



Chief FOIA Officer Report

2010 Chief Freedom of Information Act Officer Report to the
Attorney General of the United States

March 2010



Homeland
Security

Message from the Chief Freedom of Information Act Officer

DHS is proud to present its first Annual Chief Freedom of Information Act Officer's Report. In Attorney General Holder's March 19, 2009 Memorandum on FOIA, he stressed that the involvement of the agency Chief FOIA Officer is imperative for improving departmental FOIA programs. Each Chief FOIA Officer is accountable for ensuring their agency efficiently and appropriately complies with FOIA, which includes making recommendations to top agency officials regarding any necessary modifications to agency policies, practices, personnel and funding.



Those that accept the statutorily mandated role of Chief FOIA Officer must take the obligations associated with the position very seriously. It is my duty to assure that DHS embraces the Administration's presumption of openness, and our disclosure program has instituted definitive measures to mandate proactively record posting, adopt the "foreseeable harm" standard, and reduce the DHS request backlog. The DHS FOIA professionals are cognizant of their direction from Attorney General Holder to work "in the spirit of cooperation" with the requester community and all DHS employees recognize "unnecessary bureaucratic hurdles have no place in the 'new era of open Government' that the President has proclaimed." At DHS, we have instituted "pro-active disclosure" to meet these standards.

I am very pleased with the progress made by the DHS disclosure program and look forward to even greater improvement in the coming year.

Mary Ellen Callahan
Chief Freedom of Information Act Officer
United States Department of Homeland Security

DHS FOIA Operational Overview

The Department of Homeland Security's overriding and urgent mission is to lead the unified national effort to secure the country and preserve our freedoms. While the Department was created to secure our country against those who seek to disrupt the American way of life, our charter also includes preparation for and response to all hazards and disasters.

In accordance with Executive Order 13392, Improving Agency Disclosure of Information¹ signed by President Bush on December 14, 2005, the Secretary designated the DHS Chief Privacy Officer to serve concurrently as the Chief FOIA Officer, with agency-wide responsibility to promote efficiency, effectiveness, and statutory compliance within the Department. Serving directly under the DHS Chief FOIA Officer at the Departmental-headquarters level, the Director, Disclosure and FOIA (hereinafter, the Director) is delegated responsibility for agency-wide policy development and FOIA/PA compliance and program oversight. Additionally, the Director provides daily supervision of the DHS FOIA Office, which processes most DHS headquarters FOIA requests, and provides coordination between component FOIA offices. The Director also serves as the Deputy Chief FOIA Officer with primary responsibility to develop and implement the Department's strategy to comply with FOIA, reduce the DHS FOIA backlog, promote proactive disclosure of DHS records, improve customer service, streamline processes to reduce response times, promote adequate resources, and enhance the DHS FOIA websites.

The FOIA Program at DHS was created at the same time as the Department stood up. The 22 component agencies that were merged into DHS had pre-existing, established FOIA operations. Elements of those decentralized operations continue today. DHS's components are responsible for establishing and maintaining their own FOIA programs and operationally decide whether to establish a centralized or decentralized FOIA program at the component or directorate level. The DHS Organizational Chart is provided in Appendix B. Names and contact information for DHS FOIA Officers are provided in Appendix C.

By policy, DHS affords all individuals the same rights of disclosure under the Privacy Act as statutorily granted to U.S. citizens.² This provides the maximum allowable disclosure of agency records upon request. The requests made to DHS encompass complex legal and administrative issues associated with FOIA, to include the processing of significant amounts of law enforcement records. As law enforcement records are of such interest to subjects of investigation, victims of crime and the public at large, these records are routinely requested under FOIA. FOIA exemptions employed most often within DHS to deny information to requesters are exemptions (b)(6) and (b)(7)(C) to prevent unwarranted injury to the privacy interests of individuals, (b)(7)(E) to protect against the disclosure of law enforcement techniques, procedures and guidelines, and (b)(2) to protect against disclosure of certain types of information the release of which is likely to risk circumvention of laws or regulations.

¹ Executive Order Number 13392, Fed. Reg. 75,373 (Dec. 14, 2005). The provisions of E.O. 13392 were codified in the OPEN Government Act of 2007, which amended the FOIA. (5 U.S.C. § 552, as amended by Pub. L. 110-175, 121 Stat. 2524 (Dec. 31, 2007)).

² DHS Privacy Policy Guidance Memorandum 2007-1, as amended January 7, 2009, available at http://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2007-1.pdf.

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Basic Information Regarding Report

1. Questions regarding this report may be directed to:

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Acronyms, Definitions, and Exemptions

1. Agency-specific acronyms or other terms.
 - a. CBP United States Customs and Border Protection
 - b. CRCL Office for Civil Rights and Civil Liberties
 - c. FEMA Federal Emergency Management Agency
 - d. FLETC Federal Law Enforcement Training Center
 - e. FOIA/PA Freedom of Information Act / Privacy Act
 - f. I&A Office of Intelligence and Analysis
 - g. ICE United States Immigration and Customs Enforcement
 - h. MGMT Directorate for Management
 - i. NPPD National Protection and Programs Directorate
 - j. OIG Office of Inspector General
 - k. OGC Office of the General Counsel
 - l. OPS Office of Operations Coordination
 - m. PRIV Privacy Office
 - n. S&T Directorate for Science and Technology
 - o. TSA Transportation Security Administration
 - p. USCG United States Coast Guard
 - q. USCIS United States Citizenship and Immigration Services
 - r. USSS United States Secret Service
 - s. US-VISIT United States Visitor and Immigrant Status Indicator Technology
2. Definition of terms, expressed in common terminology.
 - 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. **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.
 - c. **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.

