



**U.S. DEPARTMENT OF STATE**

***FREEDOM OF INFORMATION ACT***

***ANNUAL REPORT***

***FISCAL YEAR 2008***

## **I. BASIC INFORMATION REGARDING REPORT**

1. Questions about this report may be addressed to:

Margaret P. Grafeld  
Director, Office of Information Programs and Services  
A/ISS/IPS, SA-2, Room 5073  
U.S. Department of State  
Washington, D.C. 20522-8100

Telephone: (202) 261-8300

Fax: (202) 261-8590

2. This report is available on our web site at <http://www.foia.state.gov>.
3. Paper copies may be requested by contacting A/ISS/IPS at the above address.

## **II. MAKING A FOIA REQUEST**

1. FOIA requests to the Department must be in writing. Requests may be submitted in any one of the following ways:

- by mail to the Office of Information Programs and Services (“IPS”) at the address provided at the end of this section; **or**
- by fax to (202) 261-8579; **or**
- on-line at our web site: <http://www.foia.state.gov>

Requests should describe the records sought as precisely as possible and include details such as a specific topic, a time frame for the records’ creation, and (if applicable) the overseas post or office where they were created or received. The more specific the request, the more quickly it can be processed and the greater the likelihood that responsive records (if any exist) can be located. Requests concerning individuals should include the individuals’ complete names, dates and places of birth, and citizenship status (if known). A request for records about oneself must include reasonable verification of identity (see 22 C.F.R. § 171.32). A request for records about an individual other than the requester should include a properly executed authorization from the subject individual (see 22 C.F.R. § 171.12) or evidence of the individual’s death, as appropriate, in order to gain the greatest access to those records. If such documentation cannot be provided, the request should indicate that fact. The request should also indicate the requester’s willingness to pay applicable fees, or provide appropriate justification to support a fee waiver.

If mailing or faxing a request, the envelope or subject line of the fax coversheet should be clearly labeled with: “Freedom of Information Act Request.” Very importantly, requests should include a daytime telephone number or email address where we can reach the requester to resolve any deficiencies in the request.

Many requests may also be made on-line at the Department’s FOIA website (<http://www.foia.state.gov>). This site contains an electronic request form, and helpful tips to assist requesters in formulating their requests.

We can only process requests that comply with our published regulations. Those regulations are available at 22 C.F.R. Part 171. A request is not perfected, for example, when it does not contain enough information to permit us to locate the requested records, when it does not conform with Department regulations regarding confirmation of identity, or it does not contain either an agreement to pay applicable fees or a justification to support a fee waiver.

Whenever possible, we will contact the requester by telephone or email to obtain whatever additional information is needed to validate a request. If we cannot reach the requester within a reasonable amount of time, we will send a letter to the requester explaining what is needed and asking the requester to resubmit the request with the additional information.

We make every attempt to promptly advise the requester of the date of receipt, the case number assigned to the request, and whether or not the records sought are under the Department's control.

If information is withheld, the requester will be notified of the approximate amount of information withheld, the basis for the withholding, and how to appeal. For more information about making a FOIA request, you may visit our web site at <http://www.foia.state.gov>. You may also contact the Department's FOIA office by calling (202) 261-8484, or writing to the following address:

Information and Privacy Coordinator  
Office of Information Programs and Services  
A/ISS/IPS, SA-2  
Department of State  
Washington, D.C. 20522-8100

The Office of Inspector General (OIG) is a separate component within the Department State. The OIG responds to requests for records that are exclusively OIG-related, i.e. inspections, audits, or investigations.

FOIA requests for OIG records must be made in writing either by mail, fax or email as follows:

FOIA Office  
U.S. Department of State  
Office of Inspector General  
Office of General Counsel  
Washington, DC 20522-0308  
ATTN: Zipora Bullard  
Fax: (202) 663-0390  
Phone: (202) 663-0383  
E-mail: [oigfoia@state.gov](mailto:oigfoia@state.gov)

2. The Department of State is responsible for formulating and executing U.S. foreign policy and primarily maintains records dealing with U.S. foreign relations. The Department also maintains records of applications from U.S. citizens for U.S. passports, and visa requests from non-citizens abroad, and records of its own employees, as well as other types of documents. Because of the nature and scope of the Department's record holdings, including a large volume of classified records, we utilize the full range of exemptions when reviewing information for release. The exemptions most often relied upon to withhold information are shown in table V.B.3.

