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Message from the Chief FOIA Officer

As the DoD Chief FOIA Officer, it gave me much pleasure to submit the DoD Agency Chief FOIA Officer Report to the Department of Justice this year. In the report, we were able to highlight the good things the department is doing, as a whole, to apply the presumption of openness. I am proud of your efforts, as the consensus shows that we are widely disseminating the memoranda from the President and Attorney General to not only mem-

bers of the FOIA community, but to senior leadership, document owners, and subject matter experts as well. We are including the message of openness within our policy guidance and at training sessions and conferences, posting it on our websites, and briefing newcomers during employee orientation sessions. As a result of our efforts, we released 12% more documents in full during fiscal year (FY) 2010 and when denying information, the DoD applied Exemption



Michael L. Rhodes, DoD Chief FOIA Officer

5 12.1% less than in FY2009. This demonstrates that we are putting into practice, the President and Attorney General's policies to make discretionary dis-

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FY2010 Annual Report: Backlog Reductions

Another year, another annual report.... Yet the DoD FY2010 Annual Report is quite different from other years in terms of results. A key and most notable difference lies

in the number of backlogged requests. In FY 2010, the backlog decreased by an astounding 31%, which amounts to 3,368 less backlogged requests. There were a number of DoD Compo-

nents that stood out in terms of their backlog reduction efforts. The Army was key to the DoD backlog reduction, reducing its backlog by 68%, from 3,542 requests to 1,141 requests.

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Message from the Chief FOIA Officer

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 closures. All of this, coupled with the 31% backlog decrease and the proactive posting of over 300,000 pages on our websites, means the DoD had great news to report. There is even good news with regard to resources. Senior leadership is responding to our concerns, as many components are reporting increased

staff, re-organizations, the civilianizing of contractor positions and the investment in technology to assist with processing FOIA requests. However, FOIA work is never done, and we must maintain the momentum in our efforts to respond faster, promote openness and continue to operate in a spirit of cooperation with our customers.

Thank you again for your hard work. Here's to an even greater report in 2012.



Notable Notes

- Inclement weather days, foreign holidays and furlough days are considered working days for annual reporting.
- Tolling is suspending time when asking the requester for information pertaining to a request. Agencies may stop the clock once for anything other than a fee-related reason and may stop the clock as many times as necessary for fee-related reasons.
- Remember to keep good administrative records.
- Remember good customer service as you process requests.

FY2010 Annual Report: Backlog Reductions

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Other DoD components made great strides in reducing their backlogs. The Defense Information Systems Agency reduced its backlog by the greatest percentage: 95% - from 250 requests to 13 requests. Major components which receive the larg-

est volume of FOIA requests reduced their backlogs by at least 12%. For instance, the Air Force and Navy backlogs were reduced by 14%; the OSD/JS backlog was reduced by 13%; and the Defense Intelligence Agency by 12%. In all, 22 out of 32 components

either reduced their backlogs or kept their backlog numbers the same. FY2010 was a success for DoD FOIA.



DoD FOIA Certification Working Group

DFOIPO, together with FOIA professionals throughout the DoD, is working to establish a DoD FOIA Certification Program. Will Kammer, Chief, Freedom of Information Division expressed that this effort would help to standardize and professionalize

the FOIA process and would compliment the proposed FOIA job series. "If this is where we end up, the certification program will help to lay the groundwork to dictate how our skills line up with the classification of our positions." In August 2010, DFOIPO so-

licited volunteers throughout the DoD FOIA community, looking for individuals interested in serving on the DoD FOIA Certification Working Group. Approximately 25 individuals rose to the challenge and the first order of business was to take a look

at the FOIA Certification Program at the Federal Bureau of Investigation offices in Winchester, VA. From this experience, the working group saw the benefits of a certification program, which include: (1) training emphasized from day one; (2) training continued throughout the

