

Sample Freedom of Information Act Complaint

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION CENTER
1718 Connecticut Ave. NW.
Suite 200
Washington, DC 20009
Plaintiff,

v.

C.A. No. 02-0063

U.S. DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

and

U.S. DEPARTMENT OF THE TREASURY
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Defendants.

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant Department of Justice ("DOJ") and its components Federal Bureau of Investigation ("FBI"), United States Marshals Service ("USMS"), Drug Enforcement Agency ("DEA"), Immigration and Naturalization Service ("INS"), and defendant U.S. Treasury ("Treasury") and its components Internal Revenue Service ("IRS"), and Bureau of Alcohol, Tobacco & Firearms ("ATF").

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and 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 Electronic Privacy Information Center ("EPIC") is a public interest non-profit research organization in Washington, DC. It was established in 1994 to focus public attention on emerging civil liberties issues and to protect privacy, the First Amendment, and constitutional values. EPIC's activities include the review of federal data collection and data sharing policies to determine

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their possible impacts on civil liberties and privacy interests. Among its other activities, EPIC has prepared reports and presented testimony on privacy issues and has participated in and organized conferences on privacy.

4. Defendant DOJ is a Department of the Executive Branch of the United States Government, and includes component entities FBI, USMS, DEA, and INS. The DOJ is an agency within the meaning of 5 U.S.C. § 552(f).

5. Defendant Treasury is a Department of the Executive Branch of the United States Government, and includes component entities IRS and ATF. The Treasury is an agency within the meaning of 5 U.S.C. § 552(f).

Government Agencies' Acquisition of Private Sector Personal Information

6. On April 13, 2001, the Wall Street Journal reported that executive branch agencies were purchasing “troves of personal data from the private sector.” Glenn R. Simpson, *Big Brother-in-Law, If the FBI Hopes to Get the Goods on You, It May Ask ChoicePoint*, Wall St. J., April 13, 2001 at A1.

7. The article quoted government sources for the proposition that DOJ, FBI, USMS, INS, and IRS employees had electronic access to citizens’ assets, phone numbers, driving records, and other personal information from their desktop computers.

8. The article reported that ChoicePoint, a publicly-held company, and its competitors were supplying citizens’ personal information to at least thirty-five federal government agencies.

9. The use of private sector databases of personal information enables the government to obtain detailed information on citizens while avoiding the creation of files that would implicate protections provided under the Privacy Act of 1974, 5 § U.S.C. 552a.

Plaintiff's FOIA Requests and Defendants' Failure to Respond

10. By separate letters to DOJ, FBI, USMS, DEA, INS, IRS, and ATF dated June 22, 2001, plaintiff submitted Freedom of Information Act (“FOIA”) requests for “all records relating to transactions, communications, and contracts concerning businesses that sell individuals’ personal information.” A copy of the news article referenced in paragraphs 6-8, supra, accompanied the request.

Defendant DOJ's Failure to Timely Comply with Plaintiff's Request

11. By phone call on June 29, 2001, defendant DOJ informed plaintiff that the request would be forwarded to a component within the DOJ.

12. To date, defendant DOJ has not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA’s requirement of an agency response within twenty (20) working days.

13. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to defendant DOJ.

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14. Defendant DOJ has wrongfully withheld the requested records from plaintiff.

The FBI's Failure to Timely Comply with Plaintiff's Request

15. By form letter to plaintiff dated July 3, 2001, the FBI acknowledged receipt of plaintiff's FOIA request.

16. By form letter to plaintiff dated July 27, 2001, the FBI requested clarification of plaintiff's FOIA request.

17. By letter dated August 8, 2001, plaintiff clarified its request to the FBI by specifying that the subject matter of the request related to ChoicePoint, Inc.

18. To date, the FBI has not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

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

20. The FBI has wrongfully withheld the requested records from plaintiff.

The USMS' Failure to Timely Comply with Plaintiff's Request

21. By form letter to plaintiff dated July 11, 2001, the USMS acknowledged receipt of plaintiff's request.

22. To date, the USMS has not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

23. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the USMS.

24. The USMS has wrongfully withheld the requested records from plaintiff.

The DEA's Failure to Timely Comply with Plaintiff's Request

25. By form letter to plaintiff dated July 26, 2001, DEA requested clarification of plaintiff's FOIA request.

26. By letter dated August 8, 2001, plaintiff clarified its request to the DEA by specifying that the subject matter of the request related to ChoicePoint, Inc.

27. To date, the DEA has not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

28. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the DEA.

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29. The DEA has wrongfully withheld the requested records from plaintiff.

The INS' Failure to Timely Comply with Plaintiff's Request

30. By form letter dated August 9, 2001, defendant INS acknowledged receipt of plaintiff's request.

31. To date, the INS has not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

32. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the INS.

33. The INS has wrongfully withheld the requested records from plaintiff.

The IRS' Partial Denial of Plaintiff's Request

34. By letter dated September 10, 2001, the IRS provided documents responsive to plaintiff's request. However, the IRS withheld 324 pages, relying upon 5 U.S.C. § 552(b)(4). Plaintiff appealed this withholding by letter dated November 8, 2001.

35. By form letter to plaintiff dated November 16, 2001, the IRS denied plaintiff's appeal.

36. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the IRS.

37. The IRS has wrongfully withheld the requested records from plaintiff.

The ATF's Failure to Timely Comply with Plaintiff's Request

38. By letter to plaintiff dated August 8, 2001, the ATF acknowledged plaintiff's request.

39. By letter to plaintiff dated September 13, 2001, the ATF granted plaintiff's request in part and informed plaintiff that there would be a delay in locating responsive documents.

40. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the ATF.

41. The ATF has wrongfully withheld the requested records from plaintiff.

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;

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- B. provide for expeditious proceedings in this action;
- C. award plaintiff its costs and reasonable attorneys 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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