



Homeland Security

FREEDOM OF INFORMATION ACT ANNUAL REPORT **FOR FISCAL YEAR 2003**

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I. BASIC INFORMATION REGARDING REPORT

This is the Fiscal Year 2003 Freedom of Information Act/Privacy Act (FOIA/PA) Report for the Department of the Homeland Security. The Department of Homeland Security was established on January 24, 2003; the twenty-two agencies that became part of this Department transferred to DHS as of March 1, 2003.

DHS consists of four new operating directorates: Science and Technology (S&T), Information Analysis and Infrastructure Protection (IAIP); Border and Transportation Security (BTS); and Emergency Preparedness and Response (EPR). The Directorates are listed in **bold** in the following charts. To the extent that these directorates processed FOIA requests this year, with the exception of the Office of the Inspector General, the work was done primarily by the DHS Privacy Office, which also handled FOIA requests for DHS Headquarters offices. EPR and BTS, however, encompass components that pre-existed the creation of DHS; these components have provided data on FOIA processing for compilation into this report. See FOIA Post: Annual Report Guidance for DHS-Related Agencies, posted at: <http://www.usdoj.gov/oip/foiapost/2003foiapost29.htm>. These components are signified in the following charts by the use of *italics*.

The United States Secret Service and the United States Coast have become operating units within DHS. Additionally, The immigration service functions of the former Immigration and Naturalization Service have been reorganized into a separate operating unit within DHS, now called United States Citizenship and Immigration Services (USCIS), and is signified by the use of **bold**. Preexisting INS Border Patrol and Inspections Programs have been combined with similar functions formerly performed by the United States Customs Service into a new component in BTS, Customs and Border Protection. Preexisting INS Investigations, Detention and Removal, and Intelligence functions have also been combined with similar functions formerly performed by the Customs Service into another BTS component, Immigration and Customs Enforcement. The Federal Protective Service, formerly part of the General Services Administration, is now part of BTS. These components are signified by the use of *italics*.

The Privacy Office prepared this report in collaboration with component FOIA Officers.

If you have any questions about this report, you may direct them to:

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Department of Homeland Security FOIA Home Page:

<http://www.dhs.gov/dhspublic/display?theme=48>

Paper copies of this report may be obtained by contacting the Departmental Disclosure Officer. The report can also be downloaded from the DHS FOIA website.

II.

A. Names, Addresses, and Contact Numbers for DHS FOIA Officers.

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Federal Law Enforcement Training Center (FLETC)

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Attention: Disclosure Officer
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US Citizenship and Immigration Service (USCIS)

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US Customs and Border Protection (CBP)

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Federal Protective Service (FPS)

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B. A Brief Description of the Department Of Homeland Security’s response-time ranges.

A breakdown of DHS response times by component is in Section VII of this report, “Compliance with Time Limits/Status of Pending Requests.”

C. A Brief description of why some requests are not granted.

The most common reasons reported by DHS components for not granting requests were: 1) the records were exempt from release under FOIA Exemption 6; 2) the records were exempt from release under FOIA Exemption 7C; and the records were exempt from release under FOIA Exemption 5.

III. Definition of Terms.

A. Agency-Specific

1. PO Privacy Office
2. BTS Border and Transportation Security Directorate
3. EPR Emergency Preparedness and Response Directorate
4. S&T Science and Technology Directorate
5. IAIP Information Analysis and Infrastructure Protection Directorate
6. USCG United States Coast Guard
7. USSS United States Secret Service
8. USCIS United States Citizenship and Immigration Services
9. FLETC Federal Law Enforcement Training Center
10. CBP United States Customs and Border Protection
11. ICE Immigration and Customs Enforcement
12. TSA Transportation and Security Administration
13. FEMA Federal Emergency Management Agency
14. FPS Federal Protective Service
15. OIG Office of the Inspector General

B. Basic Terms Used in This Report

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request or access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request -- a request to a federal agency for access to records under the Freedom of Information Act.

3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. Multi-track processing – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.

8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.

10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions: or a decision to disclose some records in their entirety, but to withhold others in whole or in part.

11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).

13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection b) (3).

15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes relied on by the Department during Fiscal Year 2003.

