



Department of Homeland Security

2023 Chief Freedom of Information Act Officer Report

Submitted to the Attorney General of the United States

March 2023



Homeland
Security

Message from the Chief Freedom of Information Act Officer

I am pleased to present the Department of Homeland Security's (DHS or Department) *2023 Chief Freedom of Information Act (FOIA)¹ Officer Report to the Attorney General of the United States*. The Report details the Department's accomplishments from March 2022 through March 2023 to enhance transparency and openness in government through implementation of the FOIA.

The DHS Chief Privacy Officer also serves as the Department's Chief FOIA Officer. Accordingly, the DHS FOIA Division sits within the Department's Privacy Office ("PRIV").

In the last year, DHS focused on ways to modernize its FOIA processes, including the successful launch of an advanced FOIA processing system to manage the complexity and volume of DHS's FOIA work. The system provides DHS FOIA employees with access to e-discovery tools that are commonly used and available in the private sector. This new system is one example of DHS's commitment to reduce FOIA processing time and assist DHS FOIA analysts with identifying information that may be subject to an exemption. Moving forward, the DHS Privacy Office is committed to continue upgrading the FOIA IT infrastructure environment, invest in developing the Department's FOIA employees, strengthen the Department's FOIA policy, and enhance collaboration between Components to improve DHS FOIA operations.

I look forward to building on our successes from the past year to improve the consistency of FOIA implementation across the DHS enterprise as we consider additional opportunities to implement the Department's commitment to building trust through transparency.

Please direct inquiries about this report to the DHS Privacy Office at foia@hq.dhs.gov. This report and other information about the DHS Privacy Office are available at www.dhs.gov/FOIA.

¹ 5 U.S.C. § 552.

Executive Summary

The Department of Homeland Security (DHS) Freedom of Information Act (FOIA) program is the largest in the Federal Government. In Fiscal Year (FY) 2022, DHS set new records for the number of requests received and processed and ended the reporting period with its lowest backlog in almost a decade.

The DHS Privacy Office, led by the Chief Privacy Officer and Chief FOIA Officer, is responsible for DHS FOIA policy, program oversight, training, and the efficacy of the DHS FOIA program. The Privacy Office leadership meets regularly with DHS leadership to provide progress updates to meet the Department's FOIA performance goals. These goals are designed to assist Components with increasing responsiveness, promoting transparency, decreasing the size and age of the DHS FOIA backlog, and identifying potential FOIA resource gaps.

Consistent with the guidance provided by the Department of Justice Office Information Policy, while DHS's FOIA program is decentralized – meaning it is implemented by DHS components and offices with Departmental guidance and oversight provided by DHS PRIV – the following report is not broken down by DHS component. Rather, it reflects details of Department responses and component-specific data through examples and narratives which are highlighted throughout the report.

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I. FOIA Leadership and Applying the Presumption of Openness

A. Leadership Support for FOIA

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at or above this level?

Yes. The DHS Chief FOIA Officer is a senior official at the Assistant Secretary equivalent level.

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

Mason C. Clutter, Chief Privacy Officer and Chief FOIA Officer.

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

DHS leadership is committed to enhancing transparency for the public through the operation of a robust FOIA program. DHS Secretary Mayorkas's 2022 and 2023 Priorities include building trust with the public through transparency. DHS leadership has taken several steps to underscore support for the DHS FOIA program and for DHS FOIA professionals. For example, in 2022 Secretary Mayorkas was the only Department-level Secretary to issue a statement to recognize Sunshine Week. Additionally, Secretary Mayorkas and Deputy Secretary Tien participated in the 2022 DHS Sunshine Week Training Summit. In January 2023, Secretary Mayorkas awarded the DHS Privacy Office FOIA Division professionals with a Secretary's Commendation for their incredible achievement in support of processing more than half a million FOIA requests in FY 2022.

The Privacy Office's mission and strategic plan further detail efforts to promote and foster a culture of transparency and openness across the DHS enterprise. The Privacy Office's Strategic Plan includes goals and objectives that address critical elements to support the DHS FOIA program, including expanding the availability of training, modernizing the FOIA IT infrastructure, and issuing policies that improve the consistency of FOIA operations.

