

**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.)
)
 ADAM B. SCHIFF,)
 Chairman)
 U.S. House Permanent Select Committee)
 on Intelligence)
 U.S. Capitol)
 Washington, DC 20515,)
)
 and)
)
 U.S. HOUSE PERMANENT SELECT)
 COMMITTEE ON INTELLIGENCE,)
 U.S. Capitol)
 Washington, DC 20515,)
)
 Defendants.)
 _____)

Civil Action No.

COMPLAINT

Plaintiff Judicial Watch, Inc. (“Plaintiff”) brings this action against Congressman Adam B. Schiff and the U.S. House Permanent Select Committee on Intelligence (“Defendants”) to compel compliance with the common-law right to public access to government records. As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1361.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

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 various governmental entities at the federal and state levels. 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 Adam B. Schiff is a member of the U.S. House of Representatives. He currently serves as Chairman of the United States House Permanent Select Committee on Intelligence. Congressman Schiff is being sued in his capacity as Chairman of the United States House Permanent Select Committee on Intelligence.

5. Defendant United States House Permanent Select Committee on Intelligence is a committee of the U.S. House of Representatives.

6. Defendants have possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

7. Under the common-law right of public access, members of the public have the right to examine government records when the public interest in disclosure is greater than that in government secrecy. The legislative branch is subject to the common-law right of public access.

8. On December 6, 2019, Plaintiff submitted a request to Defendants for copies of the following:

1. **All subpoenas issued by the House Permanent Select Committee on Intelligence on or about September 30, 2019 to any telecommunications provider including, but not limited to AT&T, Inc., for records of telephone calls of any individuals;**

2. All responses received to the above-referenced subpoenas.

9. Plaintiff's request asked for the records or a response indicating whether the Defendants intended to comply with the request by December 18, 2019. As of the date of the filing of this Complaint, Defendants have not provided the records or otherwise responded to Plaintiff's request.

10. As the subpoenas were issued as part of the Committee's impeachment investigation, no legislative purpose affording Speech and Debate Clause immunity applies. *Pentagen Techs. Int'l v. Committee on Appropriations of the U.S. House of Representatives*, 20 F. Supp. 2d 41(D.D.C. 1998).

11. The records are of critical public importance as the subpoenas were issued without any lawful basis and violated the rights of numerous private citizens.

12. As of the date of this Complaint, Defendants have not produced the requested records.

COUNT I
(Common-Law Right of Access)

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

14. Defendants are in violation of the common-law right of access.

15. Plaintiff is being irreparably harmed by Defendants' violation, and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to comply with the law.

16. Plaintiff has no adequate remedy at law.

17. Because the requested records were generated pursuant to the Committee's impeachment investigation, no legislative purpose affording Speech and Debate Clause immunity applies and the records qualify as public records.

18. Defendants' refusal or failure to disclose the records does not serve any legitimate public interest.

19. Disclosure of the requested records would serve the public interest by providing information about the unlawful issuance of the subpoenas.

20. The requested records fall within the scope of the public's right of access to governmental records as a matter of federal common law.

21. Defendants have a non-discretionary duty to make these records available to the public upon request.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare that Defendants' refusal to release the requested records is a violation of the common-law right of public access to government records; (2) issue a writ of mandamus compelling Defendants to carry out their non-discretionary duty to make all of the requested records available; (3) award Plaintiff its costs and reasonable attorneys' fees in this action; and (4) grant Plaintiff such other relief as the Court deems just and proper.

Dated: December 20, 2019

Respectfully submitted,

/s/ James F. Peterson
James F. Peterson
D.C. Bar No. 450171
JUDICIAL WATCH, INC.
425 Third Street SW, Suite 800
Washington, DC 20024
Tel: (202) 646-5175
Email: jpeterson@judicialwatch.org

Counsel for Plaintiff