

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

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

Plaintiff,)

Civil Action No.

v.)

U.S. DEPARTMENT OF JUSTICE,)
950 Pennsylvania Avenue N.W.)
Washington, DC 20530-0001,)

and)

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

and)

OFFICE OF THE DIRECTOR OF)
NATIONAL INTELLIGENCE,)
Washington, DC 20511)

Defendants.)

_____)

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendants U.S. Department of Justice, U.S. Department of Homeland Security, and Office of the Director of National Intelligence to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. 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 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, 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 Justice is an agency of the United States Government and is headquartered at 950 Pennsylvania Avenue N.W., Washington, DC 20530-0001. DOJ has possession, custody, and control of records to which Plaintiff seeks access.

5. Defendant U.S. Department of Homeland Security is an agency of the U.S. Government and is headquartered at 245 Murray Lane S.W., Washington, DC 20528. DHS has possession, custody, and control of records to which Plaintiff seeks access.

6. Defendant Office of the Director of National Intelligence is an agency of the U.S. Government and is headquartered in Washington, DC 20511. ODNI has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

7. On December 14, 2022, Plaintiff submitted a FOIA request to the Federal Bureau of Investigation, a component of Defendant U.S. DOJ, seeking access to:

1. All records regarding any meeting between any official or employee of the Federal Bureau of Investigation and any of the following Twitter employees between June 1, 2020 and the present:

Yoel Roth
Vijaya Gadde
Jim Baker

This request includes, but is not limited to, all related agenda, notes, summaries, reports, transcripts, and similar records created in preparation for, during, or pursuant to the meeting.

2. All records of communication between any official or employee of the Federal Bureau of Investigation and any of the following Twitter employees between June 1, 2020 and the present:

Yoel Roth
Vijaya Gadde
Jim Baker

3. All records of communication between any official or employee of the Federal Bureau of Investigation and any official or employee of any other branch, department, agency, or office of the Federal government regarding the meetings or communications described in parts one and two of this request between June 1, 2020 and the present.

8. The FBI acknowledged receipt of the request by letter dated December 20, 2022 and advised Plaintiff that the request was assigned tracking number FOIPA Request No. 1576040-000.

9. By letter dated February 21, 2023, the FBI denied the request pursuant to FOIA exemptions 6 and 7.

10. On March 28, 2023, Plaintiff submitted an administrative appeal to DOJ's Office of Information Policy.

11. OIP acknowledged receipt of the appeal by letter dated March 29, 2023 and advised Plaintiff that the appeal was assigned tracking number A-2023-00974. Plaintiff has received no response.

12. On December 14, 2022, Plaintiff submitted a FOIA request to DHS seeking access to:

1. All records regarding any meeting between any official or employee of the Department of Homeland Security and any of the following Twitter employees between June 1, 2020 and the present:

Yoel Roth
Vijaya Gadde
Jim Baker

This request includes, but is not limited to, all related agenda, notes, summaries, reports, transcripts, and similar records created in preparation for, during, or pursuant to the meeting.

2. All records of communication between any official or employee of the Department of Homeland Security and any of the following Twitter employees between June 1, 2020 and the present:

Yoel Roth
Vijaya Gadde
Jim Baker

3. All records of communication between any official or employee of the Department of Homeland Security and any official or employee of any other branch, department, agency, or office of the Federal government regarding the meetings or communications described in parts one and two of this request between June 1, 2020 and the present.

13. By letter dated January 6, 2023, DHS acknowledged receipt of the request and invoked a 10-day extension. DHS advised Plaintiff that the request was assigned reference number 2023-HQFO-00478. Plaintiff has received no further response to this request.

14. On December 14, 2022, Plaintiff submitted a FOIA request to ODNI, seeking access to:

1. All records regarding any meeting between any official or employee of the Office of the Director of National Intelligence and any of the following Twitter employees between June 1, 2020 and the present:

Yoel Roth
Vijaya Gadde
Jim Baker

This request includes, but is not limited to, all related agenda, notes, summaries, reports, transcripts, and similar records created in preparation for, during, or pursuant to the meeting.

2. All records of communication between any official or employee of the Office of the Director of National Intelligence and any of the following Twitter employees between June 1, 2020 and the present:

Yoel Roth
Vijaya Gadde
Jim Baker

3. All records of communication between any official or employee of the Office of the Director of National Intelligence and any official or employee of any other branch, department, agency, or office of the Federal government regarding the meetings or communications described in parts one and two of this request between June 1, 2020 and the present.

15. By email dated December 16, 2022, ODNI requested additional information pertaining to the FOIA request.

16. By email dated February 1, 2023, Plaintiff responded with the requested information. Plaintiff has received no further response to this request.

17. As of the date of this Complaint, the FBI, DHS, and ODNI have 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.

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

18. Plaintiff realleges paragraphs 1 through 17 as if fully stated herein.

19. Defendants are in violation of FOIA.

20. Plaintiff is being irreparably harmed by Defendants' violation of FOIA and will continue to be irreparably harmed unless Defendants are compelled to comply with it.

21. To trigger FOIA's administrative exhaustion requirement, Defendants were required to make a final determination on Plaintiff's appeal to the FBI by April 25, 2023; Plaintiff's request to DHS by January 30, 2023; and Plaintiff's request to the ODNI by March 2, 2023. Because Defendants failed to comply with 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 Defendants 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 Plaintiff's FOIA requests; (2) order Defendants 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 Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA requests; (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.

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Dated: April 26, 2023

Respectfully submitted,

/s/ Michael Bekesha

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

JUDICIAL WATCH, INC.

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Washington, DC 20024

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Counsel for Plaintiff