



October 10, 2025

The Honorable Jameison Greer
Acting Special Counsel
Mr. Charles N. Baldis
Senior Counsel and Designee
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C., 20036-4505

Re: Request for Investigation of Arbitrary and Capricious Withholding of Information Related to the Steele Dossier by the Federal Bureau of Investigation, Central Intelligence Agency, and Office of the Director of National Intelligence

Dear Mr. Greer and Mr. Baldis:

We write to request that the United States Office of Special Counsel (OSC) investigate, under 5 U.S.C. § 1216(a)(3), the arbitrary and capricious withholding under the Freedom of Information Act (FOIA) of critical documents related to the now-infamous “Steele Dossier.”

Based on Director of National Intelligence (DNI) Tulsi Gabbard’s and Director of the Central Intelligence Agency (DCIA) John Ratcliffe’s bombshell 2025 reports,¹ the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), and the Office of the Director of National Intelligence (ODNI)² fraudulently concealed documents responsive to Southeastern Legal Foundation’s 2019 FOIA requests³ for communications about the now-infamous Clinton-funded Steele Dossier. SLF therefore asks OSC to investigate the Intelligence Community’s (IC) and their principals’ improper withholding of these documents.

Communications about the Steele Dossier are crucial to the American public’s understanding of the Russian collusion hoax perpetrated to undermine Donald J. Trump’s presidencies. As the CIA now admits, the Steele Dossier was essential to the IC’s revisionist judgment in its January 2017

¹ *Russia Hoax Memo, Declassified Evidence of Obama Administration Conspiracy to Subvert President Trump’s 2016 Victory and Presidency*, Off. of the Dir. of Nat’l Intel. (July 2025), <https://perma.cc/QM3E-BQ4M> (*Russia Hoax Memo*); *Report, Declassified Evidence of Obama Administration Conspiracy to Subvert President Trump’s 2016 Victory and Presidency*, Off. of the Dir. of Nat’l Intel. (July 17, 2025), <https://perma.cc/7E73-ZVPD> (*Report*); *Russia Hoax Whistleblower Records, Declassified Evidence of Obama Administration Conspiracy to Subvert President Trump’s 2016 Victory and Presidency*, Off. of the Dir. of Nat’l Intel. (July 28, 2025), <https://perma.cc/2L8Y-9V9T>; (*Russia Hoax Whistleblower Records*); *Oversight Investigation & Referral*, House Permanent Select Committee on Intelligence (Sept. 18, 2020), <https://perma.cc/ZQM9-75LP>; *Tradecraft Review of the 2016 Intelligence Community Assessment on Russian Election Interference*, Off. of Dir. of Central Intel. (June 26, 2025), <https://perma.cc/ASS8-42PS> (*Tradecraft Review*).

² For purposes of this letter, the FBI, CIA, and ODNI will be collectively referred to as the “Intelligence Community” or “IC.”

³ Attached is an appendix of documents separated by letter (A–J) and consecutively paginated (001–059) for convenience. The ODNI and CIA reports are referenced by link above and are not reproduced in the appendix.

Intelligence Community Assessment (ICA) on Russia that Vladimir Putin “‘aspired’ to help Trump win.”⁴ That flawed conclusion was “bolster[ed]” by the Dossier and otherwise “weakly supported.”⁵

Southeastern Legal Foundation is committed to ensuring governmental integrity and exposing government corruption. SLF therefore asks OSC, upon a finding of arbitrary and capricious withholding of responsive documents, to report violations of the law to the President and the Attorney General for “appropriate action” as authorized or required by 5 U.S.C. § 1212(a)(3), 5 U.S.C. § 1214(b)(2)(B), 5 U.S.C. § 1214(d)(1), and 5 U.S.C. § 1215(b).

Summary

In May 2019, Southeastern Legal Foundation⁶ (SLF) submitted Freedom of Information Act requests to the FBI, the CIA, and the ODNI. SLF sought records related to the now-infamous Clinton-funded Steele Dossier that the IC used to allege that Vladimir Putin and the Russian government “‘aspired to help President-elect Trump’s election chances”⁷ in the 2016 election, and to obtain Foreign Intelligence Surveillance Act (FISA) warrants to spy on the 2016 Trump campaign.

After all three agencies ignored SLF’s FOIA requests, SLF filed lawsuits in federal court to obtain the records. Months went by without the production of a single document. In February 2021, the ODNI produced a single, two-page document discussing the alleged reliability of the Steele Dossier. The IC failed to produce any other documents and represented to both SLF and the court that no further responsive documents existed. Based on these representations, it appeared that nothing further could be obtained through litigation, so all three lawsuits were dismissed.

But the 2025 reports by DNI Tulsi Gabbard and DCIA John Ratcliffe show those representations were false. These bombshell reports establish that the IC fraudulently concealed responsive communications about the Steele Dossier from SLF, the courts, and the American people. Not only did additional responsive documents exist, but those at the highest levels of our government knew the documents existed and failed to produce them as required by law.

Relevant to SLF’s investigation request, DNI Gabbard’s reports declassified: (1) whistleblower evidence about the 2017 ICA that rewrote post-election IC conclusions on Russia; and (2) the House Permanent Select Committee on Intelligence (HPSCI) Report about the ICA.⁸

⁴ *Tradecraft Review* at 5, 7.

⁵ *Id.*

⁶ Southeastern Legal Foundation (slfliberty.org) rebuilds the American Republic by reclaiming civil liberties, protecting free speech, securing property rights, and restoring constitutional balance. Since 1976, SLF sets lasting precedent both in and out of the courtroom to preserve and protect Americans’ rights under our Constitution through legal action against the government and vital constitutional programs to educate and equip Americans.

⁷ *Report* at 84 (2017 ICA, *Assessing Russian Activities and Intentions in Recent US Elections*, at ii).

⁸ *See Russia Hoax Memo, Report, and Oversight Investigation & Referral.*

In the declassified whistleblower evidence, the whistleblower specifically discusses SLF's FOIA requests, claims that he or she possessed responsive documents, and accuses IC leaders of hiding the Steele Dossier and related materials in top-secret channels.⁹ The HPSCI Report corroborates the whistleblower's claims that responsive documents existed and were hidden.¹⁰ Notably, the HPSCI Report itself discusses "drafting" and "memos" about the Steele Dossier that the IC failed to produce in response to SLF's FOIA requests.¹¹

DCIA John Ratcliffe's newly released tradecraft analysis of the ICA identifies specific written communications about the Steele Dossier that the IC also failed to produce.¹² These include communications about the Dossier between the CIA and FBI¹³ and internal CIA emails with former DCIA John Brennan.¹⁴

For inexplicable reasons, the IC withheld all of these responsive documents from SLF, the court, and the American people, representing that nothing other than the single, two-page document produced existed. We now know this was a lie. We now know that not only did the IC use the Steele Dossier to commit massive fraud on the American public and destroy the lives of innocent Americans, but that in 2019, when SLF sought to expose this fraud, the IC continued to cover it up by falsely stating no documents existed.

In short, the IC knew it had documents responsive to SLF's requests and concealed them anyway. This is the essence of arbitrary and capricious withholding of information, which violates FOIA and breaches the trust of the American people. Congress has charged OSC with the power to investigate such breaches and to send the proof to the President and Attorney General for appropriate action. SLF therefore requests that OSC investigate the arbitrary and capricious withholding of information by the IC contrary to 5 U.S.C. § 552(a)(3) so that those at the highest level of government are held accountable.

**Background: The Steele Dossier impacted the January 2017
Intelligence Community Assessment on Russian election interference**

As referenced above, the Steele Dossier is "a secretly funded collection of made-up stories and gossip alleging that Russia had dirt on Trump and that Trump was colluding with Russia against the United States."¹⁵ The Clinton-funded document served as the basis for allegations that Russia

⁹ See *Russia Hoax Whistleblower Records*.

¹⁰ See *Oversight Investigation & Referral*.

¹¹ *Id.* at 23–25.

¹² *Tradecraft Review* at 4–7.

¹³ *Id.* at 4.

¹⁴ *Id.* at 4–7.

¹⁵ Mollie Hemingway, *The Significance of the Recently Released Russia Hoax Documents*, *Imprimis*, Sept. 2025 (Vol. 54, Issue 9), <https://perma.cc/GJQ6-J6QC>.

interfered with the 2016 election to help then-presidential candidate Donald J. Trump. It resulted in FISA warrants to spy on the Trump campaign, investigations into innumerable individuals associated with Trump, and the witch hunt that America watched unfold that culminated in the impeachment of President Trump. Entire books are devoted to the Russia hoax and the Steele Dossier. But certain key facts demonstrate why OSC should investigate the IC's arbitrary and capricious withholding of documents sought by SLF through its three FOIA requests.

First, DNI Gabbard's reports show that the IC altered its conclusions about Russian interference in the 2016 election because of the Steele Dossier and related meetings and discussions.

As early as September 9, 2016, top intelligence officials had concluded that "Russia probably is not (and will not [sic]) trying to influence the election by using cyber means to manipulate computer-enabled election infrastructure."¹⁶

Then, for the entire first month after the American people elected Donald J. Trump as their 45th president, the IC maintained that Russia did not influence the 2016 election by cyber means. Indeed, on December 7, 2016, the IC said internally that no foreign adversary attacked U.S. election infrastructure¹⁷:

ACTIVITY ON AND SINCE ELECTION DAY

██████████ We assess that foreign adversaries did not use cyber attacks on election infrastructure to alter the US Presidential election outcome this year.

- We have no evidence of cyber manipulation of election infrastructure intended to alter results.

The December 8, 2016 President's Daily Brief draft that followed recognized that Russian "cyber-enabled data leaks during the election . . . probably were intended to cause psychological effects, such as undermining the credibility of the election process and candidates."¹⁸ The President's Daily Brief was otherwise silent about that conclusion, which mirrored a September 2016 ICA that predicted that "Russia, China, Iran, and North Korea" might attempt to "undermin[e] public confidence in the election."¹⁹

¹⁶ Report at 11 (Email among IC re: "Russia and the US Elections," at 2 (Sept. 9, 2016, at 12:58 PM)).

¹⁷ Id. at 41 (Email internal to DNI re: "ACTION: NIOs - DNI TPs for 12/9 Restricted PC on Russia-Cyber - Due 1500 Thursday," at 1 (Dec. 7, 2016, at 2:09 PM)).

¹⁸ Id. at 44 (Pulled December 8, 2016 President's Daily Briefing draft, at 1).

¹⁹ Id. at 17 (2016 ICA, *Cyber Threats to the 2016 US Presidential Election*, at i).

