

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

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

Plaintiff,

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,

Defendant.

Civil Action No.

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Homeland Security 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 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."

4. Defendant U.S. Department of Homeland Security 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 records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On August 9, 2022, Plaintiff submitted a FOIA request to the U.S. Secret Service ("Secret Service"), a component of Defendant U.S. Department of Homeland Security, seeking access to the following public records: "All records of communication between any official or employee of the U.S. Secret Service and any official or employee of the Federal Bureau of Investigation regarding the execution of a search warrant at the residence of President Trump on August 8, 2022." The time frame of the request was identified as "August 1, 2022, to the present."

6. By letter dated August 10, 2022, the Secret Service acknowledged receiving the request on August 10, 2022. The Secret Service advised Plaintiff that the request had been assigned file number 20220621.

7. By letter dated August 23, 2022, the Secret Service notified Plaintiff that it had completed its search for records responsive to request 20220621, had located potentially responsive records, was reviewing the records to determine if they were responsive, and if so, it would be processing them in accordance with FOIA and send them to Plaintiff upon completion.

8. By letter dated September 20, 2022, the Secret Service notified Plaintiff that after further review, the records identified in its August 23, 2022, letter are not responsive to Plaintiff's request 20220621 and that "there are no records pertaining to your request."

9. Numerous reputable media outlets reported that the FBI provided the Secret Service with advance notice of the pending execution of the search warrant. *See e.g.* <https://www.bbc.com/news/world-us-canada-62472908>; <https://abcnews.go.com/Politics/key-developments-related-fbis-mar-lago-searchtimeline/story?id=88405091>. Specifically, the reporting indicates that an employee or employees of the FBI Miami Field Office notified President Trump's Secret Service protective detail approximately 45 minutes before their arrival at Mar-a-Lago. Records of any such communication would be responsive to the request and fall within the specified time frame. Because open-source reporting based on information provided by law enforcement sources indicates that responsive communications between the Secret Service and the FBI did occur, Plaintiff appealed the adverse determination and requested that an adequate search constructed to identify and locate those records be conducted.

10. By email dated September 22, 2022, Plaintiff filed an administrative appeal of the Secret Service's final determination that it has no responsive records to FOIA request 20220621.

11. By email dated September 23, 2022, the Secret Service acknowledged receipt of Plaintiff's administrative appeal and confirmed that it had forwarded a copy of the appeal to the Office of Chief Counsel.

12. Since Defendant's acknowledgement of receipt of Plaintiff's administrative appeal, Plaintiff has received no further communication from the Secret Service regarding request 20220621.

13. As of the date of this Complaint, the Secret Service has failed to: (i) make a final determination as to Plaintiff's administrative appeal; (ii) notify Plaintiff of any such determination or the reasons therefor; or (iii) 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)

14. Plaintiff realleges paragraphs 1 through 13 as if fully stated herein.

15. Defendant is violating FOIA by failing to produce all records responsive to Plaintiff's request or demonstrate that the requested records are lawfully exempt from production.

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

17. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make final determination on Plaintiff's administrative appeal by October 24, 2022, at the latest. Because Defendant failed to make a final determination on the appeal within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to demonstrate that it employed search methods reasonably calculated to uncover all records responsive to Plaintiff's request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the 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 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 26, 2022

Respectfully submitted,

/s/ Ramona R. Cotca
Ramona R. Cotca
D.C. Bar No. 501159
JUDICIAL WATCH, INC.
425 Third Street SW, Suite 800
Washington, DC 20024
Tel: (202) 646-5172
Fax: (202) 646-5199
Email: rcotca@judicialwatch.org

Counsel for Plaintiff