

**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 Defendant U.S. Department of Justice 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 S.W., 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 and is headquartered at 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. President Biden was interviewed by Special Counsel Robert Hur on October 8-9, 2023. According to Defendant, the Federal Bureau of Investigation operated two separate devices to create audio recordings of the interviews. Those recordings were subsequently used by Free State Reporting, Inc. – trained, professional court reporters – to create written transcripts of the recordings.

6. Also, according to Defendant, the interview transcripts are not identical to the audio recordings as they omit words. In light of this, on June 1, 2024, Plaintiff submitted a FOIA request to Defendant seeking access to:

- A. All records of communication between any official or employee of the Department of Justice and any official or employee of the Executive Office of the President regarding the creation, editing, or release of the transcript of the interviews of President Biden by Special Counsel Robert Hur on October 8, 2023 and October 9, 2023. This request includes, but is not limited to, all such communications including Mr. Hur and/or any other official or employee assigned to or employed by Mr. Hur’s office.
- B. All records of communication between any official or employee of the Department of Justice and the court reporter(s) responsible for the creation or editing of the transcripts of the interviews described in part one of this request and/or any other officer, employee, or representative of Free State Reporting, Inc. This request includes, but is not limited to, all such communications including Mr. Hur and/or any other official or employee assigned to or employed by Mr. Hur’s office.
- C. All directions, instructions, or other guidance documents provided to the court reporter(s) responsible for the creation or editing of the transcripts of the

interviews described in part one of this request and/or any other officer, employee, or representative of Free State Reporting, Inc. regarding the creation or editing of those transcripts.

Plaintiff also requested expedited processing of its request.

7. By letter dated June 13, 2024, Defendant acknowledged receiving Plaintiff's request on June 3, 2024 and advised Plaintiff that the request had been assigned tracking number FOIA-2024-02118.

8. By letter dated July 1, 2024, Defendant informed Plaintiff that it granted Plaintiff's request for expedited processing.

9. Plaintiff has received no further response.

10. 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)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Defendant is in violation of FOIA.

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 it.

14. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by July 2, 2024, at the latest. 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 *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 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: July 24, 2024

Respectfully submitted,

/s/ Michael Bekesha
Michael Bekesha (D.C. Bar No. 995749)
JUDICIAL WATCH, INC.
425 Third Street S.W., Suite 800
Washington, DC 20024
Phone: (202) 646-5172
mbekesha@judicialwatch.org

Counsel for Plaintiff