FOIA now requires that agencies include in the Annual FOIA Report data for both the agency overall and for each principal component of the agency.

- d. **Consultation** – The procedure whereby the agency responding to a FOIA requests 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.
- e. **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 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 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.

- f. **Full Grant** – An agency decision to disclose all records in full in response to a FOIA request.
 - g. **Full Denial** – An agency decision not to release any records in response to a FOIA request because the records are exempt in their entireties under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
 - h. **Partial Grant/Partial Denial** – An agency decision to disclose portions of the records and to withhold other portions that are exempt under FOIA, or to otherwise deny a portion of the request for a procedural reason.
3. Concise descriptions of 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 procedures, 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

I. Steps Taken to Apply the Presumption of Openness

1. Steps Taken

On January 21, 2009, President Obama issued two important memoranda to the heads of Executive Departments and Agencies concerning government transparency. In the *Transparency and Open Government Memorandum for the Heads of Executive Departments and Agencies* (Transparency and Open Government Memorandum), he committed his administration to an “unprecedented level of openness in government,”³ and in the *Freedom of Information Act Memorandum for the Heads of Executive Departments and Agencies* (FOIA Memorandum), he stressed the importance of FOIA, stating that it is “the most prominent expression of a profound national commitment to ensuring an open government.”⁴ To buttress the Administration’s commitment to transparency, in March 2009 Attorney General Holder rescinded the 2001 Attorney General Ashcroft FOIA Memorandum and established the “foreseeable harm” standard for disclosure, which is strikingly similar to Attorney General Reno’s 1993 FOIA guidance. Additionally, the Holder memo calls for discretionary disclosure in anticipation of public interest.⁵

The DHS FOIA Office is actively implementing the sweeping policy changes. In May 2009, the Chief FOIA Officer issued a memorandum to all DHS employees providing a general overview of FOIA and stressing the importance of compliance with the Statute.⁶ In August 2009, the Chief FOIA Officer released guidance to employees reminding them of their responsibility to embrace this new era of openness and emphasizing the need for compliance with the Administration’s policy of proactive disclosure.⁷ In October 2009, the Chief FOIA Officer disseminated further guidance specifically addressing the proactive posting of the Department’s senior officials’ calendars online.⁸ Lastly, the Chief Privacy Officer continues to discuss best practices and facilitate a dialogue among component FOIA offices related to the current Administration’s guidance.

³ Transparency and Open Government Memorandum, 74 Fed. Reg. 4,685 (Jan. 21, 2009) available at <http://edocket.access.gpo.gov/2009/pdf/E9-1777.pdf>.

⁴ FOIA Memorandum, 74 Fed. Reg. 4,683 (Jan. 21, 2009) available at <http://edocket.access.gpo.gov/2009/pdf/E9-1773.pdf>.

⁵ In 2009, absent a finding of foreseeable harm, components authorized the discretionary disclosure of records that met the criteria for protection under the provision of 5 U.S.C. § 552(b)(5).

⁶ Overview of the Freedom of Information Act, available at http://www.dhs.gov/xfoia/editorial_0424.shtm0.

⁷ Proactive Disclosure and Departmental Compliance with Subsection (a)(2) of the Freedom of Information Act (FOIA) Memorandum, available at <http://www.archives.gov/ogis/dhs-foia.pdf>.

⁸ Calendar Format for Proactive Disclosure, available at http://www.dhs.gov/xfoia/editorial_0424.shtm.

a. Statistics

DHS Component	Percentage of full grants as of End of the Fiscal Year from 2009 FOIA Annual Report	Percentage of partial grants/partial denials as of End of the Fiscal Year from 2009 FOIA Annual Report	Percentage of full denials as of End of the Fiscal Year from 2009 FOIA Annual Report	Percentage closed for "other" ⁹ reasons as of End of the Fiscal Year from 2009 FOIA Annual Report
CBP	12.48%	46.64%	.53%	40.35%
CRCL	0%	28.58%	0%	71.42%
FEMA	22.63%	15.91%	1.71%	59.75%
FLETC	22.23%	20%	4.44%	53.33%
I&A	4.90%	14.63%	2.43%	78.04%
ICE	5.77%	52.83%	2.61%	38.79%
MGMT	17.78%	26.66%	1.11%	54.44%
NPPD	9.53%	31.74%	0%	58.73%
OGC	0%	22.23%	22.22%	55.55%
OIG	7.42%	52.91%	8.99%	30.68%
OPS	28.13%	12.5%	0%	59.37%
PLCY	25%	43.75%	12.5%	18.75%
PRIV	4.15%	8.36%	.80%	86.69%
S&T	17.76%	37.09%	4.83%	40.32%
TSA	13.65%	27.56%	6.30%	52.49%
USCG	38.32%	13.79%	19.82%	28.07%
USCIS	10.10%	67.13%	.11%	22.66%
USSS	4.76%	26.06%	2.42%	66.76%
US-VISIT	22.24%	22.22%	7.40%	48.14%
Agency Total Percentage	11%	61%	1%	27%

b. Examples

DHS Component	Disseminated President Obama's FOIA Memorandum and Attorney General Holder's FOIA Memorandum issued in 2009	Disseminated Office of Information Policy training on President Obama's and Attorney General Holder FOIA Memorandum March 2009	Disseminated DHS Chief FOIA Officer's FOIA Memorandum to all DHS Employees, May 2009	Disseminated DHS Chief FOIA Officer's FOIA Memorandum on Proactive Disclosure, August 26, 2009	DHS Chief FOIA Officer's "Best Practices" ¹⁰	Provided Internal Training and Guidance for Component, Directorate, or Office employees
CBP	✓	✓	✓	✓	✓	✓
CRCL	✓	✓	✓	✓	✓	✓
FEMA	✓	✓	✓	✓	✓	✓
FLETC	✓	✓	✓	✓	✓	✓
I&A	✓	✓	✓	✓	✓	✓
ICE	✓	✓	✓	✓	✓	✓
MGMT	✓	✓	✓	✓	✓	✓

⁹ Most requests fully or partially denied fall under one of the nine exemptions in the Act. However, there are other reasons for nondisclosure that have to do with the request process itself. These "other" reasons for nondisclosure (in addition to the exemptions) include: no records, referrals, request withdrawn, records not reasonably described, not a proper FOIA/Privacy Act request for some other reason, not an agency record, duplicate request and/or, fee-related reason.

