

EXHIBIT A

FOIA Request for Analytic Objectivity and Process Survey Results

Scott Anderson <scott.anderson@lawfareblog.com>
To: dni-foia@dni.gov

Wed, May 13, 2020 at 3:05 PM

Dear sir or madam:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, we hereby request that your office produce the following records within 20 business days:

1. Any records reflecting the results of the Analytic Objectivity and Process Surveys (AOPS) administered from 2015 through 2020, including those with results broken down by individual agency, office, or component.

We understand that the Office of the Director of National Intelligence (ODNI) administers the AOPS throughout the intelligence community on an annual basis.

We also request any records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask that the remainder of the record to be provided, as required by 5 U.S.C. §§ 552(a)(8)(A)(ii) & 552(b).

FEE WAIVER

FOIA provides that any fees associated with a request are waived if “disclosure of the information is in the public interest because it 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.” 5 U.S.C. § 552(a)(4)(A)(iii).

We are the editor-in-chief and senior editor for *Lawfare*, an online publication dedicated to informing public understanding on operations and activities of the government. Lawfare is published by The Lawfare Institute, a 501(c)(3) not-for-profit educational organization, and in cooperation with The Brookings Institution, a 501(c)(3) nonprofit public policy organization. This request is submitted in connection with *Lawfare*’s mission to publish information that is likely to contribute significantly to the public understanding of federal

agency activities related to law and national security. There have been recent media reports that the Trump administration is pressuring members of the intelligence community to link the coronavirus COVID-19 to Chinese laboratories. *See, e.g.*, Mark Mazzetti et al., “Trump Officials Are Said to Press Spies to Link Virus and Wuhan Labs,” *The New York Times* (Apr. 30, 2020), <https://nyti.ms/2zH5JWZ>. The results of the AOPS will provide invaluable insight into whether the Trump administration has applied such pressure before and whether this should be a more systemic concern.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, we are entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as “a representative of the news media.” *Id.* *Lawfare* is a “news media organization[]” that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our website, <https://www.lawfareblog.com>, and to provide information about and analysis of those documents as appropriate.

EXPEDITED PROCESSING

FOIA provides for expedited processing where a requestor “demonstrates a compelling need.” 5 U.S.C. § 552(a)(6)(E)(i). It defines “compelling need” to include situations where a “request [is] made by a person primarily engaged in disseminating information” and there exists an “urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.* § 552(a)(6)(E)(v).

Lawfare is an organization primarily engaged in the dissemination of information. As noted above, numerous media reports have indicated that the Trump administration is pressuring the intelligence community in order to shape their analysis regarding the COVID-19. This could have a direct and immediate impact on U.S. policy responses to the COVID-19 pandemic, as well as to the bilateral U.S. relationship with China. For this reason, there is an urgency to our effort to inform the public regarding the results of the AOPS.

* * *

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact us by phone or email if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,

/s/ Benjamin Wittes

Benjamin Wittes

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P.S.: Attached please find a PDF copy of this request.

 **2020.05.13_ODNI Objectivity Survey (ODNI).pdf**
81K

May 13, 2020

Patricia Gaviria
Director, Information Management Division
ATTN: FOIA/PA
Office of the Director of National Intelligence
Washington, D.C. 20511
dni-foia@dni.gov

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