

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

JUDICIAL WATCH, INC.,	)	
425 Third Street SW, Suite 800	)	
Washington, DC 20024,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil Action No.
	)	
OFFICE OF THE DIRECTOR OF	)	
NATIONAL INTELLIGENCE,	)	
Office of General Counsel	)	
Washington, DC 20511,	)	
	)	
<i>Defendant.</i>	)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant Office of the Director of National Intelligence to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

agencies' responses and disseminates both its findings and the requested records to the American public to inform them about "what their government is up to."

4. Defendant Office of the Director of National Intelligence ("ODNI") is an agency of the U.S. Government and is headquartered at 1500 Tysons McLean Drive, McLean, VA 22102. Defendant has possession, custody, and control of public records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On August 26, 2025, then-Director of National Intelligence Tulsi Gabbard confirmed to President Trump during a cabinet meeting that ODNI had identified burn bags containing information regarding corruption in the 2020 presidential election. "We are finding documents literally tucked away in the back of safes in random offices, in these bags and in other areas—which, again, speaks to the intent of those who are trying to hide the truth from the American people," Gabbard said. See [DNI Gabbard Remarks at President Trump's Cabinet Meeting | August 26, 2025](#). She added that the documents revealed the politicization of intelligence and caused immeasurable harm to the American people. *Id.*

6. On July 31, 2026, Plaintiff sent a FOIA request to ODNI for records concerning the discovery, location, contents, and handling of the materials referenced by Director Gabbard, as well as communications about their discovery and records about any inquiry into why the materials were designated for destruction. The time frame of the request was identified as "January 20, 2025 to the date the search for responsive records is conducted." A true and correct copy of Plaintiff's request is attached as Exhibit A.

7. ODNI acknowledged receipt of Plaintiff's request by email dated August 3, 2026 and advised Plaintiff that the request had been assigned Tracking Number DF-2026-00599.

ODNI also acknowledged receipt of the request in a letter to Plaintiff dated August 6, 2026.

8. Plaintiff has received no further communication from ODNI regarding Plaintiff's request.

9. As of the date of this Complaint, ODNI has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

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

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

11. Defendant is in violation of FOIA.

12. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with it.

13. Plaintiff has no adequate remedy at law.

14. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by August 28, 2026, at the latest. Because Defendant failed to make a final determination within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive

to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: September 18, 2026

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

JUDICIAL WATCH, INC.

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Counsel for Plaintiff

EXHIBIT A

JUDICIAL WATCH, INC.

425 Third Street, S.W., Suite 800 • Washington, DC 20024 • Tel: (202) 646-5172

July 31, 2026

VIA EMAIL (DNI-FOIA@dni.gov) AND U.S. MAIL

FOIA Officer
Chief, Information Management Office
ATTN: FOIA/PA
Office of the Director of National Intelligence
Washington, D.C. 20511

Re: Freedom of Information Act Request — Records Concerning the Discovery, Location, Contents, and Handling of Undestroyed “Burn Bags” and Similar Destruction-Marked Containers Recovered Within the ODNI/Intelligence Community

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing regulations of the Office of the Director of National Intelligence (“ODNI”) at 32 C.F.R. Part 1700, Judicial Watch, Inc. (“Judicial Watch”) hereby requests that the ODNI produce the records described below within twenty (20) business days.

This request is prompted by public statements of the Director of National Intelligence describing the recovery of documents “tucked away in the back of safes in random offices, in these bags and in other areas”—materials the Director and others have referred to as “burn bags” that were marked for destruction but not destroyed.

Time Period

The time period for this request is January 20, 2025, to the date the search for responsive records is conducted, unless otherwise specified below.

Records Requested

Judicial Watch requests the following records:

1. All RECORDS concerning the discovery, recovery, or location of any "burn bag," classified-destruction or classified-waste bag, or other bag, box, pouch, safe, or container holding DOCUMENTS that had been marked, designated, tagged, or set aside for destruction but that were not in fact destroyed, and that were located, found, or recovered by or within the ODNI—or by any element of the Intelligence Community and reported to or reviewed by the ODNI.
2. All RECORDS sufficient to identify, for each such bag or container, the specific physical location at which it was found, including the building, floor, room, suite, or office, and whether it was

located inside a safe, GSA-approved security container, vault, secure room, or other storage receptacle.