¹⁰ The DHS Chief FOIA Officer discussed best practices and facilitated a dialogue amongst component FOIA offices related to the new Administration's guidance enabling FOIA Officers and staff to share knowledge and best practices department-wide.

DHS Component	Disseminated President Obama's FOIA Memorandum and Attorney General Holder's FOIA Memorandum issued in 2009	Disseminated Office of Information Policy training on President Obama's and Attorney General Holder FOIA Memorandum March 2009	Disseminated DHS Chief FOIA Officer's FOIA Memorandum to all DHS Employees, May 2009	Disseminated DHS Chief FOIA Officer's FOIA Memorandum on Proactive Disclosure, August 26, 2009	DHS Chief FOIA Officer's FOIA Offices "Best Practices", ¹⁰	Provided Internal Training and Guidance for Component, Directorate, or Office employees
NPPD	✓	✓	✓	✓	✓	✓
OGC	✓	✓	✓	✓	✓	✓
OIG	✓	✓	✓	✓	✓	✓
OPS	✓	✓	✓	✓	✓	✓
PLCY	✓	✓	✓	✓	✓	✓
PRIV	✓	✓	✓	✓	✓	✓
S&T	✓	✓	✓	✓	✓	✓
TSA	✓	✓	✓	✓	✓	✓
USCG	✓	✓	✓	✓	✓	✓
USCIS	✓	✓	✓	✓	✓	✓
USSS	✓	✓	✓	✓	✓	✓
US-VISIT	✓	✓	✓	✓	✓	✓

2. Report whether your agency shows an increase in the number of requests where records have been released in full or where records have been released in part when compared with those numbers in the previous year's Annual FOIA Report.

The Department of Homeland Security shows an overwhelming increase in the number of requests where records have been released in full or where records have been released in part when compared with those numbers in the previous year's Annual FOIA Report.

	Number of Full Grants as of End of the Fiscal Year from 2008 FOIA Annual Report	Number of Full Grants as of End of the Fiscal Year from 2009 FOIA Annual Report	Number of Partial Grants/ Partial Denials as of End of the Fiscal Year from 2008 FOIA Annual Report	Number of Partial Grants/ Partial Denials as of End of the Fiscal Year from 2009 FOIA Annual Report
USCIS	7,158	12,316	49,459	81,981
CBP	1,550	2,555	1,856	9,554
CRCL	2	0	6	2
USCG	3,148	2,400	613	864
FEMA	72	145	23	102
FLETC	40	30	23	27
I&A	3	2	7	6
ICE	220	388	1,206	3,559
MGMT	16	32	62	48
NPPD	7	6	18	20
US-VISIT	1	6	2,027	6
OIG	12	14	143	100
OGC	2	0	1	2
OPS	8	9	9	4
PLCY	8	4	3	7
PRIV	10	41	58	83
S&T	20	11	23	23
USSS	35	49	224	269

	Number of Full Grants as of End of the Fiscal Year from 2008 FOIA Annual Report	Number of Full Grants as of End of the Fiscal Year from 2009 FOIA Annual Report	Number of Partial Grants/ Partial Denials as of End of the Fiscal Year from 2008 FOIA Annual Report	Number of Partial Grants/ Partial Denials as of End of the Fiscal Year from 2009 FOIA Annual Report
TSA	93	134	202	271
AGENCY OVERALL	12,405	18,142	55,963	96,928

II. Steps Taken to Ensure Agency has an Effective System for Responding to Requests

1. Describe steps the agency has taken to ensure that the system for responding to requests is effective and efficient. Include discussion of how agency addressed the key roles played by agency personnel who work with FOIA professionals.

At the Headquarters (HQ) level, the DHS Chief FOIA Officer (CFOIAO) has agency-wide policy responsibility for efficient and appropriate compliance with FOIA. The DHS Deputy CFOIAO and Director, Disclosure and FOIA, reports directly to the Chief FOIA Officer and has responsibility for agency-wide policy development and FOIA/PA compliance and program oversight. The Deputy CFOIAO also provides daily supervision of the DHS HQ FOIA Office. The DHS HQ FOIA Office processes most Department HQ FOIA requests and provides response coordination among components.

Two key positions that report to the Deputy CFOIAO at DHS HQ are the Associate Director, Disclosure & FOIA Operations and Associate Director, Disclosure Policy & FOIA Program Development. The Associate Director for Operations is responsible for processing FOIA and Privacy Act (PA) requests for records maintained by DHS HQ offices and coordinating responses involving records from multiple components. The Associate Director for Policy and Program Development is responsible for Department-wide disclosure training, identifying and remedying policy and program deficiencies, serving as the DHS FOIA Public Liaison¹¹ and managing the HQ FOIA web presence.

At the component level, as noted in the DHS FOIA Operational Overview, FOIA operations at DHS are decentralized. Currently, seven operational components and 10 HQ components at DHS have appointed FOIA Officers and staff.¹² Although the FOIA Officers do not report to the DHS HQ FOIA Office, the DHS HQ FOIA Office continues its efforts to better coordinate and systematize the FOIA processes throughout the Department.

