



**UNITED STATES
DEPARTMENT OF JUSTICE
CHIEF FOIA OFFICER REPORT**

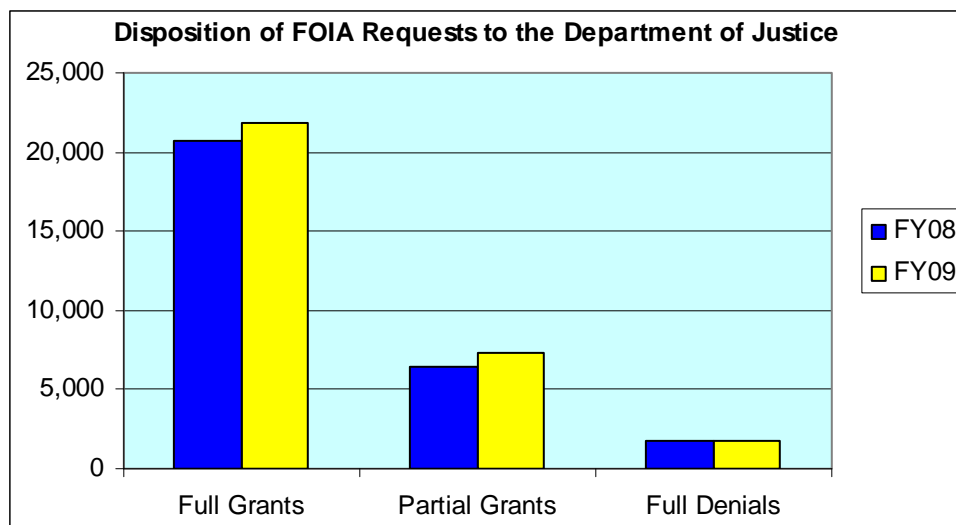
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UNITED STATES DEPARTMENT OF JUSTICE CHIEF FOIA OFFICER REPORT

In accordance with President Obama's Freedom of Information Act (FOIA) Memorandum of January 21, 2009, Attorney General Holder issued FOIA Guidelines on March 19, 2009, calling on all agencies to reaffirm the government's commitment to accountability and transparency. The Attorney General directed Agency Chief FOIA Officers to review "all aspects of their agencies' FOIA administration" and to report each year to the Department of Justice on their progress in improving transparency. Those Chief FOIA Officer Reports will be posted by each agency and also will be made available collectively by the Department of Justice.

Since issuance of the Attorney General's FOIA Guidelines, the Department of Justice, through its Office of Information Policy (OIP), has been actively engaged in encouraging agencies to fulfill the President's commitment to make this the most open Administration in history. OIP issued guidelines to agencies on the content of their Chief FOIA Officer Reports which address five key areas related to the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. Through the filing of agency Chief FOIA Officer Reports both the Department of Justice and the public will be able to review each agency's description of the steps it has taken to implement the Attorney General's Guidelines to improve transparency.

The Department of Justice has also conducted a review of its own FOIA administration. The Department has a decentralized system for responding to FOIA requests and so has organized this Report by component. Overall, the Department has made significant progress in increasing disclosures. In response to the over 30,000 initial requests in which the Department made a final disposition on responsive material, for Fiscal Year (FY) 2009 the Department increased its disclosures as compared to FY 2008. Specifically, it increased the instances in which it released material in full by 5.0% and increased the instances in which it released material in part by 12.9%. Correspondingly, the Department reduced the instances in which it denied information in full by 4.0%.



As to the Department's overall FOIA processing statistics, the Department received 61,391 requests in FY 2009, which is a 2.9% increase as compared with FY 2008. Following a 14.0% increase seen in FY 2008, this represents the most initial requests received since FY 2002,

when the Department last processed requests on behalf of the former Immigration and Naturalization Service. Although the Department processed slightly fewer requests (1.7%) in FY 2009 than the previous fiscal year, the total number of requests processed was over 60,000, a total that still represents the second-highest number of initial requests processed by the Department since FY 2002. As to backlogs of requests, despite the high level of processing overall, the overall backlog for the Department increased by 10.7%.¹ This increase primarily stems from an increase at one component, the Federal Bureau of Investigation, which as discussed below faced a large increase in processing demand. Were it not for the backlog increase experienced by the FBI, the Department would have a backlog reduction of 3.7%.

Set out below is the description of the steps taken at each Department of Justice component to implement the Attorney General's FOIA Guidelines.

OFFICE OF INFORMATION POLICY

In addition to its governmentwide responsibility to encourage agency compliance with the FOIA, OIP also has significant FOIA responsibilities within the Department of Justice. OIP processes initial requests for seven of the Department's Senior Management Offices and adjudicates administrative appeals for the Department. Specifically, the Initial Request Staff of OIP processes FOIA requests for OIP and its client offices, the Offices of the Attorney General (OAG), Deputy Attorney General (ODAG), Associate Attorney General (OASG), Intergovernmental and Public Liaison (OIPL), Legal Policy (OLP), Legislative Affairs (OLA), and Public Affairs (PAO). The Administrative Appeals Staff of OIP adjudicates appeals of FOIA denials for thirty-nine Department of Justice components, all components with the exception of the U.S. Parole Commission.

I. Steps Taken to Apply the Presumption of Openness

1. Description

As the lead FOIA policy office for the federal government, OIP has been actively engaged in educating agency personnel on President Obama's directive to administer the FOIA with a clear presumption in favor of disclosure. Two days after President Obama issued his FOIA Memorandum, the Director of OIP sent a communication to all Agency Chief FOIA Officers, Agency Principal FOIA Contacts, and Department of Justice FOIA Officers emphasizing the need for agencies to immediately begin applying the President's directive to all decisions involving the FOIA. (see <http://www.justice.gov/oip/email-map-obama.pdf>).

In addition, after issuance of the Attorney General's FOIA Guidelines (see <http://www.justice.gov/ag/foia-memo-march2009.pdf>), OIP issued comprehensive guidance to all agencies on applying the presumption of openness, making discretionary disclosures, establishing systems to identify information for proactive release, and improving timeliness (see <http://www.justice.gov/oip/foiapost/2009foiapost8.htm>). OIP also added important discussions

¹ This figure is based on a revised backlog number for the FBI. The FBI over-reported its backlog number for FY 2009 as 1758, when it should have been reported as 1636.

on President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines to the 2009 edition of The Department of Justice Guide to the Freedom of Information Act, a comprehensive legal treatise discussing all aspects of the FOIA ([see http://www.justice.gov/oip/foia_guide09.htm](http://www.justice.gov/oip/foia_guide09.htm)).

OIP has also included presentations on President Obama's and Attorney General Holder's FOIA Memoranda at all of its training sessions. For example, just seven days after the issuance of Attorney General Holder's FOIA Memorandum, OIP held a training session on March 26, 2009, providing guidance on how to apply the presumption of openness, increase transparency, and improve timeliness in responding to FOIA requests. The training material for this seminar was then proactively made available on the Department's website ([see http://www.justice.gov/oip/obama_holder_foia_memo_march2009.pdf](http://www.justice.gov/oip/obama_holder_foia_memo_march2009.pdf)).

In addition to this seminar that was specifically created to address the issues of openness and transparency, OIP has conducted twelve training seminars since the issuance of President Obama's Memorandum. At each of these seminars, President Obama's and Attorney General Holder's FOIA Memoranda were emphasized. The presentation material for several of these seminars has also been added to the Department's website; specifically, the Overview of the Freedom of Information Act - Procedures ([see http://www.justice.gov/oip/foia-procedures.pdf](http://www.justice.gov/oip/foia-procedures.pdf)), Achieving Transparency through Proactive Disclosures ([see http://www.justice.gov/oip/proactive-disclosures.pdf](http://www.justice.gov/oip/proactive-disclosures.pdf)), and FOIA Public Liaisons Training ([see http://www.justice.gov/oip/public-liaison-training.pdf](http://www.justice.gov/oip/public-liaison-training.pdf)). These are just some of the many training sessions and outreach conducted by OIP in the new FOIA Guidelines. OIP has also provided individualized guidance and advice to agencies on applying the presumption of openness through its FOIA Counselor Service and through other specialized training sessions.

As to the application of the presumption of openness to its own processing of requests, OIP has trained its Initial Request Staff to systematically review all material for the possibility of discretionary disclosure. OIP has made discretionary releases in multiple FOIA requests where the released material could have been properly withheld pursuant to Exemption 5 of the FOIA. For example, OIP has made discretionary releases of working papers, draft material relating to the implementation of an Executive Order, e-mail, and other material. In one instance, OIP made a discretionary release of draft slides. In another, OIP made a discretionary release of material referred to it by another Department component and without that release, no material would have been released at all. Twice, OIP reconsidered material it had previously withheld and elected to make a subsequent discretionary release.

The Administrative Appeals Staff of OIP, which adjudicated nearly 3000 administrative FOIA appeals in FY 2009, likewise has taken several steps to apply the presumption of openness within the Department of Justice and to promote the presumption of openness among federal agencies.

First, OIP provided training to its appeals attorneys on how to analyze the potential for discretionary disclosures at the appellate stage. Appeals attorneys review the initial actions of Department of Justice components at the administrative appeal stage and, whenever appropriate,

engage Department components in a discussion of the potential for discretionary disclosure. In multiple instances OIP's appellate action resulted in the discretionary disclosure of material that otherwise could have been properly withheld. This discretionary disclosure activity included the release in full of eight pages and the release in part of twenty-one pages of Federal Bureau of Prison records on various topics that could have been properly withheld under Exemptions 2 and 5 of the FOIA; the remand for discretionary-disclosure consideration of eighty-nine pages of Tort Claims Act investigation records; and the disclosure of a set of statistics not previously kept by the agency but prepared at the appeal stage as a matter of administrative discretion.

Second, as mentioned above, the attorneys on the Administrative Appeals Staff also promote the presumption of openness when providing advice to federal agencies through OIP's FOIA Counselor Service. Finally, several of the appeals attorneys serve as teachers for OIP's training seminars. As discussed above, these seminars regularly emphasize the importance of discretionary disclosure.

2. Disclosure Comparisons

The Initial Request Staff has traditionally responded to most requests by disclosing records in full or in part, and minimized the instances in which records were withheld in full. In fact, for FY 2009 the Initial Request Staff denied in full only 17 requests. For requests in which the Initial Request Staff made a disclosure determination on responsive material, OIP released information, either in full or in part, in 92.1% of such instances (see chart 2). When OIP released records, it did so without any excision in over half of all instances. These numbers are an improvement from FY 2008 which, again, were already exceedingly high, when OIP released records in 91.5% of the requests in which it made a disclosure determination and was able to release information without excision in 45.9% of all such instances.

Chart 1 - Initial Requests Received by OIP

	FY 2008	FY 2009	% Difference
OAG	149	264	77.2%
ODAG	66	117	77.3%
OASG	27	48	77.8%
OIP	487	390	19.9%
OIPL	10	21	110.0%
OLP	80	89	11.3%
OLA	70	127	81.4%
PAO	15	47	213.3%
Total	904	1103	22.0%

Chart 2 - Dispositions of Initial Requests Processed by OIP

	Requests Released in Full	Requests Released in Part	Requests Withheld in Full	Release Percentage
FY 2008	109	128	22	91.5%
FY 2009	100	99	17	92.1%

Although the numbers of instances to which OIP released information either in full or in part were slightly lower in FY 2009 than FY 2008, these numbers reflect a higher percentage of releases in FY 2009 and correspond directly with a decrease in the number of requests where responsive material was located. For FY 2009 OIP conducted a records search and located no responsive material in 296 instances, an increase of 94.7% from the previous fiscal year. As such, although OIP conducted significantly more records searches in FY 2009 than in FY 2008, it experienced slightly fewer instances in which it located responsive material that required a disposition. Of greater note is that OIP maintained an extraordinarily high percentage of requests in which it was able to release information.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

OIP is currently engaged in the procurement of an electronic FOIA processing system that will significantly streamline and update its current administrative processes. This system will allow for the electronic tracking, processing, and reporting of both initial requests and administrative appeals. OIP expects to have this system fully implemented within the coming months.

OIP has excellent information technology support within the Department. OIP has worked closely with its information technology support staff to post material to the Department's website in a timely manner. As detailed above, OIP has posted online the presentation material for several of its training seminars, even posting material the very day it was presented.

To ensure effective responses to all FOIA requests, the Initial Request Staff conducts regular reviews of all pending FOIA requests. This review is designed to provide reviewers and managers with the status of all initial requests to facilitate identification of issues and allow for ready resolution of them. These reviews also provide OIP with a systematic way to analyze its FOIA processing system as a whole, thereby identifying areas of delay or redundancy while also highlighting OIP's best practices so that they can be expanded into other areas.

For example, OIP has identified and addressed two areas that previously caused delay in the processing of initial requests. Due to the various records retention schedules related to material that may be subject to a FOIA request processed by OIP, responsive material can be maintained in one of several electronic databases, the Departmental Executive Secretariat, the Washington National Records Center (WNRC), or the client offices themselves. When records are located at the WNRC, it has been cumbersome to retrieve those records. In an effort to streamline this part of the FOIA process, OIP has worked with the Office of Records

Management Policy to develop and implement a system for the rapid retrieval and review of material maintained at the WNRC. Likewise, OIP also works closely with the Departmental Executive Secretariat to minimize the time necessary to review the material it maintains.

Second, OIP has worked to reduce the amount of time required to complete necessary consultations. When possible, OIP conducts consultations using more informal methods to receive the necessary subject matter expertise without significantly increasing processing time. OIP has also been able to obviate the need for consults in specific situations by reaching agreements with other Department components regarding the proper handling of certain categories of material.

The Administrative Appeals Staff has also taken steps to ensure that it has an effective system for responding to FOIA appeals. For example, appeals attorneys assess new appeal assignments and initiate appropriate dialogue with the subject component upon receipt of an appeal. This practice facilitates concurrent handling of appeals. Second, appeals attorneys determine which new appeals are relatively simple and which ones are more complex. This practice allows for a processing approach that permits simple appeals to move through the adjudication process more quickly.

III. Steps Taken to Increase Proactive Disclosures

Starting with the posting of President Obama's FOIA Memorandum, OIP has proactively disclosed on the Department of Justice website all guidance related to the President's FOIA Memorandum, including an immediate communication from OIP to Agency Chief FOIA Officers, Agency principal FOIA contacts, and Department of Justice FOIA officers advising them to begin applying the President's directive to all decisions involving the FOIA. In addition, as mentioned above, OIP also immediately posted the Attorney General's FOIA Guidelines as well as OIP's comprehensive guidance to agencies on their implementation.

OIP has also posted six sets of slides it has used at its training seminars held for government FOIA personnel. These slides cover a wide range of FOIA-related issues including, but not limited to, the President's FOIA Memorandum ([see http://www.justice.gov/oip/readingrooms/oip_foia1.htm](http://www.justice.gov/oip/readingrooms/oip_foia1.htm)). In addition, OIP has begun posting online selected material released pursuant to FOIA requests that may be of public interest ([see http://www.justice.gov/oip/disclosed-docs.htm](http://www.justice.gov/oip/disclosed-docs.htm)).

To facilitate understanding of agency use of Exemption 3, OIP has created and posted material related to agency application of that Exemption, including a complete listing of all federal statutes that have been found to qualify under the exemption ([see http://www.justice.gov/oip/foiapost/2009foiapost24.htm](http://www.justice.gov/oip/foiapost/2009foiapost24.htm)).

OIP has also developed a process through which it conducts a systematic review of various electronic databases to locate records that may be appropriate for proactive disclosure. This process includes a periodic review of the records of the Departmental Executive Secretariat, which is the official records repository for the OAG, ODAG, and OASG and which also maintains certain OLA records, for records that may be of significant public interest. When

records that may be appropriate for proactive disclosure are identified, they undergo a systematic review and, if appropriate, are published on the Department's website.

Lastly, OIP is working in coordination with its information technology support staff to redesign OIP's website. This effort is intended to make OIP's website more user-friendly by improving the organization of the site and making material, be it released pursuant to a FOIA request or through proactive disclosure, more readily retrievable. The Department's new website already makes proactively available a full range of material from OIP's client offices.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. OIP has just recently established e-mail accounts to receive initial requests (DOJ.OIP.InitialRequests@usdoj.gov) and administrative appeals (DOJ.OIP.AdministrativeAppeal@usdoj.gov).

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not applicable.

3. Does your agency track requests electronically?

Yes. OIP uses Oracle to electronically track both initial requests and administrative appeals.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not applicable.

5. Does your agency use technology to process requests?

Yes. Although not part of one distinct processing system, OIP currently uses a variety of technologies to process the initial requests it receives. Searches of electronic records, such as e-mail, are done by computer. OIP also conducts searches of the electronic database of the Departmental Executive Secretariat, which, as described above, contains certain correspondence received by the OAG, ODAG, OASG, and OLA.

Given the bulk of material that can be located during a search, OIP recently procured and now utilizes thumb drives whenever possible so that material can be rapidly downloaded from its place of origin and then reloaded into OIP's system for processing, avoiding completely the time required to print and then scan responsive material. For purposes of redaction, OIP currently uses Adobe

Acrobat software. The electronic FOIA processing system which OIP anticipates deploying in the coming months will centralize many of these steps and is expected to significantly increase OIP's utilization of technology for all aspects of FOIA processing.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. OIP's current electronic tracking system does allow for the creation of the various reports needed to draft the Department's Annual FOIA Report. As OIP does not process initial requests for the entire Department, various technologies are also used to receive and analyze the data provided by other Department components. It is from this collection of data Department-wide that OIP creates the Department's Annual FOIA Report. Once again, that process will be greatly enhanced with OIP's new automated processing system.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness In Responding to Requests

1. Backlog Status

Administrative Appeals

OIP's Administrative Appeals Staff adjudicated nearly 3000 FOIA appeals in FY 2009 and reduced its appeals backlog to 444 by the end of FY 2009, down from 527 at the end of FY 2008. This reduction was achieved despite the significant amount of attorney time dedicated to production of the 2009 edition of The Department of Justice Guide to the Freedom of Information Act. Also, as part of its FY 2009 accomplishments, the Administrative Appeals Staff closed the ten oldest appeals that were pending at the end of FY 2008. The oldest pending appeal at the end of FY 2009 was dated October 8, 2008, compared to October 2, 2007 at the end of FY 2008. To date in FY 2010, OIP has closed seven of the ten oldest appeals pending at the end of FY 2009.

Chart 3 – Administrative Appeals Processed by OIP

	Backlog	Date of Oldest
FY 2008	527	10/02/07
FY 2009	444	10/08/08

Initial Requests

As noted above, OIP's Initial Request Staff processes FOIA requests for eight components of the Department of Justice. The following is a statistical breakdown of the backlog for OIP and for each of OIP's client offices:

1. Office of Information Policy

The backlog for the Office of Information Policy decreased by 35.7%.

Chart 4 - Initial Requests for Records of the Office of Information Policy

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	487	494	14	01/26/07
FY 2009	390	393	9	08/04/08
% Difference	19.9%	20.6%	35.7%	

2. Office of Legal Policy

The backlog for the Office of Legal Policy decreased by 6.3%.

Chart 5 - Initial Requests for Records of the Office of Legal Policy

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	80	97	16	05/23/05
FY 2009	89	90	15	09/08/08
% Difference	11.3%	7.2%	6.3%	

3. Office of the Attorney General

The Office of the Attorney General saw a 77.2% increase in the number of initial requests received in FY 2009. This represents the largest one-year percentage increase within the last ten years and the most initial requests received for OAG records since FY 2004. In response, OIP processed 51.9% more initial requests than the previous fiscal year. However, because of the significant increase in initial requests received, the backlog for OAG did increase by 34.4%.

Chart 6 - Initial Requests for Records of the Office of the Attorney General

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	149	156	90	09/09/05
FY 2009	264	237	121	07/14/06
% Difference	77.2%	51.9%	34.4%	

4. Office of the Deputy Attorney General

The Office of the Deputy Attorney General saw a 77.3% increase in the number of initial requests received in FY 2009. This also represents the largest one-year percentage increase within the last ten years. In response, OIP processed 11.4% more initial requests than the previous fiscal year. However, due to the significance of the increase in initial requests, the backlog for ODAG did increase by 32.8%.

Chart 7 - Initial Requests for Records of the Office of the Deputy Attorney General

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	66	88	61	03/17/05
FY 2009	117	98	81	07/14/06
% Difference	77.3%	11.4%	32.8%	

5. Office of the Associate Attorney General

The Office of the Associate Attorney General saw a 77.8% increase in the number of initial requests received in FY 2009. As with the OAG and ODAG, this represents the largest one-year percentage increase within the last ten years. In response, OIP processed 80.0% more initial requests than the previous fiscal year. However, due to the greatly increased volume of incoming requests, the backlog for OASG did increase by 33.3%.

Chart 8 - Initial Requests for Records of the Office of the Associate Attorney General

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	27	25	9	08/04/05
FY 2009	48	45	12	12/10/08
% Difference	77.8%	80.0%	33.3%	

6. Office of Intergovernmental and Public Liaison

The Office of Intergovernmental and Public Liaison saw a 110.0% increase in the number of initial requests received in FY 2009. This represents the most initial requests received for OIPL records since FY 2001. In response, OIP processed 125.0% more initial requests than the previous fiscal year. However, due to the increase in incoming requests, the backlog for the Office of Intergovernmental and Public Liaison did increase by 133.3%.

Chart 9 - Initial Requests for Records of the Office of Intergovernmental and Public Liaison

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	10	8	3	08/01/07
FY 2009	21	18	7	11/17/08
% Difference	110.0%	125.0%	133.3%	

7. Office of Legislative Affairs

The Office of Legislative Affairs saw a 81.4% increase in the number of initial requests received in FY 2009. This amount of increase was significant and represents the most initial requests received for OLA records since FY 1998. Due to the increases in in-coming requests for OIP's other client offices, as well as the increased complexity of OLA's requests, OIP processed 17.1% fewer initial requests than the previous fiscal year. As a result of these factors, the backlog for OLA did increase by 197.2%.

Chart 10 - Initial Requests for Records of the Office of Legislative Affairs

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	70	76	36	01/17/06
FY 2009	127	63	107	05/04/07
% Difference	81.4%	17.1%	197.2%	

8. Office of Public Affairs

The Office of Public Affairs saw a 213.3% increase in the number of initial requests received in FY 2009. This amount of increase is both historically atypical and represents the most initial requests received for PAO records since FY 2001. In response, OIP processed 275.0% more initial requests than the previous fiscal year. However, due to the high volume of in-coming requests, the backlog for the PAO did increase by 28.6%.

Chart 11 - Initial Requests for Records of the Office of Public Affairs

	Requests Received	Requests Processed	Backlog	Date of Oldest
FY 2008	15	12	7	10/24/06
FY 2009	47	45	9	10/09/08
% Difference	213.3%	275.0%	28.6%	

Closure of Oldest Requests

Significantly, despite the unprecedented increases in the number of incoming requests, OIP made it a priority to work on closing the oldest requests for each of its client offices. In fact, OIP closed all of the ten oldest initial requests and consults pending for each of its client offices by the end of FY 2009. As OIP processes initial requests for eight Department components, this constituted seventy-five² specific initial requests and consults that were identified as fiscal year priorities that were subsequently closed. OIP continues to see success in this area. To date, OIP has already closed thirty-eight of the eighty-three initial requests and consults identified as FY 2010 priorities.

² Both OIPL and PAO had fewer than ten priority cases for FY 2009.

2. Backlog Reduction Steps

Reducing backlogs is particularly challenging when there are sharp increases in the number of requests received. OIP has taken several steps in an effort to reduce its request backlog. The Director and Chief of Staff of OIP give their full support and devote attention to backlog reduction efforts, and the Chief and Deputy Chief of the Initial Request Staff assume primary responsibility for monitoring and reducing OIP's backlogs. These efforts are an Office priority.

