STATEMENT OF

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Good afternoon Chairman Lankford, Ranking Member Connolly, and Members of the

Subcommittee. I am pleased to be here today to discuss agencies' use of technology in

administering the Freedom of Information Act (FOIA) and the Department of Justice's continued

efforts of the past year to ensure that President Obama's January 21, 2009 Memorandum on the

FOIA, as well as Attorney General Holder's FOIA Guidelines, are fully implemented. As the

lead federal agency responsible for implementing the FOIA across the government, the

Department of Justice is strongly committed to encouraging compliance with the Act by all

agencies and to promoting open government.

The Attorney General issued his new FOIA Guidelines during Sunshine Week three years

ago, on March 19, 2009. The Guidelines address the presumption of openness that the President

called for in his FOIA Memorandum, the necessity for agencies to create and maintain an

effective system for responding to requests, and the need for agencies to proactively and

promptly make information available to the public. Stressing the critical role played by agency

Chief FOIA Officers in improving FOIA performance, the Attorney General called on all Chief

FOIA Officers to review their agencies' FOIA administration each year and to report to the

Department of Justice on the steps taken to achieve improved transparency. These Chief FOIA

Officer Reports were completed last week for the third time since the Attorney General's FOIA

Guidelines were issued.

The Chief FOIA Officer Reports have become an invaluable tool for assessing agency implementation of the FOIA Guidelines. Each year they have also illustrated the broad array of activities agencies have undertaken, including the use of new technologies, to improve their administration of the FOIA and to improve transparency overall. This past year, the Department of Justice directed agencies to address new questions in their Chief FOIA Officer Reports that build on the successes of the 2011 Reports. For example, in addition to asking agencies to describe their efforts to make information available on agency websites, for 2012, we asked agencies to also address any steps that had been taken to make that posted information more useful to the public. Based on our review of both the Chief FOIA Officer Reports and agency Annual FOIA Reports, it is clear that agencies continue to make real progress in applying the presumption of openness, improving the efficiency of their FOIA processes, reducing their backlogs of pending FOIA requests, making more information available proactively and expanding their use of technology. While there is always more work to be done, for the third year in a row, agencies have shown that they are improving FOIA compliance and increasing transparency.

In Fiscal Year 2011, agencies were faced with an increase in the number of incoming FOIA requests, which rose from 597,415 in Fiscal Year 2010 to 644,165 in Fiscal Year 2011. Notably, the Department of Homeland Security experienced a 35% increase in the number of incoming requests. Overall, agencies were able to increase the number of requests that they processed in Fiscal Year 2011, increasing the number of processed requests by 30,575. Most significantly, when agencies processed those requests they increased the amount of material that was provided to the requester. Indeed, the government released records in full or in part in

response to 93.1% of requests where records were located and processed for disclosure. This marks the third straight year in which the government achieved such a high release rate. This sustained, high release rate is a tribute to the efforts of FOIA professionals across the government as they work tirelessly to apply the FOIA Guidelines to the hundreds of thousands of requests they process throughout the year.

Agencies also continue to meet the demand for public information by proactively posting information of interest to the public. For example, the Department of Education annually receives more than 700 requests for contracts, grant applications, and information about federally funded programs. Through efforts to proactively identify these records and post them online, the Department of Education increased the amount of material it proactively disclosed in its FOIA Library by 25%. The Department of Homeland Security increased the amount of information it proactively released by 43%, posting nearly nine thousand pages of new information on its website. Similarly, the Department of State added over two thousand documents to its online Rwandan Declassification Collection. Within a day of issuing the long-awaited accident report for the 2010 Upper Big Branch mining disaster, the Department of Labor's Mine Safety and Health Administration posted a substantial amount of supporting data that was considered in the report, including nearly 30,000 pages of interview transcripts.

