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Mr. James Gillingham
Assistant United States Attorney
Eastern District of Texas
110 N. College Street, Suite 700
Tyler, Texas 75702

Via email: *james.gillingham@usdoj.gov*

Re: *Huddleston v. Federal Bureau of Investigation*, No. 4:20-cv-447-ALM (E.D. Tex.) —
responsive records concealed behind the FBI's "Prohibited Access" designation;
demand for supplemental search and production

Dear Mr. Gillingham:

On July 30, 2026, the FBI declassified a set of records that it published through the White House Government Transparency Task Force. Two of those records — the opening and closing communications for an investigation the FBI captioned "OXFERD COMMA" — are responsive to my client's FOIA requests on their face. They were never produced, never indexed, and never mentioned in any of the FBI's declarations in this case. A third set, captioned MARCH TOLL, confirms why: the FBI deliberately placed these files beyond the reach of the very search system it told this Court was its "initial and primary means" of locating responsive records.

I write to demand a supplemental search and production, and to put the FBI on notice that its search declarations in this case can no longer be reconciled with its own records.

1. The declassified records are responsive.

The OXFERD COMMA opening communication, dated May 16, 2017, was approved by then-General Counsel James A. Baker and then-Assistant Director for Counterintelligence E.W. Priestap. It bears Case ID [redacted]-HQ-2167885. It recites that "[t]he FBI is predicating the investigation on predetermined criteria set forth by the CROSSFIRE HURRICANE investigative team." The corresponding closing communication, dated April 8, 2019 and approved by David W. Archey of the Special Counsel's Office, bears Case ID [redacted]-SM-2167885 and states that "[o]n or about 07/31/2016, the FBI opened a full investigation, CROSSFIRE HURRICANE [redacted]-HQ-2063661."

Page 2 of the opening communication states that "Russian intelligence gained access to Democratic National Committee (DNC) networks as early as July 2015 and maintained access through June 2016," and page 3 states that "theUSIC assesses with high confidence, beginning in June 2016, Russian intelligence services used DCLeaks.com and WikiLeaks to publicly release the material obtained through the aforementioned cyber operations."

Item 4 of my client's June 5, 2020 request to the Department seeks "[a]ll data, documents, communications, records or other evidence indicating whether Seth Rich, Aaron Rich, or any other person or persons were involved in transferring data from the Democratic National Committee to Wikileaks in 2016, either directly or through intermediaries." The OXFERD COMMA opening communication is an FBI record setting out the FBI's own assessment of who transferred DNC material to WikiLeaks. It is responsive, it was not produced, and it was not accounted for in the *Vaughn* indexes.

The same records are responsive to Items 1 and 2 of my client's June 1, 2020 request, which seek the code names assigned to individuals and to sub-sections of the Crossfire Hurricane investigation. OXFERD COMMA is such a code name, predicated on criteria set by the Crossfire Hurricane team; MARCH TOLL is another. Both have now been disclosed by the FBI itself. More importantly, it is difficult to see how the code names would have been covered by any FOIA exemption, particularly after the investigations were closed. In light of that, please ask the FBI to explain its rationale for withholding them. Likewise, please ask the FBI to explain its rationale for withholding (1) code names from other closed investigations and (2) code names for participants in those closed investigations.

2. The "Prohibited Access" designation — and the FBI's answer to it.

When I raised the "Prohibited Access" designation in May of 2025, and when my client moved for partial summary judgment on the issue on June 30, 2025, the FBI's position was that no separate search was necessary. That position rested on Mr. Seidel's assurances that FBI policy requires personnel to index records properly and that the Court must presume FBI personnel follow that policy. The FBI's own declassified records now demonstrate that the assurance was worthless.

The MARCH TOLL opening communication, dated May 10, 2017, states: "Based on guidance from FBI Headquarters, the captioned investigation is being placed in a prohibited status." A companion communication states that the investigation "is highly sensitive and being placed in a prohibited status based on verbal authority from Assistant Director E.W. Priestap on 10 May 2017."

