



**Democracy
Defenders
Fund**

February 06, 2026

Don R. Berthiaume
Acting Inspector General
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue NW
Washington, D.C. 20530

*RE: Second Supplement to January 7 Request for Audit of Department of Justice's
Compliance with the Epstein Files Transparency Act*

Dear Acting Inspector General Berthiaume:

On January 7, 2026, Democracy Defenders Fund (DDF) requested that the Department of Justice (DOJ) Office of Inspector General (OIG) initiate an audit of the DOJ's compliance with the *Epstein Files Transparency Act* (EFTA).¹ DDF supplemented that request on January 23, 2026.² On January 30, 2026, the Department of Justice released over 2 million additional files under the EFTA.³ In a press conference held the same day, Deputy Attorney General Todd Blanche explained that “[t]oday's release marks the end of a very comprehensive document identification and review process to ensure transparency to the American people and compliance with the act.”⁴

DDFs analysis of DOJ's 'final' release of documents under the EFTA identifies widespread and comprehensive noncompliance. Many of the issues that DDF flagged for you in our January 7 request for an audit either persist or have worsened. However, DDF has now identified a more fundamental issue.

¹ Letter from Democracy Defenders Fund to Don R. Berthiaume, Acting Inspector General (Jan. 7, 2026), [fb1cd5_85d27291e5db4cac824dc487793834f0.pdf](https://www.securethevote.org/sites/default/files/2026-01/fb1cd5_85d27291e5db4cac824dc487793834f0.pdf) (“DDF Jan. 7 Letter”).

² Letter from Democracy Defenders Fund to Don R. Berthiaume, Acting Inspector General (Jan. 23, 2026), [dea5ed_8e9c4ab913854ce0a87573bc3fd70db3.pdf](https://www.securethevote.org/sites/default/files/2026-01/dea5ed_8e9c4ab913854ce0a87573bc3fd70db3.pdf).

³ The Department of Justice has stated that the January 30 production was 3 million pages out of a total of 6 million pages reviewed. Press Release. Department of Justice, *Department of Justice Publishes 3.5 Million Responsive Pages in Compliance with the Epstein Files Transparency Act* (Jan. 30, 2026), <https://www.justice.gov/opa/pr/department-justice-publishes-35-million-responsive-pages-compliance-epstein-files> (“Press Release”); YouTube, *Deputy AG Todd Blanche details release of additional Epstein Files*, MS NOW (Jan. 30, 2026), <http://www.youtube.com/watch?v=jL5F4qmQlvM&t=87s>. DDF's review identifies that a significant number of these pages are duplicates. As a result, we have looked at the number of separate files uploaded to the Epstein Library. In total, the number of files was significantly lower: around 2 million.

⁴ YouTube, *Deputy AG Todd Blanche details release of additional Epstein Files*, MS NOW (Jan. 30, 2026), <http://www.youtube.com/watch?v=jL5F4qmQlvM&t=87s>.

It appears that DOJ may have impermissibly circumscribed the scope of their review to be much narrower than what is required under the EFTA. The EFTA requires the release of all records that “relate to” “Jeffrey Epstein including all investigations, prosecutions, or custodial matters” or “Ghislaine Maxwell.”⁵ However, as set forth in a letter sent by DOJ to Congress on the day of the January 30th release, DOJ only reviewed and released documents that “related to *the investigations and prosecutions of Jeffrey Epstein and Ghislaine Maxwell.*”⁶ In that letter, and a contemporaneous press release, DOJ explained that their scope of review was based on five primary sources:

- the Florida and New York cases against Epstein,
- the New York case against Maxwell,
- the New York cases investigating Epstein’s death,
- the Florida case investigating a former butler of Epstein,
- Multiple FBI investigations, and
- the Office of Inspector General investigation into Epstein’s death⁷

In addition, in the press statement made by DOJ on January 30, they explained that they not only did not provide any documents that were “withheld under privilege” they also did not provide any documents that were “not part of the case file for Epstein or Maxwell and were completely unrelated to these cases.”⁸ The clearest reading of that statement is that DOJ may have excluded a wide range of materials that refer to Epstein and Maxwell but are not “part of the case file[s]” or that were “completely unrelated to *those cases.*”⁹

