

Executive Office of the President

Office of Science and Technology Policy



2022 Chief Freedom of Information Act Officer  
Annual Report

Rachel Wallace  
Chief FOIA Officer  
Chief Operating Officer and Deputy Counsel

The Office of Science and Technology Policy (OSTP) is pleased to present its annual Chief FOIA Officer Report. The 2021 Fiscal Year was a challenging, but successful year where OSTP remained committed to its FOIA program. OSTP is a small agency and, in Fiscal Year 2021, we received 129 requests for records under FOIA.

OSTP remains actively engaged in administering FOIA as required by Congress. OSTP provides the President and others within the Executive Branch with advice on the scientific, engineering, and technological aspects of the economy, national security, homeland security, health, foreign relations, and the environment. Our agency exists by creation of Congress, and Congress specifically situated the agency within the Executive Office of the President (EOP).

We operate with a small budget and currently have three full-time contractors devoted to FOIA, as well as one lawyer who spends a substantial amount of time administering the program. Like other Agencies, we use a multi-track process to coordinate FOIA requests. Because we are within the EOP and lead inter-agency processes, many of our FOIA requests are complex, voluminous, and require inter-agency coordination.

OSTP regularly engages with requestors about their FOIA matters to gain a better understanding of what is being requested. Emails and phone calls help provide open communication with and foster positive dialogues with the requesting community. OSTP is constantly looking to improve the FOIA process from start to finish. We ensure all staff are regularly attending training throughout the year, and we include a FOIA training module as part of every new employee's onboarding process at OSTP. This ensures that OSTP follows FOIA best practices and fosters an environment that provides efficient and accurate FOIA responses to requestors.

OSTP regularly works with FOIA officials throughout the Government. Our office also reviews technology offerings, procedures, and tracking systems in an effort to enhance the overall FOIA request process. OSTP has also promoted future uses of artificial intelligence that could greatly aid in the FOIA process by allowing for a more accurate and efficient review model. We encourage the use of AI tools that would allow for real time reporting, something that would benefit both requestors and agencies.

OSTP is fully committed to efficient, accurate, and timely administration of FOIA requests. We look forward to a continued and excellent working relationship with the Department of Justice.

Sincerely,

Rachel Wallace  
Deputy Counsel and Chief Operating Officer

## **I. 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 Leadership**

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at this level?

Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

Rachel Wallace, Chief Operating Officer and Deputy Counsel.

### **B. FOIA Training**

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

OSTP encourages its FOIA professionals to attend FOIA training sessions offered by the Department of Justice (hereinafter, "DOJ"), the Chief FOIA Officers Council Technology Committee and other FOIA training events. Additionally, information learned at these events are discussed internally amongst the FOIA professionals and efforts are made to adopt some of the best practices from these sessions.

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

Yes.

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

OSTP welcomes the opportunity for its staff to regularly attend FOIA training throughout the year. The training sessions help to ensure that the professionals who are engaged in FOIA processing are knowledgeable about legal developments and

technological advancements (for example, predictive coding and the latest e-discovery review platforms) in the field. Learning about changes in the laws or practices governing the Act as well as the most recent or best tools in the field help us to effectively and efficiently process FOIA requests.

Fiscal Year 2021 was a very challenging year due to the ongoing outbreak of COVID-19, which resulted in the cancelation of several in-person training programs. However, our commitment to FOIA training did not wane.

In furtherance of that commitment, OSTP FOIA professionals attended various virtual training sessions held by the DOJ.

Additionally, OSTP personnel participated in the Artificial Intelligence training event held virtually on November 5, 2020. The event featured the Chief FOIA Officers (“CFO”) Council Technology Committee working group on AI and Federal employees and contractors. <https://www.justice.gov/oip/blog/oip-hosts-artificial-intelligence-event-featuring-cfo-council-technology-committee-working>.

Nicholas Wittenberg, member of OSTP’s FOIA team, was a presenter and chairperson at the event.

