

## **U.S. COMMISSION ON CIVIL RIGHTS**

### **FREEDOM OF INFORMATION ACT REPORT FOR OCTOBER 1, 2005 THROUGH SEPTEMBER 30, 2006**

#### **I. BASIC INFORMATION**

##### A. Point of Contact:

Emma Gonzalez-Joy  
Room 736  
624 Ninth Street, N.W.  
Washington, D.C. 20425  
Phone: (202) 376-7796  
Fax: (202) 376-1130

##### B. Electronic Address for Report:

The FY 2006 FOIA Report for the U.S.C.C.R. will be available at the Commission's home page at: [www.usccr.gov](http://www.usccr.gov).

##### C. Paper Copies of Report:

Paper copies can be requested from the person/address listed above.

#### **II. HOW TO MAKE A FOIA REQUEST:**

##### A. USCCR policy:

Make the fullest possible disclosure of information and records to any requester, without unnecessary expenses or delay.

##### B. Requirements:

There are four basic agency requirements for making a FOIA request:

1. Request must be in writing (mailed correspondence, fax) and include the requester's mailing address.
2. The envelope and letter content must identify the request as a FOIA request.
3. The request must provide enough detail to allow identification of the requested records; and
4. The request must include agreement to pay fees chargeable under USCCR's fee schedule.

##### C. Agency components:

Request for records of the agency should be sent to USCCR FOIA Officer, Room 621, 624 Ninth Street, N.W. Washington D.C. 20425. Phone: 202-376-7796, Fax: 202-376-1163.

D. USCCR response-time ranges:

The agency generally manages to respond to FOIA requests within three to four weeks for records that can be found at the agency. Response times over 20 working days are generally the result of the need to track and retrieve documents from off-site storage at the Federal Records Center, or need to consult among agency components.

E. Reason why some requests are not granted:

Request for records may not be granted if the documents have been transferred to the ownership of the National Archives and Records Administration; if the requested records contain pre-decisional information; that if released would cause harm to USCCR decision-making processes; for portions of records that contain personal and/or proprietary information; for records containing information compiled for law enforcement purposes; or if the requester asked for information specifically prohibited from disclosure by other statutes.

### **III. DEFINITION OF TERMS AND ACRONYMS USED IN THE REPORT**

A. Agency-specific terms and acronyms:

There are no agency-specific terms or acronyms used in this report.

B. Basic terms, expressed in common terminology.

1. FOIA/PA request. Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for 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 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/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 (non-expedited) 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 for more procedural reasons (such as because no record is located in response to a FOIA request).
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.

#### **IV. EXEMPTION 3 STATUTES**

A. Exemption 3 statutes relied on by the USCCR during the current fiscal year:

During Fiscal Year 2006 the USCCR did not use any exemption 3 statute.

## **V. INITIAL FOIA/PA ACCESS REQUESTS:**

### **A. Number of initial requests:**

1. Number of requests pending as of end of preceding fiscal year: 0
2. Number of requests received during current fiscal year: 39
3. Number of requests processed during current fiscal year: 39
4. Number of requests pending as of end of current fiscal year: 0

### **B. Disposition of initial requests:**

1. Number of total grants (records released in full): 3
2. Number of partial grants (records released in part): 0
3. Number of denials (total withholding of records): 0
4. Number of times each FOIA exemption was used:
  - a. Exemption 1: 0
  - b. Exemption 2: 0
  - c. Exemption 3: 0
  - d. Exemption 4: 0
  - e. Exemption 5: 0
  - f. Exemption 6: 0
  - g. Exemption 7(A): 0
  - h. Exemption 7(B): 0
  - i. Exemption 7(C): 0
  - j. Exemption 7(D): 0
  - k. Exemption 7(F): 0
  - l. Exemption 8: 0
  - m. Exemption 9: 0
5. Other reasons for nondisclosure (total): 36
  - a. No records: 20
  - b. Referrals: 16
  - c. Request withdrawn: 0
  - d. Fee-related reason: 0
  - e. Records not reasonably described: 0
  - f. Not a proper FOIA request for some other reason: 0
  - g. Not an agency record: 0
  - h. Duplicate request: 0
  - i. Other (specify): 0