As detailed above, OIP has taken numerous steps to address its backlogs. OIP conducts periodic reviews of all of its pending FOIA requests so as to facilitate their processing. OIP also utilizes a variety of technologies and works closely with its information technology support staff to limit the time required to locate and process material. In addition, the electronic FOIA processing system which OIP anticipates deploying in the coming months is expected to have a significant positive effect on OIP's ability to reduce backlogs.

OIP continues to conduct systemic reviews of its FOIA processes and has modified or initiated new practices in order to streamline its efforts. These include a continuation of OIP's practice of requester outreach, the use of multi-track processing, coordination with other Department components to better facilitate the location of material, and the reduction in the time required to conduct all appropriate consultations.

OIP also utilizes its support personnel, including law clerks and members of its administrative support staff, in efforts to address its backlogs. Furthermore, OIP is currently in the process of increasing the number of personnel assigned to its Initial Request Staff. It is anticipated that, in the near future, the Initial Request Staff will be staffed at its historically highest level ever.

3. Steps to Improve Timeliness

The Initial Request Staff has also made concerted efforts to improve its timeliness in responding to requests. The steps described above to reduce backlogs also have a positive effect on timeliness. Moreover, the Initial Request Staff, and OIP as a whole, continue to rely heavily on its outreach to the requester community. This outreach establishes a direct line of communication between the requester and the FOIA Specialist processing the request. It is during these conversations with the requester that OIP's FOIA Specialists are able to discuss all pertinent aspects of the request and the requester is offered the opportunity to reformulate their request to capture just that material of interest to them. These communications have proven time and again to be effective in improving timeliness.

As to administrative appeals, OIP has made significant improvements in increasing timeliness. Reduction of the appeals backlog is a priority of the Director of OIP. The Associate Director and the Chief of the Administrative Appeals Staff maintain high-level focus on the goal of reducing the appeal backlog and increasing timeliness in response to appeals. The average number of days to respond to FOIA appeals was reduced in FY 2009 to 79.45 days, down from 229 days in FY 2008. The highest number of days that an FY 2009-closed appeal was pending

was 475, down significantly from 2794 for the highest FY 2008-closed appeal. OIP intends to further reduce appeal response times by a combination of an increased focus on the oldest pending appeals, in conjunction with applying the practices discussed above regarding initial assessment of new appeals and multi-track adjudication.

It is expected that all of the efforts detailed above will contribute significantly to both reducing OIP's initial request and administrative appeal backlogs and improving OIP's timeliness in responding to all initial requests and administrative appeals.

ANTITRUST DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Antitrust Division's policy for many years has been to post information on its website regarding its policies, positions, and activities. In an effort to be even more transparent, the Antitrust Division has posted previously undisclosed copies of 532 pages of Redacted Leniency Agreements related to criminal law enforcement investigations; Economic Competition Advocacy Papers; Economic Seminar Information; and Electronic Discovery Materials. These new categories of records and information were posted after President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines were issued and will continue to be posted in the future. Also, the Division revised its "Reporting Antitrust Concerns" website page to provide more information to the public, concerning how to submit complaints about potential antitrust violations to the Division. The Division's FOIA processors have all been apprised of the President's FOIA Memorandum and the Attorney General's FOIA Guidelines, regarding applying a presumption of openness when processing FOIA requests. The Division's FOIA Public Liaison attended training by the Office of Information Policy, regarding placing an emphasis on increasing transparency and working cooperatively with FOIA requesters.

2. Disclosure Comparisons

The total number of FOIA requests received and the total number of requests processed by the Antitrust Division in FY 2009 were down slightly compared to the previous fiscal year. Consequently, the number of FOIA requests with full disclosures decreased by two (from ten to eight), and the number of partial disclosures decreased by five (from twenty-two to seventeen), from FY 2008 to FY 2009. Despite these slight decreases, the percentage (27%) of all processed requests for which the Division made full or partial disclosures, was the exactly the same for FY 2008 and FY 2009. Moreover, the number of full denials of requests based on exemptions fell from 30 to 18, reflecting a 40% reduction in full denials from FY 2008 to FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

Antitrust Division FOIA staff members have been working with a team of Division IT specialists the past year on enhancing the Division's current electronic FOIA tracking system. Meetings and demonstrations have taken place in designing a multifunctional tracking system that will aid with the management of requests. The Division's FOIA/Privacy Act Unit (FOIA/PA Unit) has requested funding for a new FOIA tracking system. The FOIA/PA Unit Chief met with certain Assistant Attorney General and Executive Office staff to discuss procedures for processing FOIA requests. The Unit Chief has provided numerous formal FOIA training sessions for Division personnel. In addition, the entire Antitrust Division has received Records Management training. Among other things, the training covered the need to retain records and helped to ensure that records, which may be responsive to FOIA requests, have been maintained and are retrievable.

III. Steps Taken to Increase Proactive Disclosures

It has been the Antitrust Division's policy for many years to post information on its Internet site regarding its policies, positions, and activities. This longstanding policy of transparency is intended to benefit the private antitrust bar and other interested persons. Posted on the Antitrust Division's website is a wealth of information relevant to its mission of enforcement of federal antitrust laws. Among the documents posted on the website are (1) Business Review Letters, which are statements of the Division's current law enforcement intentions with respect to certain proposed business conduct; (2) Economic Discussion Papers written by Division economists; (3) Guidelines regarding merger enforcement; (4) Comments filed by the Division with other federal and state agencies; (5) Congressional Testimony; (6) Speeches by Division Officials; (7) Press Releases; (8) Division Cases and Court Filings; (9) Information regarding criminal enforcement of federal antitrust laws; (10) Division Manuals; and (11) Division Workload Statistics.

Since President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines were issued, the Antitrust Division's senior management has added to the above list in an effort to be even more transparent, by authorizing the posting of four new categories of records to the Division's website: (1) 532 pages of previously undisclosed Redacted Leniency Agreements related to criminal law enforcement investigations; (2) Economic Competition Advocacy Papers written by Division economists; (3) Economic Seminar Information; and (4) Electronic Discovery Materials. In the future, additional Redacted Leniency Agreements will be posted in batches, and the remaining information will be posted as it becomes available.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. FOIA requests can be sent to the Division by an e-mail link on the Division's FOIA website.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. An Oracle-based electronic system is utilized to track all incoming requests.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. The request, related correspondence, and responsive documents are scanned and maintained in electronic folders. Redaction of documents responsive to requests is performed using Adobe Acrobat Professional and Redax software.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The Oracle-based computer tracking system generates information that is used to prepare the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

In FY 2009, the Antitrust Division responded to 80% of the requests received during that year. Although the number of requests in the Division's backlog increased by two (from twenty-seven to twenty-nine) between FY 2008 and FY 2009, eight of the ten oldest pending requests were closed in FY 2009. Those ten requests were received between 2002 and 2005. The oldest request pending at the end of FY 2008 was received on April 16, 2002. At the end of

FY 2009, the ten oldest pending requests were received between 2004 and 2007, and the oldest pending request was received on July 16, 2004. Closing these oldest requests was a primary goal and a major accomplishment of the FOIA/PA Unit. Between FY 2008 and FY 2009, the FOIA/PA Unit's timeliness improved dramatically. In FY 2009, the median number of days to process complex requests decreased by 69%, and the average number of days to process complex requests decreased by 77%, as compared with the prior fiscal year. The median number of days and the average number of days to process simple requests were both less than twenty days for FY 2008 and FY 2009.

2. Backlog Reduction Steps

The Antitrust Division's FOIA/PA Unit has spent a great deal of time over the past two fiscal years in defending FOIA litigation. The FOIA/PA Unit also had an unfilled attorney vacancy for an entire year because of a hiring freeze due to budget constraints. Since the hiring freeze was lifted, a new FOIA attorney was hired at the end of FY 2009. The FOIA/PA Unit has also begun teaming a FOIA paralegal processor with a FOIA staff attorney to process requests. The addition of a new attorney and new procedures for processing requests in teams will hopefully result in a reduction of the backlog.

3. Steps to Improve Timeliness

The FOIA/PA Unit's addition of a new attorney and new procedures for processing requests in teams should further improve the timeliness in responding to requests.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has always strived to apply the presumption of disclosure to all FOIA decisions. In FY 2009, ATF's Office of Chief Counsel provided FOIA and Privacy Act Training to each attorney within their Directorate. Those instructed represent counsel from each of ATF's 25 Field Divisions and personnel from Headquarters. As part of this training President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines were discussed in detail. Furthermore, in the spirit of openness, ATF is continually looking for information to make available on the ATF website that would allow the public better insight into ATF and its mission.

2. Disclosure Comparisons

ATF has not seen an increase in the number of requests where records were released in full or where records have been released in part. In FY 2009, ATF responded to 241 requests in full and 441 requests in which deletions were made. In FY 2008, 262 requests were released in

full and 463 requests in which deletions were made. ATF has always strived to release documents.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

In FY 2009, ATF conducted a review of how the agency responds to requests. In addition to the steps ATF took to increase its effectiveness in responding to requests under Executive Order 13,392, in FY 2009, ATF's Disclosure Division added an Acknowledgement Tracking Log which allows the Chief FOIA Officer to track the progress of each FOIA request – from being able to see that an acknowledgement letter or e-mail has been sent through the closing of the FOIA request. ATF has also designated a FOIA Contact Person at each of the 25 Field Offices and in each Directorate at Headquarters who is responsible for conducting a search for records responsive to FOIA requests and providing the records to the Disclosure Division for disclosure determination and response to the requester. The Information Technology (IT) support at ATF is sufficient to effectively respond to requests in a timely fashion. The Disclosure Division personnel have made use of online and in-house training to familiarize themselves with the software and databases used to process and track requests.

III. Steps Taken to Increase Proactive Disclosures

In January 2010, ATF posted in its electronic “Reading Room” the listing of all active Federal Firearms Licensees (FFLs) and Federal Explosives Licensees (FELs) in the United States. ATF receives numerous requests each month for a current listing of all active FFL and/or FELs, and by placing the data online, ATF is now able to direct individuals to the website rather than making a formal request for this listing. ATF updates the listings on a monthly basis.

As noted above, in the spirit of openness, ATF is continually looking for information to make publically available on the ATF website that would allow the public better insight into ATF and its mission.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. ATF does accept FOIA requests via e-mail and fax.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. ATF uses Microsoft Access and Excel to track requests electronically.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. The ATF Disclosure Division will scan and e-mail an incoming FOIA request to the office(s) in ATF where documents are likely to be found, and also receives responsive documents via e-mail.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. ATF uses Microsoft Access and Excel databases to prepare the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

In FY 2008, ATF had a backlog of 29 requests and, in FY 2009, ATF had a backlog of 45 requests. The oldest pending request in FY 2008 was dated March 21, 2008 (154 days); in FY 2009 the oldest pending request was dated November 5, 2008 (226 days).

2. Backlog Reduction Steps

While there has not been a decrease in the number of backlogged requests, the number of backlogged requests remains in the 2% - 3% range of the total number of requests processed by ATF. The majority of the backlogged requests are for large volume requests and requests where numerous offices within ATF have responsive documents.

The continued use, and increased use, of scanning capabilities within ATF will help with an increased response time to requesters. The increased use of scanning incoming FOIA requests and e-mailing the ATF office where records are likely to be found will help in improving timeliness in responding to requests. Response times from the ATF field offices have

been reduced when communicating via e-mail and in some instances the field office is able to provide responsive records via e-mail attachment rather than through the mail. The posting of the listing of active FFLs and FELs, as mentioned above, is likely to reduce the number of requests we receive for this frequently requested material and allow the ATF FOIA staff to process remaining requests more quickly. Finally, by creating an Acknowledgement Tracking Log, the Chief FOIA Officer can quickly assess the status of all open FOIA requests at any time.

3. Steps to Improve Timeliness

The steps discussed in Part V.2 will also improve ATF's timeliness in responding to FOIA requests.

CIVIL DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Civil Division is responsible for litigating FOIA cases for the Government as well as responding to FOIA requests directed to the Division. The Civil Division seeks to ensure that the Administration's presumption of transparency, as articulated by the Attorney General's new FOIA guidelines, is manifested in the advice and guidance the Civil Division provides client agencies and U.S. Attorney's Offices; is reflected in the Civil Division's FOIA litigation involving client agencies and the Department itself; and is part of the training regimen Civil Division attorneys receive.

FOIA litigators in the Civil Division's Federal Programs branch work with client agencies to apply the Attorney General's FOIA Guidelines and the presumption of openness in all appropriate cases. The Civil Division's front office received training on the FOIA and the presumption of openness, led by the supervisors of the Division's FOIA litigation. The Civil Division FOIA Officer, who has twenty-seven years of experience in handling FOIA requests to the Division, understands and is implementing the Guidelines.

Given the nature of the Civil Division's work, many FOIA requests seek civil litigation records which include exempt attorney work product or deliberative process documents. When that occurs, the FOIA Officer discusses the potential for the discretionary release of exempt records with each Division employee whose records are the subject of the FOIA request. The focus is on whether there is a specific harm that would flow from disclosure. In certain instances, when there is no harm, the Civil Division has released portions of documents that would be protected by the attorney work product privilege.

2. Disclosure Comparisons

During the past year, the number of requests where records have been released in full or in part has increased. For FY 2008, out of 267 requests, 26% or seventy requests resulted in full

releases, and 10% or twenty-seven requests resulted in partial releases. For FY 2009, out of 300 requests, 32% or ninety-six requests resulted in full releases and 10% or twenty-nine requests resulted in partial releases. This represents a 6% increase in the number of responses in which full or partial releases were made.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The Civil Division's system to process access requests under the FOIA and Privacy Act is effective. The FOIA Officer who heads the Unit is an attorney deeply experienced in FOIA responses, having specialized in this area for twenty-seven years. He is knowledgeable not only in current processing and reporting requirements under the statutes but also with the Civil Division's operations and personnel. Under his direction, the FOIA Unit (i) identifies the attorneys who may have responsive records to a request, (ii) transmits the request to the identified lawyers with a memo seeking a reply by a date certain and (iii) follows up to insure that the attorneys review their files for the requested records. Upon receiving responses, the FOIA Officer then reviews records that the Civil Division lawyers have identified as responsive to determine whether FOIA exemptions are applicable and discusses whether they should nonetheless be disclosed, as indicated above.

The FOIA Unit maintains an automated database to control and report on all activity concerning a request. This control system allows the FOIA Officer to respond comprehensively and accurately to requesters upon an inquiry regarding the status of a request. It also assists in the annual reporting of Civil Division FOIA activity.

III. Steps Taken to Increase Proactive Disclosures

The Civil Division currently provides a significant amount of information through the websites of specific branches. To increase the amount of information posted online, the Civil Division's FOIA Officer works with the front office and other component personnel to identify documents of public interest that can be disclosed. In addition to the amount of information already on the websites of specific branches, the Civil Division recently started posting three reports concerning the Radiation Exposure Compensation Act (total number of claims paid, number of claims paid broken down by state of claimant, and outreach activities for potential claimants). On April 1, 2010 or shortly thereafter, the Division will begin posting the Office of Immigration Litigation's monthly Immigration Litigation Bulletin, which includes articles on immigration issues and case reports, on the Civil Division's website. Shortly, the Civil Division website will also include copies of speeches given by the Assistant Attorney General and Deputy Assistant Attorneys General.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, the Civil Division receives FOIA requests by mail, by FAX and, as of April 1, 2010, by e-mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes, the Civil Division tracks the receipt of a request, processing and closure through its automated control database system.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, the Civil Division utilizes electronic technology to process requests. Initially, requests are scanned to facilitate the prompt transmission of requests to those who should review a request. Then automated systems are utilized to conduct subject and case searches and to request physical delivery of files for review. Also, automated software tools are used to process records for redaction when only portions of records are withheld.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, the Civil Division utilizes technology to prepare the Annual FOIA Report. The FOIA control database is used to extract data for annual reporting requirements. The Civil Division also relies on information technology personnel and resources as required to complete the annual report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The request backlog for the Civil Division increased from ten requests to twenty requests from FY 2008 to FY 2009. The Civil Division closed the oldest request pending at the end of FY 2008. The oldest request reported in FY 2008 was received on April 21, 2008 and the oldest request reported for FY 2009 was received November 25, 2008.

2. Backlog Reduction Steps

The Civil Division's FOIA Unit has only three employees. Over the past year, two of the three positions were vacant for a period of time resulting in the increased backlog. The FOIA Unit is now fully staffed, and the FOIA Officer is training the new personnel in both the operations of the Civil Division and the FOIA to rebuild its processing capability. This process is well under way and the Civil Division expects the pending backlog to be greatly reduced by the end of calendar year 2010.

3. Steps to Improve Timeliness

The average days to process a request in FY 2008 was eighteen days and the median was eight days. The average days to process a request in FY 2009 was twenty-five days and the median was fifteen days. The Civil Division also expects to improve on the timeliness of responses by pro-actively contacting requesters to focus and possibly narrow their requests when a request calls for large numbers of records which are likely exempt. This should reduce processing time by eliminating the need to review documents which will not ultimately be produced, improve response time, and save money for the requesters.

CIVIL RIGHTS DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

In April of 2009, immediately following the Attorney General's issuance of the March 19, 2009 FOIA Guidelines, the Civil Rights Division's (the Division) Acting Assistant Attorney General transmitted a copy of the Attorney General's Memorandum to the Chiefs of all the Division's Sections with a memorandum summarizing the FOIA Guidelines which communicated the Acting Assistant Attorney General's expectations that the program Sections comply with all aspects of the Attorney General's FOIA Guidelines. The Division's memorandum conveyed:

- A. The Division's commitment to transparency at the highest level of Division management and the view that each Section's handling of FOIA requests should reflect this commitment.

- B. Explained the “presumption of disclosure” standard.
- C. Expressed the Division’s interest in prompt turnaround time in collecting and reviewing records in response to FOI/PA requests.
- D. Alerted the Sections to the increased emphasis on “proactively” posting significant Section documents.

Throughout the following year, the CRT FOI/PA Branch provided very specific counsel to contacts within the Division regarding how the “presumption of disclosure” would result in additional discretionary disclosures. The Division's Professional Development Office provided training to all new incoming attorneys regarding the Attorney General's standards. In addition, several Section FOIA contacts voluntarily sought out training in FOIA implementation via the Department’s National Advocacy Center FOIA classes which contained an emphasis on the Attorney General’s new guidelines.

2. Disclosure Comparisons

Although further analysis would be necessary to pinpoint the exact basis for the increase in “full grant” disclosures, the steps taken to train Division employees clearly contributed towards a 29% increase in the Division’s number of “full grant” disclosures in FY 2010 over the corollary FY 2009 quarter prior to the issuance of the Attorney General’s Guidelines and 16% more than the number of “full grant” disclosures in FY 2008 which had the equivalent number of incoming requests during that quarter. In FY 2009, the Division provided 156 full releases and 131 partial releases, compared to 190 full releases and 113 partial releases in FY 2008. This increase in “full grants” occurred during a period in which the number of incoming requests temporarily decreased by 9% over the same quarter during the prior year.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The Division’s present system for responding to FOI/PA requests has evolved after repeated analyses of areas that, in prior years, needed extra attention in order to eliminate any points along the process where requests might incur a significant delay before the requests are moved to the next processing level. This processing system has reduced the number of reviews to the minimum necessary to ensure that the Division continues to protect vital interests such as individual privacy, the mandatory secrecy of federal grand jury records, as well as avoid the premature disclosure of records related to active law enforcement interests as required to fulfill the Division’s statutory mission.

The Division’s Information Technology staff delivers the highest professional level of support to the FOI/PA Branch. In contrast to prior years, however, the FOI/PA Branch now has on staff a permanent analyst with superior Information Technology skills in addition to FOI/PA processing knowledge. The combination has proven to be effective in giving the Division the means to focus on electronic FOIA processing in moving the Division into greater efficiency and enhancing the ability to provide a rapid and professional quality response to the public.

III. Steps Taken to Increase Proactive Disclosures

In addition to the April 2009 Acting Assistant Attorney General memorandum highlighting the need to “proactively” post information online in advance of FOIA requests, the Division’s Assistant Attorney General, as well as his staff that preceded his entry into the Division in late fall of 2009, initiated the development of programs to facilitate outreach to the public in providing information via an electronic newsletter, giving continued emphasis in requiring the program Sections to post all significant documents on the Division website whether requested or not. This Assistant Attorney General initiated emphasis has resulted in an estimated 10% increase in Division website postings over a very short period of four months including records related to settlements in many of the Division’s program areas related to civil rights enforcement, investigatory letters of findings issued concerning state facilities of institutionalized persons, technical assistance letters on issues related to the American with Disabilities Act.

During the period of time since the issuance of the Attorney General’s Guidelines, the FOI/PA Branch initiated steps required to proactively disclose historical Division records via the website that had been classified. The Division posted records related to the Division’s historic investigations in the Viola Liuzzo case and the Goodman, Schwerner and Chaney investigation and other similar records. The FOI/PA Branch has set a goal of 2011 to achieve all necessary review and declassification and posting of significant records regarding the historical CRT enforcement.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. Requesters submit e-mail requests directly to the FOIA Officer.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. The FOI/PA Branch uses FOIA Xpress which is a licensed electronic system that enables the Division to track each request.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. The FOIA Xpress licensed electronic system has automated redaction and retains all copies of the records.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The FOIA Xpress Electronic System has the capacity to issue detailed data reports for inclusion into the Annual Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

Besides efforts to make the best use of the Division's website and other electronic technology to conduct outreach to the public regarding Division enforcement activities, 2009 represented the FOI/PA Branch's first year of shifting to a completely electronic FOI/PA processing system. This system tracks all requests electronically providing all requisite information to each inquiring requester on the status of each pending FOI/PA request.

The Branch's new electronic system compressed the former extensive manual redaction procedures which necessitated making numerous copies to enable FOI/PA Branch reviewers to see final redactions as well as read highlighted versions and maintain additional "clear" copies for litigation. This formerly labor-intensive, time-consuming process has transformed into a streamlined production that minimizes the steps to allow for all levels of types of record retention in preparation of the FOI/PA Branch files for administrative appeals and litigation. This electronic processing system has greatly enhanced the Division's capacity to provide the FOI/PA requester with a professional quality product that is a great deal more aesthetically appealing than the Division's former manual markups.

The FOI/PA Branch's full-time analyst that has extensive experience and skills in the Information Technology area provides regular group instruction to the CRT FOI/PA Branch staff regarding application of the best practices in utilizing the electronic processing system. In addition, this analyst provides a vital daily support to CRT FOI/PA Branch staff to resolve the occasional electronic issue that may arise.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

From the end of FY 2008 to the end of FY 2009, the Division's backlog increased from forty-eight to seventy-eight primarily due to an unprecedented public focus on one particular program area of the Division – Voting Rights. The volume of incoming requests seeking records in this area, the necessary extent of legally adequate searches to determine all responsive records, and the need for the careful review of sensitive records have contributed to an exceptional accumulation of pending FOI/PA requests in this area. Consequently, the oldest pending request for FY 2008 remains to be the oldest pending request for FY 2009 (June 8, 2006) – these requests relate to voluminous requests seeking access to the records related to Voting Rights. (Due to a reporting error, the FY 2008 Annual Report contained a different date.) The Division's FOI/PA Branch's number of pending administrative appeals at the end of the last two fiscal years is consistently five or less because of the Division's high priority attention to resolving all appeals as soon as possible.

2. Backlog Reduction Steps

The FOI/PA Branch has made efforts to provide additional personnel and guidance to facilitate a reduction in this area. In addition, the FOIA office is continuing to provide record turnaround time in its responses to records requests in other Division program areas to balance this temporary backlog. Because of the Division's training and repeated information dissemination on the Attorney General's Guidelines, the FOI/PA Branch projects that the FY 2009 backlog of pending FOI/PA requests will be reduced 10% or more by the end of FY 2010.

