

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

JUDICIAL WATCH, INC.,	)	
425 Third Street SW, Suite 800	)	
Washington, DC 20024,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.
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.	)	
	)	

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**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 October 27, 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:

1. All emails, direct messages, task management alerts, or other records of communication related to the work of the Election Integrity Partnership sent via the Atlassian Jira platform between any official or employee of the Cybersecurity and Information Security Agency and any member, officer, employee, or representative of any of the following:
  - The Election Integrity Partnership
  - The University of Washington's Center for an Informed Public
  - Stanford University's Internet Observatory
  - The Center for Internet Security
  - The Elections Infrastructure Information Sharing & Analysis Center
  - The National Association of Secretaries of State
  - The National Association of State Election Directors
  - Graphika
  - The Atlantic Council's Digital Forensics Research Laboratory
  - Any social media company
2. All memoranda of understanding, guidelines, or similar records related to the Cybersecurity and Information Security Agency's use of the Atlassian Jira platform for work related to the Election Integrity Partnership.

The request was submitted through Defendant's online FOIA Public Access Portal. The time frame of the request was identified as "January 1, 2020 to the present."

6. By letters dated December 9, 2022, Defendant received and acknowledged receipt of the request and advised Plaintiff that it had split the request into two parts and transferred Part 1 of the request to the Department of Homeland Security Privacy Office. Defendant also advised Plaintiff that it had assigned Part 1 of the request FOIA reference number 2023-HQFO-00446 and was invoking FOIA's 10-day extension of time provision with respect to Part 1 of the request. Defendant further advised Plaintiff that Part 2 of Plaintiff's request had been assigned the reference number 2023-NPFO-00030.

7. By letter dated December 23, 2022, Defendant informed Plaintiff that it was unable to identify or locate any records responsive to Part 2 of Plaintiff's request. Plaintiff does not seek judicial review of that determination.

8. On March 20, 2023, Plaintiff appealed Defendant's denial of FOIA Request Number 2023-HQFO-00446.

9. By letter dated May 6, 2023, Defendant acknowledged that it received Plaintiff's administrative appeal concerning FOIA Request Number 2023-HQFO-00446 and assigned the appeal number 2023-HQAP-00396.

10. Plaintiff has received no further response.

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

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. 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.

13. 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.

14. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's appeal by June 5, 2023. 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: June 12, 2023

Respectfully submitted,

/s/ Kathryn Blankenberg

Kathryn Blankenberg

D.C. Bar No. 1781777

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*Counsel for Plaintiff*