

**IN THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JUDICIAL WATCH, INC.,)	
425 Third Street, S.W., Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
DISTRICT OF COLUMBIA,)	
John A. Wilson Building)	
1350 Pennsylvania Avenue, N.W.)	
Washington, DC 20004,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant District of Columbia to compel compliance with the District of Columbia Freedom of Information Act, D.C. Code § 2-531. As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over the persons and subject matter of this action pursuant to D.C. Code § 11-921.

PARTIES

2. 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, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Judicial Watch regularly requests records under federal and state “open records” laws, analyzes

the responses and any records it receives, and disseminates its findings and the records to the public to inform them about “what their government is up to.”

3. Defendant is the District of Columbia. Defendant has possession, custody, and control of records to which Plaintiff seeks access. See *Kane v. District of Columbia*, 180 A.3d 1073, 1078-1079 (D.C. 2018). Defendant is headquartered at John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, DC 20004.

STATEMENT OF FACTS

4. On February 16, 2021, Plaintiff submitted a FOIA request to the Office of the Chief Medical Examiner (“OCME”), a public body within the District, seeking access to:

All records, including but not limited to autopsy reports, toxicology reports, notes, photographs, and OCME officials’ electronic communications, related to the death on Jan. 6, 2021 of Capitol Police Officer Brian Sicknick and its related investigation.

5. By email dated February 18, 2021, OCME denied Plaintiff’s FOIA request.

6. Using the DC government Public FOIA Portal, Plaintiff, on February 18, 2021, administratively appealed OCME’s final determination to the Mayor. The administrative appeal was subsequently assigned FOIA Request Number 2021-APP-00068.

7. As of the date of this Complaint, OCME has failed to provide Plaintiff with a final determination on its administrative appeal.

COUNT I **(Violation of FOIA)**

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

9. Defendant is in violation of FOIA.

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

11. Pursuant to FOIA, the Mayor was required to make a determination concerning Plaintiff's administrative appeal within 10 business days or by March 4, 2021. D.C. Code § 2-537(a).

12. Because Defendant has failed to make a final determination on Plaintiff's administrative appeal within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. D.C. Code § 2-537(a)(1).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches 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 the 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 the FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to D.C. Code § 2-537(c); and (5) grant Plaintiff such other relief as the Court deems just and proper.

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Dated: March 19, 2021

Respectfully submitted,

/s/ Michael Bekesha
Michael Bekesha (D.C. Bar No. 995749)
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