

David Corn

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Freedom of Information? Not

Openness—that's a term that Robert Gates, director of Central Intelligence, has embraced. When his nomination came before a skeptical Senate Intelligence Committee last year, he promised to promote perestroika in Langley. After being confirmed, he convened a Task Force on Openness, which recommended how the CIA could be more forthcoming. (Only under outside pressure did the CIA make public the task force's report, which proposed, among other things, that the agency release material about its successes, admit when it is wrong and "preserve the mystique.") Gates has called for greater declassification of decades-old documents and more background briefings for the press. From a distance, his reforms may seem sincere. But they slip past a key matter:

For several years, I have been working on a book about the CIA. Like many researchers, I turned toward the Freedom of Information Act for assistance and found that when it comes to the CIA, it is almost worthless. The act allows scholars, reporters and just plain folks to petition various executive branch agencies for documents. There are numerous exceptions to what the government has to release, and amendments to the act in 1984 made it easier for the CIA to withhold some records. Still, the FOIA could be of some small and important value to those seeking to understand what the CIA

does, were it not for the way the agency handles FOIA requests—a process that belies the "new" CIA of Gates.

Agency responses to FOIA requests are routinely discouraging, marked by long delays and puzzling answers. Here's one example: I asked for material on the Hmong, an indigenous tribe in Indochina, which the CIA armed and directed in the 1960s and 1970s as part of the so-called "secret war" in Laos. This was one of the biggest agency paramilitary operations in history; its existence is not a secret. The CIA said that it had searched and found not one piece of paper relevant to the request. Operational material detailing the ins and outs of the agency's programs is automatically exempt. But I hoped to find intelligence reports that covered the tribe and its leaders. Surely if the agency supported the Hmong for so long it must have at some time looked at its ally. But there was, the agency said, absolutely nothing.

It is hard to argue with the CIA. Who knows what's in the files? But such responses are hard to accept at face value in light of other Langley decisions. In 1987, the private and nonprofit National Security Archive requested under FOIA an index of all the documents that the CIA had previously released.

After initial denials, the agency sent the archive

From the CIA

12 volumes of about 450 pages each that listed the documents in completely random order. Documents released as part of a single request were scattered throughout the books. This is certainly not how the FOIA office maintains its records, and one can reasonably surmise that it had to program its computer to devise such a random and mean-spirited dump. When I later requested the index information in electronic form—so it could be arranged coherently—the agency told me to get lost. The National Security Archive is still fighting the CIA to obtain the index in computer form.

The only way to use the index is to plow through the volumes. I went through one book and found several documents that looked intriguing. (Almost all the good stuff was released prior to 1981, the year Ronald Reagan assumed office.) I filed a request with the agency for these papers and received the material in three weeks—Olympic speed, by FOIA standards. I then went through the rest of the set and filed subsequent requests. When the CIA realized what I was doing, it seems, it put me in what some researchers believe is the forget-you category. After six months, only one of my other requests has been fulfilled—and that only occurred following the intervention of a lawyer.

The FOIA calls for agencies to respond to

requests within 10 days. But that standard has become a farce. Usually it means that the agency acknowledges the receipt of the request within 10 days. Then the request goes to the end of the line, and in some instances years will pass before you hear back. Such delays dilute the power of the FOIA. Few book authors or journalists have the luxury of waiting so long.

If there is any category of request to which the 10-day standard should be applied it is documents already released. The documents I have requested from the index are sitting in a file cabinet in the agency's FOIA office and could be easily retrieved. One request for already-released documents has been held up for more than a year. Not surprisingly, the subject of those records is Edwin Wilson, a rogue CIA employee now in jail.

The agency's FOIA office has acted in a fashion that to outsiders appears capricious and spiteful. Now is the time for Gates to show he is serious about openness. Let him release previously released documents. That's a paltry battle cry, but it shows the sad state of the FOIA in Langley.

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