

# **EXHIBIT B**

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## FOIA Request for Climate Survey Results

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Scott Anderson <[scott.anderson@lawfareblog.com](mailto:scott.anderson@lawfareblog.com)>  
To: [dni-foia@dni.gov](mailto:dni-foia@dni.gov)

Wed, May 13, 2020 at 3:00 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 annual intelligence community employee climate surveys that were 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 climate survey throughout the intelligence community on an annual basis. We are aware that some partial results are already publicly available on the ODNI's website (<https://www.dni.gov/index.php/read-released-records>), but are seeking additional records showing more recent survey results and that break results down by agency, office, or component.

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 repeated media reports of the Trump administration maligning the work of the intelligence community and pressuring members of the intelligence community to adapt their analyses to their preferred sets of facts. *See, e.g.*, John Wagner and Ellen Nakashima, "Trump Dismisses Intelligence Official's Assessment of Russian Preference for Him as Democratic 'Hoax,'" *The Washington Post* (Feb. 21, 2020), <https://wapo.st/3cpFSkW>; 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 climate will provide invaluable insight into whether the Trump administration's actions have impacted morale within various components of the intelligence community, which may in turn negatively impact those components' work and their ability to recruit and retain qualified staff.

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 discussed above, numerous media reports have indicated that officials within the Trump administration have repeatedly maligning the work of the intelligence community and pressured it to adapt its analyses to their political preferences, including by pressuring the intelligence community to adjust their ongoing analysis of the COVID-19 pandemic. *See* 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>. These actions may be severely undermining morale within the intelligence community, which could negatively impact its effectiveness. The requested documents are necessary both to understand the current state of morale within the intelligence community and to understand how it has changed over the course of the Trump administration.

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

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

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 **2020.05.13\_ODNI Climate Survey (ODNI).pdf**  
85K

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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