

# **EXHIBIT D**

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**RE: FOIA Request for Climate Survey Results-DF-2020-00234**

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DNI-FOIA <[DNI-FOIA@dni.gov](mailto:DNI-FOIA@dni.gov)>

Thu, May 14, 2020 at 1:54 PM

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

Good Afternoon,

Please see attached Acknowledgement letter.

Sincerely,

DNI-FOIA

**From:** Scott Anderson <[scott.anderson@lawfareblog.com](mailto:scott.anderson@lawfareblog.com)>  
**Sent:** Wednesday, May 13, 2020 3:00 PM  
**To:** DNI-FOIA <[DNI-FOIA@dni.gov](mailto:DNI-FOIA@dni.gov)>  
**Subject:** FOIA Request for Climate Survey Results

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/3cpF5kW>; 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 maligned 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  
Benjamin Wittes  
Editor in Chief, *Lawfare*  
Senior Fellow in Governance Studies, The Brookings Institution  
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/s/ Scott R. Anderson

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

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 **DF-2020-00234 (Anderson) Ack ltr.pdf**  
256K

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE  
WASHINGTON, DC

Scott Anderson  
Fellow in Governance Studies  
The Brookings Institution  
P.O. Box 33226  
Washington, DC 20033-3226

May 14, 2020

Mr. Anderson:

This letter acknowledges receipt of your Freedom of Information Act (“FOIA”) request dated 13 May 2020, and received by the Information Management Division on 14 May 2020, in which you seek,

- *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*
- *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*
- *any such records prepare in connection with the processing of this request*

**Your request has been assigned ODNI tracking number DF-2020-00234.** We will begin to process your request for the information in the first bullet above; however, the information in the second and third bullets are not proper FOIA requests at this time. Information must exist at the time the request is filed in order to be requested and subject to FOIA. If you remain interested in this information, you are free to file a request for it upon completion of the processing of the first portion of your request. **Your request for a fee waiver has been granted.**

Your request for expedited processing has been denied because you have not satisfied ODNI standards for expedited processing established in 32 CFR 1700.12. If you are not satisfied with my response to your request for expedited processing, you may administratively appeal by submitting a written request to the Chief FOIA Officer, c/o Director, Information Management Division, Office of the Director of National Intelligence, Washington, DC 20511 or [dni-foia@dni.gov](mailto:dni-foia@dni.gov). The request letter and envelope or subject line of the email should be marked “Freedom of Information Act Appeal.” Your appeal must be postmarked or electronically transmitted within 90 days of the date of this letter.

To assist you with any aspect of your request you may contact me, the FOIA Public Liaison, at my contact information below. You may also contact the Office of Government Information Services (“OGIS”) of the National Archives and Records Administration to inquire about the mediation services they provide. OGIS can be reached by mail at 8601 Adelphi Road, Room 2510, College Park, MD 20740-6001; telephone (202) 741-5770; facsimile (202) 741-5769; Toll-free (877) 684-6448; or email at [ogis@nara.gov](mailto:ogis@nara.gov).

If you have any questions, please feel free to contact our Requester Service Center at [dni-foia@dni.gov](mailto:dni-foia@dni.gov) or (301) 243-1499. You may also reach out to me directly at [dni-foia-liaison@dni.gov](mailto:dni-foia-liaison@dni.gov) or (301) 243-2025.

Sincerely,

A handwritten signature in black ink that reads "Sally A. Nicholson". The signature is written in a cursive style with a large initial "S".

Sally A. Nicholson  
Chief, FOIA Branch  
FOIA Public Liaison  
Information Management Division