

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

JUDICIAL WATCH, INC., )  
501 School Street, S.W., Suite 700 )  
Washington, DC 20024, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CENTRAL INTELLIGENCE AGENCY )  
Office of General Counsel )  
Washington, DC 20505, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Case: 1:09-cv-01352  
Assigned To : Kollar-Kotelly, Colleen  
Assign. Date : 7/21/2009  
Description: FOIA/Privacy Act

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff, Judicial Watch, Inc., brings this action against Defendant Central Intelligence Agency (“CIA”) 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 is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 700, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest

mission, Plaintiff regularly serves FOIA requests on federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government and is headquartered at Central Intelligence Agency, General Counsel's Office, Washington, DC 20505. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On May 15, 2009, Plaintiff sent a FOIA request to Defendant seeking access to the following records:

(1) Records detailing dates when the CIA briefed congressional leaders (to include, but not limited to Rep. Nancy Pelosi and/or her aide, Michael Sheehy) on matters relating to "enhanced interrogation techniques" and/or "harsh interrogation techniques" and suspected and/or known terrorists.

(2) Briefing materials presented to Rep. Nancy Pelosi and/or her aide, Michael Sheehy, relating to "enhanced interrogation techniques" and/or "harsh interrogation techniques" and suspected and/or known terrorists.

(3) Records detailing the names of all Members of Congress (and/or Congressional Aides) briefed on "enhanced interrogation techniques" and/or "harsh interrogation techniques" and suspected and/or known terrorists.

(4) Records and briefing materials from a reported September 4, 2002 briefing of Rep. Nancy Pelosi (and/or her aide Michael Sheehy) concerning waterboarding detainees.

(5) Records detailing all instances when the CIA has provided briefings to Members of Congress under the provisions of the National Security Act from September 11, 2001 to present.

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with Plaintiff's May 15, 2009 FOIA request within twenty (20) working days or by June 15, 2009.

7. Defendant failed to determine whether it would comply with Plaintiff's May 15, 2009 FOIA request within the time period required by law.

8. By letter dated June 23, 2009, Defendant acknowledged receipt of Plaintiff's May 15, 2009 FOIA request. Defendant's June 23, 2009 letter stated that it was unlikely Defendant could respond to the request within twenty (20) working days, but failed to state when a determination on the request would be made or otherwise invoke the extension of time provision set forth in 5 U.S.C. § 552(a)(6)(B). Defendant's June 23, 2009 letter also included the following statement:

You have the right to consider our honest appraisal as a denial of your request and you may appeal to the Agency Release Panel. A more practical approach would permit us to continue processing your request and to respond to you as soon as we can. You will retain your appeal rights and, once you receive the results of our search, can appeal at that time if you wish. We will proceed on that basis unless you object.

Defendant's statement is not an adverse determination within the meaning of 5 U.S.C. § 552(a)(6)(A), and, therefore, no administrative appeal of any adverse determination was necessary or possible.

9. Because Defendant failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A) and 5 U.S.C. § 552(a)(6)(B), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its May 15, 2009 FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**  
**(Violation of FOIA)**

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's May 15, 2009 request within the time limits required by 5 U.S.C. § 552(a)(6)(A) and 5 U.S.C. § 552(a)(6)(B).

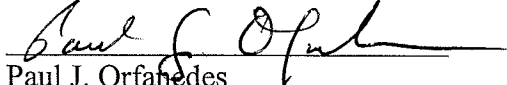
12. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

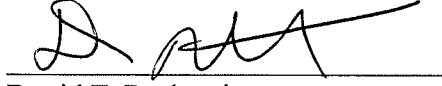
WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's May 15, 2009 request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorney's 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: July 21, 2009

Respectfully submitted,

JUDICIAL WATCH, INC.

  
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