



UNITED STATES DEPARTMENT OF JUSTICE CHIEF FREEDOM OF INFORMATION ACT OFFICER REPORT FOR 2012

On January 21, 2009, President Barack Obama issued a memorandum to the heads of all federal executive Departments and Agencies calling for the Freedom of Information Act (FOIA) to be administered with a “clear presumption: In the face of doubt, openness prevails.” The President called on agencies to take affirmative steps to make information available to the public proactively, without waiting for a FOIA request. He also directed agencies to use modern technology as a means to create a more informed citizenry. The President instructed the Attorney General to issue new guidelines governing the FOIA that would reaffirm the federal government’s commitment to accountability and transparency.

Three years ago, on March 19, 2009, Attorney General Eric Holder issued new FOIA Guidelines implementing the President's policy. In his Guidelines the Attorney General addressed not only the presumption of openness, but also the need for agencies to ensure that they have in place "an effective system for responding to requests." The Attorney General highlighted the key role played by agency Chief FOIA Officers in ensuring that their agencies efficiently and appropriately comply with the FOIA. The Attorney General directed agency Chief FOIA Officers to annually review all aspects of their agency’s FOIA administration and to report to the Department of Justice on the steps taken to improve FOIA operations and facilitate information disclosure.

The Department of Justice itself has prepared a Chief FOIA Officer Report each year since the FOIA Guidelines were issued. This year marks the third time such a report has been prepared. The 2012 Chief FOIA Officer Report for the Department of Justice details the many ways in which the Department’s work to improve the administration of the FOIA continues to build on the efforts undertaken in Fiscal Year (FY) 2009 and 2010. This 2012 Chief FOIA Officer details the Department’s numerous accomplishments in FOIA administration during FY 2011, which included a 26.0% reduction of its initial request backlog and a 41.0% reduction of its administrative appeal backlog. The 2012 Report also details the Department's many efforts to greater utilize technology, to increase proactive disclosures, and to improve government transparency overall.



Decentralized Nature of FOIA Processing at the Department of Justice

At the Department of Justice, the FOIA is administered on a decentralized basis, with thirty-four separate FOIA offices handling the requests made to the various components. The range in the number of requests received by Department components varies widely, from as high as 20,878 at the Executive Office for Immigration Review (EOIR), to as low as ten at the Community Relations Service. The Department has 439 full-time FOIA employees. When you add to that the time spent on FOIA matters for those employees who work part-time on FOIA, the Department has the equivalent of a full-time FOIA staff of 528 employees.

The Office of Information Policy (OIP), which is responsible for promoting compliance with the FOIA both within the Department and across the government, is also responsible for processing FOIA requests on behalf of itself and the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legislative Affairs, Public Affairs, Legal Policy, and Intergovernmental and Public Liaison. The remaining thirty-three Department components are responsible for processing requests received for their own records, based on guidance provided by OIP. The Administrative Appeals Staff of OIP adjudicates administrative appeals of FOIA denials for all Department components, with the exception of the United States Parole Commission.

The following report provides a comprehensive review of the steps taken throughout the Department to continue to implement the President's Memorandum and the Attorney General's Guidelines.

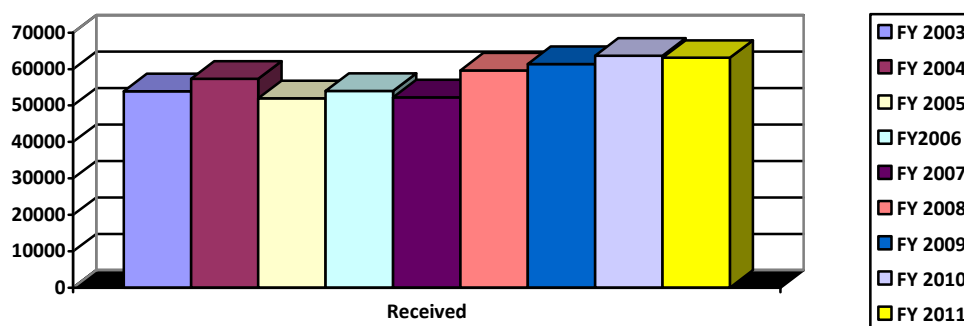
Overview of Fiscal Year 2011

Matched Sustained High Numbers of Incoming Requests

The Department continues to receive a historically high number of FOIA requests. Following FY 2010, in which the Department received its most requests since the operations of the former Immigration and Naturalization Service (INS) were transferred to the Department of Homeland Security in FY 2002, this past fiscal year the Department experienced a nominal 0.9% decrease in the number of incoming requests. Nonetheless, this number reflects the second-most requests received by the Department since FY 2002 and the third consecutive year in which the Department has received at least 61,391 requests. In the three years since President Obama issued his FOIA Memorandum, the Department has received an average of 62,725 requests per year.

