

**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 January 25, 2019, Plaintiff submitted a FOIA request to the Federal Bureau of Investigation (“FBI”), a component of Defendant, seeking access to the following:

- 1. All records of communications, whether by email (on .gov or non.gov email accounts), text message, or instant chat, between officials in the FBI, including but not limited to officials in the offices of the FBI Director, FBI Deputy Director, Office of General Counsel, Office of Public Affairs, and/or the FBI Miami Field Office on the one hand, and employees, contractors, and representatives of CNN on the other hand, regarding the arrest of former Trump campaign official Roger Stone on January 25, 2019.**

The time frame of the request was identified as “January 1, 2019 to the present.” The request was sent by certified mail.

6. That same day, January 25, 2019, Plaintiff also submitted a FOIA request to the Special Counsel’s Office (“SCO”), a component of Defendant, seeking access to the following:

- 1. All records of communications, including but not limited to emails, text messages and instant chats/messages, between SCO officials on the one hand, and employees, representatives and contractors of CNN on the other hand, regarding the January 25, 2019 arrest of former Trump campaign aid Roger Stone.**
- 2. All records of communications, including but not limited to emails, text messages and instant chats/messages, between SCO officials on the one hand and persons acting as interlocutors for SCO to**

communicate with CNN on the other hand, regarding the January 25, 2019 arrest of former Trump campaign aide Roger Stone.

The time frame of the request was identified as “January 1, 2019 to the present.” Plaintiff also served a copy of its request to SCO on Defendant’s FOIA/PA Mail Referral Unit. Both the request and the copy were sent by certified mail.

7. According to U.S. Postal Service records, Plaintiff’s request to the FBI was delivered on January 30, 2019.

8. On February 1, 2019, Plaintiff submitted another FOIA request to the FBI seeking access to the following:

1. **All documents and other materials used in the planning and preparation for the arrest and raid on the home of former Trump campaign aide Roger Stone on January 25, 2019, including but not limited to operational plans, briefing materials and maps, memoranda, photographs, and PowerPoint presentations.**
2. **All records of communications sent to or from the following FBI officials regarding the arrest and/or raid on the home of Roger Stone: the FBI Director, Deputy Director, Director’s Chief of Staff, and Executive Assistant Director for the Criminal Division.**
3. **All records of communications sent to or from the Special Agent in Charge of the Miami Field Office regarding the arrest and/or raid on the home of Roger Stone.**

The time frame of the request was identified as “January 1, 2019 to the present.” Again, the request was sent by certified mail.

9. According to U.S. Postal Service Records, both Plaintiff’s request to SCO and the “cc-ed” copy of the request served on Defendant’s FOIA/PA Mail Referral Unit were delivered on February 4, 2019.

10. By letter dated February 6, 2019, the FBI acknowledged receipt of Plaintiff's January 25, 2019 request and informed Plaintiff that the request had been assigned FOIPA Request No. 1428009-000 for tracking purposes.

11. According to U.S. Postal Service Records, Plaintiff's February 1, 2019 request to the FBI was delivered on February 8, 2019.

12. By letter dated February 14, 2019, the FBI acknowledged receipt of Plaintiff's February 1, 2019 request and informed Plaintiff that the request had been assigned FOIPA Request No. 14288723-000 for tracking purposes.

13. 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)

14. Plaintiff realleges paragraphs 1 through 13 as if fully stated herein.

15. Defendant is in violation of FOIA.

16. 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.

17. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make final determinations on Plaintiff's FOIA requests within the time limits set by FOIA. Accordingly, Defendant's determinations were due by March 15, 2019 at the latest.

18. Because Defendant failed to make final determinations on Plaintiff's FOIA requests 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 requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests 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 requests; (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 21, 2019

Respectfully submitted,

/s/ James F. Peterson

James F. Peterson

D.C. Bar No. 450171

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