But after the National Security Council Principals Committee—including DNI James Clapper, DCIA John Brennan, Secretary of State John Kerry, Attorney General Loretta Lynch, and FBI Deputy Director Andrew McCabe, among others—met to discuss Russia with former President Barack Obama on December 9, 2016,²⁰ the IC changed its assessment. At that meeting, President Obama ordered the IC to re-evaluate its Russia conclusions²¹:

██████ The IC is prepared to produce an assessment per the President's request, that pulls together the information we have on the tools Moscow used and the actions it took to influence the 2016 election, an explanation of why Moscow directed these activities, and how Moscow's approach has changed over time, going back to 2008 and 2012 as reference points. ODNI will lead the effort with participation from CIA, FBI, NSA, and DHS.

The IC understood the assignment and went to work. It re-evaluated Russia's alleged interference in the election and sought support for the ultimate conclusion that Russia had engaged in a broad cyber-influence campaign intended to support Trump and thus directly influence the 2016 election.²² As part of that revisionist effort, the IC added the Steele Dossier into the mix.²³ It became a key document supporting the changes to the ICA.²⁴

Communications that were originally withheld from the public despite SLF's FOIA requests, but have now been released in DNI Gabbard's reports, make clear that the Steele Dossier "was a factor in the 2017" Intelligence Community Assessment (ICA) ordered by Obama to reevaluate the IC's assessment²⁵:

Shelby believes this should be responded to by the NIC as the dossier was a factor in the 2017 ICA on the election interference in which an assessment of the document was added as an annex.

²⁰ *Id.* at 67 (*Summary of Conclusions for Meeting of the Principals Committee*).

²¹ *Id.* at 72 (Email among IC re: "POTUS Tasking on Russia Election Meddling," at 3 (Dec. 9, 2016)).

²² *See id.* at 87–97 (2017 ICA, *Russia's Influence Campaign Targeting the 2016 US Presidential Election*).

²³ *Oversight Investigation & Referral* at 23–25.

²⁴ *Tradecraft Review* at 4–7.

²⁵ *Report* at 111 (Email re: "ACTION REQUIRED: FOIA Search DF-2019-00269 (Hermann)" (Sept. 18, 2019, at 6:49 PM)).

The FBI not only considered the Steele Dossier to support the new and changed assessment, but it “insist[ed]” that the Dossier be included in the ICA.²⁶ In fact, FBI Director James Comey “told White House officials that ‘I thought it very important that it be included.’”²⁷

The inclusion of the Steele Dossier was essential to the revisionist judgment that Vladimir Putin “‘aspired’ to help Trump win.”²⁸ As the CIA now reports, that flawed conclusion was “bolstered” by the Dossier and otherwise “weakly supported.”²⁹ The 2017 ICA is remarkable for its sharp departure from its prior Russia conclusions and new focus on the Dossier-fueled Russian “influence campaign.”³⁰

Thus, at least two key changes exist between the 2016 assessments, which identified Russia’s efforts to influence *how Americans viewed the 2016 election process and results*, and the January 2017 ICA, which assessed that Putin aspired to help Trump and claimed that Russia intended to influence *the 2016 election itself*: President Obama’s directive and the Steele Dossier.

Given the Steele Dossier’s impact on the ICA’s focus and outcome, communications about the Dossier and its role in the ICA are indispensable to the American public. That is why SLF sought disclosure of these records. That is why it went to court for these records. And that is why now, after learning that the IC lied and did in fact have responsive documents, SLF requests this investigation.

SLF’s FOIA requests about the Steele Dossier and related litigation

On May 14, 2019, SLF submitted three FOIA requests for communications about the Steele Dossier—one each to FBI, CIA, and ODNI—as part of its ongoing work to ensure governmental integrity and expose government corruption.³¹ SLF sought, for example, to understand how the IC used the Dossier to obtain a FISA warrant to spy on Carter Page, a Trump 2016 campaign advisor.³²

In these requests, SLF sought communications from May 2016 through February 2017 between the offices of FBI Director James Comey, CIA Director John Brennan, and DNI James Clapper regarding the Steele Dossier.³³ The IC recipients stonewalled the requests and failed to respond within the time required by law.

²⁶ *Tradecraft Review* at 4.

²⁷ *Oversight Investigation & Referral* at 25.

²⁸ *Tradecraft Review* at 5, 7.

²⁹ *Id.*

³⁰ *Compare Report* at 44–50 (Pulled December 8, 2016 President’s Daily Briefing draft) *with Report* at 87–97 (2017 ICA, *Russia’s Influence Campaign Targeting the 2016 US Presidential Election*).

³¹ App. A (FBI), B (CIA), C (ODNI).

³² *E.g.*, App. A at 001–002 (FBI).

³³ App. A at 001 (FBI); App. B. at 004 (CIA); App. C. at 007 (ODNI).

Because they failed to respond, SLF filed suit against the FBI, CIA, and ODNI on July 2, 3, and 10, 2019, respectively.³⁴ The IC only responded after being sued. Even then, they concealed responsive communications about the Steele Dossier and claimed such communications did not exist:

- ODNI responded that “[o]ne responsive document was located” related to the Steele Dossier.³⁵ It turned over that single two-page document and asserted that “additional responsive records could not be located.”³⁶
- FBI claimed to find no responsive documents after it searched the “unclassified and classified email accounts of both [sic] former FBI Director James Comey, former Deputy Director Andrew McCabe, and former General Counsel James Baker.”³⁷
- CIA claimed that it searched all email communications sent to or from individuals who might have responsive communications and found none.³⁸

Relying on these representations, SLF stipulated to dismissal of the lawsuits. Since then, there has not been any action related to the lawsuits. But new revelations from the IC defendants show that they withheld communications from SLF.

**CIA’s Tradecraft Analysis reveals written communications
about the Steele Dossier withheld from SLF**

The CIA’s June 2025 tradecraft analysis shows that the IC withheld communications about the Steele Dossier from SLF.³⁹ The analysis refers to the following communications which were never produced:

- “The ICA authors first learned of the Dossier, and FBI leadership’s insistence on its inclusion, on 20 December—the same day the largely coordinated draft was entering the review process at CIA.”⁴⁰

³⁴ App. D (Compl., Dkt. No. 1, *Se. Legal Found., Inc. v. United States Dep’t of Justice*, No. 1:19-cv-03038-LMM (N.D. Ga. July 2, 2019)); App. E (Compl., Dkt. No. 1, *Se. Legal Found., Inc. v. Cent. Intel. Agency*, No. 1:19-cv-03054-SCJ (N.D. Ga. July 3, 2019)); App. F (Compl., Dkt. No. 1, *Se. Legal Found., Inc. v. Off. of the Dir. of Nat’l Intel.*, No. 1:19-cv-03144-JPB (N.D. Ga. July 10, 2019)).

³⁵ App. J at 051 (Letter from Sally Nicholson to Kimberly Hermann, Feb. 10, 2021).

³⁶ App. J at 058–059 (produced document); App. I at 047 (Joint Stip. of Dismissal with Prejudice, at 3, Dkt. No. 43, *Se. Legal Found., Inc. v. Off. of the Dir. of Nat’l Intel.*, No. 1:19-cv-03144-JPB (N.D. Ga. Feb. 11, 2021)).

³⁷ App. G at 034–036 (Joint Stip. of Dismissal with Prejudice, at 2–4, Dkt. No. 30, *Se. Legal Found., Inc. v. United States Dep’t of Justice*, No. 1:19-cv-03038-LMM (N.D. Ga. Aug. 31, 2020)).

³⁸ App. H at 041–042 (Joint Stip. of Dismissal with Prejudice, at 2–3, Dkt. No. 22, *Se. Legal Found., Inc. v. Central Intel. Agency*, No. 1:19-cv-03054-SCJ (N.D. Ga. June 9, 2020)).

³⁹ *Tradecraft Review* at 4–7.

⁴⁰ *Id.* at 4.

- OSC should investigate whether the ICA authors were referring here to written communications SLF did not receive—how did they “learn” of the Dossier? If they “learned of” the Dossier by written communication, then the IC failed to produce them to SLF or acknowledge their existence in withholding sheets or a *Vaughn* index.
- “FBI leadership made it clear that their participation in the ICA hinged on the Dossier’s inclusion and, over the next few days, repeatedly pushed to weave references to it throughout the main body of the ICA.”⁴¹
 - OSC should investigate to determine whether any written records reflect or relate to these “pushes.” If they did, the IC failed to produce them to SLF or acknowledge their existence in withholding sheets or a *Vaughn* index.
- “CIA’s Deputy Director for Analysis (DDA) warned in an email to Brennan on 29 December that including [the Dossier] in any form risked ‘the credibility of the entire paper.’”⁴²
 - The IC failed to produce this email to SLF or acknowledge its existence in withholding sheets or a *Vaughn* index.
- “Brennan ultimately formalized his position in writing, stating that ‘my bottomline [sic] is that I believe that the information warrants inclusion in the report.’”⁴³
 - The IC failed to produce this writing to SLF or acknowledge its existence in withholding sheets or a *Vaughn* index.
- “The two senior leaders of the CIA mission center responsible for Russia argued . . . [i]n an email to Brennan on 30 December . . . [that] the [“aspire”] judgment should be removed because it was both weakly supported and unnecessary”⁴⁴ The “aspire judgment” was “bolster[ed] . . . by referencing the unsubstantiated Steele Dossier material”⁴⁵
 - The IC failed to produce this December 30 email or acknowledge its existence in withholding sheets or a *Vaughn* index.

None of the IC defendants produced any of these communications to SLF in response to its FOIA requests or acknowledged their existence in any way to SLF or the court. Thus, the communications were improperly withheld. OSC should investigate this arbitrary and capricious withholding of responsive documents.

⁴¹ *Id.*

⁴² *Id.* at 4–5.

⁴³ *Id.* at 5.

⁴⁴ *Id.* at 7.

⁴⁵ *Id.*

**ODNI's whistleblower evidence calls for investigation into
the concealment and withholding of documents**

DNI Gabbard declassified whistleblower evidence in July 2025 and issued a report that also shows that the IC defendants withheld documents responsive to SLF's FOIA requests. The declassified whistleblower materials show that the IC communicated about and used the Steele Dossier in the 2017 ICA. In fact, SLF's FOIA requests caused the whistleblower to state concerns about the use of the Steele Dossier in the ICA.

The now-declassified documents show that SLF's FOIA request, made by SLF's Kimberly Hermann, was circulated within ODNI on September 18, 2019. The internal document reads⁴⁶:

The IMD/FOIA Branch received a FOIA request from Kimberly Hermann, **FOIA case DF-2019-00269**, which is now in litigation in the United States District Court for the Northern District of Georgia, Atlanta Division, as **Civil Action 19-cv-03144**.

