

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

NATIONAL POLICE ASSOCIATION  
8710 Bash Street #501692  
Indianapolis, Indiana 46250

*Plaintiff,*

v.

NATIONAL INSTITUTES OF HEALTH  
9000 Rockville Pike  
Bethesda, Maryland 20892

*Defendant.*

Civil Action No. 22-2725

**COMPLAINT**

1. Plaintiff National Police Association (“Plaintiff”) brings this Freedom of Information Act (FOIA) judicial review against Defendant National Institutes of Health (“Defendant”) to compel Defendant to produce records responsive to Plaintiff’s FOIA request for records on cordectomies performed on beagles. Defendant has violated the FOIA by failing to issue a determination within the statutory period, by failing to conduct a reasonable search, and by failing to produce the responsive, non-exempt records.

**PARTIES**

2. Plaintiff is a section 501(c)3 tax exempt organization registered in Indiana. Plaintiff made the request at issue in this judicial review on December 6, 2021.
3. Defendant is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

### **JURISDICTION AND VENUE**

4. This case is brought against a Federal Defendant under 28 U.S.C. § 1346 which is a Federal agency under 5 U.S.C. § 552(a)(4)(B). This case presents a federal question under 28 U.S.C. § 1331. These statutes confer jurisdiction on this Court.
5. The venue is proper under 5 U.S.C. § 552(a)(4)(B).

### **PLAINTIFF'S DECEMBER 6, 2021 FOIA REQUEST**

6. On December 7, 2021, Plaintiff submitted a request through the Department of Health and Human Services's (HHS) portal. Ex. 1.
7. The records sought were limited in time records of conduct carried out after November 25, 2019. *Id.*
8. On December 8, 2021, Defendant acknowledged receipt of the request and assigned FOIA Request number 2022-00202-FOIA-OS. Ex. 2. The request was subsequently referred to Defendant by HHS. Ex. 3.
9. On December 15, 2021, Plaintiff sent Defendant an email requesting an Estimated Completion Date (ECD). Ex. 4. It received no response.
10. On June 19, 2022, Plaintiff sent Defendant an email requesting an ECD. Ex. 5. It received no response.
11. Defendant has not issued a final determination on this request, nor have any records been provided to Plaintiff.

### **COUNT I – DEFENDANT'S FAILURE TO ISSUE A DETERMINATION WITHIN THE STATUTORY PERIOD**

12. The above paragraphs 1 - 11 are incorporated by reference.
17. The request seeks the disclosure of agency records and was properly made.
18. Defendant is a federal agency subject to FOIA.

19. Included within the scope of the request are one or more records or portions thereof that are not exempt under FOIA.

20. Defendant failed to issue determinations within the statutory deadline.

**COUNT II – DEFENDANT’S FAILURE TO CONDUCT A REASONABLE SEARCH**

21. The above paragraphs 1 -11 are incorporated by reference.

22. The request seeks the disclosure of agency records and was properly made.

23. Defendant is a federal agency subject to FOIA.

24. Defendant has failed to conduct a reasonable search for records responsive to the request.

**COUNT III – DEFENDANT’S FAILURE TO PRODUCE RECORDS**

25. The above paragraphs 1 -11 are incorporated by reference.

26. The request seeks the disclosure of agency records and was properly made.

27. Defendant is a federal agency subject to FOIA.

28. Included within the scope of the request is one or more records or portions thereof that are not exempt under FOIA.

29. Defendant has failed to produce records responsive to the request.

**WHEREFORE**, Plaintiff demands that the Court:

- i. order Defendant to conduct a reasonable search for records;
- ii. order Defendant to issue a determination;
- iii. order Defendant to promptly produce all non-exempt responsive records or portions of records;
- iv. enjoin Defendant from withholding non-exempt public records under FOIA;
- v. award Plaintiff attorneys’ fees and costs; and,
- vi. award such other relief the Court considers appropriate.

Dated: September 9, 2022

RESPECTFULLY SUBMITTED,

/s/ C. Peter Sorenson

Attorney for Plaintiff

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