

**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 STATE,)
The Executive Office)
Office of the Legal Adviser, Suite 5.600)
600 19th Street NW)
Washington, DC 20522,)
)
Defendant.)
_____)

Civil Action No.

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against the U.S. Department of State 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 State is an agency of the United States Government headquartered at 2201 C Street NW, Washington, DC 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On October 9, 2019, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

Any and all records regarding, concerning, or related to the monitoring of any U.S.-based journalist, reporter, or media commentator by any employee or office of the Department of State between January 1, 2019 and the present. This request includes, but is not limited to, the following:

- **Any and all records pertaining to the scope of the monitoring to be conducted and the individuals subject to it.**
- **Any and all records documenting the information collected pursuant to the monitoring.**
- **Any and all related records of communication between any official, employee, or representative of the Department of State and any other individual or entity.**

6. The request specifically asked that the search for responsive records include, but not be limited to, all unclassified and classified record management systems utilized by the following individuals and entities:

- **Former U.S. Ambassador to Ukraine
Marie Yovanovitch**
- **Deputy Assistant Secretary of State and former
Deputy Chief of Mission George Kent**
- **The Global Engagement Center**
- **The U.S. Embassy Kyiv**

- **The Bureau of European and Eurasian Affairs**
- **The Bureau of Public Affairs**
- **The Bureau of International Information Programs**

7. The request also specifically asked that the search terms utilized to identify potentially responsive records include the following:

- **Biden**
- **Giuliani**
- **Soros**
- **Yovanovitch**

8. The request specifically defined the term “monitoring” to include “State Department activities to deliberately identify, review, compile, and/or disseminate reports, stories, news items, broadcasts, blogs and other Internet postings, and/or social media activity.”

9. The time frame of the request was identified as “January 1, 2019 to the present.”

10. The request was submitted electronically to the component of Defendant designated to receive FOIA requests.

11. By letter dated November 14, 2019, Defendant acknowledged receiving Plaintiff’s request on October 10, 2019 and advised Plaintiff that the request had been assigned FOIA tracking number F-2020-00541. Defendant’s acknowledgment letter invoked FOIA’s 10-day extension of time provision, citing “unusual circumstances” that prevented it from responding within FOIA’s 20-day time period.

12. As of the date of this Complaint, Defendant has not: (i) produced the requested records or demonstrated that the requested records are lawfully exempt from production; (ii) notified Plaintiff of the scope of any responsive records they intend to produce or withhold and

the reasons for any withholdings; or (iii) informed Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

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

14. Defendant is in violation of FOIA.

15. 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 the law.

16. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by December 9, 2019 at the latest.

17. Because Defendant failed to make a final determination on Plaintiff's 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 search 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 the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's 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 the 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: January 16, 2020

Respectfully submitted,

s/ Paul J. Orfanedes
PAUL J. ORFANEDES
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