Please review the attached request. If, after reviewing the attached request, you are unclear of what is being asked for, or need assistance formulating your search, reach out to the FOIA branch. We recommend utilizing the search terms 'Steele dossier' and 'Steele report' from 1 May 2016 through 28 February 2017.

That same day, an ODNI employee responded that the National Intelligence Council⁴⁷ (NIC) should respond because the IC used the Steele Dossier in creating the 2017 ICA. The internal response read⁴⁸:

Shelby believes this should be responded to by the NIC as the dossier was a factor in the 2017 ICA on the election interference in which an assessment of the document was added as an annex.

⁴⁶ Report at 113 (Email internal to DNI re: "ACTION REQUIRED: FOIA Search DF-2019-00269 (Hermann); due COB 25 September 2019" (Sept. 18, 2019, at 2:02 PM)).

⁴⁷ The National Intelligence Council serves ODNI as a "bridge between the intelligence and policy communities." See *National Intelligence Council*, Off. of the Dir. of Nat'l Intel, <https://perma.cc/85ER-CS44>.

⁴⁸ Report at 111 (Email re: "ACTION REQUIRED: FOIA Search DF-2019-00269 (Hermann)" (Sept. 18, 2019, at 6:49 PM)).

Hearing that the Steele Dossier “was a factor” alarmed the IC whistleblower, who worked on the ICA. If NIC used the Steele Dossier for the ICA, then the whistleblower was “intentionally deceived and excluded [] from things [he or she] was cleared for and had need to know”⁴⁹:

3. IF the Dossier material WAS used by the NIC, *unless* it is also compartmented, my NIO intentionally deceived and excluded me from things I was cleared for and had need to know, throughout his entire tenure here. I prefer to think that isn't true, but if it was, we have a problem.

In other words, the whistleblower asserts that he or she should have known of the use of the Steele Dossier but didn't. OSC should therefore investigate to determine whether the Steele Dossier and related communications were arbitrarily hidden “in [Compartment Access Programs] CAP channels.”⁵⁰

The whistleblower also stated that he or she possessed “potentially responsive documents” responsive to SLF's FOIA.⁵¹ The use of “documents” rendered in the plural implies that ODNI's production of a “single, two-page document” was incomplete.⁵²

At a minimum, the whistleblower's statements demonstrate the following:

- The Steele Dossier was used in the 2017 ICA unbeknownst to top IC Russia analysts;
- The Dossier had to be improperly hidden to accomplish that subterfuge; and
- The whistleblower had “documents,” plural, responsive to SLF's requests, but SLF received only a single, two-page document.

OSC should investigate to determine what documents ODNI held, including the whistleblower's references, that were not produced to SLF.

The HPSCI Report shows that the IC wrote drafts and memos about the Steele Dossier, which itself was included in the 2017 ICA

The HPSCI report declassified by DNI Gabbard further reveals that the IC wrote memos about the Steele Dossier and coordinated drafts of the ICA using it. SLF never received any such memos or written coordination. This supports a finding that the IC intentionally withheld responsive documents.

⁴⁹ *Id.* at 109 (Email internal to DNI re: “ACTION REQUIRED: FOIA Search DF-2019-00269 (Hermann)” (Sept. 19, 2019, at 10:57 AM)).

⁵⁰ *Russia Hoax Whistleblower Records* at 11, 15.

⁵¹ *Id.* at 15.

⁵² *Compare id. with* App. I at 047 (ODNI Joint Stip. of Dismissal with Prejudice, at 3) (“single, two-page document”).

In July 2025, DNI Gabbard released the HPSCI’s September 18, 2020 review of the 2017 ICA.⁵³ This report confirms that “the dossier was referenced in the ICA main body text, and further detailed in a two-page ICA annex”⁵⁴

The HPSCI report also shows that memos and other evidence of coordination were not produced to SLF. The report notes that “[t]he lead author of [the 2017] ICA, a CIA officer, said that he drafted the Annex A *in coordination with FBI*, even though FBI had provided the dossier information via *a memo* from their Assistant Director, Counterintelligence Division.”⁵⁵ SLF never received any such FBI memo, and OSC should also investigate to determine the extent to which this “coordination with FBI” was in writing.

Similarly, whether to include the Dossier in the ICA was “debated for several days” among “upper levels [at FBI and CIA],” who “decided to put it in.”⁵⁶ FBI Director James Comey himself authored a *memo* about the Steele Dossier.⁵⁷ He stated: “I thought it very important that it be included.”⁵⁸ There were therefore “drafts” and “memos” about the Steele Dossier not produced in response to SLF’s FOIA request. OSC should also investigate to determine the extent to which the upper level “debate” was put in writing.

Finally, the HPSCI report shows that a senior CIA officer informed the HPSCI that “DCIA [Brennan] refused to remove [the Steele Dossier from the 2017 ICA], and when confronted with the dossier’s many flaws, [Brennan] responded, ‘Yes, but doesn’t it ring true?’”⁵⁹ OSC should also investigate whether CIA or others failed to produce to SLF any written communications showing Brennan’s statement.

**The IC’s intentional withholding of documents responsive
to SLF’s FOIA requests calls for an OSC investigation**

Congress has entrusted OSC to investigate arbitrary and capricious withholding of responsive documents under FOIA. The IC defendants’ withholding of responsive documents is, at a bare minimum, arbitrary and capricious—if not intentional. SLF therefore respectfully requests that OSC investigate the three agencies in question—FBI, CIA, and ODNI—and determine whether the agencies and their principals or employees arbitrarily and capriciously, or even intentionally, concealed responsive government records.

⁵³ See generally *Oversight Investigation & Referral*.

⁵⁴ *Id.* at 23.

⁵⁵ *Id.* (emphasis added).

⁵⁶ *Id.* at 24–25 (alteration in original).

⁵⁷ *Id.* at 25.

⁵⁸ *Id.*

⁵⁹ *Id.* at 24 (emphasis in original).

First, OSC has the authority to “conduct an investigation of any allegation concerning . . . arbitrary or capricious withholding of information prohibited under section 552”⁶⁰ OSC’s ability to investigate is triggered by “receiv[ing] an allegation” of this kind.⁶¹

Second, where OSC substantiates the allegations giving rise to the investigation, it can “seek corrective action under section 1214 and disciplinary action under section 1215 in the same way as if a prohibited personnel practice were involved.”⁶²

Corrective action under section 1214 might include a “report [of OSC’s] determination, findings, and recommendations to the President.”⁶³ It might also include referral for criminal investigation, or a report of abuse of authority, to the Attorney General.⁶⁴

Disciplinary action under section 1215 might include, after order of the Merit Systems Protection Board, “removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, . . . reprimand,” and “an assessment of a civil penalty not to exceed \$1,000.”⁶⁵

For those “appointed by the President, by and with the advice and consent of the Senate”—such as the DNI, the FBI Director, and the DCIA—OSC’s determination that disciplinary action should be taken “shall be presented to the President for appropriate action.”⁶⁶

Third, a finding that the IC defendants intentionally concealed documents responsive to SLF’s request would satisfy the “arbitrary and capricious” standard.⁶⁷ Such a finding would be sufficient to seek corrective or disciplinary action for the responsible parties.

⁶⁰ 5 U.S.C. § 1216(a)(3); *accord Am. First Legal Found. v. Kerner*, Case No. 22-cv-3576 (APM), 2023 U.S. Dist. LEXIS 234966, at *8 (D.D.C. Sept. 29, 2023).

⁶¹ 5 U.S.C. § 1216(c).

⁶² *Id.*

⁶³ 5 U.S.C. § 1214(b)(2)(B); *accord Weber v. United States*, 209 F.3d 756, 759 (D.C. Cir. 2000) (citing 5 U.S.C. § 1214(b)(2)(B) for OSC’s reporting power).

⁶⁴ 5 U.S.C. § 1214(d)(1) (OSC “shall report” any determination of “reasonable cause to believe that a criminal violation has occurred” to the Attorney General); *see also* 5 U.S.C. § 1212(a)(3) (OSC may “forward to the Attorney General . . . disclosures of . . . violations of any law . . . [or] an abuse of authority”).

⁶⁵ 5 U.S.C. § 1215(a)(3)(A).

⁶⁶ 5 U.S.C. § 1215(b).

⁶⁷ *Animal Legal Def. Fund, Inc. v. Perdue*, 872 F.3d 602, 619 (D.C. Cir. 2017) (quoting *Mo. Pub. Serv. Comm’n v. FERC*, 337 F.3d 1066, 1075 (D.C. Cir. 2003)) (“Reliance on facts that an agency knows are false at the time it relies on them is the essence of arbitrary and capricious decisionmaking.”); *Friends of Bell Smith Springs v. United States Forest Serv.*, No. 3:25-CV-01377-NJR, 2025 U.S. Dist. LEXIS 178312, at *17 (S.D. Ill. Sep. 11, 2025) (“a decision based on entirely false information is clearly arbitrary and capricious”).

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The evidence discussed above and in the reports far surpasses the “allegation” showing needed for an OSC investigation. The parties served with FOIA requests by SLF in May 2019—FBI, CIA, and DNI—withheld communications related to the Steele Dossier that they knew existed. SLF expects an investigation to prove arbitrary and capricious, intentional withholding of information that violated 5 U.S.C. § 552. SLF requests that OSC investigate this matter.

After OSC investigates and sustains these allegations, it should pursue corrective or disciplinary action. If OSC investigates and finds that employees “in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President” have arbitrarily and capriciously withheld documents responsive to SLF’s FOIA requests, those findings should be “presented to the President for appropriate action.”⁶⁸

Conclusion

SLF asked for documents related to the Steele Dossier in three May 2019 FOIA requests to FBI, CIA, and ODNI. It received only a single, two-page document. The IC defendants represented that they had nothing more to give. But based on DNI Gabbard and DCIA Ratcliffe’s reports, there was much more to give. SLF therefore respectfully requests that OSC investigate the IC defendants’ withholding of information in violation of 5 U.S.C. § 552 and, upon sustaining SLF’s allegations, take appropriate corrective and disciplinary action against those responsible.

Thank you for your consideration of these allegations. Should you have any questions or wish to discuss this matter further, you can reach me by email at kherrmann@southeasternlegal.org.

Yours in Freedom,



Southeastern Legal Foundation
Kimberly S. Hermann

cc: The Honorable Pam Bondi
United States Attorney General

The Honorable Kash Patel
Director of the Federal Bureau of Investigation

The Honorable Tulsi Gabbard
Director of National Intelligence

The Honorable John Ratcliffe
Director of the Central Intelligence Agency

⁶⁸ 5 U.S.C. § 1215(b); *see also* 5 U.S.C. § 1214(b)(2)(B).

