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**UNITED STATES DISTRICT COURT  
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON**

COWLITZ COUNTY FIRE PROTECTION  
DISTRICT NO. 5, a Washington municipal  
corporation,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE, and its component, OFFICE OF  
JUSTICE PROGRAMS,

Defendant.

No. \_\_\_\_\_

**COMPLAINT**

Plaintiff Cowlitz County Fire Protection District No. 5 (the “District”) respectfully submits this Complaint for declaratory and injunctive relief finding that the United States Department of Justice (“DOJ”) and the Office of Justice Programs (“OJP”) have violated their legal obligations under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and ordering them to comply with those obligations.

**I. INTRODUCTION**

1. In October of 2022, the District submitted a written request under the FOIA for records held by the OJP, a component of the DOJ that oversees the Public Safety Officers Benefits Program (the “Program”). The records requested concerned OJP’s award of benefits under the

1 Public Safety Officers Benefits Program to Vicky Lynn Basso, the widow of Alan D. Basso. Alan  
2 D. Basso was a volunteer firefighter for the District who died on November 11, 2020. To date, the  
3 DOJ and OJP have failed their FOIA obligations and have not provided any of the requested records  
4 sought by the District. The District requests that this Court (i) order the DOJ and OJP to comply;  
5 (ii) enjoin the DOJ and OJP from further neglecting their duties under federal law; and (iii) order  
6 the DOJ and OJP reimburse the District its legal fees and costs incurred in this action.  
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## 8 II. PARTIES

9 2.1 Plaintiff District is a Washington municipal corporation created and organized  
10 pursuant to the Revised Code of Washington (“RCW”) Title 52. The District’s jurisdictional  
11 boundaries incorporate parts of Cowlitz County, Washington. The District provides fire and  
12 emergency medical services within its jurisdiction.  
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14 2.2 Defendant DOJ is responsible for the enforcement of federal law. OJP is one of its  
15 component agencies.

16 2.3 Defendant OJP is the DOJ agency responsible for administering the Program, which  
17 provides, in part, death benefits to survivors of fallen firefighters.

## 18 III. JURISDICTION AND VENUE

19 3.1 This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §  
20 1331.

21 3.2 Venue lies properly in this Court pursuant to 5 U.S.C. § 552(a)(4)(B) because the  
22 District is incorporated and resides in this judicial district. Furthermore, venue is proper under 28  
23 U.S.C. § 1331 because the District’s requests and communications were sent from Des Moines,  
24 Washington; Olympia, Washington; and Bellingham, Washington. Therefore, a substantial part of  
25 the events giving rise to the claim occurred in this judicial district.  
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**IV. STATEMENT OF FACTS**

4.1 The District currently provides fire and emergency medical services in parts of Cowlitz County, Washington.

4.2 Alan D. Basso was serving as a volunteer firefighter for the District upon his death on November 11, 2024.

4.3 The DOJ and OJP subsequently awarded Vicky Lynn Basso, Alan D. Basso's widow, death benefits under the Program.

4.4 On October 13, 2022, the District, through its former counsel, Thomas G. Burke, and the Washington State Attorney General's Office, through assistant attorney general Evelyn Fielding Lopez, submitted a FOIA request regarding the DOJ and OJP's Public Safety Officers Benefits Award to Vicky Lynn Basso (the "Request"). The DOJ responded on October 19, 2022, and informed the District that the Request had been referred to OJP. A true and correct copy of the Request and response are attached hereto as **Exhibit 1**.

4.5 The District submitted the Request at the behest of Ms. Basso, who the District is representing in an appeal of the Washington State Board for Volunteer Fire Fighters' decision to deny death benefits to Ms. Basso.

4.6 The DOJ and OJP responded to the Request two (2) months later and requested that the District complete a certification of identity form for Ms. Basso. The District subsequently submitted two (2) certification forms, one on January 18, 2023, and another on May 25, 2023. True and correct copies of the certification forms submitted by the District are attached hereto as **Exhibit 2**.

4.7 Following the submission of the certification forms, Chaun Eason, a representative of the OJP, assured the District during a phone call in September of 2023 that the records would be quickly forthcoming. The District never received the records.

1           4.8     On November 13, 2023, the District filed an informal appeal with the DOJ’s Office  
2 of Information Policy regarding the DOJ’s and OJP’s failure to produce the requested records. The  
3 Office of Information Policy confirmed receipt of the appeal on November 14, 2024. As of the date  
4 of this Complaint, the District has not received a decision on the informal appeal. A true and  
5 correct copy of the District’s appeal submission, and the Office of Information Policy’s response, is  
6 attached hereto as **Exhibit 3**.

8           4.9     To date, the DOJ and the OJP have not produced a single record in response to the  
9 District’s FOIA Request.

10   **V.     CAUSE OF ACTION –**  
11   **Violation of Freedom of Information Act (FOIA)**  
12   **For Failure to Disclose Responsive Records**

13           5.1     The District alleges and incorporates as set forth fully herein each and every  
14 allegation contained in the above Paragraphs.

15           5.2     The DOJ and OJP violated 5 U.S.C. § 552(a)(3)(A) by failing to promptly release  
16 agency records in response to the District’s FOIA Request, which reasonably described the records  
17 sought. Refusal to provide the records is unlawful.

18           5.3     The DOJ and OJP violated 5 U.S.C. § 552(a)(6)(A) by failing to timely respond to  
19 the District’s appeal of the DOJ’s and OJP’s refusal to provide the requested records. Refusal to  
20 timely respond to the appeal is unlawful.

21           5.4     Injunctive relief is authorized under 5 U.S.C. § 552(a)(4)(B) because the DOJ and  
22 OJP continue to improperly withhold requested records in violation of FOIA. The District has  
23 suffered injury and will continue to suffer injury from the DOJ’s and OJP’s illegal refusal to  
24 provide records.

25           5.5     Declaratory relief is authorized under 22 U.S.C. § 2201 because an actual  
26 controversy exists regarding the DOJ’s and OJP’s improper withholding of records in violation the  
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1 FOIA. An actual controversy exists because the District contends that the DOJ's and OJP's  
2 continuing failure to release the records violates the law.

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4 **VI. PRAYER FOR RELIEF**

5 **WHEREFORE**, the District requests that judgment be entered in its favor against the DOJ  
6 and OJP, and that the Court:

7 A. Declare that DOJ's and OJP's failure to disclose responsive records violates the  
8 FOIA;

9 B. Declare unlawful and enjoin the DOJ and OJP's practice of failing to comply with  
10 their required duties upon receipt of a properly submitted request under the FOIA;

11 C. Order the DOJ, OJP, and all entities and agents, or other persons acting by, through,  
12 for, or on behalf of the DOJ and OJP, to conduct a prompt, reasonable search for records responsive  
13 to the District's FOIA Request, without imposing search or duplication fees pursuant to 5 U.S.C. §  
14 552(a)(4)(A);


15  
16 D. Enjoin the DOJ, OJP, and all entities and agents, or other persons acting by, through,  
17 for, or on behalf of Defendants, from withholding records responsive to the District's FOIA Request  
18 and order them to promptly produce the same;

19 E. Award the District reasonable attorneys' fees and costs pursuant to U.S.C. §  
20 552(a)(4)(E) and 28 U.S.C § 2412; and

21 F. Grant all other such relief to the District as the Court deems just and equitable.

22 **DATED** this 20<sup>th</sup> day of May, 2024, at Bellingham, Washington.

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24 CSD ATTORNEYS AT LAW P.S.

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