

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

JUDICIAL WATCH, INC.,	)	
425 Third Street SW, Suite 800	)	
Washington, DC 20024,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
950 Pennsylvania Avenue NW	)	
Washington, DC 20530,	)	
	)	
and	)	
	)	
OFFICE OF THE DIRECTOR OF	)	
NATIONAL INTELLIGENCE	)	
Washington, DC 20511,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendants U.S. Department of Justice and the Office of the Directors of National Intelligence 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 non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. As part of its educational mission, Plaintiff regularly requests records under FOIA to shed light on the operations of the federal government agencies and to educate the public about these operations. Plaintiff then analyzes the agency records and disseminates the results to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of Justice (“DOJ”) is an agency of the U.S. Government and is headquartered at 950 Pennsylvania Avenue NW, Washington, DC 20530. Defendant DOJ has possession, custody, and control of public records to which Plaintiff seeks access.

5. Defendant Office of the Director of National Intelligence (“ODNI”) is an agency of the United States Government. ODNI has possession, custody, and control of records to which Plaintiff seeks access. ODNI is headquartered in Washington, DC 20511

### **STATEMENT OF FACTS**

6. On May 12, 2020, Plaintiff sent nearly identical FOIA requests to DOJ, the FBI, and ODNI about a January 5, 2017 meeting at the White House. The meeting was attended by President Barak Obama, Vice President Joe Biden, and officials from several federal agencies, including officials from DOJ, the FBI, and ODNI. At least two records describing the meeting – a January 20, 2017 memo by former National Security Advisor Susan Rice and a set of notes taken by FBI counterespionage chief Peter Strzok – have been declassified and made public.

7. Plaintiff's FOIA request to DOJ, submitted via the agency's online FOIA portal, seeks access to the following:

**Any and all records regarding, concerning, or related to the January 5, 2017 meeting at the White House between former Deputy Attorney General Sally Yates, former Director of National Intelligence James Clapper, former CIA Director John Brennan, former Director James Comey, President Obama, and others. This request includes, but is not limited to, any and all notes, summaries, briefing materials, or other records created in preparation for, during, and/or pursuant to the meeting, as well as any and all related records of communication between any official, employee, or representative of the Department of Justice and any other individual or entity.**

The frame of the request was identified as "December 1, 2016 to the present."

8. By letter dated June 16, 2020, DOJ's Office of Information Privacy acknowledged receiving Plaintiff's request, which had been assigned FOIA tracking number FOIA-2020-01212, on May 21, 2020. The letter invoked the 10-day extension of time provision contained in 5 U.S.C. § 552(a)(6)(B)(i)-(iii), but asserted that DOJ would require more than the 10-day extension authorized by FOIA because consultation with another office within DOJ was required. The letter did not represent when a response would be provided.

9. Plaintiff's FOIA request to the FBI, submitted via the FBI's online FOIA portal, seeks the following:

**Any and all records regarding, concerning, or related to the January 5, 2017 meeting at the White House between former Director James Comey, President Obama, former CIA Director John Brennan, former Director of National Intelligence James Clapper, and others. This request includes, but is not limited to, any and all notes, summaries, briefing materials, or other records created in preparation for, during, and/or pursuant to the meeting, as well as any and all related records of communication between any official, employee, or representative of the Federal Bureau of Investigation and any other individual or entity.**

The time frame of the request was identified as "December 1, 2016 to the present."

10. The FBI is a component of Defendant DOJ.

11. By letter dated June 30, 2020, the FBI acknowledge receipt of Plaintiff's request but did not specify a date of receipt. Because the request had been submitted electronically, however, it was received the same day it was submitted. The acknowledgment letter informed Plaintiff that the request had been assigned FOIAPA Request No. 1464303-000.

12. Plaintiff's FOIA request to ODNI, sent via ODNI's online FOIA portal, seeks the following:

**Any and all records regarding, concerning, or related to the January 5, 2017 meeting at the White House between former Director of National Intelligence James Clapper, former CIA Director John Brennan, former Director James Comey, President Obama, and others. This request includes, but is not limited to, any and all notes, summaries, briefing materials, or other records created in preparation for, during, and/or pursuant to the meeting, as well as any and all related records of communication between any official, employee, or representative of the Office of the Director of National Intelligence and any other individual or entity.**

Again, the time frame of the request was identified as "December 1, 2016 to the present."

13. By letter dated June 4, 2020, ODNI acknowledged receiving Plaintiff's request on May 14, 2020. The acknowledgment letter informed Plaintiff that the request had been assigned FOIA tracking number DF-2020-00229.

14. As of the date of this Complaint, neither DOJ, the FBI, nor ODNI has made a determination about whether it will comply with the requests, notified Plaintiff of any determination, or notified Plaintiff of its right to appeal any adverse determination to the head of the agency. Nor have the agencies produced any records responsive to the requests, indicated when any responsive records will be produced, or demonstrated that responsive records are exempt from production.

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

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

16. Defendants are in violation of FOIA.

17. Plaintiff is being irreparably harmed by Defendants' violations of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to comply with the law.

18. Plaintiff has no adequate remedy at law.

19. To trigger FOIA's administrative exhaustion requirement, Defendant DOJ was required to make a final determination on Plaintiff's request to that agency by July 6, 2020 at the latest. Defendant DOJ was required to make a final determination on Plaintiff's request to the FBI on or before June 24, 2020. Defendant ODNI was required to make a final determination on or about June 12, 2020.

20. Because Defendants failed to make final determinations on Plaintiff's 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 Defendants to search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of records responsive to the requests; (2) order Defendants to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's requests and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendants 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: July 20, 2020

Respectfully submitted,

/s/ Paul J. Orfanedes  
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