The AI 101 training session afforded OSTP the opportunity to provide extensive information on how Federal FOIA programs could effectively and efficiently maximize AI to meet their FOIA processing obligations. Additionally, it provided an avenue for attendees to share information regarding technologies currently in use at various agencies.

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

100 percent.

7. 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.

N/A.

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Yes.

## C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

OSTP FOIA professionals regularly engage with the requesting community throughout the FOIA process to better understand their needs, resolve potential issues, and ensure timely and efficient production of requested documents.

Upon receipt of a request, it is carefully examined to determine if it is: a permissible request; overly broad; asking for the creation of a new record not in existence at the time of the request; or one that requires further clarification.

If there is any issue with the request, the requestor is contacted by email to ask for clarification or schedule a conference call to discuss the issue(s). Additionally, a pre-review case assessment is performed in situations involving complex requests that generate voluminous records to determine if the scope could be narrowed.

Furthermore, OSTP staff members attend various training events to meet with fellow Government professionals and individuals from the requestor community. These engagements provide excellent opportunities for OSTP FOIA professionals to gain insight into the needs of the FOIA community. They also provide opportunities for FOIA professionals at various Agencies and Departments to interact, improving the Consultation and Referral process, as well as exposure to ways of improving the FOIA process.

## D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff.
  - how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and
  - if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations.

As part of OSTP's onboarding process, the Office of General Counsel provides all staff – leadership, career OSTP professionals, those on detail from other Agencies, academic fellows, contractors, and interns – with comprehensive FOIA training. This training occurs through a virtual course taken by all new staff. Following this course, one of OSTP's attorneys contacts each new staff member to answer any questions they may have on FOIA or any other legal obligation.

Our attorneys distribute OIP’s FOIA infographic to all new employees as part of the agency’s onboarding materials. Additionally, OSTP FOIA professionals regularly update staff on FOIA requirements at all-hands and divisional meetings and work with staff to ensure that proper FOIA procedures are followed for records management and FOIA requests.

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

OSTP embraces the presumption of openness and provides documents on its website for easy dissemination and review. OSTP also ensures that it follows the best technology practices to ensure that documents are released in a timely fashion and in easily accessible formats.

## **II. 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 describes your agency's efforts in this area.

1. For Fiscal Year 2021, 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 2021 Annual FOIA Report.

8.06

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2020 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations with 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency

updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016?

Yes.

4. Standard Operating Procedures (SOPs) generally document your agency's internal process for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for upcoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have an up-to-date internal SOPs for your FOIA administration?

Yes. OSTP has extensive SOPs to efficiently and accurately process, review, and produce responsive documents for the FOIA requests that are received. Additionally, all staff members, as part of the onboard training, are given an overview of OSTP's FOIA process. Furthermore, OSTP's Office of General Counsel routinely provides updates regarding the Standard Operating Procedures to ensure best practices are being followed.

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

N/A.

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

No. First-party requested records are processed under the FOIA and Privacy Act.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

We do not have opportunities for providing such records outside of the FOIA or Privacy Act process, and we rarely receive such requests outside of these established processes.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically

highlight any data analysis methods or technologies used to assess your agency's FOIA programs.

Yes. We reviewed the annual report, quarterly reports and raw data against the FOIA tracking tool/ log to ensure consistency in the reported information. Additionally, OSTP uses a central tracking system to record FOIA requests. This system makes it possible to track current and past FOIA requests.

9. 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 2021 (please provide a total number or an estimate of the number).

OSTP has not received any FOIA requests where the requestor sought assistance from the Office's Public Liaison during the reporting period. This might be due, in part, to OSTP's routine practice of reaching out to requestors by email and phone to answer questions or concerns requestors might have regarding their submissions.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. OSTP routinely evaluates its staffing capabilities. As a result of the review, additional contractors were hired to process the ever-increasing FOIA requests at the agency.

