



National Freedom of
Information Coalition

<http://nfoic.org/>

FOR IMMEDIATE RELEASE

CONTACT:

Ken Bunting, Executive Director

NATIONAL FREEDOM OF INFORMATION COALITION

101E Reynolds Journalism Institute

Columbia, MO 65211

573.882.3075; buntingk@missouri.edu

<http://www.nfoic.org/>

NFOIC throws support behind lawsuit challenging new CIA charges to records requesters

Public interest group seeks termination of the charges and asks that the CIA be compelled to review some prior requests.

COLUMBIA, Mo. (February 22, 2012) – In a federal district court lawsuit supported by the National Freedom of Information Coalition (NFOIC) and the Knight FOI Fund, a Virginia watchdog organization is challenging a new CIA regulation that obstructs citizen challenges to government overclassification by imposing excessive charges in the review process.

National Security Counselors (NSC), an Arlington-based public interest group, has filed suit in federal district court challenging a new CIA regulation that could cost information seekers up to \$72 an hour, even when a mandatory review fails to declassify or release any new information.

Under the new rule, the Mandatory Declassification Review (MDR) program, through which the public can request that CIA documents be declassified, would also require information-seekers to agree to a minimum \$15 duplication fee. Concerns are that these exorbitant fees will stymie the efforts of the public to participate in the MDR program and seek the declassification of public information.

Kel McClanahan, executive director of NSC, says he is bringing his latest lawsuit against the CIA because the agency violated the Administrative Procedures Act in imposing the new charges and processing rules without any notice or public comment. Even more important, he said, the new rules violate the Independent Offices Appropriations Act (IOAA) by charging fees to MDR requesters for a public service in direct violation of 38-year-old Supreme Court case law.

"For the last year or so, the President and many agencies have been taking steps to reduce the oppressive amount of overclassification in the federal government," McClanahan said. "It is quite telling that while the rest of the government is engaged in an active effort to declassify information that no longer needs to remain secret, the CIA has instead chosen to impose a harsh 'declassification tax' on people who ask it to follow suit."

The lawsuit filed February 22nd seeks certification as a class action and was filed on behalf of several frequent requesters under the agency's MDR, including a graduate researcher and a journalist who has reported extensively on security matters.

In addition to asking that the new regulation be struck down, the NSC lawsuit asks that the CIA be ordered to go back and inform all requesters who have been denied access to the MDR process since the CIA started imposing its new rule last fall that the CIA will now properly process their requests.

Several open government groups, including OpenTheGovernment.org, the National Security Archive, and NFOIC have written to the CIA and members of Congress asking for withdrawal of the new regulation. The letter states that the CIA regulation would "price the public out of submitting MDR requests," a result that contrasts with President Obama's efforts for a more open and transparent government.

Effectively, the new rule would "cut off access to the most effective tool the public can use to request declassification of the CIA's secret documents," the organizations' letter added.

Kenneth F. Bunting, executive director of NFOIC, said this is the third Knight FOI Fund award to NSC for challenges to CIA disclosure and withholding practices.

"This is part of a pattern for an out-of-control agency that wants to operate with accountability to no one," Bunting said of the new regulatory rule and the manner in which it was imposed. "We understand and even appreciate that secrecy is inherent in their culture. But allowing them to operate with total disregard for rules and laws that affect the rest of government serves no good national interest."

The Knight FOI Fund is a legal action resource administered by the NFOIC to support litigants in meritorious open government cases.

The NFOIC is a nonpartisan coalition of open government groups and advocates headquartered at the Missouri School of Journalism. The Knight FOI Fund is part of a \$2 million, three-year grant to NFOIC and the University from the John S. and James L. Knight Foundation.

The Knight FOI Fund does not pay attorney fees. It is set up to fuel and assist the pursuit of important FOI cases by helping to defray upfront costs such as filing fees, depositions, court costs and other expenses associated with legal actions. The Knight Fund only seeks

reimbursement if resulting awards in the cases cover fees and costs for which the Knight Fund money was spent.

For more information on the Knight FOI Fund, including the selection process for grants and how to apply, see <http://www.nfoic.org/knight-foi-fund>.

The John S. and James L. Knight Foundation advances journalism in the digital age and invests in the vitality of communities where the Knight brothers owned newspapers. Since 1950, the Foundation has granted more than \$400 million to advance quality journalism and freedom of expression. Knight Foundation focuses on projects that promote community engagement and lead to transformational change. For more, visit <http://www.knightfdn.org/>.

National Security Counselors was founded to further the twin ideals that the public needs to be as informed as possible about what its government does in the name of national security, and that people entangled in legal matters in this field should have reasonable access to knowledgeable legal assistance, regardless of income. To that end, NSC exists to: lawfully acquire from the government material related to national security matters and distribute it to the public; use this material in the creation of original publications discussing the respective subjects; advocate for intelligent reform in the national security and information and privacy arenas, and; provide a low-cost alternative to certain deserving clients involved in security law or information and privacy law-related proceedings. For more, visit <http://nationalsecuritylaw.org/>.

The National Freedom of Information Coalition is a national network of state freedom of information advocates, citizen-driven nonprofit freedom of information organizations, academic and First Amendment centers, journalistic societies and attorneys. Its mission is to foster government transparency at the state and local level. A unit of the Missouri School of Journalism, the NFOIC is an affiliate of the Donald W. Reynolds Journalism Institute. NFOIC is based at the University of Missouri, home to the nation's oldest Freedom of Information Center. For more, visit <http://www.nfoic.org/>.