### III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

#### 1. Agency-Specific Terms

- a. A/ISS/IPS – Bureau of Administration (A), Deputy Assistant Secretary for Information Sharing Services (ISS), Office of Information Programs and Services (IPS).
- b. OIG – Office of Inspector General

#### 2. Basic Terms

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation\*** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.  
  
\*NOTE: Because of the manner in which the Department processes requests, it cannot separate requests that have been referred from another agency for processing and direct response to the requester from those that have been referred for consultation only. Therefore, this report includes requests that fall into both categories.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request\*** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or

concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

\* NOTE: this report includes all Privacy Act requests as well as FOIA requests. Because of the way the Department processes requests, separating out Privacy Act requests that do not also involve the FOIA in responding to the requester would not be possible at this time.

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
  - i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
  - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
  - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.

- l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
- p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
- q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Concise descriptions of the nine FOIA exemptions:
  - a. **Exemption 1:** classified national defense and foreign relations information
  - b. **Exemption 2:** internal agency rules and practices
  - c. **Exemption 3:** information that is prohibited from disclosure by another federal law
  - d. **Exemption 4:** trade secrets and other confidential business information
  - e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
  - f. **Exemption 6:** information involving matters of personal privacy
  - g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
  - h. **Exemption 8:** information relating to the supervision of financial institutions
  - i. **Exemption 9:** geological information on wells

#### IV. EXEMPTION 3 STATUTES

##### A. Exemption 3 Statutes Relied upon to Withhold Information

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component		Total Number of Times Relied upon by Agency
			State	OIG	
5 U.S.C. App3 § 7(b)	Protects employees who file complaints or provide information to the Inspector General	no	State	0	1
			OIG	1	
8 U.S.C. § 1202(f)	Records pertaining to the issuance or refusal of visas to enter the US	<i>Medina-Hincapie v. DOS</i> 700 F.2d 737 (D.C. Cir. 1983)	State	916	916
10 U.S.C. § 424	Organizational and personnel information for DIA, NRO and NIMA	<i>Larson v. DOS et al.</i> Docket #02-1937 (D.D.C. Aug. 10, 2005)	State	3	3
19 U.S.C. § 2605	Protects cultural property information	No	State	5	5
22 U.S.C. § 2778(e)	Information concerning arms export licensing cases	<i>Council for a Livable World Education Fund v. DOS</i> Docket #96-1807 (D.D.C. Nov. 23, 1998)	State	8	8
41 U.S.C. § 253b(m)	Protects contractor proposal solicited by and made to executive agency	<i>Hornbostel v. DOI</i> 305 F. Supp. 2d 21 (D.D.C. 2003)	State	2	2
42 U.S.C. § 2011	Protects records defining policy for development, use and control of atomic and nuclear energy in private, peaceful and military matters	No	State	1	1
50 U.S.C. § 402 note sec. 6	Information regarding National Security Agency activities and personnel	<i>Church of Scientology v. NSA</i> 610 F.2d 824 (D.C. Cir. 1979)	State	5	5



50 U.S.C. § 403	CIA sources and methods; functions and personnel	<i>Minier v. CIA</i> 88 F.3d 796 (9th Cir. 1996) <i>CIA v. Sims</i> 471 U.S. 159 (1985)	State	33	33
50 U.S.C. § 1701	Records on arbitration claims before the Iran-U.S. Claims Tribunal	No	State	5	5
50 U.S.C. § 2411(c)	Information concerning export license applications	<i>Export Information Twin Coast Newspapers, Inc. v. Dep't. of Commerce</i> No. 98-0978 (D.D.C. Nov. 6, 1979)	State	1	1

