

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

*Plaintiff,* )

vs. )

Civil Action No.

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

*Defendant.* )

**COMPLAINT**

Plaintiff, Judicial Watch, Inc. brings this action against Defendant U.S. Department of Justice 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 SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, 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 (“DOJ”) is an agency of the United States Government and is headquartered at 950 Pennsylvania Avenue NW, Washington, DC 20530-0001. DOJ has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On April 10, 2023, Plaintiff submitted a FOIA request to the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), a component of Defendant, via ATF’s online FOIA portal, seeking access to the following:

**Records and communications, including recordings, video footage from body cameras, radio transmissions, transcripts, text messages, voice mails, emails, email chains, email attachments, statement, reports, logs, notes, memoranda, photographs, affidavits, after action reviews, or other documents regarding:**

- 1. Shots fired inside the U.S. Capitol on January 16, 2021.**
- 2. A person being shot inside the U.S Capitol on January 6, 2021.**
- 3. First-aid, emergency medical assistance, emergency treatment, and/or medical evacuation of any gunshot victim from inside the U.S. Capitol on January 6, 2021.**
- 4. Requests for ATF Special Response Teams (SRT’s) assistance at the U.S. Capitol on January 6, 2021**
- 5. Ashli Babbitt, Born: October 10, 1985 in San Diego, California, USA Deceased: January 6, 2021, Washington, DC, USA**

6. By letter dated April 11, 2023, ATF acknowledged receiving Plaintiff’s request on April 10, 2023, advised Plaintiff that the request had been assigned reference number 2023-00899, and informed Plaintiff that it was invoking FOIA’s 10-day extension of time provision for “unusual circumstances.”

7. As of the date of this Complaint, ATF 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 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)**

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is violating FOIA by refusing to produce all non-exempt records responsive to Plaintiff's request.

10. Plaintiff is being irreparably harmed by Defendant's violation of FOIA and will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's FOIA request by May 22, 2023, at the latest. Because Defendant failed to make a final determination 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 search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's 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 Plaintiff's FOIA request; (4) grant Plaintiff an award of attorney's 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: June 5, 2023

Respectfully submitted,

/s/ Paul J. Orfanedes  
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*Counsel for Plaintiff*