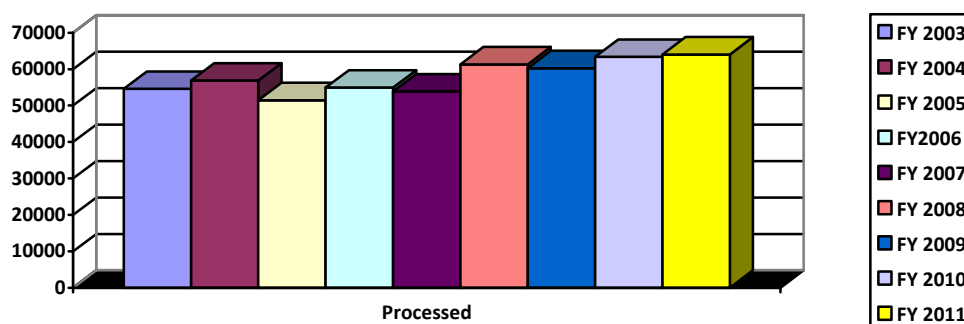


FOIA Requests Received Since FY 2002



In FY 2011, the Department was able to more than match the high number of incoming requests, by processing 63,992 requests, its most since FY 2002 and a 1.0% increase from FY 2010.

FOIA Requests Processed Since FY 2002



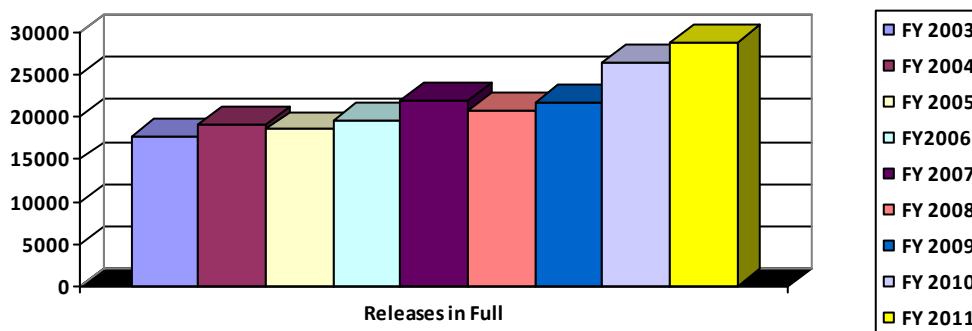
Maintained 94.5% Release Rate for Second Straight Year

Not only did the Department increase the number of requests it processed in FY 2011, but it also achieved a historically high release rate of 94.5% for the second year in a row. In responding to 38,424 requests in which the Department analyzed responsive records for potential release, the Department released information in 36,295 instances. Termed differently, for FY 2011, the Department released information either in full or in part, in 94.5% of requests in which it reviewed responsive records for disclosure. This marks the second year such a high release rate has been achieved.

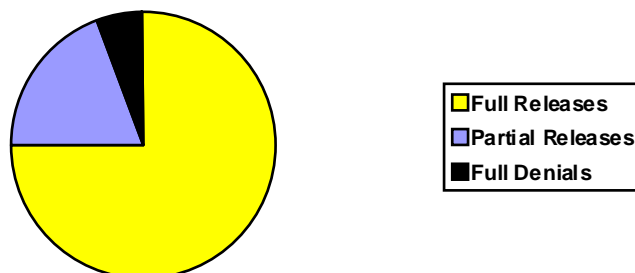
Significantly, in FY 2011 the Department also increased the amount of information it released within those documents. The Department released records in full, without invocation of any FOIA exemptions, 28,719 times in FY 2011. This represents an 8.9% increase over FY 2010 and a 29.3% increase over FY 2009. Couched differently, for 79.1% of the requests for which the Department released information, it released all the responsive information in full, and withheld nothing.



