

07-7832



**Homeland
Security**

11-08-07P12:39 RCVD

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
H2-176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson:

Thank you for your October 9, 2007 letter requesting information regarding the manner in which the Freedom of Information Act (FOIA) requests are processed in the Privacy Office at the Department of Homeland Security (DHS).

Enclosed with this letter are the Department's responses to your questions regarding how the Privacy Office works to accomplish its FOIA mission. Compliance with the letter and spirit of FOIA is essential to the integrity of governmental operations and fostering a positive relationship with the general public. It is the mission of the Chief Privacy Officer, who has also been designated the Department's Chief FOIA Officer, to promote an increased awareness of departmental activities by all persons. Specifically, this is achieved by the Chief Privacy Officer serving as the focal point for departmental freedom of information policy and operations in support of DHS's mission.

We hope the information provided is helpful. Please let me know if there is any additional information we can provide.

Sincerely,



Michael Chertoff

Enclosures



**Homeland
Security**

Questions and Answers for House Homeland Security Chairman Bennie Thompson

1. When was the current FOIA organizational structure designed?

The current FOIA organizational structure came about in the first months of the Department's existence. When the Department-level FOIA function moved to the Privacy Office from the Management Directorate, there were only two full-time equivalent employees handling FOIA at the Department-level with little to no resources, except legal support from the Office of the General Counsel (OGC).

In the summer of 2006, the Chief Privacy Officer separated the Privacy Office into two functional Components: privacy and freedom of information. He appointed a Deputy Chief FOIA Officer to buttress the DHS FOIA program and assure that FOIA received the recognition and funding required to operate a successful program. He additionally allotted two more full-time equivalent FOIA employees to the Headquarters FOIA program. Additionally, the Chief Privacy Officer has begun the process of reviewing the Department's FOIA and Privacy Act regulations and management directives on FOIA and privacy.

2. For those Components that do not have line authority to the Chief FOIA Officer, what structures are in place to determine whether they are complying with the deadlines set by the FOIA and the mission of this crucial legislation?

Currently, the Chief FOIA Officer requires that all DHS Components report monthly on their current open FOIA cases. The statistics require the Components to indicate the age of all open FOIA requests. Additionally, the Chief FOIA Officer holds bi-annual meetings with the Component FOIA Officers to reiterate the importance of meeting the statutory requirements and serving our customers in a timely manner. The Chief FOIA Officer prepares an annual report to the Attorney General of the United States on Departmental FOIA performance and implementation of E.O. 13392. The report details response time statistics. As necessary, the Chief FOIA Officer meets with senior Department and Component leadership to discuss FOIA compliance.

3. How many employees are assigned to processing FOIA requests and what percentage of these employees are contractors?

Currently, the Privacy Office has four full-time equivalent FOIA employees and six contractor support personnel. The DHS Privacy Office 2006 Annual Freedom of Information Act Report to the Attorney General of the United States indicates the staffing levels of all DHS Components (see Attachment 1). The 2007 figures will be collected and published in early 2008.

4. Please provide a detailed listing of the current processing time for FOIA requests for each of the Department's Components and directorates.

DHS collects such information on an annual basis when assembling the Annual Freedom of Information Act Report to the Attorney General of the United States. The figures for fiscal year 2007 will be out in early 2008. The figures for fiscal year 2006 are:

Median Processing Time for Requests Processed During 2006¹

	Simple Requests		Complex Requests		Requests Accorded Expedited Processing	
	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process
CBP	6,188	14	667	40.5	788	7
FEMA	268	16	354	80	22	179
FLETC	1,601	17	0	0	0	0
ICE	0	0	5,396*	90	0	0
OGC	0	0	10	90	0	0
OIG	55	219	99	232	0	0
OPS	3	21.5	0	0	0	0
PREP	0	0	166	51	0	0
PRIV	847	6	362	137	3	233
S&T	37	365	1	30	0	0
TSA	37	20	935	17	17	30
USCG	4,759	12	627	47	121	11
USCIS	66,645	185	20,714	77	278	21
USSS	0	0	843*	**	0	0
US-VISIT	98	2	2	185	0	0
TOTALS	80,538	N/A	30,176	N/A	1,229	N/A

* ICE and USSS did not track requests in FY 2006 to indicate Simple, Complex, or Expedited processing; however, a new tracking system will track this information beginning in FY 2007.

** USSS did not track processing time; however, a new tracking system will track this information beginning in FY 2007.

5. Provide a list of the number of requests that are currently pending.

Attachment 2 is the most recent monthly report indicating the number of open FOIA requests by Component and the total number of open requests for the Department in its entirety.

¹ Source: Department of Homeland Security Privacy Office 2006 Annual Freedom of Information Act Report to the Attorney General of the United States, page 8.