3. All RECORDS concerning the circumstances of the discovery of each such bag or container, including the date on which it was found, the identity or official position of the PERSON(S) who found it, and the activity in the course of which it was found (for example, a directed review, inventory, audit, search, office closure, or relocation).
4. All inventories, indices, logs, manifests, schedules, or other RECORDS that list, count, or describe the contents of any such bag or container—including document counts, page counts, document titles, dates, originating offices, classification levels, or subject-matter descriptions—but excluding the underlying substantive documents themselves.
5. All chain-of-custody, evidence-control, accountability, or custody-transfer RECORDS concerning the sealing, securing, inventorying, movement, transfer, or storage of any such bag or container, or of its contents, after its discovery.
6. All COMMUNICATIONS among ODNI EMPLOYEES, or between any ODNI EMPLOYEE and any other AGENCY (including without limitation the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Justice, and the National Archives and Records Administration), that REFER OR RELATE TO the discovery, location, contents, custody, handling, or preservation of any such bag or container.
7. All RECORDS reflecting any transmittal, referral, notification, or production of any such bag or container, or of its contents, to the Congress or any congressional committee (including without limitation the Senate and House Committees on the Judiciary and the Senate and House intelligence committees), the Department of Justice, any Special Counsel or special prosecutor, or the National Archives and Records Administration.
8. All RECORDS concerning any assessment, inquiry, review, or investigation into why the materials in any such bag or container were marked or designated for destruction, who so marked or designated them, and whether their attempted destruction, retention, or concealment implicated the Federal Records Act (44 U.S.C. §§ 2101 et seq., 3101 et seq.) or applicable requirements governing the handling and destruction of classified national security information.

Definitions

As used herein, the following terms have the meanings set forth below:

1. **"COMMUNICATION"** means any transmittal of information (in the form of facts, ideas, inquiries, or otherwise), whether oral, written, or electronic, including without limitation letters, memoranda, emails, text or instant messages, chat or messaging-application content, voicemails, notes, and calendar entries.
2. **"DOCUMENT" or "RECORD"** is used in its broadest sense and means any written, recorded, electronic, or graphic matter of any kind, however produced or reproduced, in YOUR actual or constructive possession, custody, or control, including without limitation the contents of any electronic-recordkeeping or messaging system.

3. **"PERSON"** means any natural person, corporation, partnership, association, governmental entity, or other entity of any kind.
4. **"REFER," "REFERRING OR RELATING TO," or "CONCERNING"** means, without limitation, discussing, describing, reflecting, evidencing, constituting, mentioning, analyzing, or otherwise pertaining in any way to the subject matter identified.
5. **"AGENCY," "ODNI," "YOU," or "YOUR"** means the Office of the Director of National Intelligence and any of its components, offices, or subordinate elements, and any person acting or purporting to act on its behalf.
6. **"EMPLOYEE"** means any current or former officer, official, employee, detailee, contractor, consultant, or other agent of the AGENCY.
7. **"AND/OR"** shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this request all records that might otherwise be construed to be outside its scope.

Materials Excluded from This Request

In order to focus this request, Judicial Watch does not at this time seek the underlying substantive documents contained within any bag or container described above, nor does it seek records that consist solely of routine facilities, custodial, or building-maintenance matters unrelated to the discovery, contents, custody, or preservation of such bags or containers. This exclusion does not, however, extend to any COMMUNICATION between or among EMPLOYEES, or between EMPLOYEES and any other AGENCY, concerning the discovery, location, contents, custody, handling, or preservation of any such bag or container, all of which remain within the scope of this request.

Request for Fee Waiver and News-Media Fee Status

Judicial Watch requests a waiver of all search, review, and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government—specifically, how documents marked for destruction came to be preserved and concealed within intelligence-community facilities, the circumstances of their discovery, and how they have since been handled—and is not primarily in the commercial interest of Judicial Watch.

Judicial Watch is a not-for-profit educational organization that regularly and timely disseminates the information it obtains under the FOIA to the public through its website, publications, email newsletters, and other media. Courts have repeatedly recognized Judicial Watch's entitlement to fee waivers and to "representative of the news media" status. *See, e.g., Cause of Action v. FTC*, 799 F.3d 1108 (D.C. Cir. 2015); *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003); *Carney v. U.S. Dep't of Justice*, 19 F.3d 807 (2d Cir. 1994). Judicial Watch therefore requests that it be classified as a "representative of the news media" and that fees be limited to reasonable duplication costs, *see* 5 U.S.C. § 552(a)(4)(A)(ii)(II).

In the event the fee waiver is denied, Judicial Watch is willing to pay fees up to \$300. If you estimate that fees will exceed this amount, please notify Judicial Watch before incurring the fees so that we may decide whether to narrow the request or authorize additional costs.

Segregability and Unclassified Materials

Judicial Watch recognizes that some responsive records, or portions of records, may be classified. To the extent any responsive record is withheld in whole or in part on classification or any other ground, Judicial Watch separately requests that the ODNI produce all reasonably segregable non-exempt portions of that record, as required by 5 U.S.C. § 552(b). Judicial Watch further requests that the ODNI produce any responsive record, or portion of a record, that is unclassified or that has been declassified, even where the underlying substantive documents at issue remain classified. The administrative and custodial records sought here—including inventories, chain-of-custody and evidence-control records, location and discovery information, preservation notices, transmittal and referral records, and communications concerning the handling of these bags and containers—are frequently unclassified or only partially classified, and the classification of underlying documents does not, standing alone, classify the metadata and administrative records describing their discovery, location, custody, or handling.

Additional Instructions

If you have any questions regarding this request, please contact me at cnelson@judicialwatch.org. Thank you for your prompt attention to this matter.

Sincerely,

Chris Nelson

Senior Investigator

Office of Investigations

Judicial Watch, Inc.

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Washington, DC 20024

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