Estimating the Costs of Programs and Policy Proposals within the DoD

Transparency & FOIA Websites

Effective February 1st, the Secretary of Defense instituted a new policy of estimating the costs of programs and policy proposals to help the Department of Defense better understand the time and costs involved. Secretary Gates instituted this initiative, stating: "I am directing a series of initiatives designed to reduce duplication, overhead, and excess, and instill a culture of savings and restraint across the DoD." Knowing the costs involved will help the DoD make decisions regarding the cost effectiveness of programs and policies initiated by the DoD. It will also help both DoD and the institutions that have mandated programs and policies for DoD to know the costs involved in administering these programs and

policies. There are clear implications of this new policy for DoD FOIA. The 2011 Chief FOIA Officer's report was the first FOIA-related report where cost was calculated. The cost was estimated to be approximately \$19,000. The DoD also estimated the cost for the *House of Representatives Committee on Oversight and Government Reform* (HOCR) data call, which, among other things, requested logs for all FOIA cases for the past five years. The estimated cost for DoD to answer the HOCR request was \$200,311 with 4,722 hours spent working on the report. Soon, components will need to provide the cost of submitting the FOIA Annual Report. In the spirit of moving toward cost-consciousness, as

encouraged by the Secretary Gates memorandum DFOIPO is in the process of automating the collection of FOIA Annual Report data, with the development of an import feature. It is believed this feature will provide significant cost savings for the taxpayer. To learn more about this import feature, please contact Paul Levitan at DFOIPO@whs.mil



DFOIPO guidance on websites, released in September 2006 and October 2007 states that FOIA Requester Service Center web sites, at a minimum, must contain the mailing address, telephone number, facsimile number, email-address, listing of activities serviced, a Public Liaison statement, a Reading Room with sections for four categories of documents, and a link to the component's FOIA handbook. DFOIPO has been taking a look at component FOIA websites and has notified components of any observed deficiencies. Components are encouraged to conduct a self-check of their websites to ensure that they are compliant.

DoD FOIA Certification

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employee's career; (3) training focused on the agency's needs; and (4) career progression based on application of training received. The working group is in the resource planning stage and is considering available resources for accomplishing the training. The group realizes that while classroom instruction is an obvious solution, options such as computer-based training and video recordings are viable options as well. Poten-

tial instructors would likely include professionals within the DoD FOIA, Privacy, Records Management, and Mandatory Declassification Review communities. "We will pull our talent from many sources, keeping in mind that DoD has a big talent pool in-house," says Jim Hogan, Chief, Defense Freedom of Information and Policy. The group meets monthly.



Special Report: Lessons from Successes in Backlog Reduction

FY2010 was a tremendously successful year for DoD FOIA. DoD lowered its FOIA request backlog by 31%. To glean best practices from the successes in backlog reductions within the components, DFOIPO interviewed two officials at the two FOIA offices which made exceptional strides in decreasing their backlogs: Robert Dickerson, Chief of U.S. Army Freedom of Information Act & Privacy Office and Robin Berger, FOIA Officer at the Defense Information Systems Agency (DISA). The Army reduced its backlog by 68%: from 3,542 requests to 1,141 requests, while DISA reduced its backlog by 95%: from 250 requests to 13 requests. Both of these are commendable achievements; but, how did they do it?

Robert Dickerson describes the Army's efforts. "The Army's Freedom of Information Act Case Tracking System (FACTS) was invaluable in gauging backlog by Army activity to identify specific areas of concern. Once the pending FOIA requests were identified by organization, we began providing listings of backlog cases to those organizations in order to bring attention to those cases and to solicit the disposition. We incorporated a Backlog Report into FACTS which captures and reports backlog cases by Army activity and for the total Army. This allows visibility and trends can be monitored

on a monthly basis. At the same time, we briefed the Administrative Assistant to the Secretary of the Army (AASA) and prepared guidance to be issued from the AASA asking activities to develop a backlog reduction plan and emphasizing the importance of backlog reduction in order to meet the ten percent reduction standard by the end of the fiscal year. With full support of the Army leadership, the guidance was issued to the Army on March 15, 2010, which started the next phase of the backlog reduction initiative: site visits with direct contact and analysis of backlog areas. The Army FOIA Office visited the ten Army activities with the largest backlogs to re-emphasize the importance of this initiative. We were able to discover various discrepancies with reporting and case status, non-FOIA cases being included with backlog, completed cases that had not been closed in the FACTS database, and numerous suggestions were offered for alternative processing methods and streamlining, all of which affected backlog. We also offered contractual support to two of the backlog areas, which had a tremendous impact. We were pleased with the enthusiastic reception at the highest levels within these organizations. The support and emphasis placed on backlog reduction and echoed by Commanders and senior leaders at these organizations greatly impacted progress with back-

log reduction."