Examples of steps taken to ensure effective and efficient operations:

¹¹ As required by 5 U.S.C. § 552(l).

¹² The seven Operational Components and 10 HQ components that have appointed FOIA officers and staff: Transportation Security Administration (TSA), Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), United States Coast Guard (USCG), United States Citizenship and Immigration Services (USCIS), and Federal Emergency Management Agency (FEMA), Office for Civil Rights and Civil Liberties (CRCL), Directorate for Management (MGMT), National Protection and Programs Directorate (NPPD), Office of the General Counsel (OGC), Office of Intelligence and Analysis (I&A), Office of Inspector General (OIG), Office of Operations Coordination (OPS), Office of Policy (PLCY), Directorate for Science and Technology (S&T), US-VISIT.

- Due to increased online postings, HQ FOIA processors attended DHS hands-on Section 508 of the Rehabilitation Act of 1973, as amended 29 U.S.C. § 794 (d), compliance training in February 2010. Each processor is responsible for assuring any documents they process are Section 508 compliant if the documents will be posted online.
- Several components, including USCIS and ICE, implemented online tools for customers to access information pertaining to the status and location of their request in the queue.
- The CFOIAO and Deputy met with each component FOIA Officer to discuss specific component operational concerns and component progress on implementation of transparency initiatives detailed in Section I.
- The CFOIAO hosts a bi-weekly FOIA Officer conference call to discuss current processing issues. The calls are a means to proactively resolve any issues that could delay processing of requests and assure that the components have a forum to share ideas and best practices.
- The Associate Director, Disclosure Policy & FOIA Program Development, also serves as the DHS FOIA Public Liaison. Handling customer concerns in the Liaison role provides heightened insight into the component FOIA programs. When working the other portion of the job, the Associate Director can address the exposed issues with program development assistance, such as employee training or an operational site evaluation.
- By taking an aggressive approach to proactive disclosure, DHS reduces the number of requests received because the information is already publicly available.

a. Discussion of how agency addressed the key roles played by agency personnel who work with FOIA professionals, specifically, steps taken to ensure FOIA professionals have sufficient IT support.

The Government Accountability Office (GAO) audited the Department’s FOIA program and issued a report on March 20, 2009, entitled *Freedom of Information Act: DHS Has Taken Steps to Enhance Its Program, but Opportunities Exist to Improve Efficiency and Cost-Effectiveness*.¹³ The technological improvements recommended by GAO in the report have already been implemented in varying degrees by the components. Additionally, DHS HQ FOIA is working with the components to ensure consistent application of technological tools.

For example, CBP, FOIA Division began a pilot of an in-house redaction tool for TECS law enforcement records to increase consistency in applying exemption codes office-wide to TECS records. This is a scripting program to allow for redaction within the TECS browser. The system sits “on top” of TECS and allows for consistent exemptions and the ability to update as change may occur to exemptions applied to TECS data; improves production or processing time by eliminating the excessive time associated with redaction; and also increases the security of

¹³ Freedom of Information Act: DHS Has Taken Steps to Enhance Its Program, but Opportunities Exist to Improve Efficiency and Cost-Effectiveness, available at <http://www.gao.gov/products/GAO-09-260>.

any documents released electronically since there is no text behind the redaction codes applied and, therefore, no way to undo a redaction applied. The system is expected to reduce actual TECS-record processing of entry and exit records by 50-70%. Approximately 150 pages can be processed and redacted in 10-15 minutes versus several hours with other redaction software.

All components updated their FOIA websites to accommodate increased postings. In addition, DHS HQ has performed regular maintenance of the site (such as keeping components' contact information up to date, revising the "how to submit" pages to make them more user-friendly, re-designing the layout of FOIA pages to make them easier to navigate). Additionally, ample IT support makes it possible for DHS to post regularly update rolling postings, such as Chief FOIA Officer's FOIA-related memos, Secretary Napolitano's calendars, and Congressional correspondence.

III. Steps Taken to Increase Proactive Disclosures

1. Describe here the steps the agency has taken to increase the amount of material that is available on agency's website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA guidelines.

In accordance with *Transparency and Open Government Memorandum for the Heads of Executive Departments and Agencies* (Transparency and Open Government Memorandum),¹⁴ and in the *Freedom of Information Act Memorandum for the Heads of Executive Departments and Agencies* (FOIA Memorandum) the Department was directed by the DHS CFOIAO, to proactively publish the following categories of information:

1. Historical daily schedules of the most senior agency officials (notated to reflect that officials may have deviated from the posted schedule and abridged as appropriate for security and privacy concerns)
2. Executed contracts and grants
3. Management directives and instructions
4. Congressional correspondence under DHS control
5. FOIA logs
6. Any records released pursuant to a FOIA request that have been, or are likely to become, the subject of three or more requests¹⁵

2. Examples of Proactive Disclosures

DHS has made significant enhancements to its online FOIA Reading Rooms. New information is posted to many of the sites on a weekly basis, with over 500 documents being proactively disclosed by the Department with more planned in the near future. In addition, the Department has significantly increased its disclosures of 5 U.S.C. § 552(a)(2)(D) documents. The following are examples of proactive disclosures being processed by the Department:

¹⁴ Transparency and Open Government Memorandum, 74 Fed. Reg. 4,685 (Jan. 21, 2009) available at <http://edocket.access.gpo.gov/2009/pdf/E9-1777.pdf>.

¹⁵ 5 U.S.C. § 552(a)(2)(D).