11. Optional – Please describe.

- Best practices used to ensure that your FOIA system operates efficiently and effectively.

OSTP FOIA professionals meet regularly, in person and virtually, to discuss new or pending requests. As part of those meetings, we devise strategies for improving our FOIA processing system. These sessions help to ensure proper tracking of all new and pending requests. These efforts foster openness and ensure that requesters are responded to in a timely manner. Additionally, we routinely review our staffing capabilities to determine if additional personnel are necessary to process FOIA requests.

- Any challenges your agency faces in this area.

It is difficult to predict the total number of FOIA requests or those with voluminous records for the Fiscal Year. Additionally, the current outbreak of COVID-19 exacerbated these challenges during Fiscal Year 2021. Under normal circumstances, OSTP FOIA would receive seasonal assistance in processing

FOIA requests. Unfortunately, the pandemic made that impossible for Fiscal Year 2021.

Additionally, we had a significant influx of requests regarding COVID-19 as well as inquiries regarding the Biden Administration. Most of these requests involved search results that yielded higher than usual document counts. This necessitated longer review times.

Despite these challenges, OSTP FOIA has risen to the occasion by routinely interacting with requestors and working with them to narrow the scope of their requests, where feasible, as well as producing responsive records on a rolling basis. These resourceful efforts helped us to meet these challenges and fulfill our obligations under the FOIA.

### **III. 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. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Important agency announcements, like those associated with Executive Orders, Presidential Memoranda, or Directives, are posted to [www.whitehouse.gov/news/](http://www.whitehouse.gov/news/). In addition, OSTP works with its Communications Office to post copies of OSTP or National Science and Technology Council (NSTC) reports online: [www.whitehouse.gov/ostp/documents-and-reports/](http://www.whitehouse.gov/ostp/documents-and-reports/). Additionally, we post materials and other contents that may be of interest to the public at <https://www.whitehouse.gov/ostp/legal/>. One example is a staffing list, which is posted and periodically updated on the preceding web page.

2. Provide examples of material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552 (a)(2)(D). Please include links to these materials as well.

OSTP does not routinely receive requests for the same information. However, when we do receive such requests, we post that material and others that may be of interest to the public at <https://www.whitehouse.gov/ostp/legal/>. OSTP posts staffing lists, important agency announcements such as Executive Orders affecting, Presidential Memoranda and Directives.

3. Does your agency disseminate common types of materials outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Yes. Agency announcements, like those associated with Executive Orders, Presidential Memoranda, or Directives, are posted to [www.whitehouse.gov/news/](http://www.whitehouse.gov/news/). In addition, OSTP works with its Communications Office to post copies of OSTP or National Science and Technology Council (NSTC) reports online: [www.whitehouse.gov/ostp/documents-and-reports/](http://www.whitehouse.gov/ostp/documents-and-reports/). Furthermore, we post materials and other contents that may be of interest to the public at <https://www.whitehouse.gov/ostp/legal/>.

4. 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?

Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

OSTP regularly communicates with requestors seeking information that is already accessible from OSTP's website. Additionally, OSTP makes every effort to be responsive to requestors and the public regarding accessibility and file formats.

6. Does your proactive disclosures process or system involve any collaboration with agency staff outside the FOIA Office? If yes, describe this interaction.

Yes. OSTP FOIA routinely interacts with agency staff members to post responses to Request for Information (RFIs) and with its Communications Office to post copies of OSTP or National Science and Technology Council (NSTC) reports online at: [www.whitehouse.gov/ostp/documents-and-reports/](http://www.whitehouse.gov/ostp/documents-and-reports/). Furthermore, we post materials that may be of interest to the public at <https://www.whitehouse.gov/ostp/legal/>.

Optional -- Please describe:

- Best practices used to improve proactive disclosures

Regular communication with requestors helps identify possible situations where certain information has already been released.