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Appendix A



SOUTHEASTERN LEGAL FOUNDATION
Rebuilding the American Republic®

May 14, 2019

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Tracking No. 7016 2710 0000 1861 4569

Federal Bureau of Investigation
Attn: FOI/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

RE: Freedom of Information Act Request

Dear Sir or Madam:

Southeastern Legal Foundation (SLF) is one of the country's leading nonprofit public interest law firms and policy centers. Now in its 43rd year, SLF undertakes research on policy issues of interest to the general public. SLF is actively engaged in an inquiry into potential abuse of the FISA application process.

Request

For the time period May 2016 through February 2017, please produce the following:

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of Central Intelligence, including but not limited to former CIA Director John Brennan, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the "Steele Dossier."

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the "Steele Dossier."

Format of Production

Pursuant to 5 U.S.C. § 552(a)(3)(B), SLF requests that the production of any and all responsive records be made electronically. Please email any and all responsive records

to khermann@southeasternlegal.org. SLF is willing to receive responsive records on a rolling basis, if needed, to expedite production and response. If this is not possible, please let us know with an explanation of the reason for any delay. If any or all of the production is refused based on some privilege or other legal ground, please set forth the legal basis for the denial so that SLF may properly address the denial.

Request for a Fee Waiver

SLF makes this request for records pursuant to Freedom of Information Act, 5 U.S.C. § 552, *et seq.* Accordingly, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), SLF requests that the agency furnish the records without charge. While a court is ultimately not required to defer to an agency's interpretation of the FOIA, in anticipation of a request for additional information, we have organized our fee waiver justification to coincide with the six factors listed in the 1987 fee waiver policy guide memorandum by then-Assistant Attorney General Stephen J. Markman to determine whether disclosure is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

Disclosure is in the public interest.

The first factor is satisfied because the subject of the request concerns identifiable operations or activities of the FBI, the CIA, and the ODNI. "[T]he phrase 'operations and activities' should be broadly construed." 132 Cong. Rec. S16496 (Oct. 15, 1986) (Sen. Leahy). This request directly implicates the FBI, CIA, and ODNI's roles in obtaining, reviewing, disseminating, and relying on the Steele Dossier which was used, at least in part, to secure a FISA Application targeting Carter Page.

The second factor is satisfied because the requested records have significant informative value into the operations and activities of the FBI, CIA, and ODNI. Communications regarding the Steele Dossier are of the utmost interest to the American public.

The third factor is satisfied because the requested records will contribute to "public understanding" because SLF will disseminate the requested information to the largest audience possible by disseminating it through the following various mediums: 1) its publicly available website (www.slfliberty.org) which combined receive nearly one million hits per year; 2) its regular mailings (averaging one mailing per week for a total of approximately three million per year) to interested parties providing educational information on the operations and activities of FBI, CIA, and ODNI; 3) its bi-annual or quarterly newsletters to interested parties, totaling approximately ten to twenty thousand per year, also providing educational information on the operations and activities of OIA; 4) regular spots on a wide-variety of radio programs; 5) spots on television programs; 6) frequent op-eds that run in national newspapers; 7) legislative testimony; 8) participation in legal and policy panels; and 9) SLF's various social media

accounts. SLF's methods of dissemination, combined with its 43-year reputation as one of the nation's leading constitutional public interest law firms and policy centers, supports granting SLF's fee waiver request.


The fourth factor is satisfied because the requested records will "significantly" contribute to the public understanding of the FBI, CIA, and ODNI's treatment of the Steele Dossier. While certain facets may be publicly available, the communications between Comey and Brennan are not. See *Forest Guardians v. DOI*, 416 F.3d 1173 (10th Cir. 2005) (noting that piecemeal records available through court filings throughout the country, various websites, and a wide-variety of newspapers throughout the country does not make information "publicly available"). The records have the potential to reveal information that is not publicly available in any meaningful way regarding the operations of the federal agencies.

No commercial interest.

Disclosure of the requested records is not in the commercial interest of SLF because the Foundation has absolutely no commercial or financial interest in the requested information, and would receive no pecuniary benefit from the information sought. SLF is a nonprofit public interest law firm and policy center specializing in the practice of constitutional law.

If you deny all or any part of this request, please cite each specific exemption and legal ground you believe justifies your withholding of information, including notification of appeal procedures available under the law. If you have any questions about handling this request, you may reach me at the telephone number listed below.

Sincerely,



Kimberly S. Hermann
General Counsel
Southeastern Legal Foundation
kherrmann@southeasternlegal.org
(770) 977-2131

Appendix B



SOUTHEASTERN LEGAL FOUNDATION

Rebuilding the American Republic®

May 14, 2019

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Tracking No. 7016 2710 0000 1861 4644

Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

RE: Freedom of Information Act Request

Dear Sir or Madam:

Southeastern Legal Foundation (SLF) is one of the country's leading nonprofit public interest law firms and policy centers. Now in its 43rd year, SLF undertakes research on policy issues of interest to the general public. SLF is actively engaged in an inquiry into potential abuse of the FISA application process.

Request

For the time period May 2016 through February 2017, please produce the following:

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of Central Intelligence, including but not limited to former CIA Director John Brennan, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the "Steele Dossier."

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the "Steele Dossier."

Format of Production

Pursuant to 5 U.S.C. § 552(a)(3)(B), SLF requests that the production of any and all responsive records be made electronically. Please email any and all responsive

560 W. Crossville Road • Suite 104 • Roswell, GA 30075-7509 • (770) 977-2131

www.SLFLiberty.org

SLF_004

APPENDIX B

records to kherrmann@southeasternlegal.org. SLF is willing to receive responsive records on a rolling basis, if needed, to expedite production and response. If this is not possible, please let us know with an explanation of the reason for any delay. If any or all of the production is refused based on some privilege or other legal ground, please set forth the legal basis for the denial so that SLF may properly address the denial.

Request for a Fee Waiver

SLF makes this request for records pursuant to Freedom of Information Act, 5 U.S.C. § 552, *et seq.* Accordingly, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), SLF requests that the agency furnish the records without charge. While a court is ultimately not required to defer to an agency's interpretation of the FOIA, in anticipation of a request for additional information, we have organized our fee waiver justification to coincide with the six factors listed in the 1987 fee waiver policy guide memorandum by then-Assistant Attorney General Stephen J. Markman to determine whether disclosure is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

Disclosure is in the public interest.

The first factor is satisfied because the subject of the request concerns identifiable operations or activities of the FBI, the CIA, and the ODNI. "[T]he phrase 'operations and activities' should be broadly construed." 132 Cong. Rec. S16496 (Oct. 15, 1986) (Sen. Leahy). This request directly implicates the FBI, CIA, and ODNI's roles in obtaining, reviewing, disseminating, and relying on the Steele Dossier which was used, at least in part, to secure a FISA Application targeting Carter Page.

The second factor is satisfied because the requested records have significant informative value into the operations and activities of the FBI, CIA, and ODNI. Communications regarding the Steele Dossier are of the utmost interest to the American public.

The third factor is satisfied because the requested records will contribute to "public understanding" because SLF will disseminate the requested information to the largest audience possible by disseminating it through the following various mediums: 1) its publicly available website (www.slfliberty.org) which combined receive nearly one million hits per year; 2) its regular mailings (averaging one mailing per week for a total of approximately three million per year) to interested parties providing educational information on the operations and activities of FBI, CIA, and ODNI; 3) its bi-annual or quarterly newsletters to interested parties, totaling approximately ten to twenty thousand per year, also providing educational information on the

operations and activities of OIA; 4) regular spots on a wide-variety of radio programs; 5) spots on television programs; 6) frequent op-eds that run in national newspapers; 7) legislative testimony; 8) participation in legal and policy panels; and 9) SLF's various social media accounts. SLF's methods of dissemination, combined with its 43-year reputation as one of the nation's leading constitutional public interest law firms and policy centers, supports granting SLF's fee waiver request.

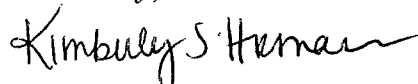
The fourth factor is satisfied because the requested records will "significantly" contribute to the public understanding of the FBI, CIA, and ODNI's treatment of the Steele Dossier. While certain facets may be publicly available, the communications between Comey and Brennan are not. See *Forest Guardians v. DOI*, 416 F.3d 1173 (10th Cir. 2005) (noting that piecemeal records available through court filings throughout the country, various websites, and a wide-variety of newspapers throughout the country does not make information "publicly available"). The records have the potential to reveal information that is not publicly available in any meaningful way regarding the operations of the federal agencies.

No commercial interest.

Disclosure of the requested records is not in the commercial interest of SLF because the Foundation has absolutely no commercial or financial interest in the requested information, and would receive no pecuniary benefit from the information sought. SLF is a nonprofit public interest law firm and policy center specializing in the practice of constitutional law.

If you deny all or any part of this request, please cite each specific exemption and legal ground you believe justifies your withholding of information, including notification of appeal procedures available under the law. If you have any questions about handling this request, you may reach me at the telephone number listed below.

Sincerely,



Kimberly S. Hermann
General Counsel
Southeastern Legal Foundation
khermann@southeasternlegal.org
(770) 977-2131

Appendix C



SOUTHEASTERN LEGAL FOUNDATION
Rebuilding the American Republic®

May 14, 2019

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Tracking No. 7016 2710 0000 1861 4576

Patricia Gaviria

Director, Information Management Division

Attn: FOIA/PA

Office of Director of National Intelligence

Washington, DC 20511

RE: Freedom of Information Act Request

Dear Sir or Madam:

Southeastern Legal Foundation (SLF) is one of the country's leading nonprofit public interest law firms and policy centers. Now in its 43rd year, SLF undertakes research on policy issues of interest to the general public. SLF is actively engaged in an inquiry into the FISA application process.

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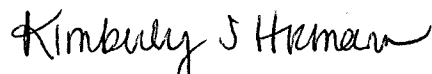
The fourth factor is satisfied because the requested records will "significantly" contribute to the public understanding of the FBI, CIA, and ODNI's treatment of the Steele Dossier. While certain facets may be publicly available, the communications between Comey and Brennan are not. See *Forest Guardians v. DOI*, 416 F.3d 1173 (10th Cir. 2005) (noting that piecemeal records available through court filings throughout the country, various websites, and a wide-variety of newspapers throughout the country does not make information "publicly available"). The records have the potential to reveal information that is not publicly available in any meaningful way regarding the operations of the federal agencies.