## V. INITIAL FOIA/PA ACCESS REQUESTS

### A. Received, Processed and Pending FOIA Requests

All of the data now required by the new reporting requirements necessitated a considerable amount of database re-programming, including adding additional data fields and modifying existing ones. Re-programming within the time period allotted between issuance of DOJ guidance and the end of the reporting period has proven to be a complicating factor in the collection of data for this report. The Department made every effort to ensure that data in this report is accurate and complete, but some discrepancies and anomalies may remain. The Department has committed resources to address data integrity issues on an ongoing basis. Additionally, it should be noted that for the first time, in accordance with DOJ guidance, this report reflects reporting in working days, whereas previous reports reflected statistics in calendar days. Also, included for the first time is reporting from the Department's Office of Inspector General.

Statistics reported are accurate to the greatest extent possible. Where data is not available, the Department uses the best available data for purposes of making the required calculations. For example, median processing times are calculated using as start dates the dates requests were received instead of the dates on which requests were actually perfected (and thus able to be processed).

Many FOIA/PA requests to the Department require searches of multiple records systems, offices and/or overseas posts. The Department typically processes these requests incrementally. Thus, as we retrieve and review material responsive to these requests, we process it and provide responsive nonexempt records to the requester on a rolling basis rather than waiting until all searches and reviews are done. However, when we calculate how long it takes to process a request, we base the calculation on the date of the Department's completion of processing, and incremental releases are not reflected in that calculation.

	Column 1	Column 2	Column 3	Column 4
	<b>Number of Requests Pending as of Start of Fiscal Year</b>	<b>Number of Requests Received in Fiscal Year</b>	<b>Number of Requests Processed in Fiscal Year</b>	<b>Number of Requests Pending as of End of Fiscal Year</b>
State	4288	5864	5532	4620
OIG	9	45	45	9
<b>AGENCY OVERALL</b>	<b>4297</b>	<b>5909</b>	<b>5577</b>	<b>4629</b>

B. (1) Disposition of FOIA Requests – All Processed Requests

	Number of Full Grants	Number of Partial Grants/ Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	
State	599	880	719	536	237	176	73	269	1002	871	123	47	5532
OIG	7	23	3	6	4	0	0	0	0	2	0	0	45
<b>AGENCY OVERALL</b>	<b>606</b>	<b>903</b>	<b>722</b>	<b>542</b>	<b>241</b>	<b>176</b>	<b>73</b>	<b>269</b>	<b>1002</b>	<b>873</b>	<b>123</b>	<b>47</b>	<b>5577</b>

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon		TOTAL
	State	canceled*	
multiple reasons**		45	
undecided***		1	
OIG	0	0	0

\*requester failed to provide proper personal verification and did not respond to the Department’s efforts to contact him. The request was canceled. (This category is no longer being used.)

\*\*multiple deficiencies.

\*\*\*undecided is used when a request is first entered into the database and is later changed to the proper category by a case manager. As of 9/30/2008, the reason for closure for one case was “undecided.” After 10/01/08, the reason was determined to be “improper request.”

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
State	535	91	943	102	158	393	23	2	53	9	15	13	0	0
OIG	2	8	1	2	8	11	3	0	11	3	0	0	0	0
<b>AGENCY OVERALL</b>	<b>537</b>	<b>99</b>	<b>944</b>	<b>104</b>	<b>166</b>	<b>404</b>	<b>26</b>	<b>2</b>	<b>64</b>	<b>12</b>	<b>15</b>	<b>13</b>	<b>0</b>	<b>0</b>

## VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

### A. Received, Processed and Pending Administrative Appeals

As required by the new reporting requirements, on July 1, 2008, the Department began to capture data concerning appeals of denials of requests for expeditious processing and fee waivers, in addition to appeals of denial of information based on exemption or no records found. These decisions are inherently different and not easily comparable. For example, in general, the complexity of the determination in an appeal of the denial of information based on an exemption is greater than that in an appeal of the denial of a request for a fee waiver. Also, the reporting periods are different, e.g., appeals of denials of requests for fee waivers are reported in working days and appeals of denials of requests for expeditious processing are reported in calendar days. Therefore, the chart below is segregated as follows:

Line 1 – appeals of denials of information based on exemption or other reason. All of the Department’s appeals in this category are processed through the Appeals Review Panel; therefore, this statistic includes appeals for the Office of Inspector General. This statistic covers the entire fiscal year reporting period.