- CBP posted more than 80 documents including Congressional correspondence, contracts, final opinions, FOIA logs, manuals and instructions, policies and procedures, and significant records of interest.
- FEMA is working with its Grants Program Directorate to develop a process to proactively post grant awards.
- FLETC posted FLETC's strategic plan, organizational structure, financial reports, and press releases. In addition, training material not considered law enforcement sensitive is posted for public use. These include student handbooks, sample tests, and reference materials.
- The Privacy Office (PRIV) posted to Volumes 8000-11000 of Departmental Directives, as well as FOIA logs for FY 2004-FY 2009.
- ICE posted detention facility reviews; government contracts, 287(g) audits, Intergovernmental Service Agreements (IGSAs), agreements with state and local jails, policy memoranda, as well as their Standard Operating Procedures.
- MGMT provides all DHS Management Directives for posting to the DHS FOIA Reading Room, to date 181 have been posted.
- OIG is regularly updating its website proactively with management reports, audit reports, inspection reports, FOIA Logs, and procurement-related records. OIG posted the Inspector General's Calendar, OIG contracts, Congressional Correspondence, and OIG's FOIA log.
- TSA posted 155 Management Directives and frequently-requested executed contracts. TSA also made available its Claims Management database, which enables the public to view the status and disposition of claims for lost or damaged items.
- USCG posted Management Directives and Instructions and FY 2009 FOIA logs. USCG recently posted records regarding the following incidents: 1) CG Defender-class response boat mishap in Washington State Investigation, 2) CG 9/11/09 Potomac River response exercise in the District of Columbia Investigation, and 3) Loss of CG Dolphin helicopter in Hawaii Investigation.
- USCIS posted Statements of Policy and interpretations which have been adopted, final written determinations of administrative proceedings related to the Immigration and Nationality Act, Administrative manuals, operating instructions and handbooks that affect the public, and FOIA Request logs.

By mid-2010, the DHS components intend to implement the following website improvements:

- CBP: Adds the abridged daily historical schedule of the Commissioner biannually, and regularly updates the frequently requested documents, Congressional

correspondence, contracts, final opinions, FOIA logs, manuals and instructions, policies and procedures, and other significant records of interest.

- USCIS: Posts historical FOIA logs and existing contracts.
- FEMA: Developing an electronic test site designed to provide the public information such as contracts that have been requested more than three times in the past year and hyperlinks to HQ Grants and Policies web pages.
- ICE: Establishing processes to post currently awarded contracts and senior officials' calendars.
- OIG: Establishing processes to post historical calendars of the IG and Congressional Correspondence Logs on a quarterly basis; and FOIA logs annually.
- OPS: Establishing processes to post historical FOIA logs and the Director's calendar.
- S&T: Posting Acting Under Secretary Buswell's and Under Secretary O'Toole's calendar from August 31, 2009, to present when deemed Section 508-compliant.

IV. Steps Taken to Greater Utilize Technology

1. Electronic receipt of requests

	Component currently receives requests electronically	Component tracks requests electronically	Component uses technology to Process Requests	Component utilizes technology to prepare Annual FOIA Report
CBP	✓	✓	✓	✓
CRCL	✓	✓	✓	✓
FEMA	✓	✓	✓	✓
FLETC	✓	✓	✓	✓
I&A	✓	✓	✓	✓
ICE	✓	✓	✓	✓
MGMT	✓	✓	✓	✓
NPPD	✓	✓	✓	✓
OGC	✓	✓	✓	✓
OIG	✓	✓	✓	✓
OPS	✓	✓	✓	✓
PLCY	✓	✓	✓	✓
PRIV	✓	✓	✓	✓
S&T	✓	✓	✓	✓
TSA	✓	✓	✓	✓
USCG	✓	✓	✓	✓
USCIS	✓	✓	✓	✓
USSS	✓	✓	✓	✓
US-VISIT	✓	✓	✓	✓

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

DHS began its operations with a large, inherited FOIA backlog due to the pre-existing agency backlogs. Additionally, when the new department stood up, it generated a flood of requests because of its status and mission. The result was a 98,396-request backlog at the end of FY 2006 - the largest federal FOIA backlog in history. Despite resource constraints, and the fact that from 2006 to 2009, the number of total requests to the Department held relatively constant, in the last three years, DHS reduced its backlog by over 80%. At the end of FY 2009, the backlog was 18,787. As of January 2010, the DHS-wide backlog was 12,406. This incredible result is due to the ongoing dedication of the DHS FOIA professionals.

1. DHS FOIA Request Backlog History¹⁶

	Number of Backlogged Requests at End of FY 2006	Number of Backlogged Requests at End of FY 2007	Number of Backlogged Requests at End of FY 2008	Number of Backlogged Requests at End of FY 2009
USCIS	89,214	72,048	67,545	16,801
CBP	581	264	4,794	88
CRCL	*	4	5	11
USCG	*	937	1,044	385
FEMA	236	280	544	803
FLETC	0	3	7	36
I&A	95	38	0	8
ICE	7,346	1,069	8	10
MGMT	N/A	2	1	4
NPPD	N/A	8	13	11
US-VISIT	5	1	2	1
OIG	94	91	23	7
OGC	3	*	5	17
OPS	9	2	0	0
PLCY	N/A	12	7	30
PRIV	22	37	22	66
S&T	16	22	6	2
USSS	730	618	504	426
TSA	45	213	349	212
AGENCY OVERALL	98,396	75,649	74,879	18,918

*Information not provided by the component

¹⁶ DHS started collecting backlog information from the components in June 2006. The FY 2006 and FY 2007 numbers above are derived from that data. DOJ required backlog reporting effective FY 2008. The above FY 2008 and FY 2009 information is from DHS *Annual FOIA Reports to the Attorney General*.

