

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

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|--------------------------------|---|------------------|
| JUDICIAL WATCH, INC., |) | |
| 425 Third Street SW, Suite 800 |) | |
| Washington, DC 20024, |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | Civil Action No. |
| v. |) | |
| |) | |
| U.S. DEPARTMENT OF DEFENSE, |) | |
| 1400 Defense Pentagon |) | |
| Washington, DC 20301-1400, |) | |
| |) | |
| <i>Defendant.</i> |) | |
| _____ |) | |

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Defense to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. 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, accountability, and integrity 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

responses and disseminates 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 Defense (“Defendant”) is an agency of the United States government headquartered at 1400 Defense Pentagon, Washington, DC 20301-1400. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On August 13, 2024, Plaintiff submitted a FOIA request via the web portal to the U.S. Department of the Army, a component of Defendant, seeking access to the following public records:

1. **All documents related to the designation of the National Right to Life Committee (NRLC) or any other pro-life organizations or individuals as "terrorists" in anti-terrorism training materials used by the Army, as discussed in media reports, such as <https://www.wral.com/story/fort-liberty-responds-to-slide-calling-anti-abortion-groups-terrorist-organizations/21520553/>.**
2. **All emails sent to and from Army Secretary Christine Wormuth, Under Secretary Gabe Camarillo, Chief of Staff GEN Randy George, and/or Vice Chief of Staff GEN James Mingus regarding the designation of pro-life groups or individuals as "terrorists".**

The time frame for the requested records is August 13, 2022 to the present.

6. On August 13, 2024, Plaintiff received a web confirmation that the request was successfully filed and assigned the request submission ID 1392736.

7. On August 13, 2024, Plaintiff submitted a second FOIA request via email to Special Command Operations, U.S. Army Reserve, Fort Liberty, NC, a component of Defendant, seeking access to the following public records:

1. **All documents related to the designation of the National Right to Life Committee (NRLC) or any other pro-life organizations or individuals as "terrorists" in anti-terrorism training materials used by Fort Liberty as discussed in media reports, such as**

<https://www.wral.com/story/fort-liberty-responds-to-slide-calling-anti-abortion-groups-terrorist-organizations/21520553/>.

2. **All emails sent to and from Garrison Commander Col. John Wilcox regarding the designation of pro-life groups or individuals as "terrorists" in Army training material.**

The time frame for the requested records is August 13, 2022 to the present.

8. On August 13, 2024, Supervisor Christopher Nesbitt, Government Information Specialist, instructed Plaintiff to submit its request directly to Fort Liberty's FOIA office and provided the link.

9. Later that same day, Plaintiff followed the link provided by Mr. Nesbitt and resubmitted its Fort Liberty FOIA via email to the address provided by the Fort Liberty FOIA webpage.

10. Defendant has not responded.

11. As of the date of this Complaint, Defendant has failed to (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii) notify Plaintiff of the scope of any responsive records it intends to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

13. Defendant is in violation of FOIA.

14. 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 it.

15. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by September 13, 2024, at the latest. Because Defendant failed to make a final determination on Plaintiff's FOIA 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 searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA 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 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 11, 2024

Respectfully submitted,

/s/ Meredith Di Liberto

Meredith Di Liberto

DC Bar No. 487733

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