Line 2 – appeals of denial of requests for expedited processing. This statistic covers only the time period from July 1, 2008 to September 30, 2008.

Line 3 – appeals of denial of requests for fee waivers. This statistic covers only the time period from July 1, 2008 to September 30, 2008.

Column 1	Column 2	Column 3	Column 4
<b>Number of Appeals Pending as of Start of Fiscal Year</b>	<b>Number of Appeals Received in Fiscal Year</b>	<b>Number of Appeals Processed in Fiscal Year</b>	<b>Number of Appeals Pending as of End of Fiscal Year</b>
807	179	484	502
Expedites 0	1	1	0
Fee Waivers 0	2	1	1

B. Disposition of Administrative Appeals – All Processed Appeals

<b>Number Affirmed on Appeal</b>	<b>Number Partially Affirmed &amp; Partially Reversed/Remanded on Appeal</b>	<b>Number Completely Reversed/Remanded on Appeal</b>	<b>Number of Appeals Closed for Other Reasons</b>	<b>TOTAL</b>
195	248	25	16	<b>484</b>
Expedites 1	0	0	0	<b>1</b>
Fee Waivers 1	0	0	0	<b>1</b>

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

<b>Ex. 1</b>	<b>Ex. 2</b>	<b>Ex. 3</b>	<b>Ex. 4</b>	<b>Ex. 5</b>	<b>Ex. 6</b>	<b>Ex. 7(A)</b>	<b>Ex. 7(B)</b>	<b>Ex. 7(C)</b>	<b>Ex. 7(D)</b>	<b>Ex. 7(E)</b>	<b>Ex. 7(F)</b>	<b>Ex. 8</b>	<b>Ex. 9</b>
304	20	125	13	79	75	5	0	13	6	5	3	0	0

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
27	0	3	1	0	0	0	1	1	1	11

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
multiple reasons	1
all documents sent for concurrence*	10

\*appeals in which the only action pending is other agency consultation.

C. (4) Response Time for Administrative Appeals

<b>Median Number of Days</b>	<b>Average Number of Days</b>	<b>Lowest Number of Days</b>	<b>Highest Number of Days</b>
555	592	0*	2232
Expedites 6	6	6	6
Fee Waivers 6	6	6	6

\* case opened and closed the same day

C. (5) Ten Oldest Pending Administrative Appeals

	10 <sup>th</sup> Oldest Appeal	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Appeal
<b>Date of Receipt of Ten Oldest Appeals</b>	8/30/04	8/16/04	8/11/04	5/3/04	5/3/04	4/19/04	2/25/04	12/15/03	9/29/03	1/19/01
<b>Number of Days Pending</b>	1025	1035	1038	1108	1108	1118	1156	1203	1255	1928



## **VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS**

### **A. Processed Requests – Response Time for All Processed Perfected Requests**

The Department uses two processing tracks for distinguishing simple requests from more complex ones. Requests are placed in processing tracks based on the degree of effort required to complete them, such as the number of searches or location of the records, the volume of responsive records, the complexity of the search, the sensitivity of the records, and the need for consultation in the review. Because the Department's search function is decentralized, for certain bureaus, and for most contemporary records, we usually do not know the number and complexity of responsive records until all searches have been returned. Similarly, until we have had the opportunity to review the records we will not know how much consultation with other offices, agencies or governments is necessary. Thus, requests can move between tracks. For example, a seemingly simple new case can become complex when searches come back with voluminous amounts of material or particularly sensitive records.