Backlogged FOIA Requests in FY 2008 and FY 2009

DHS Components	Number of Backlogged Requests as of End of the Fiscal Year from 2008 FOIA Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from 2009 FOIA Annual Report
CBP	4,794	88
CRCL	5	11
FEMA	544	803
FLETC	7	36
I&A	0	8
ICE	8	10
MGMT	1	4
NPPD	13	11
OGC	5	17
OIG	23	7
OPS	0	0
PLCY	7	30
PRIV	22	66
S&T	6	2
TSA	349	212
USCG	1,044	385
USCIS	67,545	16,801
USSS	504	426
US-VISIT	2	1
AGENCY OVERALL	74,879¹⁷	18,918¹⁸

Backlogged Administrative Appeals in FY 2008 and FY 2009.

DHS Components	Number of Backlogged Appeals as of End of the Fiscal Year from 2008 FOIA Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from 2009 FOIA Annual Report
CBP	100	331
FLETC	0	0
DHS/OGC*	325	520
TSA	4	2
USCG	33	69
USCIS	1,913	1,821
USSS	28	4
AGENCY OVERALL	2,403¹⁹	2,747²⁰

* DHS/OGC processes FOIA Appeals for: CRCL, FEMA, I&A, ICE, MGMT, NPPD, OHA, OPS, PLCY, NPPD, PRIV, S&T and US-VISIT

¹⁷ Oldest request, as reported in the FY 2008 *Annual FOIA Report to the Attorney General*, was dated 2/25/2000.

¹⁸ Oldest request, as reported in the FY 2009 *Annual FOIA Report to the Attorney General*, was dated 3/29/2002.

¹⁹ Oldest appeal, as reported in the FY 2008 *Annual FOIA Report to the Attorney General*, was dated 3/18/2003.

²⁰ Oldest appeal, as reported in the FY 2009 *Annual FOIA Report to the Attorney General*, was dated 5/19/2003.

2. Age of Requests and Administrative Appeals in FY 2009 and FY 2010 and Steps Taken to Reduce Backlogs

To support the backlog elimination effort, the CFOIAO is working with component leadership to ensure the Department's components devote adequate resources to their FOIA programs.

Although the Open Government Directive calls for an annual 10% backlog reduction, the CFOIAO set a 15% reduction goal for FY 2010.²¹ In order to stay on track to meet this goal, each component strives to hit a monthly processing target, calculated using variables such as the number of requests received per month and the component's processing capacity. Additionally, DHS is striving to close the 10 oldest cases detailed in the FY 2009 FOIA Annual Report.

Age of Requests at the End of Fiscal Year 2009													
DHS Components	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
CBP	26	7	6	10	2	3	4	6	1	7	10	6	88
CRCL	3	0	0	1	0	1	1	1	0	4	0	0	11
FEMA	19	81	33	35	48	41	39	18	22	154	111	202	803
FLETC	14	9	5	5	3	0	0	0	0	0	0	0	36
I&A	7	1	0	0	0	0	0	0	0	0	0	0	8
ICE	4	2	1	1	0	1	0	1	0	0	0	0	10
MGMT	4	0	0	0	0	0	0	0	0	0	0	0	4
NPPD	2	3	1	3	0	1	1	0	0	0	0	0	11
OIG	2	1	0	0	1	0	0	1	0	2	0	0	7
OGC	0	0	0	0	3	2	2	1	2	4	2	1	17
OPS	0	0	0	0	0	0	0	0	0	0	0	0	0
PLCY	2	0	3	0	1	3	2	2	0	7	3	7	30
PRIV	4	14	3	6	10	2	5	13	3	3	1	2	66
S&T	0	1	0	1	0	0	0	0	0	0	0	0	2
TSA	30	16	18	11	14	14	10	10	7	31	14	37	212
USCG	80	49	35	19	19	19	26	21	2	10	2	2	284*
USCIS	138	905	4,278	5,159	3,497	750	446	178	144	234	99	973	16,801
USSS	0	23	19	36	6	8	7	14	6	53	32	222	426
US-VISIT	1	0	0	0	0	0	0	0	0	0	0	0	1
AGENCY OVERALL	336	1,112	4,402	5,287	3,604	845	543	266	187	509	274	1,452	18,817*

*The number reported in the 2009 Annual Report includes requests that were pending less than 20 days at the end of FY 2009.

Age of Requests as of January 31, 2010													
DHS Components	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
CBP	589	68	4	2	0	2	1	1	0	4	2	1	674
CRCL	DATA NOT AVAILABLE												
FEMA	28	56	45	64	39	42	25	39	23	130	106	217	814
FLETC	7	5	5	4	3	4	5	2	2	0	0	0	37
I&A	1	0	0	0	0	0	0	0	0	0	0	0	1

²¹ M-10-06, Open Government Directive (December 8, 2009), available at www.whitehouse.gov/omb/assets/memoranda_2010/m10-06.pdf

Age of Requests as of January 31, 2010													
DHS Components	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
ICE	14	132	43	8	2	0	1	0	0	2	0	0	202
MGMT	2	0	0	0	0	0	0	0	0	0	0	0	2
NPPD	2	2	2	2	3	5	1	3	0	3	0	0	23
OIG	2	1	0	0	1	0	0	1	0	2	0	0	7
OGC	1	0	0	2	2	1	2	2	1	5	3	2	21
OPS	0	0	0	0	0	0	0	0	0	0	0	0	0
PLCY	1	0	2	0	1	2	2	2	0	7	3	3	24
PRIV	19	8	9	8	6	9	0	5	4	12	3	2	85
S&T	0	0	0	0	1	0	0	0	1	0	0	0	2
TSA	45	27	32	13	15	8	13	6	10	31	13	33	246
USCG	92	56	59	105	55	46	40	46	25	97	52	154	827
USCIS	4,359	3,172	585	102	61	48	35	33	36	85	46	44	8,606
USSS	40	37	29	18	14	18	32	4	6	29	49	214	490
US-VISIT	343	2	0	0	0	0	0	0	0	0	0	0	345
AGENCY OVERALL	5,545	3,566	815	328	203	185	157	144	108	407	277	670	12,406

