

October 6, 2008

**DEPARTMENT OF JUSTICE BACKLOG REDUCTION PLAN
PURSUANT TO EXECUTIVE ORDER 13,392**

As part of the May 30, 2008 Attorney General's Report to the President on agency progress under Executive Order 13,392, "Improving Agency Disclosure of Information," the Attorney General made a series of recommendations to improve the administration of the Freedom of Information Act (FOIA). One of the recommendations addressed the issue of backlogs of FOIA requests. Specifically, the Attorney General recommended that any agency that has a backlog of FOIA requests and has not made progress in reducing that backlog over the last two years should prepare a Backlog Reduction Plan. Pursuant to guidance issued by the Office of Information and Privacy (OIP), the goal of each Backlog Reduction Plan must be to reduce both the number and the age of backlogged FOIA requests each year. The Backlog Reduction Plans must look forward to Fiscal Years 2009 and 2010.

Pursuant to the Attorney General's recommendation, the Department of Justice establishes this Backlog Reduction Plan. The vast majority of the Department's components did not need to prepare Backlog Reduction Plans. Those components will continue their beneficial work in this area. Seven of the Department's components met the criteria for submitting Backlog Reduction Plans. Set out below is a description of the plan for each of those seven components.

DRUG ENFORCEMENT ADMINISTRATION (DEA)

I. Background

The Drug Enforcement Administration's (DEA's) backlog is directly attributable to staff shortages in the FOIA unit. Staffing has been at or under the 70% level for several years due to agency hiring freezes. The steps necessary to install a revised tracking system will be labor-intensive as the budget was not able to support the acquisition of an updated automated FOIA system. The proposed backlog reduction plan is anticipated to provide short to mid-term backlog reductions.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

Key components to the reduction plan include improved internal tracking and increased management awareness of backlogged requests, which will enable more effective allocation of resources to best reduce the backlog. The steps will include revising storage of case files so that individual case status can be portrayed merely by the case folder location. Through this organization, opportunities for near-term closures and process "bottlenecks" will be quickly assessed, allowing for timely adjustments of resources to best reduce the backlog. Priorities are to be given to simple requests that are closer to completion and to the oldest, more complex requests, including the ten oldest.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, DEA will reduce its overall number of backlogged requests by 10% in Fiscal Year 2009, and 10% in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

Under this plan, DEA will close its ten oldest backlogged requests pending in Fiscal Year 2009, and the ten oldest backlogged requests pending in Fiscal Year 2010.

D. Future Reporting to the Office of Information and Privacy (OIP)

DEA will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on DEA's backlog reduction progress under this plan. DEA will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES (EOUST)

I. Background

The Executive Office for U.S. Trustees (EOUST) had eight pending requests at the end of Fiscal Year 2005 and twenty-nine pending requests at the end of Fiscal Year 2007. This increase in pending requests is directly attributable to the frequent turnover of the attorney position within EOUST that is responsible for supervising the FOIA program. Since 2005, EOUST has had five different FOIA Liaisons, the last four of whom had limited experience in processing FOIA requests prior to their assumption of these duties. These frequent transitions within a relatively short period of time have disrupted EOUST's processing of FOIA requests because of the transfer of existing files and the time required to adequately train new personnel to process FOIA requests.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

EOUST recognizes the need for an attorney who has extensive experience handling FOIA matters to serve as the new FOIA Liaison. Accordingly, the Backlog Reduction Plan centers on hiring an attorney with significant FOIA experience to reorganize and lead the FOIA team, which is comprised of the existing FOIA Liaison and two paralegals. EOUST posted an announcement in July 2008 specifically seeking an attorney experienced in handling FOIA matters, and will re-post the position if the Office does not identify a suitable candidate. Once it hires a new FOIA

Liaison, EOUST expects to process both existing and incoming requests more quickly than in the previous two years. Additionally, to the extent necessary, EOUST will continue to assign other attorneys and paralegals from the Office of General Counsel (OGC) to assist the new FOIA Liaison. EOUST will also work with OIP to provide training for all new FOIA personnel, as well as OGC staff assisting the FOIA office. Thus, EOUST anticipates that it will reduce the overall number of requests, as well as the age of the oldest requests, each year.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, EOUST will reduce its overall number of backlogged requests by ten requests in Fiscal Year 2009, and fifteen requests in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

Under this plan, and through its efforts in achieving a reduction in its overall number of backlogged requests, EOUST will also focus on its oldest backlogged requests and will close its ten oldest backlogged requests pending in Fiscal Year 2009, and the ten oldest backlogged requests pending in Fiscal Year 2010.