Many FOIA/PA requests to the Department require searches of multiple records systems, offices and/or overseas posts. The Department typically processes these requests incrementally. Thus, as we retrieve and review material responsive to these requests, we process it and provide responsive nonexempt records to the requester on a rolling basis rather than waiting until all searches and reviews are done. These releases are not reflected in the charts below

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
State	70	118	1	736	196	275	5	1900	41	201	3	1509
OIG*	10	37	1	213	0	0	0	0	1	1	1	1
<b>AGENCY OVERALL</b>	<b>68</b>	<b>115</b>	<b>1</b>	<b>736</b>	<b>196</b>	<b>275</b>	<b>0</b>	<b>1900</b>	<b>41</b>	<b>201</b>	<b>1</b>	<b>1509</b>

\*OIG reported no Complex requests

B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
State	80	134	6	736	253	333	5	1900	41	250	3	1509
OIG*	30	50	3	178	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	<b>75</b>	<b>129</b>	<b>3</b>	<b>736</b>	<b>253</b>	<b>333</b>	<b>5</b>	<b>1900</b>	<b>41</b>	<b>250</b>	<b>3</b>	<b>1509</b>

\*OIG reported no Complex or Expedited Processing requests

C. Processed Requests – Response Time in Day Increments

**Simple Requests**

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
State	33	232	282	110	67	68	30	41	22	29	79	49	42	<b>1084</b>
OIG	15	4	0	3	1	0	1	1	1	0	0	0	0	<b>26</b>
<b>AGENCY OVERALL</b>	<b>48</b>	<b>236</b>	<b>282</b>	<b>113</b>	<b>68</b>	<b>68</b>	<b>31</b>	<b>42</b>	<b>23</b>	<b>29</b>	<b>79</b>	<b>49</b>	<b>42</b>	<b>1111</b>

### Complex Requests

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
State	48	187	191	117	72	69	56	48	53	60	261	145	473	<b>1780</b>
OIG*	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>AGENCY OVERALL</b>	<b>48</b>	<b>187</b>	<b>191</b>	<b>117</b>	<b>72</b>	<b>69</b>	<b>56</b>	<b>48</b>	<b>53</b>	<b>60</b>	<b>261</b>	<b>145</b>	<b>473</b>	<b>1780</b>

\*OIG reported no Complex requests

### Requests Granted Expedited Processing

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
State	2	3	4	0	0	0	0	0	0	0	1	1	1	<b>12</b>
OIG*	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>AGENCY OVERALL</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>12</b>

\*OIG reported no Requests Granted Expedited Processing

D. Pending Requests – All Pending Perfected Requests

	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
State	664	50	179	3715	284	337	13	570	577
OIG*	9	1	33	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	<b>673</b>	<b>50</b>	<b>179</b>	<b>3715</b>	<b>284</b>	<b>337</b>	<b>13</b>	<b>570</b>	<b>577</b>

\*OIG reported no Complex requests and no Pending Expedited Perfected requests

E. Pending Requests – Ten Oldest Pending Perfected Requests

	<b>10<sup>th</sup> Oldest Request and Number of Days Pending</b>	<b>9<sup>th</sup></b>	<b>8<sup>th</sup></b>	<b>7<sup>th</sup></b>	<b>6<sup>th</sup></b>	<b>5<sup>th</sup></b>	<b>4<sup>th</sup></b>	<b>3<sup>rd</sup></b>	<b>2<sup>nd</sup></b>	<b>Oldest Request and Number of Days Pending</b>
State	Date 10-23-02 Number of Days 1485	08-19-02 1530	07-03-02 1562	01-18-02 1677	01-04-02 1687	12-13-01 1701	10-16-01 1741	09-27-01 1753	02-08-01 1914	02-23-00 2156
OIG	Date na Number of Days na	09-18-08 10	06-25-08 70	04-29-08 111	04-24-08 114	03-20-08 139	02-15-08 163	11-13-07 230	04-10-07 318	04-03-07 324

