

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CENTER FOR PUBLIC INTEGRITY  
910 17<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor  
Washington, DC 20006

Plaintiff,

v.

C.A. No.

U.S. OFFICE OF PERSONNEL  
MANAGEMENT  
1900 E Street, N.W.  
Washington, DC 20415-1000

Defendant:

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *as amended*, to compel the production of certain agency records regarding federal employees.

**Jurisdiction**

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

**Parties**

3. Plaintiff, Center for Public Integrity, is a District of Columbia corporation and a nonprofit, nonpartisan, tax-exempt organization that conducts investigative research and reporting on public policy issues in the United States and around the world. Plaintiff is the requester of the withheld records.

4. Defendant, U.S. Office of Personnel Management (OPM), is an agency of the United States and has possession of and control over the records that plaintiff seeks.

### Statement of Facts

5. By e-mail dated January 28, 2004 (Exhibit 1), addressed to OPM's FOIA officer (foia@opm.gov) plaintiff requested "[e]lectronic data regarding, or detailing all 'Schedule C employees' of the federal government from database(s) maintained by the Office of Personnel Management [during a time period] as far back as OPM has maintained it."

6. By e-mail dated March 19, 2004 (Exhibit 2), addressed to OPM's FOIA officer (foia@opm.gov) plaintiff requested "[e]lectronic data regarding, or detailing all federal employees of the [sic] all agencies from database(s) maintained by the Office of Personnel Management ... from January of 1993 and every month following until January 2004." Plaintiff elaborated that "[w]e are hoping that you will make us a copy of the most similar database that would contain fields such as Agency Fiscal Year, Employee Name, Last Name, First name, Middle Initial, Position, Department, District Short Name, District Short Name, FIPS Code, City GSA Code, Occupation Category, Specific Occupation, Work Schedule, Supervisory Status, Pay Plan, Grade, Step, Salary Type, and Salary."

7. By May 2004, if not earlier, OPM had retrieved and organized electronic records responsive to plaintiff's requests.

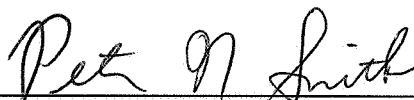
8. More than twenty working days have passed since OPM received each of plaintiff's two requests, and OPM has not yet released the requested records to plaintiff, nor has OPM notified plaintiff that it has determined to withhold the records.

9. Plaintiff has a statutory right to the requested records, and there is no legal basis for defendant's refusal to make them available to plaintiff.

WHEREFORE, plaintiff requests that this Court:

1. Declare that defendant's refusal to disclose the records requested by plaintiff is unlawful;
2. Order defendant to make the requested records available to plaintiff;
3. Award plaintiff its costs and reasonable attorneys' fees in this action; and
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



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Peter Newbatt Smith  
D.C. Bar #458244  
Center for Public Integrity  
910 17<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor  
Washington, DC 20006-2606  
202-481-1239

Attorney for Plaintiff

**Peter Smith**

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**From:** Alex Knott  
**Sent:** Wednesday, January 28, 2004 4:23 PM  
**To:** 'foia@opm.gov'  
**Subject:** Federal Freedom of Information Act

Nancy Miller or Freedom of Information Act Officer  
Office of Personnel Management  
1900 E Street NW,  
Washington, DC 20415-1000

Dear Nancy Miller or Freedom of Information Act Officer:

This is a request under the **Federal Freedom of Information Act (FOIA)**, the First Amendment to the United States Constitution, the common law of the United States, the Privacy Act (5 U.S.C.) section 552a, and any statute providing for public access to government information:

**Electronic data regarding, or detailing all "Schedule C employees" of the federal government from database(s) maintained by the Office of Personnel Management. The time period is unlimited. In other words, I would like data to go as far back as OPM has maintained it -- within reason. I spoke to Justin Mason, of OPM, who told me that these records exist electronically.**

If all or some portion of my request is denied, please list the specific exemptions which are being claimed to withhold information. If you determine that some portions of the requested material are exempt, I will expect, as the Act provides, that you will provide me with the remaining non-exempt portions. I, of course, reserve the right to appeal any decision to withhold information and expect that you will list the address and office where such an appeal can be sent.

As you know, the amended FOIA permits you to reduce or waive search and/or copying fees when release of the requested information would be "in the public interest." The organization that I represent, the Center for Public Integrity, is a non-profit organization that publishes newsworthy information and I request this information for the purpose of newsgathering, not commercial use. For this reason I believe that this request clearly falls into the distinction of "in the public interest" and I ask that these fees be waved.

I appreciate your attention to this and expect, as the FOIA provides, to hear from your office within 20 days. If you have any questions about the nature or scope of this request, please call me at: 202-481-1251.

Sincerely,

Alex Knott  
Reporter for the Center for Public Integrity  
910 17<sup>th</sup> Street, NW, 7<sup>th</sup> Floor  
Washington, DC 20006

**Peter Smith**

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**From:** Alex Knott  
**Sent:** Friday, March 19, 2004 3:08 PM  
**To:** 'foia@opm.gov'; 'michael Orenstein (mworenst@opm.gov)'  
**Subject:** FOIA -- All federal staff

Michael Orenstein and Nancy Miller or Freedom of Information Act Officer  
Office of Personnel Management  
1900 E Street NW,  
Washington, DC 20415-1000

Dear Nancy Miller or Freedom of Information Act Officer:

This is a request under the **Federal Freedom of Information Act (FOIA)**, the First Amendment to the United States Constitution, the common law of the United States, the Privacy Act (5 U.S.C.) section 552a, and any statute providing for public access to government information:

**Electronic data regarding, or detailing all federal employees of the all agencies from database(s) maintained by the Office of Personnel Management.**

**The time/span on this is from January of 1993 and every month following until January 2004. I understand that you may not have everyone of these years. For instance, your records may not be up to date and include anything for 2004. In short, we are looking for looking for all these relevant records from Jan. 1993 until now.**

**We are hoping that you will make us a copy of the most similar database that would contain fields such as Agency Fiscal Year, Employee Name, Last Name, First name, Middle Initial, Position, Department, District Short Name, District Short Name, FIPS Code, City GSA Code, Occupation Category, Specific Occupation, Work Schedule, Supervisory Status, Pay Plan, Grade, Step, Salary Type, and Salary.**

If all or some portion of my request is denied, please list the specific exemptions which are being claimed to withhold information. If you determine that some portions of the requested material are exempt, I will expect, as the Act provides, that you will provide me with the remaining non-exempt portions. I, of course, reserve the right to appeal any decision to withhold information and expect that you will list the address and office where such an appeal can be sent.

As you know, the amended FOIA permits you to reduce or waive search and/or copying fees when release of the requested information would be "in the public interest." The organization that I represent, the Center for Public Integrity, is a non-profit organization that publishes newsworthy information and I request this information for the purpose of newsgathering, not commercial use. For this reason I believe that this request clearly falls into the distinction of "in the public interest" and I ask that these fees be waived.

I appreciate your attention to this and expect, as the FOIA provides, to hear from your office within 20 days. If you have any questions about the nature or scope of this request, please call me at: 202-481-1251.

Sincerely,

Alex Knott

Reporter for the Center for Public Integrity  
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