In addition to proactively posting new information, many agencies have also taken steps to make the information on their websites more useful to the public. Several agencies undertook efforts this past year to redesign their websites to make them more user-friendly and to improve their websites' search capabilities. For example, the Department of Energy recently consolidated and upgraded several websites into a new department-wide website, which utilizes interactive

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maps and graphics to display information in a more accessible format and allows users to search for documents and resources using a single search engine. Agencies are also utilizing online portals and dashboards to facilitate access to information. For example, the Department of Energy created a FOIA portal that is full-text searchable and provides access to documents previously released under the FOIA. The Department of Agriculture added material to its Tribal Institutions Portal to provide information on applying for and managing grants. The Department of Transportation's Federal Aviation Administration launched a new online dashboard to provide the public with information on the modernization of air transportation system infrastructure, and its Federal Motor Carrier Safety Administration is publishing information through an Application Program Interface. Numerous components of the Department of Defense made improvements to their websites, created systems to facilitate the proactive posting of contracts, and used social media to educate the public in real time about vital information on available programs and resources, such as those relating to traumatic brain injury. The Department of Health and Human Services' Administration for Children and Families has installed a live chat feature on the website of its Child Welfare Information Gateway, through which users can engage with an Information Specialist who will assist with questions, concerns, or trouble locating information. The Environmental Protection Agency is developing a potentially promising pilot -- which we are watching with interest-- for its existing FOIA solution. We understand this new tool is expected to have additional functionality that will allow the public to make, track and receive responses to FOIA requests online, will contain an online repository of previously answered FOIA requests, and will enable production of an Annual FOIA Report.

Embracing the President's FOIA Memorandum and the Attorney General's Guidelines, many agencies have gone beyond using their websites to disseminate information of public interest and have increasingly utilized social media tools such as blogs, Twitter, Facebook, and YouTube to reach a wider audience. For example, the Internal Revenue Service posted Tax Tips videos on YouTube in English, Spanish and sign language, and is in the process of promoting a smartphone application called IRS2Go, which will give users a convenient way of checking their federal refund status and obtaining easy-to-understand tax tips. The U.S. Customs and Border Protection continued using YouTube videos, Twitter and Flickr this past year to proactively release information about seizures and other activities related to its mission. Similarly, the Department of Education notified the public of important events and provided information through its blog, electronic newsletters, Twitter, Facebook, and YouTube. These are just a few of the many examples of notable agency accomplishments that are detailed in the agency Chief FOIA Officer Reports for 2012.

I am also pleased to report that this past fiscal year many agencies were able to reduce their FOIA backlogs. Ten of the fifteen cabinet agencies reduced their backlog of pending requests for Fiscal Year 2011. For example, despite receiving over 3,500 more requests this past fiscal year than in Fiscal Year 2010, the Department of Health and Human Services reduced its backlog by 32%. The Department of Defense made a concerted effort this past year to reduce its backlog, with several of its components raising backlog concerns directly with their senior leadership offices. As a result of these efforts, the Defense Logistics Agency, National Geospatial-Intelligence Agency, and Defense Intelligence Agency reduced their backlogs by 69%, 38%, and 29%, respectively, with the agency overall reducing its backlog by 5%. The

Department of State was able to achieve an impressive backlog reduction of 60% by streamlining its process for handling the substantial amount of referrals it receives each year. The Department of Interior was also able to reduce its backlog, achieving a 25% reduction.

Despite these significant backlog reduction efforts by many of the large Departments, overall the government had an increase in the FOIA request backlog this past fiscal year. This increase can be traced to the dramatic increase in the number of FOIA requests received by the Department of Homeland Security, which, in turn, contributed to a much higher request backlog at that agency.