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Disclosure of the requested records is not in the commercial interest of SLF because the Foundation has absolutely no commercial or financial interest in the requested information, and would receive no pecuniary benefit from the information sought. SLF is a nonprofit public interest law firm and policy center specializing in the practice of constitutional law.

If you deny all or any part of this request, please cite each specific exemption and legal ground you believe justifies your withholding of information, including notification of appeal procedures available under the law. If you have any questions about handling this request, you may reach me at the telephone number listed below.

Sincerely,



Kimberly S. Hermann
General Counsel
Southeastern Legal Foundation
khermann@southeasternlegal.org
(770) 977-2131

Appendix D

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION, INC.,

Plaintiff,

V.

UNITED STATES
DEPARTMENT OF JUSTICE,

Defendant.

)
)
)
) CIVIL ACTION
)
) FILE NO. _____
)
)
)
)
)
)

COMPLAINT

Plaintiff Southeastern Legal Foundation, Inc. (SLF), for its Complaint against Defendant United States Department of Justice (DOJ), states as follows:

INTRODUCTION

1. The Freedom of Information Act (the FOIA), 5 U.S.C. § 552, enacted in 1966, provides the public with a right of access to federal agency records.

2. The people must know what the government is doing. “Open government has been recognized as the best insurance that government is being conducted in the public interest.”¹ Our Founding Fathers’ commitment to open

¹ *Am. Fed'n of Gov't Emp.'s v. Rosen*, 418 F. Supp. 205, 207 (N.D. Ill. 1976).

government and the public's right to information can be seen in the First Amendment, which "protects not only the right of citizens to speak and publish, but also to receive information."² The FOIA is "an affirmative congressional effort to give meaningful content to constitutional freedom of expression." *See* S. Rep. No. 93-854, at 153-54 (May 16, 1974).

3. This is an action brought pursuant to the FOIA to compel Defendant to produce records responsive to an outstanding FOIA request submitted to the Federal Bureau of Investigation (FBI), a component of Defendant, on May 14, 2019.

4. In its FOIA request, SLF sought public records relating to communications regarding the collection of memos known as the "Steele Dossier."

5. Defendant has failed to meet the statutory deadline for its response in the form of a determination to the FOIA request dated May 14, 2019 and received by Defendant on May 20, 2019, because it failed to respond within twenty days (not including weekends and federal holidays).³ *See* 5 U.S.C. § 552(a)(6)(A)(i). Thirty-

² *Providence Journal Co. v. FBI*, 460 F. Supp. 762, 776 (D.R.I. 1978) (overturned on other grounds).

³ DOJ's regulations state that "[w]henver the statutory time limit for processing a request cannot be met because of 'unusual circumstances,' as defined in the FOIA, and the component extends the time limit on that basis, the component shall, before expiration of the 20-day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which processing of the request can be expected to be completed. Where the extension exceeds 10 working days, the

one days not including weekends and federal holidays have lapsed since Defendant received the FOIA Request. The FOIA allows Defendant to request a ten day extension, which it failed to do. *See* 5 U.S.C. §552(a)(6)(B)(i). Regardless, the statutory time limit for an extension has also lapsed.

6. Accordingly, SLF files this lawsuit to compel Defendant to comply with the FOIA.

THE PARTIES

7. Plaintiff Southeastern Legal Foundation is a national nonprofit, public interest law firm and policy center that advocates constitutional individual liberties, limited government, and free enterprise in the courts of law and public opinion. SLF's programs include analysis, publication, and a transparency initiative seeking public records relating to communications regarding the "Steele Dossier."

8. Defendant Department of Justice is a federal agency headquartered in Washington, D.C. Defendant has possession, custody, and control of the records to which SLF seeks access.

component shall, as described by the FOIA, provide the requester with an opportunity to modify the request or arrange an alternative time period for processing." 28 C.F.R. 16.5(c).

JURISDICTION AND VENUE

9. SLF brings this lawsuit pursuant to the FOIA. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B), because this action is brought in the district in which SLF has its principal place of business, and 28 U.S.C. § 1331, because the resolution of disputes under the FOIA presents a federal question.

10. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B), because this action is brought in the district in which SLF has its principal place of business, and 28 U.S.C. § 1391(e), because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of Georgia.

FACTUAL BACKGROUND

11. In a letter dated May 14, 2019, SLF submitted a FOIA request by certified mail to the FBI (the FOIA Request).

12. In the FOIA Request, SLF sought the following records:

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of Central Intelligence, including but not limited to former CIA Director John Brennan, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the “Steele Dossier.”

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of

the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the “Steele Dossier.”

13. SLF sought a waiver of search, review, and reproduction fees pursuant to the FOIA (5 U.S.C. § 552(a)(4)(A)(iii)) because the information sought was in the public interest, was likely to contribute to public understanding of the operations and activities of government, and because SLF had no commercial interest in the information.

14. The United States Postal Service (USPS) Tracking System shows that the FBI received the FOIA Request on May 20, 2019.

15. The FBI responded to SLF’s request in two letters, both dated June 6, 2019.

16. The first FBI letter dated June 6, 2019, advised SLF that its request for “all records of communication between ODNI Director James Clapper and FBI Director James Comey on collection of Christopher Steele memos (May 2016 to February 2017)” had been designated as FOIPA Request No. 1437642-000.

17. The second FBI letter dated June 6, 2019, advised SLF that its request for “all records of communication between CIA Director John Brennan and FBI Director James Comey on collection of Christopher Steele memos (May 2016 to February 2017)” had been designated as FOIPA Request No. 1437636-000.

18. At the time of this Complaint, 31 days, excluding weekends and federal holidays, have now lapsed since the FBI received the FOIA Request on May 20, 2019.

19. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SLF is deemed to have exhausted its administrative remedies with respect to the FOIA Request.

COUNT I
(Violation of the FOIA, 5 U.S.C. § 552)

20. SLF realleges paragraphs 1 through 19 as if fully stated herein.

21. Defendant is in violation of the FOIA by failing and/or refusing to employ search methods reasonably likely to lead to the discovery of records responsive to SLF's request and, accordingly, failing and/or refusing to produce any and all non-exempt records responsive to the request.

22. SLF is being irreparably harmed by Defendant's violation of the FOIA and will continue to be irreparably harmed unless Defendant is compelled to comply with the FOIA.

23. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SLF is deemed to have exhausted its administrative remedies with respect to the FOIA Request because Defendant was required to make a final determination of SLF's FOIA Request within the time limits set by FOIA. Accordingly, determination was due by July 1, 2019 at the latest.

24. Because Defendant failed to make a final determination on SLF's FOIA Request within the time limits set by the FOIA, SLF is deemed to have exhausted its administrative appeal remedies.

PRAYER FOR RELIEF

25. Enter an immediate order directing the State Department to preserve all records potentially responsive to FOIPA Request Nos. 1437642-000 and 1437636-000, and prohibiting Defendant, its employees, agents, or representatives from transporting, concealing, removing, destroying, or in any way tampering with records potentially responsive to said request;

26. Enter an order directing Defendant to conduct searches for any and all records responsive to the FOIA Request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the FOIA Request;

27. Enter an order directing Defendant to produce, by a certain date, any and all non-exempt records responsive to the requests and a *Vaughn* index of any responsive records withheld under claim of exemption;

28. Enter an order enjoining Defendant from continuing to withhold any and all non-exempt records response to the FOIA Request;

29. Award reasonable attorneys' fees, costs, and expenses; and

30. Grant any and all other relief as this Court deems just and proper.

Respectfully submitted this 2nd day of July, 2019.

Southeastern Legal Foundation

By: /s/ Kimberly S. Hermann
Kimberly S. Hermann
Georgia Bar No. 646473
560 W. Crossville Rd., Ste. 104
Roswell, Georgia 30075
(770) 977-2131
(770) 977-2134 (Fax)

Attorney for Plaintiff

Appendix E

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL)	
FOUNDATION, INC.,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	FILE NO. _____
)	
CENTRAL INTELLIGENCE)	
AGENCY,)	
)	
Defendant.)	

COMPLAINT

Plaintiff Southeastern Legal Foundation, Inc. (SLF), for its Complaint against Defendant Central Intelligence Agency (CIA), states as follows:

INTRODUCTION

1. The Freedom of Information Act (the FOIA), 5 U.S.C. § 552, enacted in 1966, provides the public with a right of access to federal agency records.

2. The people must know what the government is doing. “Open government has been recognized as the best insurance that government is being conducted in the public interest.”¹ Our Founding Fathers’ commitment to open

¹ *Am. Fed’n of Gov’t Emp.’s v. Rosen*, 418 F. Supp. 205, 207 (N.D. Ill. 1976).

government and the public's right to information can be seen in the First Amendment, which "protects not only the right of citizens to speak and publish, but also to receive information."² The FOIA is "an affirmative congressional effort to give meaningful content to constitutional freedom of expression." *See* S. Rep. No. 93-854, at 153-54 (May 16, 1974).

3. This is an action brought pursuant to the FOIA to compel Defendant to produce records responsive to an outstanding FOIA request submitted to Defendant on May 14, 2019.

4. In its FOIA request, SLF sought public records relating to communications regarding the collection of memos known as the "Steele Dossier."

5. Defendant has failed to meet the statutory deadline for its response in the form of a determination to the FOIA request dated May 14, 2019 and received by Defendant no later than May 21, 2019,³ because it failed to respond within twenty days (not including weekends and federal holidays). *See* 5 U.S.C. § 552(a)(6)(A)(i).

² *Providence Journal Co. v. FBI*, 460 F. Supp. 762, 776 (D.R.I. 1978) (overturned on other grounds).

³ The U.S. Post Office Tracking System indicates that the CIA received the FOIA Request on May 20, 2019. But, the CIA acknowledged receipt on May 21, 2019. For purposes of calculating the statutory time periods, Plaintiff has used the later of these two dates.

Thirty-one days, not including weekends and federal holidays, have lapsed since the CIA states it received the FOIA Request. The FOIA allows Defendant to request a ten day extension, which it failed to do. *See* 5 U.S.C. §552(a)(6)(B)(i). Regardless, the statutory time limit for an extension has also lapsed.

6. Accordingly, SLF files this lawsuit to compel Defendant to comply with the FOIA.

THE PARTIES

7. Plaintiff Southeastern Legal Foundation is a national nonprofit, public interest law firm and policy center that advocates for constitutional individual liberties, limited government, and free enterprise in the courts of law and public opinion. SLF's programs include analysis, publication, and a transparency initiative seeking public records relating to communications regarding the "Steele Dossier."

8. Defendant CIA is a federal agency headquartered in Washington, D.C. Defendant has possession, custody, and control of the records to which SLF seeks access.