D. Future Reporting to OIP

EOUST will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on EOUST's backlog reduction progress under this plan. EOUST will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.

FEDERAL BUREAU OF INVESTIGATION (FBI)

I. Background

On September 30, 2005, the Federal Bureau of Investigation (FBI) had 1785 pending requests with a median pending time of 265 days. On September 30, 2007 the FBI had 1954 pending requests with a median pending time of 126 days. On September 1, 2008 the number of pending requests was 1688 with a median pending time of 109 days. The decrease in pending days over the last three years reflects the FBI's focus on eliminating older requests. The FBI's backlog on September 1, 2008 consisted of 1268 requests.

The relatively stable number of pending requests is the result of a 50% growth (800 to 1200) in the average number of requests received monthly; the growth in numbers of large/complex requests (often exceeding tens-of-thousands of pages); and the resources required to meet the demands of 100 cases in litigation -- while the FBI incurred the loss of 60% of experienced FOIA analysts during the Records Management Division move from the FBI

Headquarters in Washington, DC, to a new interim facility in Winchester, Virginia.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

In order to meet backlog reduction goals in an environment of limited resources and increasing workload, the FBI's FOIA Program employs "smart processing," information technology enhancements, personnel initiatives, and is developing a new Central Records Complex.

1. Smart Processing - The FBI employs a balanced metrics approach with emphasis on simultaneously keeping pending numbers as small as possible, pending times as low as possible, and eliminating the oldest requests.

Specific steps taken by the FBI include:

- Fully staffing front-end processing units for quick responses to "no record" requests;
- Processing all small requests at the Savannah, Georgia office;
- Fully staffing the Litigation Support Unit;
- Focusing on requests older than two years;
- Emphasizing negotiation for large requests;
- Using the maximum amount of overtime;
- Transferring to NARA historic records; and
- Conducting quarterly work process flow review boards.

2. Information Technology Enhancements - Enhancements to the FOIA Data Processing System (FDPS) are designed to speed processing times, increase consistency in processing, and maintain new metrics as required by Executive Order 13,392 and the amended FOIA statute.

Specific steps taken by the FBI include:

- Programming new metrics within FDPS;
- Developing within FDPS the ability to import simultaneously OCR/Image documents with the capability to identify duplicates;
- Refining and simplifying FDPS work process flows; and
- Conducting quarterly change management boards.

3. Personnel initiatives - The FBI is increasing the number of on-board

employees in order to have the resources necessary to mitigate the central risk factor for meeting FBI FOIA program goals. In addition, the FBI is implementing steps to increase individual production and quality of work.

Specific steps taken by the FBI include:

- Requesting as a budget enhancement an increase in the number of FBI employees processing FOIA requests;
- Continuing to hire, as quickly as possible, new employees;
- Raising individual processing goals as new employees gain more experience;
- Implementing a comprehensive quality control program, including quarterly consistency boards; and
- Refining and conducting training courses in all mission areas, including quarterly training planning boards.

4. In addition to continuing the above-noted steps, the FBI is undertaking a comprehensive program to enhance its record keeping processes, which includes the development of the new Central Records Complex (CRC) in Winchester, Virginia. This program will significantly improve the FBI's search and record-retrieval capabilities by increasing search accuracy, by decreasing search time, and by reducing lost files, missing serials, and the manual movement of files. When complete, the overall impact will be to reduce even further the FBI's FOIPA numbers and processing times. The FBI is in the process of moving to interim facilities in Winchester and is building and training a new workforce in expectation of moving into the CRC in 2011.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, the FBI expects to reduce the overall number of backlogged requests by 100 requests in Fiscal Year 2009 and 100 requests in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

Under this plan, the FBI expects to reduce the age of its backlog by closing its ten oldest backlogged requests pending in Fiscal Year 2009 and its ten oldest backlogged requests pending in Fiscal Year 2010.