- Any challenges your agency faces in this area

#### **IV. 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 reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

OSTP works with the Office of Administration (hereafter "OA"), another component within the Executive Office of the President (henceforth "EOP") network, as well as with the E-Discovery team at the EOP. The E-Discovery team provides technical expertise in the collection of documents. In addition to the collection of responsive documents, the eDiscovery team also maintains the software that allows each EOP component to review those records. This software greatly assists in the production phase of FOIA requests by ensuring that correct file types are provided so documents that are potentially responsive to the requests are easily disseminated. This team has provided OSTP with helpful tools that allow for a more efficient review of large-scale electronic documents. Those tools are helpful in identifying duplicate documents and, extremely, useful for mass coding such records as well as categorizing documents by custodian, time frame, or keywords to provide a more efficient review process. E-Discovery and EOP components meet regularly to examine tools and discuss solutions for the eDiscovery review process to ensure that best practices are adopted in the collection, review, and production phases.

3. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes.

4. Did your agency successfully post all four quarterly reports for Fiscal Year 2021?

Yes. OSTP has posted all four quarterly reports to its website and is in the process of submitting all of its quarterly reports for FY2021 to FOIA.gov.

<https://www.whitehouse.gov/ostp/legal/>

<https://www.whitehouse.gov/wp-content/uploads/2021/03/2021.01.27-FOIA-QUARTERLY-REPORT-Q1.pdf>

<https://www.whitehouse.gov/wp-content/uploads/2021/04/2021.04.28-QUARTERLY-REPORT-FOR-QUARTER-2-OF-FISCAL-YEAR-2021.pdf>

<https://www.whitehouse.gov/wp-content/uploads/2021/07/2021.07.16-FOIA-QUARTERLY-REPORT-FY2021-Q3.pdf>

<https://www.whitehouse.gov/wp-content/uploads/2022/01/2021.11.09-FOIA-Quarterly-Report-FY2021-Q4.pdf>

5. 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 2022.

OSTP has posted all four quarterly reports for Fiscal Year 2021 to its website and is in the process of submitting all of its quarterly reports for FY2021 to FOIA.gov.

6. 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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

[https://www.whitehouse.gov/wp-content/uploads/2021/03/2021.03.04-2020-Raw-Data\\_Draft.csv](https://www.whitehouse.gov/wp-content/uploads/2021/03/2021.03.04-2020-Raw-Data_Draft.csv)

7. Optional -- Please describe:

- Best practices used in greater utilizing technology

OSTP strives to ensure that it achieves best practices in the utilization of technology for FOIA processing. OSTP FOIA professionals regularly attend training seminars and conferences on the FOIA, including technology presentations. OSTP FOIA professionals regularly meet with fellow FOIA professionals to gain insight into what other agencies and departments are using, as well as engaging the requestor community to gain a better understanding of their needs in the timely processing of FOIA requests.

- Any challenges your agency faces in this area

OSTP's limited funding, small staff numbers, the ongoing outbreak of COVID-19 and subsequent influx of requests with high document counts made the Fiscal

Year very challenging. Furthermore, in FY 2020, we had two very complex FOIA requests with subparts that had a combined total of over 40,000 documents. 14,600 for one and 26,000-plus for the other. Notably, we have successfully reviewed 12,000 of the 14,600 documents for the former and are diligently working on the latter request. But documents for those requests are still being produced on a rolling basis. In spite of these challenges, we were able to respond to FOIA requests, convened phone meetings with requestors, performed pre-case assessments for complex requests, successfully processed expedited requests within the statutory timeframe, and resolved other FOIA related issues.

**V. 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 2020 and 2021 Annual FOIA Reports.

**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?

Yes.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

The average number of days to process a simple request was 35.92 days, but the median processing time for simple requests was 15 days. Some of these requests should have been classified as complex requests, because of the volume of documents that were generated after searching the database for potentially responsive records.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track.

41% of processed requests were placed in OSTP's 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?

N/A.