STATUTE	TYPE OF INFORMATION	CASE CITATION UPHELD BY COURTS.
8 U.S.C. 1160(B)(6)	Information on Special Agricultural workers	None
8 U.S.C. 1304(B)	Registration of Aliens	None
8 U.S.C.A. 1186a(4)(C)	Confidentiality of Information Concerning Abused Alien Spouse or Child	None
18 U.S.C. 2510-2550	Intercepted Communications Wiretaps	Lam Lek Chong v. DEA, 929 F.2d 729 (D.C. Cir. 1991)
31 U.S.C. 5319	Records on Monetary Instruments and Transactions	Small v. IRS, 820 F. Supp. 163 (D.N.J. 1992)
41 U.S.C. 253b(m)	Prohibition on Release of Contractor Proposals	None
46 U.S.C. 7319	Records regarding issued merchant mariner documents	None
49 U.S.C. 114(s)	Nondisclosure of Security Activities	None
Rule 6(e) of the Federal Rules of Criminal Procedures	Grand Jury Information	Senate of P.R. v. United States Dep't of Justice, 823 F.2d 574 (D.C. Cir. 1987).

V. Initial FOIA/PA Access Requests

A. Number of Initial Requests

Directorate	Number of Requests Pending at the End of Fiscal Year 2002	Number of Requests Received in Fiscal Year 2003	Number of Requests Processed in Fiscal Year 2003	Number of Requests Pending at the End of Fiscal Year 2003
PO	N/A*	282	264	18
OIG	N/A*	19	6	13
S&T	N/A*	0	0	0
IAIP	N/A*	0	0	0
EPR	N/A*	0	0	0
<i>FEMA</i>	250	438	438	250
USCG	920	8,642	8,467	1,095
USSS	568	1,120	811	877
USCIS	25,515**	144,559	144,748	25,326
BTS	0	0	0	0
<i>FLETC</i>	36	861	892	5
<i>CBP</i>	1,025***	3,283	3,886	422
<i>TSA</i>	193	1,123	522	794
<i>ICE</i>	235***	769	848	156
<i>FPS</i>	1	21	20	2
TOTAL	28,743	161,117	160,902	28,958

* These entities did not exist prior to the creation of the Department of Homeland Security. FOIA requests for the Directorates were handled either by the Privacy Office or by component offices.

** Formerly the Immigration and Naturalization Service.

***Formerly the United States Customs Service.

B. Disposition of Initial Requests

Directorate	Total Grants	Total Partial Grants	Total Denials	No Records	Referrals	Request Withdrawn
PO	76	2	6	31	105	2
OIG	1	1	1	2	1	0
S&T	0	0	0	0	0	0
IAIP	0	0	0	0	0	0
EPR	0	0	0	0	0	0
<i>FEMA</i>	157	78	39	44	24	38
USCG	5,762	500	69	585	762	215
USSS	33	178	31	197	0	5
USCIS	54,959	50,755	485	12,063	84	1,555
BTS	0	0	0	0	0	0
<i>FLETC</i>	825	45	2	11	0	7
<i>CBP</i>	1,473	622	294	756	227	88
<i>TSA</i>	55	97	61	68	40	46
<i>ICE</i>	46	445	18	118	142	14
<i>FPS</i>	16	3	1	0	0	0
TOTAL	63,403	52,726	1,007	13,875	1,385	1,970

Disposition of Initial Requests (Continued)

Directorate	Records Not Reasonably Described	Not a Proper FOIA/PA Request	Not an Agency Record	Duplicate	Fee-Related Reason	Other*
PO	11	26	2	3	0	0
OIG	0	0	0	0	0	0
S&T	0	0	0	0	0	0
IAIP	0	0	0	0	0	0
EPR	0	0	0	0	0	0
<i>FEMA</i>	3	4	1	0	4	46
USCG	62	46	67	358	21	20
USSS	0	0	10	0	0	357
USCIS	9,453	205	1,520	9,457	924	3,288
BTS	0	0	0	0	0	0
<i>FLETC</i>	0	0	0	0	2	0
<i>CBP</i>	27	298	9	15	71	6
<i>TSA</i>	0	1	3	15	3	133
<i>ICE</i>	0	34	3	14	1	13
<i>FPS</i>	0	0	0	0	0	0
TOTAL	9,556	614	1,615	9,862	1,026	3,863

*Other Reasons For Nondisclosure

Component	Number of Times	Reason
<i>FEMA</i>	46	administratively closed after no response to still interested letter
USCG	20	available from other source
USSS	357	Failure to perfect request
USCIS	3,288	2,836 unable to locate; 452 old records
<i>CBP</i>	6	Administratively closed after response returned
<i>TSA</i>	133	3 litigation; 129 administratively closed after no response to still interested letter; 1 available from other source
<i>ICE</i>	13	Unable to locate requester

