

**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 STATE,	)	
The Executive Office	)	
Office of the Legal Adviser, Suite 5.600	)	
600 19 <sup>th</sup> Street NW	)	
Washington, DC 20522,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against the U.S. Department of State 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 State is an agency of the United States Government headquartered at 2201 C Street NW, Washington, DC 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On September 24, 2019, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

- 1. Any and all records of communication between any official, employee, or representative of the Department of State and any official, employee, or representative of the government of Ukraine regarding, concerning, or related to any actual or proposed investigation or prosecution of the following entities and/or any individual affiliated with them:**

**The Anti-Corruption Action Centre (AntAC)  
The International Renaissance Foundation  
Transparency International**

- 2. Any and all records created in preparation for, during, or pursuant to any meeting or telephonic conversation between former Ambassador Marie Yovanovitch and former Ukrainian Prosecutor General Yuriy Lutsenko.**
- 3. Any and all records regarding, concerning, or related to the list of individuals and entities provided to Lutsenko by Ambassador Yovanovitch in late 2016.**

6. The request specifically noted, with respect to part three, “For purposes of clarification, the list was described by Mr. Lutsenko during a March 2019 media interview (please see <https://thehill.com/opinion/campaign/435906-us-embassy-pushed-ukraine-to-drop-probe-of-george-soros-group-during-2016> and <https://www.kyivpost.com/ukraine-politics/lutsenko-claims-us-ambassador-gave-him-untouchables-list-us-embassy-denies-it.html>.)” The time frame of the request was identified as “01/01/15 to 09/24/19.”

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

8. On September 24, 2019, Plaintiff received an email from Defendant acknowledging receipt of the request online and providing a “review” of the request. No other information was provided.

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 November 6, 2019 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: November 26, 2019

Respectfully submitted,

*s/ Paul J. Orfanedes*  
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PAUL J. ORFANEDES  
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*Counsel for Plaintiff*