In addition, the FBI expects to reduce the median number of days a request is pending by ten percent in Fiscal Year 2009 and by ten percent in Fiscal Year 2010.

D. Future Reporting to OIP

The FBI will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on the FBI's backlog reduction progress under this plan. The

FBI will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.

NATIONAL SECURITY DIVISION (NSD)

I. Background

The National Security Division (NSD) has a backlog of twenty-seven requests.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

NSD recently hired an additional FOIA Specialist to augment its staff.

In addition, NSD's FOIA staff will continue the present practices of:

- Transmitting weekly reports regarding outstanding requests to each section as appropriate; and
- Briefing senior management regarding the status of outstanding FOIA requests in order to encourage accountability within each section.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, NSD expects to reduce the overall number of backlogged requests by 25% in Fiscal Year 2009 and by 25% in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

Under this plan, and through its efforts in achieving a reduction in its overall number of backlogged requests, NSD will also focus on its oldest backlogged requests and will close its ten oldest backlogged requests pending in Fiscal Year 2009, and the ten oldest backlogged requests pending in Fiscal Year 2010.

D. Future Reporting to OIP

NSD will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on NSD's backlog reduction progress under this plan. NSD will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.

OFFICE OF INSPECTOR GENERAL (OIG)

I. Background

The Office of the Inspector General (OIG) conducts independent investigations, audits, inspections, and special reviews of the United States Department of Justice personnel and programs to detect and deter waste, fraud, and abuse. In the course of its work, OIG routinely collects documents from other Department of Justice components and sometimes from other government agencies. In many instances, these documents are quite voluminous. Accordingly, it is quite common that OIG cannot fully respond to FOIA requests without consulting with other Department components or federal agencies. The need for these consultations often contributes to delays in providing timely responses.

In Fiscal Year 2007, OIG received 219 FOIA requests. Seventeen requests were pending at the end of Fiscal Year 2007. OIG has since closed ten of those requests. Of the seven remaining requests, five remain open because OIG is awaiting responses to consultation requests made to other Departmental components or federal agencies.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

In an effort to improve in this area, OIG is instituting improvements in three different areas. First, OIG is implementing a tickler system that will prompt OIG personnel to periodically check with components on the status of pending consultations. OIG is also considering providing requesters with periodic updates regarding the status of their requests when delay is due to pending consultations. OIG will continue to make every effort to provide requesters with those documents that can be released without consultation within the statutory time limits.

Second, as OIG has field offices in a number of locations throughout the country, in addition to several headquarters offices, the search for documents can be time intensive. When a FOIA request is received, OIG must identify the appropriate office and retrieve the necessary records from these various locations. In an effort to reduce the time it takes to get these records so that processing may begin, OIG has put equipment and systems in place. OIG offices will begin to send documents to its FOIA office in electronic format, eliminating the time-consuming process of physically copying and shipping documents.

Finally, earlier this year OIG acquired redaction software that eliminates the need for redactions by hand. OIG anticipates that the acquisition of this software will help improve response time. OIG expects to realize this improvement as OIG FOIA personnel begin to use the software more often and more efficiently.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, OIG will reduce its overall number of backlogged requests by 50% in Fiscal Year 2009, and 50% in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

OIG's backlog is seven requests. Under this plan, and through its efforts in achieving a reduction in its overall number of backlogged requests, OIG will close all seven of these oldest requests in Fiscal Year 2009, and, to the extent they exist, the ten oldest backlogged requests pending in Fiscal Year 2010.

D. Future Reporting to OIP

OIG will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on OIG's backlog reduction progress under this plan. OIG will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.