## **B. Backlogs**

When answering these questions, please refer to the Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compares the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020-2021.

### **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No.

6. If not, according to Annual FOIA Report Section XII.D.1. did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

Yes.

7. If your agency's request backlog increased during Fiscal Year 2021, please 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.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons – please briefly describe or provide examples when possible.

Our backlog increased for several, compounding, reasons. For the 2021 Fiscal Year, OSTP not only received more complex FOIA requests, but the ongoing outbreak of COVID-19 created a myriad of unforeseen challenges.

Chief amongst them was the influx of FOIA requests related to the pandemic. Most of these generated thousands of potentially responsive records. Additionally, the change in administration (from President Trump to President Biden) has generated significant

interests in the various policies under consideration or being implemented. Furthermore, there has been an uptick in the number of requests regarding calendar entries. These calendar entries are voluminous and require segregation of factual information from the deliberative contents, which is time intensive.

Another factor that has affected OSTP's ability to reduce its backlog is the lack of access to seasonal employees (interns). The shift from on-site work to remote work and the closure of various educational institutions because of the pandemic has made it difficult to recruit interns to work on the FOIA requests. Given the limited number of FOIA staff to begin with, the remaining FOIA professionals have had to do more with less. However, our resourcefulness and resolve helped us to meet these challenges head-on by working tirelessly with requestors and developing strategies for dealing with the influx of requests and the voluminous search results associated with them.

Furthermore, the FOIA department had recently hired two new contractors to assist with FOIA processing. These employees were assigned to work on some of the backlog so the number could be significantly reduced.

8. 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 2021. Please use the following calculation on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

101.6%.

## **BACKLOGGED APPEALS**

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2. of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

N/A.

10. If not, according to XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

N/A.

11. If your agency's appeal backlog increased during Fiscal Year 2021, please 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.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons – please briefly describe or provide examples when possible.

We did not have a backlog of appeals at the close of FY2021.

12. 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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A.) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A."

N/A.

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

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2021?

N/A.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

N/A.

### **D. Status of 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 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

## **OLDEST REQUESTS**

15. In Fiscal Year 2021, did your agency close the ten oldest requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

No.

16. 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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

0.

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

We have hired 2 contractors to help with reducing the backlog. So, while we were unable to close the ten oldest requests in Fiscal Year 2021, we are vigorously working on reducing the backlog by assigning the oldest requests to the newly hired contractors. By prioritizing those requests, we are optimistic that we would be able to close out the oldest requests by the end of the current Fiscal Year.

## **TEN OLDEST APPEALS**

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

N/A.

19. 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 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

N/A.

## **TEN OLDEST CONSULTATIONS**

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

N/A.

22. 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 2020 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**

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

Most of the oldest requests are complex requests that generated voluminous search results. The volume of documents coupled with the challenges associated with the ongoing pandemic and the change in administration have compounded the backlog.

24. 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.

25. 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 2022.

We have developed a plan to close our oldest requests. Part of the plan includes hiring contractors to work on those requests. They have been tasked with reviewing these requests to determine where we are in the process. Additionally, we regularly communicate with requestors to determine if the scope could be narrowed so the review and production schedules could be accelerated. This also includes removing terms that could potentially generate non-responsive contents so the overall review process would be more efficient.

#### **F. Success Stories**

Out of all the activities undertaken by your agency since March 2021 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, but should not be something that you have reported in prior year. As noted above, these agency

success stories will be highlighted during Sunshine Week by OIP. 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.

- Working with requestors to narrow the scope of overly broad requests, so the requests could be expeditiously processed. A significant number of requesters have been very amenable to this.
- Evaluating our backlogs and developing a plan to reduce them, so the oldest requests could be closed during the current Fiscal Year. The plan is underway and the results have been impressive.
- Proactively posting important announcements to our websites. We routinely direct subsequent requesters seeking information regarding these events to our postings. Thus, our efforts could be focused on other requests.