Releases in Full Since FY 2002



Full Releases, Partial Releases, and Full Denials for FY 2011

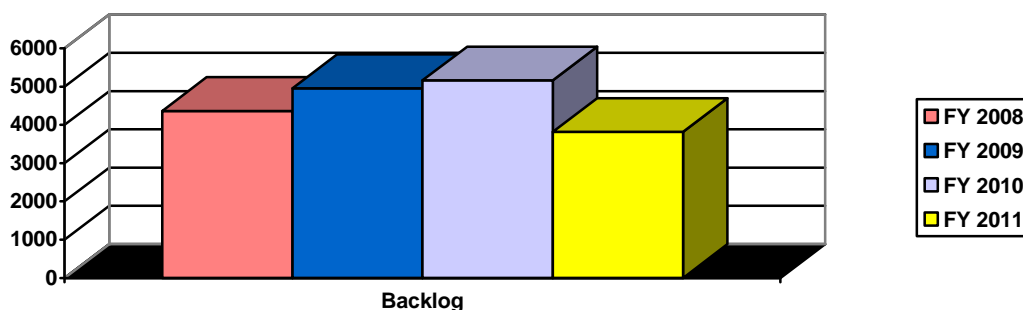


Reduced Backlogs of FOIA Requests and FOIA Administrative Appeals

Coupled with the Department's successes in responding to requests and maintaining a high release rate, the Department achieved a notable reduction in its backlogs both of pending FOIA requests and pending administrative appeals. The Department first required agencies to start reporting backlog statistics as part of the 2008 Guidelines for Preparation of Annual FOIA Reports. For FY 2011, the Department reduced its backlog of pending requests by 26.0%. This level of backlog reduction is unprecedented at the Department and reflects the work done across the components to make improvements in this key area of FOIA administration. Half (seventeen) of the Department's FOIA components ended FY 2011 with a backlog of ten requests or fewer. Nine had no backlog at all. The three Department components with the highest backlogs entering FY 2011 (the Drug Enforcement Administration (DEA), Executive Office for United States Attorneys (EOUSA), and FBI) reduced their backlogs by 25.4%, 34.3%, and 41.4%, respectively.

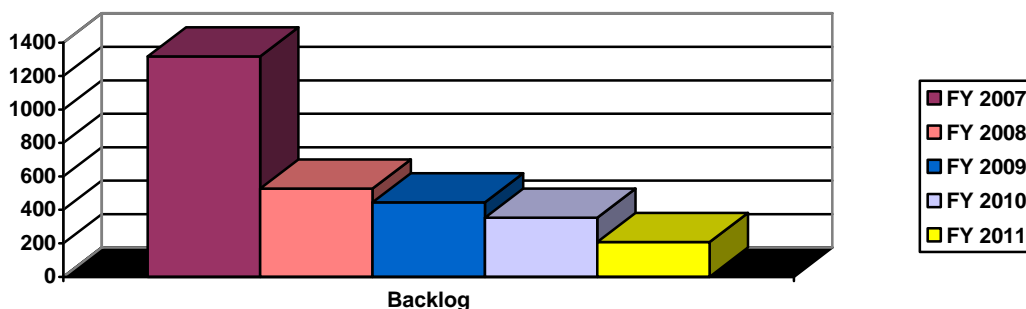


Department Initial Request Backlog since FY 2008



As with initial requests, the Department also reduced its backlog of pending administrative appeals. The Administrative Appeals staff of OIP, which processed 3,362 administrative appeals in FY 2011, adjudicated more appeals than it received. As a result, the Department's administrative appeal backlog has been reduced by 41.0% from FY 2010 and 84.1% from FY 2007. Furthermore, OIP made a concerted effort to reduce the response time taken to adjudicate administrative appeals. As of the end of FY 2011, the age of the oldest appeal had been reduced by 40% and no administrative appeal had been pending with the Department for more than six months.

Department Administrative Appeal Backlog since FY 2007



I. Steps Taken to Apply the Presumption of Openness

Proper application of the President's call for transparency and compliance with the Attorney General's Guidelines begins with dissemination of their directives. As detailed in the FY 2009 and FY 2010 Chief FOIA Officer Reports, the Department has taken extensive steps to distribute both directives and to continually underscore their significance in FOIA administration. Given OIP's leadership role in encouraging compliance with the FOIA across the government and in ensuring that the President's FOIA Memorandum and the Attorney General's FOIA Guidelines are fully implemented, OIP conducts a wide range of activities to educate, train, and guide employees at all agencies. The FOIA directives from the President and the Attorney General are an integral part of OIP's many training programs, and have been the subject of OIP policy guidance. Moreover, the directives have been incorporated into the processing of FOIA requests throughout the Department.



OIP provided lectures as part of forty-seven different training programs on the FOIA held during 2011, reaching thousands of agency employees, including the Department's own FOIA professionals. These sessions covered a wide range of FOIA-related topics, including general overviews of the FOIA and its provisions, as well as more focused sessions addressing specific FOIA-related topics, such as training on the impact of a significant Supreme Court decision, and a new offering called a FOIA Fee Summit, which comprehensively covered the FOIA's fee and fee waiver provisions. The various elements of the Attorney General's FOIA Guidelines were a point of emphasis at all of these training sessions. OIP makes available on its website a selection of [training materials](#) to further assist agencies in conducting their own training.

