



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.

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 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.

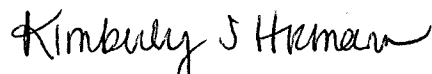
The fourth factor is satisfied because the requested records will "significantly" contribute to the public understanding of the FBI, CIA, and ODNI's treatment of the Steele Dossier. While certain facets may be publicly available, the communications between Comey and Brennan are not. See *Forest Guardians 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
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(770) 977-2131