

Office of the Director of National Intelligence

2022 Chief FOIA Officer Report

(March 2021 – March 2022)

Section 1: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. *See* 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at or above this level?

Response: Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

Response: Lora Shiao, Chief Operating Officer.

B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. *See* 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

Response: All new ODNI personnel (staff and contractors) are briefed on their responsibilities under the FOIA as part of their Entrance on Duty. In addition, FOIA information sessions are provided to components with other mission-related duties upon request. All employees hired by the ODNI Information Management Office (IMO)/Information Review and Release Group (IRRG) have specific FOIA-related performance standards listed in their employee work plans. In addition, IRRG leadership will regularly convey FOIA processes to non-FOIA staff, to alleviate any confusion when searches and reviews are sent to those components. However, due to limitations and restrictions on in-person meetings, we have not been able to hold our normal brown bag training sessions for components as we have in previous years.

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Response: Yes.

5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Response: Due to impacts of the COVID-19 pandemic, attending FOIA training has been difficult this year. Two FOIA case officers attended the virtual training conference presented by the American Society of Access Professionals (ASAP). Also, we have encouraged all employees with FOIA related duties to access the DoJ OIP website to review current FOIA guidance and take available virtual training. We have also conducted some in-house training for FOIA employees. Several components with FOIA duties were provided brown bag training sessions on basic FOIA responsibilities, such as conducting searches and reviews and the importance of meeting FOIA legally mandated deadlines for response.

6. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Response: 100% due to restrictions placed on gatherings during the pandemic, we have not been able to provide or attend the “regular” training sessions normally held. However, as stated above, all FOIA professionals and staff with FOIA responsibilities have spent time reviewing internal and DoJ web based training manuals, regulations, and Best Practices; as well as attending virtual or brown bag training sessions.

7. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Response: N/A.

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Response: No.

C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Response: Yes, ODNI's Chief, IRRG and FOIA Public Liaison spent a large amount of time responding to both telephone and email inquiries from requesters explaining the FOIA process at ODNI in more detail. Numerous calls came in looking for assurances that the FOIA team was still working and that their requests were not being ignored. Responding to these calls and informing requesters that the FOIA case officers are in the office and working to process their cases as quickly and efficiently as they can appeared to alleviate the angst that requesters were feeling.

D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:

- How often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and,
- If senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

Response:

- As stated in B.3. above, all new ODNI personnel (staff and contractors) are briefed on their responsibilities under the FOIA as part of their Entrance on Duty. Pamphlets that provide information on the FOIA and the exemptions are provided to each employee during EOD. In addition, FOIA information sessions are provided to components with other mission-related duties upon request. These sessions often include briefing slides and handouts, determined by the needs of the component.
- The Chief/IMO briefed the new Director of National Intelligence (DNI), along with other senior leaders on FOIA resources, obligations, and processes.

11. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Response: Although the FOIA Improvement Act of 2016 provides for posting responsive documents when requested, or expected to be requested, multiple times, IRRG posts many FOIA releases after they have been provided to the first requester. Our FOIA professionals review all responsive information potentially subject to a FOIA exemption in an effort to release as much information as possible, consistent with our obligation to protect classified information and intelligence sources and methods.

The Office of Civil Liberties, Privacy and Transparency (CLPT); the Intelligence Community Inspector General (ICIG); and several ODNI components, such as the National Counterterrorism Center (NCTC) and the National Security and Counterintelligence Center (NCSC), all post reports to the DNI.gov website to better inform the public on the workings of the ODNI.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

1. For Fiscal Year 2021, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report.

Response: 6.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Response: N/A.

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

Response: ODNI's FOIA regulations are currently being updated. However, the changes required by the FOIA Improvement Act of 2016 have all been implemented through SOPs and guidance.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's [guidance](#), having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

Response: Yes.

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

Response: N/A.

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

Response: No.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

Response: ODNI receives approximately 225-250 first party requests annually. The vast majority of these requests are for copies of clearance reports that reveal a person's level and status of clearance. These records reside on a classified system; therefore, we are not able to allow outside access other than through filing a request via FOIA/PA or going directly to your security office.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

Response:

We conducted case status audits to determine what remaining actions were required for each case in the backlog. After assessing the status of each case, the necessary processing actions were performed to move the case to the next stage of processing.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number).

Response: 75 times (estimated).

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Response: Yes.

11. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively
- Any challenges your agency faces in this area.

Response: An audit is conducted of our workflow to ensure all processing steps are working efficiently and all risks have been mitigated.

All newly received requests are searched against prior releases to eliminate redundancy.

The IRRG also provides assistance to components regarding appropriate search terms to use and databases or systems to search.

We work with requesters to clarify requests and/or to narrow the scope of a request so that it can be processed correctly and more quickly.