JURISDICTION AND VENUE

9. SLF brings this lawsuit pursuant to the FOIA. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B), because this action is brought in the

district in which SLF has its principal place of business, and 28 U.S.C. § 1331, because the resolution of disputes under the FOIA presents a federal question.

10. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B), because this action is brought in the district in which SLF has its principal place of business, and 28 U.S.C. § 1391(e), because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of Georgia.

FACTUAL BACKGROUND

11. In a letter dated May 14, 2019, SLF submitted a FOIA request by certified mail to the CIA (the FOIA Request).

12. In the FOIA Request, SLF sought the following records for the time period May 2016 to February 2017:

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of Central Intelligence, including but not limited to former CIA Director John Brennan, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the “Steele Dossier.”

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the “Steele Dossier.”

13. SLF sought a waiver of search, review, and reproduction fees pursuant to the FOIA (5 U.S.C. § 552(a)(4)(A)(iii)) because the information sought was in the public interest, was likely to contribute to public understanding of the operations and activities of government, and because SLF had no commercial interest in the information.

14. The United States Postal Service (USPS) Tracking System shows that Defendant received the FOIA Request on May 20, 2019.

15. In a letter dated June 17, 2019, Defendant acknowledged receipt of the FOIA Request on May 21, 2019, and advised SLF that its FOIA Request had been designated as F-2019-01751.

16. At the time of this Complaint, 31 days, excluding weekends and federal holidays, have now lapsed since Defendant states it received the FOIA Request on May 21, 2019.

17. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SLF is deemed to have exhausted its administrative remedies with respect to the FOIA Request.

COUNT I
(Violation of the FOIA, 5 U.S.C. § 552)

18. SLF realleges paragraphs 1 through 19 as if fully stated herein.

19. Defendant is in violation of the FOIA by failing and/or refusing to employ search methods reasonably likely to lead to the discovery of records

responsive to SLF's request and, accordingly, failing and/or refusing to produce any and all non-exempt records responsive to the request.

20. SLF is being irreparably harmed by Defendant's violation of the FOIA and will continue to be irreparably harmed unless Defendant is compelled to comply with the FOIA.

21. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SLF is deemed to have exhausted its administrative remedies with respect to the FOIA Request because Defendant was required to make a final determination of SLF's FOIA Request within the time limits set by FOIA. Accordingly, determination was due by July 2, 2019 at the latest.

22. Because Defendant failed to make a final determination on SLF's FOIA Request within the time limits set by the FOIA, SLF is deemed to have exhausted its administrative appeal remedies.

PRAYER FOR RELIEF

23. Enter an immediate order directing Defendant to preserve all records potentially responsive to F-2019-01751, and prohibiting Defendant, its employees, agents, or representatives from transporting, concealing, removing, destroying, or in any way tampering with records potentially responsive to said request;

24. Enter an order directing Defendant to conduct searches for any and all records responsive to the FOIA Request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the FOIA Request;

25. Enter an order directing Defendant to produce, by a certain date, any and all non-exempt records responsive to the requests and a *Vaughn* index of any responsive records withheld under claim of exemption;

26. Enter an order enjoining Defendant from continuing to withhold any and all non-exempt records response to the FOIA Request;

27. Award reasonable attorneys' fees, costs, and expenses; and

28. Grant any and all other relief as this Court deems just and proper.

Respectfully submitted this 3rd day of July, 2019.

Southeastern Legal Foundation

By: /s/ Kimberly S. Hermann
Kimberly S. Hermann
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Attorney for Plaintiff

Appendix F

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION, INC.,

Plaintiff,

v.

OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE,

Defendant.

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CIVIL ACTION

FILE NO. _____

COMPLAINT

Plaintiff Southeastern Legal Foundation, Inc. (SLF), for its Complaint against Defendant the Office of the Director of National Intelligence (ODNI), states as follows:

INTRODUCTION

1. The Freedom of Information Act (the FOIA), 5 U.S.C. § 552, enacted in 1966, provides the public with a right of access to federal agency records.

2. The people must know what the government is doing. “Open government has been recognized as the best insurance that government is being

conducted in the public interest.”¹ Our Founding Fathers’ commitment to open government and the public’s right to information can be seen in the First Amendment, which “protects not only the right of citizens to speak and publish, but also to receive information.”² The FOIA is “an affirmative congressional effort to give meaningful content to constitutional freedom of expression.” *See* S. Rep. No. 93-854, at 153-54 (May 16, 1974).

3. This is an action brought pursuant to the FOIA to compel Defendant to produce records responsive to an outstanding FOIA request submitted to Defendant on May 14, 2019.

4. In its FOIA request, SLF sought public records relating to communications regarding the collection of memos known as the “Steele Dossier.”

5. Thirty-one days (not including weekends and federal holidays) have lapsed since Defendant received SLF’s FOIA request. Defendant has failed to meet the statutory deadline for its response in the form of a determination to the FOIA request dated May 14, 2019 and received by Defendant no later than May 28, 2019,³

¹ *Am. Fed’n of Gov’t Emp.’s v. Rosen*, 418 F. Supp. 205, 207 (N.D. Ill. 1976).

² *Providence Journal Co. v. FBI*, 460 F. Supp. 762, 776 (D.R.I. 1978) (overturned on other grounds).

³ The United States Postal Service Tracking System indicates that Defendant received the FOIA Request on May 20, 2019. Defendant acknowledged receipt by

because it failed to respond within 30 days (not including weekends and federal holidays). *See* 5 U.S.C. § 552(a)(6)(A)(i) (providing that Defendant has 20 days excluding weekends and federal holidays to provide a determination); *see also id.* § 552(a)(6)(B)(i) (allowing Defendant to request a ten day extension).

6. Accordingly, SLF files this lawsuit to compel Defendant to comply with the FOIA.

THE PARTIES

7. Plaintiff Southeastern Legal Foundation is a national nonprofit, public interest law firm and policy center that advocates for constitutional individual liberties, limited government, and free enterprise in the courts of law and public opinion. SLF's programs include analysis, publication, and a transparency initiative seeking public records relating to communications regarding the "Steele Dossier."

8. Defendant ODNI is a federal agency headquartered in Washington, D.C. On information and belief, Defendant has possession, custody, and control of the records to which SLF seeks access.

signing the certified mail return receipt on May 28, 2019. For purposes of calculating the statutory time periods, Plaintiff has used the later of these two dates.

JURISDICTION AND VENUE

9. SLF brings this lawsuit pursuant to the FOIA. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B), because this action is brought in the Northern District of Georgia where SLF has its principal place of business, and pursuant to 28 U.S.C. § 1331, because the resolution of disputes under the FOIA presents a federal question.

10. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B), because this action is brought in the Northern District of Georgia where SLF has its principal place of business, and pursuant to 28 U.S.C. § 1391(e), because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of Georgia.

FACTUAL BACKGROUND

11. In a letter dated May 14, 2019, SLF submitted a FOIA request by certified mail to Defendant ODNI (the FOIA Request).

12. In the FOIA Request, SLF sought the following records for the time period May 2016 to February 2017:

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of Central Intelligence, including but not limited to former CIA Director John Brennan, and the office of the Director of the Federal Bureau of Investigation, including but not

limited to former FBI Director James Comey, regarding the collection of memos known as the “Steele Dossier.”

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the “Steele Dossier.”

13. SLF sought a waiver of search, review, and reproduction fees pursuant to the FOIA (5 U.S.C. § 552(a)(4)(A)(iii)) because the information sought was in the public interest, was likely to contribute to public understanding of the operations and activities of government, and because SLF had no commercial interest in the information.

14. The United States Postal Service Tracking System shows that Defendant received the FOIA Request on May 20, 2019.

15. Defendant acknowledged receipt on May 28, 2019, by signing the certified mail return receipt.

16. At the time of this Complaint, 31 days, excluding weekends and federal holidays, have now lapsed since Defendant acknowledged receipt of the FOIA Request on May 28, 2019.

17. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SLF is deemed to have exhausted its administrative remedies with respect to the FOIA Request.

18. 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 SLF of the scope of any responsive records Defendant intends to produce or withhold and the reasons for any withholdings; or (iii) inform SLF that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of the FOIA, 5 U.S.C. § 552)

19. SLF realleges paragraphs 1 through 18 as if fully stated herein.

20. Defendant is in violation of the FOIA by failing and/or refusing to employ search methods reasonably likely to lead to the discovery of records responsive to SLF's FOIA Request and, accordingly, failing and/or refusing to produce any and all non-exempt records responsive to the request.

21. SLF is being irreparably harmed by Defendant's violation of the FOIA and will continue to be irreparably harmed unless Defendant is compelled to comply with the FOIA.

22. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SLF is deemed to have exhausted its administrative remedies with respect to the FOIA Request because Defendant was required to make a final determination of SLF's FOIA Request

within the time limits set by FOIA. Accordingly, Defendant's final determination was due by July 9, 2019 at the latest.

23. Because Defendant failed to make a final determination on SLF's FOIA Request within the time limits set by the FOIA, SLF is deemed to have exhausted its administrative appeal remedies.

PRAYER FOR RELIEF

24. Enter an immediate order directing Defendant to preserve all records potentially responsive to the FOIA Request, and prohibiting Defendant, its employees, agents, or representatives from transporting, concealing, removing, destroying, or in any way tampering with records potentially responsive to said request;

25. Enter an order directing Defendant to conduct searches for any and all records responsive to the FOIA Request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the FOIA Request;

26. Enter an order directing Defendant to produce, by a certain date, any and all non-exempt records responsive to the FOIA Request and a *Vaughn* index of any responsive records withheld under claim of exemption;

27. Enter an order enjoining Defendant from continuing to withhold any and all non-exempt records responsive to the FOIA Request;
28. Award reasonable attorneys' fees, costs, and expenses; and
29. Grant any and all other relief as this Court deems just and proper.

Respectfully submitted this 10th day of July, 2019.

Southeastern Legal Foundation

By: /s/ Kimberly S. Hermann
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Attorney for Plaintiff

Appendix G

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL)	
FOUNDATION, INC.)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	FILE NO. 1:19-cv-03038-JPB
)	
UNITED STATES DEPARTMENT OF)	
JUSTICE,)	
)	
Defendant.)	

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW, Plaintiff Southeastern Legal Foundation, Inc. (Plaintiff) and Defendant United States Department of Justice (Defendant or DOJ), by and through their respective counsel of record, and pursuant to Fed. R. Civ. P. 41(a)(1)(ii) and Rule 41.1 of the Local Rules for the Northern District of Georgia, file this Joint Stipulation of Voluntary Dismissal with Prejudice of all claims asserted in this action against Defendant.