3. Steps to Improve Timeliness

In FY 2009, the Division provided responses in a median time of four days for the simple requests which represent 82% of the total closed requests and in a median time of ninety-five days for the complex requests. In FY 2008, the Division responded to its simple requests in a median time of five days for 79% of its total requests and ninety-four days in response to the complex requests. The Division anticipates closure of the four oldest pending requests by July of 2010.

COMMUNITY RELATIONS SERVICE

I. Steps Taken to Apply the Presumption of Openness

1. Description

CRS applies the presumption of openness to all FOIA decisions, in keeping with President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. However, because CRS is required by its statutory mandate to maintain confidential all

information obtained from parties during mediation or conciliation sessions, some information obtained by CRS is simply not appropriate for discretionary disclosure under the FOIA.

2. Disclosure Comparisons

In FY 2009, CRS processed two requests in which records were processed and withheld in full. In FY 2008, CRS processed only one request in which records were processed, resulting in a partial release. Accordingly, although CRS has not seen an increase in the number of requests in which records were released in full or in part, CRS's data pool of three requests does not allow for a meaningful statistical analysis.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

As the CRS Annual FOIA Reports reflect for FY 2008 and FY 2009, CRS has received approximately twelve to fifteen requests per year. All but one or two requests were responded to within twenty days. CRS has been prompt in its responses to FOIA requests and has an effective system for responding to requests.

III. Steps Taken to Increase Proactive Disclosures

CRS has placed on its website all major CRS publications that might be of interest to the public. Because CRS is required by its statutory mandate to maintain confidential all information obtained from parties during mediation or conciliation sessions, some information obtained by CRS is not appropriate for proactive disclosure under the FOIA.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

3. Does your agency track requests electronically?

No.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

The annual number (twelve to fifteen) of FOIA requests received by CRS does not seem large enough to justify a need for electronic tracking.

5. Does your agency use technology to process requests?

No.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

The annual number (twelve to fifteen) of FOIA requests received by CRS does not seem large enough to justify a need for electronic processing.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

No.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

The annual number (twelve to fifteen) of FOIA requests received by CRS does not seem large enough to justify a need for electronic report preparation.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

CRS had no backlog in either FY 2008 or FY 2009.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

In FY 2009, CRS processed seven requests with a median response time of twenty days. CRS responded to six of these requests within the statutory time frame. One FOIA request received a response on the twenty-fourth day. CRS has a strong record of timely responses.

CRIMINAL DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

In accordance with both President Obama's FOIA Memorandum directing agencies to "administer the FOIA with a clear presumption of openness," and Attorney General Holder's

FOIA Guidelines to “establish effective systems for improving transparency,” the Criminal Division’s Freedom of Information Act (FOIA)/Privacy Act (PA) Unit has taken the following steps:

1. Conducted in-house training to all FOIA/PA staff on the Administration’s current FOIA policies and practices;
2. Created and distributed written training handouts that describe the key elements of both the President’s and the Attorney General’s guidelines; and
3. Continue to give feedback during reviews of responses to FOIA requests promoting the current FOIA policy to the Unit’s FOIA Specialists and Criminal Division Offices.

The Chief has already met with managers in several Criminal Division Sections who have requested a briefing on the new FOIA Guidelines. In response to inquiries made by some Criminal Division Sections, the Chief is currently drafting a Division-wide memorandum that outlines the “key” changes to the administration of the FOIA (including the “foreseeable harm” standard), and will continue to brief Criminal Division Sections.

Because the Office of Enforcement Operations (OEO) management directed the Criminal Division FOIA/PA Unit to treat “reducing our backlog” and “improving the date of our oldest pending request” as top priorities since 2008, the Unit is now able to focus on making greater progress in applying the “presumption of openness” to its FOIA requests. The FOIA Unit is increasing its “discretionary releases” by encouraging each of its FOIA Specialists to consider such factors as the age and the sensitivity of the documents subject to protection under Exemption 5. In addition, the Unit has encouraged the partial release of a greater number of Exemption 5 documents as compared to the previous approach of withholding them in full. Examples of partial discretionary releases include: the Criminal Division’s OEO, International Prisoner Transfer Unit’s final denial/approval decision(s) of prisoner transfer(s) and the portions of “prosecution memoranda” that reflect the final decision either to “prosecute” or “decline to prosecute.”

In addition, the FOIA/PA Chief has requested “declassification authority” so that the Unit can more proactively and timely begin the release of older documents by declassifying them, if appropriate.

2. Disclosure Comparisons

In FY 2008, the Criminal Division issued 102 full grants, and in FY 2009 the Division issued ninety-two full grants. Furthermore, in FY 2008, the Division issued 172 partial grants, and in FY 2009 it issued 158 partial grants. The slight decrease of “full” and “partial” releases could be due to several factors, such as the fact that more documents were withheld in full under FOIA Exemption 7 in FY 2008 (fifteen more) than in 2009, where discretionary releases may not be as appropriate, or it could be related to the higher number of requests processed FY 2008, when the Division initiated its efforts to drop its backlog numbers.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The Criminal Division's FOIA/PA Unit currently operates with thirteen full-time staff members and two students. The Unit currently consists of a Chief, a Deputy Chief, one Attorney, two supervisory Team Leaders who are FOIA Specialists, five non-supervisory FOIA Specialists, and a Team Leader of the Administrative staff that also includes four non-supervisory members. The Division's FOIA/PA Unit has advertised vacancies for one attorney and two FOIA Specialists. Also, from 2007-2009, the FOIA/PA Unit has averaged approximately 960 incoming requests annually.

After significantly reducing its FOIA backlog and improving the date of the oldest pending FOIA request, the Criminal Division has been actively looking at ways to ensure that it has an effective system in place for responding to FOIA requests that continue to keep the backlog down and requests current. The following areas were identified in the FOIA process that have caused delays (“bottlenecks”) in the rate of completing requests:

1. Concurrence Stage: The Division's FOIA/PA Unit identified delays from Criminal Division Sections in their responses to requests at the concurrence stage.
2. Search Stage: Delays were noted in Division Offices completing their searches for documents potentially responsive to requests.
3. Review Stage: Delays were found in the Unit's Team Leaders (Senior FOIA Specialists) completing the reviews of draft responses from the FOIA Specialists on their Teams. Procedures are currently being drafted to track the review time so that FOIA responses are completed more timely.

Because each of these stages of the FOIA process are inter-related and often dependent upon one another. By more proactively following up on searches, Division Offices have been providing responsive documents at a much more timely pace. Also by taking a much more proactive approach to getting responses to concurrence requests from Division Sections, FOIA requests are completed much more quickly.

The Unit has developed a good working relationship with its Information Technology (IT) staff, which has helped develop additional electronic tracking tools to create a more effective system for responding to requests. Due to staffing challenges in the IT Office, the FOIA/PA Unit has not been able to implement some of these electronic FOIA tools as quickly as it had hoped. Despite a staffing shortage, the IT staff has helped update the Unit's “Dunning Notices,” a written notice that is electronically generated when a Division office response to a request for a document search is thirty days overdue.

For the search stage of the process, the Unit has created a more comprehensive “search sheet” that captures all requisite information on searches and applicable FOIA exemptions from Criminal Division Offices at the beginning of the FOIA process. The IT staff helped create this on the Unit's electronic FOIA system, Case Automated Tracking System (CATS).

This search sheet has already proven invaluable at the FOIA appeals and litigation stages by answering many of the questions that arise when the Unit needs to provide search declarations or conduct supplemental searches.

Moreover, the Unit is working with the IT Office to create monthly electronic reports that track the review and completion time by each individual FOIA Specialist, by FOIA Team, and the Attorneys for “expedited,” “simple,” and “complex” FOIA requests. These electronic reports will also help the Unit to track the review times by its Team Leaders and Attorneys.

III. Steps Taken to Increase Proactive Disclosures

The Criminal Division has taken steps to increase its proactive disclosures by updating and expanding its FOIA/PA Unit’s electronic website (Reading Room). Links have been installed to every one of the Criminal Division Section’s websites, where new “publicly available” documents are routinely posted.

In addition, under its “Frequently Requested Documents,” the Criminal Division has added its 2009 FOIA log of incoming requests and the “Civil” and “Criminal RICO Manuals.” The Division is also currently working with IT to add the Criminal Division’s Annual FOIA Reports, and a link to the list of all DOJ IMPAC Federal credit card holders. Furthermore, the Division is in the process of adding historically significant Criminal Division documents pertaining to past “high profile” issues/FOIAs including: “Ezra Pound” (the American expatriate poet charged for treason for supporting Italy during World War II), “Tokyo Rose” (an American citizen who participated in English-language propaganda broadcasts transmitted by Radio Tokyo to Allied soldiers during WWII), and “AXIS Sally” (a German-American WWII female radio personality who broadcasted propaganda for Nazi Germany) in the next two weeks or less. The Criminal Division is currently working with an IT contractor to scan and electronically post the redacted versions of approximately 30,000 documents produced in the high profile Colapinto/Whitehurst FOIA litigation, where OIP reviewed numerous FOIA appeals during the “rolling production” of documents (pertaining to alleged wrongdoing of the FBI forensics lab and the work of Criminal Division’s FBI Task Force).

A list of the “top 3 most frequently requested documents” by every Criminal Division Section was created, and the Division is currently examining how it can proactively post as many of these categories of documents as possible on its website after it consult with each of the Division’s Sections. The Chief has begun the discussion with the Criminal Division’s Assistant Attorney General’s (AAG) Office on AAG documents that are of public interest and can be publicly posted on the website as well.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

No.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

The FOIA Unit is currently working with the IT Office, which projects that the capability for FOIA requesters to send requests electronically via e-mail will be available shortly.

3. Does your agency track requests electronically?

Yes, the Criminal Division tracks requests in its Oracle-based, electronic FOIA system, CATS.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, the Criminal Division uses some technology to process requests.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

The current impediment to the Criminal Division's utilizing more technology to process requests is funding. The Division has previously requested funding for electronic redaction software and access to OIP's Department wide FOIA system, but have been advised that funds are currently unavailable.

In addition, the Division thinks it makes good business sense and that it is economically prudent, to await OIP's final decision/implementation of the Department wide electronic FOIA system before selecting a Criminal Division electronic system. It would be regrettable if a chosen system was incompatible with OIP's system, especially for FOIA appeals, referrals, consultations, and litigation.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, the Division uses an electronic FOIA tracking system, CATS, to prepare its FOIA Report. The IT Office previously created this Oracle-based tracking system specifically for the Criminal Division's FOIA/PA Unit. CATS consists of Oracle Applications Express and Oracle's PL/SQL. The IT Office has been very helpful in continuing to modify CATS so that the FOIA Unit is able to track all of the additional required elements in its Annual Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The Criminal Division's FOIA/PA Unit has made significant strides in reducing its backlog of pending FOIA requests. In just two short years, the Criminal Division has dramatically reduced the number of requests pending by 77%. At the end of FY 2007, there were 832 requests pending. By the end of FY 2008, the Criminal Division had 328 requests pending, a reduction of 61% in just one year. The Criminal Division closed 1,422 requests in 2008. By the end of FY 2009, the backlog was significantly reduced and only 188 requests were pending overall, yet another reduction totaling 43% in just one year. This reduction is also shown in comparing FY 2008 and FY 2009 backlogged requests as reported in the Annual FOIA Report. At the end of FY 2008, the backlog was approximately 231* and at the end of FY 2009 the backlog was 111.

The Criminal Division has also significantly improved the date of its oldest pending FOIA request by fourteen years from 2008 to 2010. The oldest pending request was not tracked in 2007. At the end of FY 2008, the oldest pending request was dated February 13, 1995. At the end of FY 2009, the Criminal Division's oldest pending request was dated April 2, 2008, a significant improvement of thirteen years. Currently, the oldest pending request is just a year old, dated January 29, 2009. In less than seventeen months, the Criminal Division has markedly reduced the date of its oldest pending request, improving it by fourteen years, from 1995 to 2009. The FOIA/PA Unit's two accomplishments (the significant backlog reduction and the fourteen year improvement in the oldest pending request), were so significant within its organization (the Division's OEO) that they were one of "OEO's top 3 accomplishments" for FY 2008 and FY 2009.

* The Criminal Division's system at the time of its submission of the FY 2008 Annual FOIA Report did not distinguish between backlogged and pending requests, so the figure is an estimate.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

The Criminal Division continues to look at ways to improve timeliness in responding to requests to include the following:

A. Increased accountability and review of each FOIA Specialist's work every month through "Monthly FOIA Reports" and "Monthly FOIA Status Meetings." For the purpose of

tracking significant issues/potential delays in the responses to FOIA requests, the Chief and Deputy Chief require each Specialist to update the status of all of their assigned requests in a "Monthly Report." In addition, monthly meetings with all of the FOIA Team members are held to discuss/address significant pending issues that may be delaying timely responses to requests.

B. Follow-up at the FOIA process stages identified as causing delays: As stated above, the Unit has begun to more proactively address issues with various Criminal Division Sections at two FOIA process stages to improve timeliness in responding to requests.

- i. Concurrence Stage: The Deputy Chief assists the FOIA Specialists in addressing delays from Criminal Division Offices in their responses to FOIAs at the concurrence stage.
- ii. Search Stage: The Chief leads the Administrative Team in addressing delays to requests to search for responsive documents. At the search stage, the FOIA Unit is waiting for Criminal Division Offices to complete their searches for documents potentially responsive to FOIA requests.

DRUG ENFORCEMENT ADMINISTRATION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Drug Enforcement Administration (DEA) Office of Chief Counsel provided training for key FOIA personnel on the President's and Attorney General's memoranda. DEA's FOI office continually provides the key players in the FOI/PA review process with administrative updates and policy guidance. DEA holds open forum discussions on bi-monthly and ad hoc bases to discuss new policy guidelines. These sessions enhance the complete understanding of the new Guidelines for all FOIA personnel.

2. Disclosure Comparisons

From FY 2008 to FY 2009 DEA increased its full grants of information by 46% and increased its partial grants by 59%. DEA is proactively utilizing the mind set of "what can be released vs. what can be withheld."

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

In the beginning of FY 2009, DEA contracted a system to be developed and implemented which would enable this office to track and redact electronically. Throughout the development of this system, our office had to work closely with not only the parent company but also with the DEA's IT department to utilize the system technology to streamline DEA's process from

beginning to end. In January, 2010, the redacting and tracking system has been fully implemented into use and DEA has onsite IT support.

DEA facilitates FOI/PA training to reiterate current policies and procedures to various components within DEA so that they fully understand the importance of responding to FOIA requests in a timely manner. DEA provides a FOI/PA overview, which includes review of the President's and the Attorney General's memoranda, as part of all classes held in DEA's training facilities which range from Special Agent trainees to Diversion Investigators.

III. Steps Taken to Increase Proactive Disclosures

DEA actively strives to place key information on various websites throughout the agency. The following DEA components have extensive information on their public websites: Asset Forfeiture; Demand Reduction; Acquisition Management; Office of Diversion and Office of Personnel. Current websites have been in place for several years with each component keeping the websites updated. DEA is presently in the initial stages of working with the Office of Intelligence to develop a website.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. An e-mail address was implemented several years ago. However, the majority of requests received electronically are by fax.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. Over two decades, DEA has routinely electronically tracked requests. However, recently a new system (FOIAXpress) was deployed in January 2010 which not only tracks request electronically but redacts as well. The system has the ability to request/case tracking, letter generation, archival storage and management.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. As stated above, FOIAXpress has been implemented into DEA's world of processing. This system has the capability to electronically redact text and images. It maintains a copy of the original file along with a redacted version. The system has built in FOIA and Privacy Act exemptions which are placed over the redacted portion of the document.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The FOIAXpress system generates a report exactly in the format required for the Annual Report. Moreover, the system can be updated based on changing DOJ reporting requirements.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The number of backlogged requests for FY 2008 was 768. The number of backlogged requests for FY 2009 was 439. These numbers represent a 43% reduction in DEA's backlog.

The date of the oldest pending request at the end of FY 2008 was January 4, 2004. The date of the oldest pending request at the end of FY 2009 was September 30, 2005.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

Staffing has always been a major challenge within DEA. In order to supplement the long government process of hiring, DEA has acquired contractor support to facilitate DEA's response time to requests. And, within the past year, DEA has appointed FOIA coordinators throughout its field offices to facilitate quicker response times. Over 50% of DEA requests are for

investigative records. The appointment of these FOIA coordinators throughout the world has streamlined the process of retrieving documents from the DEA's field offices.

ENVIRONMENT AND NATURAL RESOURCES DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

In the fall, two new paralegals of the Environment and Natural Resource Division (ENRD) who work on FOIA matters completed OIP's training course for FOIA Attorneys and Access Professionals, at which President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines were discussed at length. Another paralegal completed OIP's training in February 2010.

Additionally, in November 2009, ENRD held a meeting with all ENRD FOIA personnel in order to publicize President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. During this meeting, ENRD's primary FOIA coordinators reiterated that specific steps, such as discretionary releases of documents that would have previously been withheld under the "low 2" FOIA Exemption, can and ordinarily should be taken in order to apply the presumption of openness.

ENRD has made a major effort to redact and release documents previously withheld in full. For example, in a recent FOIA regarding an ENRD criminal investigation, ENRD extensively redacted references to grand jury material rather than withholding the documents in full. Similarly, even when we have no responsive records to a specific request, we attempt to provide related information. For example, in a recent FOIA request for the costs of litigating an ongoing case (which we are not required to track or compile for FOIA requests in the manner requested), we sent the requester a list of our direct costs to date.

2. Disclosure Comparisons

ENRD's FY 2009 Annual FOIA Report does not show an increase in the number or percentage of requests where records have been released in full or where records have been released in part when compared with statistics from the FY 2008 Annual Report. However, this result is partly due to the decrease in the number of requests received (down 28%) and processed (down 32%) in FY 2009, as well as a greater number of "no responsive records" responses in FY 2009. The Division reduced its number of full denials based on exemptions from FY 2008 to FY 2009.

	Number of Full Grants	Number of Partial Grants/Partial Denials	Number of Full Denials Based on Exemptions
ENRD-FY 2008	22	33	7
ENRD-FY 2009	6	28	4

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

At a FOIA staff discussion and training meeting in November 2009, ENRD reviewed FOIA processing procedure and addressed staff questions and suggestions. The ENRD FOIA Public Liaison discussed handling of settlement documents and discussed staff concerns related to FOIA processing. As a result of the dialogue, ENRD refined its procedure for sending out new FOIA requests to section contacts to include additional guidance and information. In addition to this meeting, the Division's primary FOIA coordinators reviewed and updated these FOIA guidance documents that are sent to sections when ENRD receives new requests. The updated documents reflect President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines.

ENRD held a FOIA Criminal Issues Working Group meeting on November 24, 2009 with FOIA professionals from ENRD's Environmental Crimes Section, the Criminal Division, and OIP. The purpose of this meeting was to discuss how to treat certain categories of documents common to both Divisions and other issues that may arise in FOIA processing. ENRD anticipates continuing to convene this working group and inviting FOIA personnel from other DOJ components that process documents from criminal cases.

To ensure sufficient IT support for FOIA processing in ENRD, two personnel from ENRD's Office of Information Management are tasked with handling requests that involve the Division's Case Management System (CMS). CMS allows ENRD FOIA staff to efficiently locate relevant case files and personnel who may have responsive documents. The ENRD FOIA coordinators maintain a positive working relationship with these IT personnel.

III. Steps Taken to Increase Proactive Disclosures

In 2009, ENRD debuted a website for its 100th Anniversary that detailed the history and continuing work of the Division. A substantial amount of material is posted on this public website, available at <http://www.usdoj.gov/ENRD/Anniversary>. The site contains information on the history of the Division and sections within ENRD, spotlights major cases from each section, gives statistics on ENRD's resources, provides background on environment, natural resource, and Indian law, and lists biographies of former Assistant Attorneys General of the Division.

During a Division-wide FOIA personnel meeting in November 2009, ENRD's FOIA coordinators encouraged FOIA staff to discuss within their sections what categories of documents may qualify for proactive releases on the Division website and report back to the FOIA coordinators. As a result of that discussion, ENRD is currently working with our IT personnel to expand our website for frequently-requested records.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

ENRD receives requests by mail and fax, accepts requests sent by e-mail, and is working to develop a way to facilitate internet submissions.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

ENRD has been researching issues associated with an online FOIA submission page. Such a page would need to be designed to collect enough information from requesters to ensure that the nature of the request, the identity and contact information of the requester, and other associated issues are clear, so that requests would contain enough information for ENRD personnel to begin working on requests promptly without the need for extensive clarification efforts. Among other considerations, the need to bill the requester for certain costs will require that ENRD has some confidence as to the identity and location of the requester. ENRD is also seeking to update its FOIA tracking system which currently does not have the capability to distinguish between "purported" and "perfected" requests. ENRD already treats certain electronic submissions, such as e-mails sent to ENRD attorneys, as FOIA requests without the need for a follow-up paper submission. ENRD also provides for electronic submissions to a general ENRD e-mail address listed on its "Contact ENRD" page at http://www.justice.gov/enrd/ENRD_Contact.html, which is available for members of the public with general questions about the Division. (That website page has attracted a range of unusual electronic submissions, including submissions from persons seeking to effect legal service on the Division.)

3. Does your agency track requests electronically?

Yes. ENRD uses a FOIA tracking system on the Division internal intranet for FOIA personnel to monitor status information. ENRD recently updated our system to better track fees, tolling of requests, and unusual or exceptional circumstances. ENRD also added a field to input e-mail addresses so that the component may correspond more quickly and frequently with requesters.

Requesters are able to track the status of their requests by calling or e-mailing ENRD's FOIA coordinators.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. ENRD routinely utilizes electronic databases such as the Case Management System and citizen suit tracking system when processing requests. ENRD often uses Adobe Acrobat to redact documents and share documents between section contacts and FOIA coordinators. ENRD also corresponds via e-mail to track section approvals and answer questions about FOIA processing. Occasionally, ENRD releases documents in an electronic format.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. ENRD's FOIA tracking system is the component's primary tool in preparing its portion of the Annual FOIA Report. ENRD is able to use that system to compile statistics and analyze them using Microsoft Excel in order to prepare ENRD's FOIA Annual Report.

This FOIA tracking system is sufficient for ENRD's use because of the relatively small number of requests received. However, if the number of requests received annually increases dramatically, ENRD may re-evaluate its current system.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

ENRD had a slight increase in its backlog, but closed its oldest requests that were pending at the end of FY 2008.

FY 2008 Annual Report: Nine backlogged (average age: eighty-three days)

FY 2009 Annual Report: Eleven backlogged requests (average age: seventy-three days)

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
ENRD- FY 2008	9/3/08 20	8/18/08 32	8/18/08 32	8/11/08 37	8/6/08 40	8/5/08 41	7/24/08 49	7/17/08 62	5/16/08 98	4/15/08 121
ENRD- FY 2009	8/27/09 25	8/27/09 25	8/25/09 27	8/25/09 27	8/20/09 30	8/17/09 39	7/6/09 69	6/30/09 72	6/3/09 78	11/17/08 225

2. Backlog Reduction Steps

After analysis, ENRD finds that its backlog is generally attributable to one of two factors, or both: (1) difficulty communicating with a requester; or (2) complex and sensitive requests that require the production of a large volume of materials that must be closely reviewed, often require extensive redaction, and sometimes require coordination with other agencies. As to the first issue, communications with requesters, it is sometimes necessary to make substantial efforts to contact requesters to understand, confirm, or clarify their requests. In some instances, these discussions are difficult to arrange or conclude and this results in a delay. ENRD will continue to look for opportunities to facilitate communication with requesters. ENRD is increasingly corresponding with requesters via e-mail and phone, in addition to its usual letters, to increase the frequency and rapidity of communication. As to the second issue, the complex or sensitive nature of requests, ENRD's cases frequently involve grand jury materials, confidentiality orders, materials implicating the Privacy Act, or court seals, and materials requested that are subject to one or more of these protections must be carefully reviewed before release to determine what portion, if any, of the document can be released. ENRD's cases typically also involve consultation with other agencies concerning the release of material sent to us for use in litigation. In addition, ENRD is committed to the goal of open government and where feasible, seeks to redact and release documents rather than withholding them in full. The process of reviewing and redacting requires meticulous attention to detail and, although it is time-consuming, it is necessary to achieve a higher degree of transparency. As ENRD adjusts to these changes in our FOIA review procedures, it anticipates that the process will go more smoothly. ENRD has made changes in the way it processes certain types of documents. ENRD expects that an increased familiarity with new procedures will result in a reduction of its current FOIA backlog. Finally, ENRD plans to do additional training with its FOIA staff in the spring.