DHS FOIA Processing Centers' additional responses:

United States Customs and Border Protection (CBP):

- CBP incorporated FOIA goals and milestones into multiple plans, including CBP's FY 2022-2023 Priorities, CBP Integrated Planning Guidance FY 2025-2029, Privacy and Diversity Office Multi-Year Plan FY 2025-2029, Privacy and Diversity Office Plan, and CBP Strategy 2021-2026.

Federal Emergency Management Agency (FEMA):

- FEMA included FOIA backlog reduction as a priority in FEMA's strategic plan.

Office of Inspector General (OIG):

- OIG incorporated continuous learning and professional development of OIG staff by ensuring employees complete all mandatory training, including FOIA Training for FOIA Professionals, by June 30th every fiscal year.

B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provide that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

Yes. The Privacy Office issued Department wide guidance for DHS FOIA Officers on the foreseeable harm standard. Additionally, the Privacy Office trained FOIA Officers on the requirement to update FOIA response letters to inform requesters that the agency considered the foreseeable harm standard when reviewing responsive records and applying FOIA exemptions. The Privacy Office also coordinated with OGC to provide updated language for template response letters and circulated this language to DHS FOIA Officers.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interest protected by a FOIA exemption. This is commonly referred to as a Glomar response. With respect to these responses, please answer the below questions:

a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a Glomar response?

While the Department tracks the asserted exemption, it does not specifically track whether a request involved a Glomar response. Accordingly, the use of Glomar responses is not tracked with any consistency by DHS FOIA Processing Centers.

b. If yes, please provide:

i. the number of times your agency issued a full or partial Glomar response (separate full and partial if possible).

ii. the number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

N/A

c. If your agency does not track the use of Glomar responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.

To track the use of Glomar responses, DHS would first need to issue a requirement to FOIA processing centers to track and report this information to DHS FOIA. Further, DHS FOIA tracking systems may need to be revised to capture this information.

DHS FOIA Processing Centers' additional responses:

United States Citizenship and Immigration Services (USCIS):

- USCIS would need to implement a system enhancement to create the capability to track Glomar responses, which would require significant lead time and reprioritization of resources to complete.

6. 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.

The Privacy Office issued a 'Foreseeable Harm Analysis' Memo to provide guidance to FOIA Officers and FOIA professionals. This memo implements Attorney General Garland's March 15, 2022 FOIA Guidelines to strengthen the federal government's commitment to the fair and effective administration of the FOIA. Also, the Privacy Office hosted mandatory training for FOIA professionals on the memo's application and implementation. The Privacy Office also posted a public version of the memo to its website.

DHS FOIA Processing Centers' additional responses:

USCIS:

- During new FOIA employee training, USCIS emphasized the importance of openness and its responsibility to apply the reasonably segregable approach to separate exempt information from non-exempt information. When training non-FOIA USCIS employees on their responsibilities to support the USCIS FOIA Program, FOIA professionals stress the importance of openness and the public's statutory right to records not exempted under the FOIA.

II. Ensuring Fair and Effective FOIA Administration

The Attorney General's FOIA Guidelines provide that "[e]nsuring fair and effective FOIA administration requires proper training, and a full understanding of FOIA obligations by the entire agency workforce." The Guidelines reinforce longstanding guidance to "work with FOIA requesters in a spirit of cooperation." The Attorney General also "urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency's FOIA administration" as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. FOIA directs Chief FOIA Officers to ensure FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has taken to ensure FOIA training is made available and that agency personnel adhere to it.

The Privacy Office's 2020-2023 Departmental FOIA Backlog Reduction Plan includes a strategy to invest in training for DHS FOIA professionals. This is the cornerstone of a long-term strategy to improve the strength of the FOIA program and reduce the DHS backlog.

