

----- Forwarded message -----

From: **FOIA Status** <[FOIAStatus@state.gov](mailto:FOIAStatus@state.gov)>  
Date: Tue, May 5, 2020 at 5:02 PM  
Subject: RE: APPEAL of F-2019-08911  
To: Christopher Hickman <[chris.hickman@buzzfeed.com](mailto:chris.hickman@buzzfeed.com)>  
Cc: Robinson, Kellie N <[RobinsonKN@state.gov](mailto:RobinsonKN@state.gov)>

Mr. Hickman,

This is in response to your email below.

Please note that the November 30, 2022, estimated date of completion (EDC) that was provided to Jeremy Singer-Vine for FOIA case control number F-2019-08911 is not a denial of his request. At this time, the Department is experiencing a backlog of FOIA requests. As a result, there is a delay in responding to requests. Again, EDCs are estimates and are subject to change. The Department is processing Mr. Singer-Vine's request as quickly as possible. If it can be completed prior to the EDC, a response will be sent sooner.

If you have further concerns or any questions regarding any FOIA-related matter, you may contact the FOIA Requester Service Center at (202) 261-8484 or send an e-mail to [foiastatus@state.gov](mailto:foiastatus@state.gov). Please be sure to refer to the case control number in all future inquiries regarding this request.

Regards,

U.S. Department of State

FOIA Requester Service Center

**From:** Christopher Hickman <[chris.hickman@buzzfeed.com](mailto:chris.hickman@buzzfeed.com)>  
**Sent:** Monday, May 4, 2020 2:29 PM  
**To:** FOIA Status <[FOIAStatus@state.gov](mailto:FOIAStatus@state.gov)>; Robinson, Kellie N <[RobinsonKN@state.gov](mailto:RobinsonKN@state.gov)>  
**Cc:** Jeremy Singer-Vine <[jeremy.singer-vine@buzzfeed.com](mailto:jeremy.singer-vine@buzzfeed.com)>; Lam Vo <[lam.vo@buzzfeed.com](mailto:lam.vo@buzzfeed.com)>;  
Adolfo Flores <[adolfo.flores@buzzfeed.com](mailto:adolfo.flores@buzzfeed.com)>  
**Subject:** RE: APPEAL of F-2019-08911

Christopher Hickman  
Counsel  
BuzzFeed, Inc.  
[111 E. 18th St., 14th Floor](#)  
[New York, NY 10003](#)

May 4, 2020

Director, Office of Information Programs and Services  
Department of State  
Building SA-2  
[515 22nd Street, NW](#)  
[Washington, DC 20522-8100](#)

RE: APPEAL of F-2019-08911

To whom it may concern:

My name is Christopher Hickman and I am legal counsel to BuzzFeed News and its reporters Adolfo Flores, Lam Thuy Vo, and Jeremy Singer-Vine. I write to appeal the constructive denial of the above-referenced FOIA request.

The reporters filed the above-referenced request on August 16, 2019. On January 21, 2020, the reporters sought an estimated date of completion, in writing, per 5 USC § 552(a)(7)(B)(ii). On February 24, 2020, the State Department responded, advising the reporters that “It has been determined that the [estimated date of completion] for this request is November 30, 2022.” (See below for reference.)

The State Department did not provide any reasoning behind the estimated date of completion, which is more than three years after the filing date.

FOIA provides direction concerning the time and manner in which agencies must respond to requests.

Specifically, 5 USC § 552 (a)(6)(A)(i)(I) states in relevant part that:

"Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection shall --- determine within **20 days** (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making the request of such determination and the reasons therefor" and further provides that, "[u]pon any determination by an agency to comply with a request for records, the records shall be made **promptly available** to such person making such request." Id. § 552(a)(6)(C)(i) (emphasis added). The State Department has complied with neither of these requirements here.

First, a "determination" response under 5 U.S.C. § 552(a)(6)(A)(i) must include, among other things: "(1) a statement of what the agency will release and will not release, including a list of the documents that are releasable and withheld; (2) a statement of the reasons for not releasing the withheld records; and (3) a statement notifying the requester of her right to appeal to the head of the agency or seek judicial review of any adverse determination." *Shermco Industries v. Secretary of the United States Air Force*, 452 F. Supp. 306, 317 (N.D.Tex.1978); *Oglesby v. United States Dep't of Army*, 920 F.2d 57, 65 (D.C. Cir. 1990). Your response of February 24, 2020, does not fulfill these criteria, but rather simply states that the estimated date of completion for the request is nearly **two-and-a-half years** from the time of this writing.

A boundaryless promise to deliver an unspecified selection of documents at an unreasonably distant time in the future is not what the statute anticipates; rather, your response reads as a constructive denial of our request. I write to request a reduction of the time frame for delivery of these requested records. Failing that, we intend to fully exercise our statutory rights to challenge this determination through litigation.

For all these reasons, we respectfully request that you reverse the constructive denial, and order the prompt release of all responsive records. Please feel free to contact me by email at [Chris.Hickman@BuzzFeed.com](mailto:Chris.Hickman@BuzzFeed.com) or at (917) 721-9534. We reserve all customary rights.

Very sincerely yours,  
Christopher Hickman, Esq.

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From: **FOIA Status** <[FOIAStatus@state.gov](mailto:FOIAStatus@state.gov)>

Date: Mon, Feb 24, 2020 at 9:12 AM

Subject: RE: Seeking estimated completion date for FOIA request F-2019-08911

To: Jeremy Singer-Vine <[jeremy.singer-vine@buzzfeed.com](mailto:jeremy.singer-vine@buzzfeed.com)>

Mr. Singer-Vine,

You previously contacted the Department of State's FOIA Requester Service Center and requested an estimated date of completion (EDC) for your request, Case Control Number F-2019-08911.

It has been determined that the EDC for this request is November 30, 2022. EDCs are estimates and are subject to change. Please be advised that the Department takes its FOIA responsibilities seriously and is processing your request as quickly as possible. If your request can be completed prior to the EDC, a response will be sent to you sooner.

If you have any concerns or questions regarding a FOIA-related matter, please contact the FOIA Requester Service Center (FRSC) at 202-261-8484 or send an e-mail to [foiastatus@state.gov](mailto:foiastatus@state.gov).

If you are unable to get assistance from the FOIA Requester Service Center, you may also contact the FOIA Public Liaison, Kellie Robinson, who can be reached at (202) 485-2199 or via email at [RobinsonKN@state.gov](mailto:RobinsonKN@state.gov).

Regards,

U.S. Department of State

FOIA Requester Service Center

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