

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

|                                   |   |                  |
|-----------------------------------|---|------------------|
| JUDICIAL WATCH, INC.,             | ) |                  |
| 425 Third Street, S.W., Suite 800 | ) |                  |
| Washington, DC 20024,             | ) |                  |
|                                   | ) |                  |
| Plaintiff,                        | ) |                  |
|                                   | ) | Civil Action No. |
| v.                                | ) |                  |
|                                   | ) |                  |
| U.S. DEPARTMENT OF JUSTICE,       | ) |                  |
| 950 Pennsylvania Avenue, N.W.     | ) |                  |
| Washington, DC 20530-0001,        | ) |                  |
|                                   | ) |                  |
| Defendant.                        | ) |                  |
| _____                             | ) |                  |

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against the U.S. Department of Justice (“Defendant” or “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 the Freedom of Information Act

(“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 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, N.W., Washington, DC 20530-0001.

### **STATEMENT OF FACTS**

5. This lawsuit arises out of two identical FOIA requests Plaintiff submitted to the DOJ and the Federal Bureau of Investigation (“FBI”), a component of the DOJ.

6. On July 5, 2018, Plaintiff submitted a FOIA request to the FBI, via the FBI’s EFOIPA Portal, seeking access to the following records:

- **Any and all records regarding, concerning, or related to the April 2017 meeting between Department of Justice and FBI personnel and reporters, editors, and/or other individuals employed by and/or representing the Associated Press. This request includes, but is not limited to, any and all notes, reports, memoranda, briefing materials, or other records created in preparation for, during, and/or pursuant to the meeting.**
- **Any and all records of communication between any official, employee, or representative of the Department of Justice and any of the individuals present at the aforementioned meeting.**

**For purposes of clarification, the meeting that is the subject of this request was reported on in Politico on June 29, 2018 (see <https://www.politico.com/story/2018/06/29/paul-manafort--storage-lockerassociated-press-687776>).**

7. By letter dated July 16, 2018, the FBI acknowledged receipt of Plaintiff’s request and advised Plaintiff that the request had been assigned FOIPA Request No. 1410979-000. Plaintiff has not received any other communications from the FBI in response to Plaintiff’s request.

8. On July 5, 2018, Plaintiff submitted a FOIA request to the DOJ, via the DOJ’s electronic service, seeking access to the same records described in Paragraph 6 above.

9. On July 17, 2018, the DOJ acknowledged receipt of Plaintiff's FOIA request and assigned it Tracking Number EMRUFOIA070518-4. Plaintiff has not received any other communications from the DOJ in response to Plaintiff's request.

10. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), the FBI and DOJ were required to determine whether to comply with Plaintiff's request within (20) working days after its receipt of the request and to notify Plaintiff immediately of its determination, the records thereof, and the right to appeal any adverse determination. At the very latest, the FBI's determination was due by August 13, 2018 and the DOJ's determination was due by August 14, 2018.

11. As of the date of this Complaint, the FBI and DOJ 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; and/or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

### **COUNT I**

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

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

13. 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 FOIA.

14. To trigger FOIA's administrative exhaustion requirement, the FBI and the DOJ were required to make a final determination on Plaintiff's FOIA request within the time limits set by FOIA. Accordingly, the FBI's determination was due by August 13, 2018 and the DOJ's determination was due by August 14, 2018. By these dates, the FBI and DOJ were required to: (i) gather and review the requested documents; (ii) determine and communicate to Plaintiff the

scope of any responsive records Defendant intended to produce or withhold and the reasons for any withholdings; and (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 188-89 (D.C. Cir. 2013).

15. Because the FBI and DOJ failed to make a final determination on Plaintiff's FOIA requests within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests and *Vaughn* indices 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 requests; (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)(5) and grant Plaintiff such other relief as the Court deems just and proper.

Dated: March 27, 2019

Respectfully submitted,

/s/ Ramona R. Cotca  
Ramona R. Cotca (D.C. Bar No. 501159)  
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