

**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 JUSTICE,)	
950 Pennsylvania Avenue NW,)	
Washington, DC 20530-0001,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Justice 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

responses and disseminates 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 Justice is an agency of the United States Government and is headquartered at U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On September 30, 2014, Plaintiff sent a FOIA request to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“BATFE”), a component of Defendant, seeking the following records:

i. Any and all records of communication from January 1, 2014 to the present from or to (as either a direct recipient, “cc”, or “bcc”) any official or employee in the office of the Director of [BATFE], including but not limited to Director B. Todd Jones, regarding, concerning or related to the January 1, 2014 explosion and fire at the Cedar-Riverside apartment complex in Minneapolis, Minnesota; and

ii. Any and all records of communication from January 1, 2014 to the present date from or to (as either a direct recipient, “cc” or “bcc”) [BATFE] Special Agent Steve Forman, St. Paul Field Division regarding, concerning or related to the January 1, 2014 explosion and fire at the Cedar-Riverside apartment complex in Minneapolis, Minnesota.

6. The request was sent by certified U.S. mail.

7. According to U.S. Postal Service records, BATFE received the request on October 6, 2014.

8. BATFE never acknowledged receipt of the request or otherwise responded to the request.

9. Plaintiff sent a follow-up request to BATFE for the same records on January 23, 2015. A copy of the first request was attached to the second request, along with proof of delivery. Like Plaintiff's first request, Plaintiff's second request also was sent by certified U.S. mail.

10. According to U.S. Postal Service records, BATFE received the second request on February 2, 2015.

11. BATFE never acknowledged receipt of the second request or otherwise responded to the request.

12. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with the requests within twenty (20) working days and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. Defendant's determination was due by March 4, 2015 at the latest.

13. As of the date of this complaint, Defendant has failed to: (i) determine whether to comply with the requests; (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.

14. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

15. Plaintiff realleges paragraphs 1 through 14 as if fully stated herein.

16. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

17. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of records responsive to Plaintiff's FOIA requests, 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) order Defendant to search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records to Plaintiff's FOIA 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 Plaintiff's FOIA requests; (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 16, 2015

Respectfully submitted,

/s/ James F. Peterson
(D.C. Bar No. 450171)
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Counsel for Plaintiff