

OFFICE OF THE GENERAL COUNSEL  
BACKLOG REDUCTION PLAN

Freedom of Information (“FOIA”) requests for the records of the Office of the General Counsel (“OGC”) are tracked and assigned in the General Law Division (“GLD”), and are most often processed in GLD. There are 17 attorney advisor positions in the GLD. Four of the seventeen are supervisors. Seven of the attorney advisor positions handle the intellectual property, procurements, grants, cooperative agreements, and other matters for all the agencies of the Department. They also serve as the program attorneys for the research agencies of the Department. The remaining six attorney advisor positions handle the majority of all initial FOIA requests for OGC records and review all FOIA appeals in which an agency of the Department proposes to deny information. In addition these six attorney positions have a multitude of other responsibilities, such as reviewing and settling claims and handling litigation arising under the Federal Tort Claims Act for all agencies of the Department; handling all litigation that arises under FOIA and the Privacy Act filed against any agency of the Department; advising and defending personnel matters; and advising all agencies of the Department regarding fiscal and appropriation issues, Federal Advisory Committee Act issues, Federal Labor Management issues and other issues. Currently, two of the attorney advisor positions in GLD, one on each side of the division, are vacant and will not be filled in the near future due to budget limitations.

Until approximately December of 2007, FOIA requests for OGC records were logged into the database that GLD uses to track all the work of the division. The administrative assistant for the office would log the item into the database. Then the FOIA request was sent to the first level supervisor who either referred it to another division of OGC for processing if the FOIA request asked for records located in only one division of OGC, or assigned it to a staff attorney in GLD to coordinate obtaining and reviewing the responsive records if the request was for records located in more than one OGC division. The diversity and volume of work within GLD and the constraints of the database used to track the GLD work made it difficult to separate out and track the status of FOIA requests for OGC records.

Historically, OGC has not received many FOIA requests for its records. From fiscal years 2002 through 2006 the office received an average of 16 FOIA requests a year. In fiscal year 2007 the number of requests increased considerably to 29. This year (fiscal year 2008), however, we have seen a marked increase in the number of requests that we have received. As of August 31, 2008, OGC has received 44 FOIA requests for its records.

The average number of FOIA requests pending at the end of fiscal years 2002 through 2006 was six. In fiscal year 2007 that number increased to 11, which probably reflects the increase in the total number of requests received by OGC that year.

In order to process and track the status of FOIA requests and appeals for OGC records more quickly, GLD has taken a number of steps. We established a spreadsheet that is maintained by the first level supervisor and is accessible to all of the attorneys and supervisors in GLD that contains a list of FOIA requests and appeals received by the office. The spreadsheet contains the number assigned to the request or appeal, the name of the requester, the status of the request or appeal, the name of the attorney assigned to process the request or appeal, the date the item was received, and the date it was closed. The separate spreadsheet makes it much easier for supervisors to track the status of the request or appeal. Because the spreadsheet contains only information on FOIA requests and appeals, it is much easier to see if a FOIA request is backlogged and to obtain the information that is necessary to determine if there is something that can be done

to move the matter along.

In addition, because of the varied and heavy workload of GLD, approximately once a month GLD attorneys set aside a day and vacate to a conference room where only FOIA matters are processed. By vacating their offices, the attorneys are better able to focus and complete FOIA requests and appeals without being interrupted by telephone calls, emails, and visitors. The office will continue to do this because over the past few months we have found that it is an effective method of focusing on backlogged FOIA matters.