6. With regard to the requests that have been processed in the last year, please provide the number that were granted, partially granted, denied and withdrawn.

DHS collects such information on an annual basis when assembling the Annual Freedom of Information Act Report to the Attorney General of the United States. The figures for FY 2007 will be out in early 2008. The figures for FY 2006 are:

Numbers of Requests Processed in 2006²

DHS Component	Number of Requests Processed in 2006
CBP	7,643
FEMA	644
FLETC	1,601
ICE	5,396
OGC	10
OIG	154
OPS	3
PREP	166
PRIV	1,212
S&T	38
TSA	989
USCG	5,507
USCIS	87,637
USSS	843
US-VISIT	100
TOTALS	111,943

7. What plans, if any, are in place to decrease the backlog maintained by USCIS and to further prevent backlogs of this nature in the future?

The Privacy Office has been working very closely with the U.S. Citizenship and Immigration Services (USCIS) and its National Records Center (NRC), which processes all USCIS FOIA requests, to decrease the backlog. As a result of this ongoing collaboration, USCIS has implemented a number of operational and policy changes.

The NRC has reduced the backlog from 88,361 in September 2006 to 71,048 in September 2007, while also receiving over 100,000 new requests in that timeframe. The following highlights

² Source: Department of Homeland Security Privacy Office 2006 Annual Freedom of Information Act Report to the Attorney General of the United States, page 4.

reflect completed and ongoing program changes resulting in backlog reduction and improved customer service:

- ◆ USCIS is committing \$8.4 million to FOIA for both FY 2008 and FY 2009 specifically targeting backlog reduction efforts through use of contractor support. The effort is underway and USCIS anticipates contractors will be on-board by October 2007. The USCIS backlog will be eliminated within 18–24 months from the beginning of the support contract.
- ◆ In December 2006, the NRC started sending “interim interest” letters to determine whether the requesters of the oldest pending cases wished to pursue their request. To date, USCIS closed 8,532 requests due to lack of requester interest. This initiative is ongoing and the closure of more cases is expected. This will allow USCIS to devote their resources to eliminating the backlog quicker.
- ◆ In December 2006, the NRC assumed responsibility for USCIS FOIA policy. The policy office is established and acting on many initiatives outlined in the USCIS Operational Improvement Plan, to include in part:
 - Updating the FOIA processing guide for requesters, which will be posted in the Electronic Reading Room. This was completed June 30, 2007.
 - Updating the FOIA Handbook for FOIA processors to a more user-friendly format to improve processing consistency. This was completed June 30, 2007.
 - Reviewing and enhancing the Electronic Reading Room. This was completed June 30, 2007.
 - Updating training materials and increasing on-site training. This is an ongoing initiative.
- ◆ In October 2007, FOIA requesters will have the ability to access the status of their requests online. This is expected to reduce the volume of calls received in the Requestor Service Call Center.
- ◆ In March 2008, the USCIS Freedom of Information Processing System (FIPS) will become a web-based system, allowing interconnectivity between all FOIA personnel.
- ◆ The NRC worked with U.S. Customs and Border Protection (CBP) to establish a date that CBP assumed processing responsibility for all Border Patrol-related requests. This allowed the NRC to focus on processing the USCIS FOIA workload and reduce training requirements for the unique responsive CBP records.
- ◆ In September 2006, USCIS began digitizing Alien Files (A-files). Within two years, responsive A-file records will be scanned and imported into FIPS. This will accelerate the digitization initiative by increasing the number of records digitized each year. Once the records are digitized, they will be readily available for FOIA responses and a reduction in response time will result.

- ◆ USCIS is awaiting DHS OGC approval of a draft Genealogy Final Rule, which proposes that all requests for USCIS records for genealogy purposes be processed as a fee-based service and no longer be considered as FOIA requests. This will reduce USCIS FOIA receipts by approximately 4,200 requests annually.

What follows is a list of completed initiatives at USCIS to improve the FOIA backlog:

- ◆ Since 2006, the NRC has been identifying and removing “non-FOIA” requests from the FOIA workload. Based upon current year projections, USCIS anticipates an approximate 20,000 request reduction over last year’s receipts.
- ◆ On April 23, 2007, the USCIS Asylum Office implemented a new policy allowing asylees to review their records at the local offices. This is expected to reduce the number of incoming FOIA requests.
- ◆ On March 30, 2007, the NRC established a third processing track for FOIA requests. The third track is for requesters with upcoming scheduled hearings before an immigration judge. This is a customer service initiative that prioritizes requests to ensure that those requests are processed expeditiously so pending court hearings are not delayed.
- ◆ The NRC, in conjunction with the USCIS Human Resources Office, filled all but six personnel vacancies, resulting in increased productivity.
- ◆ In February 2007, USCIS and U.S. Immigration and Customs Enforcement (ICE) established procedures for identifying fugitive requesters. As a result, USCIS administratively closed approximately 500 pending fugitive FOIA requests.
- ◆ The NRC implemented ICE guidance and trained all FOIA processors on appropriate processing of ICE documents contained within A-files. This eliminates referring many documents to ICE for processing.
- ◆ In April 2007, a team from the USCIS Office of Information Technology (OIT) and the Office of Records Support Systems conducted a site assessment of the NRC network and corrected several problems. FIPS desktop response time improved and productivity increased.
- ◆ NRC management monitors the NRC Requester Service Center call volume and allocates sufficient staff to ensure adequate coverage. Staffing will continue to be adjusted as the calls decrease due to backlog reduction and implementation of online status query capabilities, which will allow requesters to check the status of their request on-line.
- ◆ The revised NRC Performance Work Plans for Paralegal Specialists and FOIA/Privacy Act Assistants increased processing requirements. All FOIA supervisors received performance plans and goals that include clearly defined performance standards aimed at increasing production and quality.

DHS Chief FOIA Officer, USCIS, and ICE meet with the American Immigration Lawyers Association to discuss file processing, including customer service enhancements.	12/31/06	Yes	DHS Chief FOIA Officer, ICE and USCIS met with the American Immigration Lawyers Association on October 24, 2006.
ICE initiates creation of centralized headquarters FOIA Office.	12/31/06	Yes	ICE hired a FOIA Officer to initiate centralizing FOIA operations.

The following chart illustrates progress in meeting the improvement plan milestones in Calendar Year (CY) 2007:

Items to Institute	Milestone	Accomplished by target date?
USCIS will finalize and institute the immigration litigation-related third processing track.	6/30/07	Yes
USCIS will finalize and establish the alternate administrative process to address genealogy related requests.	6/30/07	Drafted for OGC review
USCIS will initiate processing ICE records found in the A-files in accordance with ICE guidance.	6/30/07	Yes
The DHS Chief FOIA Officer will review the USCIS National Records Center suggested performance modifications and seek appropriate actions.	6/30/07	Yes
ICE will finalize the establishment of a centralized headquarters FOIA Office.	6/30/07	Yes
ICE will initiate a new two-track processing approach.	6/30/07	Yes
USCG will seek allocation of 16 billets to USCG headquarters.	6/30/07	Yes
USCG will complete assessment regarding revising the SOP for handling procurement-related and open investigation requests.	6/30/07	Yes
USSS will develop at least one separate expedited track for qualifying requests to streamline its FOIA operations.	6/30/07	Yes
CBP will finalize the centralization plan for its headquarters request tracking and processing.	6/30/07	Yes

CBP will make a determination on the USCIS MOU termination.	6/30/07	Yes
DHS Chief FOIA Officer will assess the feasibility of assembling a "rapid-response" FOIA specialist team of contractors and/or Federal employees for deployment on an as-needed basis to a Component facing a disclosure crisis.	6/30/07	Yes
All DHS Components and offices will evaluate potentially beneficial operational changes such as centralized processing, implementation of additional processing tracks to accommodate requests unique to each Component's mission, and preparation of procurement related documents.	6/30/07	Yes
USCIS and ICE will establish a target date to finalize the A-file digitization plan.	12/31/07	Ongoing
USCIS will finalize the Ombudsman and Chief FOIA Officers operational recommendations.	12/31/07	Ongoing
Applicable Components will complete the hiring of all additional FOIA personnel.	12/31/07	Ongoing
USCG will complete the assessment regarding the feasibility of centralizing FOIA operations.	12/31/07	Ongoing
USCG will implement new standard operating procedures as deemed appropriate.	12/31/07	Ongoing
CBP will finish the centralization of its headquarters request tracking and processing.	12/31/07	Ongoing
All DHS Components and offices will finalize and implement operational improvements.	12/31/07	Ongoing
DHS Chief FOIA Officer will develop a rapid-response plan for addressing disclosure crises.	12/31/07	Ongoing

Since June 30, 2006, the DHS FOIA backlog has been reduced by 29 percent, and progress in meeting the CY 2007 goal is due, in part, to the following:

- Improvements to the public-facing website to assist requesters in properly drafting and directing their requests.
- Issuance of standard DHS FOIA response letter language.
- Increased frequency of Component outreach and program development assistance.
- Formalized employee training programs.

- Appointed FOIA Officers and established FOIA programs in select DHS headquarters Components.
- Procured and launched an internet-based FOIA correspondence tracking/case management system for DHS headquarters FOIA Offices to streamline the tracking of FOIA requests. DHS Office of Privacy/FOIA strongly suggested adoption for all DHS Components.