a. Number of times each FOIA exemption used

Directorate	(1)	(2)	(3)	(4)	(5)	(6)	(7)(A)	(7)(B)	(7)(C)
PO	0	0	0	0	0	4	0	0	2
OIG	0	10	0	0	0	0	0	0	1
S&T	0	0	0	0	0	0	0	0	0
IAIP	0	0	0	0	0	0	0	0	0
EPR	0	0	0	0	0	0	0	0	0
<i>FEMA</i>	1	6	2	45	27	56	0	0	1
USCG	24	24	25	74	154	375	87	0	93
USSS	2	102	17	1	27	42	3	0	168
USCIS	8	3,234	166	33	11,933	34,824	7,151	26	25,207
BTS	0	0	0	0	0	0	0	0	0
<i>FLETC</i>	0	1	0	9	17	24	1	0	17
<i>CBP</i>	1	359	0	157	162	88	16	3	403
<i>TSA</i>	3	9	118	18	13	31	3	0	26
<i>ICE</i>	5	447	3	20	26	70	32	0	468
<i>FPS</i>	0	0	0	1	1	2	0	0	0
TOTAL	44	4,192	331	358	12,360	35,516	7,293	29	26,386

Number of times each FOIA exemption used (Continued)

Directorate	(7)(D)	(7)(E)	(7)(F)	(8)	(9)
PO	0	0	0	0	0
OIG	0	0	0	0	0
S&T	0	0	0	0	0
IAIP	0	0	0	0	0
EPR	0	0	0	0	0
<i>FEMA</i>	0	0	0	0	0
USCG	20	9	4	0	0
USSS	34	78	5	0	0
USCIS	1,078	8,021	33	0	0
BTS	0	0	0	0	0
<i>FLETC</i>	0	0	0	0	0
<i>CBP</i>	27	162	2	0	0
<i>TSA</i>	0	0	2	0	0
<i>ICE</i>	63	200	2	0	0
<i>FPS</i>	0	0	0	0	0
TOTAL	1,222	8,470	48	0	0

VI. Appeals of Initial Denials of FOIA/PA Requests

Directorate	Number of Appeals Received in Fiscal Year 2003	Number of Appeals Processed in Fiscal Year 2003	Number of Appeals Completely Upheld In Fiscal Year 2003	Number of Appeals Partially Reversed In Fiscal Year 2003	Number of Appeals Completely Reversed in Fiscal Year 2003
PO	10	5	4	1	0
OIG	0	0	0	0	0
S&T	0	0	0	0	0
IAIP	0	0	0	0	0
EPR	0	0	0	0	0
FEMA	9	17	4	3	2
USCG	45	107	18	5	1
USSS	30	46	41	3	2
USCIS	940	140	1	0	0
BTS	0	0	0	0	0
FLETC	3	3	2	1	0
CBP	159	83	61	16	0
TSA	15	13	6	4	2
ICE*	0	0	0	0	0
FPS	0	0	0	0	0
TOTAL	1,211	414	137	33	7

a. Number of times each FOIA exemption was used in an appeal

Directorate	(1)	(2)	(3)	(4)	(5)	(6)	(7)(A)	(7)(B)	(7)(C)	(7)(D)	(7)(E)	(7)(F)	(8)	(9)
PO	0	0	0	0	0	2	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
S&T	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IAIP	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EPR	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FEMA	0	0	0	1	1	4	0	0	0	0	0	0	0	0
USCG	0	0	0	1	5	8	1	0	6	0	0	0	0	0
USSS	0	3	0	1	3	0	0	0	3	0	3	0	0	0
USCIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BTS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FLETC	0	1	0	0	0	1	0	0	0	0	0	0	0	0
CBP	0	53	0	21	11	18	0	0	65	0	23	0	0	0
TSA	0	1	6	0	1	5	0	0	2	0	1	0	0	0
ICE*	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FPS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	58	6	24	21	38	1	0	76	0	27	0	0	0

* ICE appeals were handled by CBP; hence, their disposition is included in the figures reported for CBP

b. Other reasons for Non-Disclosure on Appeal

Directorate	No Records	Referrals	Withdrawn	Fee Related	Records Not Reasonably Described	Not a Proper FOIA Request	Not an Agency Record
PO	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0
S&T	0	0	0	0	0	0	0
IAIP	0	0	0	0	0	0	0
EPR	0	0	0	0	0	0	0
<i>FEMA</i>	1	0	0	2	0	0	0
USCG	0	0	66	0	0	0	0
USSS	0	0	0	0	0	0	0
USCIS	0	0	0	0	0	0	0
BTS	0	0	0	0	0	0	0
<i>FLETC</i>	0	0	0	0	0	0	0
CBP	3	0	1	0	0	1	0
TSA	0	0	0	0	0	0	0
ICE*	0	0	0	0	0	0	0
FPS	0	0	0	0	0	0	0
TOTAL	4	0	67	2	0	1	0

