

**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 SW, 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 their government.

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 April 8, 2021, Plaintiff submitted a FOIA request to the Metropolitan Police Department, a public body within the District, seeking access to:

All records, including but not limited to investigative reports, photographs, witness statements, dispatch logs, schematics, ballistics, video footage, and MPD officials' electronic communications, concerning the January 6, 2021 death of Ashli Babbitt in the Capitol Building and its related investigation.

5. On that same day, MPD acknowledged receipt of the request and advised Plaintiff that the request had been assigned case number 2021-FOIA-04292.

6. As of the date of this Complaint, MPD has failed to: (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii) notify Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

7. On April 8, 2021, Plaintiff also served a FOIA request to the District of Columbia Office of the Chief Medical Examiner, 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 Ashli Babbitt in the Capitol Building and its related investigation.

8. The next day, April 9, 2021, OCME denied Plaintiff's FOIA request, which had been assigned case number 2021-FOIA-04286.
9. On that same day, April 9, 2021, Plaintiff appealed OCME's determination.
10. The administrative appeal was assigned case number 2021-APP-00107.
11. 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)

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.
13. Defendant is in violation of FOIA.
14. 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.
15. MPD was required to either make the requested public records accessible or notify Plaintiff of its determinations not to make the requested public records or any part thereof accessible and the reasons for any withholdings within 15 business days or by April 29, 2021. D.C. Code § 2-532(c)(1).
16. The Mayor was required to make a determination concerning Plaintiff's administrative appeal within 10 business days or by April 23, 2021. D.C. Code § 2-537(a).
17. Because Defendant has failed to make final determinations on Plaintiff's FOIA request and 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 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 responsive to Plaintiff's FOIA requests and *Vaughn* indices 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 requests; (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.

Dated: May 24, 2021

Respectfully submitted,

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