



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 U.S. Government and is headquartered at 2201 C Street, NW, Washington, DC 20520. Defendant has possession, custody, and control of public records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On November 20, 2019, Plaintiff sent a FOIA request to Defendant seeking access to the following:

- 1) Any and all records regarding, concerning, or related to the January 19, 2016 meeting at [the] White House that included State Department Resident Legal Advisor in Ukraine Jeff Cole and U.S. Embassy Kyiv employee Svitlana Pardus. This request includes, but is not limited to, any and all notes, briefing materials, reports, summaries, or similar records created in preparation for, during, and/or pursuant to the meeting. It is specifically requested that the search for potentially responsive records include, but not be limited to, any and all records management systems utilized by State Department officials and other employees at the U.S. Embassy Kyiv.
- 2) Any and all records of communication between State Department Resident Legal Advisor Jeff Cole and National Security Council staffer Eric Ciaramella.
- 3) Any and all records of communication between U.S. Embassy Kyiv employee Svitlana Pardus and National Security Council staffer Eric Ciaramella.
- 4) Any and all emails sent by or addressed to State Department Resident Legal Advisor Jeff Cole and/or U.S. Embassy Kyiv employee Svitlana Pardus between January 10, 2016 and January 30, 2016.

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

7. That same day, Plaintiff received an email from Defendant acknowledging receipt of the request. No other information was provided.

8. On January 26, 2020, Plaintiff received a second email from Defendant again acknowledging receipt of the request, but confirming that Defendant received the request on November 20, 2020.

9. 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)**

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

11. Defendant is in violation of FOIA.

12. 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.

13. Plaintiff has no adequate remedy at law.

14. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by January 6, 2020 at the latest.

15. 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 29, 2020

Respectfully submitted,

*s/ Paul J. Orfanedes*  
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