

**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. (“Plaintiff”) brings this action against Defendant U.S. Department of Homeland Security (“Defendant”) 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 October 5, 2022, Plaintiff submitted a FOIA request to the Cybersecurity and Information Security Agency ("CISA"), a component of Defendant, seeking access to the following public records:

1. All records of communication between any official or employee of the Cybersecurity and Information Security Agency and any officer, employee, or representative of the Election Integrity Partnership. This request includes, but is not limited to, all "tickets" or notifications to the Partnership regarding election-related disinformation on any social media platform. For purposes of clarification, please see <https://stacks.stanford.edu/file/druid:tr171zs0069/EIP-Final-Report.pdf>
2. All records regarding the July 9, 2020 meeting between Department of Homeland Security officials and representatives of the Election Integrity Partnership. This request includes, but is not limited to, all related notes, presentations, or summaries, as well as all additional records created in preparation for, during, and pursuant to the meeting.
3. All records of communication between any official or employee of the Cybersecurity and Information Security Agency and any employee or representative of the University of Washington's Center for an Informed Public and/or Stanford University's Internet Observatory regarding any of the following:

The Election Integrity Partnership
The 2020 U.S. election
Online misinformation and disinformation
Any social media platform

The request was submitted through Defendant's online FOIA Public Access Portal. The time frame of the request was identified as "January 1, 2020 to the present."

6. CISA has never acknowledged receipt of Plaintiff's request, but the online FOIA Public Access Portal shows that the request was received and was assigned reference number 2023-NPFO-00006.

7. As of the date of this Complaint, the CISA 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 violating FOIA by failing to produce all records responsive to Plaintiff's requests or demonstrate that the requested records are lawfully exempt from production.

10. 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.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make final determinations on Plaintiff's request by November 3, 2022, at the latest. Because Defendant failed to make final determinations on the 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 demonstrate that it employed search methods reasonably calculated to uncover all records responsive to Plaintiff's requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the requests 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: November 22, 2022

Respectfully submitted,

/s/ Kathryn Blankenberg
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