Moreover, during this past year, OIP held two FOIA Conferences specifically for Department of Justice FOIA professionals. At these sessions, OIP gave particularized focus to issues affecting the Department's own FOIA processing, and for example, focused on the importance of closing the ten oldest requests each year.

The Department's components have further distributed the President's Memorandum and the Attorney General's Guidelines throughout their respective offices, both within their local offices and those in the field. In doing so, the Department has effectively disseminated the call to openness throughout not only its FOIA staff, but also to its personnel throughout the Department, in keeping with the Attorney General's statement that the "responsibility for effective FOIA administration belongs to all of us – it is not merely a task assigned to the agency's FOIA staff."

Within his Guidelines, the Attorney General strongly encouraged agencies to make discretionary disclosures of information even when the information might be technically exempt from disclosure. These discretionary disclosures comply with President Obama's call for agencies not to withhold information based on "speculative or abstract fears" and have become an integral part of applying the presumption of openness.

In FY 2011, twenty-nine Department components reported that they had made discretionary disclosures. In all, the Department released information that could have been otherwise protected under Exemptions 5, 7(D), or 7(E). The discretionary disclosure of certain law enforcement information otherwise protected by Exemption 7 was made in response to requests seeking historical law enforcement records, where the Department elected to make a discretionary disclosure to further the public's access to such records, in keeping with the Attorney General's FOIA Guidelines. Exemption 5 material holds the most promise for discretionary release and components routinely focus on such material in an effort to make discretionary disclosures. When material is reviewed, opportunities for discretionary disclosure are identified and a foreseeable harm analysis is undertaken. Discretionary releases were made of information that otherwise would have been protected by the deliberative process or attorney work-product privileges.



As discussed above, the Department increased the numbers of responses to requests where records were released in full. While there was a decrease in the number of partial releases, that decrease was more than offset by the increase in full releases. Indeed, the Department released records in their entireties for 79.1% of all requests where records were processed for release.

All of these efforts to implement the presumption of openness throughout the Department have shown demonstrable success. The Department established a 94.5% release rate and increased the instances in which records were released in full. The Department's high release rate illustrates concretely that the presumption of openness is an integral part of the FOIA processing decisions made at the Department of Justice.

II. Steps Taken to Ensure that the Department Has an Effective System for Responding to FOIA Requests

Information Technology Support, Staffing, and Additional Measures Taken To Ensure an Effective FOIA System

Given the sustained high level of incoming initial requests received by the Department over the past three years, the Department continues to update and improve its systems for responding to requests and to look for ways to greater utilize technology to achieve efficiencies. Part of this process is ensuring that the Department's components have sufficient information technology (IT) support. To this end, the components have maintained strong working relationships with their respective IT support staffs, and, across the Department, components report working closely with their IT support staff, engaging in frequent communication with them, and having excellent rapport.

All components report that they conduct periodic evaluations of their FOIA systems and workload to ensure adequate staffing. This includes monitoring the complexity and number of requests, the time taken to process requests, and the appropriate use of personnel based on specialized skills. Some components indicate an increase in personnel or re-allocation of staff in support of FOIA processing. Other components report discussing staffing needs with their senior leadership and making efforts to fill outstanding vacancies. These are challenging fiscal times, but as the historic reductions in both the backlogs for initial requests and administrative appeals demonstrate, the Department is doing more with less.

In part, this is the result of the efforts of the Department's components to analyze their own processing systems to make them more effective and efficient. For example, both the Federal Bureau of Prisons (BOP) and OIP have undertaken a comprehensive review of the process by which FOIA requests move through the processing system, looking for strengths and weaknesses as well as redundancies. The Office of the Federal Detention Trustee (OFDT) improved efficiency by establishing an agreement with other federal agencies to promptly provide information to requesters by directing them to websites where the information is publicly available.



Conducting an adequate search is often the most time-consuming portion of responding to FOIA requests. Several components have revamped their search processes, creating more effective and efficient search protocols to locate responsive records. DEA, EOUSA, and EOIR regularly communicate with the staff in their respective field offices to ensure that searches for responsive records are completed in a timely and accurate manner.

Many components report frequently communicating with requesters via e-mail, telephone, or fax to discuss the scope of their requests. These more efficient means of communication not only provide the requester with a ready point of contact within the component, but they also facilitate discussion with the requester to allow for better identification of precisely the type of information they are seeking, which ultimately can speed the processing of the request.

In its role as the guidance authority for all government agencies OIP recently issued [guidance](#) concerning the proper handling of referrals and consultations. The guidance is intended to promote better customer service, improve efficiencies, and facilitate the tracking of referred documents. For example, under this new guidance, agencies are now required to provide additional information to requesters throughout the referral process to provide greater transparency and to ensure that requesters always have a point of contact for any questions they may have. Through this guidance, OIP took steps to improve the process across the government for the overall benefit of FOIA administration, in accordance with the Attorney General's FOIA Guidelines.

