<u>**Office of the Director of National Intelligence**</u>
<u>**Chief FOIA Officer Report**</u>

This report covers the period beginning with March 1, 2010 through February 28, 2011 and outlines the steps the ODNI has taken to "improve FOIA operations and facilitate information disclosure." The ODNI is deeply committed to transparency to the best of our abilities without harming national security.

I. <u>Steps Taken to Applying the Presumption of Openness</u>

1. **Description:**

   a. **Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.** By Memorandum to the Workforce, dated May 21, 2009, ODNI's Chief FOIA Officer affirmed ODNI's commitment to accountability and transparency. The President's FOIA Memorandum and the Attorney General's FOIA Guidelines were attached to that memorandum to ensure widest dissemination. That Memorandum, as well as the President's FOIA Memorandum and the Attorney General's FOIA Guidelines, are posted on the ODNI's internal website for reference.

   b. **What training has been attended and/or conducted on the new FOIA Guidelines?** A FOIA training briefing covering the new FOIA Guidelines was created and is posted to ODNI's internal website.

   c. **How has your agency created or modified your internal guidance to reflect the presumption of openness?** The ODNI FOIA Office provides guidance to discretionarily release information if there is no foreseeable harm.

   d. **To what extent has your agency made discretionary releases of otherwise exempt information?** The ODNI has chosen to release unclassified but otherwise exempt information in several cases.

   e. **What exemptions would have covered the information that was released as a matter of discretion?** Exemption 5 would have covered the information that was released as a matter of discretion.

   f. **How does your agency review records to determine whether discretionary releases are possible?** Under the FOIA, ODNI conducts a line by line review of all responsive records to determine what information may be reasonably segregated and released. In addition, many documents are proactively reviewed prior to receipt of a FOIA request and are made available to the public through posting to our public website.

   g. **Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.** ODNI continues to routinely review and post records to our public website.

2. **Disclosure Comparisons:**

A comparison of our FOIA annual reports has shown that ODNI demonstrated an increase in the number of requests where records were released in part from FY09 to FY10.   For partial releases, we showed an increase from 23 cases in FY09 to 42 cases in FY10. ODNI granted 18 full releases in both FY09 and FY10. ODNI's FY10 Annual Report shows that the most frequently cited exemptions are non-discretionary – exemptions 1, 3, and 6.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

a. **Do FOIA professionals within your agency have sufficient IT support?** Yes. ODNI utilizes a FOIA case management system that allows the staff to open and track cases electronically. In addition, the ODNI FOIA office began applying all redactions electronically this year. This has enabled the staff to work more efficiently by promoting electronic review and recommendations by the subject matter experts. The FOIA program office has also partnered with the agency's IT support to ensure efficient interaction and support.

b. **Describe how your agency's FOIA professionals interact with your Open Government Team.** ODNI's FOIA program and Open Government Team are aligned to the same directorate within the ODNI. ODNI's FOIA professionals work directly with the ODNI Open Government Team by providing input to Open Government releases and also by working with the Open Government team to shape policy and guidance.

c. **Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.** The Director, Information Management, routinely reviews the FOIA workload to determine if staff should be re-allocated to the FOIA program. One non-FOIA position was converted to focus fully on the FOIA program in FY10. In addition, non-FOIA professionals in the Information Management Office are frequently cross-trained to provide backup support to the FOIA office when necessary.

d. **Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.** As a relatively new agency, ODNI has been building its FOIA program since its inception in 2005. The FOIA office currently has a full-time individual solely dedicated to processing FOIA requests. In addition, staff members from other review and release programs are cross-trained to assist with FOIA processing as needed.

III. Steps Taken to Increase Proactive Disclosures

a. **Has your agency added new material to your agency website since last year?** Yes. Since its inception, ODNI has maintained a robust public

website. Documents expected to be of public interest are routinely posted by various agency components. The FOIA webpage is frequently updated as new Intelligence Community policy documents are published. In addition, records released via the FOIA are often posted to the public website.

b. **What types of records have been posted?** The National Intelligence Council (NIC) and the National Counterproliferation Center routinely publish unclassified reports to their respective public web pages. Records relating to ODNI's records management program have also been posted to the ODNI' Electronic Reading Room.

c. **Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.** Certain unclassified ODNI policy documents and reports to Congress are now posted to our website.

d. **What system do you have in place to routinely identify records that are appropriate for posting?** All ODNI directorates as well as the FOIA office and public affairs office review records to determine what can be proactively posted.

e. **How do you utilize social media in disseminating information?** ODNI Public Affairs Office (PAO) has developed an ODNI Facebook page to disseminate timely information as widely as possible. PAO is exploring opportunities to create a new ODNI website that can demonstrate even more transparency.

f. **Describe any other steps taken to increase proactive disclosures at your agency.** ODNI's public website is continually under review to determine what improvements can be made in order to achieve greater transparency.