I am particularly pleased to report on the successes achieved by the Department of Justice. This past fiscal year, the Department increased the number of responses to FOIA requests in which records were released in full or in part. Fiscal Year 2011 also marked the second straight year in which the Department maintained a record high 94.5% release rate for requests involving responsive records. Perhaps even more significant, the Department released records in full in response to 79% of requests where records were released. Further, despite three straight years of receiving over 60,000 requests, the Department increased the number of requests processed and reduced our backlog of pending requests by 26%. A parallel reduction in backlog was achieved for pending administrative appeals, with OIP reducing that backlog by a full 41%. The Department also improved the average processing time for both simple and complex FOIA requests. All of these things, both at DOJ and across the government, are concrete examples of improvements made to the administration of the FOIA. There is still work to be done, but we are continuing to make significant, tangible progress in implementing Attorney General Holder's FOIA Guidelines and President Obama's FOIA Memorandum.

My Office carries out the Department's statutory responsibility to encourage compliance with the FOIA. We have been actively engaged from the very start in a variety of initiatives to inform and educate agency personnel on the Administration's commitment to open government and to specifically encourage compliance with both the letter of the law and the spirit of openness that form the foundation for the directives from the President and the Attorney General.

Our engagement started within two days of issuance of the President's FOIA Memorandum, when OIP sent initial guidance to agencies informing them of the significance of the President's Memorandum and advising them to begin applying the presumption of disclosure immediately to all decisions involving the FOIA. OIP issued extensive written guidance which provided agencies with concrete steps to use and approaches to follow in applying the presumption of openness. In the past two years, OIP has provided agencies with additional guidance addressing a range of issues relating to the FOIA. In issuing this guidance, OIP has listened to concerns raised by the FOIA requester community and on multiple occasions has created policy guidance to specifically address those concerns.

I have also reached out to and met individually with the Chief FOIA Officers of those cabinet agencies that receive and process the overwhelming share of FOIA requests. Additionally, as part of the Department's Open Government Plan, I joined the Associate Attorney General, who is the highest-ranking Chief FOIA Officer in the government, in several meetings with all the Chief FOIA Officers of the cabinet agencies to discuss the implementation of the Attorney General's FOIA Guidelines and other open government initiatives. These meetings have become an invaluable opportunity for the Chief FOIA Officers to hear directly from the

Department of Justice as we promote the goals of the President's and the Attorney General's directives and reinforce our joint commitment to openness and transparency.

Since the issuance of the Attorney General's FOIA Guidelines, OIP has also conducted numerous training sessions specifically focused on the President's and Attorney General's transparency initiative. In 2011, OIP conducted forty-seven separate training sessions for agency personnel and also continued to reach out to the public and the requester community. In 2009, OIP began holding roundtable meetings with interested members of the FOIA requester community to engage in a dialogue and share ideas for improving FOIA administration. In response to the interest expressed by agency FOIA professionals in being able to attend the Requester Roundtables, and the enthusiastic response by the requester community to the idea of meeting with those FOIA professionals, shortly after Sunshine Week last March, OIP held the first-ever FOIA Requester-Agency Town Hall meeting. The Town Hall event was a great success, bringing agency FOIA personnel and frequent FOIA requesters together to exchange ideas, share concerns, and engage in a discussion of common issues. OIP plans to make the FOIA Town Hall an annual event and will be convening the next one in the coming months.

Additionally, OIP is leading the effort to maximize the ability of federal agencies to take advantage of technology to streamline the FOIA process and to improve the online availability of information. In 2010, OIP convened two interagency working groups, one on technology and the other on FOIA Best Practices. This past year, OIP reconvened the 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 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.

Leading by example, several of the Department's components, including OIP, have begun utilizing document management software typically 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. Moreover, 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. The Department is currently researching new technologies that will substantially improve the efficiency of the FOIA consultation process by allowing multiple components and agencies to review and comment on material simultaneously.

As you know, each year, agencies submit to the Department of Justice their Annual FOIA Reports, which contain detailed statistics on the number of requests and appeals received and processed, their disposition, and the time taken to respond. This past year, OIP updated both its guidance for preparing the Annual Reports and the tool developed by the Department which assists agencies in providing their data in an "open" format as required by the Open Government Directive. The Department continues to receive very positive feedback from agencies on the value of using the tool, with its built-in math checks and other features that alert agencies to data integrity issues. Agency Annual FOIA Reports for Fiscal Year 2011 are posted together on OIP's website and the data from the reports has been added to FOIA.Gov, the Department's new government-wide, comprehensive FOIA website.

