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12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 **MICHAEL WANG,**

15 **Plaintiff,**

16 **v.**

17 **UNITED STATES DEPARTMENT OF**  
18 **JUSTICE,**

19 **Defendant.**

**Case No.**

**COMPLAINT FOR INJUNCTIVE**  
**RELIEF**

**[5 U.S.C. § 552]**

20 **COMPLAINT**

21 1. Plaintiff, Michael Wang, seeks the disclosure and release of government documents from  
22 the Defendant, the Department of Justice (“DOJ”), pursuant to the Freedom of Information Act, 5  
23 U.S.C. § 552 (“FOIA”). Plaintiff seeks injunctive and declaratory relief to compel the Department of  
24 Justice to disclose the requested records.

25 **JURISDICTION AND VENUE**

26 2. This Court has both subject matter jurisdiction over this matter and personal jurisdiction  
27 over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action  
28 pursuant to 28 U.S.C. § 1331 and 29 U.S.C. §§ 2201(a) & 2202. Venue lies in this district pursuant to 5

1 U.S.C. § 552(a)(4)(B).

2 **THE PARTIES**

3 3. Plaintiff is a resident of Danville, California.

4 4. Defendant Department of Justice (“DOJ”) is a department of the Executive Branch of the  
5 United States Government. The Federal Bureau of Investigation (“FBI”) is a component of the DOJ.  
6 Defendant DOJ is an “agency” within the meaning of 5 U.S.C. § 552(f).

7 **PLAINTIFF’S FOIA REQUEST AND DEFENDANT’S LACK OF RESPONSE**

8 5. On March 1, 2016 Plaintiff submitted a request for documents to the FBI (“FOIA”). In his  
9 request, he asked for all information, reports, conclusions and other documents related to the  
10 investigation which occurred between September 2013 and June 2015 regarding Plaintiff. *See* Exhibit  
11 A.

12 6. The FBI acknowledged it received his request later that month on March 28, 2016. *See*  
13 Exhibit B.

14 7. A few months later on May 25, 2016, Plaintiff sought an update from the FBI, which  
15 responded with its first estimate of how long it would take to fulfill Plaintiff’s FOIA request.  
16 Defendant’s first estimate was 475 days from the date of Plaintiff’s request, or July 4, 2017 (calculated  
17 from the date the FBI acknowledged receiving Plaintiff’s FOIA request, rather than the date he  
18 submitted the request). *See* Exhibit C.

19 8. Plaintiff requested expedited processing on May 26, 2016, explaining that he needed the  
20 requested information to defend his position as a police officer in Richmond, California.  
21 Approximately one month later on June 15, 2016, Plaintiff’s request for expedited processing was  
22 denied. *See* Exhibit D.

23 9. On December 12, 2016, Defendant informed Plaintiff it had located approximately 5,000  
24 pages of records and informed Plaintiff there would be certain fees associated with production of the  
25 documents. Plaintiff timely informed the Defendant he would pay any associated fees for production.  
26 *See* Exhibit E.

27 10. On March 30, 2017, over a year after his initial request Plaintiff sought another update  
28 from Defendant, who responded that the materials were “assigned to a disclosure analyst for

1 processing” and provided a second, later estimated date of completion: December 2018. *See* Exhibit F.

2 11. A year later on March 29, 2018 Plaintiff sought a third update. Defendant replied the next  
3 day on March 30, 2018, indicating that Plaintiff’s case was “presently *awaiting* assignment to a  
4 Disclosure analyst...” (emphasis added.) In other words, in the one year that passed between the March  
5 2017 and March 2018 status checks, Plaintiff’s materials digressed from being assigned to an analyst to  
6 awaiting assignment of an analyst. Defendant also assured Plaintiff in March 2018 that the estimated  
7 date of completion “remains December 2018.” *See* Exhibit G.

8 12. On July 26th, 2018, Plaintiff sought a fourth update. With no explanation, Defendant  
9 provided a third estimated date of production: April 2021. This estimate was 1,371 days beyond the  
10 date of Defendant’s original estimate for completion, and 1,846 days (over 5 years) beyond the date of  
11 Plaintiff’s original request for documents. *See* Exhibit H.

12 13. On November 15, 2018, Plaintiff asked Defendant what could be done to hasten production.  
13 Plaintiff agreed to reduce the scope of his request so that responsive documents were limited to  
14 approximately 866 pages, which Defendant vaguely asserted would “reduce the processing time.” *See*  
15 Exhibit I.

16 14. On January 29, 2019, Plaintiff sought a fifth update from Defendant and on February 1,  
17 2019 Defendant responded that Plaintiff’s request was “awaiting assignment to a Disclosure analyst.”  
18 Defendant provided a fourth estimated date of completion of July 2019. *See* Exhibit J.

19 15. On March 12, 2019, Plaintiff sought a sixth update from Defendant and on March 13, 2019  
20 Defendant responded that Plaintiff’s request was “awaiting assignment to a Disclosure analyst.”  
21 Although Plaintiff’s case had been assigned to a Disclosure analyst in March 2017, two years later he  
22 once again found himself awaiting assignment to an analyst. Defendant provided a fourth estimated  
23 date of completion of December 2019. *See* Exhibit K.

24 16. On March 18, 2019, Plaintiff sent a letter to Defendant, laying out the above timeline and  
25 demanding that Defendant produce all of the requested documents within 30 days or be sued. *See*  
26 Exhibit L.

27 17. On April 7, 2019, Defendant sent a fifth estimated date of completion of 1,289 days, or  
28 September 2022. *See* Exhibit M.

1 **CAUSE OF ACTION**

2 **(Violation of FOIA, 5 U.S.C. § 552)**

3 18. Plaintiff realleges paragraphs 1-17 as though fully set forth herein.

4 19. The DOJ has failed to make a determination regarding Plaintiff's March 1, 2016 FOIA  
5 request within the statutory time limit, and is unlawfully withholding records requested by Plaintiff  
6 pursuant to 5 U.S.C. § 552.

7 20. The statutory deadline has long passed, and Defendant has failed to provide a substantive  
8 response to Plaintiff's FOIA requests. As of the date of this Complaint, Defendant has failed to  
9 produce a single responsive record or assert any claims that responsive records are exempt from  
10 production.

11 21. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. §  
12 552(a)(6)(A)(i), Plaintiff is deemed to have fully exhausted any and all administrative remedies with  
13 respect to his FOIA request. *See* U.S.C. § 552(a)(6)(C).

14 22. Plaintiff was unlawfully terminated from his position as a peace officer, and cannot present  
15 his defense without the requested documents. Plaintiff is being irreparably harmed by reason of  
16 Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably  
17 harmed unless Defendant is compelled to conform its conduct to the requirement of the law.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff requests that the Court grant all appropriate relief for the violations of  
20 FOIA alleged above, including:

21 a. An order and judgment requiring the Defendant to conduct a search for any and all records  
22 responsive to Plaintiff's FOIA request, and to demonstrate that it employed search methods reasonably  
23 likely to lead to the discovery of all records responsive to Plaintiff's request;

24 b. An order and judgment requiring the Defendant to produce, by a date certain, any and all  
25 non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive  
26 records withheld under claim of exemption;

27 c. An order and judgment permanently enjoining Defendant from continuing to withhold any  
28 and all non-exempt records in this case that are responsive to the Plaintiff's FOIA request;

