

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

CATHOLICVOTE CIVIC ACTION, )  
211 W Main Street, Suite 303 )  
Carmel, IN 46032, )

and )

JUDICIAL WATCH, INC., )  
425 Third Street SW, Suite 800 )  
Washington, DC 20024, )

Plaintiffs, )

Civil Action No.

v. )

U.S. DEPARTMENT OF HOMELAND )  
SECURITY, )  
Office of the General Counsel )  
2707 Martin Luther King Jr. Avenue SE )  
Mailstop 0485 )  
Washington, DC 20528-0485 )

and )

U.S. DEPARTMENT OF HEALTH )  
AND HUMAN SERVICES, )  
200 Independence Avenue, SW )  
Washington, DC 20201, )

Defendants. )

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**COMPLAINT**

Plaintiffs CatholicVote Civil Action and Judicial Watch, Inc. bring this action against Defendants U.S. Department of Homeland Security and 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, Plaintiffs allege 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 CatholicVote Civic Action (“CatholicVote”) is a 501(c)(4) not-for-profit civic organization incorporated under the laws of the State of Michigan and headquartered at 211 W Main Street, Suite 303, Carmel, IN 46032. Plaintiff is an organization inspired and organized by faithful Catholic laity seeking to renew the country and culture with the teachings of the Catholic Church. As a part of its mission, Plaintiff uses its media platforms to report on issues that affect Catholics, including social and legal issues.

4. 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 agencies’ responses and disseminates both its findings and the requested records to the American public to inform them about “what their government is up to.”

5. Defendant U.S. Department of Homeland Security (“DHS”) is an agency of the U.S. Government and is headquartered at 245 Murray Lane SW, Washington, DC 20528. Defendant has possession, custody, and control of the records to which Plaintiffs seek access.

6. Defendant U.S. Department of Health and Human Services (“HHS”) is an agency of the U.S. Government and is headquartered at 200 Independence Avenue, SW, Washington,

DC 20201. Defendant has possession, custody, and control of records to which Plaintiffs seek access.

**STATEMENT OF FACTS**

7. On September 1, 2021, Plaintiffs sent a FOIA request to the U.S. Customs and Border Patrol (“CBP”), a component of Defendant DHS, and the same request to Defendant HHS, seeking access to the following records:

**All communications between the U.S. Customs and Border Patrol and any of the following:**

- (1) **The Diocese of Brownsville (San Juan, Texas);**
- (2) **Bishop Daniel E. Flores in his capacity as Bishop of the Diocese of Brownsville, Texas;**
- (3) **Catholic Charities of the Rio Grande Valley (“CCRGV”);**
- (4) **Sister Norma Pimentel in her capacity as the Executive Director of CCRGV; or**
- (5) **The Humanitarian Respite Center in McAllen, Texas.**

The time frame for this request was identified as “January 1, 2021 to September 1, 2021.”

8. HHS acknowledged receipt of the request on September 1, 2021 and advised Plaintiffs that the request had been assigned tracking number No. 2021-01673-FOIA-OS.

9. CBP acknowledged receipt of the request on September 2, 2021 and advised Plaintiffs that the request had been assigned tracking number CBP-2021-101389.

10. On September 15, 2021, Plaintiffs narrowed the scope of the request to include “CBP mailboxes within and/or associated with the Laredo field office, the Commissioner’s Office, the Deputy Commissioner’s Office, and the Office of Field Operations.”

11. On September 1, 2021, Plaintiffs also sent a FOIA request to the U.S. Customs and Border Patrol (“CBP”), a component of Defendant DHS, and the same request to Defendant HHS, seeking access to the following records:

**All communications between the U.S. Customs and Border Patrol and the U.S. Conference of Catholic Bishops regarding any of the following:**

- (1) Catholic Charities of the Rio Grande Valley (“CCRGV”);**
- (2) Sister Norma Pimentel in her capacity as the Executive Director of CCRGV; or**
- (3) the Humanitarian Respite Center in McAllen, Texas.**

The time frame for this request was identified as “January 20, 2021 to September 1, 2021.”

12. HHS acknowledged receipt of the request on September 1, 2021 and advised Plaintiffs that the request had been assigned tracking number No. 2021-01674-FOIA-OS.

13. CBP acknowledged receipt of the request on September 2, 2021 and advised Plaintiffs that the request had been assigned tracking number CBP-2021-101401.

14. On September 15, 2021, Plaintiffs narrowed the scope of the request to include “CBP mailboxes within and/or associated with the Laredo field office, the Commissioner’s Office, the Deputy Commissioner’s Office, and the Office of Field Operations.”

15. As of the date of this Complaint, DHS and HHS have failed to: (i) determine whether to comply with the requests; (ii) notify Plaintiffs 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.

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

16. Plaintiffs realleges paragraphs 1 through 15 as if fully stated herein.

17. Defendants are in violation of FOIA.

18. Plaintiffs are being irreparably harmed by Defendants’ violations of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to comply with the law.

19. Plaintiffs have no adequate remedy at law.

20. To trigger FOIA's administrative exhaustion requirement, Defendant DHS was required to make a final determination on Plaintiffs' requests by October 13, 2021, at the latest. Because Defendant DHS failed to make a final determination on Plaintiffs' requests within the time limits set by FOIA, Plaintiffs are deemed to have exhausted its administrative appeal remedies.

21. To trigger FOIA's administrative exhaustion requirement, Defendant HHS was required to make a final determination on Plaintiffs' requests by September 30, 2021, at the latest. Because Defendant HHS failed to a final determination on Plaintiffs' requests within the time limits set by FOIA, Plaintiffs are deemed to have exhausted their administrative remedies.

WHEREFORE, Plaintiffs respectfully request that the Court: (1) order Defendants to conduct a search for any and all records responsive to Plaintiffs' FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiffs' FOIA requests; (2) order Defendants to produce, by a date certain, any and all non-exempt records responsive to Plaintiffs' FOIA requests and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiffs' FOIA requests; (4) grant Plaintiffs 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 Plaintiffs such other relief as the Court deems just and proper.

Dated: February 4, 2022

Respectfully submitted,

/s/ Meredith L. Di Liberto  
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