Last year the Privacy Office launched a FOIA training series, “FOIA’s 9 on the 9th.” The training series provides an opportunity for FOIA professionals across DHS to participate in a virtual hour-long training session on targeted privacy and disclosure issues. FOIA professionals from all DHS processing centers are invited to attend. 2023 topics include: Foreseeable Harm Analysis Guidance, Broad and Burdensome Requests, The FOIA and Privacy Act Interface, and Administrative Appeals.

The Privacy Office hosted its annual Sunshine Week Training Day on March 15, 2022 and March 15, 2023. Approximately 500 employees from DHS FOIA Processing Centers were invited for a day-long virtual training program. The 2023 sessions included topics such as Communication Best Practices from the DHS FOIA Public Liaison, Customer Service Basics, Proactive Disclosures, and How to Help Avoid Litigation, as well as a featured FOIA career panel.

The Privacy Office sends multiple reminders to FOIA Officers prior to the training dates to encourage attendance and tracks attendance at FOIA trainings. Additionally, the Privacy Office posts training slides or recordings to a FOIA Resources page on the Department’s intranet site, DHSCconnect.

2. 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. DHS FOIA professionals and personnel with FOIA responsibilities attended FOIA training during the reporting period.

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

DHS FOIA Processing Centers’ additional responses:

CBP:

- CBP conducted CBP Annual FOIA training for FOIA professionals. Topics included an overview of the FOIA, exemptions and proper application, fee waiver determinations, fee categories, and requests for expedited treatment.
- CBP FOIA professionals attended the CBP Privacy Office training on the Privacy Act for FOIA professionals.
- CBP FOIA professionals attended the Office of Government Information Services (OGIS) Negotiating with Requesters training.
- CBP offered FOIA training to professionals within the CBP FOIA office and to temporary staff.

FEMA:

- FEMA FOIA professionals attended the American Society of Access Professionals (ASAP) National Training Conference.
- FEMA FOIA professionals attended the OGIS Negotiating with Requesters training.

Federal Law Enforcement Training Centers (FLETC):

- FLETC FOIA professionals attended the ASAP National Training Conference.

Office for Civil Rights and Civil Liberties (CRCL):

- CRCL FOIA professionals attended the DHS Sunshine Week FOIA training day in 2023.

Office of Intelligence and Analysis (I&A):

- I&A FOIA professionals attended the Administrative Professionals Conference (apcevent.com).
- I&A FOIA professionals participated in the FOIA and Privacy Act Workshop hosted by USCIS.

OIG:

- OIG FOIA professionals attended the 2023 Sunshine Week (DHS-Wide FOIA Conference and Training).
- OIG FOIA professionals attended FOIA Training for Professionals, which covered all aspects of FOIA processing from start to finish.
- OIG FOIA professionals attended Department of Justice (DOJ) Office of Information Policy (OIP) training courses, including sessions on Exemptions 1, 7, Privacy Considerations, and Continuing FOIA Education Training.

Privacy Office (PRIV):

- PRIV facilitated training programs for all DHS FOIA professionals throughout the year. These courses are also regularly attended by personnel from several DHS FOIA Processing Centers.
- PRIV transitioned from using the AdobeConnect platform for training to Microsoft TEAMS, allowing for better attendance tracking, a more interactive environment, and support for a larger audience.
- PRIV FOIA professionals attended and presented at the 2022 ASAP National Training Conference.
- PRIV FOIA professionals attended training courses hosted by the DOJ OIP.

United States Immigration and Customs Enforcement (ICE):

- ICE FOIA professionals conducted training for ICE components specific to FOIA intake, exemptions, and review of responsive records.

Transportation Security Administration (TSA):

- TSA FOIA professionals conducted FOIA training for newly appointed FOIA POCs.
- TSA FOIA professionals conducted annual FOIA POC training for current FOIA POCs.
- TSA required all FOIA staff to participate in the monthly DHS “FOIA’s 9 on the 9th” training.
- TSA FOIA professionals completed DHS Sunshine Week training in March 2023.