Active Engagement of Chief FOIA Officer and Coordination with Open Government Team

The Associate Attorney General serves as the Department's Chief FOIA Officer. He is the most senior Chief FOIA Officer in the government and from the start has been very actively engaged in improving FOIA, not just at the Department, but across the government as well. Significantly, the Associate Attorney General has met regularly with the Chief FOIA Officers from the cabinet agencies. He has also engaged with the FOIA professionals at the Department, demonstrating his commitment to providing his support and affording high-level visibility to the administration of the law.

The Open Government Directive, which addresses the three key principles of transparency, collaboration, and participation that drive open government, directed agencies to develop Open Government Plans. In working on those plans agencies designated open government teams. At the Department of Justice, the Director of OIP, who is responsible for managing the Department's FOIA operations, is also a member of the Department's Open Government Team. This has ensured a seamless integration of FOIA initiatives with open government initiatives.

As Open Government efforts enter a new phase, the [National Action Plan](#) emphasizes the important role the FOIA plays in ensuring an informed and active citizenry. The National Action Plan highlights the use of technology to achieve greater



efficiencies in FOIA administration. The Department's efforts in support of this initiative are more fully described below.

III. Steps Taken to Increase Proactive Disclosures

The President's FOIA Memorandum and the Attorney General's FOIA Guidelines recognize that increasing transparency requires more than improvements to an agency's FOIA process. Open government also requires agencies to make proactive disclosures of records of interest to the public in advance of receiving a FOIA request. The Department has continued to make great strides in this area.

New Capabilities and Functionality Added to FOIA.Gov

Launched during Sunshine Week a year ago, FOIA.Gov is the Department's Flagship Initiative under the Open Government Plan. FOIA.Gov is a constantly evolving website designed to promote an open and transparent government. FOIA.Gov provides the public with a comprehensive source of information concerning the FOIA, from educational resources on how the FOIA works, to agency FOIA contact information to assist in making requests, to detailed data on FOIA compliance contained in the Annual FOIA Reports. By accessing FOIA.Gov the public has a ready resource for obtaining any information it needs about the FOIA.

FOIA.Gov allows the public to easily track information on FOIA compliance across the government and from year to year. The Department has been uploading to the site the most recent Annual FOIA Report data for all agencies. The data is presented graphically, in an open format so it is easily analyzed, allowing for comparison between agencies and over time. During this past year, the Department added the ability to create advanced reports comparing all agency data, expanded the glossary, updated the contacts, and added new fields to the "Advanced Reports" section. FOIA.Gov also highlights significant FOIA releases made by federal agencies. Over thirty document releases or open government initiatives have been featured in the FOIA Spotlight to date.

The Department has made three significant new improvements to the site this year to greatly improve its capabilities. First, a new search feature, the "[Find](#)" tab, has been added to the site, allowing a member of the public to enter search terms and search across all agency websites to locate publicly available information on a given topic. As agencies make more proactive disclosures and post information on their websites, FOIA.Gov's find function will allow the public to readily access that material. By using the find function to locate material on the topics of interest to them, potential FOIA requesters might find that what they are looking for is already publicly available. This could obviate the need to make a FOIA request in the first instance, or it could make it easier to more precisely target what is needed. Moreover, because FOIA.Gov will search across all government websites, using this feature before making a request will provide the public with useful information as to which agencies already have posted data on a given topic.



Second, as agencies continue to make technological improvements to their FOIA programs, more agencies are offering requesters the option of submitting their request online. Currently, there are 111 offices which offer online request forms. As part of the Department's continuing efforts to improve the capabilities of FOIA.Gov, the Department has added hyperlinks on FOIA.Gov to all these online request forms. As a result, when a member of the public is on FOIA.Gov and decides to make a request to an agency that provides an online request form, with just one click the request can be made directly from FOIA.Gov.

Finally, in keeping with the Department's commitment to making government more transparent and more accessible, FOIA.Gov now offers select content in English and Spanish. Individuals with limited English proficiency can now access the Spanish translations for the "What is a FOIA?" and "Learn" sections of FOIA.Gov. This new feature of FOIA.Gov enables more people to find information they can use to learn more about the operations of the government.

New Material Added to the Department's Websites

The Department further embraces the ideals of transparency and openness by regularly posting new material to its website. For example, the JMD Library Staff has completed the digitization and posting of thousands of Attorney General Speeches to the Department's website. Five new digitized Congressional Legislative Histories, including the history of the FOIA, are now available to the public.

