

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC., )  
 425 Third Street SW, Suite 800 )  
 Washington, DC 20024, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 U.S. DEPARTMENT OF )  
 HOMELAND SECURITY, )  
 Office of the General Counsel )  
 2707 Martin Luther King Jr. Avenue SE )  
 Mailstop 0485 )  
 Washington, DC 20528-0485, )  
 )  
 Defendant. )

Civil Action No.

**COMPLAINT**

Plaintiff Judicial Watch, Inc. (“Plaintiff”) brings this action against Defendant U.S. Department of Homeland Security (“Defendant”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

agencies' responses and disseminates both its findings and the requested records to the American public to inform them about "what their government is up to."

4. Defendant U.S. Department of Homeland Security is an agency of the U.S. Government and is headquartered at 245 Murray Lane SW, Washington, DC 20528. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On December 12, 2022, Plaintiff submitted a FOIA request to the Cybersecurity and Information Security Agency ("CISA"), a component of Defendant, seeking access to the following public records:

Records and communications of Jen Easterly, Director, CISA; Christopher Krebs, Former Director, CISA; Matt Masterson, Former CISA Senior Cybersecurity Advisor; and Brian Scully, CISA Senior Cybersecurity Advisor, regarding:

1. CISA facilitated or hosted USG-industry meetings with Meta (@meta.com); Facebook (@facebook.com); Twitter (@twitter.com); Wikimedia Foundation (@wikimedia.org); Pinterest (@pinterest.com); LinkedIn (@linkedin.com); concerning election security.
2. Election Infrastructure Subsector Government Coordinating Council Meetings
3. Election Infrastructure Subsector Government Coordinating Council Joint MDM Working Group Meetings
4. Preparatory meetings with any employees of the DHS Office of Intelligence and Analysis; Federal Bureau of Investigation; Office of the Director of National Intelligence; National Security Agency; U.S. Secret Service; concerning any of the aforementioned USG-industry meetings and/or Coordinating Council Meetings.

The time frame of the request was identified as “January 1, 2019 to the present.”

6. By letter dated December 19, 2022, CISA acknowledged receipt of Plaintiff’s request on December 12, 2022, and advised Plaintiff that the request had been assigned CISA Case Number 2023-NPFO-00076. The letter also informed Plaintiff that CISA was invoking FOIA’s 10-day extension of time provision for “unusual circumstances.”

7. As of the date of this Complaint, the CISA has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

**COUNT I**  
**(Violation of FOIA, 5 U.S.C. § 552)**

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is violating FOIA by failing to produce all records responsive to Plaintiff’s requests or demonstrate that the requested records are lawfully exempt from production.

10. Plaintiff is being irreparably harmed by reason of Defendant’s violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA.

11. To trigger FOIA’s administrative exhaustion requirement, Defendant was required to make final determinations on Plaintiff’s request by January 26, 2023, at the latest. Because Defendant failed to make final determinations on the request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to demonstrate that it employed search methods reasonably calculated to uncover all records

responsive to Plaintiff's requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the requests and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: February 28, 2023

Respectfully submitted,

Eric W. Lee

/s/ Eric W. Lee

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