## **VI. APPEALS OF INITIAL DENIALS OF FOIA/PA REQUESTS**

### **A. Number of appeals:**

1. Number of appeals received during fiscal year: 0
2. Number of appeals processed during fiscal year: 0

B. Disposition of appeals

1. Number completely upheld: 0
2. Number partially reversed: 0
3. Number completely reversed: 0
4. Number of times each FOIA exemption used (counting each exemption once per appeal): 0
  - a. Exemption 1: 0
  - b. Exemption 2: 0
  - c. Exemption 3: 0
  - d. Exemption 4: 0
  - e. Exemption 5: 0
  - f. Exemption 6: 0
  - g. Exemption 7(A): 0
  - h. Exemption 7(B): 0
  - i. Exemption 7(C): 0
  - j. Exemption 7(D): 0
  - k. Exemption 7(E): 0
  - l. Exemption 7(F): 0
  - m. Exemption 8: 0
  - n. Exemption 9: 0
5. Other reasons for nondisclosure: 0
  - a. No records: 0
  - b. Referrals: 0
  - c. Request withdrawn: 0
  - d. Fee-related reason: 0
  - e. Records not reasonably described: 0
  - f. Not a proper FOIA request for some other reason: 0
  - g. Not an agency record: 0
  - h. Duplicate request: 0
  - i. Other (specify): 0

**VII. COMPLIANCE WITH TIME LIMITS/STATUS OF PENDING REQUESTS**

A. Median processing time for requests processed during the year:

NOTE: USCCR uses a single first-in, first-out method of processing requests. The agency did not receive requests for expedited access during fiscal year 2006.

1. Number of requests (specify for any and all tracks used). 39
2. Median number of days to process: 2
3. Complex requests (specify for any and all tracks used).
  - a. Number of requests processed: 0
  - b. Median number of days to process: 0

B. Status of pending requests:

1. Number of requests pending as of end of current fiscal year: 0
2. Median number of days that such requests were pending as of that date: 0

## **VIII. COMPARISON WITH PREVIOUS YEARS**

The Commission did not receive any requests for expedited processing.

## **IX. COSTS/FOIA STAFFING**

### A. Staffing levels:

1. Number of full-time FOIA personnel: None
2. Number of personnel with part-time or occasional FOIA duties (in work years): 1/6
3. Total number of personnel (in work years): 1/6

### B. Total costs (including staff and all resources)

1. FOIA processing (including appeals): \$25,000.
2. Litigation-related activities (estimated): 0

## **X. FEES**

A. Total amount of fees collected by the agency for processing requests: 0

B. Percentage of total costs: n/a

## **XI. FOIA REGULATIONS (INCLUDING FEE SCHEDULE)**

USCCR FOIA regulations are published at 45 C.F.R. Part 704, and are available electronically at: <http://www.gpo.gov/nara/cfr/cfr-table-search.html>.

## **XII. REPORT ON IMPLEMENTATION OF EXECUTIVE ORDER 13,392**

This section of the annual Freedom of Information Act (FOIA) report contains the description by the Commission on Civil Rights of its progress implementing the 2006 milestones and goals of the Commission's FOIA Improvement Plan. The Plan was prepared after the Commission conducted a review of its FOIA operations and developed this plan to improve its administration of FOIA. This review and Plan were done pursuant to Executive Order 13,392 issued December 14, 2005, entitled "Improving Agency Disclosure of Information," which required a "citizen centered" and "results oriented" approach to the administration of FOIA.

The reporting period for this section of the annual report is based on data from July of 2006 up to January 27, 2007. The rest of the report is based on data for Fiscal Year 2006.

A. Description of supplementation/modification of agency improvement plan (if applicable)

Not applicable.

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

The Commission met all the goals and milestones established in the report submitted in response to Executive Order 13,392. The Commission's approach of increasing information available on the website was so successful that there was a dramatic reduction in the number of FOIA requests.

As itemized in its Plan, the Commission concentrated its efforts in the following improvement areas:

- (1) Affirmative disclosure under subsection (a) (2);
- (2) Proactive disclosure of information;
- (3) Overall FOIA Web site improvement;
- (4) Electronic FOIA receiving/responding to requests electronically;
- (5) Process by which necessary cooperation is obtained from agency program personnel;
- (6) Expedited processing;
- (7) Politeness and courtesy; and
- (8) Forms of communication with requesters.

In order to improve the Web site, and ensure compliance with affirmative disclosure requirements, and increase the proactive disclosure of information, the Commission reviewed [usccr.gov](http://usccr.gov). The information concerning FOIA operations was presented in a clear, precise, accurate and current manner. In the area of affirmative disclosure, the Commission added its legislation and regulations. It also advised the public on how to contact by fax and email the FOIA Officer and the FOIA Requester Service Center and the Public Liaison.

The Commission added information on the Web site on making purchases for the agency, and FOIA related information for other agencies by providing a link to the FOIA section of the DOJ website. Since July 2006, 33 FOIA requests have been received. Two requests were for purchasing information and 8 were for information that should have been sent to another agency. The Commission Website included information on how to make FOIA and Federal Advisory Committee Act (FACA) request, as well as links to DOJ materials on how to make FOIA requests. There were no requests for information on how to prepare a FOIA request during this period.