3. Steps to Improve Timeliness

To streamline FOIA procedure across the Division and improve timely responses to requests, the ENRD FOIA coordinators have begun a biweekly update to section FOIA personnel and section supervisors. This update alerts each section of the Division to pending FOIA requests on ENRD's docket. This biweekly e-mail is in addition to routine e-mails asking FOIA

section contacts for updates on particular FOIA requests. These e-mails will increase exposure to FOIA and alert managers and supervisors early on to anticipated difficulties in processing FOIA requests. ENRD continues to work hard to ensure that our responses remain thorough and become increasingly efficient.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

I. Steps Taken to Apply the Presumption of Openness

1. Description

To apply the presumption of openness in compliance with President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines, the Executive Office of Immigration Review (EOIR) took several steps. First, EOIR reviewed previously withheld records in pending litigation which had been withheld pursuant to Exemption 5. After review in May 2009, EOIR released thousands of documents. For instance, a FOIA request was made for all EOIR documents relating to Department of Homeland Security (DHS)/EOIR implementation of a stipulated removals program pursuant to section 240(d) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(d), effective April 1, 1997. Many of the documents released consisted primarily of deliberative process documents relating to both the ongoing coordination between the Department of Justice and DHS, as well as an Office of the Chief Immigration Judge Operating Policies and Procedures Memorandum (OPPM), and will eventually be posted online at <http://www.justice.gov/eoir/efoic/ocij/OPPMLG2.htm>.

Secondly, EOIR educated FOIA staff on the foreseeable harm standard, as it relates to the potentially relevant FOIA exemptions. Furthermore, EOIR educated management on the Open Government Act of 2007, in conjunction with Attorney General Holder's Guidelines. A presentation was made to the Office of the Chief Immigration Judge (OCIJ) in January 2009. An additional presentation is being prepared regarding the FOIA and application of the Attorney General's Guidelines to records falling within Exemptions 2 and 5. EOIR has briefed all agency management and personnel who are involved in the FOIA about the President's FOIA Memorandum and Attorney General's Guidelines.

EOIR also applied the foreseeable harm test to maximize the amount of deliberative process information proactively posted online for a user friendly version of the Immigration Court Benchbook at <http://www.justice.gov/eoir/vll/benchbook/index.html>. For details see III(a)(1) below.

Lastly, EOIR continues to review all matters for a partial release when full disclosure is not possible.

2. Disclosure Comparisons

Regarding EOIR's disposition of FOIA requests, in FY 2009, EOIR increased its number of full grants. In FY 2009, EOIR had a total of 10,325 full grants, as compared to FY 2008, when EOIR had 9688 full grants. In FY 2009, EOIR had 126 partial grants, as compared to FY 2008, when EOIR had 187 partial grants.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

To ensure that EOIR has an effective system for responding to requests, the Office is taking the following steps. EOIR is formalizing a new protocol for obtaining records requested from the Federal Records Centers (FRC) nationwide. Approximately 95% of EOIR's FOIA requests involve an individual's own records of proceedings. The EOIR FOIA lead attorney attended several training sessions, beta testing sessions, and online courses, sponsored by the National Archives and Records Administration (NARA) on a new access system after he became the EOIR records manager in August 2009.

When this access system is successfully implemented, it will provide faster responses and a better record for these FOIA requests. The latter should then facilitate elimination of bottlenecks in retrieving records from the Federal Record Center.

EOIR also added an IT specialist within the Office of the General Counsel (OGC), and he works closely with the FOIA staff to facilitate electronic recovery and processing of records. Moreover, the EOIR FOIA employees have access to IT assistance in resolving computer related issues through the use of the help desk.

Furthermore, EOIR has designated contacts at the Immigration Courts for locating and forwarding the responsive records to the FOIA Service Center.

EOIR is also utilizing a contractor to provide photocopies of the records of proceedings (ROP) to the FOIA Service Center.

Additionally, the EOIR FOIA Service Center uses in-house contractors to assist in daily clerical duties such as opening and distributing incoming mail, scanning incoming FOIA requests, general filing, entering data, and performing various other clerical duties.

Lastly, EOIR is in the process of filling another clerical position, for a FOIA Specialist, and an in-house contractor position.

III. Steps Taken to Increase Proactive Disclosures

EOIR has taken the following steps to increase proactive disclosures. EOIR maintains an online virtual law library to assist both EOIR staff and the general public in understanding immigration law and how EOIR performs its core mission to adjudicate immigration law cases before it. The EOIR virtual law library is available electronically at

<http://www.justice.gov/eoir/vll/libindex.html> and contains hyperlinks to immigration case law and other information resources to facilitate case research. In addition to many updates to information provided therein, EOIR has been considering which other EOIR publications may be appropriate for public access. EOIR identified and posted online these two major publications:

1. EOIR initially established the Immigration Judge Benchbook in 1985, as a reference guide developed by immigration judges for the use by immigration judges. In 2007, EOIR revamped the Immigration Judge Benchbook in an innovative attempt to merge solid legal reasoning with the latest technology available. On June 2, 2009, EOIR posted an updated version of the Immigration Judge Benchbook online which allows the general public to view a user friendly version in order to improve legal representation before EOIR adjudicators. The original intranet document contained a multitude of hyperlinks to standard immigration judge orders, and other information that immigration judges could use in adjudicating cases before them. OCIJ counsel, the FOIA manager, and the FOIA counsel reviewed this in-house tool, which was originally intended solely for immigration judges, and after addressing privacy and law circumvention concerns in its hyperlinks, EOIR posted online the user friendly version of the Benchbook at <http://www.justice.gov/eoir/vll/benchbook/index.html>.
2. The Immigration Law Advisor (ILA). The ILA is an in-house professional monthly newsletter produced by EOIR, which was first distributed within the EOIR intranet in January of 2007. The purpose of the publication is to disseminate judicial, administrative, regulatory, and legislative developments in immigration law pertinent to the mission of EOIR. In 2009, EOIR received a FOIA request for this publication. EOIR provided the requester with all available copies of all past issues, and determined that providing online public access was appropriate. In 2009, EOIR added ILA to its online website page at http://www.justice.gov/eoir/vll/ILA-Newsletter/lib_ila.html.

Since 2009, EOIR has been coordinating with Syracuse University Transaction Records Access Clearinghouse (TRAC) to provide detailed electronic case record information for online publication at <http://trac.syr.edu/immigration>, to create a model for providing more in-depth immigration adjudication information to the public by educational institutions. Rather than responding to each FOIA request from TRAC as a discrete event, EOIR has been consulting with TRAC on how to automatically provide TRAC with such information regularly, in accordance with the Attorney General Holder's FOIA Guidelines.

EOIR has also published the annual Statistical Year Book for 2009 online at <http://www.justice.gov/eoir/statspub/syb2000main.htm>.

To further the Department's Open Government Initiative, EOIR has selected two new high-value data sets for additional online publication: results for cancellation of removal applications under both Sections 240A(a) and 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(a) and 1229b(b), respectively.

EOIR continues to search and review any additional in-house manuals or handbooks relating to EOIR's office procedures. The material will be evaluated for posting on EOIR's website.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

No.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Approximately 95% of FOIA requests to EOIR are first-party requests by aliens in EOIR proceedings for their own records of proceedings. These records of proceedings are privileged under both FOIA and the PA, as well as other legal prohibitions relating to the protection of asylum and other persecution related applications, e.g., battered spouses and children, national security, etc. Because of these protections, EOIR has to ascertain that the requester is in fact authorized to receive these records, because the potential harm from improper disclosures to unauthorized recipients is very substantial. Consequently, requesters must submit written and signed requests establishing that they are entitled to the protected materials.

Also, because these first party requesters are aliens in EOIR proceedings, many do not have computer access, and most have limited English proficiency. Some are in detention facilities pending proceedings or removal from the United States. EOIR is presently designing a website link that will allow the more general FOIA requesters seeking statistical or procedural information about EOIR to submit such requests electronically without adversely affecting the other 95% of the requests.

3. Does your agency track requests electronically?

Yes.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, EOIR uses a FOIA database which is linked to the Immigration Court computer tracking system named Case Access System for EOIR (CASE). This system allows EOIR to automatically send e-mails to the Immigration Courts,

where most individual records are maintained, lists records required for processing at the FOIA Service Center, and allows the Immigration Courts to forward records to the FOIA Service Center for processing. The database also allows the FOIA processor to generate a response letter from the information in the database and use a Dymo label printer and software. EOIR has also expanded the use of Adobe 8, to make it a redaction software, allowing EOIR to insert exemptions into redacted material.

During FY 2008, the EOIR Immigration Courts began implementing the use of digital audio recording (DAR). By the end of FY 2008, EOIR had implemented DAR at twenty-three immigration Courts (eighty-three courtrooms). During FY 2009, EOIR continued to implement DAR within the Immigration Courts, and EOIR anticipated full agency-wide implementation of DAR by the end of 2010. With the implementation of DAR, the FOIA Service Center personnel have the ability to access the audio recordings of the proceeding from the CASE computer system, and download the audio recordings to a computer disk at the FOIA processor's work station. Previously the EOIR Immigration Courts used analog tapes which were duplicated using a tape duplicator machine. DAR has several advantages which include: allowing the FOIA staff direct access to the recordings; the elimination of poor quality analog tapes; the elimination of misplaced taped recordings; the elimination of deterioration of the analog tapes which have a maximum life span of ten years; the reduction in time for processing; and the elimination of costs for shipping records throughout the country. Listening to DAR recordings involves the use of Windows Media computer software.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, the statistics for the Annual FOIA Report are obtained through the use of computer software named COGNOS Impromptu. The COGNOS Impromptu software extracts the data from the FOIA database, and the data is then combined into the FOIA Annual Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

EOIR's backlog increased by seven cases. In FY 2008, EOIR reported a backlog of 176 requests, and in FY 2009, EOIR had a backlog of 183 requests. EOIR has closed the oldest request that was pending at the end of FY 2008. The oldest pending FOIA request at the end of FY 2008 was dated December 5, 2007; for FY 2009, EOIR reported the oldest FOIA request as dated October 8, 2008.

2. Backlog Reduction Steps

EOIR's backlog has increased by just seven cases despite a 9.5% increase in the number of FOIA requests received in 2009, and a reduction in staff due to budgetary constraints. The backlog increase is related to the loss of essential personnel during FY 2010.

To reduce the backlog, EOIR is currently in the process of hiring additional personnel, which will expand the workforce by the end of FY 2010. Also, to help reduce the backlog, EOIR has increased proactive disclosures on the internet since January 2009, including disclosures pertaining to statistics and reference material for the public's use.

EOIR is also anticipating an increase of at least 1000 FOIA requests for FY 2010 due to court rulings and upcoming changes in immigration regulations which will impact individuals previously placed in immigration proceedings. EOIR will also take the steps addressed above in Part II to handle this increase and address the current backlog.

3. Steps to Improve Timeliness

In addition to the steps in Part V.2, to address the timeliness in responding to requests EOIR is under taking the following activities. Effective January 13, 2009, EOIR designated another experienced senior level FOIA counsel to assist with drafting EOIR's FOIA responses. Having the additional senior counsel, with experience responding to FOIA appeals, allowed EOIR to implement a new protocol for more rapidly finalizing responses to OIP concerning issues on appeal.

EOIR also continues to increase its use of DAR at the Immigration Courts which will eliminate the need to ship audio recordings throughout the country, and allows the FOIA personnel immediate access to the audio recordings.

Lastly, upon completion of the implementation of the protocol for obtaining records from the FRC nationwide, EOIR will be able to obtain the records faster, which will in turn allow EOIR to respond to the FOIA requests in a more timely manner.

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Executive Office for United States Attorneys (EOUSA) has taken the following steps to apply the presumption of openness:

- Held a staff meeting to discuss the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. Discussed what additional information EOUSA could possibly release based on the Memorandum and Guidelines and implemented determinations on this when responding to FOIA requests and administrative appeals.
- Briefed the Civil Chiefs Working Group on the new release policy.
- Although EOUSA has always made discretionary releases, it reviewed its practice to see if it could release anything additional. Through this review, EOUSA identified various categories of documents about which it would consult with Assistant United States Attorneys (AUSAs) for possible discretionary release. EOUSA has historically always released Low Exemption 2 material. EOUSA is now consulting the AUSAs on case-by-case bases to discuss release of attorney work product documents that include case law and drafts of public filings.
- EOUSA has updated its response letters to inform the requester when it makes a discretionary release.
- EOUSA provided a link on its website to the Office of Information Policy's website that contains President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines.

2. Disclosure Comparisons

The EOUSA Freedom of Information and Privacy Act Office (EOUSA/FOIA/PA) shows an increase in the number of requests where records have been released in full and in part in FY 2009 as compared to FY 2008. In FY 2008, EOUSA released in full 373 requests, and 619 in part. In FY 2009, EOUSA released in full 413 requests, and 718 in part. Thus, EOUSA released forty more requests in full and ninety-nine more requests in part in FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

EOUSA has taken the following steps to that it has an effective system for responding to FOIA requests:

- Continuously review the intake procedures to assure that EOUSA is responding in a timely manner to the requester and the United States Attorneys Offices (USAO) and Administrative Offices (AO) that house the records.
- In prior years, FOIA/PA requests were sent to the USAOs by fax and responses received by mail. This year EOUSA started a new process. The agency purchased new scanners so that it can e-mail requests to the USAOs. This practice serves as a good tracking tool and saves a lot of time, especially in the event that a re-transmission is needed. Some of the offices are responding with records by e-mail. As a result, EOUSA is receiving internal responses more quickly. While some of the offices are not equipped to receive and respond by e-mail, there is a decrease in response time for the majority of the offices. Similarly, most of the USAOs send requests to their offices to EOUSA FOIA staff via e-mail.
- The EOUSA Case Management Office is working on a system that will enable EOUSA to send, on a recurring basis, individual backlog reports of all requests opened in the individual USAOs. This capability will enable EOUSA to keep the USAO portion of the process on track.
- Created an e-mail account to receive requests from other components within DOJ that received EOUSA requests in error. This account was established to ensure that EOUSA receives those requests as quickly as possible in order to respond in a timely manner.
- EOUSA has offices in place that provide excellent IT Support. The PC Assist Staff works closely with EOUSA's Administrative Specialists to assure that all equipment is installed properly and all staff members are properly trained. If there is a need for additional support, PC Assist is open to receiving questions from individual staff members on an as needed basis. The Case Management staff works very closely with our staff preparing statistical reports, updating our ORACLE database as needed, and updating some of the statistical information posted on our website. Specifically, Case Management has updated our ORACLE database so that we can capture the information required for the annual reports and created reports requested from a requester (TRAC) that are updated and published monthly on our website. In addition, there is an assigned webmaster that updates information on our website as needed.

III. Steps Taken to Increase Proactive Disclosures

The EOUSA FOIA office has a user-friendly website that provides requesters with information online. This information includes frequently requested records, opinions, policy statements, statistical data, and memoranda. Prior to the Attorney General's Guidelines, EOUSA designated an attorney to work with the Assistant Director to determine what information should be posted on the website. EOUSA strives to post information that is useful to the public as the opportunity arises.

EOUSA is hiring a new attorney that will be responsible for this task. Since the issuance of the Attorney General's Guidelines, EOUSA has not added any new categories of records, but

has continued to update the categories of records that presently exist. The following categories are presently in the EOUSA reading room:

- National Caseload Statistical Data – EOUSA regularly releases national caseload statistical data in response to monthly requests under the FOIA and Privacy Act.
- Contact information.
- General guidance for filing a FOIA/PA request.
- Privacy Impact Assessments - This includes pages that contain Privacy Impact Assessments.
- DOJ Reference Guide - This is a comprehensive guide to the FOIA that serves as a handbook for obtaining information from the Department.
- Major information systems.
- Links to other sites that provide useful information.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, EOUSA receives some requests electronically. EOUSA can receive requests directly from the requester, from the USAOs, and misdirected requests from other DOJ components. However, the majority of EOUSA's requesters are prisoners and they send requests by mail, because of their limited access to e-mail. Non-prisoner requesters, the USAOs, and the DOJ components have all sent requests electronically. In fact EOUSA has a designated e-mail address for DOJ components to forward misdirected requests. EOUSA also sends electronic copies of the requests to the offices that house the requested records.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes, EOUSA tracks requests electronically. EOUSA's ORACLE database system tracks all pertinent information regarding the requests and the status of the requests. In addition, EOUSA uses Outlook to track all requests and forms e-mailed to the office that house the records.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

No. Presently, EOUSA does not use technology to process requests.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

EOUSA is searching for technology and is presently working with its Case Management Office to determine if REDAX plus the EOUSA document managing system will provide all the necessities to process requests. EOUSA is working with them to set up a PILOT program.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, EOUSA uses the ORACLE database to prepare the annual report. EOUSA is working with the Case Management Office to update the litigation report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

EOUSA's backlog for FY 2008 was 1160, and the backlog for FY 2009 was 1162. Although the backlog increased by two, EOUSA received a greater number of requests in 2009. In FY 2008, EOUSA received 4210 requests. In FY 2009, EOUSA received 4686, an increase of 476 requests in FY 2009. This represents a workload increase of at least 20%, yet the backlog is nearly the same. Thus, the staff was 20% more effective and productive.

The date of the oldest pending request at the end of FY 2008 was June 5, 2000 and the date of the oldest pending request at the end of FY 2009 was August 18, 2000. After a thorough search for records, the United States Attorneys Office in the District of Columbia responded to the oldest pending request from FY 2009 on March 3, 2010.

2. Backlog Reduction Steps

In an effort to reduce its backlog and improve its response times, EOUSA has taken the following steps:

- Purchased a Video Teleconferencing Communication System to provide training and current information to groups of affected personnel in the USAOs and AOs. This allows EOUSA convey information more quickly and to have a forum to discuss the information.

- EOUSA has been short one paralegal and one attorney for most of the year and is working to hire replacements soon. In addition, EOUSA has been given the authority to hire another attorney.

- Provided FOIA training to the District of the Virgin Islands, the Eastern District of Pennsylvania, the District of Maine, the District of Rhode Island, the Middle District of Georgia, and the District of New Jersey. In addition, EOUSA provides agency-specific FOIA training to each new district FOIA contact. In most cases, the training is provided via video-on-demand available through the National Advocacy Center. The videos were filmed during an EOUSA annual training conference at the NAC and were selected by the Department for training purposes.

3. Steps to Improve Timeliness

The steps described in Part V.2 above to reduce backlogs should have a corresponding positive effect on timeliness.

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES

I. Steps Taken to Apply the Presumption of Openness

1. Description

The first step EOUST has taken to ensure the President's presumption of openness is applied in the processing of FOIA requests is to disseminate President Obama's FOIA Memorandum to all members of the EOUST FOIA staff. Attorney General Holder's FOIA Guidelines were also distributed to each member of EOUST's FOIA staff, and the staff was instructed to carefully review the guidelines.

The EOUST FOIA staff now uses these new guidelines as part of the process in deciding whether to release or withhold information under a FOIA exemption. A critical part of the analysis now includes whether the President's and Attorney General's presumption of openness overrides a decision to withhold information. Before a decision is reached that information should be withheld, the FOIA staff evaluates whether the information should be released even if there is an exemption that could be applied.

A good example of this occurred in a particular FOIA request which sought information that could be withheld under FOIA Exemption 5 as attorney work-product material. However, because the litigation was completed, FOIA staff concluded there was no foreseeable harm in releasing the material and that, therefore, the presumption of openness mandated that the information be released. In fact, since the issuance of President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines, EOUST staff has released information that could have been withheld under Exemption 5 in at least four requests.

2. Disclosure Comparisons

EOUST has demonstrated an increase in the number of requests where records have been released when compared with those numbers in the previous year. EOUST's FY 2008 Annual FOIA Report reflects that EOUST granted three full releases and six partial releases. The FY 2009 report reflects that EOUST granted eleven full releases and sixteen partial releases. In seven of these sixteen requests, the applicability of FOIA Exemption 6 (personal privacy) was the sole reason precluding full release. These statistics demonstrate EOUST's commitment to the President's and the Attorney General's presumption of openness in processing FOIA requests.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

EOUST has taken several steps to ensure that an effective and efficient system is in place for responding to FOIA requests. First, EOUST created a multi-track system to process FOIA requests. This multi-track system consists of expedited, complex, and simple requests. By creating this multi-track system, the FOIA staff is better able to respond to requests and reduce the backlog of requests because, unlike the previous system that processed all non-expedited requests in the order in which they were received, simple requests no longer must wait until larger and more complex requests are finished. As a result, FOIA staff can process the simple requests much more quickly, making the process more efficient. Though this multi-track system was instituted in November 2008 (shortly before the President's directive), EOUST decided to make this system permanent after the President's directive and in light of the system's success.

Another step EOUST took to more timely process requests was to delegate greater authority to the FOIA/Privacy Act (PA) Counsel. Initially, all correspondence with requesters had to be approved by the Deputy General Counsel. The FOIA/PA Counsel is now authorized to send acknowledgment, clarification, and fee commitment letters at his discretion. Absent unusual circumstances, the FOIA/PA Counsel may also process simple requests and either grant or deny these requests. This greater authority has streamlined the process significantly and has enabled the FOIA staff to process requests much more quickly.

A third step in ensuring EOUST has an effective system for timely responding to requests was to hire a full-time contract attorney to assist in processing requests. In addition, another attorney who was previously detailed from another office within EOUST to assist in processing requests had her detail extended. Both the contract attorney and detailed attorney have been very

helpful in expediting the processing of requests and in significantly reducing the backlog of requests.

Finally, EOUST's Information Technology (IT) staff is integral to the processing of FOIA requests. The FOIA staff, with the assistance of the IT staff, developed a tracking system for requests utilizing Access, Excel, and Outlook. Both the FOIA and IT staffs are working together to implement the Justice Management Divisions's (JMD) FOIA System, which will further enhance EOUST's ability to efficiently and effectively administer its FOIA program. The IT staff also supports the FOIA staff in utilizing the Redax software program to process requests.

III. Steps Taken to Increase Proactive Disclosures

Pursuant to Executive Order 13,392, EOUST expended significant effort in reorganizing its electronic "Reading Room" in September 2008. In an effort to make the reading room more accessible and comprehensive, EOUST reorganized and added materials to it. The records were organized into four categories: (1) frequently requested records; (2) final opinions and orders; (3) policy statements; and (4) staff manuals and instructions to staff.

In compliance with President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines, EOUST strives to keep the electronic reading room current by adding administrative decisions and Federal Register publications, including notices of proposed rulemaking, as they become public. EOUST has also been proactive in adding new types of information to the reading room such as memoranda of understanding the EOUST has entered into with outside entities like the Administrative Office of the United States Courts.

In addition, EOUST was one of three Department of Justice components selected to participate in the Office of Management and Budget's Open Government Initiative. As part of this initiative, EOUST posted research data files on the Department's website from the Chapter 7 Trustee Final Reports and the Language Assistance Program. The Department of Justice's press release describing the initiative and EOUST's involvement is available at <http://www.justice.gov/opa/pr/2010/January/10-opa-075.html>. The described data is also available on EOUST's new Bankruptcy Data and Statistics website page at http://www.justice.gov/ust/eo/public_affairs/data_files/index.htm.