The following is a brief recitation of the facts giving rise to the Complaint and the justifications for this Joint Stipulation of Voluntary Dismissal with Prejudice. On May 14, 2019, Plaintiff submitted by certified mail return receipt requested, a Freedom of Information Act (FOIA) request to Defendant seeking records “relating

to communications regarding the collection of memos known as the ‘Steele Dossier.’” (Doc. 1.) Plaintiff sought a waiver of search, review and duplication fees pursuant to the FOIA. On June 6, 2019, Plaintiff received correspondence from the FBI acknowledging receipt of the FOIA request and assigning it two tracking numbers: FOIPA Request No. 1437642-000 and FOIPA No. 1437636-000. After receiving no further response from Defendant, Plaintiff sued Defendant to compel Defendant to comply with the FOIA request on July 2, 2019. (Id.)

In an email dated February 13, 2020, Defendant claimed that there were no records responsive to Plaintiff’s FOIA request. Defendant also provided an outline of its search procedures. Plaintiff expressed its concern that Defendant unilaterally limited its search for responsive records. Whereas Plaintiff sought communications between anyone in the Office of the Director of the FBI, the Office of the Director of the CIA, and the Office of the Director of National Intelligence, it appeared that Defendant only searched the email accounts of former FBI Director James Comey and former Deputy Director Andrew McCabe. Thus, Defendant agreed to also search the email accounts of former FBI General Counsel James Baker.

As standard practice, the FBI normally relies on index searches of the Central Record System (CRS) to conduct reasonable searches for records responsive to Freedom of Information/Privacy Act (FOIPA) Requests. However, when evaluating

Plaintiff's requests, the FBI determined it would be difficult to compile and search a set of indexed terms reasonably likely to locate all records responsive to Plaintiff's requests. This is because Plaintiff's requests seek communications not directly connected with a specific investigation, program, or initiative that would be indexed in the CRS. While it is FBI policy to upload all substantive, record communications within the CRS, it is difficult to conduct an index search for internal communications when there is not a readily apparent set of search terms reasonably expected to locate all such communications through a CRS index search. Thus, instead, the FBI determined searches within the electronic mail (email) accounts of specific FBI employees to be the most logical means of locating responsive records.

To locate email records responsive to Plaintiff's requests, RIDS searched the unclassified and classified email accounts of both former FBI Director James Comey, former Deputy Director Andrew McCabe, and former General Counsel James Baker. The FBI deemed these first two custodians to be the likely recipients/originators of responsive email records because they would either be the direct recipient/originator or included on any communications with the Director of the Central Intelligence Agency (DCIA) or the Director of National Intelligence (DNI), or would be provided the communications from the relevant agency heads, and the third custodian was specifically agreed upon by Plaintiff in this litigation.

Within these accounts, based on the agreement of Plaintiff, RIDS searched the following terms and limiters:

- a. “Central Intelligence” AND[1] Steele AND Dossier
- b. “National Intelligence” AND Steele AND Dossier
- c. CIA AND Steele AND Dossier
- d. DNI AND Steele AND Dossier
- e. “Central Intelligence” AND Steele AND Report
- f. “National Intelligence” AND Steele AND Report
- g. CIA AND Steele AND Report
- h. DNI AND Steele AND Report

Through these searches, RIDS did not locate any responsive email records. The FBI found no indication additional responsive records could be located through additional searches of other email custodians. As a result, the parties file this Joint Stipulation of Voluntary Dismissal with Prejudice of all claims asserted in this action against Defendant.

Respectfully submitted, this 31st day of August, 2020.

BYUNG J. PAK
United States Attorney

/s/ Lisa D. Cooper
LISA D. COOPER
Assistant United States Attorney

/s/ Kimberly S. Hermann
KIMBERLY S. HERMANN
General Counsel

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CERTIFICATE OF COMPLIANCE

I hereby certify that the documents to which this certificate is attached have been prepared with one of the font and point selections approved by the Court in LR 5.1B for documents prepared by computer.

/s/ Kimberly S. Hermann
KIMBERLY S. HERMANN

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2020, I filed the Joint Stipulation of Dismissal with Prejudice with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all registered CM/ECF users.

This 31st day of August, 2020.

/s/ Kimberly S. Hermann
KIMBERLY S. HERMANN

Appendix H

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION, INC.,

PLAINTIFF,

v.

CENTRAL INTELLIGENCE
AGENCY,

DEFENDANT.

Civil Action No.
1:19-cv-03054-SCJ

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW, Plaintiff Southeastern Legal Foundation, Inc. (Plaintiff) and Defendant the Central Intelligence Agency (Defendant or CIA), by and through their respective counsel of record, and pursuant to Fed. R. Civ. P. 41(a)(1)(ii) and Rule 41.1 of the Local Rules for the Northern District of Georgia, file this Joint Stipulation of Voluntary Dismissal with Prejudice of all claims asserted in this action against Defendant.

The following is a brief recitation of the facts giving rise to the Complaint and the justifications for this Joint Stipulation of Voluntary Dismissal with Prejudice. On or about July 3, 2019, Plaintiff filed the Complaint pursuant to the Freedom of Information Act (FOIA). Doc. 1. Prior to filing the Complaint, Plaintiff had

submitted a FOIA request to Defendant on or about May 14, 2019. *Id.* The FOIA request was assigned the FOIA tracking number F-2019-01751. Plaintiff's FOIA request sought records of communications between the Office of the Director of the CIA and the Office of the Director of the Federal Bureau of Investigation (FBI) regarding "the collection of memos known as the 'Steele Dossier.'" *Id.*

CIA has represented to Plaintiff that in response to receiving Plaintiff's FOIA request, experienced CIA search professionals analyzed the request and identified relevant databases and files that were likely to contain responsive records. These search professionals further identified the individuals staffed in the Office of the Director who would have had responsibility for communications between the Office of the Director of the CIA and the Office of the Director of the FBI regarding the "Steele Dossier" during the responsive time period. The responsive time period was identified by Plaintiff as May 1, 2016 through February 28, 2017. With respect to those email searches, the CIA searched for and reviewed all email communications sent to or from the individuals identified that referenced "Steele" and "Dossier" or "report," in conjunction with, "FBI" or "Federal Bureau of Investigation." For some email addresses, the CIA searched for and reviewed all references to "Steele" and "Dossier" or "report" without the FBI-related term limiters.

After a review of the records, the CIA did not locate any records of communications between the Office of the Director of the CIA and the Office of the Director of the FBI regarding “the collection of memos known as the ‘Steele Dossier.’” As a result, the parties file this Joint Stipulation of Voluntary Dismissal with Prejudice of all claims asserted in this action against Defendant.

Respectfully submitted, this 9th day of June, 2020.

BYUNG J. PAK
United States Attorney

/s/ Lisa D. Cooper
LISA D. COOPER
Assistant United States Attorney
Georgia Bar No. 186165
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Atlanta, GA 30303

/s/ Kimberly S. Hermann
KIMBERLY S. HERMANN
General Counsel
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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION, INC.,

PLAINTIFF,

v.

CENTRAL INTELLIGENCE
AGENCY,

DEFENDANT.

Civil Action No.
1:19-cv-03054-SCJ

CERTIFICATE OF COMPLIANCE

I hereby certify that the documents to which this certificate is attached have been prepared with one of the font and point selections approved by the Court in LR 5.1B for documents prepared by computer.

/s/ Kimberly S. Hermann
KIMBERLY S. HERMANN

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION, INC.,

PLAINTIFF,

v.

CENTRAL INTELLIGENCE
AGENCY,

DEFENDANT.

Civil Action No.
1:19-cv-03054-SCJ

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2020, I filed the Joint Stipulation of Dismissal with Prejudice with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all registered CM/ECF users.

This 9th day of June, 2020.

/s/ Kimberly S. Hermann
KIMBERLY S. HERMANN

Appendix I

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION, INC.

Plaintiff,

V.

OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE,

Defendant.

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CIVIL ACTION

FILE NO. 1:19-cv-03144-JPB

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW, Plaintiff Southeastern Legal Foundation, Inc. (Plaintiff) and Defendant Office of the Director of National Intelligence, by and through their respective counsel of record, and pursuant to Fed. R. Civ. P. 41(a)(1)(ii) and Rule 41.1 of the Local Rules for the Northern District of Georgia, file this Joint Stipulation of Voluntary Dismissal with Prejudice of all claims asserted in this action against Defendant.

The following is a brief recitation of the facts giving rise to the Complaint and the justifications for this Joint Stipulation of Voluntary Dismissal with Prejudice. On May 14, 2019, SLF submitted by certified mail, return receipt requested, a Freedom of Information Act (FOIA) request to ODNI seeking records “relating to

communications regarding the collection of memos known as the ‘Steele Dossier.’” (Doc. 1.) SLF sought a waiver of search, review and duplication fees pursuant to the FOIA. On May 28, 2019, SLF received correspondence from ODNI acknowledging receipt of the FOIA request. After receiving no further response from ODNI, SLF sued ODNI to compel it to comply with the FOIA request on July 10, 2019. (Id.)

Over the course of the next four months, ODNI sought three unopposed motions for extension of time to file an answer. In its third motion, ODNI stated that it was in the process of finalizing its search and providing SLF with responsive, non-exempt documents. Following the outbreak of COVID-19, ODNI notified SLF in April 2020 that it had located responsive records but was experiencing significant delays in its document review process. SLF agreed to ask this Court to stay the case until June 15, 2020. However, ODNI was still experiencing delays in June, so the parties asked this Court to defer entry of a briefing schedule for another month. When SLF contacted ODNI in July, the status was the same, so the parties again asked this Court to defer entry of a briefing schedule for thirty days. In August, ODNI’s response was the same. This time, the parties asked the Court for an additional sixty days to submit a status report.

By October 2020, ODNI indicated that it had located a single, two-page document in response to SLF’s request and was still reviewing it for exemptions.

The parties asked this Court to defer entry of a briefing schedule for another thirty days. In November, SLF again requested the status of ODNI's search, but ODNI failed to provide an answer. Thus, the parties did not provide an update to the Court in November. SLF resumed the conversation with ODNI following the holidays, but ODNI still did not have an answer. As such, pursuant to this Court's January 8, 2021 Order requiring the parties to file a status report or a motion for entry of a briefing schedule, SLF recommended the parties move for entry of a briefing schedule. The Court entered a briefing schedule on January 15, 2021, ordering the parties to submit their Motions for Summary Judgment by February 12, 2021.

On February 10, 2021, ODNI produced the single, two-page document to SLF. ODNI asserts that additional responsive records could not be located. As a result, the parties file this Joint Stipulation of Voluntary Dismissal with Prejudice of all claims asserted in this action against Defendant.