United States Coast Guard (USCG):

- USCG FOIA professionals conducted multiple targeted FOIA training focused on correspondence, exemptions, FOIA processes, and appeals processes.
- USCG FOIA professionals provided ad-hoc FOIA training to USCG unit points of contact on request.
- USCG’s Legal Service Command (LSC) provided comprehensive FOIA training to new FOIA points of contact.

USCIS:

- USCIS FOIA professionals provided FOIA request intake and request processing training for all newly hired USCIS FOIA professionals, specific to their job functions.
- USCIS FOIA professionals provided FOIA refresher training for all other USCIS staff, on topics such as Section 1367 protections, data entry for case intake, referrals to other agencies, Form G-639 updates, and various systems.

United States Secret Service (USSS):

- USSS FOIA professionals provided FOIA Referral Processing training.
- USSS FOIA professionals provided in-house peer-to-peer training with staff to help cross-train on all aspects of the FOIA process and processing of complex records.

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

The Privacy Office instructs all DHS FOIA professionals to complete the FOIA Training for FOIA Professionals module each year. DHS FOIA Officers are required to report to the Privacy Office monthly on module completions. The Privacy Office also worked with OIP to ensure that DHS FOIA staff could continue to access the DHS FOIA training during the time between replacing DHS’s virtual learning system.

The table below outlines the progress percentage of agencies that completed FOIA training during this reporting period.

Processing Center	Completion Percentage
CBP	100%
CRCL	100%
FEMA	100%
FLETC	100%
I&A	100%
ICE	100%
OIG	100%
PRIV	100%
USCG	85%
USCIS	100%
TSA	100%
USSS	100%

5. 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 percent of your FOIA professionals attended training, please explain your agency’s plan to ensure all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

6. 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, and if senior leaders at your agency received a briefing on your agency’s FOIA resources, obligations and expectations during the FOIA process?

The Chief Privacy Officer and Chief FOIA Officer facilitated a bi-weekly briefing on FOIA obligations to all incoming political appointees. Bi-weekly FOIA training is also given to new agency employees as part of their onboarding process. The DHS FOIA training was updated to highlight DHS handling of requests involving personnel records and electronic communication. Ad-hoc training for non-FOIA offices and employees is conducted upon request. Currently, these trainings are delivered virtually. Additionally, an electronic brief is provided to the participants.

Throughout the Fiscal Year, the Chief Privacy Officer and Chief FOIA Officer provided formal updates to Secretary Mayorkas on the status of the DHS FOIA program. The Chief Privacy Officer and Chief FOIA Officer and the Deputy Chief FOIA Officer also hosted regular meetings with FOIA Officers and DHS Component leadership. These meetings included discussions on targeted backlog reduction plans aimed at expanding processing capacity and right-sizing staff. The Deputy Chief FOIA Officer worked with various DHS FOIA Officers to create the backlog reduction plans.

DHS FOIA Processing Centers’ additional responses:

CBP:

- CBP FOIA professionals provided weekly FOIA briefing reports to senior leadership. The FOIA Office conducted briefings in partnership with the CBP Office of Chief Counsel to the Office of the Commissioner, Resource Management Council (RMC), Line of Business 4 (LOB4), U.S. Border Patrol Office, other CBP program offices, and the Office of Management and Budget. These briefings were conducted to request additional resources and staffing to sustain CBP FOIA operations.

CRCL:

- CRCL FOIA professionals held bi-weekly meetings with leadership and ad-hoc meetings with CRCL employees throughout the year.

FEMA:

- FEMA FOIA professionals conducted internal training on search requirements with non-FOIA personnel in various offices who may be responsible for locating and identifying responsive records.

FLETC:

- FLETC FOIA professionals worked closely with non-FOIA staff when responding to FOIA requests to ensure understanding of requirements.

ICE:

- ICE FOIA professionals conducted training for ICE program staff who support the FOIA program record searches. This training provides an overview of the FOIA process and requirements for conducting a proper search for responsive records, the intake process, and the ICE FOIA program's role in reviewing the final response. The training is completed virtually.

