

The National Security Archive

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March 8, 2007

Via Facsimile

Larry Baer
Chief FOIA Officer
Office of the Director of National Intelligence
Washington, D.C. 20511

Dear Mr. Baer:

We are writing to give you advance notice of our findings about Office of the Director of National Intelligence's FOIA performance. We have just completed the National Security Archive's fifth government-wide audit, "The Knight Open Government Survey."

As part of our ongoing efforts to ensure agency compliance with the FOIA, the Archive recently audited nearly 150 government agency and component Web sites to assess whether they had implemented the 1996 E-FOIA Amendments. The audit included the FOIA Web sites of all 91 agencies subject to FOIA and 58 agency components that received more than 500 FOIA requests in fiscal year 2005. The Web site reviews were completed at the end of February 2007.

Our reviewers followed a standardized methodology to assess each site. They examined whether the sites included required records in their electronic reading rooms and whether the sites provided mandatory guidance materials and other essential information for FOIA requesters. Our report, including our specific findings for each agency, will be released March 11, 2007, and will be available on our Web site at www.nsarchive.org.

Our audit identified the Office of the Director of National Intelligence as one of the worst agencies with regard to E-FOIA compliance. We found several areas where your FOIA Web site fails to fulfill both the letter and the spirit of the 1996 E-FOIA Amendments. Specifically:

- The ODNI FOIA page provides very little guidance for a potential FOIA requester. Simply providing contact information does not fulfill ODNI's statutory obligation to make available a "guide for requesting records" from the agency, under 5 U.S.C. §552(g). Rather, the requester is forced to contact the ODNI FOIA office directly to obtain instructive information. Your FOIA site should include additional guidance that includes information on fees, exemptions, reply time, the appeals process, and how to request a fee waiver or expedited processing.
- The Electronic Reading Room possesses very limited information. Conspicuously absent from the reading room are links to certain required FOIA documents, including agency opinions and orders, administrative staff manuals, and frequently requested documents.

An Independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax deductible contributions through The National Security Archive Fund, Inc. underwrite the Archive's Budget.

We hope that you will take this opportunity to review your agency's FOIA Web site and make improvements that will bring your agency in line with Congress's vision when it passed the E-FOIA amendments ten years ago. Please do not hesitate to contact us to discuss your FOIA Web site or any questions you may have regarding our audit.

Sincerely,

Thomas S. Blanton
Executive Director

Meredith Fuchs
General Counsel