Section III: Steps Taken to Increase Proactive Disclosures

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Response: ODNI identifies documents to be considered for proactive disclosure based on a variety of factors and then coordinates those records through the appropriate channels for declassification review and public release.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

Response: ODNI proactively discloses a variety of documents. This is ongoing and includes ODNI reports and publications, press releases, speeches, interviews, congressional testimony, policy documents, and other information about intelligence community activities. These documents are available on the ODNI website at <https://www.dni.gov>, and the website [intel.gov](https://www.intelligence.gov) at <https://www.intelligence.gov>. ODNI FOIA also proactively discloses/posts documents upon their release.

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Response: Yes. CLPT; the ICIG; and several ODNI components, such as the NCTC and the NCSC, all post reports to the DNI.gov website to better inform the public on the workings of the ODNI.

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Response: Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

Response: Improvements include sub-categorizing ODNI reports, policies, and other documents of interest to allow for ease of retrieval and use; enhancing the ability to conduct keyword searches of our website; and posting documents in pdf searchable format when possible.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Response: Yes. IRRG informs the CLPT office of the topics/subjects of new FOIA requests. This assists CLPT in determining areas of high public interest that may benefit from proactive release.

Optional -- Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your agency faces in this area.

Response:

Section IV: Steps Taken to Greater Utilize Technology

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Response: ODNI leverages technology to facilitate overall FOIA efficiency. For example, we are able to receive and respond to consults and referrals from other government agencies on classified and unclassified networks. In addition, ODNI utilizes information-sharing platforms to expedite processing of documents within and outside of the Agency.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

Response: We are reviewing different software options, and have beta tested one of them, which, if obtained, will hopefully improve the efficiency of our process.

3. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Response: Yes.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

Response: Yes.

5. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2022.

Response: N/A.

6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

Response: No.

7. Optional -- Please describe:

- The best practices used in greater utilizing technology
- Any challenges your agency faces in this area.

Response: For ODNI, it is imperative that the technology we use is compatible with all IC elements' systems. We must also be able to communicate with non-IC agencies to facilitate efficient referrals, consultations, and coordination.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

A. Simple Track

1. Does your agency utilize a separate track for simple requests?

Response: Yes.

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

Response: Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Response: 32%.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Response: N/A.

B. Backlogs

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

Response: Yes.

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

Response: N/A.

7. If your agency's request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible.

Response: N/A.

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2021. Please use the following

calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) *divided by* (requests received from Section V.A) x 100. If your agency has no request backlog, please answer with "N/A."

Response: 111.79% of requests make up the request backlog.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.A of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

Response: No.

10. If not, according to section XII.E.1of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

Response: No.

11. If your agency's appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons – please briefly describe or provide examples when possible.

Response: The agency received two more appeals in FY 21 than in FY 20. The appeal cases received and processed in FY 21 were more complex, requiring more coordination and consultations. IRRG also experienced staff turnover.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) *divided by* (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

Response: 37%.

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2021?

Response: N/A.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

Response: N/A.

D. Status of Oldest Requests, Appeals, and Consultations

OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2020 Annual FOIA Report?

Response: No.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Response: 7.

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

Response: The IRRG conducted an audit of the backlogged requests and identified requests that could be processed without consultation with other agencies.

TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

Response: No.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Response: ODNI started FY 21 with four appeals in the backlog, two of which we were able to close.

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

Response: We only had four, and those involved other agencies' information that have been held-up in consultation at those agencies for quite some time; we reached-out to those agencies periodically asking for status updates.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

Response: Yes.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Response: N/A.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

Response: In Fiscal Year 2021, ODNI experienced an increase in the number and complexity of incoming requests and appeals, as well as a substantial increase in litigations.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Response:

| Date received | Consultation sent | Last contact |
|--|-------------------|--------------|
| Initial request 04-01-2014 Updated request 04/18/2014 | 7/13/2021 | 1/21/2022 |
| 04/01/2014 | 04/13/2021 | 3/8/2022 |
| 04/07/2014 | 02/13/2015 | 01/24/2022 |

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2022.

Response: We have realigned team members for more efficient processing and clarity of responsibilities, and are working more closely with components to keep search and review taskings on track to meet deadlines. We have already closed five of our oldest consults, and one of our oldest initial requests from the Fiscal Year 2021 report.

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- Even during the pandemic, ODNI reduced its initial FOIA/PA request backlog by an unprecedented 29.17%, representing the largest backlog reduction in the history of ODNI.
- Since ODNI’s inception in 2005, ODNI only reduced the FOIA/PA backlog one other time in 2011, and that was only by 20.93%.
- ODNI closed more initial FOIA/PA cases in Fiscal Year 2021 than any prior Fiscal Year.