Additionally, almost every component of the Department added new information to its individual website. The Office of Justice Programs, Community Oriented Policing Services, and Office on Violence Against Women have added information about their grant funding activities, including successful grant applications. OIP regularly updates its website through the FOIA Post, which features FOIA guidance, summaries of recent court decisions, report data, and training topics and schedules. Additionally, OIP is the first component to provide Spanish translations of key content on its website. DEA continues to update the System to Retrieve Information from Drug Evidence (STRIDE), which is a database of drug exhibits sent to DEA laboratories for analysis. The Antitrust Division launched a new "International Program" area on its Website, consolidating existing international content and adding an Antitrust International Program update. Each month EOUSA posts national caseload statistical data. The FBI unveiled its new FOIA Library, *The Vault*, which contains more than 3,000 documents that have been scanned from paper into digital copies. Finally, the National Security Division launched [FARA.Gov](#), which makes available to the public documents filed under the Foreign Agents Registration Act. FARA.Gov allows the public to search through and view records pertaining to the relationships, activities, receipts, and disbursements of individuals acting as agents of foreign principals in a political or quasi-political capacity.

The Department's components have established effective systems to identify and provide information that would be appropriate for proactive disclosure. The Civil Rights Division has dedicated one staff member to reviewing both current matters and closed



records for possible proactive disclosure. The Office of the Solicitor General typically posts briefs within twenty-four hours of their filing. For exceptionally high profile cases, these briefs are posted the same day as their filing.

These proactive disclosures have exponentially increased the amount of information made available to the public by the Department. Although, as stated above, this has not resulted in a decrease in the number of requests submitted to the Department, these disclosures have created a more informed citizenry, which is an essential goal behind the FOIA.

Making Information More Useful to the Public

In addition to posting new material on our website, the Department has worked to ensure that the material that is posted is useful to the public. For example, BOP is developing a simpler, more user-friendly template for its institutional websites. Several components have enhanced the search features on their websites by adding a word search tool, providing the capability to search within documents posted to their website, or making the posted databases searchable. The Office of the Solicitor General not only provides access to its briefs, but also offers the ability to search for older briefs. When the Annual FOIA Report data is published on FOIA.Gov, it is offered in an open format. In addition, the FOIA.Gov website allows the public to download entire datasets to facilitate their usability. The Department also gathers feedback from the public on the availability and use of information posted to the websites through surveys. Through all these methods, the Department is both adding information to its website and enhancing the usability of what is posted.

IV. Steps Taken to Greater Utilize Technology

The Department continues to explore new technologies that can assist in the administration of the FOIA. Utilizing technology to receive and track requests, redact documents, conduct consultations, and assist in the preparation of the Annual FOIA Report all have potential to significantly enhance the efficiency of the FOIA process.

Electronic Receipt of Requests

As reported last year, all Department components have the ability to receive requests by dedicated e-mail accounts. Electronic receipt of requests offers the public an easy and more efficient alternative to the traditional method of mailing a request. E-mail submissions also have the benefit of providing an easy method for components to communicate with requesters to address any issues that may arise during the processing of a request. In addition, BOP and OFDT have established an online request form that allows for the making of a request online.



Online Tracking of FOIA Requests

Providing requesters with the ability to track their requests online is yet another use of technology that can greatly improve the FOIA process. The FBI, has added a tool to its FOIA website to allow online tracking. On that site, the FBI now offers a feature called "[Check the Status of Your FOI/PA Request.](#)" This service, which is updated weekly, allows the public to obtain current information on the status of their FOIA requests by simply inputting the administrative tracking number provided by the FBI.

OIP's Online Portal to Make and Track Requests and Appeals

As part of the Department's ongoing efforts to harness the power of technology to improve the FOIA process, OIP is launching a groundbreaking new initiative for the Department. OIP has developed a new online request portal which can be used to make requests for the records of the Department's Senior Leadership Offices, including the Offices of the Attorney General, Deputy Attorney General, and Associate Attorney General. Through OIP's online portal, requesters will have the ability to establish their own secure online accounts. They can then use these accounts to submit their FOIA requests online to OIP for records of the Senior Leadership Offices. OIP, in turn, will communicate with the requesters through their online accounts. In addition, the requesters will be able to check the status of any of their requests online, at any time. Upon completion of processing, OIP will send its determination on the request, as well as the responsive documents, to the requesters through their online accounts. The public will also be able to use OIP's new portal to submit and track administrative appeals online. As with requests, the determination on the appeal will be communicated to the appellant through their online account. This new functionality being offered by OIP is a significant improvement in FOIA administration.