Electronic FOIA was maximized. To be more accessible to customers, the Commission's FOIA Web site now contains an e-mail address link and the FAX number for the FOIA Officer, the Public Liaison and the FOIA Requester Service Center. During this period, 3 requests were received by facsimile and 1 by email. The reason why they were so few is that out of 33 requests during this period, 15 were from prisoners. Evidently these requesters do not have access to fax machines and emails.

Cooperation was obtained from other Commission personnel on processing FOIAs. The Commission received only one request for expedited processing. This request was expedited within 10 days. In the area of customer service, the Commission emphasized

to the FOIA Officer, the Public Liaison and the employees at the FOIA Requester Service Center, the importance of treating FOIA requesters with courtesy and respect. Phone calls were made to FOIA requesters when phone numbers were provided and the circumstances of the request merited this. Most of the requesters did not provide phone numbers. The two requesters who did provide phone numbers and submitted requests that required an explanation, received calls.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable)

Not applicable.

D. Additional narrative statements regarding other executive order-related activities (optional)

Not applicable.

E. Concise descriptions of FOIA exemptions.

The FOIA exemptions authorize the Commission to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) records or information compiled for law enforcement purposes, to the extent that the production of these records (A) could reasonably be expected to interfere with enforcement proceedings, would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual; (8) information relating to the supervision of financial institutions; and (9) geological information on wells.

F. F. Additional Statistics

1. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

Nothing pending

2. Time range of consultations pending with other agencies at this time.

Nothing pending

. Additional Statistics

1. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

Nothing pending

2. Time range of consultations pending with other agencies at this time.

Nothing pending

Additional Statistics:

G. Attachment: Agency improvement plan

The FOIA Improvement Plan for the U.S. Commission on Civil Rights is attached.

ATTACHMENT

## **IMPROVEMENT PLAN UNDER EXECUTIVE ORDER 13,392 U.S. COMMISSION ON CIVIL RIGHTS**

### **A. Overall Nature of the U.S. Commission on Civil Rights' FOIA Operations**

The Commission was established as an independent, bipartisan, fact finding federal agency. Through its investigation, research, and analysis on civil rights issues, the Commission issues reports containing findings and recommendations which assist in strengthening civil rights protection for the nation. As well as a national office, the Commission also has regional offices that support and coordinate the activities of the Commission's 51 State Advisory Committees. Along with the regional offices, the advisory committees monitor local civil rights related activities and consult with representatives of state and local governments. The Commission also serves as a national clearinghouse for civil rights information. The Commission is a small agency and has approximately 42 full time employees.

The Commission's Web site contains a wealth of information, including full versions of all its national reports, State Advisory Committee reports, press releases announcing the dates of briefings and the release of reports, transcripts from its monthly meetings, No Fear Act Statistics, annual FOIA statistics, and other pertinent information. All reports, statistics, and other data are easily downloadable from the Commission's Web site. This level of transparency enables individuals who want information to go directly to the Commission's Web site to obtain what they need. This level of transparency also lessens the number of FOIA requests the Commission receives.

While requests for information concerning the Commission are subject to FOIA, requests for information related to the operations of the SACs are subject to the Federal Advisory

Committee Act (FACA) and are made directly to the regional office that services the particular committee.

**B. Areas Selected for Review**

In response to Executive Order 13,392, which calls upon agencies to improve their FOIA operations, the Commission's FOIA Officer reviewed the 2005 FOIA report and all FOIA requests for 2006. In addition to reviewing FOIA information and the FOIA section of the Commission's Web site, the FOIA Officer also examined the entire Web site for content. Additionally, the FOIA Officer reviewed the duties of the FOIA Requester Service Center and the FOIA Public Liaison.

**C. Narrative Statement Summarizing Results of the Review**

During 2005, the Commission received only 67 FOIA requests. The median processing time for FOIA requests was seven days. The FOIA Officer was the only individual performing FOIA operations in 2005. No FOIA exemptions were claimed during 2005. The Commission does not have a backlog of FOIA requests; therefore a multi-track processing system, used to prioritize FOIA requests, is not necessary.

When reviewing the types of information FOIA requesters were seeking, the FOIA Officer found that several FOIA requests stemmed from businesses seeking information as to who the contracting officer is for the agency. Other FOIA requesters were individuals in correctional institutions seeking information about their civil rights.

Generally, the FOIA officer does not send acknowledgement letters to individuals to inform them of the status of their pending requests because in most instances, the requested information is readily available or if not available, the information is provided within the allotted time.

Although the Commission's Web site contains a wealth of information, no Web site is all inclusive. There were instances where FOIA requesters asked for documents such as legislation and regulations authorizing the Commission, Executive Order 13,392 entitled "Improving Agency Disclosure of Information," and contact information for both the FOIA Requester Service Center and the FOIA Public Liaison.