IV. Steps Taken to Greater Utilize Technology

1. **Electronic receipt of FOIA requests:**

   a. **What proportion of the components within your agency receive FOIA requests have the capability to receive such requests electronically?** ODNI has a centralized FOIA office which receives requests electronically.

   b. **To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?** ODNI's FOIA Office has been receiving FOIA requests electronically since 2007. There has been no need for increase in this capability.

   c. **What methods does your agency use to receive requests electronically?** ODNI receives requests electronically via email at DNI-FOIA@dni.gov.

2. **Electronic tracking of FOIA requests:**

a. **What proportion of components within your agency which receive FOIA requests have the ability to track such requests electronically?** ODNI's centralized FOIA office tracks all requests electronically.

b. **To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?** ODNI has been tracking FOIA requests electronically since its inception in 2005. There has been no need for increase in this capability.

c. **What methods does your agency use to track requests electronically?** ODNI utilizes a specially-developed FOIA tracking and processing system that assigns a tracking number to each request that is opened. This system allows for retrieval of any request to determine its current status.

3. **Electronic processing of FOIA requests:**

   a. **What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?** ODNI has one centralized FOIA office that has the capability to process all requests electronically.

   b. **To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?** ODNI's central FOIA office began processing all requests electronically in the spring of 2010.

   c. **What methods does your agency use to process requests electronically?** ODNI uses a commercially available redaction tool to process requests electronically.

4. **Electronic preparation of your Annual FOIA Report:**
   a. **What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.** ODNI utilizes a specially-developed FOIA tracking system that compiles all data required for the development of our Annual FOIA Report.
   b. **If you are not satisfied with your existing systems to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.** Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. **Backlog Status**:

   o As reported in our Annual FOIA Reports, ODNI's backlog increased from 66 cases in FY09 to 129 cases in FY10. ODNI's appeals backlog increased from 0 cases in FY09 to 3 cases in FY10. ODNI closed 3 out of its 10 oldest requests in FY10. ODNI's incoming FOIA requests nearly doubled in FY10, causing a bigger backlog.

2. **Explanation for Increase in ODNI's Backlog:**
    a. **Is the backlog increase a result of an increase in the number of incoming requests or appeals?** Yes. The number of ODNI's incoming FOIA requests nearly doubled in FY10. In FY09 ODNI received 115 new requests. In FY10, ODNI received 221 new requests.
    b. **Is the backlog increase caused by a loss of staff?** No
    c. **Is the backlog increase caused by an increase in the complexity of requests received?** Yes. Records responsive to many of ODNI's FOIA requests contain equities that are highly sensitive in nature and need to be coordinated with many different agencies.
    d. **What other causes, if any, contributed to the increase in backlog?** Not Applicable.

3. **Steps to Improve Timeliness:**
    a. **Does your agency routinely set goals and monitor the progress of your FOIA caseload?** Yes. The FOIA office regularly reviews our FOIA logs to look for ways to improve response times and operate more efficiently.
    b. **Has your agency increased its FOIA staffing?** Yes. The FOIA office hired one full-time staff member in FY10 to focus solely on processing FOIA requests.
    c. **Has your agency made IT improvements to increase timeliness?** Yes. ODNI began processing all requests electronically in FY10. This allows more efficient review by the subject matter experts'
    d. **Has your agency Chief FOIA Officer been involved in overseeing your agency's capability to process requests?** The ODNI's Chief FOIA Officer is briefed on all significant FOIA cases. In addition, the Chief FOIA Officer is aware of what resources are dedicated to ODNI's FOIA program and how ODNI is able to process requests in a timely manner.

SPOTLIGHT ON SUCCESS

In order to improve processing times and ensure consistency across the Intelligence Community (IC), ODNI has established an electronic community of interest for IC FOIA Officers. This effort has resulted in greater collaboration on requests with multiple agency equities. This community of interest is part of a general effort by the ODNI FOIA office to improve outreach to other agencies. It has allowed for better communication overall and often leads to informal resolution of issues impacting multiple agencies within a matter of days.