FOIA.Gov has revolutionized the way in which FOIA data is made available to the public. While initially envisioned as a "dashboard" to illustrate statistics collected from agency Annual FOIA Reports, the Department almost immediately began to expand its capabilities and we continue to add new features each year. With well over a million visitors since it was launched last March, the website has become a valuable resource for both the requester community and agency FOIA personnel. The website takes the detailed statistics contained in agency Annual FOIA Reports and displays them graphically. FOIA.Gov allows users to search and sort the data in any way they want, so that comparisons can be made between agencies and over time.

FOIA.Gov also serves as an educational resource for the public by providing useful information about how the FOIA works, where to make requests, and what to expect through the FOIA process. Explanatory videos are embedded into the site and there is a section addressing

frequently asked questions as well as a glossary of FOIA terms. FOIA contact information is

provided for each agency, including their Chief FOIA Officer and all their FOIA Requester

Service Centers and FOIA Public Liaisons. Further, the website spotlights significant FOIA

releases and gives the public examples of record sets made available by agencies to the public.

In our most recent improvements to the site, we expanded its scope in yet another way by

adding a new feature designed to help the public locate information. We added a search tool to

FOIA.Gov that allows the public to enter search terms on any topic of interest. FOIA.Gov then

searches for information on that topic across all federal government websites at once. This

search tool captures not just those records posted in agency FOIA Libraries, but also records

posted anywhere on an agency's website. This more expansive search capability is particularly

significant given the steady stream of information that agencies are proactively making available

on their websites. FOIA.Gov's search tool provides an easy way for a potential FOIA requester to

first easily see what information is already available on a topic. This might preclude the need to

even make a request in the first instance, or might allow for a more targeted request to be made.

We launched yet another new feature just a few weeks ago, by including hyperlinks to

agency online request forms. As agencies look for ways to improve the FOIA process and

increase efficiency, many have developed the capability to accept FOIA requests online.

Currently there are 111 offices throughout the government that provide requesters with the

ability to make a request in this way. As part of the Department's continuing efforts to improve

FOIA.Gov, we have added links to these online forms to the website to make it easier than ever

for individuals to find, and make requests electronically. I am very pleased to report that OIP

itself has just launched an online capability which allows the public to make requests for the

leadership offices of the Department and file an administrative appeal online. OIP's online portal allows the public to establish their own user accounts so that they can track the status of their request or appeal at any time. Requesters will also receive their determinations from OIP via their online accounts, as well as the documents that respond to their requests. As we move forward the Department will look to enhance the OIP Portal to ensure compliance with the President's National Strategy for Trusted Identities in Cyberspace. This policy calls for the development of interoperable digital credentials that reduce the need for users to create multiple account credentials and passwords to access online services. As more and more agencies add this capability to their FOIA programs they will be harnessing the power of technology to improve FOIA processing, in keeping with the President's and Attorney General's focus on better utilization of technology to make information available to the public.

Looking ahead, as OIP completes its review of the agency Annual FOIA Reports submitted in February and the 2012 Chief FOIA Officer Reports that were just completed, we will assess where agencies stand in their ongoing efforts to improve compliance with the FOIA. OIP will continue its outreach on improving transparency and the use of technology to achieve this important goal. As I stated previously, the Department is committed to achieving the new era of open government that the President envisions. We have made significant progress in the past three years toward that goal, but OIP will continue to work diligently to help agencies achieve even greater transparency in the years ahead.

In closing, the Department of Justice looks forward to working with the Subcommittee on all matters pertaining to the government-wide administration of the FOIA, including the use of technology to increase transparency and to improve agencies' administration of the FOIA. I

would be pleased to address any question that you or any other Member of the Subcommittee

might have on this important subject.