IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,   )
425 Third Street SW, Suite 800   )
Washington, DC 20024,   )
)
               Plaintiff,   )   Civil Action No.
)
v.   )
)
UNITED STATES DEPARTMENT   )
OF JUSTICE   )
950 Pennsylvania Avenue NW   )
Washington, DC 20530,   )
)
               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 ("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. ("Plaintiff") 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, analyzes the responses it receives, and

disseminates its findings and the records to the American public to inform them about "what their government is up to."

4.   Defendant U.S. Department of Justice ("Defendant") is an agency of the U.S. Government and is headquartered at 950 Pennsylvania Avenue NW, Washington, DC 20530. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5.   On February 17, 2023, Plaintiff submitted a FOIA request to the Federal Bureau of Investigation ("FBI"), a component of Defendant, via the FBI's eFOIA web portal, seeking access to the following records:

> **Records and communications (internal and external) of the below named Federal Bureau of Investigation employees or former employees regarding 1) school board threats 2) meetings with U.S. attorneys' offices in accordance with Attorney General Merrick Garland's Oct. 4, 2021 memo, which directed the FBI to partner with local law enforcement and U.S. attorneys to identify parental threats at school board meetings 3) EDUOFFICIALS 4) National School Boards Association (NSBA) 4) Moms for Liberty 5) Turning Point USA**

> a)   **Christopher Wray, Director of the FBI**
> b)   **Paul Abbate, Deputy Director of the FBI**
> c)   **Carlton L. Peeples, SAIC, Birmingham Field Office**
> d)   **Jay Greenberg, SAIC, St. Louis Field Office**
> e)   **Calvin A. Shivers, Assistant Director, Criminal Investigative Division, FBI Headquarters**
> f)   **Brian M. Cohen, Unit Chief and Senior Program Manager, FBI Headquarters**
> g)   **Timothy Langan, Executive Assistant Director, Criminal, Cyber, Response, and Services Branch, FBI Headquarters**
> h)   **Kevin Vorndran, former Deputy Assistant Director, Counterterrorism Division, FBI Headquarters**

6.   Plaintiff's request also asked that the FBI search the following systems/databases

for responsive records:

Please additionally conduct searches of the following:

- **SENTINEL**
- **Electronic Surveillance (ELSUR), Microphone Surveillance (MISUR),**
- **Physical Surveillance (FISUR) and Technical Surveillance (TESUR) records/indices**
- **Investigative Data Warehouse (IDW), including IDW-S, SPT, and DOCLAB-S sub-systems/indices**
- **Data Integration and Visualization System (DIVS)**
- **Law Enforcement National Data Exchange (N-DEx)**

The time frame of the request was identified as "January 21, 2021 to present."

7.   By letter dated March 3, 2023, the FBI acknowledged receipt of the request and

advised Plaintiff that it had assigned the request FOIA No. 1585037-000.

8.   By letter dated March 16, 2023, the FBI advised Plaintiff that it was invoking

FOIA's 10-day extension of time provision for "unusual circumstances."

9.   As of the date of this Complaint, the FBI has failed to: (i) determine whether to

comply with the requests; (ii) notify Plaintiff of any such determination or the reasons therefor;

or (iii) produce the requested records or otherwise demonstrate that the requested records are

exempt from production.

<u>COUNT I</u>
(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 March 31, 2023, at the latest. 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 conduct a search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the request and *Vaughn* indices 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: June 26, 2023   Respectfully submitted,

                                                                           /s/ Meredith Di Liberto
                                                                           MEREDITH DI LIBERTO
                                                                           D.C. Bar No. 487733
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                                                                           Counsel for Plaintiff