Other reasons for Non-Disclosure on Appeals (Continued)

Directorate	Duplicate Request	Other
PO	0	0
OIG	0	0
S&T	0	0
IAIP	0	0
EPR	0	0
<i>FEMA</i>	0	5 Pending Litigation
USCG	0	17 Remanded for reprocessing
USCIS	0	139 Remanded for reprocessing
BTS	0	0
<i>FLETC</i>	0	
CBP	0	1 Glomar
TSA	0	1 Remanded for reprocessing
ICE*	0	0
FPS	0	0
TOTAL	0	163

* ICE appeals were handled by CBP; hence, their disposition is included in the figures reported for CBP

VII. Compliance with time limits/status of pending requests

A. Median Time for Processing Requests

Directorate	Simple Requests		Complex Requests		Expedited Requests	
	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
PO*	0	0	264	27	N/A	N/A
OIG	0	0	6	n/a	0	0
S&T	0	0	0	0	0	0
IAIP	0	0	0	0	0	0
EPR	0	0	0	0	0	0
<i>FEMA*</i>	0	0	438	240	0	0
USCG	6,236	15	2,146	22	85	11
USSS	0	0	811	138	0	0
USCIS	110,305	15	34,343	39	100	10
BTS	0	0	0	0	0	0
<i>FLETC</i>	0	0	892	6	0	0
<i>CBP</i>	2,907	136	979	169	0	0
<i>TSA</i>	102	155	418	126	2	65
<i>ICE*</i>	0	0	848	189	0	0
<i>FPS</i>	0	0	20	14	0	0
TOTAL	119,550	N/A	41,165	N/A	187	N/A

* These components did not use multi-track processing.

B. Status Of Pending Requests

Directorate	Number of Requests Pending at the End of Fiscal Year 2003	Median Number of Days Pending
PO	18	55.5
OIG	13	n/a
S&T	0	0
IAIP	0	0
EPR	0	0
<i>FEMA</i>	250	373
USCG	1,095	22
USSS	877	133
USCIS	25,326	58
BTS	0	0
<i>FLETC</i>	5	4.5
<i>CBP</i>	422	305.1
<i>TSA</i>	794	126
<i>ICE</i>	156	96
<i>FPS</i>	2	30
TOTAL	28,958	N/A

VIII. Comparisons with Previous Years

This is the first year as the Department of Homeland Security. Due to this fact the Department will use Fiscal Year 2003 as its baseline year. This will give the Department data for comparison in Fiscal year 2004.

During this year, DHS received 194 requests for expedited treatment, and granted 187 of them.

IX. Costs/FOIA/PA Staffing

Directorate	Staffing Levels			Total Costs (Staff and Resources combined)		
	Number of Full-time Personnel	Number of Personnel with Part-time FOIA/PA Duties (In Total Work-years)	Total Number of Personnel (In Work-years)	FOIA Processing (Including Appeals)	Litigation-related Activities	Total Costs
PO	1	2.5	3.5	\$312,500	0	\$312,500
OIG	1.5	0	1.5	\$112,586	0	\$112,586
S&T	0	0	0	0	0	0
IAIP	0	0	0	0	0	0
EPR	0	0	0	0	0	0
<i>FEMA</i>	2	2.75	4.75	\$276,278	\$6,000	\$282,278
USCG	15	27.91	42.91	\$698,464	\$8,000	\$706,464
USSS	13	1.72	14.72	\$1,201,644	\$60,000	\$1,261,644
USCIS	246	0	246	\$14,604,393	\$82,116	\$14,686,509
BTS	0	0	0	0	0	0
<i>FLETC</i>	1	1	2	\$164,009	\$0.00	\$164,009
<i>CBP</i>	14	23	37	\$1,155,509	\$122,135	\$1,277,644
<i>TSA</i>	10	3	13	\$912,226	\$52,540	\$964,766
<i>ICE</i>	17	15	32	\$1,393,451	\$80,000	\$1,473,451
<i>FPS</i>	13	0	13	\$683,000	0	\$683,000
TOTAL	333.5	76.88	410.38	\$21,514,060	\$410,791	\$21,924,851

X. FOIA Fees

- A. Total Fees Collected: **\$270,384.31**
- B. Percentage of Total Costs: **1.02%**

XI. Department of Homeland Security FOIA Implementing Regulations

The Department of Homeland Security FOIA Implementing Regulations can be found at 68 Fed. Reg. 4056 (January 27, 2003) and at: http://www.dhs.gov/interweb/assetlibrary/FOIA_FedReg_Notice.pdf.