OIG:

- OIG FOIA professionals communicated and met with OIG FOIA points of contact and personnel in the various OIG program offices. These meetings were used as an opportunity to explain to non-FOIA staff responsibilities to comply with the FOIA, the importance of timely searches, and provide guidance on a variety of FOIA compliance areas, including conducting exhaustive record searches and analysis of foreseeable harm during record reviews. OIG FOIA professionals also conducted regular training for the OIG workforce, including model FOIA practices.

TSA:

- TSA FOIA professionals provided annual FOIA Point of Contact training and provided "make-up" sessions throughout the year. In addition, the training presentation is available on TSA's internal i-Share page for the FOIA POCs to reference. TSA also conducted FOIA training upon request for the airports and program offices regarding the FOIA process. The FOIA Officer briefed senior leaders on a routine basis regarding FOIA exemptions and processing requirements.

USCG:

- USCG FOIA professionals conducted FOIA training for new employees, including non-FOIA professionals and senior leaders, during orientation.

USCIS:

- USCIS FOIA professionals provided FOIA training and information briefings to program offices throughout USCIS regarding their role in supporting the USCIS FOIA Program. Briefings and training are typically given via Microsoft Teams and include discussions on the following topics: FOIA division responsibilities, regulatory guidance, agency records and obligations, FOIA exemptions, and FOIA Immigration Records System (FIRST) system overview. Briefings are conducted at the request of the program office. Throughout the year, USCIS senior leaders including the USCIS Director, Deputy Director, Chief of Staff, and Chief Financial Officer received updates on the USCIS FOIA Program and its resources.

USSS:

- USSS FOIA professionals provided training to all new USSS employees. The office also trains agency FOIA points of contact and records custodians. Additionally, USSS briefs its senior leadership on FOIA.

B. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, 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.

The DHS Deputy Chief FOIA Officer is a member of the FOIA Advisory Committee. This engagement helps the Privacy Office maintain a robust relationship and extensive collaboration with the requester community. The FOIA Advisory Committee meetings are regular touchstones to hear from other Committee members and interested members of the public.

The Privacy Office also hosted targeted engagements with open government groups to discuss the DHS transition to a new FOIA tracking and processing system, sharing updates throughout the transition.

Additionally, the Privacy Office led discussions between USCIS and organizations that primarily represent immigration attorneys. The agency and participants provided feedback that indicated the engagements were beneficial. The Privacy Office continues to arrange further discussions with DHS FOIA Processing Centers handling frequently requested immigration-related records.

Finally, the Privacy Office FOIA Public Liaison consistently engaged with requesters to assist with resolving issues with their FOIA requests.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP provided the main CBP FOIA phone number and the Public Liaison email address on all FOIA letters. This phone number and email are used to communicate with requesters to provide high-level status request updates and to help resolve disputes when necessary. The analyst engages with requesters to explain specific processes related to requests, and contacts requesters when search criteria are voluminous or unclear.

FEMA:

- FEMA participated in panel discussions conducted by the National Archives and Records Administration (NARA) and the ASAP. These panels were open to the public and, in some instances, included members from the requester community.

I&A:

- I&A worked with FOIA requesters to scope or perfect their requests, obtain more precisely targeted records, and reduce response times.

ICE:

- ICE worked with requesters to assist with crafting targeted FOIA requests to reduce response time. ICE proactively reaches out to requesters to obtain clarification on the scope of their requests. The office also routinely follows up with requesters regarding backlogged requests.

OIG:

- OIG communicated with members of the requester community to explain the OIG FOIA process, facilitate targeted requests, and explain how to file perfected FOIA requests, as appropriate.

TSA:

- TSA contacted FOIA requesters via email or phone for clarification to discuss the scope of requests and provide status updates. Additionally, TSA follows up with requesters on backlogged requests, working with them to narrow overly broad requests.

USCIS:

- USCIS FOIA staff consistently reached out to requesters to clarify and discuss the scope of their requests, and to provide status updates, thereby promoting openness and confidence within the requester community. Staff worked with requesters to explain the types of records maintained by USCIS, and how requests can be narrowed to ensure accurate and efficient retrieval of records.

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples.