If true, the scope of review undertaken by DOJ would be substantially more limited than what is required under the EFTA. Although investigative and case materials are part of the scope of documents required to be disclosed, the EFTA was *expressly* not limited to investigative or case materials. Rather, Section 2(a) of the EFTA mandated that DOJ “make publicly available” “*all* unclassified records, documents, communications, and investigate materials in the possession of the Department of Justice . . . *that relate to*”:

- Jeffrey Epstein including all investigations, prosecutions, or custodial matters.
- Ghislaine Maxwell.
- Flight logs or travel records, including but not limited to manifests, itineraries, pilot records, and customs or immigration documentation, for any aircraft, vessel, or vehicle owned, operated, or used by Jeffrey Epstein or any related entity.
- Individuals, including government officials, named or referenced in connection with Epstein’s criminal activities, civil settlements, immunity or plea agreements, or investigatory proceedings.
- Entities (corporate, nonprofit, academic, or governmental) with known or alleged ties to Epstein’s trafficking or financial networks.

⁵ Epstein Files Transparency Act, P. L. 119-38, § 2(a), 139 Stat. 656 (Nov. 19, 2025).

⁶ Letter from Todd Blanche, Deputy Attorney General, Re; Epstein Files Transparency Act - Production of Department Materials (Jan. 30, 2026), <https://www.justice.gov/opa/media/1426091/dl> (“Blanche Letter”).

⁷ *Id.*; Press Release *supra* nt. 3.

⁸ Press Release *supra* nt. 3.

⁹ *Id.*

- Any immunity deals, non-prosecution agreements, plea bargains, or sealed settlements involving Epstein or his associates.
- Internal DOJ communications, including emails, memos, meeting notes, concerning decisions to charge, not charge, investigate, or decline to investigate Epstein or his associates.
- All communications, memoranda, directives, logs, or metadata concerning the destruction, deletion, alteration, misplacement, or concealment of documents, recordings, or electronic data related to Epstein, his associates, his detention and death, or any investigative files.
- Documentation of Epstein’s detention or death, including incident reports, witness interviews, medical examiner files, autopsy reports, and written records detailing the circumstances and cause of death.”¹⁰

Focusing only on the first two categories, DOJ was required to disclose all documents that “relate to” either Jeffrey Epstein—including but not limited to investigations, prosecutions, and custodial matters—or to Ghislaine Maxwell.¹¹ This is sweeping language. “The ordinary meaning of [relates to] is a broad one—to stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connection with.”¹² The Supreme Court has consistently recognized that “Congress characteristically employs the phrase [relates to] to reach any subject that has ‘a connection with, or reference to,’ the topics the statute enumerates.”¹³ Consistent with its plain meaning, the Court often reads the term to mean “about, concerning, with reference to, [or] as regards.”¹⁴ And in a variety of contexts the Court has held the phrase is to be given a “broad scope” and “expansive sweep.”¹⁵ The text of the EFTA is clear, so long as a document “relates to”—that is to say is “about” or “refers to”—Epstein or Maxwell it should have been included in the Epstein Library.

This broad sweep is reinforced by other textual clues. For example, Congress required the disclosure of documents that relate to Epstein “including all investigations, prosecutions, or custodial matters.”¹⁶ Congress’s use of the term “including” makes clear that “investigations, prosecutions, or custodial” records are but a subset, not the total category, of records covered.¹⁷

¹⁰ *Supra* nt. 5.

¹¹ *Id.* The Department of Justice seems to acknowledge the breadth of this requirement in internal instructions provided to first round attorney reviewers. Memorandum from Todd Blanche, Deputy Attorney General, *Attorney Review Protocol for Epstein Files* (Jan. 4, 2026), <https://www.justice.gov/media/1426281/dl?inline> (“Instructions”).

¹² *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992) (quoting Black’s Law Dictionary).