Age of Administrative Appeals in FY 2009 and FY 2010

Age of Appeals at the End of Fiscal Year 2009													
DHS Components	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
CBP	57	32	48	47	55	45	4	4	1	20	2	16	331
FLETC	0	0	0	0	0	0	0	0	0	0	0	0	0
DHS/OGC*	0	0	0	13	14	14	11	17	14	58	80	299	520
TSA	0	1	1	0	0	0	0	0	0	0	0	0	2
USCG	4	3	4	13	7	15	7	6	0	3	1	4	67*
USCIS	1	0	1	0	2	1	3	1	10	190	164	1,448	1,821
USSS	0	0	0	0	0	0	0	0	1	0	2	1	4
AGENCY OVERALL	62	36	54	73	78	75	25	28	26	271	249	1,768	2,745*

*DHS/OGC processes FOIA Appeals for: CRCL, FEMA, I&A, ICE, MGMT, NPPD, OHA, OPS, PLCY, NPPD, PRIV, S&T and US-VISIT.

Age of Appeals as of January 31, 2010													
DHS Components	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
CBP	4	20	45	15	49	21	28	23	25	57	8	8	303
FLETC	0	0	0	0	0	0	0	0	0	0	0	0	0
DHS/OGC*	18	5	6	18	12	14	11	17	14	58	78	297	548
TSA	1	1	0	1	0	0	1	0	0	0	0	0	4
USCG	0	4	4	2	2	3	3	9	12	28	4	4	75
USCIS	179	160	178	166	109	93	97	58	67	3	2	0	1,112
USSS	0	0	2	0	0	0	0	0	0	1	0	3	6
AGENCY OVERALL	202	190	235	202	172	131	140	107	118	147	92	312	2,048

*DHS/OGC processes FOIA Appeals for: CRCL, FEMA, I&A, ICE, MGMT, NPPD, OHA, OPS, PLCY, NPPD, PRIV, S&T and US-VISIT.

APPENDIX A: COMPOSITION- OF THE DEPARTMENT OF HOMELAND SECURITY

The Office of the Secretary oversees activities with other federal, state, local, and private entities as part of a collaborative effort to strengthen our borders, provide for intelligence analysis and infrastructure protection, improve the use of science and technology to counter weapons of mass destruction, and to create a comprehensive response and recovery system. The Office of the Secretary includes multiple offices that contribute to the overall Homeland Security mission. These are:

The mission of the Privacy Office (PRIV) is to preserve and enhance privacy protections for all individuals, to promote transparency of Department of Homeland Security (DHS) operations, and to serve as a leader in the privacy community.

The Office for Civil Rights and Civil Liberties (CRCL) provides legal and policy advice to Department leadership on civil rights and civil liberties issues, investigates and resolves complaints, and provides leadership to Equal Employment Opportunity Programs.

The Office of Inspector General (OIG) conducts and supervises audits, investigations, and inspections relating to the programs and operations of the Department, and recommends ways for the Department to carry out its responsibilities in the most effective, efficient, and economical manner possible.

The Citizenship and Immigration Services Ombudsman (CISOMB) provides recommendations for resolving individual and employer problems with the United States Citizenship and Immigration Services in order to ensure national security and the integrity of the legal immigration system, increase efficiencies in administering citizenship and immigration services, and improve customer service.

The Office of Legislative Affairs (OLA) serves as primary liaison to members of Congress and their staffs, the White House and Executive Branch, and to other federal agencies and governmental entities that have roles in assuring national security.

The Office of the General Counsel (OGC) integrates approximately 1700 lawyers from throughout the Department into an effective, client-oriented, full-service legal team and comprises a headquarters office with subsidiary divisions and the legal programs for eight Department components.

The Office of Public Affairs (OPA) coordinates the public affairs activities of all of the Department's components and offices, and serves as the federal government's lead public information office during a national emergency or disaster. Led by the Assistant Secretary for Public Affairs, it comprises the press office, incident and strategic communications, speechwriting, Web content management, and employee communications.

The Office of Counternarcotics Enforcement (CNE) coordinates policy and operations to stop the entry of illegal drugs into the United States, and to track and sever the connections between illegal drug trafficking and terrorism.

The Office of the Executive Secretariat (ESEC) provides all manner of direct support to the Secretary and Deputy Secretary, as well as related support to leadership and management across the Department. This support takes many forms, the most well known being accurate and timely dissemination of information and written communications from throughout the Department and our homeland security partners to the Secretary and Deputy Secretary.

The Military Advisor's Office advises on facilitating, coordinating and executing policy, procedures, preparedness activities and operations between the Department and the Department of Defense.

Department Components:

National Protection and Programs Directorate (NPPD) works to advance the Department's risk-reduction mission. Reducing risk requires an integrated approach that encompasses both physical and virtual threats and their associated human elements.

The Directorate for Science and Technology (S&T) is the primary research and development arm of the Department. It provides federal, state and local officials with the technology and capabilities to protect the homeland.

The Directorate for Management (MGMT) is responsible for Department budgets and appropriations, expenditure of funds, accounting and finance, procurement, human resources, information technology systems, facilities and equipment, and the identification and tracking of performance measurements.