Finally, EOUST also provides on its website information regarding recent developments in regional offices. For instance, EOUST provides a link to regional office websites, which local offices use for various purposes, such as notifying the public of organizational meetings in large Chapter 11 bankruptcy cases (Philadelphia) and identifying approved financial depositories (Manhattan).

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. Requesters may fax their requests to EOUST's FOIA staff. A requester may also provide his or her e-mail address and request that correspondence and any released information be provided via e-mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. EOUST utilizes Access, Excel, and Outlook to track requests. EOUST is also implementing JMD's FOIA System to track requests.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. EOUST utilizes the software system Redax to redact records. EOUST also utilizes an Excel spreadsheet to calculate fees.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. EOUST has utilized an Excel spreadsheet to assist in the preparation of the Annual FOIA report. Additionally, on February 17, 2010, EOUST obtained access to JMD's FOIA System, which will automatically prepare the report. EOUST's IT staff are currently reviewing this new FOIA System and developing a timetable for implementing it.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

EOUST is reducing its number of backlogged requests. At the end of FY 2008, EOUST had thirty-four requests pending, twenty-six of which were considered backlogged. By the end of FY 2009, the number of requests had been reduced to thirteen pending requests, of which only seven were backlogged. EOUST's oldest request in both FY 2008 and FY 2009 was dated May 9, 2006.

2. Backlog Reduction Steps

EOUST has taken several steps to reduce the backlog of requests and to improve timeliness in responding to requests. EOUST adopted a multi-track system that allows requests to be processed more quickly by enabling FOIA staff to process simple requests before complex requests. Additionally, the FOIA/Privacy Act Counsel was delegated greater authority to enable him to expedite the processing of requests. EOUST also extended the detail of an attorney from another office within EOUST and hired a full-time contract attorney to assist the FOIA staff in processing requests.

These steps have resulted in a significant reduction in the backlog of requests, both in the overall number of requests as well as the age of requests. At the end of FY 2008, EOUST had thirty-four requests pending, twenty-six of which were considered backlogged. By the end of FY 2009, the number of requests had been reduced to thirteen pending requests, of which only seven were backlogged. The median age of pending requests dropped from eighty days in FY 2008 to fifty-six days in FY 2009. In addition, eight of the ten oldest requests that were pending at the beginning of FY 2009 were closed by the end of that fiscal year. During the first quarter of FY 2010, EOUST closed all ten of the oldest requests that were pending at the beginning of the fiscal year, including the oldest request that was pending in both FY 2008 and FY 2009.

3. Steps to Improve Timeliness

The steps discussed in Part V.2 will also improve EOUST's timeliness in responding to FOIA requests.

FEDERAL BUREAU OF INVESTIGATION

I. Steps Taken to Apply the Presumption of Openness

1. Description

In order to remove bureaucratic hindrances to FOIA requesters, the Federal Bureau of Investigation (FBI) discontinued the use of the "field office" rule for FOIA requests. The FBI now will respond to a FOIA request to any FBI office for "any" records by searching and

processing responsive records no matter where they are located. This has reduced the number of no record determinations by 20% and increased the number of responsive pages for any request by 30%.

The Records Information Dissemination Section (RIDS) has worked to ensure Legal Administrative Specialists (LAS) who process requests apply the presumption of openness called for in President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. Upon release of the Attorney General's Guidelines on March 19, 2009, they were disseminated to those processing requests located at the Interim Central Records Complex (ICRC) in Winchester, Virginia, and on-the-job training was provided concerning disclosure. Classroom training was also administered for those in need of additional guidance. All new employees currently receive formal classroom training that includes updated objectives on the treatment of exemptions when responding to requests. Further, additional LAS personnel (located at Operations Support Centers (OSC) in Savannah and Butte) acquired to support the FOIA request effort have also been trained. As of February 2010, 100% of twenty-four employees have completed training in Savannah and 75% of fifteen employees have completed training in Butte. To monitor the appropriate application of exemptions, a system of quality assurance reviews with specific checklists have been established to allow the identification of processing errors so supervisors can address discrepancies when applying the guidelines. Currently, this process is manual and occurs with supervisory oversight, but an effort is underway that will provide an automated system of quality assurance allowing RIDS to track errors and mitigate risk through the use of refresher training specific to identified need.

RIDS has also adopted a method of employee certification that requires each eligible employee to complete requirements including formal classroom training, comprehensive exams, on-the-job training, and supervisor verification that the employee's work meets established criteria. As of the first quarter of FY 2010, thirty of 118 eligible employees located in Winchester, Virginia have completed these requirements. It bears repeating that work in all locations is reviewed for discrepancies to ensure appropriate application of the Attorney General's Guidelines.

To further facilitate efforts, RIDS established a Consistency Board that meets quarterly with special emphasis on applying consistent judgment concerning disclosure. During FY 2010, RIDS will initiate a system of refresher training based on Consistency Board findings. Furthermore, in January 2010 RIDS hired a second Assistant Section Chief who will provide direct oversight on training and quality assurance matters across the section.

In several instances RIDS has made a discretionary release of information to the public via the FBI's FOIA Reading Room on the Internet because of the volume of requests due to public interest. Examples of this include documents pertaining to Michael Jackson, and records on the Amerithrax Investigation, releases that consist of investigative documents. Also, RIDS does not generally assert Low Exemption 2. Furthermore, at agency discretion, RIDS is now segregating and releasing historic informant information, but still protecting the identities of the informants.

2. Disclosure Comparisons

In FY 2009, RIDS had a 35% increase in the number of requests in which records were released in full over FY 2008. Partial releases for FY 2009 increased only 5% over FY 2008, indicating strong trend toward full release of records. (See table below.)

Request Records Full Release FY 2008	Request Records Full Release FY 2009	Request Records Partial Release FY 2008	Request Records Partial Release FY 2009
89	136	2276	2406

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The FBI's FOIA Program is composed of units, each executing a specific role in processing FOIA requests. Initially, a request is reviewed and interpreted by a Work Process Unit, then entered into the automated FOIA/Privacy Act Document Processing System (FDPS). A thorough search of FBI records is conducted to identify pertinent materials. If a request is too vague, needs further clarification, or is voluminous, a senior LAS will contact the requester to discuss and/or negotiate the scope of the request. Upon determination of pertinence, material is prepared for processing and files are scanned and imported into FDPS for electronic usage during the process. Using the automated system, the request is assigned to a FOIA LAS, who will ensure any necessary classification review occurs by one of three Classification Units based on content before applying exemptions and redactions in accordance with the Attorney General's Guidelines. The results are reviewed and issues corrected, then the final package is mailed to the requestor. Additionally, a Service Request Unit handles all incoming contract cases, referrals, and requests that become the subject of an administrative appeal. As discussed in Part I, a quality assurance process has been implemented to ensure appropriate application of the Attorney General's Guidelines. The quality assurance process will be automated during FY 2010, and may result in modifications to the current process if issues are identified.

Also, the FBI aggressively employs the use of a public Internet site for requesters and those who seek information on popular topics, in order to create a more effective system for responding to requests. The website provides the public with detailed information on submitting requests for information and an online request form that allows submission via the Internet.

Furthermore, RIDS has a full-time Public Information Officer (PIO) who provides direct interface with the public concerning FOIA requests through contact information provided on the website. Between September 2008 and January 2010, the PIO received over 5063 calls, as well as returned 2547 additional calls responding to messages left by callers or provided follow-up information from a previous call. The PIO has received 1833 facsimiles that are primarily FOIA requests, and responded to 1364 e-mails regarding FOIA requests concerning status inquiries and general questions. The PIO provides timely and detailed explanations regarding the differences between FOIA and Privacy Act requests, first party versus third party, proof of death requirements, expedited processing, reading room issues, cost and fee waiver concerns, completion of request forms, website matters, and contact information. This front line point of

contact provides the public with timely information that assists them with information relevant to the request process, facilitating efforts to ensure that requests by the public are clearly articulated and the responses are appropriate.

In support of processing, the FDPS was developed in 2002 to streamline and automate a formerly manual FOIA request process. FDPS allows the FBI to process requests, review the status of each request, and track requests from start to finish. FDPS also provides reporting features that are used to compile the Annual FOIA Report, and to track progress throughout the request cycle. Current projects to make a more effective system include the development of a quality assurance database, eliminating the need for batch numbers and associating import and scanning with the FOIA number, and comprehensive text searching capability. Additionally, RMD has procured an upgraded Storage Area Network (SAN) and servers that will enhance FDPS performance and database management. It is anticipated that installation will occur before or during March 2010. RIDS meets regularly with IT representatives and continues to explore technology advancements through internal dialogue and discussions with other government agencies that employ similar or more advanced IT FOIA processing systems.

III. Steps Taken to Increase Proactive Disclosures

RIDS maintains an Internet website that provides the public with information on approximately 250 cases certain to be of interest. The website hosts a "Reading Room" that allows for an alphabetical search or search by subject matter. Subject matter categories include espionage, famous persons, gangster era, historical interest, unusual phenomena, and violent crime. An example of recently posted information would be 333 pages of FBI investigative records on celebrity Michael Joseph Jackson, who died on June 25, 2009. The information is divided for the reader by specific investigative segments.

Additionally, RIDS has undertaken an effort to re-process information that was posted on the FBI's website prior to the Attorney General's Guidelines to ensure appropriate disclosure. This involves identifying file location and disposition, then validating it to ensure compliance with disposition schedules. To date, 50% of posted reading materials have been reviewed. Other information on the website includes a Department of Justice Reference Guide, description of RIDS, the FBI file classification list, and a synopsis of major information systems.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, the FBI accepts requests via Internet, fax, and ground mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?
Yes, as described above, in Part II.
4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?
Not Applicable.
5. Does your agency use technology to process requests?
Yes, as described above, in Part II.
6. If not, what are the current impediments to your agency utilizing technology to process requests?
Not Applicable.
7. Does your agency utilize technology to prepare your agency Annual FOIA Report?
Yes, as described above, in Part II.
8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?
Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The FBI's backlog has increased:

Backlogged Requests at the end of FY 2008	Backlogged Requests at the end of FY 2009
1001	*1636

*Represents a correction to data submitted on the FY 2009 Annual Report.

The FBI has closed its oldest request that was pending at the end of FY 2008.

Oldest Request per Annual Report FY 2008	Oldest Request per Annual Report FY 2009
02/15/06	01/10/07

2. Backlog Reduction Steps

The Attorney General's Guidelines have resulted in an increase of FOIA processing in RIDS by approximately 30%. This is because all requests now come directly to RIDS Legal Administrative Specialists, no longer requiring requesters to seek out and make requests to individual Field Offices. As explained above, this requirement was eliminated as it created an unnecessary hurdle and yielded inconsistent results. While impact on the FBI's FOIA and Privacy Act (FOI/PA) program has been significant, measures have been taken to fully support this directive, and continued efforts are being pursued to achieve and maintain a level of performance that will sustain disclosure requirements and enhance public trust well into the future.

In order to fully meet the requirements of the Attorney General's Guidelines, the FBI funded the use of thirty contractor employees in the FOIA process. The contract was activated in September 2009. The FBI FOIA program also received significant overtime funding during both FY 2009 and FY 2010. Further, FBI internal restructuring provided an additional thirty-nine employees to process FOIA requests. Forecasting indicates that the continuation of additional resources committed by FBI in FY 2009 and FY 2010 will reverse the growth of pending pages within twenty-four months. Continuation of resource levels is being requested for FY 2011 and beyond.

3. Steps to Improve Timeliness

The steps discussed in Part V.2, as well as the improvements mentioned in Parts I, II, and III above, will also improve the FBI's timeliness in responding to FOIA requests.

FEDERAL BUREAU OF PRISONS

I. Steps Taken to Apply the Presumption of Openness

1. Description

- The Federal Bureau of Prisons (BOP) provided nationwide training to all of its FOIA processors.
- The BOP published a Headline News Story on the President's FOIA Memorandum and the Attorney General's FOIA Guidelines, on the BOP's intranet site, Sallyport, and also posted the Memorandum and Guidelines on the site.
- The BOP included discussions of the Memorandum and Guidelines in two separate national training sessions for legal staff, and in FOIA/ Privacy Act training for legal and non-legal staff.

2. Disclosure Comparisons

The BOP had an increase in the number of records released in full and in part.

	FY 2008	FY 2009
Full Releases	8646	8975
Partial Releases	1239	1546
Full Withholding	206	191

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The BOP evaluates the FOIA/PA process no less than once each fiscal year, and informally each month during staff meetings. The purpose of these evaluations is to determine if improvements can be made in relation to quality, staff time management, response time reduction, and increased efficiency. Over the years, many new processes and procedures have been implemented as a result of this self-evaluation.

The General Counsel emphasizes the importance of thorough and quick responses to FOIA requests at Executive Staff Meetings. Responsiveness to FOIA requests has been made a part of the performance evaluation of many BOP staff members.

The BOP has an advanced posture with regard to integration of IT and FOIA. The BOP FOIA Office has been paperless and using electronic processing for more than five years, and has utilized electronic tracking for more than 20 years. Nonetheless, the BOP continues to work closely with the IT offices to improve IT support.

III. Steps Taken to Increase Proactive Disclosures

In an effort to increase the amount of material on its website, the BOP took the step of surveying staff members that frequently work with the public. This survey specifically sought suggestions of items that could be added to the website. As a result of this survey, the BOP was able to increase transparency by adding the following information to the public website:

1. Institution security levels and definitions to the Prison Types & General Info page, and to each facility's page
2. BOP Total Salaries and Expenses (S&E) Obligations, FY 2007- FY 2009
3. Certified Food Menu 2010
4. Certified Food Menu Specifications (January 8, 2009)
5. National Menu Breakfast Choices FY 2010
6. National Menu Lunch and Dinner Choices FY 2010
7. National Menu Specifications
8. Graphs showing for each year and month the count and rate of incidents of assault on both staff and other inmates.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. The public has had the ability to submit requests via BOP's public website for more than ten years. Electronically-submitted requests go into a mailbox used exclusively for such requests. This mailbox is monitored daily.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. BOP has used various electronic tracking systems for more than twenty years. These systems include DBase4, EPM-FOIA, and E-Works.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. For six years, BOP has utilized E-Works. E-Works is an electronic document management system that tracks requests and electronically moves the requests amongst those assigned the various responsibilities related to the request. E-Works also has redaction capabilities, including the tracking of exemptions and exclusions.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The current system, E-Works, used by the BOP to track and process requests also tracks the information necessary for the Annual FOIA report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The BOP backlog is decreasing.

	FY 2008	FY 2009
Backlog	401	381
Oldest Request	365 (Received 04/20/07)	271 (Received 09/03/08)

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

Last year, the BOP processed a number equal to more than 97.5% of the requests received. Twice in the past four years, the number of requests processed was equal to a number more than 100% of the requests received.

Median Days to Process:

	FY 2008	FY 2009
Simple	4	7
Complex	27	37
Total Completed	14908	15341
Percentage	102%	97.5%

It should be noted that the BOP received 1226 more requests in 2009 than was received in 2008. Despite a decrease in staff in 2009, the BOP processed 433 more requests than in the previous year. The timeliness of responses to complex requests is directly related to the scope of the request. The BOP has noticed not only an increase in the number of requests filed each year, but also a significant increase in the scope of the requests. That is, we are receiving numerous requests in which thousands of pages of documents from offices and institutions across the country are deemed responsive. One or two of these large scope requests can significantly skew the combined averages or medians in a way that does not actually represent the average or median number of days to process.

Some of these requests appear broad only because the requester does not understand the manner in which records are maintained or they simply do not know what to ask for. Because of this, the BOP hopes to improve response times by working directly with requesters to determine if it is possible to reduce the scope of a request while still providing the information needed.

FOREIGN CLAIMS SETTLEMENT COMMISSION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The first step taken by the Foreign Claims Settlement Commission (the Commission) regarding this issue was the training of all FOIA personnel on the new guidelines, including requiring the consideration of the presumption of disclosure in all FOIA review decisions. Further, the Commission reviewed its policies and practices regarding the review of information under the FOIA to determine opportunities in which the Commission could be more open. As a result of this review, the Commission determined that it would no longer redact portions of its older files, which in the past were redacted by the authority granted under 5 U.S.C. § 552(b)(5). The Commission determined that although it was permitted to redact these portions, it was not necessary to redact the information, and, therefore, established that the release of this information is now appropriate.

2. Disclosure Comparisons

The number of requests that were released in full remained unchanged between FY 2008 and FY 2009 at zero. The number of files released in part increased, from 13 in 2008 to 14 in 2009. Most, if not all, of the Commission's records contain some personal information which the Commission continues to protect under the authority provided by 5 U.S.C. § 552(b) (6). Therefore, although the Commission is releasing more information, this change is not apparent in the reported release statistics.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The Commission is a very small component and does not have the layers of responsibility which one would observe in a larger component. Therefore, all of the responsibilities regarding the response to FOIA requests -- including knowledge of the subject matter, document availability, processing of the documents, etc. -- are handled by one or two individuals within the Commission. Furthermore, since the IT support for the Commission is also provided by the Chief FOIA Officer for the Commission, the Commission believes that sufficient IT support is provided to the program.

The Commission processes less than 30 requests per year, generally within the statutory 20-day period. In an effort to ensure that all reviews are completed within the statutorily required period, the Commission has added staff resources to the review of requests.

III. Steps Taken to Increase Proactive Disclosures

The records of the Commission that are generally of most interest to the public are the Commission's decisions, as they form a body of precedent upon which the Commission relies on in its adjudication of claims. The Commission is systematically posting more recent decisions of

the Commission on its public website. Additionally, the Commission has built a searchable dataset of older Commission decisions, dating back to the 1950's, which is available in the Commission's traditional "Reading Room." Further, there is interest in the Commission's progress on its adjudication of current claims programs. In order to provide this information, the Commission posts progress reports and relevant information on its website, which is updated systematically.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

The Commission currently receives requests via mail, fax and e-mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

The Commission utilizes a Microsoft Access program that tracks requests electronically.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

The Commission has the capability to process requests electronically. Depending on the type of request, the Commission determines the most efficient manner to process a request, i.e. electronically or manually.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Although the tracking program is used to prepare the report, the actual report is prepared manually. Due to the small number of requests received by the Commission, it would not be cost effective to develop a means to prepare these reports electronically.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The Commission does not currently have, nor has it had in the recent past, a backlog of requests. Accordingly, the backlog for both FY 2008 and FY 2009 was zero. There were no pending requests at the end of either FY 2008 or FY 2009.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

In FY 2008, the Commission processed all requests within the statutory time period, the longest time to process being 20 days. Therefore, the oldest request was 20 days old. In FY 2009, the Commission processed 80% of requests within the statutory time period and all requests within 84 days. Thus, the oldest request in 2009 was 84 days old but the median response time was 12 days. The delay was due to a surge in work associated with the mission of the Commission. This issue has been remedied by the hiring of new personnel.

INTERPOL – UNITED STATES NATIONAL CENTRAL BUREAU

I. Steps Taken to Apply the Presumption of Openness

1. Description

Interpol – United States National Central Bureau's (USNCB) Office of General Counsel has the responsibility of responding to FOIA requests. When President Obama's FOIA Memorandum was issued, the General Counsel reviewed the FOIA operations to determine whether proactive and discretionary disclosures could be made. In addition, the FOIA Specialist received training on Attorney General Holder's FOIA Guidelines and has briefed the support staff in the Office of General Counsel on the requirements of the FOIA.

Employee cooperation and public understanding of the USNCB's FOIA operations are essential to the success of this office. Since the USNCB provides investigative assistance to law enforcement officials and agencies only, component employees have little or no contact with private individuals. However, they occasionally receive public inquiries that should be handled by the FOIA Specialist. The USNCB's files are stored in a central location, thereby allowing the FOIA Specialist to search for documents with little or no help from others. However,

consultation with component employees is sometimes necessary to determine if all or portions of the responsive records are releasable. The Office of General Counsel will brief all staff on the new FOIA guidelines at an upcoming all hands meeting with a goal of educating and sensitizing the staff to the administration's new position on the FOIA. Following the briefing, an office-wide e-mail will be sent to ensure that all employees receive and understand the message. To increase public awareness of the FOIA, the USNCB website provides a link to the Office of Information Policy's website which publicizes the President's memorandum and Attorney General's FOIA guidelines. The USNCB strives to make discretionary release of records or partial releases when full disclosure is not possible. For example, the USNCB now releases to first-party requesters the closed case file numbers of records containing first-party investigative information. This information was previously withheld pursuant to Exemption 2.

2. Disclosure Comparisons

A review of the FOIA Annual Reports for the past two fiscal years showed no significant change in the number of full and partial grants. In FY 2009, the USNCB made seven full disclosures and thirty-two partial disclosures. In FY 2008, there were eleven full disclosures and thirty-three partial disclosures. There was, however, a drop in the number of full denials based on exemptions, from twenty-six in FY 2008, to sixteen in FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

Since FY 2009, the USNCB's system for responding to requests has been continuously upgraded. In the fourth quarter of FY 2009, the USNCB began processing requests using software designed to automate document redaction. The software automates the redaction of large quantities of text and allows for the insertion of multiple exemptions where appropriate. The software has eliminated the labor-intensive task of line-by-line review of documents, the use of redaction tape, and the need for multiple copies of records. Due to the volume of records processed by the Office of General Counsel, the USNCB purchased a new and improved copier specifically for this office at the beginning of FY 2010. This copier has scanning abilities to transform paper records to PDF files. The scanning feature of the copier has enhanced electronic processing. The USNCB plans to replace the current Microsoft Access database with an established commercial-based system with the ability to generate response letters and easily retrieve data required for the Annual FOIA Report. A label printer will also be purchased to replace the manual preparation of mailing labels. These improvements would not have been possible without the technical support of the USNCB's Information Technology personnel.

III. Steps Taken to Increase Proactive Disclosures

A majority of the requests received by USNCB are first-party requests and so these requests are not appropriate for posting. However, USNCB is aware of the public's interest in its leadership, activities and initiatives. Over the past year, USNCB has expanded its website to include the following information: 1) Installation of new director, 2) Selection of new deputy director, 3) Fact sheet on Executive Order 12425: Expanding INTERPOL's privileges and immunities in the United States, 4) Public Announcement: Washington, D.C. Area Law

Enforcement Gains Access to INTERPOL Databases, and 5) News Release: INTERPOL DNA match nabbs serial rapist.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, the USNCB accepts requests electronically via e-mail address, Interpol-USNCB.FOIA@usdoj.gov. This is an e-mail box dedicated specifically for FOIA. Requesters may use this e-mail address to submit FOIA requests and check the status of their requests. The e-mail address is posted the website at <http://www.justice.gov/usncb>.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes, the USNCB tracks requests electronically using a Microsoft Access database. The system allows searches by requester's name, date of request and subject of the request.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, over the past year the USNCB has begun using software to automate document redaction and purchased a new copier/scanner. USNCB also plans on updating its current Microsoft Access database and purchasing a label printer.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, the USNCB utilizes technology to prepare the Annual FOIA Report. Data is exported from a Microsoft Access database to Excel and a statistical analysis of the data is conducted.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

USNCB's backlog did not decrease. In the FY 2008 annual report, USNCB had no backlog and no requests pending. However, in the FY 2009 annual report there were fourteen backlogged requests. The oldest pending request was dated May 6, 2009.

2. Backlog Reduction Steps

The USNCB normally has one full-time employee dedicated to FOIA duties. During the final four months of FY 2009, the legal analyst in the Office of General Counsel performed the FOIA duties on a part-time basis. The shortage of staff caused a backlog of requests. A FOIA Specialist was hired in September 2009. This employee does not have competing agency priorities that pull her and resources away from FOIA duties. The USNCB has made significant progress in reducing the backlog. Of the fourteen cases reported as backlogged in the 2009 FOIA Annual Report, only one case remains open. However, three pending requests that were not yet due at the end FY 2009 and four requests received in FY 2010 have since become backlogged. Backlog reduction efforts have been impacted by the need for consultations with other agencies or two or program offices. USNCB is currently reviewing its referral and consultation procedures to determine if formal or informal agreements governing the treatment of records could be developed with these agencies.