¹³ *Coventry Health Care of Missouri, Inc. v. Nevils*, 581 U.S. 87, 96 (2017).

¹⁴ *Lamar, Archer & Cofrin, LLP v. Appling*, 584 U.S. 709, 717 (2018) (stating that “The Court finds no basis to conclude . . . that “related to” has a materially different meaning than “about,” “concerning,” “with reference to,” and “as regards”).

¹⁵ *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992) (citations omitted) (pre-emption clause); *Lamar, Archer & Cofrin, LLP v. Appling*, 584 U.S. 709, 717 (2018); *Pugin v. Garland*, 599 U.S. 600, 607(2023); *California Div. of Lab. Standards Enf’t v. Dillingham Const., N.A., Inc.*, 519 U.S. 316, 324 (1997).

¹⁶ EFTA § 2(a) (emphasis added).

¹⁷ Black’s Law Dictionary (12th ed. 2024) (“The participle *including* typically indicates a partial list”). Note that inclusion of several categories of records related to Epstein does not lead to surplusage. First, Congress appears to have taken a “belt and suspenders” approach to the text, seeking to reinforce the breadth of documents that they want, even if some categories overlap. *See, e.g., Cook Inlet Tribal Council, Inc. v. Dotomain*, 10 F.4th 892, 896 (D.C. Cir. 2021) (interpreting statute in “belt-and-suspenders manner”); Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 176-77 (2012) (noting that the canon against surplusage is not always

Likewise, DOJ was required to disclose all documents that “relate to . . . all communications . . . concerning the destruction, deletion, alteration, misplacement, or concealment of documents, recordings, or electronic data related to Epstein, his associates, his detention and death, or any investigative files.”¹⁸ Congress’s expansive search for documents related to the cover-up or destruction of documents that relate to Epstein or his associates clearly goes beyond the “case files” as DOJ puts it.

The apparently cramped scope of DOJ’s review and release has significant consequences. One such consequence is worth highlighting: DDF conducted a keyword search for communications from the following capstone officials: Attorney General Pam Bondi, Deputy Attorney General Todd Blanche, or FBI Director Kash Patel. Surprisingly, we were unable to find more than a handful of official emails or communication records from these officials.¹⁹

The lack of communication records is deeply troubling. AG Bondi, DAG Blanche, and FBI Director Patel have spoken *extensively* on issues related to Jeffrey Epstein and Ghislaine Maxwell.²⁰ They have been at the very center of DOJ’s response (or lack thereof) to congressional and public calls for production of the Epstein files. If DOJ were adhering to the broad scope of the EFTA, the Epstein Library should be replete with their communications. It is

“dispositive because . . . [s]ometimes drafters *do* repeat themselves and *do* include words that add nothing of substance, either out of a flawed sense of style or to engage in the ill-conceived but lamentably common belt-and-suspenders approach”). Moreover, the process used to enact the bill, which was only brought to the floor after a discharge petition, resulted in limited opportunities to debate and amend the text. Annie Grayer, et al., *The Epstein files petition now has its 218th signature. What happens next?*, CNN POLITICS (Nov. 12, 2025), <https://www.cnn.com/2025/11/12/politics/epstein-files-discharge-petition-next-steps>. The Supreme Court has suggested that the surplusage canon may have more limited application when normal legislative procedures permitting debate and amendment are not used. *See King v. Burwell*, 576 U.S. 473, 491-492 (2015) (stating that surplusage canon was not apt to bill passed through reconciliation which limited debate and amendment and thus lead to “inartful” drafting).

¹⁸ EFTA § 2(a)(8).