The Office of Policy (PLCY) is the primary policy formulation and coordination component for the Department of Homeland Security. It provides a centralized, coordinated focus to the development of Department-wide, long-range planning to protect the United States.

The Office of Health Affairs (OHA) serves as the Department's principal authority for all medical and health issues. OHA provides medical, public health, and scientific expertise in support of the DHS mission to prepare for, respond to, and recover from all threats.

The Office of Intelligence and Analysis (I&A) is responsible for using information and intelligence from multiple sources to identify and assess current and future threats to the United States.

The Office of Operations Coordination (OPS) is responsible for monitoring the security of the United States on a daily basis and coordinating activities within the Department and with

governors, Homeland Security Advisors, law enforcement partners, and critical infrastructure operators in all 50 states and more than 50 major urban areas nationwide.

The Federal Law Enforcement Training Center (FLETC) provides career-long training to law enforcement professionals to help them fulfill their responsibilities safely and proficiently.

The Domestic Nuclear Detection Office (DNDO) works to enhance the nuclear detection efforts of federal, state, territorial, tribal, and local governments, and the private sector and to ensure a coordinated response to such threats.

The Transportation Security Administration (TSA) protects the nation's transportation systems to ensure freedom of movement for people and commerce.

United States Customs and Border Protection (CBP) is responsible for protecting our nation's borders in order to prevent terrorists and terrorist weapons from entering the United States, while facilitating the flow of legitimate trade and travel.

United States Citizenship and Immigration Services (USCIS) is responsible for the administration of immigration and naturalization adjudication functions and establishing immigration services policies and priorities.

United States Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security, is responsible for identifying and shutting down vulnerabilities in the nation's border, economic, transportation and infrastructure security.

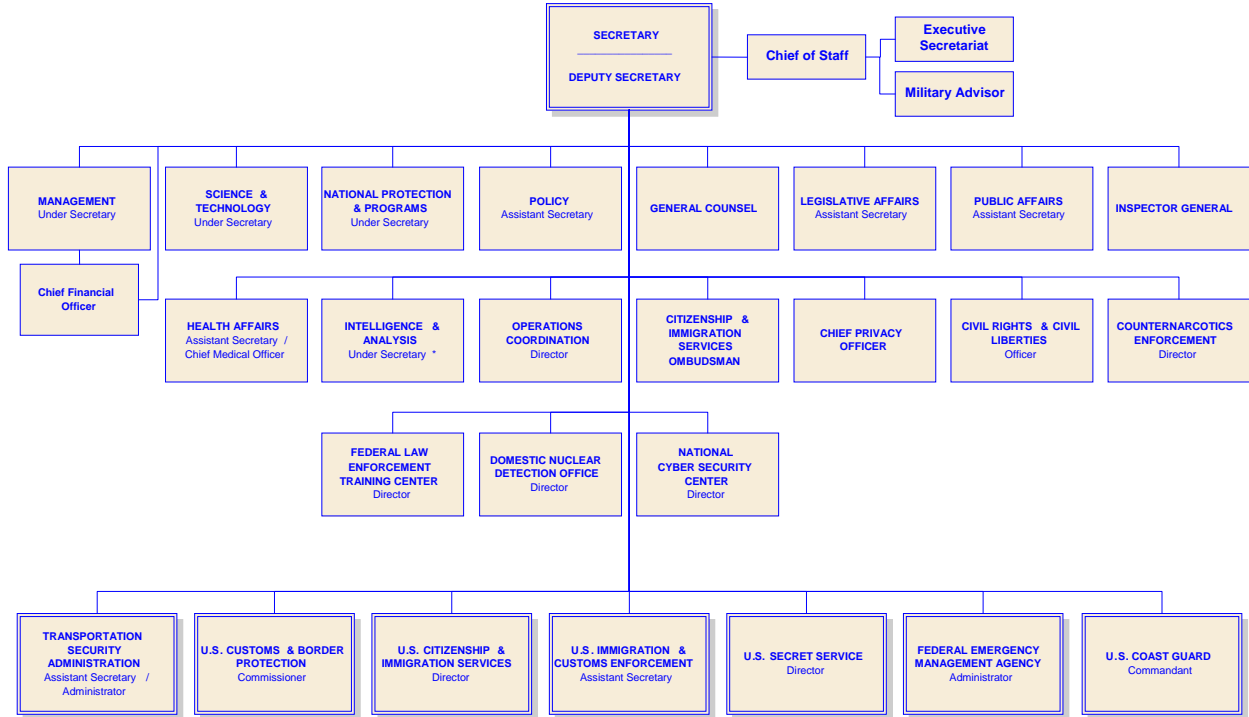
The United States Coast Guard (USCG) protects the public, the environment, and U.S. economic interests in the nation's ports and waterways, along the coast, on international waters, or in any maritime region as required to support national security.

The Federal Emergency Management Agency (FEMA) prepares the nation for hazards, manages Federal response and recovery efforts following any national incident, and administers the National Flood Insurance Program.

The United States Secret Service (USSS) protects the President and other high-level officials and investigates counterfeiting and other financial crimes, including financial institution fraud, identity theft, computer fraud; and computer-based attacks on our nation's financial, banking, and telecommunications infrastructure.

APPENDIX B: DHS COMPONENT CHART

U.S. DEPARTMENT OF HOMELAND SECURITY



*Under Secretary for Intelligence & Analysis title created by Public Law 110-53, Aug. 3, 2007

Approved 3/20/08

APPENDIX C: NAMES, ADDRESSES, AND CONTACT NUMBERS FOR DHS FOIA OFFICERS

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