OFFICE OF LEGAL COUNSEL (OLC)

I. Background

Over the past several years, the number of complex FOIA requests received by the Office of Legal Counsel (OLC) has increased. Many of these requests are broadly worded and require that OLC staff collect and review thousands of pages of documents for responsiveness. OLC has no full-time FOIA staff, and the attorneys, paralegals, and administrative support staff who process FOIA requests must balance their FOIA work with other responsibilities. Unfortunately in recent years, several members of OLC's paralegal and support staff left the Office, and due to budget constraints, the Office currently does not expect to fill these positions. As a result, the Office's FOIA resources are shrinking while the size and complexity of its FOIA requests are increasing. OLC has ten requests in its backlog.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

OLC recognizes the importance of processing FOIA requests as timely as possible. In an effort to reduce any backlog of FOIA requests, the Office will take the steps noted below.

- Upon receiving a broadly worded request or a request that seeks records dated over a number of years, contact the requester as soon as possible and discuss

- narrowing the scope of the request; and
- Establish internal procedures, such as creating automatic e-mail updates to notify the Office's FOIA staff when key dates are approaching for completion of a given FOIA request.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, OLC will reduce its overall number of backlogged requests by 50% in Fiscal Year 2009, and 30% in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

Under this plan, and through its efforts in achieving a reduction in its overall number of backlogged requests, OLC will also focus on its oldest backlogged requests and will close its ten oldest backlogged requests pending in Fiscal Year 2009, and, to the extent they exist, the ten oldest backlogged requests pending in Fiscal Year 2010.

D. Future Reporting to OIP

OLC will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on OLC's backlog reduction progress under this plan. OLC will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.

TAX DIVISION

I. Background

The Tax Division's FOIA Unit consists of the Division's Counsel for FOIA/PA matters, who joined the Division in August 2007, a paralegal specialist, and a secretary. The Division Counsel makes the final determinations on FOIA requests, and defends tax-related FOIA and Privacy Act lawsuits on a nationwide basis. The paralegal specialist and the secretary are dedicated to processing FOIA requests on a full-time basis. The Division has seven requests in its backlog.

The two main reasons for the Division's backlog are: (1) the increase in complex requests, which take more time to process; and (2) changes in the FOIA Unit's Counsel position. First, seven requests were backlogged as of July 9, 2008, of which at least four were complex requests -- two of these were carried over from Fiscal Year 2007. By contrast, the Division had no requests pending at the end of Fiscal Year 2005. Second, the Senior Division Counsel for FOIA/PA retired in February 2007. The subsequent Acting Senior Division Counsel, because of other pre-existing duties, was unable to spend as much time processing FOIA requests as his

predecessor from February to August 2007.

II. Backlog Reduction Plan

A. Backlog Reduction Steps

The Division has made progress in reducing the age of its backlogged requests. As of August 15, 2008, the Division processed one of the requests carried over from Fiscal Year 2007, and the oldest pending one from Fiscal Year 2008. The Division accomplished this, in large part, because it recruited staff from outside the FOIA Unit to assist in the search for records responsive to the request from Fiscal Year 2007.

The Division has also been working toward reducing the processing time of requests. In this regard, in early August 2008, the FOIA Unit's paralegal specialist became responsible for coordinating the Unit's deadlines entered into the FOIA electronic calendar by the Unit's secretary.

The Division will assess the FOIA Unit's staffing needs and provide additional resources as appropriate.

B. Goals for Reducing the Overall Number of Backlogged Requests

Under this plan, the Division expects to reduce the overall number of backlogged requests by 60% in Fiscal Year 2009, and by 40% in Fiscal Year 2010.

C. Goals for Reducing the Age of the Oldest Backlogged Requests

The Division's backlog is seven requests. Under this plan, and through its efforts in achieving a reduction in its overall number of backlogged requests, the Division will close all seven of these oldest requests in Fiscal Year 2009, and, to the extent they exist, the ten oldest backlogged requests pending in Fiscal Year 2010.

D. Future Reporting to OIP

The Tax Division will provide ongoing reports to OIP into Fiscal Years 2009 and 2010. These reports will provide updates to OIP on the Division's backlog reduction progress under this plan. The Tax Division will submit the reports quarterly by the following dates: January 2, 2009; April 2, 2009; July 2, 2009; October 2, 2009; January 5, 2010; April 5, 2010; July 5, 2010; and October 5, 2010.