Use of Technology to Facilitate Processing of Requests

OIP is leading the effort to maximize the ability of federal agencies to take advantage of technology to streamline the FOIA process and improve the online availability of information. OIP convened a FOIA Technology Working Group to provide a forum for interested agencies to exchange ideas and experiences in utilizing technology to improve the administration of the FOIA. The Group has engaged in discussions about the tools and applications available to assist with FOIA processing, including technology to aid in the search and review of documents, shared platforms that allow for simultaneous review and comment on documents, and electronic capabilities that automatically identify duplicative material. These sessions have been attended by representatives from the Departments of Commerce, Defense, Education, Justice, Homeland Security, Labor, State, Transportation, Treasury, and Veterans Affairs, as well as, the United States Environmental Protection Agency, Equal Employment Opportunity Commission, Federal Reserve Bank, and the National Archives and Records Administration.



Several Department components, including OIP, have begun to utilize commercial off-the-shelf document management software used in the litigation context to respond to discovery requests. These components have used this software to more efficiently process large volumes of responsive material. For example, the Bureau of Alcohol, Tobacco, Firearms and Explosives used e-discovery tools to improve its search capabilities and reduce the time needed to review large electronic files. The Civil Rights Division has used software to search and "de-duplicate" large volumes of records. The technology used by the Environment and Natural Resources Division allows for simultaneous review and versatility when sorting through voluminous records.

The advantages seen by automating these processes are clearly evident. Conducting an adequate search for responsive records often involves the review of both paper and electronic records originating with multiple Department staff members. In turn, these searches can locate hundreds, if not thousands, of pages of material that need to be reviewed for both responsiveness and duplication before a FOIA disclosure analysis can be conducted. Employing electronic systems that can consolidate and perform some of these necessary administrative tasks allows the Department's FOIA staff to focus their efforts on reviewing responsive material for disclosure. The Department will continue to develop its capabilities in this use of technology with the goal of helping all agencies employ similar tools for the overall benefit of FOIA administration.

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

Reduction of Both Initial Request and Administrative Appeal Backlogs

As described above, the Department achieved both a 26.0% reduction of its initial request backlog and a 41.0% reduction of its administrative appeal backlog. These numbers represent the lowest backlog figures since backlog tracking began in 2008.

Backlog reduction involves reducing both the number of backlogged requests and appeals, as well as reducing the age of the oldest of those requests and appeals. To that end, the Department has also focused on reducing the age of its oldest requests and ensuring that such requests are closed promptly.

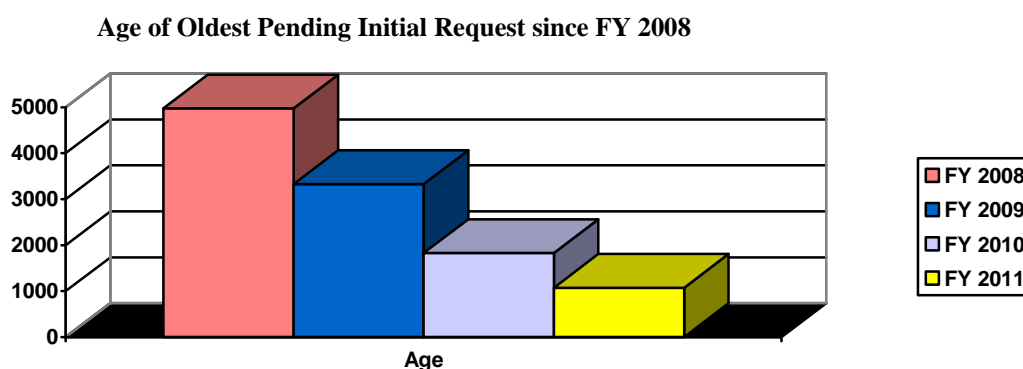
For the fourth consecutive year, the Department has closed its ten oldest pending requests and administrative appeals.¹ In doing so, the Department has reduced the age of its oldest pending request from 4,978 days in FY 2008 to 1,071 for FY 2011 and the age of its oldest administrative appeal from 249 days to 149.

¹ The Department of Justice first required agencies to identify the dates of their ten oldest pending request in FY 2007. Starting with FY 2008, in addition to the dates, agencies were also required to report the number of days that each of the ten oldest requests had been pending.



Individually, twenty-nine components were able to close their ten oldest pending requests². OIP closed the ten oldest requests for all eight offices for which it processes requests, totaling seventy-three distinct “ten oldest” requests.³ DEA closed its ten oldest requests and reduced the age of its oldest request by 880 days. EOUSA not only reduced the age of their oldest request by 758 days but also closed its 142-oldest pending requests.

