

**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.	)	Civil Action No.
	)	
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.	)	
_____	)	

**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 ("DHS" or "Defendant") 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 July 31, 2023, Plaintiff served a FOIA request on the U.S. Secret Service ("Secret Service"), a component of Defendant, seeking access to:

**All e-mail and text message communications sent to and from the following Secret Service officials regarding the provision or possible provision of USSS protective services to Democratic presidential candidate Robert F. Kennedy, Jr: Secret Service Director Kimberly Cheatle, Deputy Director Ronald L. Rowe, Jr., Assistant Director Michael Plati, Assistant Director David Torres, Assistant Director David M. Smith, Chief Strategy Officer Gregory Try, and Chief of the Uniformed Division Alfonso Tyson.**

**All memoranda, reports, and directives sent to and from any federal agency, department or office to the Secret Service regarding the provision or possible provision of USSS protective services to Democratic presidential candidate Robert F. Kennedy, Jr.**

The request was served by email via the Secret Service's FOIA email portal, FOIA@uss.s.dhs.gov. The time frame of the request was identified as April 1, 2023 to the present.

6. By letter dated July 31, 2023, the Secret Service acknowledged receipt of Plaintiff's request and advised Plaintiff that the request had been assigned FOIA File Number 20230766. The Secret Service's letter also invoked FOIA's 10-day extension of time provision for "unusual circumstances."

7. Also on July 31, 2023, Plaintiff served a FOIA request on DHS seeking access to:

**All e-mail and text message communications sent to and from the following DHS officials regarding the provision or possible provision of USSS protective services to Democratic presidential candidate Robert F. Kennedy, Jr: DHS Secretary Alejandro Mayorkas; Deputy Secretary (acting) Kristie Canegallo; Executive Secretary Kimberly O'Connor; General Counsel Jonathan E. Meyer; Deputy Under Secretary for Management Randolph D. "Tex" Alles; and Under Secretary, Office of Strategy, Policy, and Plans, Robert Silvers.**

**All memoranda, reports, and directives sent to and from any federal agency, department or office to DHS regarding the provision or possible provision of USSS protective services to Democratic presidential candidate Robert F. Kennedy, Jr.**

The request was served by email via the Secret Service's FOIA email portal, FOIA@hq.dhs.gov.

The time frame of the request was identified as April 1, 2023 to the present.

8. A delivery notice dated July 31, 2023, from the mail delivery system stated that the DHS's mail system accepted the FOIA email request. DHS has not otherwise acknowledged receipt or advised Plaintiff that the request had been assigned a file number

9. As of the date of this Complaint, Secret Service and DHS have failed to: (i) produce the requested records or demonstrate that the records are lawfully exempt from disclosure; (ii) notify Plaintiff of the scope of any responsive records it intends 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)**

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is in violation of FOIA.

12. 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.

13. Plaintiff has no adequate remedy at law.

14. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by August 28, 2023, for the request sent to DHS, and September 12, 2023, for the request sent to the Secret Service, File Number 20230766, at the latest. Because Defendant failed to make a final determination on Plaintiff's requests 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 produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests and a Vaughn index of any responsive records withheld under claim of exemption; (2) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA requests; (3) 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: September 26, 2023

Respectfully submitted,

/s/ Patrick O. Francescon  
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*Counsel for Plaintiff*