<b>Agency Overall</b>	<b>10<sup>th</sup> Oldest Request and Number of Days Pending</b>	<b>9<sup>th</sup></b>	<b>8<sup>th</sup></b>	<b>7<sup>th</sup></b>	<b>6<sup>th</sup></b>	<b>5<sup>th</sup></b>	<b>4<sup>th</sup></b>	<b>3<sup>rd</sup></b>	<b>2<sup>nd</sup></b>	<b>Oldest Request and Number of Days Pending</b>
		Date 10-23-02 Number of Days 1485	08-19-02 1530	07-03-02 1562	01-18-02 1677	01-04-02 1687	12-13-01 1701	10-16-01 1741	09-27-01 1753	02-08-01 1914



**VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER**

A. Requests for Expedited Processing\*

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>	<b>Number Adjudicated Within Ten Calendar Days</b>
State	0	29	10	24	10
OIG	0	3	1	1	3
<b>AGENCY OVERALL</b>	<b>0</b>	<b>32</b>	<b>10</b>	<b>22</b>	<b>13</b>

\* Data collected since 7/1/2008

B. Requests for Fee Waiver\*

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>
State	2	29	2	9
OIG**	0	0	0	0
<b>AGENCY OVERALL</b>	<b>2</b>	<b>29</b>	<b>2</b>	<b>9</b>

\*Data collected since 7/1/2008

\*\*OIG Reported no Fee Waiver Requests

**IX. FOIA PERSONNEL AND COSTS**

The Department revised its method of calculating estimated costs for this reporting period based on DOJ guidance. Therefore, salaries of civil service personnel have now been included. Also reflected are costs associated with contractor and WAE (when actually employed) expenses.

Column 1      Column 2

	PERSONNEL			COSTS*		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full-Time FOIA Staff”  (The sum of Columns 1 & 2)	Processing Costs  (At initial request and appeal levels)	Litigation- Related Costs	Total Costs
State	84	44.65	128.65	\$11,803,961	\$356,038	\$12,159,999
OIG	2	2	4	\$433,342	0	\$433,342
<b>AGENCY OVERALL</b>	<b>86</b>	<b>46.65</b>	<b>132.65</b>	<b>\$12,237,303</b>	<b>\$356,038</b>	<b>\$12,593,341</b>

\*estimated

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

	Total Amount of Fees Collected	Percentage of Total Costs
State	\$12,443.76	.001
OIG	0	0
<b>AGENCY OVERALL</b>	<b>\$12,443.76</b>	<b>.001</b>

## XI. FOIA REGULATIONS

The Department's FOIA regulations have been codified at 22 C.F.R. Part 171. These regulations are available through the Government Printing Office's (GPO) website at <http://www.gpoaccess.gov/cfr/index.html> or from links at our website at <http://www.foia.state.gov>.

## XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

### A. Backlogs of FOIA Requests and Administrative Appeals

	<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
State	4319	480
OIG	8	0
<b>AGENCY OVERALL</b>	<b>4327</b>	<b>480</b>

1. Discuss/explain the backlog here (optional).

See section F for a discussion on the Department's backlog reduction efforts.

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

Because of the manner in which the Department processes requests, it can not separate requests that have been referred from another agency for processing and direct response to the requester from those that have been referred for consultation only. Therefore, this section includes requests that fall into both categories.

	Column 1	Column 2	Column 3	Column 4
	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of Start of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of End of the Fiscal Year
State	745	1676	1652	769
OIG	0	0	0	0
<b>AGENCY OVERALL</b>	<b>745</b>	<b>1676</b>	<b>1652</b>	<b>769</b>

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at the Department of State

	<b>10<sup>th</sup> Oldest Consultation and Number of Days Pending</b>	<b>9<sup>th</sup></b>	<b>8<sup>th</sup></b>	<b>7<sup>th</sup></b>	<b>6<sup>th</sup></b>	<b>5<sup>th</sup></b>	<b>4<sup>th</sup></b>	<b>3<sup>rd</sup></b>	<b>2<sup>nd</sup></b>	<b>Oldest Consultation and Number of Days Pending</b>
State	Date 3/22/05	2/10/05	8/13/04	8/13/04	8/13/04	4/21/04	4/6/04	3/17/04	7/11/03	5/16/03
	Number of Days 887	914	1036	1036	1036	1116	1127	1141	1308	1346
OIG	Date									
	Number of Days	0	0	0	0	0	0	0	0	0