Yes. The Privacy Office encourages DHS FOIA Processing Centers to routinely communicate with requesters for numerous reasons such as to narrow the scope of incoming requests, clarify a request, and provide status updates. The Privacy Office conducts “best practices” for communicating with requesters training for DHS FOIA staff. This training includes addressing keywords and Boolean searches and other strategies to help narrow the scope of a request.

DHS FOIA Processing Centers provided the following additional responses:

CRCL:

- CRCL reached out to requesters in cases where clarification was needed. These discussions presented opportunities to educate requesters about CRCL operations and how records are maintained.

FEMA:

- FEMA reached out to requesters to discuss more efficient ways to provide the information requested. One common approach is to offer a spreadsheet of data that would satisfy the request instead of multiple pages of records, even though creation of records is not required under the FOIA.

FLETC:

- FLETC proactively contacted requesters concerning complex or voluminous requests, especially requests for email communications that would produce a voluminous number of records. FLETC works with the requester to narrow the scope of the request by using its knowledge and experience with these types of requests to guide the requester to achieve the results they seek.

I&A:

- I&A engaged with requesters to better understand the topic of the requests and offered suggestions to describe, clarify, or narrow the scope.

ICE:

- ICE proactively contacted requesters to narrow the scope of the request or provide interim responses.

OIG:

- OIG proactively contacted requesters to discuss the request status, and, if needed, help to narrow the scope of complex requests. For example, OIG receives complex FOIA requests for a broad range of documents which require coordination with several OIG program offices. The OIG FOIA team proactively meets with program offices to determine the voluminous nature of the records requested and the time it would take to search. The FOIA team discusses with program offices potential approaches for a more targeted search to produce a truncated timeframe. The OIG team works with the requester to narrow the request, retrieve, process, and produce responsive records.

Privacy Office:

- PRIV contacted requesters to discuss FOIA requests that would potentially produce voluminous record sets to possibly clarify or narrow the scope of the request. The outreach occurs at various points in the FOIA process.

TSA:

- TSA contacted FOIA requesters for clarification and to discuss the scope of requests. The office also followed up on backlogged requests and worked with requesters to narrow the scope of overly broad requests.

USCG:

- USCG triaged requests and contacted requesters to obtain clarification and/or narrow the scope of requests before assigning them to specific offices.

USCIS:

- USCIS tasked FOIA staff to contact FOIA requesters to clarify and discuss the scope of requests and provide status updates, thereby promoting openness and confidence within the requester community. USCIS FOIA staff also worked with requesters to explain the types of records maintained by USCIS and how requests may be narrowed to ensure accurate and efficient retrieval of records. For example, USCIS received a request that, as written, would have garnered records consisting of 11.5 GB of data (166,000 documents). However, USCIS FOIA personnel were able to negotiate the terms of this request and reduce the scope of records to 1.7 GB (25,000 pages). Working collaboratively with requesters in this manner is common practice within the USCIS FOIA program and ensures requesters receive the records they requested in the most efficient manner possible.

USSS:

- USSS corresponded with requesters to clarify or narrow the scope of requests when an email search would yield over 50,000 possible hits. Additionally, USSS reaches out to anyone who submits a request that returns over 2,500 pages to negotiate an interim release schedule.

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 Fiscal Year 2022 (please provide a total number or an estimate of the number).

In addition to responding to concerns or inquiries regarding requests processed by the Privacy Office, the Privacy Office FOIA Public Liaison assists requesters with component-related FOIA issues. As noted below, the Privacy Offices estimates 125 times that requesters sought assistance from the Privacy Office’s FOIA Public Liaison in FY 2022.