The Department has taken an aggressive stance in addressing its oldest requests in FY 2012. As of the submission of this Report, the Department has already closed five of its ten oldest pending requests and eleven of its oldest twenty. Seven components have already closed all of their “ten oldest” pending requests for FY 2012, and DEA and BOP have each closed eight of their respective ten oldest. OIP, on behalf of the senior leadership offices, has already closed over half of the “ten oldest” requests for its client offices.



Improving Timeliness

Improving the Department’s ability to provide timely responses to all FOIA requests is another important aspect of implementing the Attorney General’s Guidelines. As detailed above, the Department continues to make efforts to greater utilize technology to reduce the amount of time required to process requests. All Department components receive requests via dedicated e-mail accounts, removing completely the time required for postal mail to be processed through the Department’s mail room. Components also routinely establish goals and monitor the progress of their FOIA processing. The majority of components utilize a multiple-track processing system, thereby ensuring that “simple” requests are processed in a separate queue from complex requests.

In FY 2011, the Department responded to “simple” requests in an average of 24.94 days. Twenty components were able to respond to such requests in fewer than twenty days on average. Eight components did so in fewer than ten days on average.

² As an additional five components had no pending requests at the beginning of FY 2011, they did not have any pending requests to close.

³ The Office of Intergovernmental and Public Liaison has only three pending requests at the beginning of FY 2011.



Moreover, it is often necessary for components to conduct consultations to ensure that the views of all equity holders are taken into account. This process can involve a single component reviewing thousands of pages or multiple components reviewing a single document. Therefore, it is paramount that components respond to consultations promptly to allow the component in receipt of the initial request to respond to the requester. Furthermore, components must coordinate their efforts to ensure consistency in their processing to avoid delays caused by conflicting recommendations.

At the end of FY 2011, only seven Department components had consultations pending within their office. Because of its role of processing requests for the senior leadership offices, OIP often receives consultations from other Department components. OIP put an emphasis on providing prompt responses to consultations, and, as a result, had no pending consultations at the end of FY 2011.

In an effort to improve the efficiency of the consultation process, OIP is researching new technologies that will allow for simultaneous review of material by multiple components and agencies. This shared database will place documents on a shared site, where FOIA personnel can both provide their comments and review the analysis of others.

Use of Law Enforcement Exclusions

In amending the FOIA in 1986, Congress created three law enforcement exclusions, which authorize agencies under certain exceptional circumstances, to “treat the records as not subject to the requirements of [the FOIA].”

For FY 2011, the Department invoked an exclusion in response to 147 requests, which is 0.2% of all requests processed.

Spotlight on Success

The Department continues to lead by example in its administration of the FOIA, having achieved significant accomplishments during FY 2011. Despite three straight years of receiving record high numbers of FOIA requests - over 60,000 requests for each of the past three years - the Department processed a record number of those requests. In doing so, the Department released records in full or in part for 94.5% of requests involving responsive records, which marks the second straight year the Department has achieved such a high release rate. Even more significantly, the Department increased the number of responses to requests where records were released without excision.

In addition to processing a record number of requests and releasing more information, the Department also realized its goal of reducing both its backlog of pending initial requests and administrative appeals. The backlog for initial requests was reduced significantly, by a full 26.0%, which is two and a half times over the targeted reduction of 10% suggested by the Open Government Directive. An even more significant reduction was achieved for pending administrative appeals, with the Department reducing that



backlog by a full 41.0%. In addition, the Department not only closed its ten oldest pending requests from the previous fiscal year, but it reduced the age of its oldest pending request by 758 days.

The Department has also continued to make improvements to FOIA.Gov, its flagship initiative from FY 2010. FOIA.Gov serves as a vital resource for the public, making available a wide range of information about the activities of the government and the administration of the FOIA. The Department added a powerful new search tool to FOIA.Gov that allows the public to search for records across all agency websites. By using this search tool, a member of the public can access all publicly available information on a given topic that is available on any government website. By using this tool the potential FOIA requester might find that the information they are interested in is already available to the public without the need to make a FOIA request.

Yet another improvement made to FOIA.Gov is the inclusion of hyperlinks to agency online request forms. Once an individual has decided to make a FOIA request, for any agency using an online request form, FOIA.Gov now allows the requester to access the agency's request form directly through FOIA.Gov. As agencies add online request capability, the Department will add new links to FOIA.Gov, increasing its usability for the public.

In yet another significant development, OIP is launching an online portal that not only allows for the making of requests and appeals online, but also allows for the creation of individual user accounts so that requesters can track online the status of any of their requests or appeals made to OIP, at any time of the day or night. OIP will use the online accounts to provide its determination and the responsive documents to the requester. This online request and appeal portal holds the potential to increase efficiency, improve communication, and facilitate disclosure of responsive records, all in keeping with the goals of the President's and Attorney General's FOIA Memoranda.