Respectfully submitted, this 11th day of February, 2021.

BOBBY L. CHRISTINE
Acting United States Attorney

/s/ Lisa D. Cooper
LISA D. COOPER
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coleary@southeasternlegal.org

CERTIFICATE OF COMPLIANCE

I hereby certify that the documents to which this certificate is attached have been prepared with one of the font and point selections approved by the Court in LR 5.1B for documents prepared by computer.

/s/ Celia Howard O'Leary
CELIA HOWARD O'LEARY

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2021, I filed the Joint Stipulation of Dismissal with Prejudice with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all registered CM/ECF users.

This 11th day of February, 2021.

/s/ Celia Howard O'Leary
CELIA HOWARD O'LEARY

Appendix J

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC

Kimberly S. Hermann
Southeastern Legal Foundation
560 West Crossville Road,
Suite 104,
Roswell, GA 30075

February 10, 2021

Reference: ODNI Case DF-2019-00269; Civil Case 1:19-cv-03144 (Southeastern Legal
Founding Inc. v. ODNI)

Ms. Hermann,

This letter represents our final response to your Freedom of Information Act (FOIA) request dated 14 May 2019 and received by the Information Management Office (IMO) of the Office of the Director of National Intelligence (ODNI) on 17 July 2019 (Enclosure 1), in which you requested *"All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the 'Steele Dossier'"* among other things.

Your request was processed in accordance with the FOIA, 5 U.S.C. § 552, as amended, and a thorough search conducted. One responsive document was located. Upon review, we have determined that portions of the document must be withheld pursuant to the following FOIA exemptions:

- (b)(3), which applies to information exempt by statute, specifically 50 U.S.C. § 3024(m), which protects identifying information of ODNI personnel;
- (b)(6), which applies to information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

In addition, the Federal Bureau of Investigation & the National Security Council have processed the information and determined that portions of the document must be withheld pursuant to the following FOIA exemptions:

- (b)(5) – which applies to information that concerns communications within or between agencies which are protected by legal privileges.
- (b)(7)(D), which applies to records or information compiled for law enforcement purposes that, if disclosed, could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC

- (b)(7)(E), which applies to techniques and procedures for law enforcement investigations or prosecutions.

A copy of the responsive pages with redactions have been included (Enclosure 2).

If you have any questions, your attorney may contact Attorney Lisa Cooper of the Department of Justice at (404) 581-6249.

Sincerely,

A handwritten signature in black ink that reads "Sally A. Nicholson". The signature is written in a cursive, flowing style.

Sally A. Nicholson
Chief, Information Review
& Release Group
FOIA Public Liaison
Information Management Office

Enclosures

Enclosure 1



DF-2019-00269

SOUTHEASTERN LEGAL FOUNDATION
Rebuilding the American Republic®

JUL 17 2019

MAY 28 2019

May 14, 2019

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Tracking No. 7016 2710 0000 1861 4576

Patricia Gaviria

Director, Information Management Division

Attn: FOIA/PA

Office of Director of National Intelligence

Washington, DC 20511

RE: Freedom of Information Act Request

Dear Sir or Madam:

Southeastern Legal Foundation (SLF) is one of the country's leading nonprofit public interest law firms and policy centers. Now in its 43rd year, SLF undertakes research on policy issues of interest to the general public. SLF is actively engaged in an inquiry into the FISA application process.

Request

For the time period May 2016 through February 2017, please produce the following:

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of Central Intelligence, including but not limited to former CIA Director John Brennan, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the "Steele Dossier."

All records of communication (including emails on both .gov and non-.gov accounts, text messages, and instant chats) between the office of the Director of National Intelligence, including but not limited to former ODNI Director James Clapper, and the office of the Director of the Federal Bureau of Investigation, including but not limited to former FBI Director James Comey, regarding the collection of memos known as the "Steele Dossier."

Format of Production

Pursuant to 5 U.S.C. § 552(a)(3)(B), SLF requests that the production of any and all responsive records be made electronically. Please email any and all responsive records

560 W. Crossville Road • Suite 104 • Roswell, GA 30075-7509 • (770) 977-2131
www.SLFLiberty.org

to kherrmann@southeasternlegal.org. SLF is willing to receive responsive records on a rolling basis, if needed, to expedite production and response. If this is not possible, please let us know with an explanation of the reason for any delay. If any or all of the production is refused based on some privilege or other legal ground, please set forth the legal basis for the denial so that SLF may properly address the denial.

Request for a Fee Waiver

SLF makes this request for records pursuant to Freedom of Information Act, 5 U.S.C. § 552, *et seq.* Accordingly, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), SLF requests that the agency furnish the records without charge. While a court is ultimately not required to defer to an agency's interpretation of the FOIA, in anticipation of a request for additional information, we have organized our fee waiver justification to coincide with the six factors listed in the 1987 fee waiver policy guide memorandum by then-Assistant Attorney General Stephen J. Markman to determine whether disclosure is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

Disclosure is in the public interest.

The first factor is satisfied because the subject of the request concerns identifiable operations or activities of the FBI, the CIA, and the ODNI. "[T]he phrase 'operations and activities' should be broadly construed." 132 Cong. Rec. S16496 (Oct. 15, 1986) (Sen. Leahy). This request directly implicates the FBI, CIA, and ODNI's roles in obtaining, reviewing, disseminating, and relying on the Steele Dossier which was used, at least in part, to secure a FISA Application targeting Carter Page.

The second factor is satisfied because the requested records have significant informative value into the operations and activities of the FBI, CIA, and ODNI. Communications regarding the Steele Dossier are of the utmost interest to the American public.

The third factor is satisfied because the requested records will contribute to "public understanding" because SLF will disseminate the requested information to the largest audience possible by disseminating it through the following various mediums: 1) its publicly available website (www.sfliberty.org) which combined receive nearly one million hits per year; 2) its regular mailings (averaging one mailing per week for a total of approximately three million per year) to interested parties providing educational information on the operations and activities of FBI, CIA, and ODNI; 3) its bi-annual or quarterly newsletters to interested parties, totaling approximately ten to twenty thousand per year, also providing educational information on the operations and activities of OIA; 4) regular spots on a wide-variety of radio programs; 5) spots on television programs; 6) frequent op-eds that run in national newspapers; 7) legislative testimony; 8) participation in legal and policy panels; and 9) SLF's various social media

Office of Director of National Intelligence
May 14, 2019
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accounts. SLF's methods of dissemination, combined with its 43-year reputation as one of the nation's leading constitutional public interest law firms and policy centers, supports granting SLF's fee waiver request.

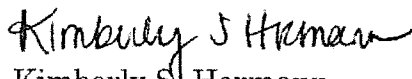
The fourth factor is satisfied because the requested records will "significantly" contribute to the public understanding of the FBI, CIA, and ODNI's treatment of the Steele Dossier. While certain facets may be publicly available, the communications between Comey and Brennan are not. See *Forest Guardians v. DOI*, 416 F.3d 1173 (10th Cir. 2005) (noting that piecemeal records available through court filings throughout the country, various websites, and a wide-variety of newspapers throughout the country does not make information "publicly available"). The records have the potential to reveal information that is not publicly available in any meaningful way regarding the operations of the federal agencies.

No commercial interest.

Disclosure of the requested records is not in the commercial interest of SLF because the Foundation has absolutely no commercial or financial interest in the requested information, and would receive no pecuniary benefit from the information sought. SLF is a nonprofit public interest law firm and policy center specializing in the practice of constitutional law.

If you deny all or any part of this request, please cite each specific exemption and legal ground you believe justifies your withholding of information, including notification of appeal procedures available under the law. If you have any questions about handling this request, you may reach me at the telephone number listed below.

Sincerely,



Kimberly S. Hermann
General Counsel
Southeastern Legal Foundation
khermann@southeasternlegal.org
(770) 977-2131

Enclosure 2

From: Comey James FBI USA GOV
To: James R. Clapper-DNI-
Cc: Stephanie L. OSullivan-DNI-; Robert Litt-DNI-; Brian P. Hale-DNI-
Subject: RE: Conversation with the P_E.... --- UNCLASSIFIED
Date: Thursday, January 12, 2017 10:08:10 AM

Classification: UNCLASSIFIED
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Jim:

I just had a chance to review the proposed talking points on this for today. Perhaps it is a nit, but I worry that it may not be best to say "The IC has not made any judgment that the information in the document is reliable." I say that because we HAVE concluded that the source **FBI (b)(7)(D)** is reliable and has a track record with us of reporting reliable information; we have some visibility into his source network, some of which we have determined to be subsources in a position to report on such things; and much of what he reports in the current document is consistent with and corroborative of other reporting included in the body of the main IC report. That said, we are not able to sufficiently corroborate the reporting to include it in the body of the report.

That all rings in my ears as more complicated than "we have not made a judgment that the information in the document is reliable." It might be better to say that "we have not be able to sufficiently corroborate the information to include it in the body of our Russia report but, for a variety of reasons, we thought it important to include it in our report to our senior-most audience."

Jim

From: James R. Clapper-DNI- **(b)(3), (b)(6)**
Sent: Wednesday, January 11, 2017 10:17 PM
To: COMEY, JAMES B. (DO) (FBI) **FBI (b)(7)(E)**
Cc: Stephanie L. OSullivan-DNI **(b)(3), (b)(6)** Robert Litt-DNI- **(b)(3), (b)(6)** Brian P. Hale-DNI- **(b)(3), (b)(6)**
Subject: Conversation with the P_E....

Classification: UNCLASSIFIED
=====

Jim:

We caucused this afternoon, and decided I should try to call the President-elect. I spoke to him for about 20 minutes late this afternoon. (b)(5)

I apologize for not running this by you. Am sending it this way, since I can't pull up your address on the low side:

Here it is:

"This evening I had the opportunity to speak with President-elect Trump to discuss recent media reports about our briefing last Friday. I expressed my profound dismay at the leaks that have been appearing in the press, and we both agreed that they are corrosive and damaging to our national security.

I told him that I do not believe that these leaks are coming from the Intelligence Community (IC).

We also discussed the private security company documents which were widely circulated in recent months among the media, Members of Congress, and Congressional Staff before the IC became aware of it. I emphasized that this is not aUSIC product. The IC has not made any judgment that the information in this document is reliable, and we did not rely upon it in any way for our conclusions. However, part of our obligation is to ensure that policy-makers are provided with the fullest possible picture of any matters might affect national security.

President-elect Trump again affirmed his appreciation for all the men and women serving in the Intelligence Community, and I assured him that the IC stands ready to serve his Administration and the American people."

I just turned on CNN and they already picked it up....

Jim

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Classification: UNCLASSIFIED

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Classification: UNCLASSIFIED