<b>Agency Overall</b>	<b>10<sup>th</sup> Oldest Consultation and Number of Days Pending</b>	<b>9<sup>th</sup></b>	<b>8<sup>th</sup></b>	<b>7<sup>th</sup></b>	<b>6<sup>th</sup></b>	<b>5<sup>th</sup></b>	<b>4<sup>th</sup></b>	<b>3<sup>rd</sup></b>	<b>2<sup>nd</sup></b>	<b>Oldest Consultation and Number of Days Pending</b>
	Date 3/22/05	2/10/05	8/13/04	8/13/04	8/13/04	4/21/04	4/6/04	3/17/04	7/11/03	5/16/03
	Number of Days 887	914	1036	1036	1036	1116	1127	1141	1308	1346

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

	Column 1	Column 2	Column 3	Column 4
	<b>NUMBER OF REQUESTS <u>RECEIVED</u></b>		<b>NUMBER OF REQUESTS <u>PROCESSED</u></b>	
	<b>Number Received During Fiscal Year from Last Year's Annual Report</b>	<b>Number Received During Fiscal Year from Current Annual Report</b>	<b>Number Processed During Fiscal Year from Last Year's Annual Report</b>	<b>Number Processed During Fiscal Year from Current Annual Report</b>
<b>AGENCY OVERALL</b>	<b>5078</b>	<b>5909</b>	<b>4792</b>	<b>5577</b>

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

	Column 1	Column 2	Column 3	Column 4
	<b>NUMBER OF APPEALS <u>RECEIVED</u></b>		<b>NUMBER OF APPEALS <u>PROCESSED</u></b>	
	<b>Number Received During Fiscal Year from Last Year's Annual Report</b>	<b>Number Received During Fiscal Year from Current Annual Report</b>	<b>Number Processed During Fiscal Year from Last Year's Annual Report</b>	<b>Number Processed During Fiscal Year from Current Annual Report</b>
State - exemptions	390	179	110	484
Expedites	na	1	na	1
Fee Waivers	na	1	na	1
OIG	*combined with State appeals	*	*	*
<b>AGENCY OVERALL</b>	<b>390</b>	<b>181</b>	<b>110</b>	<b>486</b>



F. Discussion of Other FOIA Activities

**Department of State Efforts to Improve FOIA Administration**

**Reading Room Certification**

IPS maintains the Department's Internet FOIA website at <http://www.foia.state.gov>. Since its inception in March 1998, the site has developed into an information-rich, direct source for Department records and information. It contains a large collection of unique records of international significance that have been made available to the public under the FOIA, as special collections, or systematic declassification activities under Executive Order 12958, as amended. This collection currently totals more than 271,000 pages of material in addition to previously released FOIA documents.

The site provides a number of aids to help users understand the content of our records and how to access them; how records are reviewed and processed for release; why some information may continue to be withheld; and our appeals procedures. The search engine offers both standard and advanced search capabilities that include full text retrieval of the documents on the site. The web site provides extensive links to other sources of Department records, as well as all parts of the FOIA Reference Guide. As part of the Department's FOIA improvement plan, new links have been added to provide greater access to information.

In coordination with guidance from the Department of Justice, the Department conducted an internal review of the Department's FOIA Reading Rooms (conventional and electronic) to review their compliance with the requirements of FOIA subsection (a)(2), 5 U.S.C. § 552(a)(2). During the review, all identified deficiencies were addressed, including the addition of descriptive language to the Department's FOIA web site to inform the public about (a)(2) records, adjustments to the organization of the website itself, and the addition of documents falling within the scope of (a)(2). The Department's final report regarding this review has been submitted to the Department of Justice and the Office of Management and Budget, and a copy has recently been posted on the FOIA website.

