

**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 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 May 3, 2021, Plaintiff served a FOIA request to the Department of Homeland Security (DHS)/Transportation Security Administration (TSA) via certified mail seeking access to the following records:

1. Any and all VIP request forms, from requesting organizations to include but not limited to Capitol Police, for supplemental/additional Federal Air Marshal security for elected members of Congress for the time periods of January 6, 2020 to May 3, 2020 and/or January 6, 2021 to May 3, 2021. See the attached VIP form for Ms. Waters MOVEMENT #IAD-2021-000912 as a clarifying example.
2. Any and all documentation and/or communications indicating approval and/or denial of supplemental/additional Federal Air Marshal security for the time periods of January 6, 2020 to May 3, 2020 and/or January 6, 2021 to May 3, 2021.
3. Any and all documentation indicating line-item Federal Air Marshal costs incurred and/or billed out for supplemental/additional Federal Air Marshal security for the time periods of January 6, 2020 to May 3, 2020 and/or January 6, 2021 to May 3, 2021.
4. Any and all Federal Air Marshal policies, rules, regulations, contracts, memorandums of understanding (MOUs) and/or requirements regarding approval standards for VIP supplemental/additional Federal Air Marshal security.

6. Plaintiff received a tracking update from the United States Postal Service (USPS) that the request had been delivered to DHS on May 7, 2021.

7. As of the date of this Complaint, DHS/TSA has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff 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)**

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

9. Defendant is in violation of FOIA.

10. 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.

11. Plaintiff has no adequate remedy at law.

12. To trigger FOIA's administrative exhaustion requirement, DHS/TSA was required to make a final determination on Plaintiff's request by June 7, 2021 at the latest.

13. Because Defendant failed to make a final determination on Plaintiff's request 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 search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably calculated to uncover 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 FOIA 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 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 27, 2021

/s/ Lauren M. Burke  
LAUREN M. BURKE  
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