¹⁹ DDF searched the DOJ Epstein Library on February 1, 2026, using the Library’s native search engine. DDF replicated searches the week of February 2, 2026, using a proprietary third-party system. The review focused on email address usernames, display names, and signature blocks. Given the size of the document database and potential issues with DOJ optical character recognition, it is possible that a small subset of emails exist in the Epstein Library that were not retrieved in DDF’s search. However, based on these searches, DDF uncovered two documents that had FBI Director Patel’s email display name (EFTA #163684 and # 1656248). We did not identify emails that had AG Bondi or DAG Blanche’s email display name. FBI Director Patel was named in a handful of internal FBI emails, but we could not identify if he was a recipient of those communications as a result of redactions (see EFTA # 164742; 163485). In addition, there were some emails that appear to be from one or more Epstein victims or other members of the public that reference AG Bondi and FBI Director Patel, but DDF could not identify if they were a recipient as a result of redactions (see, e.g., EFTA # 144128). Finally, several emails to Todd Blanche were identified that appear to be from when he was in private practice (see EFTA # 85765; 92801; 98837; 98838).

²⁰ Evan Perez and Hannah Rabinowitz, *FBI’s weekend homework: Redact the Epstein Files*, CNN POLITICS (Mar. 22, 2025), <https://www.cnn.com/2025/03/22/politics/fbi-redacting-epstein-files>; Shane Croucher, *Bondi: Tens of Thousands of Videos of Epstein With Children, Child Porn*, NEWSWEEK (May 9, 2026), <https://www.newsweek.com/bondi-epstein-videos-children-child-porn-fbi-files-2069068>; Alison Durkee, *Embattled Kash Patel Claims No One Else Implicated In FBI Epstein Documents*, FORBES (Sep. 16, 2025), <https://www.forbes.com/sites/alisondurkee/2025/09/16/epstein-files-dont-implicate-others-in-trafficking-scheme-fbi-chief-patel-claims/>; Ryan Lucas, *Todd Blanche involvement in Epstein case fuels questions*, NPR (July 29, 2025), <https://www.npr.org/2025/07/29/nx-s1-5484129/todd-blanche-epstein-ghislaine-maxwell-trump>.

not as far as we can tell. The obvious conclusion is that these communications have been withheld, destroyed, or redacted to the point that they are not traceable in the Epstein Library.²¹

If these communications were deemed to be part of the review scope, no statutory exception in the EFTA would permit the wholesale withholding or redaction of the Attorney General, Deputy Attorney General, or FBI Director's emails.²² Likewise, as we highlighted in our January 7 letter, the EFTA's broad and unambiguous direction that DOJ disclose of "all . . . records, documents, communications, and investigative materials" related to Jeffrey Epstein or Ghislaine Maxwell expressly abrogated any common law privileges that might have permitted withholding communications from the AG, DAG, or FBI Director.²³ And, even assuming, *arguendo*, that the EFTA had *not* abrogated DOJ's ability to withhold communications on the basis of attorney-client or deliberative process, those privileges would not have covered every communication by AG Bondi, DAG Blanche, or FBI Director Patel.²⁴ In addition, as we explained in our January 7 letter, the Privacy Act does not stand as a bar to the release of any information required to be produced under the EFTA.²⁵ And even if the Privacy Act (5 U.S.C. §

²¹ DDF requests that your office ensure that any audit considers whether federal records were destroyed. The records of the Attorney General, Deputy Attorney General, and the FBI Director, including electronic mail, are permanent records. Disposition Authority for the Records of the Attorney General, Deputy Attorney General, and Associate Attorney General and their Program Staff (2010), [n1-060-10-036_sf115.pdf](#); Disposition Authority for Records of the Director of the Federal Bureau of Investigation (2006), [n1-065-07-001_sf115.pdf](#); Department of Justice (DOJ) Policy Statement 0801.04, Electronic Mail and Electronic Messaging Records Retention. Destruction of documents that are not in compliance with applicable disposition authorities violates the Federal Records Act and may be the basis for criminal prosecution. 44 U.S.C. § 3314; 18 U.S.C. §§ 641, 2071.

²² The EFTA provides five narrowly tailored exceptions. EFTA § 2(c). These exceptions are largely inapplicable to emails from the AG, DAG, and FBI Director. The AG, DAG, and FBI Director are not victims. DOJ has made clear that no information is being held for national security reasons. And the disclosure of emails about Epstein and Maxwell would not appear to "jeopardize an active federal investigation or ongoing prosecution" given that the DOJ has made clear that there are no such ongoing investigations. Alejandra Jaramillo, *Deputy attorney general signals no new Epstein charges, defends Gabbard role in Georgia election search*, CNN POLITICS (Feb. 2, 2026), <https://www.cnn.com/2026/02/01/politics/blanche-epstein-gabbard-lemon>. And even if there were an active investigation, the EFTA requires that any withholding be "narrowly tailored and temporary." EFTA § 2(c)(1)(C).

