

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

FUNCTIONAL GOVERNMENT INITIATIVE,)	
6218 Georgia Avenue, NW, Ste. 1-1235)	
Washington, DC 20011-5125,)	
)	
Plaintiff,)	Civil Action No. 23-1122
)	
v.)	
)	
U.S. DEPARTMENT OF JUSTICE)	
950 Pennsylvania Avenue, N.W.)	
Washington, DC 20530,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Functional Government Initiative (“FGI”) brings this action against Defendant the United States Department of Justice (“DOJ”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges the following:

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 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff FGI is an unincorporated association of individuals dedicated to improving the American public’s access to information about the officials, decisions, actions, and priorities of their government. *See* D.C. Code § 29-1102(5).

4. Defendant DOJ is an agency of the United States Government within the meaning of 5 U.S.C. § 552(f)(1) and is headquartered at 950 Pennsylvania Avenue N.W., Washington, D.C. 20530. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

FACTUAL BACKGROUND

5. Following the U.S. Supreme Court's decision in *Hobbs v. Jackson Women's Health Organization*, 597 U.S. ____ (2022), the U.S. Department of Justice established the Reproductive Rights Task Force. One of the stated purposes of the Task Force is to ensure that states do not "infringe on federal legal protections" related to abortion.¹ It also conducts outreach to abortion providers to provide information on "how to report threats, attacks, or other forms of interference that may violate federal law."²

6. Concurrent with these events, there have been many reports of violence against pro-life organizations. It is anticipated that the requested documents will provide transparency into the operations of the Task Force and the DOJ's response to violence and threats of violence against pro-life supporters.

STATEMENT OF FACTS

7. On February 18, 2023, FGI submitted several FOIA requests, online or by email, to Defendant. *See* Exhibits A-F. The requests sought the same documents or search terms from different document custodians:

Final documents:

- The final memo creating the Reproductive Rights Task Force.

¹ *See* DOJ Press Release, "Justice Department Announced Reproductive Rights Task Force" (July 12, 2022), <https://www.justice.gov/opa/pr/justice-department-announces-reproductive-rights-task-force>.

² *See* DOJ Press Release, "Readout of Reproductive Rights Task Force Meeting" (Dec. 19, 2022), <https://www.justice.gov/opa/pr/readout-reproductive-rights-task-force-meeting>.

- Any mission statements, charters, or similar documents relating to the Reproductive Rights Task Force.
- Any guidance provided to federal, state, or local law enforcement on the Freedom of Access to Clinical Entrances (FACE) Act.
- Any guidance provided to federal, state, or local law enforcement in response to threats against pro-life (or anti-abortion) organizations.
- Any guidance provided to “reproductive health care providers, including groups representing both clinics providing abortions and pregnancy resource centers” on “how to report threats, attacks, or other forms of interference that may violate federal law.”

Other records:

Any records containing the following search terms:

- “FACE Act”
- “Freedom of Access to Clinical Entrances”
- “pro-life”
- “abortion”
- “clinics”
- “reproductive health care”

The time period covered by the FOIA request was May 2, 2022, through the beginning of the search, to a variety of custodians.

8. On February 18, 2023, FGI submitted a FOIA request to the DOJ headquarters.

See Exhibit A. The request sought the records identified in ¶ 7 from the following records custodians:

Office of the Attorney General:

- Merrick Garland, Attorney General
- Any staff who represent the office at the Reproductive Rights Task Force

Office of the Deputy Attorney General:

- Lisa Monaco, Deputy Attorney General
- Any staff who represent the office at the Reproductive Rights Task Force

Office of the Associate Attorney General:

- Vanita Gupta, Associate Attorney General
- Any staff who represent the office at the Reproductive Rights Task Force

Office for Access to Justice:

- Rachel Rossi, Director
- Any staff who represent the office at the Reproductive Rights Task Force

Office of Legal Policy:

- Hampton Dellinger, Assistant Attorney General

- Any staff who represent the office at the Reproductive Rights Task Force Office of Legislative Affairs:
 - Carlos Uriarte, Assistant Attorney General
- Any staff who represent the office at the Reproductive Rights Task Force Office of Public Affairs:
 - Xochitl Hinojosa, Director
 - Any staff who respond to media inquiries relating to the Reproductive Rights Task Force or matters relating to abortion

9. On February 18, 2023, FGI submitted a FOIA request to the Civil Division of DOJ. *See* Exhibit B. The request sought the records identified in ¶ 7 from the following records custodians:

Civil Division:

- Brian Boynton, Principal Deputy Assistant Attorney General, Civil Division
- Any staff who represent the office at the Reproductive Rights Task Force

10. On February 18, 2023, FGI submitted a FOIA request to the Civil Rights Division of DOJ. *See* Exhibit C. The request sought the records identified in ¶ 7 from the following records custodians:

Civil Rights Division:

