

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

JUDICIAL WATCH, INC.,	)	
425 Third Street SW, Suite 800	)	
Washington, DC 20024,	)	
	)	Civil Action No.
<i>Plaintiff,</i>	)	
v.	)	
	)	
U.S. DEPARTMENT OF STATE,	)	
The Executive Office	)	
Office of the Legal Adviser, Suite 5.600	)	
600 19 <sup>th</sup> Street, N.W.	)	
Washington, DC 20522,	)	
	)	
<i>Defendant.</i>	)	
	)	

**COMPLAINT**

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

### **STATEMENT OF FACTS**

5. On December 2, 2016, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

- a) All records that concern or relate to the processing of FOIA Request No. F-2014-08848, served on the State Department by Judicial Watch, Inc. on May 13, 2014. Any and all tasking, tracking, and reporting records for searches conducted in response to the request should be considered responsive. Forms DS-1748 and any "search slips," "search tasker," and "search details," also should be considered responsive.
- b) All internal State Department communications that concern or relate to the processing of or search for records responsive to FOIA Request No. F-2014-08848, including any directions or guidance about how and where to conduct the searches, whether and how to search the emails of U.S. Secretary of State Hillary Rodham Clinton, and any issues, problems, or questions regarding the searches and/or search results.
- c) All records that concern or relate to the State Department's discovery, prior to February 2, 2015, that additional searches for record responsive to FOIA Request No. F-2014-08848 were [sic] necessary. In this regard, the State Department represented in a February 2, 2015 status report filed in litigation regarding FOIA Request No. F-2014-08848 that:

In the course of preparing additional information to provide to Plaintiff for purposes of settlement discussions, Defendant has discovered that additional searches for documents potentially responsive to the FOIA [request] must be conducted.<sup>1</sup>

Any records, including communications, regarding this discovery referenced in the status report should be considered responsive.

- d) All records that concern, relate to, or identify the location(s) or source(s) of

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<sup>1</sup> Joint Status Report, *Judicial Watch, Inc. v. U.S. Dep't of State*, Case No. 14-cv-2142 (RCL) (D. District of Columbia) (Dkt. Entry No. 11) at para. 3.

potentially responsive records that necessitated the “additional searches” referenced in the February 2, 2015 status report.

For convenience, Plaintiff attached a copy of Request No. F-2014-08848 with the FOIA request at issue in this lawsuit, as was a copy of the State Department’s initial, November 12, 2014 response to the request and the February 2, 2015 status report.

6. According to U.S. Postal Service records, the request was delivered to Defendant on December 12, 2016.

7. By letter dated December 14, 2016, Defendant acknowledged receipt of Plaintiff’s request and advised Plaintiff that the request had been assigned Case Control Number F-2016-17249.

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; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

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

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

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 determine whether to comply with Plaintiff’s request within twenty (20) working days of receiving the request, or on or about January 3, 2017. At a minimum, Defendant was

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).

12. Because Defendant failed to determine whether to comply with Plaintiff's request within the time period required 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 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: January 31, 2017

Respectfully submitted,

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