3. Steps to Improve Timeliness

The USNCB compared the median processing time over the last two fiscal years. From FY 2008 to FY 2009, the median processing time remained the same for simple requests at two days, decreased from twenty-three to nine days for complex requests and decreased from twelve to two days for expedited requests. The USNCB coordinates and transmits requests for criminal investigative and humanitarian assistance between American federal, state and local law enforcement authorities and their foreign counterparts. Almost all of the records that the USNCB created contain items of information that were furnished by or are of special interest to other government agencies. Therefore, consultations with these agencies are necessary to ensure proper FOIA disclosure determinations. To make further improvement on timeliness, USNCB has had preliminary discussions with the program staff of one agency to determine if a formal or informal agreement governing the treatment of these records would be beneficial to both agencies. Agents and Analysts from the agencies that USNCB frequently consults with are detailed to the USNCB. The FOIA Specialist has asked for assistance in reviewing records of interest to their agencies and requested help in improving consultation practices with their FOIA offices.

JUSTICE MANAGEMENT DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

In the Justice Management Division (JMD), any partial denial or denial of a FOIA request must be reviewed by the Office of General Counsel (OGC) and signed by the General Counsel. For this reason, OGC is able to ensure that the presumption of openness is applied to any JMD FOIA request where a FOIA exemption is applied. Even when no FOIA exemption applies, JMD staffs consult OGC with regard to FOIA requests when they have questions regarding responsiveness or other issues. Through OGC's review of FOIA requests and its advice to JMD staffs, JMD ensures that the presumption of openness is applied to decisions involving the FOIA. In addition, OGC has provided FOIA training, including training on the new standards, to the JMD staff that handles the largest number of FOIA requests, the Procurement Services Staff (PSS).

2. Disclosure Comparisons

FY 2008: Full grants: 88; Partial grants: 10; and Full Denials: 5

FY 2009: Full grants: 54; Partial grants: 12; and Full Denials: 2 (The decrease in the number of full grants is due to the nature of the requests received)

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

JMD has an automated FOIA tracking system that allows JMD to track and report on the status of pending FOIA requests. JMD staffs also track FOIA requests internally to ensure their responses are effective and efficient. Those JMD staffs with a FOIA backlog have provided plans to reduce the backlog and improve timeliness. In addition, JMD management has instituted a quarterly reporting requirement for staffs with FOIA backlogs to report on their progress with respect to backlog reduction plans.

In many cases, JMD staffs require IT support to locate, extract, or process records efficiently in response to FOIA requests involving voluminous JMD records or electronic databases. In the past year, JMD staffs have successfully coordinated with IT staff and have received appropriate IT support as needed.

III. Steps Taken to Increase Proactive Disclosures

JMD staffs have reviewed the materials handled by each member of the staff that may be of interest to the public in order to identify information that can be proactively posted online. Some staffs have determined that all appropriate documents are already made public on the DOJ website. Other JMD staffs have identified additional documents which may be appropriate for

posting on the Internet, such as library materials. The documents identified will be posted as soon as possible after management review and approval.

Specifically, JMD Budget Staff reported that it currently posts products and relevant supporting documentation to the Internet as quickly as possible. For several years, JMD has posted the Budget Summaries, Fact Sheets, and PowerPoint presentations associated with the rollout of the President's budget on the day of the budget release. In the past, it has taken up to two weeks to post the congressional justifications on line. This year, JMD posted the congressional justifications the day after the budget was released. The Office of Small and Disadvantaged Business Utilization reported that this year it posted DOJ's Forecast of Contracting Opportunities as an Excel file in addition to a PDF file for easier searching.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. JMD accepts requests that are sent by mail, fax, or e-mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. JMD has an automated FOIA system (the JMD FOIA System) in which all FOIA requests handled by JMD are tracked, including the date received, the staff assigned the request, the date of the response, any exemptions claimed, and any other data elements that are required in the Annual FOIA Report.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, to a certain extent. The JMD automated system generates acknowledgement letters and assigns tracking numbers automatically. JMD has redaction software that is available to staffs who wish to use it. If requested, JMD provides requested records on disk or through e-mail.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

When the records being processed exist in hardcopy only, it would not be efficient to scan them in order to use redaction software. Response letters need to be customized to respond to the variety of unique requests; other than for the acknowledgement letter, automated letters would not be appropriate.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The JMD automated FOIA system generates the Annual FOIA Report from the data in the system.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

JMD has had an increase in its backlog, but did close its oldest request.

Number of backlogged FOIA requests:

FY 2008: 23

FY 2009: 43

Oldest FOIA requests date received:

FY 2008: September 14, 2007

FY 2009: April 16, 2008

2. Backlog Reduction Steps

JMD staffing and workload, including significant staff turnover in the JMD staff that receives the most FOIA requests (PSS), have contributed to the JMD backlog in FY 2009. PSS is still in the process of hiring to fill vacant positions and training new staff on FOIA request processing. In addition, most of the FOIA requests that are backlogged take longer than 20 working days because they require input from other offices within the Department or they require notice to third parties with a proprietary interest in the data. JMD staffs have reviewed procedures for coordination with and notice to entities outside of JMD to improve the efficiency of such coordination and notice. Those JMD staffs with a FOIA backlog have provided plans to reduce the backlog and improve timeliness. The plans include improved tracking and increased supervisory and management oversight of FOIA responses, with attention to completing the oldest requests first. In addition, JMD management has instituted a quarterly reporting

requirement for staffs with FOIA backlogs to report on their progress with respect to backlog reduction plans. JMD expects that increased supervisory and management oversight of staffs' progress on responding to FOIA requests will decrease the backlog, particularly in terms of the age of the backlogged FOIA requests.

3. Steps to Improve Timeliness

JMD staffs track FOIA requests internally to ensure FOIA responses are effective and efficient. Those JMD staffs with a FOIA backlog have provided plans to reduce the backlog and to improve timeliness. In addition, JMD management has instituted a quarterly reporting requirement for staffs with FOIA backlogs to report on their progress with respect to backlog reduction plans. JMD expects that increased supervisory and management oversight of staffs' progress on responding to FOIA requests will improve timeliness in responding to requests.

NATIONAL DRUG INTELLIGENCE CENTER

During the past seven years, the National Drug Intelligence Center (NDIC) has averaged sixty-eight FOIA requests per year of which 98% were “simple” requests. As a result of the procedures in place, NDIC is generally able to meet or exceed the 20-day response requirement in addition to sustaining a minimal backlog.

I. Steps Taken to Apply the Presumption of Openness

1. Description

President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines are posted on the NDIC website. NDIC has traditionally operated under the presumption of openness whenever possible. With the implementation of the new FOIA guidelines, the presumption of openness is utilized by all NDIC personnel.

Since January 2009, NDIC made a discretionary release of a copy of a report to a requester that could have been withheld utilizing FOIA Exemption 2.

2. Disclosure Comparisons

NDIC experienced the following:

	FY 2008	FY 2009
Total FOIA Requests Processed	65	87
Fully or Partially Granted Response	26	30

Based on the raw numbers, NDIC improved from twenty-six fully or partially granted FOIA requests in FY 2008 to thirty fully or partially granted FOIA requests in FY 2009. In

FY 2008, NDIC determined that it possessed responsive documents for thirty-two of the sixty-five requests. Of those thirty-two requests, NDIC provided a full or partial release to twenty-six, equaling 81%. In FY 2009, it was determined that NDIC possessed responsive documents for thirty-six of the eighty-seven requests received. Of those thirty-six requests, NDIC provided a full or partial release to thirty, or 83%.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The average number of days for NDIC to process a FOIA request in FY 2009 was fifteen, and the median number of days during this time frame was twelve. Accordingly, NDIC has an effective system for responding to requests.

NDIC receives excellent support from its Technical Services Branch both in providing the required IT infrastructure (software and hardware) and in utilizing the infrastructure for the search for potentially responsive records. The FOIA Staff maintains a database to control and report on all activity concerning a request. This database allows the FOIA staff to respond comprehensively and accurately to requesters inquiring about the status of their request. It also assists in the annual reporting of NDIC FOIA activity.

III. Steps Taken to Increase Proactive Disclosures

From a historical perspective, NDIC traditionally has been proactive in utilizing its website. For example:

- NDIC receives two major categories of FOIA requests: requests for NDIC products and requests for information about or, which specifically mentions the requester. Previously, NDIC would receive requests from vendors for purchase card holder names and contact information. To be proactive, NDIC posted purchase card holder names and contact information on the NDIC website. Since this was completed several years ago, the number of FOIA requests for purchase card holder information has been reduced dramatically.
- Products that are available to the public are also posted on the NDIC website.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. NDIC receives FOIA requests via e-mail and facsimile.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. NDIC maintains all pertinent FOIA information in an Excel spreadsheet.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. NDIC utilizes software to search all electronic records of information. Due to the cost of redaction software and the number of FOIA requests processed annually, NDIC uses a manual method for redaction.

Although NDIC does utilize technology to process FOIA requests, there are two additional available technologies that could be useful. FOIA software is available that assists in the overall processing of a FOIA request and one that assists in the redacting process. The impediments to purchasing this technology is that based on the cost and the minimal number of FOIA requests processed by NDIC, the component has decided not to make these purchases at this time.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. NDIC uses Excel spreadsheet software to sort through the FOIA information when preparing the annual report. Due to the number of FOIA requests processed and potential cost of software at this time, NDIC is not planning to purchase FOIA tracking software.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

FY 2008	FY 2009
0	4

NDIC did not have a backlog in FY 2008. The overall backlog increased from zero to four from FY 2008 to FY 2009. This is explained in the response to Part V.2 below.

NDIC's oldest request in FY 2009 was dated December 4, 2008.

2. Backlog Reduction Steps

In FY 2009, NDIC had a backlog of four FOIA requests. The primary reason for the delay in responding to the oldest of the FOIA requests (206 days) was due to the delay in NDIC receiving responses to consultations with other government agencies. These issues experienced were unusual and NDIC does not anticipate similar issues in the future.

3. Steps to Improve Timeliness

Generally, NDIC meets the twenty-day response requirement. The NDIC FOIA response information for the past two fiscal years is presented below.

	FY 2008	FY 2009
Average Number of Days	28	15
Median Number of Days	18	12

The overall fiscal year average and median results at NDIC have improved and have significantly exceeded the twenty working-days requirements as demonstrated in the chart above. Occasionally, NDIC receives an unusual request or a request where there is voluminous information to search and review. However, NDIC makes a great effort to consult with the requesters and relevant agencies in a timely manner and is usually able to meet the statutory deadline. The positive results of this effort are reflected in the figures above.

NATIONAL SECURITY DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The National Security Division (NSD) has initiated a series of managers meetings on the FOIA and how the Act is applied to NSD records in response to President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. FOIA personnel have met with the leadership of all six NSD components. NSD has held FOIA training sessions for staff of four of the six NSD components during which the President's Memorandum and the Attorney General's Guidelines were discussed. FOIA training is required annually for all NSD staff to keep them abreast of the current updates in FOIA. The Assistant Attorney General of the National Security Division has determined that the Division would benefit from the creation of a

unit dedicated to developing and executing a new approach to FOIA. The FOIA unit is currently reprocessing 26,577 pages of potentially responsive documents that were originally withheld under Exemption 5 in our previous redaction process to see if any can be released as a matter of agency discretion.

2. Disclosure Comparisons

In FY 2008, the NSD FOIA unit reported twenty-two requests that were granted in full and fifteen requests that were partially granted. For FY 2009, we reported twenty-one requests granted in full and fifteen partial grants.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

Since the President's Memorandum was issued, NSD has taken the following steps to help create an effective system for responding to FOIA requests:

- The NSD FOIA unit has worked, and continues to work, with NSD/IT regarding our FOIA database and how to manage updating or replacing the database. Through this IT support NSD hopes to create a system that will enhance its ability to track and process FOIA requests. The NSD/IT staff is working diligently to try to enhance the outdated Access software for the FOIA unit.
- NSD has established a FOIA e-mail address that allows requesters to communicate with the NSD FOIA unit.
- The FOIA unit now communicates with requesters via fax when requested.
- NSD has established a FOIA routing e-mail address for routing misdirected requests within the Department.
- Weekly briefings for senior management are held to inform them of the status of outstanding FOIA requests.
- NSD revised all standard FOIA correspondence letters.
- NSD hired a new FOIA and Privacy Act Specialist.
- NSD announced two new FOIA and Privacy Act Specialist positions.

III. Steps Taken to Increase Proactive Disclosures

FOIA senior management is currently working with the NSD IT unit and the Records Management Chief to have NSD historical documents, responses to certain closed FOIA requests, and other records determined to be of interest to the public made publicly available on the NSD FOIA website. To determine which documents may be of interest to the public, FOIA personnel are examining closed cases where multiple requests were received regarding a particular subject to determine if additional documents not yet processed on the topic would be of interest to the public. NSD is also examining records in closed high profile cases and declassified documents to see if documents not yet requested can be made available.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?
Yes.
2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?
Not Applicable.
3. Does your agency track requests electronically?
Yes, Microsoft Access.
4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?
Not Applicable.
5. Does your agency use technology to process requests?
Yes.
6. If not, what are the current impediments to your agency utilizing technology to process requests?
Not Applicable.
7. Does your agency utilize technology to prepare your agency Annual FOIA Report?
Yes.
8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?
Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The NSD FOIA backlog has unfortunately increased from FY 2008 to FY 2009. In FY 2008, NSD reported a backlog of forty-nine requests and, in FY 2009, it reported a backlog

of 136 requests. In the FY 2008 and FY 2009 annual reports, NSD reported that its oldest request was dated April 10, 2007.

2. Backlog Reduction Steps

The increase in the backlog was due to a decrease in staffing and an increase of requests received in FY 2009. The NSD FOIA backlog has since decreased in FY 2010. At the end of FY 2009, NSD reported a backlog of 136 requests, but as of March 8, 2010, NSD had a total of 128 requests in its backlog. The volume of requests received has also remained high, as NSD FOIA has received seventy-four new requests since the beginning of FY 2010.

The NSD FOIA unit has recently hired a FOIA specialist to assist the unit in all areas of FOIA. NSD is also currently interviewing candidates for open FOIA specialist positions to help with the processing of FOIA cases and with administrative functions.

The NSD FOIA unit continues to work with NSD/IT regarding its FOIA database. This will help the FOIA unit in its efforts to keep track of all requests; enhancing its ability to extract data for the quarterly backlog reduction report along with the annual report and helping to reduce the backlog.

3. Steps to Improve Timeliness

In addition to the improvements mentioned above, to directly address timeliness, NSD is also coordinating efforts with the Office of the Assistant Attorney General for National Security to develop and implement NSD-wide guidelines for conducting searches for material responsive to FOIA requests.

OFFICE OF COMMUNITY ORIENTED POLICING SERVICES

I. Steps Taken to Apply the Presumption of Openness

1. Description

All personnel within the Office of Community Oriented Policing Services (COPS) FOIA Section have reviewed, received training in, and thoroughly understand the requirements and principles contained within both the President's FOIA Memorandum on Transparency and Openness and the Attorney General's new FOIA guidelines. These documents have been posted on the agency's intranet site for viewing by all agency personnel.

An example of increasing COPS' openness and transparency was demonstrated when our agency recently rescinded our policy of not releasing copies of unsuccessful grant applications submitted under various grant programs. In FY 2009, the agency processed and released six unsuccessful grant applications pursuant to FOIA requests.

2. Disclosure Comparisons

FY 2008	FY 2009
Total Grant: 20	Total Grant: 36
Partial Denial: 11	Partial Denial: 5

When compared with those numbers in the previous year's Annual FOIA Report COPS has seen a statistical increase in the number of FOIA requests processed and where a total grant for documents were made. Subsequently, COPS has seen a decrease in the number of partial denials for documents requested. The decrease in the number of partial denials can be attributed to more total grants being made in response to the requirements contained within the Openness and Transparency Directive.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

COPS has an effective and efficient process for responding to FOIA requests as indicated by its low processing times recorded in the 2009 Annual FOIA Report. COPS did however take the opportunity to review our processes again in light of the President's FOIA Memoranda and Attorney General's new FOIA Guidelines. To ensure responsive records searches are completed in a professional and timely manner, they are now assigned to management and supervisory personnel only. It is their responsibility to have the searches completed and returned to the FOIA Section for processing by the assigned due date. The FOIA Officer and the IT support group, with the support of senior management officials, have developed and honed a very good working rapport. As part of their regular duties, many IT personnel are now assigned to work directly with the FOIA Section to develop and maintain the FOIA Tracking System, update internet and intranet FOIA website pages and conduct system queries as needed.

III. Steps Taken to Increase Proactive Disclosures

COPS has taken numerous steps to increase the amount of information proactively made available to the public through its website. The COPS Information Technology (IT) Division has established a link from COPS' FOIA website to its Electronic Resource Information Center (RIC). Every publicly available COPS publication is now available for viewing and downloading by the general public, without the need to file a FOIA request for the material. Another example of recent proactive disclosures is when the agency posted 1,046 successful COPS Hiring Recovery Program (CHRP) grant applications online. This proactive disclosure also included an interactive map for the public to easily locate the desired grant application. Additionally, COPS released the applicants rating by states, state summaries, and rating methodology summary. Access to this type of information in the past would have required that a FOIA request be submitted to the agency and that a release determination be made.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. COPS does receive and accept FOIA requests which have been submitted by fax or e-mail. Approximately 60% of our agency's annual FOIA requests are received electronically. Approximately 40% of final responses are provided to our requesters electronically.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. COPS does utilize a customized FOIA Tracking System (FTS) that automatically assigns unique case tracking numbers to each request. The system also records numerous items, including but not limited to the type of documents requested, date received, days to complete processing, fees charged, exemptions utilized, whether or not expedited processing was requested, and number of pages released to the requester.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. COPS does utilize technology in the processing of our FOIA requests. Due to the low volume of annual FOIA requests received by the agency, COPS does not scan documents into electronic images for processing. However, COPS does utilize technology in the processing of our requests. Many of the requests received by COPS ask for statistical data and for various listings of grant recipients under the numerous grant programs COPS administers. COPS' IT Division runs system queries in response to these FOIA requests. COPS is able to provide these system queries in the electronic form and the format requested by the requester.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. COPS has developed a robust report capability within the agency's FOIA Tracking System (FTS) which electronically provides all of the required data fields to complete the agency's Annual FOIA Report. Additional flexibility has been built into the system to allow for future reporting requirement changes as well. COPS also has the capability to run specific system queries through the IT Division should the need arise.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

COPS does not have a FOIA backlog as indicated within the agency's 2009 Annual FOIA Report, and the office did not have any requests pending at the end of FY 2008 or FY 2009.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

During the last reporting period, COPS average FOIA processing time was three days with a median time period of two days. Although these processing times are well under the mandatory processing time allowed by the FOIA, the COPS FOIA Officer and senior management staff within the agency continue to search for ways to streamline the FOIA processes. An example of this is when the senior management staff recently supported the use of electronic grant applications under the COPS Hiring Recovery Program (CHRP). By utilizing electronic grant applications COPS has been able to reduce the FOIA processing time for these types of applications since there is no requirement to copy the material from the paper grant file.

OFFICE OF DISPUTE RESOLUTION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Office of Dispute Resolution (ODR) has included a statement regarding the presumption of openness on its public website. ODR's FOIA officer has also received training in implementing the presumption of openness in responding to FOIA requests, and ODR continues to be diligent in following all guidance and training provided by OIP regarding responses to FOIA requests and disclosures. In FY 2008 and FY 2009, and up to the present time, ODR has not denied any FOIA request either in whole or in part. In fact, ODR has no history of denying requests because full disclosure was not possible; if records are not provided in response to a FOIA request to ODR, it is because ODR did not possess the requested records.

2. Disclosure Comparisons

The number of releases in whole and in part for both FY 2008 and FY 2009 was zero. As a result, there has not been any increase in the number of requests where records have been released either in whole or in part when compared to those numbers in last year's Annual FOIA Report.

In FY 2008 and FY 2009, ODR's FOIA responses were limited to "no records" responses, because ODR consistently receives requests for records that ODR does not possess. For example, because of the title of the office, ODR typically receives requests from private citizens asking for records associated with their private matters or for court records. ODR's mission is limited to assisting Department attorneys with civil matters already pending in the Department. ODR assists Department attorneys in two ways: by funding ADR services and providing training for Department attorneys regarding the effective use of ADR. ODR only maintains records on funding requests of civil matters, which do not include court records. If records are not provided in response to a FOIA request to ODR it is only because the Office did not possess the requested records.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

ODR created an electronic recordkeeping system and database of all the mission related records it maintains, which is easily searchable for any information requested. The capacity of this database was expanded in 2009 in order to track FOIA requests and responses more efficiently. The data and images of all records ODR maintains are retrievable by keyword searches. As a result, ODR is able to search by keywords and locate records quickly and efficiently. All located records can be indexed and transferred to the requester within minutes to respond the request. ODR's database also tracks all FOIA requests received by ODR each fiscal year and provides data on the number of requests received, the number of persons assigned to the request, the date the request was received, the disposition of the request, the length of time taken

by staff to answer the request, if/how the request was answered, whether or not the request was appealed, and contains images of the request and the response by ODR.

ODR designed, created, set-up, and maintains its IT system for FOIA requests. As a result, ODR eliminated the need for outside contractors and technical support. This further emphasizes ODR's ability to maintain the efficiency, reliability, and integrity of the IT system used for FOIA requests and the effectiveness of the IT system overall.

Moreover, on ODR's public website, a FOIA requester is able to electronically submit a FOIA request directly to an ODR mailbox. In addition, ODR continually updates its public access website to conform to the standards and guidelines issues by OIP.

III. Steps Taken to Increase Proactive Disclosures

ODR continues to be diligent in its duty to comply with the advice and guidance set forth by OIP on what information should be contained on its public website regarding FOIA requests.

ODR has also voluntarily published on its public website the following statistics (and continues to update with quarterly statistics as they are compiled):

- the total number of cases funded by ODR for mediation;
- the percentages of case which were successfully settled at the end of mediation; and
- total costs involved in ODR-funded mediation.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. ODR has an e-mail address designated to receive electronic requests. ODR is capable of receiving requests electronically and tracks all FOIA requests in its electronic database.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. ODR's database tracks all FOIA requests received by ODR each fiscal year and provides data on the number of requests received, the number of persons assigned to the request, the date the request was received, the disposition of the request, the length of time taken by staff to answer the request, if/how the request was answered, whether or not the request was appealed, and contains images of the request and the response by ODR.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. ODR has an electronic database that contains the data and images of all records it maintains in the component, which are retrievable by keyword searches. As a result, ODR is able to search by keywords and locate records quickly and efficiently. All located records can be indexed and transferred to the requester within minutes to respond to the request.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. ODR's database is used to respond to the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

ODR has had no backlog in FY 2008, FY 2009, or through to the present time.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

ODR processes all FOIA requests within twenty days. ODR received thirteen FOIA requests in FY 2008; seven FOIA requests in FY 2009; and has received four requests in FY 2010, up to the present time. ODR responds to all of these requests within the statutory time period and has not denied any request received over this period of time.

ODR's electronic database, which allows ODR to search by keywords and locate records quickly and efficiently, assists ODR in responding timely to requests. All located records can be indexed and transferred to the requester within minutes in response to a given FOIA request.