**Systematic Review Program – EO 12958**

In fulfillment of the Executive Order 12958, Classified National Security Information, and in partnership with the National Archives (NARA), the Department of State has provided NARA with over 791,000 electronic records from the Department's Central Foreign Policy Files for the period of 1973 – 1975. The Central Foreign Policy Files is the largest and perhaps the most important single collection of State Department records. Among other things, the Central Foreign Policy Files include official record copies of almost all incoming and outgoing Departmental telegrams between the Department and Foreign Service posts as well as other select substantive correspondence documents including diplomatic notes, correspondence to and from the White House, members of Congress, and other federal agencies, position papers and reports, memoranda of conversations, and interoffice memoranda. The records provided to

NARA constitute permanent records of U.S. foreign policy and diplomatic activities and are available to the public through NARA's website, at Access to Archival Databases (AAD). The Department's internet homepage provides a link to the AAD.

### **Backlog Reduction Project – Requests**

Last fall, the Department of Justice directed agencies to set, publish, and achieve very aggressive FOIA backlog reduction goals for the next three fiscal years for their agencies. The Department's published goal of 2900 pending requests at the end of fiscal year 2008 was predicated on the same or greater successes that the Department has achieved in past backlog reduction efforts.

The Department has always strived to provide the best level of customer service possible. Accordingly, the Department releases documents incrementally throughout the life of the FOIA case, such that, even though a case remains in the pending category because some action remains outstanding, many requesters in the backlog have in fact already received a substantial amount of the information they sought.

To reduce its backlog, the Department developed a strategy and established a backlog reduction project aimed at reducing the backlog to not more than 2900 pending cases. In an effort to meet this goal, IPS implemented the following:

- Established a cadre of students with a primary purpose of assisting the seasoned Program Analysts in closing pending cases. The students performed electronic searches, paper searches, retrieved retired documents, photocopied documents and performed all other administrative duties as necessary in an effort to increase the case closure rate;
- Made overtime and compensatory time available to employees to aid in closing additional requests;
- Detailed employees who had existing FOIA processing skills to the backlog reduction project; and
- Conducted weekly standing meetings to monitor successes and challenges.

Notwithstanding these efforts, the goal was not met by the end of FY08. Many constraints prevented the Department from meeting its goal, including:

- There is a direct correlation between resources and productivity, and the Department has many competing priorities for the FOIA review resources it has available.
- Competing functions include responding to subpoenas and litigations demands, Congressional document production requests, and the Department's mandatory declassification review requests under Executive Order 12958.
- The Department's records and searches are necessarily spread among 51 separate component offices and 272 Foreign Service posts worldwide.
- Due to their complexity, older cases tied up FOIA resources which reduced the overall case closure rate.
- Due to the complexity of classified and other sensitive documents maintained at the Department, the FOIA office must rely on former senior level officials with high levels of expertise and experience to perform the review of documents for release (and this group consists of a very small pool of candidates).

- Competition for qualified resources at all levels has increased. The central FOIA office has a vacancy rate of 20%.
- 16% increase in number of requests received.

Despite the many constraints, and the fact that the Department did not reach its goal, there was however a substantial increase in productivity and a rise in the case closure rate. By September 30, 2008, the case closure rate was 102% faster than before the start of the backlog reduction project. During the 4<sup>th</sup> quarter of FY08, 826 cases were closed. This equates to an approximate 30% increase over the number of cases closed during the same time frame in FY07. Because such substantial strides were made and the case closure rate significantly increased during the 4<sup>th</sup> quarter of FY08, IPS extended the established backlog reduction project. The Department remains committed to achieving the goal of bringing the backlog down to not more than 2800 pending cases by the close of FY09.

### **Backlog Reduction Project - Appeals**

As stated above, the Department published backlog reduction goals for both requests and administrative appeals for fiscal years 2008, 2009, and 2010. The effort to reduce the backlog of cases pending at the appeal level was successful. With diligent monitoring of various aspects of the appeals process, the Department exceeded its published FY08 goals both for the number of FOIA/PA appeals processed during the fiscal year, and for reducing the backlog of FOIA/PA appeals pending. The Department processed significantly more appeals in FY08 than have ever been processed by the Department in a single year and achieved its lowest published backlog reduction goal three years ahead of schedule.