Every document in the MARCH TOLL set then recites the consequence, in the FBI's own words:

"To provide an electronic record, this document will serve as a placeholder within Sentinel for the opening communication. The original document and any associated 1A envelopes have been manually drafted and approved. The original approved and serialized documents are stored in a physical case file. This case file is secured in a certified SCIF, located at FBI Washington Field Office, and available for inspection upon request. Requests for inspection will need to be approved by the Assistant Director of Counterintelligence Division."

One of the enclosures is stamped "Do Not Upload."

That is a documented, deliberate architecture for defeating a Sentinel search. The FBI told this Court that Sentinel and the CRS and ACS indices available through it "serve as the FBI's initial and primary means for locating records in response to a FOIA request." Fourth Seidel Declaration ¶¶ 53–56. It then told this Court that a Sentinel search using the terms "Seth

Rich” and “Seth Conrad Rich” located no responsive main or reference files. What the FBI did not tell this Court is that records it had itself designated “prohibited” would not surface in such a search at all — because the substance of those records is not in Sentinel. It is in a safe in a SCIF at the Washington Field Office, retrievable only on the approval of an Assistant Director.

The presumption of regularity the FBI asked the Court to indulge cannot survive documents in which the FBI records its own decision to keep files out of the indexed system. A search that cannot reach the records is not an adequate search, and a declaration that describes such a search without disclosing that limitation is not an accurate declaration.

3. The caption is misspelled, and the misspelling is not an accident.

The FBI captioned this investigation “OXFERD COMMA.” The phrase, of course, is “Oxford comma.” The misspelling appears in the caption block of the opening communication, in the running header of every page, in the notification to the Deputy Attorney General, and in the closing communication two years later. It is not a typographical slip in a single document. It is the case caption, propagated across the file and across two FBI offices over a period of years.

A case caption is an index term. It is how a record is retrieved. A file captioned with a deliberate misspelling cannot be located by anyone searching the correct spelling — which is to say, by anyone who does not already know the misspelling exists. Combined with the “prohibited” designation, the placeholder-only Sentinel entries, and the storage of the actual records in a SCIF behind an Assistant Director’s approval, the misspelling is one more layer of the same effort: to ensure that these records could not be found by anyone the FBI did not wish to find them, including FOIA requesters and, apparently, the FBI’s own investigators.

I do not raise this lightly, and I am prepared to raise it with the Court. If the FBI contends the spelling was inadvertent, it should say so in writing, and it should explain how an inadvertent misspelling survived review by the Office of the General Counsel, an Assistant Director, the Deputy Attorney General’s notification, and the Special Counsel’s Office.

4. What I am requesting.

Please advise, in writing, whether the FBI searched the following case files in responding to my client’s requests, and if not, why not: [redacted]-HQ-2063661 (CROSSFIRE HURRICANE, identified in publicly available FBI records as 97F-HQ-2063661); [redacted]-HQ-2167885 and [redacted]-SM-2167885 (OXFERD COMMA); and [redacted]-WF-2166085 and [redacted]-SM-2166085 (MARCH TOLL).

Please also advise whether any records responsive to my client’s requests were, at any time, designated “Prohibited Access” or placed in “prohibited status”; whether any responsive records exist only as Sentinel placeholders with the underlying documents held in physical form; whether the FBI has searched the physical case files held in the SCIF at the

Washington Field Office;¹ and whether the FBI's searches accounted for case captions containing non-standard spellings.

Finally, please state whether the FBI will supplement its production and its *Vaughn* indexes to account for the records described above, and whether it will supplement or correct the Seidel declarations to disclose the limitations of a Sentinel search as applied to files in prohibited status.

I would appreciate a response by August 28, 2026. If the FBI declines to respond, or responds that no further search is warranted, I intend to bring this correspondence and the underlying declassified records to the Court's attention.

Respectfully,



Ty Cleverger

¹ I must also ask whether this relates to any of the records found in "burn bags" in a SCIF at FBI headquarters.