**D. Items Chosen as Improvement Areas for the Agency Plan**

1. Affirmative disclosure under subsection (a)(2);
2. Proactive disclosure of information;
3. Overall FOIA Web site improvement;
4. Electronic FOIA-receiving/responding to requests electronically;
5. Process by which necessary cooperation is obtained from agency program personnel;
6. Expedited processing;
7. Politeness and courtesy; and
8. Forms of communication with requesters.

## **E. Specific Improvement Areas with Concrete Milestones and Outcomes Information That Will Be Available on the Commission's Web site by December 2006**

### 1. Affirmative disclosure under subsection (a)(2)

The Web site will include additional information on the legal document concerning disclosure, such as the Commission's enabling legislation and regulations, Executive Order 13,392, and the Federal Advisory Committee Act (FACA). The Web site will also provide information on how to contact the FOIA Officer, the FOIA Requester Service Center, and the FOIA Public Liaison. Similarly, the Web site will also contain information on the FOIA appeals process. Since the Commission's 51 State Advisory Committees documents are available pursuant to FACA, information concerning this statute and how to make FACA requests will be made available on the Commission's Web site. Success will be measured by examining the volume and content of FOIA requests to determine if the number of requests for this type of information has decreased.

### 2. Proactive disclosure of information

Since many FOIA requests are from businesses seeking information as to who makes the purchases for the agency, this information could be made readily available on the Commission's Web site. FOIA requesters occasionally want information on how to obtain civil rights related information from other government and non-government agencies. In order to proactively assist these requesters, FOIA Officers for other agencies will be listed on the Commission's Web site. The Web site will also provide a copy of the Commission's publication Getting Uncle Sam to Enforce Your Civil Rights. This publication provides the name, address and description of the activities of the pertinent government and non-government agencies and advocacy groups that can be of assistance to individuals seeking help in protecting their civil rights. Success will be measured by examining the volume and content of FOIA requests to determine if the number of requests for these types of information has decreased.

### 3. Overall FOIA Web site improvement

The Commission's Web site provides information to assist requesters in understanding the laws governing disclosure. The Commission's Web site will include information on how to make FOIA requests pursuant to these laws.

Currently, a joint publication of the Department of Justice (DOJ) and the General Services Administration (GSA) entitled Your Right To Federal Records can be found on the Commission's Web site. In addition, the Web site address of other DOJ reference materials will be posted on the Commission's Web site. Success will be measured by examining the volume and content of FOIA requests to determine if the number of requests for this type of information has decreased.

#### 4. Electronic FOIA

In order to facilitate the use of emails as a means to receive and answer FOIA requests, the email addresses for the FOIA Officer, the FOIA Requester Service Center, and the FOIA Public Liaison will be posted on the Commission Web site. Success will be measured by examining the volume of FOIA requests to determine if the number of electronic FOIAs exceed telephonic and mail FOIAs.

#### 5. Process by which necessary cooperation is obtained from agency program personnel

Commission personnel whose primary responsibilities are not FOIA related will be encouraged to place greater priority on providing the necessary FOIA assistance when needed. Success will be measured by the number of FOIA requests processed by individuals other than the FOIA Officer, the FOIA Liaison, or the FOIA Requester Service Center.

#### 6. Expedited processing

When FOIA requests are received for expedited processing, the requester will receive a response within ten calendar days. Success will be measured by examining the median number of days it takes to process a FOIA request.

#### 7. Politeness and courtesy

The agency shall respond to FOIA requesters in a courtesy and polite manner. Considerable attention was paid to this area in selecting the individuals to serve as the contact person for the FOIA Requester Service Center and the individual designated as the FOIA Public Liaison. Both individuals possess customer oriented attitudes and already work in an area where politeness is required and expected at all times. Success will be measured by the number of complaints received concerning the type of services provided by the FOIA Service Center and the FOIA Public Liaison.

## 8. Forms of communication with requesters

Whenever possible, requesters will receive a phone call to discuss the substance of their request and extra effort will be made to provide information concerning the availability of additional civil rights information. Success will be measured by the number of phone calls made to FOIA requesters. If a FOIA requester provides a phone number, a call will be made to at least 90 percent of the requesters.

### **Information that will be available on the Commission's Web site by December 2007**

#### 1. Affirmative disclosure under subsection (a)(2)

The Commission will post to its Web site an updated strategic plan, data quality guidelines, an annual plan, policy statements, staff manuals and other related and frequently requested documents. Success will be measured by examining the volume and content of FOIA requests to determine if the number of requests for this type of information has decreased.

### **F. Additional Statistics**

#### 1. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

Nothing pending

#### 2. Time range of consultations pending with other agencies at this time.

Nothing pending