

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE JAMES MADISON PROJECT
1250 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

and

BRIAN J. KAREM
22 West Jefferson Street
Suite 309
Rockville, Maryland 20855

Civil Action No. 22-92

Plaintiffs,

v.

DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Defendant.

* * * * *

COMPLAINT

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, et seq., as amended, for the disclosure of agency records withheld from the Plaintiffs The James Madison Project and Brian J. Karem by the defendant Department of Justice (and its subordinate entities).

JURISDICTION

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff The James Madison Project (“JMP”) is a non-partisan organization established in 1998 to promote government accountability and the reduction of secrecy, as well as educating the public on issues relating to intelligence and national security.

4. Plaintiff Brian J. Karem (“Karem”) is an award-winning investigative reporter and is an acknowledged representative of the news media.

5. Defendant Department of Justice (“DOJ”) is an agency within the meaning of 5 U.S.C. § 552(f), and is in possession and/or control of the records requested by the plaintiffs that are the subject of this action. DOJ controls – and consequently serves as the proper party defendant for litigation purposes for – the Federal Bureau of Investigation (“FBI”) and the DOJ Office of the Inspector General (“OIG”).

FACTUAL BACKGROUND

6. This FOIA lawsuit seeks production of U.S. Government records outlining the behind-the-scenes reality of the investigation into and ultimate prosecution of Michael Cohen (“Mr. Cohen”), the former personal attorney to Donald J. Trump (“Mr. Trump”).

7. Mr. Cohen previously served as the personal attorney to Mr. Trump, both before and after Mr. Trump was elected President of the United States. On April 9, 2018, the FBI conducted a search of Mr. Cohen’s offices. <https://www.cnn.com/2018/04/09/politics/michael-cohen-raid/index.html> (last accessed January 12, 2022). On August 21, 2018, Mr. Cohen plead guilty to a total of eight charges of tax evasion, making false statements to a federally-insured bank, and campaign finance violations. <https://www.justice.gov/usao-sdny/pr/michael-cohen-pleads-guilty-manhattan-federal-court-eight-counts-including-criminal-tax> (last accessed January 12, 2022). The investigation and

prosecution of Mr. Cohen directly implicated Mr. Trump (identified as “Individual 1”) in a felony prosecution, given the guilty plea indicated Mr. Cohen acted at the behest of Mr. Trump both in the lead up to the 2016 election and then in the early days of the Trump presidency. <https://www.nbcnews.com/think/opinion/michael-cohen-named-trump-individual-1-here-s-why-prosecutors-ncna947016> (last accessed January 12, 2022); <https://www.vox.com/2019/2/27/18243038/individual-1-cohen-trump-mueller> (last accessed January 12, 2022).

8. Mr. Cohen was released to home confinement in July 2020. <https://www.nydailynews.com/new-york/ny-cohen-home-confinement-sentence-20210319-mrvi6p62kfcmtlpjyqy3zofe7y-story.html> (last accessed January 12, 2022). He was released from that confinement on November 21, 2022. https://www.2news.com/news/former-trump-lawyer-michael-cohen-released-from-home-confinement/article_f74faf5f-9375-5ec9-96b9-74a23639e38e.html#:~:text=After%20serving%20approximately%2013.5%20months%20at%20the%20Otisville,Press%2C%20CBS%20News%20contributed%20to%20this%20report.%29%20undefined (last accessed January 12, 2022).

9. This FOIA lawsuit seeks disclosure of the entirety of the DOJ’s records outlining the controversial step to pursue the personal attorney of a sitting president, and to outline for the first time to the American public the entirety of what steps were taken to do so.

COUNT ONE

10. The Plaintiffs repeat and reallege paragraphs 6 through 9 above, inclusive.

11. By letter dated November 16, 2021, the Plaintiffs submitted to the FBI a FOIA request for records.

12. The FOIA request specifically sought the entirety of the FBI's investigation into, arrest of and ultimate prosecution of Mr. Cohen. The Plaintiffs included with their FOIA request an executed privacy waiver from Mr. Cohen.

13. The FBI designated the request as Request No. 1510623-000.

14. To date, no substantive response has been received by the Plaintiffs from FBI regarding the FOIA request. The Plaintiffs have constructively exhausted all required administrative remedies.

COUNT TWO

15. The Plaintiffs repeat and reallege paragraphs 6 through 9 above, inclusive.

16. On December 14, 2021, the Plaintiffs submitted to the DOJ OIG a FOIA request for records.

17. The FOIA request specifically sought the entirety of the DOJ OIG's file regarding DOJ's investigation into, arrest of and ultimate prosecution of Mr. Cohen. The Plaintiffs included with their FOIA request an executed privacy waiver from Mr. Cohen.

18. To date, no substantive response has been received by the Plaintiffs from DOJ OIG regarding the FOIA request. The Plaintiffs have constructively exhausted all required administrative remedies.

WHEREFORE, Plaintiffs The James Madison Project and Brian J. Karem pray that this Court:

(1) Order the Defendant federal agency to produce copies of all non-exempt records responsive to the FOIA requests;

(2) Award reasonable costs and attorney's fees as provided in 5 U.S.C. § 552(a)(4)(E) and/or 28 U.S.C. § 2412(d);

- (3) Expedite this action in every way pursuant to 28 U.S.C. § 1657(a); and
- (4) Grant such other relief as the Court may deem just and proper.

Date: January 13, 2022

Respectfully submitted,

/s/ Bradley P. Moss

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