

**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, N.W. )  
Washington, DC 20530-0001, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Civil Action No.

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Justice 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 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, integrity, and accountability 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

agencies' responses and disseminates both 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 ("DOJ") 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 20530-0001.

### **STATEMENT OF FACTS**

5. On March 29, 2022, Plaintiff submitted a FOIA request to the Executive Office of United States Attorneys ("EOUSA"), a component of Defendant, seeking access to communications between The New York Times and officials in the U.S. Attorney's Office for the Southern District of New York regarding the FBI raids in November 2021 on the homes of investigative reporters for and the founder/CEO of Project Veritas, a non-profit non-governmental organization headquartered in Mamaroneck, New York. The request, submitted via the EOUSA's online FOIA portal, described the requested records as follows:

1. All records of communications, whether by email (on .gov or non.gov email accounts), text message, or instant chat, between officials in the U.S. Attorney's Office for the Southern District of New York, including but not limited to Assistant U.S. Attorneys Robert Sobelman, Mitzi Steiner, and Jacqueline Kelly, on the one hand, and employees, contractors, and representatives of The New York Times on the other hand, regarding Project Veritas, James O'Keefe, Ashley Biden, Spencer Meads, and/or Eric Cochran. The time frame of the request is September 1, 2021 to present.
2. All records of communications, whether by email (on .gov or non.gov email accounts), text message, or instant chat, between officials in the U.S. Attorney's Office for the Southern District of New York, including but not limited to Assistant U.S. Attorneys Robert Sobelman, Mitzi Steiner, and Jacqueline Kelly, on the one hand, and employees, contractors, and representatives of The New York Times on

the other hand, regarding the FBI search warrants and raid on the residence of Project Veritas founder James O'Keefe on November 6, 2021. The time frame of the request is October 1, 2021 to present.

3. All records of communications, whether by email (on .gov or non.gov email accounts), text message, or instant chat, between officials in the U.S. Attorney's Office for the Southern District of New York, including but not limited to Assistant U.S. Attorneys Robert Sobelman, Mitzi Steiner, and Jacqueline Kelly, on the one hand, and employees, contractors, and representatives of The New York Times on the other hand, regarding the FBI search warrants and raid on the residence of Project Veritas journalist Spencer Meads on November 4, 2021. The time frame of the request is October 1, 2021 to present.
4. All records of communications, whether by email (on .gov or non.gov email accounts), text message, or instant chat, between officials in the U.S. Attorney's Office for the Southern District of New York, including but not limited to Assistant U.S. Attorneys Robert Sobelman, Mitzi Steiner, and Jacqueline Kelly, on the one hand, and employees, contractors, and representatives of The New York Times on the other hand, regarding the FBI search warrants and raid on the residence of Project Veritas journalist Eric Cochran on November 4, 2021. The time frame of the request is October 1, 2021 to present.

6. By email dated March 29, 2022, EOUSA acknowledged receiving Plaintiff's request and assigned it the reference case number EOUSA-2022-001499.

7. As of the date of this Complaint, Defendant has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any 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)**

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is violating FOIA by failing to produce all records responsive to Plaintiff's request or demonstrate that the requested records are lawfully exempt from production.

10. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by April 26, 2022 at the latest. 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 demonstrate that it employed search methods reasonably calculated to uncover all records responsive to the 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: September 1, 2022

Respectfully submitted,

/s/ Kathryn Blankenberg  
Kathryn Blankenberg  
D.C. Bar No. 1781777  
JUDICIAL WATCH, INC.  
425 Third Street SW, Suite 800  
Washington, DC 20024  
Tel: (202) 646-5172  
Fax: (202) 646-5199  
Email: kblankenberg@judicialwatch.org

*Counsel for Plaintiff*