested in the appeal. In a June 24, 2022 email, Caramelo responded that his team had completed "the review package ... it was sent up to the DS Legal Advisors for clearance, which is required before obtaining PDAS signatures. Once I have secured the PDAS signature I will hand deliver the package to Ms. Hartmann." That exchange was seven months ago. (Attachment D.)
19. On February 2, 2023, the Plaintiff emailed Caramelo, Hartmann and other State Department officials requesting a meeting to discuss the lack of appeal response and the lack of response to FOIA/PA F2022-00993. Caramelo did not respond to the email; Hartmann wrote back that no one could meet with the Plaintiff but "we hope to finish the processing of your appeal by the end of March 2023. The 700 additional record located by DS

will be addressed in the appeal.” (Attachment E.)

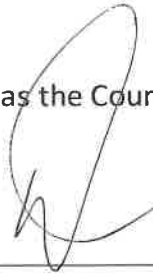
20. The Plaintiff believes Department of State employees are deliberately refusing to produce releasable documents to hide embarrassing and/or possibly illegal actions by Department of State employees, primarily those working for the Bureau of Diplomatic Security.

Requested Relief

WHEREFORE, plaintiff prays that this Court:

- a. order defendants to disclose the requested records in their entireties and make copies available to plaintiff;
- b. provide for expeditious proceedings in this action;
- c. award plaintiff his costs and reasonable fees incurred in this action;
and
- d. grant such other relief as the Court may deem just and proper.

Respectfully submitted,



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