OFFICE OF FEDERAL DETENTION TRUSTEE

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Office of Federal Detention Trustee (OFDT) has applied the presumption of openness in the handling of every FOIA request made to the office. The OFDT is a small office and, at present, only one individual, its General Counsel, performs the function of responding to FOIA requests. Furthermore, compared to other Department components, OFDT receives a relatively small number of FOIA requests (seventy-one FOIA requests in 2009 and fifty-three FOIA requests in 2008). Given its size and the number of FOIA requests processed, no formal steps were deemed necessary to ensure the presumption was applied. Nevertheless, OFDT's General Counsel thoroughly familiarized herself with President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines and, in accordance with such Memorandum and Guidelines, carefully evaluated all of the requests received by OFDT in 2009 and determined for which of these requests discretionary disclosures were possible. Currently, the only category of requests for which discretionary disclosures are appropriate consists of requests for OFDT's analyses of the need for the establishment of detention facilities in various geographical localities within the United States, documents which might otherwise be protected by Exemption 5 of the FOIA. With regard to such requests, to the extent that they contain no information which, if released, could endanger the life or safety of any individual, OFDT will release the documents in their entirety.

2. Disclosure Comparisons

In FY 2009, OFDT had an increase in the number of requests with partial grants, without decreasing the number of requests with full grants. The number of full grants remained the same, at thirteen. The number of partial grants increased from thirteen in FY 2008 to eighteen in FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

Upon being established in 2001, OFDT promulgated a policy regarding the release of information pursuant to the FOIA which established the key roles played by OFDT personnel in responding to FOIA requests. The policy clearly outlines the responsibility of the General Counsel to track and respond to FOIA requests as well as the responsibility of all OFDT staff promptly to conduct a search and to identify those documents which respond to the requests. Additionally, OFDT has been sufficiently supported in its FOIA processing by OFDT's IT professionals. In 2009, OFDT's IT professionals assisted OFDT's General Counsel in

developing new software for the automated tracking of FOIA requests. Version 2 of that software, due to be implemented by March 31, 2010, will add a redaction tool to facilitate the processing of FOIA requests as well as add a tool for reporting statistics related to the processing.

III. Steps Taken to Increase Proactive Disclosures

On a quarterly basis, OFDT's General Counsel reviews the OFDT website to ensure that the documents posted to the site, whether posted in OFDT's Electronic Reading Room on the FOIA website or otherwise are accurate and up-to-date. At the same time, the General Counsel analyzes whether additional documents are appropriate for posting on the site and would promote openness and transparency in Government. At the end of FY 2009, several such documents were identified, consisting of contracts for private detention services awarded by OFDT. OFDT's General Counsel currently is reviewing those documents and making redactions where appropriate. Upon completion of the review, OFDT intends to post the documents to the OFDT website.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, OFDT currently receives requests electronically.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes, OFDT has implemented workflow software which automatically tracks the FOIA requests as well as various aspects of the request (whether simple, complex, expedited, permissions required, etc.).

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

No.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Although the initial version of the software did not contain a redaction tool to facilitate the processing of FOIA requests or a tool for generating and reporting statistics required by the annual report, the second version, due to be implemented by March 31, 2010, is expected to contain such features.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

No.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

See answer to number six above.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

OFDT had a backlog of two requests in both of FY 2008 and FY 2009; thus, its backlog has not decreased but, rather, has remained constant. The oldest pending request at the end of FY 2008 had been pending for 233 days (dated October 29, 2007) and the oldest pending request at the end of FY 2009 had been pending for 101 days (dated February 25, 2009).

2. Backlog Reduction Steps

OFDT intends to reduce the backlog and otherwise improve the timeliness of responding to FOIA requests received in the office by hiring additional personnel to assist in the processing of the requests. Specifically, OFDT plans to hire a full-time government employee to assist with the processing of the FOIA requests. It is anticipated that the position will be filled by July 2010.

3. Steps to Improve Timeliness

In addition to addressing staffing, OFDT anticipates that the new software that will be implemented on March 31, 2010 will help improve timeliness in responding to FOIA requests.

OFFICE OF THE INSPECTOR GENERAL

I. Steps Taken to Apply the Presumption of Openness

1. Description

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 and to promote integrity, economy, efficiency, and effectiveness in Department of Justice operations. The OIG maintains records relating to its investigations, audits, inspections, and special reviews, as well as regarding the administration of the OIG.

The majority of the OIG's audit, inspection, and special reports are made available to the public on the OIG website without the need for a FOIA request. The OIG's investigation reports generally concern individual Department employees and therefore implicate the privacy rights of those employees. Accordingly, these reports are not affirmatively released to the public. When the OIG receives FOIA requests for investigative reports, it makes appropriate redactions to the reports to protect the privacy of individual Department employees pursuant to FOIA Exemptions 6 and/or 7(C). The OIG does not routinely or even particularly often claim exemptions other than Exemptions 6 and 7(C) in connection with FOIA releases.

2. Disclosure Comparisons

In FY 2009, the OIG issued twenty-nine full grants and eighty partial grants out of a total of 222 processed requests. In FY 2008, the OIG issued forty-nine full grants and sixty-eight partial grants out of a total of 217 processed requests. Thus, OIG has had an increase in its partial grants for FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The OIG's FOIA office is centralized in the Office of General Counsel, which handles all FOIA processing. The FOIA specialist is responsible for reviewing and responding to all requests. A paralegal assistant helps the specialist with intake and tracking of requests. The General Counsel provides supervisory input.

All requests are assigned an individual number and logged into and tracked through a computerized database system. The OIG updated and expanded its tracking system in 2008 by adding an additional search tool; and by creating additional fields to track fees and fee waivers, the adjudication of expedited requests, and appeals. The OIG has sufficient IT support that assists with maintaining the tracking system as well as the OIG's FOIA website.

The FOIA specialist has access to the OIG databases in which all complaints and investigations are logged and tracked so that she can effectively and efficiently conduct searches for responsive records.

III. Steps Taken to Increase Proactive Disclosures

As noted above, the OIG routinely posts audit, inspection, and special reports to its website. The OIG also posts its semiannual reports and Congressional testimony on the website. In cases where such reports deal with classified or other sensitive information, the OIG works with the relevant component to create a version of the report suitable for public release. This has been the OIG's practice for many years before the issuance of the Attorney General's FOIA

guidelines. Because the OIG was already making available all OIG work product suitable for public release, it has not made additional proactive disclosures since issuance of the guidelines. However, since the Attorney General's Guidelines, in FY 2009, the OIG has been making discretionary releases of information previously withheld under Exemption 2 (low) instead of using the exemption.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. The OIG set up a FOIA e-mail account to receive requests. Requests may also be submitted via facsimile.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. The OIG utilizes a computerized tracking system that automatically generates much of the information required to prepare the annual report.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. The OIG acquired redaction software that enables it to process documents electronically, eliminating the need to do redactions by hand. The OIG has also taken steps to enable it to receive the majority of responsive documents in electronic format, which has cut down on processing time by eliminating the time-consuming process of copying records.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The OIG utilizes a computerized database system that automatically generates much of the information required to prepare the annual report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The OIG's backlog is decreasing. In the FY 2009 annual report, the OIG reported 10 backlogged requests pending. In the FY 2008 annual report, it reported thirteen backlogged requests pending. To date, of the ten pending requests reported at the end of FY 2009, the OIG has closed four. The date of the oldest pending request in FY 2008 and FY 2009 is March 20, 2007. This request was inadvertently closed in the OIG tracking database, and therefore did not get reported in the FY 2008 annual report.

The OIG's response time improved in FY 2009 when compared to FY 2008. In 2008, the average number of days to process simple requests was twenty-three days. In FY 2009, the average number of days was six days. However, please note, for the FY 2008 annual report, the OIG tracking system only calculated simple requests. For the FY 2009 annual report, the OIG created a multi-tracking system which separated the simple, complex and expedited requests.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

As noted above, the OIG has taken steps to enable it to receive the majority of responsive documents in electronic format, which has cut down on processing time by eliminating the time-consuming process of copying records. The OIG also implemented a reminder system that prompts it to periodically check with components on the status of pending consultations. The OIG's acquisition of redaction software has also helped improved processing time.

OFFICE OF JUSTICE PROGRAMS

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Office of Justice Programs (OJP) has taken the following steps to apply the presumption of openness:

- Since October 2009, the OJP Office of the General Counsel (OGC) has conducted

twenty-eight mandatory FOIA/Privacy Act training sessions for over 900 OJP employees, contractors and volunteers.

- Two specialized FOIA training sessions have been held for OJP managers and supervisors.
- In October 2009, OJP's Acting Assistant Attorney General disseminated, by e-mail, copies of President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines to all OJP employees, contractors and volunteers.
- OGC has conducted specialized FOIA sessions for several program and support staff offices.
- OGC FOIA staff conducted FOIA training via a telephone conference call in December 2009 for several Office for Victims of Crime Training and Technical Assistance grantees.
- OGC FOIA staff has met with several of their program and staff offices to assist them in identifying and developing strategies on posting more information on funded grants, budget narratives, progress reports and financial status reports.
- OGC FOIA has met with senior leadership in the Office of the Chief Financial Officer to highlight the President's and the Attorney General's revised standards on disclosures as it relates to the release of on-site financial reviews of OJP grantees.
- OJP has mandated FOIA/Privacy Act for all new employees, contractors and volunteers.

2. Disclosure Comparisons

OJP made full disclosures in ninety-one requests in FY 2008 and 108 in FY 2009. This represents an increase of 19% in full disclosure releases.

OJP made partial disclosures in eighty-nine requests in FY 2008 and 118 in FY 2009. This represents an increase of 32% in partial disclosure releases.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

OJP has taken the following steps to ensure an effective system for responding to requests:

- OJP has a designated FOIA contact in each OJP bureau and office to coordinate FOIA responses within the particular bureau and office and to provide all documents and responses to the OGC FOIA staff.

- OJP has mandated FOIA training for all OJP employees, contractors and volunteers to ensure consistency and compliance with the FOIA and the Privacy Act, and to ensure that all staff is cognizant of the President's and the AG's new standards.
- OJP has mandated FOIA/Privacy Act for all new employees, contractors and volunteers.
- OJP has retained a contract paralegal to assist with the processing of FOIA requests.
- OJP will be seeking an increase in funding for FOIA contractor support.
- OJP acknowledges all FOIA requests and assigns FOIA numbers upon receipt in OJP of a request for tracking to assist requesters in identifying their requests when submitted to OJP.
- OJP contacts FOIA requesters, by mail, electronically, and/or by telephone, to discuss any request that is not clear and to assist with the reformulation of voluminous requests.
- OJP FOIA staff will be utilizing a new JMD-developed FOIA tracking system in FY 2011.
- Since October 2009, the OJP Office of the General Counsel (OGC) has conducted twenty-eight mandatory FOIA/PA training sessions for over 900 OJP employees, contractors and volunteers.
- OGC FOIA staff conducted a FOIA informational teleconference training session with several Office for Victims of Crime Training and Technical Assistance grantees to highlight the President's and the Attorney General's new standards on FOIA disclosures and their obligation under the FOIA.

OJP also receives sufficient support from its IT staff. Specifically:

- OJP FOIA works with the OJP IT staff when it needs searches conducted of former OJP political appointees' e-mails and official documents, as well as of former staff members.
- OJP FOIA utilizes its Helpdesk when any technological concerns arise, i.e., system failures, damaged files, software modifications and updates.

III. Steps Taken to Increase Proactive Disclosures

OJP has taken the following steps to increase proactive disclosures:

- OJP's program offices posted FY 2009 grant solicitations, grant award recipients and funding amounts on their websites. Additionally, OJP posted copies of its American Recovery and Reinvestment Act of 2009 (Recovery Act) solicitations on its website. These documents are retrievable on OJP's website and no FOIA request is needed.
- OGC FOIA staff is assisting program offices with developing strategies, identifying materials, and posting funded grant applications and other documents on their websites for programs that are retrievable without submitting a FOIA request.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. OJP FOIA currently receives FOIA requests electronically through the "FOIAOJP" e-mail account, the FOIA Officer's direct e-mail, and via fax.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. OJP FOIA manages the tracking system electronically utilizing Microsoft Access.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. OJP FOIA uses the following technology to process requests: various search engines, GMS, and Adobe Professional 8.0 Redacting Tool.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. OJP FOIA uses Microsoft Access and Excel to prepare the annual FOIA report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

OJP had twenty-eight backlogged requests at the end of FY 2009. This was an increase of six from FY 2008. Part of the increase in the backlog is attributable to a 9% increase in incoming FOIA requests from FY 2008 to FY 2009. In addition, OJP has received 248 requests so far in FY 2010. This is an increase of more than 100 requests at a similar point in FY 2009 and would put us on track to exceed last year's total by almost 56%.

OJP's backlogged requests are measured in terms of age as follows. There has been no decrease in the age of the oldest request.

- Oldest request for FY 2008: November 6, 2006
(See first bullet in Part V.2 directly below)
- Oldest request for FY 2009: November 6, 2006
(See first bullet in Part V.2 directly below)

2. Backlog Reduction Steps

OJP is taking the following steps to reduce its backlog:

- OJP's involvement in an on-going civil litigation matter involving the Civil Division has contributed to the backlog for at least four FOIA requests. A good portion of the documents involved in the FOIA request are also involved in the discovery phase of the case.
- OGC FOIA is drafting a statement of work and budget request to seek additional staffing and funding for additional FOIA contractor support to assist in the reduction of the backlog.
- One backlogged request is currently being processed and should be completed in early March.

3. Steps to Improve Timeliness

OJP is taking the following steps to improve its timeliness in responding to requests:

- OJP continues to meet with the bureaus' subject matter experts on highly technical documents that originate outside of OJP. Most of these highly technical documents involve proprietary and/or law enforcement information. This should decrease the time that the FOIA Officer spends on contacting these entities in order to obtain responses regarding the releasability of documents.
- OGC FOIA is drafting a statement of work and budget request to seek additional staffing and funding for FOIA contractor support to assist in the reduction of the backlog and improve timeliness.
- OJP's Assistant Attorney General has directed that OJP's bureaus and offices post more material on their websites. OGC FOIA staff is working with program office staff to identify documents that could be posted on the various websites. These efforts would preclude the need for FOIA requests.
- OGC FOIA staff has heightened its outreach to FOIA requesters to clarify requests that are not clear, to assist with the reformulation of voluminous requests and to notify requesters of unanticipated delays in responding.

OFFICE OF LEGAL COUNSEL

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Office of Legal Counsel (OLC) has made sure to consider and apply the principles from President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines whenever it responds to a request. Consistent with that Memorandum and Guidelines, OLC has, on a discretionary release basis, made public a significant number of opinions since January 20, 2009. OLC believes that it was entitled under the FOIA to withhold most, if not all, the documents it released, however, it made the decision to release those documents in the spirit of the President's FOIA Memorandum and Attorney General's FOIA Guidelines. In this effort, OLC has updated its online FOIA Reading Room to add forty-eight legal memoranda that have been the subject of repeated requests and significant public interest.

2. Disclosure Comparisons

The number of full grants and partial grants combined has modestly increased. In FY 2008, OLC's combined total was twenty-nine (nineteen full grants, and ten partial grants). In

FY 2009, OLC's combined total went up to thirty-two (fourteen full grants, and eighteen partial grants).

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

OLC has begun an internal review of its handling of FOIA requests to determine how it can increase its efficiency, make more significant progress with its backlog, and improve its communication with FOIA requesters. As part of that process OLC will be reviewing all pending requests and evaluating their processing tracks to make sure that the requests are being processed as productively as possible. OLC will make sure that it responds to FOIA requests that are relatively easy to process as promptly as possible, while making steady progress in long-pending requests that are more time-consuming to address, to the fullest extent it can do that while also complying with court deadlines in pending FOIA litigation. OLC will also be revising and updating its tracking charts as part of that process. Lastly, OLC has also taken steps to improve its internal communication by increasing the frequency of its meetings to ensure that all personnel in its office that are involved with FOIA matters are up-to-date and focused on addressing the most pressing needs. OLC has worked with and anticipates that it will continue to work with IT personnel, receiving sufficient support to improve its processing system.

III. Steps Taken to Increase Proactive Disclosures

In the summer of 2009, OLC updated its online FOIA Reading Room. Consistent with the President's Memorandum and the Attorney General's Guidelines, OLC has consolidated and posted on its website Reading Room forty-eight memoranda that have been the subject of repeated requests and significant public interest. OLC made these memoranda available in the FOIA electronic Reading Room by means of discretionary release. In addition to posting memoranda in the Reading Room that are the subject of FOIA requests, OLC has been expeditiously posting on the Office's "Memoranda/Opinions" website opinions that are appropriate for formal publication, with twenty-two such opinions posted since January 20, 2009. OLC is also continuing to review other documents for possible public release in a variety of contexts, including through the Office's normal publication review process, on a rolling basis as requests for public disclosure are made through FOIA, and as issues regarding particular opinions arise in the context of litigation.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?
Yes. OLC uses Microsoft Word to track requests.
4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?
Not Applicable.
5. Does your agency use technology to process requests?
Yes.
6. If not, what are the current impediments to your agency utilizing technology to process requests?
Not Applicable.
7. Does your agency utilize technology to prepare your agency Annual FOIA Report?
Yes.
8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?
Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

Unfortunately OLC's backlog has increased. OLC was able to close out a couple of its oldest requests last year, but there are still complex requests pending from other fiscal years. OLC's backlog over the past year has increased due to its small staff and multiple FOIA requests in litigation. In FY 2008 OLC reported a backlog of seventeen requests, with the oldest request pending for 1051 days (dated July 25, 2005).* In FY 2009, OLC reported a backlog of forty-one requests, and the same oldest request remains pending (dated July 25, 2005).

*Represents a correction to data submitted on the FY 2008 Annual Report.

2. Backlog Reduction Steps

OLC is a small component handling approximately seventy-five FOIA/Privacy Act requests per year. OLC has a limited number of people handling the requests and FOIA is only a small part of their overall duties. In the past year, OLC has devoted most of its available FOIA

resources to the multiple FOIA requests that are in litigation. Meeting court-ordered litigation deadlines has required large-scale searching and processing, and has resulted in several significant document releases. As noted above, OLC is determined to work on its backlog, and its goal is to significantly reduce the number of requests in its backlog in the next six months. OLC has commenced a detailed internal review of its FOIA process to make sure that it is operating as productively as possible, and that requests are being processed on the most efficient track. As part of that review, OLC is identifying and prioritizing requests that have been pending for a particularly long period of time, and requests that can be processed with relative speed. By focusing on these two categories, OLC expects to make significant strides in reducing its backlog over the next six months.

3. Steps to Improve Timeliness

OLC has posted for a six month to one year attorney detail to assist the office primarily with its ongoing FOIA litigation as well as related matters. OLC's post requested attorneys with litigation experience to coordinate and direct OLC's FOIA obligations. In addition to seeking this detail, OLC is conducting the internal review process discussed in Part V.2, to attempt to identify changes it can make to its FOIA process that will improve its timeliness in responding to requests.

OFFICE OF THE PARDON ATTORNEY

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Office of the Pardon Attorney (OPA) processes all requests for executive clemency submitted by members of the public who have prior federal convictions. For an organization its size, OPA has a robust FOIA practice. Well more than half of requests received annually are from private citizens; a substantial percentage of the remaining applications are submitted by members of the media (both electronic and print) who have an interest either in Presidential history or executive clemency.

Historically, the most common FOIA exemptions cited for the non-release of records of this office in response to FOIA requests have been Exemptions 5 (relating to inter- or inter-departmental pre-decisional letters of advice and recommendation) and Exemptions 6 and 7(C) (which are privacy related). As per the Attorney General's Guidelines, OPA has continued to protect the appropriate and reasonable expectations of privacy of persons whose personal information, contained within the records of this office, are the subject of FOIA requests. OPA has likewise applied the Attorney General's standards of openness regarding requested matters which do not impact on the privacy of individual clemency applicants, keeping in mind the truly unique function of this office, as Exemption 5 material includes letters of advice to the Deputy Attorney General and the President regarding executive clemency issues in specific cases. In perhaps the most obvious example of the application of the new criteria as set forth in the Attorney General's guidelines, their application, in part, facilitated the settlement of a FOIA-

based civil action in December 2009 brought against this office in a prior fiscal year. The ultimate savings to this office specifically and the Department of Justice generally involved in the settlement (in terms of the resources not expended in support of the litigation which was avoided) was substantial.

2. Disclosure Comparisons

During FY 2008, of seventy perfected FOIA requests processed by this office, thirty-four resulted in a partial release of responsive records, and twenty-four resulted in a full release of responsive records. During FY 2009, of 104 perfected FOIA requests, forty-six resulted in a partial release of responsive records, and thirty-three resulted in a full release of requested records. Thus, there was an increase in the number of requests with releases, in full and in part.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

Both via e-mail and voice communications, early contact with FOIA requesters ensures - on their part and OPA's part - complete understanding of the nature of the request, as well as the media in which the request will be answered. Indeed, of the twenty-eight (of thirty total) requests submitted during the present fiscal year which have been processed to completion, a total of only 135 processing days were required to reply finally to the requesters - an average of about 4.8 days per requests. Because of the size of the office (only ten full time employees presently), the Pardon Attorney personally serves as the FOIA liaison with a senior support staff member as the FOIA officer; their working relationship is close and mutually supportive. Information technology support to the FOIA program is adequate and is provided by contract personnel as this office does not use JCON services. However, the expertise of one Department of Justice information technology professional who was involved in creating and deploying the software utilized in the Executive Clemency Tracking System (ECTS) is routinely called upon to ensure that information that may be responsive to FOIA requests that may be contained in ECTS is searched for in the most efficient manner possible.

III. Steps Taken to Increase Proactive Disclosures

On all occasions, OPA attempts to identify records which can be placed on the office website which are of the type that OPA determines are likely to be of public interest without waiting for such records to be individually requested and released on three occasions (which would thereby oblige OPA to take such action). As OPA becomes more comfortable with the technology, and resolves lingering legal questions which are the subject of ongoing litigation, the use of the website as a means of disseminating information will likely increase. Each month, updated clemency statistics (reflecting the number of clemency cases pending at the beginning of each fiscal year, the number of clemency applications received thus far in the present fiscal year, and the numbers of petitions granted, denied, or closed without Presidential action) are placed on the OPA website.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. While OPA uses a chart maintained on computerized records, it is not in the nature of a spreadsheet but instead is a simple chart prepared on word processing software. While OPA's FOIA practice is too small to justify a tracking database, and the office lacks funding for same, all FOIA requests and responses, most documents actually released, are retained both in hard copy and electronic format.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. OPA receives, and responds to, FOIA requests electronically, and when practicable, offers requesters the option of receiving "hard copy" records or a PDF electronic file of the released records. OPA also utilizes redaction software to create documents for release that require substantive redaction beforehand, and as previously indicated, does search the ECTS database, with and without the assistance of the software creator, for records that are responsive to FOIA requests. Finally, OPA has routinely conducted both consultations and referrals electronically with agencies which are both within, and outside of, the Department of Justice in properly processing FOIA requests.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

No.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Because OPA does not have a tracking database (for the reasons described above) and instead keeps records manually, it is those records which must be harvested for completion of the annual report.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

OPA eliminated its backlog in 2009. At the end of FY 2008, eight FOIA requests (of which five were perfected) were pending, with the oldest date of request (July 8, 2008) totaling seventy-one days. At the end of FY 2009, two requests were pending, but neither had been perfected. This backlog elimination is the result of the organizational skills and diligence of the section's FOIA professionals.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

Regarding improving timeliness, the interaction with requesters to ensure full understanding of the request, and the use of technology to so communicate and to finally reply to requests has increased the speed with which OPA has been able to reply to requesters. In FY 2009, seventy-seven of ninety-eight (78.6%) of "simple" FOIA requests were processed within twenty working days; in FY 2008, forty-three of sixty-seven (64.2%) of "simple" FOIA requests were processed within twenty working days. OPA plans to continue these practices in order to achieve additional improvements in FOIA response times.

OFFICE OF PROFESSIONAL RESPONSIBILITY

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Office of Professional Responsibility (OPR) approaches all documents responsive to a FOIA request with the presumption of openness. Both President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines have been disseminated to the OPR staff.

While processing FOIA requests, OPR makes discretionary releases wherever possible. For example, under the Attorney General's new harm standard, OPR no longer withholds case numbers or internal codes under FOIA Exemption 2.

