

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

JUDICIAL WATCH, INC.,	)	
425 Third Street SW, Suite 800	)	
Washington, DC 20024,	)	
	)	Civil Action No.
<i>Plaintiff,</i>	)	
v.	)	
	)	
U.S. DEPARTMENT OF STATE,	)	
The Executive Office	)	
Office of the Legal Adviser, Suite 5.600	)	
600 19 <sup>th</sup> Street, N.W.	)	
Washington, DC 20522,	)	
	)	
<i>Defendant.</i>	)	
_____	)	

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of State 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. 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 pursuant to FOIA. Plaintiff analyzes the

agencies' responses and disseminates both 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 State is an agency of the United States Government headquartered at 2201 C Street, N.W., Washington, DC 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On March 1, 2017, the *New York Times* reported on an Obama Administration effort to spread information about alleged Russian efforts to undermine the 2016 presidential election. See Matthew Rosenberg, Adam Goldman, and Michael S. Schmidt, "Obama Administration Rushed to Preserve Intelligence of Russian Election Hacking," *The New York Times* (March 1, 2017). According to the report:

There also was an effort to pass reports and other sensitive material to Congress. In one instance, the State Department sent a cache of documents marked "secret" to Senator Benjamin Cardin of Maryland days before the Jan. 20 inauguration. The documents, detailing Russian efforts to intervene in elections worldwide, were sent in response to a request from Mr. Cardin, the top Democrat on the Foreign Relations Committee, and were shared with Republicans on the panel.

*Id.*

6. On March 2, 2017, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

Any and all records provided by any official, employee, or representative of the Department of State to Senator Ben Cardin, any member of his staff, the Senate Foreign Relations Committee, and/or any Senate Foreign Relations Committee staff member regarding, concerning, or related to efforts by the Russian Government to affect, manipulate, or influence any election in the United States or any foreign country.

The time frame of the request was identified as "November 8, 2016 to the present."

7. By letter dated March 10, 2017, Defendant acknowledged receiving Plaintiff's request on March 2, 2017 and advised Plaintiff that the request had been assigned Case Control Number F-2017-04799.

8. 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**

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

10. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to determine whether to comply with Plaintiff's request within twenty (20) working days of receiving the request, or on or about March 30, 2017. At a minimum, Defendant was required to: (i) gather and review the requested documents; (ii) determine and communicate to Plaintiff the scope of any responsive records Defendant intended to produce or withhold and the reasons for any withholdings; and (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 188-89 (D.C. Cir. 2013).

12. Because Defendant failed to determine whether to comply with Plaintiff's request within the time period required by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

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 a Vaughn index 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: May 9, 2017

Respectfully submitted,

/s/ Ramona R. Cotca

Ramona R. Cotca

D.C. Bar No. 501159

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