

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

JUDICIAL WATCH, INC.,	)	
425 Third Street, SW, Suite 800	)	
Washington, D.C. 20024,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
U.S. DEPARTMENT OF HEALTH	)	
& HUMAN SERVICES,	)	
200 Independence Avenue, SW	)	
Washington, D.C. 20201,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Health and Human Services 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, D.C. 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 Health and Human Services is an agency of the U.S. Government and is headquartered at 200 Independence Avenue, SW, Washington, D.C. 20201. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On July 3, 2014, Plaintiff submitted a FOIA request to the Centers for Disease Control and Prevention, a component of Defendant, by certified mail, seeking access to the following:

1. Any and all records regarding, concerning, or related to the activation of the CDC’s Emergency Operations Center (EOC) in response to the recent influx of undocumented immigrants along the southern U.S. border.
2. Any and all records of communication between any official, employee, or representative of the CDC and any official, employee, or representative of the Department of Homeland Security (DHS) regarding, concerning, or related to the public health risks associated with the recent influx.
3. Any and all reports, analyses, assessments, situation reports, recommendations, or other documents prepared by any CDC employee assigned to the EOC regarding the recent influx. This request includes, but is not related to, any such records sent to or prepared at the request of the Office of the Secretary of Health and Human Services (HHS).

The time frame for this request is June 1, 2014 to the present.

6. Defendant acknowledged receipt of the request by letter dated July 7, 2014 and assigned the request File No. 14-00836-FOIA.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with the request within twenty (20) working days and notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. Defendant's determination and notification to Plaintiff was due no later than August 4, 2014.

8. As of the date of this complaint, Defendant 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.

9. 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)**

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

11. Defendant is unlawfully withholding records requested by Plaintiff under FOIA.

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

records responsive to Plaintiff's FOIA request 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 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: October 28, 2014

Respectfully submitted,

/s/ Paul J. Orfanedes  
Paul J. Orfanedes (DC Bar No. 429716)  
JUDICIAL WATCH, INC.  
425 Third Street, S.W., Suite 800  
Washington, DC 20024  
Tel: (202) 646-5172

*Counsel for Plaintiff*