2. Disclosure Comparisons

OPR has shown an increase in both the number of requests where records have been released in full and where they have been released in part. In FY 2009, OPR granted fifteen requests in full and twenty-seven requests in part, compared to nine requests granted in full and seventeen in part in FY 2008.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

With the initial and continuing support of our IT staff and our vendors, OPR has installed two new IT systems to improve tracking and searching capabilities. First, OPR's document management system records and files all incoming and outgoing documents, referencing a matter number. Second, OPR's case tracking system tracks both investigations and FOIA requests. Working in tandem, these two systems are faster and more thorough than OPR's former systems, streamlining both search and processing times. OPR also now does "online" redacting which allows the office to process responsive records more quickly.

When appropriate, OPR also contacts requesters promptly to clarify requests. OPR works with requesters in attempting to narrow the scope of broad requests and providing partial releases in complex requests.

III. Steps Taken to Increase Proactive Disclosures

OPR continues to explore ways to make more of its Reports of Investigation (ROI) available to the public. Given the nature of what OPR does, little of the component's work product lends itself to full disclosure. OPR creates documents for a law enforcement purpose, and privacy interests outweigh public interest in the large majority of cases. OPR has begun coordinating within the Department on certain ROIs in an effort to proactively release portions of these records to the public.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. OPR can receive requests electronically.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. OPR tracks its requests electronically.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. OPR scans responsive documents and redacts electronically.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. OPR gathers data electronically in preparing its Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

The OPR backlog for both FY 2008 and FY 2009 was eleven requests. OPR did reduce the age of its oldest pending request. OPR's oldest request in FY 2008 was dated February 14, 2006 (681 days), while its oldest request for FY 2009 was dated June 21, 2007 (361 days).

2. Backlog Reduction Steps

Challenges to backlog reduction are primarily limited staff resources, delays in getting consult responses, and the processing and reviewing of voluminous requests.

The FOIA team performs monthly assessments and reexamines priorities to move requests forward. OPR is assessing its review process, looking for methods of streamlining. OPR is also reducing the need for consults by processing certain standard documents, such as referral memos, on behalf of other components, with their consent. Finally, as mentioned above, OPR also contacts requesters promptly and works with them in attempting to narrow the scope of broad requests and providing partial releases in complex requests.

3. Steps to Improve Timeliness

The steps discussed in Part V.2, as well as in Part II above, will also allow OPR to continue to improve its timeliness in responding to FOIA requests.

OFFICE OF THE SOLICITOR GENERAL

I. Steps Taken to Applying the Presumption of Openness

1. Description

The Office of the Solicitor General (OSG) is cognizant of President Obama's FOIA Memorandum and the Attorney General Holder's FOIA Guidelines. The Memorandum and Guidelines were specifically discussed by senior management and legal staff. Generally, the office practices openness when considering the disclosure of documents responsive to FOIA requests and senior management has explored ways to increase transparency.

2. Disclosure Comparisons

OSG had a slight decrease in the number of records released in full and released in part. In FY 2008 OSG had forty-six full grants and thirty in FY 2009. In FY 2008 OSG had twenty-one partial grants and nineteen in FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

OSG has hired college interns to process FOIA requests. These interns are trained in legal research and rely on IT resources through the use of automated databases such as WESTLAW and LEXIS, Department and outside library resources, and lastly communication guidelines. These interns research each request and draft a response for finalization with the FOIA Officer. Previously, the Office has used these interns on an intermittent basis; however, OSG now will have them on a year round basis. Furthermore, the Solicitor General, Deputy Solicitor General that has oversight over the FOIA Officer, and several other attorneys are also a part of this process.

III. Steps Taken to Increase Proactive Disclosures

OSG's Research and Publications Section uploads within twenty-four hours the final briefs after filing in the Supreme Court. Generally, the Assistants to the Solicitor General will request an even shorter turn around time for placing these briefs on the internet in high profile cases. These briefs are uploaded the same night to the internet for review by the public. The steps taken to complete this disclosure include converting the documents from WordPerfect to HTML and PDF documents, and identifying the documents according to the various areas of law.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, OSG receives requests by email but it is not a common practice to do so. Generally the requests are forwarded by fax or U.S. mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes, OSG uses a WordPerfect based system.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, OSG uses Desktop Publishing Operating System, which utilizes Microsoft Word in order to process these redactions.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

OSG reported no backlog in the FY 2008 and FY 2009 Annual FOIA Reports. OSG's oldest pending request at the end of FY 2008 was from August 25, 2008 and the office did have any pending requests at the end of FY 2009.*

* As noted in the FY 2009 Annual FOIA Report, after reviewing its database, OSG adjusted the number of requests pending as of the start of FY 2009 from zero to seven, as it determined that more FY 2008 requests were added to the database after statistics were generated for the FY 2008 report.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

OSG responds to the majority of requests in a timely manner. In order to further improve timeliness OSG has now requested that staff in its Case Management Section review each FOIA request, check the OSG case management database, and attach any documents or information to the request prior to sending it to the FOIA Officer to process. This review process has helped reduce the amount of time it takes OSG to respond to FOIA requests.

OFFICE ON VIOLENCE AGAINST WOMEN

I. Steps Taken to Apply the Presumption of Openness

1. Description

As a result of the President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines, the Office on Violence Against Women (OVW) took a close look at its policies on the type of documents that it has historically withheld from release. OVW decided to release two categories of documents that it had not previously released: lists of applicants that were not funded for a particular program and year; and unfunded applications.

2. Disclosure Comparisons

The number of records released in full or in part has increased modestly for OVW. In FY 2009, OVW made nine full releases and twenty-seven partial releases, compared to eight full releases and twenty partial releases in FY 2008.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

OVW is a small agency with a small number of requests (forty-four in FY 2009) and as a result needs a small number of personnel to work on FOIA responses. OVW has two part-time attorneys who spend a small percentage of time on FOIA and are allotted administrative help as needed. OVW recently received a new database from the Justice Management Division which will help with tracking and processing of FOIA requests.

III. Steps Taken to Increase Proactive Disclosures

One of the most common requests OVW receives is for lists of grantees. OVW now posts all of its grantees on its website both by program and by state. OVW's other most frequent request is for applications. Now that OVW is posting the list of grantees, it has found that most requesters are requesting specific applications, rather than just generically asking for applications.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. OVW receives requests electronically if requesters call first. This practice enables OVW to work with requesters to clarify and refine requests before submission so that requesters can more quickly get the information they are seeking.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. OVW currently uses an Excel spreadsheet but will soon be using the JMD database. OVW currently has possession of the database and hopes to be using it within the next couple of months.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Not yet, but the new JMD database has some processing functions.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

OVW currently has possession of the database and hopes to be using it within the next couple of months.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Not yet, but the new JMD database will assist with preparation of our Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

OVW currently has possession of the database and hopes to be using it within the next couple of months.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

Because OVW is such a small office with such a low number of FOIA requests (forty-four in FY 2009), it does not have a backlog. OVW did not have any requests pending at the end of FY 2008 or FY 2009.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

The new database will enable OVW to better track requests and will automate some processing aspects which should reduce response times.

PROFESSIONAL RESPONSIBILITY ADVISORY OFFICE

I. Steps Taken to Apply the Presumption of Openness

1. Description

FOIA Staff from the Professional Responsibility Advisory Office (PRAO) attended training provided by OIP on implementation of President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. The information from that meeting, as well as President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines, were

provided to the Director of PRAO and to a PRAO attorney that advises on FOIA matters. When reviewing FOIA requests, PRAO considers the presumption of openness.

2. Disclosure Comparisons

In FY 2008, PRAO received three FOIA requests for PRAO records, and PRAO provided the requested records in full for all three requests. In FY 2009, PRAO processed three requests and a consultation that described PRAO records. In one request, PRAO provided the requested materials in full. In the consultation, PRAO authorized disclosure of the requested records with Privacy Act information redacted. For the other two requests, PRAO withheld documents based on FOIA Exemptions 5, 6, and 7. Although PRAO has not had an increase in its releases, a data pool of seven FOIA requests does not allow for meaningful statistical analysis.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

PRAO has an effective system for responding to FOIA requests and has adequate IT support. In 2006, PRAO created a FOIA tracking system to improve processing of FOIA requests. With this system, PRAO is able to search prior FOIA requests electronically and provide FOIA requesters electronic versions of PRAO's FOIA logs.

In 2008 and 2009, PRAO received thirty-one FOIA requests. PRAO responded to thirty requests within the statutory time frame, and for one request, the response was made on the twenty-sixth day.

III. Steps Taken to Increase Proactive Disclosures

PRAO is in the process of reviewing its records to identify materials suitable for proactive disclosure.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. PRAO receives requests via fax and mail. Although PRAO does not have a designated system for receiving FOIA requests electronically, PRAO has processed requests received via e-mail. PRAO currently is considering the use of a designated e-mail address to receive FOIA requests.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. PRAO tracks requests electronically.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. PRAO uses technology to process FOIA requests. PRAO at times uses Adobe Acrobat to redact documents, and has provided electronic versions of FOIA logs.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. PRAO uses its electronic tracking to assist in preparing the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

PRAO did not have a FOIA backlog in FY 2008 or FY 2009, and has an effective system for responding to FOIA requests in a timely manner.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

In FY 2009, PRAO received eighteen requests. PRAO responded to seventeen requests within the statutory time frame. One FOIA request received a response on the twenty-sixth day. PRAO has a strong record of timely responses.

TAX DIVISION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Tax Division, a litigating Division, has consistently applied the presumption of openness to its decisions pertaining to FOIA matters. First, the Division's Counsel for FOIA and Privacy Act Matters (Division Counsel), and the FOIA Unit's paralegal specialist, have both attended training pertaining to the application of the presumption provided by the Department's Office of Information Policy. Second, the Division's Counsel, upon the Department's publicizing of President Obama's FOIA Memoranda, answered questions received from Division personnel, particularly from its attorneys representing the Internal Revenue Service in FOIA actions, about the presumption's implementation.

Third, the current Division Counsel has been making discretionary partial releases of records since before President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. For example, the Division partially released an e-mail string that consisted of an attorney-client communication in a civil case. The Division exempted from disclosure information about legal advice pursuant to exemption 5 U.S.C. § 552(b)(5) based upon the attorney-client privilege. Disclosing this information would have harmed the operations of the Division. The Division released, however, the names and titles of the individuals sending and receiving the e-mail string because the Division determined that this disclosure would not have harmed the Division. The Tax Division also made a discretionary release in releasing in part a memorandum from the Department's Criminal Division to the Tax Division stating the Criminal Division did not object to the Tax Division's proposal to authorize an application for an order to compel a person's testimony. The Division redacted the names and other identifying information of a taxpayer and/or prospective witness, but was able to segregate and release some other portions of the document.

2. Disclosure Comparisons

The Division's Annual FOIA Reports for FY 2008 and FY 2009 show an increase in the number of requests in which records have been released in full. In FY 2008, the Division released records in full for two requests, and in FY 2009, it released records in full for thirteen requests. Therefore, the Division's full releases in FY 2009 increased by eleven.

The Division's Annual FOIA Reports for FY 2008 and FY 2009 show a slight decrease in the number of requests in which records have been released in part. In FY 2008, the Division

partially released records for nine requests. In FY 2009, the Division partially released records for seven requests. Therefore, the Division's partial releases in FY 2009 decreased by just two, but the overall number of responses disclosing information increased.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The Division's FOIA Unit has consistently had a close working relationship with its IT personnel. At the request of the Division's Counsel for FOIA and PA Matters, IT staff has accompanied the Counsel to conferences held by the Department's Office of Information Policy. Inclusion of the IT staff in such conferences has allowed the Division to: (1) properly post new information on the Division's website for the benefit of requesters; and (2) improve its tracking of requests, which in turn has made its system for responding to them more effective and efficient. For example, the FOIA Unit's database containing all requests for records is set up so that the FOIA staff can print out weekly reports of pending requests, which are provided to the Division's Counsel. The weekly reports show the oldest pending request through the most recent one, which allows the Division Counsel to coordinate the FOIA Unit's workflow. Another example relates to the Division's compliance with the FOIA requirements mandated by the OPEN Government Act of 2007. The Division modified its database so that it was compliant with the statutory requirements of the OPEN Government Act of 2007 many months before the compliance deadline. This accomplishment was possible because the Division's IT personnel are committed to providing support to the FOIA Unit.

III. Steps Taken to Increase Proactive Disclosures

The Division has been increasing the amount of proactive disclosures since the issuance of the new guidelines. In early 2009, for example, the Division posted the American Bar Association's interview of Gilbert Rothenberg, Chief of the Division's Appellate section, and Acting Deputy Assistant Attorney General for Appellate Matters. In early 2010, the Division posted on its electronic FOIA reading room a redacted copy of the log of FOIA requests made to the Division during FY 2009; this version of the log does not contain a column showing the subject of the requests. By late March 2010, the Division will replace the current FOIA log with a version containing the subject of the requests.

The Division is primarily responsible for handling cases and matters pertaining to taxpayers. The Internal Revenue Code prohibits the disclosure of return and information of individuals and entities. The Division, therefore, is restricted from posting information about pending matters and cases. For many years, however, the Division has been posting on its website its press releases about some of the cases it has handled, and its organizational chart along with a detailed description of the Division's responsibilities.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes, the Division's website provides instructions on how to electronically make requests for records, including the direct link to the e-mail address where such requests can be made.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes, the Division uses weekly print outs generated from its FOIA database, and a separate FOIA Unit calendar on Outlook, an electronic calendar with a pop-up reminder feature, to track its processing deadlines.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes, the Division uses: (a) a database to open requester files and record steps taken in processing requests; (b) Outlook, an electronic calendar, to record the deadlines for requesters to perfect their requests and for the Division to issue final determinations of perfected requests; and (c) Redax, an electronic redaction tool the Division uses to withhold information exempt from disclosure.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, the current database generates the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

Historically, the Division's backlog has been either non-existent or negligible. For example, at the end of FY 2008, the Division had one backlogged request, and at the end of FY 2009, it had four backlogged requests. The Division has also reduced the age of its backlog as the oldest request pending at the end of FY 2008 was pending for ninety-one days (dated May 21, 2008) and the oldest request at the end of FY 2009 was pending for eighty-three days (dated June 3, 2009).

2. Backlog Reduction Steps

The negligible increase in backlogged requests, three requests during FY 2009, was due to: (1) an increase in the Division Counsel's litigation duties; and (2) the unexpected extended leave of a FOIA Unit staff member. The Division's FOIA Unit has one paralegal specialist dedicated to processing FOIA requests on a full-time basis. When needed, it has recruited non-FOIA paralegal specialists to assist mainly in searching for responsive records in requests involving voluminous records. During FY 2009 and as recently as February 2010, several non-FOIA paralegal specialists have been trained in processing FOIA requests; they have attended the two-day FOIA training provided by the Department. The Division expects that these paralegal specialists will be able to provide more substantive assistance in the overall processing of requests during FY 2010 as a result of their training. The Division Counsel assigns these non-FOIA paralegal specialists on a request by request basis. The Division hopes that this occasional increase in paralegal personnel will decrease the backlog of four requests pending at the end of FY 2009 to closer to zero at the end of FY 2010.

3. Steps to Improve Timeliness

The Division improved its timeliness in responding to complex requests in FY 2009 even though the Division's Counsel's litigation duties increased, and a member of the FOIA staff was on extended leave. In FY 2008, eighty-seven was the median number of days it took to process complex requests, whereas seventy-five was the median number of days it took to process complex requests in FY 2009. During the last quarter of FY 2009, one of the traditionally non-FOIA paralegal specialists trained to process FOIA requests, was able to substantively assist in reviewing and redacting records of at least one complex request. The Division anticipates that with the increase in the number of paralegal specialists, as described in Part V.2 above, trained to process FOIA requests, it will be able to search, review, and redact responsive records in a more time efficient manner.

UNITED STATES MARSHALS SERVICE

I. Steps Taken to Apply the Presumption of Openness

1. Description

The U.S. Marshals Service (USMS) has publicized President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines through its annual certification to the FOI/PA Liaisons in its districts and also on its FOIA intranet site. USMS FOIA Specialists are making discretionary disclosures in response to requests where FOIA Exemptions arguably apply.

2. Disclosure Comparisons

USMS showed an increase in full disclosures of 16% from FY 2008 to FY 2009, from 322 to 374. Partial grants increased from 449 in FY 2008 to 550 in FY 2009.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

USMS has provided all of its districts with a FOI/PA Liaison Guide which outlines liaisons' responsibilities to respond to search requests in a timely manner. The most current release to the liaisons included the President's Memorandum and the Attorney General's Guidelines in order to emphasize the importance of responding internally within the proscribed five working day time limit upon receipt of a search request from the FOIA staff. USMS tracks the timeliness of its Districts and Division responses to search requests and has increased the use of e-mail reminders and telephone communications to ensure timely responses to deadlines. The USMS FOIA staff works closely with the Information Technology staff to ensure timely posting of newly disclosed records on the USMS internet website.

III. Steps Taken to Increase Proactive Disclosures

USMS has been working to publish documents to its website that it believes would be interesting to requesters regardless of whether it has received requests for such documents. USMS has uploaded several contracts, intergovernmental agreements, and policies without receiving a FOIA request for these records and is preparing its arrest by offense statistics from 2002 to 2009 for posting on the internet. USMS has encouraged its divisions to take steps to post information without a FOIA request. In response to a request from the Division, USMS is preparing the Justice Prisoner and Alien Transportation System manual for disclosure on the USMS website.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. USMS receives requests via fax and e-mail through its published e-mail addresses for the FOIA staff and through the USMS Office of Public Affairs. USMS also responds to requests electronically by sending out the responsive information on CDs and by e-mail.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. USMS uses the Microsoft Access database to track FOIA and Privacy Act requests.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

Yes. Though not required to process electronically, all USMS FOI/PA Specialists have access to Adobe 9.0 Professional which includes the capability to process records electronically.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not Applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. USMS currently uses the Microsoft Access database to prepare the annual report through the use of queries.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

While the USMS backlog increased from three requests in FY 2008 to fifteen requests in FY 2009, the total number of requests increased by seventy-four from 1416 to 1490, including an increase in the number of complex requests received. USMS did have a decrease in FY 2009 in the age of its oldest request. The oldest pending request in FY 2008 was 210 days (received on March 4, 2008) compared to 187 days (received on March 27, 2009) for FY 2009.

2. Backlog Reduction Steps

A major reason for an increase in the backlog is that USMS was short one FOIA Specialist for the last quarter of FY 2009. USMS recently hired another FOIA specialist to fill the vacant position. In addition, USMS experienced an increase in the total number of requests received as well as the total number of complex requests received. USMS will continue to monitor the assignment of complex requests to ensure that the distribution of requests does not negatively effect response times. USMS will continue to use e-mail reminders to ensure timely responses by USMS Districts and Divisions to search requests.

3. Steps to Improve Timeliness

In addition to the steps described above, USMS has requested that responsive records that are not voluminous be scanned and sent electronically whenever possible. USMS is communicating with requesters to describe the nature of the responsive records that exist and provide opportunities to reformulate requests to ensure timely responses.

UNITED STATES PAROLE COMMISSION

I. Steps Taken to Apply the Presumption of Openness

1. Description

The Parole Commission's FOIA Specialist has attended the training sessions held by OIP on President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. That FOIA Specialist in turn provides briefings for agency staff as needed.

The Parole Commission has always strived to provide as much information as possible while keeping privacy interests in mind. In regard to first party requests, the Parole Commission did not need to implement any changes in its policy to comply with the presumption of openness policy. For third party requests, which make up a small portion of FOIA requests received by the Commission, the Commission has been carefully scrutinizing the documents that it may have previously withheld in full, because of the personal nature of the contents, to determine if the document could be released with the personal information redacted. In 2009, the Parole Commission released 185 pages of documents that it would have withheld under the former

policy. These pages were released to third party requesters. In one case, the Parole Commission received fourteen requests from the media pertaining to a single former parolee. The Parole Commission provided each requester with the same documents, which, in total, numbered over 569 pages.

The Parole Commission, which handles its own FOIA appeals, has also applied the presumption of openness in reviewing administrative appeals of its FOIA disclosures. In FY 2009, there were seven cases in which the Commission provided additional disclosure after the requester appealed the Commission's disclosure determination.

The Commission's FOIA section will be providing training to all agency staff on the new guidelines as part of its training on FOIA and the Privacy Act.

2. Disclosure Comparisons

In FY 2009, the Commission had an increase in the number of FOIA responses in which records were released in full or where additional documents were released during the administrative appeal process.

In FY 2008, the Commission granted 408 requests in full and partially granted seventeen requests. In FY 2009, the Commission granted 411 requests in full and partially granted forty requests.

In FY 2008, the Commission partially affirmed/denied three FOIA appeals and reversed zero. In FY 2009, the Commission partially affirmed/denied five FOIA appeals and reversed two. This represents a 45% increase in cases in which an additional disclosure was made on appeal from FY 2008.

II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA Requests

The Commission's FOIA requests are handled by one FOIA Specialist, who depends on other employees in the agency to provide her with the file that is the subject of the request in a timely manner. The FOIA Specialist also works with the agency's IT section, which developed the original FOIA logging and tracking program, and which maintains and modifies the program as needed. The FOIA Specialist also receives guidance from attorneys in the Commission's General Counsel's Office. Where further guidance is needed, the attorney and the FOIA Specialist will contact DOJ's Office of Information Policy for assistance.

The Parole Commission's current system for responding to requests is effective in providing a prompt response to the requester for the majority of the Commission's FOIA requests. In order to ensure sufficient IT support, the agency is considering implementing a new FOIA logging and tracking software program, which may improve the efficiency of the system.

The agency has tried in the last few years to use temporary or part-time employees and students to assist with processing FOIA requests. It is now focusing on hiring a full-time permanent employee.

III. Steps Taken to Increase Proactive Disclosures

In an effort to provide more proactive disclosure, the Parole Commission has recently added links, in the FOIA section of its agency website, to rule changes published in the Federal Register, and to redacted versions of agency decisions. The Commission is continually looking for documents or information that it is able to disseminate through its website to provide the public with information that will help it to understand the agency and its operation.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

Yes. The Commission currently receives FOIA requests by e-mail and is in the process of setting up a dedicated e-mail address for FOIA requests.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not Applicable.

3. Does your agency track requests electronically?

Yes. The Commission uses the “Visual Basis” tracking/logging system.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not Applicable.

5. Does your agency use technology to process requests?

No.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

The documents that are the subject of FOIA requests are hard copies in paper files maintained by the Parole Commission. The Commission is in the process of developing an electronic file system with electronic versions of some files that it maintains. At this time, manual processing of FOIA requests is more efficient than using technology to process requests. Once the virtual file system is

implemented the agency will reconsider the advantages of using technology to process FOIA requests for those files in the electronic file system.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The Commission uses Statistical Analysis Software (SAS) in preparing the Annual Report. A portion of the data is compiled manually and must be put into the report manually.

The agency currently uses a program at the end of the fiscal years which uses the data entered into the logging program to produce data tables for the Annual FOIA Report. The agency is looking into adopting a wholly automatic FOIA logging program that will also produce the Annual Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not Applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

In FY 2008, the Commission had a backlog of ninety-three cases. The oldest case was received on September 7, 2007. In FY 2009, the Commission had a backlog of sixty-three cases. The oldest case was received on April 10, 2008. The Commission reduced its backlog by approximately 32% with the assistance of short-term students and temporary employees.

There was no backlog of administrative appeals in FY 2008 or FY 2009. The median response time on administrative appeals in FY 2008 was 18.5 days and in FY 2009 it was eight days.

2. Backlog Reduction Steps

Not Applicable.

3. Steps to Improve Timeliness

To try to improve the response time on processing FOIA requests within the statutory period, the Parole Commission is in the process of hiring a full-time employee to assist the FOIA Specialist. With additional assistance, the FOIA Specialist will also be able to improve on the response time in the administrative appeal process.