²³ See DDF Jan. 7 Letter *supra* nt. 1. As the Supreme Court has explained, "Statutes which invade the common law . . . are to be read with a presumption favoring the retention of long-established and familiar principles, *except when a statutory purpose to the contrary is evident.*" *Isbrandtsen Co. v. Johnson*, 343 U.S. 779, 783 (1952) (emphasis added). Courts have held that "Congress need not attach an express disclaimer to a statute that 'this statute hereby abrogates the common law.'" *Pond v. United States*, 69 F.4th 155, 164 (4th Cir. 2023) (citing *Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 108 (1991) ("This interpretative presumption is not [] one that entails a requirement of clear statement, to the effect that Congress must state precisely any intention to overcome the presumption's application to a given statutory scheme"). Rather, a statute abrogates the common law so long as the statute "'speak[s] directly to the question addressed by the common law.'" *United States v. Texas*, 507 U.S. 529, 534 (1993) (cleaned up). The EFTA is both comprehensive and clear that "any" communications that are in the hands of DOJ related to Epstein and Ghislaine must be released *unless* one of five narrowly tailored exclusions apply. EFTA § 2(a). Congress could have included an exception in the EFTA for deliberative process materials or materials that are covered by a common law privilege as it did with the Freedom of Information Act. It did not. Compare EFTA, § 2(c) with 5 U.S.C. § 552(b)(5) (Freedom of Information Act exception permitting withholding of documents that "would not be available by law to a party other than an agency in litigation with the agency").

²⁴ See, e.g., *Ellsberg v. Mitchell*, 709 F.2d 51, 60 (D.C. Cir. 1983) (finding that the names of Attorney Generals who authorized wiretaps were not protected by attorney-client privilege).

²⁵ See DDF Jan. 7 Letter *supra* nt.1. As DDF explained in our earlier letter, basic rules of statutory construction make it clear that Congress's later-in-time and more specific requirement that Epstein-related documents be disclosed subject to limited exceptions overcomes the earlier-in-time more general non-disclosure requirements of

552a) did apply to responsive communications, DOJ’s own internal advice states that the names of “[t]hose occupying Presidentially-nominated, Senate-confirmed positions, including if in an Acting role (U.S. Attorney, federal judges, etc.)” should not be redacted.²⁶

Put simply, if DOJ had adhered to the broad scope of the EFTA, we would expect significant tranches of communications from AG Bondi, DAG Blanche, and FBI Director Patel to appear in the Epstein Library. The absence of these records is telling. Whether DOJ destroyed, withheld, or redacted the records, they have proven once again that the Trump-Bondi DOJ is not to be trusted. That is why it is imperative that your office begin an audit of DOJ’s compliance with the EFTA immediately.

Sincerely,

/s/
Ambassador Norman L. Eisen
(ret.)
Executive Chair and Founder
Democracy Defenders Fund

/s/
Virginia Canter
Chief Counsel and Director for Ethics and
Anticorruption
Democracy Defenders Fund

/s/
Christopher Swartz
Senior Ethics Counsel
Democracy Defenders Fund

the Privacy Act. *Id.*; see also *Morton v. Mancari*, 417 U.S. 535, 550-51 (1974) (“Where there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one, regardless of the priority of enactment”).

²⁶ See Instructions at 8 *supra* nt. 11. See also *Tripp v. DOD*, 193 F. Supp. 2d 229, 236 (D.D.C. 2002); H.R. 93–1416, 93d Cong. 2d Sess. at 13 (Oct. 2, 1974) (explaining that Congress did not intend the Privacy Act to prevent the disclosure of the “names, titles, salaries, and duty stations of most Federal employees”).