

**FEDERAL BUREAU OF INVESTIGATION
IN THE OFFICE OF INFORMATION MANAGEMENT DIVISION
No. NFP-153129**

AMERICAN CENTER FOR LAW AND JUSTICE

Requestor,

**FOIPA REQUEST
No. NFP-153129**

FREEDOM OF INFORMATION ACT APPEAL

THE AMERICAN CENTER FOR LAW AND JUSTICE

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STATEMENT OF PROCEEDINGS

On August 28, 2023, ACLJ submitted a FOIA request via the website. *See* FOIA Request attached as Exhibit A.

On September 19, 2022, the FBI acknowledged receipt of ACLJ's FOIA Request again. *See* FBI Acknowledgement attached as Exhibit B. The Acknowledgement stated, in part:

“Your request is overly broad and it does not comport with the requirements of 28 CFR § 16.3(b), as it does not provide enough detail to enable personnel to locate records “with a reasonable amount of effort.” Additionally, your request for the above referenced subject is not searchable in our indices. The FBI Central Records System (CRS) is indexed according to investigatory interests, and it is not arranged in a manner that allows for the retrieval of information in the form you have requested. Moreover, the FOIA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried information. Therefore, your request is being closed. Your request has been received at FBI Headquarters for processing.”

This Administrative Appeal follows.

ARGUMENT

I. Plaintiff's FOIA Requests Are Limited by: (a) Time, (b) Subject Matter, and (c) Certain Officials, plus Other Limitations, Making Them Neither Unclear nor Overbroad.

The ACLJ made a total of twelve requests. All the requests are each limited in four ways: (1) by time because no record prior to January 1 of 2019 has been requested, (2) by subject matter because all the records requested have to do with a specific subject (3) by the custodian of the requested records, and (4) the rank of the custodian of the proposed records as no record is sought from any person with a civil service rank of less than either GS-13 or “appointee level.”

a. ACLJ's First Request

The request for the record outlining the “tags” to be used and the definitions of the “tags” in the electronic system mentioned in the SIADDT—along with being limited in time, custodian, and rank of custodian—is highly limited in subject matter. In order to have a functional understanding of how the SIADDT works, knowledge of the meaning and application of the “tags” used are necessary. This request does not seek any more information than is necessary to understand the SIADDT.

b. ACLJ's Second Request

This request is limited in custodian by only requesting documents by FBI Headquarters to FBI Field Offices. It is also highly limited in subject matter by seeking only the classification of parents appearing before school boards as alleged DVEs.

c. ACLJ's Third Request

This request is highly limited in terms of subject matter as it only requests information pertaining to a single group: Antifa. Furthermore, it only requests records of its crimes and protests in specific areas: Seattle, Washington, and Portland, Oregon.

d. ACLJ's Fourth Request

This request is highly limited in subject matter as it only requests records pertaining to a single event. It only requests record(s) pertaining to the firebombing attack on CompassCare crisis

care pregnancy clinic in Buffalo, New York.

e. ACLJ's Fifth Request

This request is especially limited in time because it only requests record(s) from 2020, 2021, and 2022. It is limited in subject matter as well because it only requests record(s) of domestic terror investigations from a limited number of field offices in the relevant timeframe: Los Angeles, CA, Portland, OR, Chicago, IL, and Tampa, FL Field Offices.

f. ACLJ's Sixth Request

This request is especially limited in subject matter and in time as it only requests record(s) pertaining to a specific event and only one aspect of the investigation of that event. It only requests the domestic terrorist classification of the attackers of the U.S. Court House in Portland, OR, in March of 2021.

g. ACLJ's Seventh Request

This request is particularly limited in the area of custodian rank and subject matter. It only requests documents or communications between GS-13 or appointee level or higher employees of the FBI and the DOJ or Executive Office of the President and so is limited by the rank of the custodian. It also only requests documents relating specifically to classifying or reclassifying domestic violence extremism cases which were submitted to Congress. This makes it limited in scope as well.

h. ACLJ's Eighth Request

This request, too, is limited by subject matter because the terms “eGuardians,” “preliminary investigation,” or “full investigation,” are only requested in as much as they relate to the classification of crimes as violent domestic extremism. So only cases that have to do with violent domestic extremism and contain these terms are requested. Also, this request is limited by time because it only requests record(s) from January 1, 2020 to the present.

i. ACLJ's Ninth Request

This request is highly limited as to subject matter as it essentially only requests a single type of record: the grading rubric for agent performance. The additional specification as to how heavily domestic terrorism is weighed in performance evaluations is just an even more specific request the would be contained in such a rubric. This is in essence a request for a blank personnel form.

j. ACLJ's Tenth Request

This request is highly limited as to custodian rank and subject matter. It only requests record(s) from Headquarters, and only documents from GS-13 or appointee level or higher employees. Furthermore, it only requests communications between said employees and Facebook (Meta) and Twitter regarding domestic terrorism. That specific topic of communications limits the scope of the request by a significant margin.

k. ACLJ's Eleventh Request

This request is especially limited in subject matter, custodian, and custodian rank. The subject matter requested pertains only to a single incident: Jane's Revenge. It only seeks documents out of Headquarters and only from GS-13, "appointee," or higher ranked individuals.

l. ACLJ's Twelfth Request

This request too, is highly limited in subject matter, custodian, and custodian rank. It only seeks record(s) pertaining to a single item: the July 27, 2022 Congressional letter of Jim Jordan. It also is only requesting such record(s) out of Headquarters and only from GS-13, "appointee," or higher ranked individuals; thus limiting it by custodian and custodian rank as well.

II. The categories of “domestic terrorist” or “domestic terrorism” should be an investigatory interest searchable within the FBI Central Records System.

The FBI does not and cannot investigate or classify crimes haphazardly. It follows that there exist rules for how to classify a crime for the purposes of the FBI Central Records System, at a minimum.

In terms of the request for “tags” having to do with domestic terrorism, this is essentially a request for the user manual of the SIADDT program. Even if the specific terms cannot be searched for in the indices, some guideline, manual, directive or other writing should exist as to how the SIADDT classifies domestic terror or domestic terrorism as compared to other crimes. These writings ought to exist in some form and should be producible without unreasonable effort.

Additional reasons support the ACLJ’s appeal: Reasonably segregable records are to be produced. 5 U.S.C. § 552(b) (“Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.”). It is not believable that there are no reasonably segregable records responsive to the ACLJ’s requests, and the FBI’s categorical denial does not even come close to satisfying the applicable jurisprudential requirements.

CONCLUSION

For the foregoing reasons, ACLJ respectfully requests that the FBI produce the responsive records.

DATED this 22nd day of November 2023.

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