



National Security Division
US Department of Justice
Chief FOIA Officer Report
2011

3/8/2011

I. Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

1. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

The National Security Division (NSD) has conducted a series of managers meetings on the FOIA and how the Act is applied to NSD records in response to the President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines.

b. What training has been attended and/or conducted on the new FOIA Guidelines?

We continue to hold annual FOIA training sessions for staff of all six NSD components where we discuss the President's Memorandum and the Attorney General's Guidelines. FOIA training is required annually for all NSD staff to keep personnel abreast of the current updates in FOIA.

c. How has your agency created or modified your internal guidance to reflect the presumption of openness?

The Assistant Attorney General for National Security determined the Division would benefit from the creation of a unit dedicated to developing and executing a new, division-wide approach to FOIA.

d. To what extent has your agency made discretionary releases of otherwise exempt information?

The NSD FOIA Unit continues to reprocess 26,577 pages of records collected in response to a FOIA request. These documents were originally withheld under exemption b(5) in our initially processing of the records. Our review of these records may lead to a discretionary release of information that had been withheld. We also reprocessed an appealed request and released some

information.

e. What exemptions would have covered the information that was released as a matter of discretion?

Not applicable.

f. How does your agency review records to determine whether discretionary releases are possible?

NSD examines records of closed high profile cases, records of NSD leadership, and declassified documents, to determine if documents can be made publicly available.

g. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Not applicable

2. Report the extent to which the numbers of requests where records have been released in full and the numbers of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.

In Fiscal Year (FY) 2009, the NSD FOIA unit reported twenty-one requests that were granted in full and fifteen requests that were partially granted. For FY 2010, we reported thirty-seven requests granted in full and fifty-three partial grants.

II. Steps Taken to Ensure that Your Agency has an Effective System In Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open Government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in

responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

a. Do FOIA professionals within your agency have sufficient IT support?

The NSD FOIA unit continues to work diligently with NSD/IT regarding our current FOIA database and the process required to replace the database. Through this IT support we hope to create a system that will enhance our ability to track and process FOIA requests, and allow the entire unit to access the database.

b. Describe how your agency's FOIA professionals interact with your Open Government Team.

The NSD FOIA unit holds bi-weekly briefings for senior NSD management to inform them of the status of current and outstanding FOIA requests, and to address any other pressing FOIA issues, such as litigation cases.

c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

In FY 2010, we hired a new FOIA and Privacy Act Specialist.

d. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

We have a FOIA e-mail address that allows requesters to communicate with the NSD FOIA unit. The FOIA unit communicates with requesters via fax when requested. A FOIA routing email address is in place for routing misdirected requests within the Department.

III. Steps Taken To Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines. In doing so, answer the questions listed below and describe any additional steps taken by your agency to make proactive disclosures of information.

a. Has your agency added new material to your agency website since last year?

Yes, our agency has added new material to our NSD FOIA website.

b. What types of records have been posted?

Documents that are relevant include records on the "Pam Am flight 103 bombing" and "The Hanssen case".

c. Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.

NSD has not posted any documents that have not derived from FOIA requests or Referrals.

d. What system do you have in place to routinely identify records that are appropriate for posting?

We internally identify cases that are historically significant or of high public interest and designate them for posting on the public website.

e. How do you utilize social media in disseminating information?

The FOIA unit does not use social media.

f. Describe any other steps taken to increase proactive disclosures at your agency.

NSD is diligently working with our Records Management Officer to identify historical record for possible discretionary release on the NSD FOIA reading room.

IV. Steps Taken To Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 agencies reported widespread use of technology in handling FOIA requests. For this section of your Chief FOIA Officer Report for 2011, please answer the following more targeted questions:

1. Electronic receipt of FOIA requests:

- a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?**

All.

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?**

Not Applicable.

- c. What methods does your agency use to receive requests electronically?**

Microsoft Outlook Email and Fax.

2. Electronic tracking of FOIA requests:

- a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?**

All.

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?**

Not Applicable.

- c. What methods does your agency use to track requests electronically?**

Microsoft Access Database.

3. Electronic processing of FOIA requests:

- a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?**

All.

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?**

Not Applicable.

- c. What methods does your agency use to process requests electronically?**

Adobe Acrobat 9 Redax Software.

- 4. Electronic preparation of your Annual FOIA Report:**
- a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.**

The NSD FOIA unit uses a generic Microsoft Access database and Microsoft Excel to prepare our agency Annual FOIA Report.

- b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.**

We are working with NSD Procurement, IT and JMD Procurement to update our FOIA case tracking system.

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

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs are both ongoing agency efforts. The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. Section XII of your Annual FOIA Report includes figures that show your agency's backlog of pending requests and administrative appeals for the past two fiscal years. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In this section you should address the following elements.

1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year. Second, report whether your agency closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them your agency did close.

1. The NSD FOIA unit has a backlog that has decreased. At the end of FY 2010 we reported a backlog of 46 requests. As of February 1, 2010, NSD has a total of 40 pending requests. The high volume of requests received has also remained, as NSD FOIA has received ninety-six new requests since the beginning of FY 2011, an increase of more than 40% over FY 2010. Our backlog has decreased by 6 requests since September 30, 2010.

2. In FY 2009, our oldest request was dated April 10, 2007; and in FY 2010 that our oldest request was dated October 23, 2007. We closed, in FY 2010, seven of our ten oldest requests that were reported in FY 2009.

2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred. In doing so, answer the following questions and then include any other additional explanation:

a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?

Not Applicable.

b. Is the backlog increase caused by a loss of staff?

Not Applicable.

c. Is the backlog increase caused by an increase in the complexity of the requests received?

Not Applicable.

d. What other causes, if any, contributed to the increase in backlog?

Not Applicable.

3. Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so answer the following questions and then also include any other steps being taken to improve timeliness.

a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes, our goal is to have no cases in a pending status past the 20 day time limit. We monitor this process by conducting weekly reports on cases that are pending search results and processing.

b. Has your agency increased its FOIA staffing?

Yes, we hired a new FOIA and Privacy Act Specialist in FY 2010.

c. Has your agency made IT improvements to increase timeliness?

The NSD FOIA unit continues to work with NSD/IT regarding our existing FOIA database and acquiring a new database.

d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

Yes.

Spotlight on Success

Out of all the activities undertaken by your agency in this last year to increase transparency, describe here one success story that you would like to highlight as emblematic of your efforts.

We have dramatically reduced our pending FOIA case load. As of October 1, 2009, we had 148 pending requests and we received 196 new requests during FY 2010. As of October 1, 2010, we had 46 pending cases. We have conducted FOIA training for every component of the NSD and for incoming attorneys during the new attorney training sessions.