

**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, )  
 )  
*Defendant.* )  
\_\_\_\_\_ )

Civil Action No.

**COMPLAINT**

Plaintiff Judicial Watch, Inc. (“Judicial Watch”) brings this action against Defendant U.S. Department of Justice (“DOJ”) 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.

### **STATEMENT OF FACTS**

5. On August 23, 2021, Plaintiff submitted a FOIA request to the DOJ, via its online electronic FOIA submission system, seeking access to the following:

- 1. All records of communication, including emails and text messages, between Special Counsel John Durham and Attorney General Merrick Garland.**
- 2. All budget records related to the operations of the office of Special Counsel John Durham.**

The time frame of the request was identified as “January 1, 2021 to the present.”

6. By letter dated September 10, 2021, the DOJ Office of Information Policy acknowledged receipt of the request and referenced it as FOIA-2021-02028.

7. The DOJ asserted that it was invoking FOIA’s ten-day extension of time provision due to “unusual circumstances.” Plaintiff has received no further communication from the DOJ on this request.

8. 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; (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

**COUNT I**

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

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

10. Defendant is in violation of FOIA.

11. 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.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's FOIA request within the time limits set by FOIA. Accordingly, Defendant's determination was due by October 25, 2021 at the latest.

13. Because Defendant failed to make a final determination on Plaintiff's FOIA 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 conduct searches 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 Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA 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 Plaintiff's FOIA 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: March 16, 2022

Respectfully submitted,

/s/ Lauren M. Burke

Lauren M. Burke

D.C. Bar No. 1028811

JUDICIAL WATCH, INC.

425 Third Street SW, Suite 800

Washington, DC 20024

Tel: (202) 646-5175

Fax: (202) 646-5199

Email: [lburke@judicialwatch.org](mailto:lburke@judicialwatch.org)

*Counsel for Plaintiff*