

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

JUDICIAL WATCH, INC., )  
425 Third Street SW, Suite 800 )  
Washington, DC 20024, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
U.S. DEPARTMENT OF JUSTICE, )  
950 Pennsylvania Avenue NW )  
Washington, DC 20530-0001, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Civil Action No.

**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. 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 Justice is an agency of the United States Government. Defendant has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 950 Pennsylvania Avenue NW, Washington, DC 20530-0001.

### **STATEMENT OF FACTS**

5. On December 3, 2018, Plaintiff submitted a FOIA request to the Federal Bureau of Investigation (“FBI”), a component of Defendant, seeking access to the following:

1. **All final and draft copies of talking points prepared by the FBI for its Executive Assistant Directors (“EADs”) relating to the “Mid-Year Exam” investigation (“MYE Talking Points”) following the July 5, 2016 James Comey press conference in which he indicated that he would not recommend prosecuting Hillary Clinton.**
2. **All final and draft copies of a one-page version of the aforementioned MYE Talking Points created for FBI Special Agents-in-Charge (SACs).**
3. **All final and draft copies of charts of “statutory violations considered during the investigation [of Hillary Clinton’s server], and the reasons for the recommendation not to prosecute . . .”**

Attached to the request were email exchanges dated July 10, 2016 and July 14, 2016 between FBI officials discussing the requested records.

6. By letter dated December 21, 2018, the FBI acknowledged receipt of Plaintiff’s request and informed Plaintiff that the request had been assigned FOIPA Request No. 1424914-000 for tracking purposes.

7. 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 Defendant 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**

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is in violation of FOIA.

10. 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.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's FOIA request within the time limits set by FOIA. Accordingly, Defendant's determination was due by February 25, 2019 at the latest, taking into account the government shutdown from December 22, 2018 to January 25, 2019.

12. 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: March 22, 2019

Respectfully submitted,

*s/ Chris Fedeli*

Chris Fedeli

D.C. Bar No. 472919

**JUDICIAL WATCH, INC.**

425 Third Street SW, Suite 800

Washington, DC 20024

Tel: 202-646-5172

cfedeli@judicialwatch.org

*Counsel for Plaintiff*