

**2018 Chief FOIA Officer Report**  
**Office of National Drug Control Policy**

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**Section 1: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying DOJ's **FOIA Guidelines** is the presumption of openness. Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

**A. FOIA Training**

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes

2. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Chief FOIA Officers Council Meeting, July 2017. The following topics were discussed:

- Dispute Resolution;
- Implementing Statutory Notification Requirements;
- Overview of FOIA Public Liaisons;
- FOIA Requester Service Center Duties;
- Maximizing Effectiveness of Service Provided by FOIA Requester Service Centers;
- FOIA Public Liaisons; and
- OGIS

3. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

50%.

4. OIP has **directed agencies** to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Due to its small size, ONDCP does not have personnel assigned full time to administration of its FOIA program. FOIA duties have been assigned primarily to two personnel in the Office of Legal Counsel. ONDCP will try to send all personnel to training next year, but due to extremely limited staff and budgets in the Office of Legal Counsel, that may not be possible every year.

## **B. Outreach**

5. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

No

## **C. Other Initiatives**

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.

ONDCP’s FOIA officials regularly communicate FOIA standards and expectations to employees throughout the agency who are responsible for locating and providing documents.

7. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

ONDCP tries to release as much information as possible when responding to requests. In the vast majority of ONDCP’s responses to FOIA requests for which ONDCP had documents, the responses contained either no redactions or only minor redactions for personal information. Before responses were provided to requesters, ONDCP FOIA staff reviewed the material to ensure that where an exemption applied, the records were withheld or redacted only where ONDCP was able to articulate the harm that would have resulted from the release of such information.

## **Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

DOJ’s **FOIA Guidelines** emphasize that “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. For Fiscal Year 2017, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2017 Annual FOIA Report.

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2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Our average was above ten calendar days this year only because we received several requests for public correspondence received by the President's Commission on Combating Drug Addiction and the Opioid Crisis, which consisted of more than 12,000 emails. Appropriately redacting that volume of emails easily took many weeks, but we responded as quickly as possible as required by expedited treatment. Our average for responding to other expedited requests was easily within ten calendar days.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

No

- Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.
4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).

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5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.
6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

ONDCP has improved communication with its requesters in a spirit of cooperation. If ONDCP receives a request that is unclear, misdirected, or that misunderstands the kind of work that ONDCP does, ONDCP will often call or email the requester to clarify what documents the requester is asking for and explain what kinds of documents ONDCP maintains. For example, one common misconception is that ONDCP has information about particular criminal cases or investigations conducted by our High Intensity Drug Trafficking Area grantees, which we rarely do. Another common misconception is that ONDCP has documents related to the President that have nothing to do with drug issues. But as part of our communication with requesters, ONDCP can sometimes help redirect the requesters to other sources.

### **Section III: Steps Taken to Increase Proactive Disclosures**

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material:

ONDCP proactively disclosed material on the following key issues on its website:

- Prescription Opioid Misuse, Heroin and Fentanyl  
<https://www.whitehouse.gov/ondcp/key-issues/prescription-opioid-misuse/>;
- Fentanyl Safety Recommendations for First Responders  
<https://www.whitehouse.gov/ondcp/key-issues/fentanyl/>;
- Cocaine  
<https://www.whitehouse.gov/ondcp/key-issues/cocaine/>;
- Marijuana  
<https://www.whitehouse.gov/ondcp/key-issues/marijuana/>;
- Methamphetamines and  
<https://www.whitehouse.gov/ondcp/key-issues/methamphetamines/>;
- New Psychoactive Substances  
<https://www.whitehouse.gov/ondcp/key-issues/psychoactive-substances/>.

2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

ONDCP use press releases, social media, email, and other means to inform the public about information that may be of interest. We also created a subpage of our website specifically devoted to the President's Commission on Combating Drug Addiction and the Opioid Crisis to provide documents to the public related to that Commission.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

ONDCP posts its data in formats that can be used by researchers, and sometimes our website is the only source for such data.

4. If yes, please provide examples of such improvements.

ONDCP monitors if certain records are frequently requested and should therefore be posted on our website.

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

ONDCP proactively discloses numerous documents on its website whenever members of ONDCP's staff, particularly its Office of Public Affairs or Office of Policy, Research, and Budget, believe that certain documents or data would be helpful to the public. Our Office of Policy, Research, and Budget contracts for significant research studies regarding drug use and its consequences and produces a compendium of drug-related data each year, both of which are made available to the public on our website.

#### **Section IV: Steps Taken to Greater Utilize Technology**

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing.

The EOP has begun to use Ringtail to search for and sort particular kinds of documents such as emails. The analytical tools associated with that program can be useful. We generally do redacting electronically in Adobe.

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

Yes

3. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2018.

N/A

4. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

<https://www.whitehouse.gov/ondcp/additional-links-resources/foia/>

5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

ONDCP has made an ongoing effort to provide more substantive information and data for the public through social media, email, and press releases. ONDCP updated its Open Government Plan, and ONDCP's Flagship Initiative under that plan is to incorporate significantly greater use of online and social media tools to expand transparency, participation, and collaboration related to the National Drug Control Strategy and other ONDCP activities. The Open Government Plan also includes a section on ONDCP's FOIA program and processes.

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs**

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.

### **A. Simple Track**

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

No

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

Yes

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Yes

## **B. Backlogs**

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

## **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

No – (FY2016 – 2 backlogged; FY2017 – 9 backlogged). ONDCP's Office of Legal Counsel is short staffed, often with one attorney for the whole agency on numerous issues (not just FOIA). In addition, our FOIA volume has gone up significantly since last year, largely due to requests directed toward the new Administration. The volume of Commission correspondence also contributes to this.

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2017.

5%

### **BACKLOGGED APPEALS**

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

None pending from 2016 or 2017.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

N/A

### **C. Backlog Reduction Plans**

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2017?

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?

## **D. Status of Ten Oldest Requests, Appeals, and Consultations**

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

### **TEN OLDEST REQUESTS**

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

No

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

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15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

None of the requests were withdrawn.

### **TEN OLDEST APPEALS**

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

None pending from 2016.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

## TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

None pending from 2016.

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

### E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.

Lack of personnel is the primary obstacle.

21. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2017.

We hope to get detailee attorneys here to help in the coming year or a better budget, but there is no guarantee of that.

### F. Success Stories

Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- One particular FOIA requester congratulated ONDCP's FOIA office on social media after we responded promptly to several FOIA requests and went beyond what was legally required by responding to the requester's follow up questions regarding why we did not have records on a certain topic