Robin Berger at the DISA FOIA office credits "the General Counsel ...who... did a stop work for the entire office and everyone (11 attorneys) assisted in clearing out the Agency backlog, with unlimited overtime." Thus, DISA sees the increased involvement of personnel in enabling it to deal with its backlog: "Each attorney as well as the FOIA Officer was given a FOIA request to process until the backlog was completed. DISA's lesson learned was that more personnel are needed to run a successful program. Additional personnel need to be a permanent, rather than temporary solution. Increasing the FOIA staff and funds devoted to FOIA case work is a permanent solution that keeps the backlog down."

A key lesson learned from both Army and DISA FOIA office efforts is the importance of planning by office management in tackling the backlog.

Whether through assigning case work to attorneys and giving unlimited overtime, or the Army's multi-pronged approach, management involvement was critical in planning and leading the backlog reduction efforts. However, backlogs throughout the DoD could not be lowered without the efforts of regular personnel committed to their FOIA duties.

Robert Dickerson believes that "the Army should be recognized as a whole so those hard working FOIA personnel and support personnel, i.e. local attorneys, subject matter experts, can show their commanders that their FOIA work is recognized and appreciated by DoD and others." That sentiment can be echoed throughout the Department of Defense. It is through the work of all FOIA personnel, whether full-time or part-time that the DoD was able to lower its backlog by almost a third of all FOIA requests.



2011 FOIA TRAINING & EVENTS

DOJ/OIP - <http://www.justice.gov/oip/key-dates.html>
 June 8—Washington, DC
 July 12-13 - Washington, DC
 August 16-17 - Seattle, WA

ASAP—<http://www.accesspro.org/>
 June 21-23 — Washington, DC
 Sept 19-21—Chicago
 Dec 1-2— Washington DC

Graduate School—http://graduateschool.edu/course_details.php?cid=PMGT7000D
 May 24 -26—Phoenix, AZ
 June 22-24 - Westminster, CO
 July 6-8—Las Vegas, NV
 July 20-22—Washington, DC
 August 8-10—Washington, DC
 August 10-12—San Diego, CA
 Aug 30-Sept 1—Washington DC
 September 21-23—Atlanta, GA
 September 27-29—Chicago, IL

OPM Proposes a New Job Series in Information Management

The *United States Office of Personnel Management* (OPM) has proposed to create a new Information Management Series to recognize the high priority of FOIA, Privacy and Records Management professionals, and the importance of our efforts to promote openness and transparency in the Federal Government. As stated in its March 2011 memorandum “OPM believes that establishing a new information management occupational series that brings together Freedom of Information Act (FOIA), Privacy Act, and Records Management positions would support

this critical workforce; elevate the importance of these functions within each agency; and advance professionalization of the field.” The *American Society of Access Professionals* (ASAP) along with other organizations, devoted to promoting openness in the federal government are supporting this effort. According to Anne Weismann, ASAP President 2011- 2012: “In addition to ASAP's concerted efforts on development of this initiative, I would also like to recognize and thank all of the many organizations who also weighed in on OPM's December 16, 2008 report to Congress pursuant to Sec-

tion 11 of the OPEN Government Act of 2007. Reaction to this report was the impetus for the action we see today.” These efforts by both federal and non-governmental entities came to fruition when OPM proposed the new job series. The question remains: who will fall under this new job series? OPM issued a data-call asking agencies to “provide relevant documents describing the information management work currently performed.” In addition OPM asked if it is “appropriate to merge Freedom of Information Act, Privacy Act, and Records Management duties

and responsibilities into one series?” and “are there additional, related functions that should also be covered by this occupational series?” Your input is helping to shape the way the FOIA profession is described and classified. DFOIPO sees the OPM announcements and data call as a great opportunity to recognize the FOIA profession and emphasize its importance.




Organization

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The DoD FOIA Newsletter is envisioned as a quarterly newspaper. It is published by the *Defense Freedom of Information Policy Office* (DFOIPO). DFOIPO was founded in 2006. It was created as a result of the issuance of the FOIA Executive Order 13392, which created the position of the Chief FOIA Officer and added greater importance to the FOIA program. DFOIPO carries out the guidance on behalf of the Director of Administration Management and facilitates the efficiency of the DoD FOIA program.

For more information regarding DFOIPO and its role in DoD, feel free to contact us. DFOIPO would also like to hear from you if you have story ideas for this publication. Please submit questions, opinions and ideas to the DFOIPO mailbox at dfoipo@whs.mil.