- Kristen Clark, Assistant Attorney General, Civil Rights Division
- Any staff who represent the office at the Reproductive Rights Task Force

11. On February 18, 2023, FGI submitted a FOIA request to the Office of Legal Counsel of DOJ. *See* Exhibit D. The request sought the records identified in ¶ 7 from the following records custodians:

Office of Legal Counsel:

- Christopher Schroeder, Assistant Attorney General
- Any staff who represent the office at the Reproductive Rights Task Force

12. On February 18, 2023, FGI submitted a FOIA request to the Office of the Solicitor General of DOJ. *See* Exhibit E. The request sought the records identified in ¶ 7 from the following records custodians:

Office of the Solicitor General:

- Elizabeth Prelogar, Solicitor General
- Any staff who represent the office at the Reproductive Rights Task Force

13. On February 18, 2023, FGI submitted a FOIA request to the Executive Office for United States Attorneys of DOJ. *See* Exhibit F. The request sought the records identified in ¶ 7 from the following records custodians:

Executive Office for United States Attorneys:

- Monty Wilkinson, Director
- Any staff who represent the office at the Reproductive Rights Task Force

14. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant is required to respond to FGI's FOIA requests within 20 working days of each request.

15. Attorney General Merrick Garland stated that the FOIA is “a vital tool for ensuring transparency, accessibility, and accountability in government,” and that the “‘basic purpose ... is to ensure an informed citizenry,’ which is ‘vital to the functioning of a democratic society [and] needed to check against corruption and to hold the government accountable to the governed.’” Merrick Garland, [*Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines*](#) at 1 (Mar. 15, 2022).

16. DOJ's Office of Information Policy acknowledged receipt of the FOIA request to DOJ headquarters on March 16, 2023, assigning the request tracking number FOIA-2023-00736. *See* Exhibit G.

17. Further correspondence with the Office of Information Policy indicated that a portion of the FOIA request to headquarters would be routed to the Office of Access to Justice. *See* Exhibit H.

18. Plaintiff has not received an acknowledgment or tracking number from the Civil Division.

19. The Civil Rights Division acknowledged receipt of the FOIA request to that office on February 24, 2023, assigning the request tracking number 23-00119-F. *See* Exhibit I.

20. The Office of Legal Counsel acknowledged receipt of the FOIA request to that office on February 23, 2023, assigning the request tracking number FY23-046. *See* Exhibit J.

21. The Office of the Solicitor General acknowledged receipt of the FOIA request to that office on March 6, 2023, assigning the request tracking number 2023-127995. *See* Exhibit K.

22. The Executive Office of United States Attorneys acknowledged receipt of the FOIA request to that office by automated email on February 18, 2023, assigning the request tracking number EOUSA-2023-001389. *See* Exhibit L.

23. With regards to FGI's FOIA requests, the statutory deadline has passed, and Defendant has failed to provide a substantive response to any of the FOIA requests. In fact, as of the date of this Complaint, Defendant has failed to produce a single responsive record or assert any claims that responsive records are exempt from production.

24. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), FGI is deemed to have fully exhausted any and all administrative remedies with respect to its FOIA requests. *See* 5 U.S.C. § 552(a)(6)(C).

CAUSE OF ACTION
(Violation of FOIA, 5 U.S.C. § 552)

25. Plaintiff realleges paragraphs 1 through 24 as though fully set forth herein.

26. Defendant has failed to make a determination regarding FGI's February 18, 2023 FOIA requests for records within the statutory time limit and is unlawfully withholding records requested by FGI pursuant to 5 U.S.C. § 552.

27. FGI is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and FGI will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Functional Government Initiative requests that the Court grant all appropriate relief for the violations of FOIA alleged above, including:

- a. An order and judgment requiring the Defendant to conduct a search for any and all records responsive to FGI's FOIA requests and to demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to FGI's requests;
- b. An order and judgment requiring the Defendant to produce, by a date certain, any and all non-exempt records responsive to FGI's FOIA requests and a *Vaughn* index of any responsive records withheld under claim of exemption;
- c. An order and judgment permanently enjoining Defendant from continuing to withhold any and all non-exempt records in this case that are responsive to FGI's FOIA requests;
- d. Attorneys' fees and costs to Plaintiff pursuant to any applicable statute or authority, including 5 U.S.C. § 552(a)(4)(E); and
- e. Any other relief that this Court in its discretion deems just and proper.

/s/ Jeremiah L. Morgan

Jeremiah L. Morgan
(D.C. Bar No. 1012943)
William J. Olson
(D.C. Bar No. 233833)
William J. Olson, P.C.
370 Maple Avenue West, Suite 4
Vienna, VA 22180-5615
703-356-5070 (telephone)
703-356-5085 (fax)
jmorgan@lawandfreedom.com

Dated: April 21, 2023

Counsel for Plaintiff
FUNCTIONAL GOVERNMENT
INITIATIVE