DHS FOIA Processing Centers provided the following estimates:

Agencies	Number of Times Requesters Sought Assistance from the FOIA Public Liaison
CBP	5,720
CRCL	0
FEMA	0
FLETC	45
I&A	0
ICE	50
OIG	5
PRIV	125
TSA	13
USCG	1,500
USCIS	24,655
USSS	10
DHS TOTAL	32,123

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Yes. The Privacy Office issues performance metrics for DHS FOIA Processing Centers and monitors progress monthly. The Privacy Office also directs DHS FOIA Officers to analyze trends and, based on findings, prepare for the current year and multi-year personnel staffing needs to handle the increase of incoming FOIA requests. In addition, the Privacy Office utilizes contract vehicles to assist DHS FOIA Processing Centers with surge capacity support. Further, the Deputy Chief FOIA Officer meets monthly with DHS FOIA Officers and as needed in one-on-one meetings to discuss workforce demands and ways to address them. The Deputy Chief FOIA Officer also assisted various DHS FOIA Officers with their backlog reduction plans.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP continued to work with CBP leadership to ensure sufficient resources to meet an expected increase in demand for video from Body Worn Cameras. CBP also continued to execute its FOIA contract, and renewed its Service Level Agreement (SLA) with the Privacy Office for FOIA support. Additionally, an interagency FOIA team was created to focus on complex FOIA requests and records, utilizing temporary personnel.

CRCL:

- CRCL evaluated the allocation of FOIA resources for current and future needs. CRCL hired two support contractors and is working to hire more Full Time Equivalents (FTE) to support its FOIA program.

FEMA:

- FEMA evaluated the allocation of FOIA resources and does so on an annual basis.

FLETC:

- FLETC conducted a cost-benefit analysis to assess current FOIA allocations and future staffing needs.

I&A:

- I&A evaluated its FOIA workload, including ongoing litigation. I&A anticipates doubling the size of the FOIA team to meet the increased workload.

ICE:

- ICE conducted a resource needs analysis to determine FOIA staffing requirements for the expected increase in FOIA requests for video from Body Worn Cameras and other immigration-related matters.

OIG:

- In FY 2022 OIG hired a Deputy FOIA Officer, and for FY 2023 it submitted a resource request for additional FOIA staff to meet current and future demands.

Privacy Office:

- PRIV is drafting a revision to the DHS backlog reduction plan to incorporate unexpected increases and changes in FOIA trends.

TSA:

- TSA FOIA worked with TSA leadership to ensure the TSA FOIA program has adequate support to meet processing needs.

USCG:

- USCG collaborated with USCG leadership to assess whether staffing is sufficient to meet expected FOIA demand, including provision of contract staff.
- Conducted annual personnel and procedures assessments to determine whether there is a need to adjust the current allocation of FOIA staff or other resources.

USCIS:

- USCIS routinely assesses the strength of its FOIA program through the following actions:
 - Review the Annual FOIA Report Data and modify workflows and processes where necessary.
 - Conduct quarterly compliance reports that analyze USCIS FOIA compliance rates and the volume of USCIS backlogged requests.
 - Use production data to determine when USCIS FOIA resource shifts are needed.
 - Utilize historical data and forecasting tools to advocate for additional positions in the USCIS FOIA program.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

The Privacy Office maintains a robust monthly reporting program that covers key statistics, including the age of pending requests. The Privacy Office uses these reports to identify potential bottlenecks and resource needs. It also uses the monthly reports to monitor progress against annual FOIA performance metrics. The Privacy Office shares a 1-pager highlighting progress with all Department Chiefs of Staff and FOIA Officers. The Privacy Office modernized the monthly report to include agency historical data. This streamlined reporting capability decreases manual input and allows a better view of trends and metrics across the DHS FOIA Processing Centers. The full monthly reports will be distributed to FOIA Officers beginning this fiscal year with instructions on how to best utilize the data.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP used weekly production reports for FOIA staff and non-FOIA personnel who process requests. To manage the FOIA workload, CBP utilized a FOIA processing system to collect the data and Office 365 Microsoft Excel and Power Business Intelligence to analyze data and create graphs.

CRCL:

- CRCL used data and metrics to create OIA management reports and staff FOIA processing statistics for review.

FEMA:

- FEMA monitored FOIA output regularly and compared it to the established baseline FOIA metrics to ensure output is sufficient to meet demand.

I&A:

- I&A used metrics to compute the amount of FOIA resources needed compared to the I&A FOIA caseload. Accordingly, additional staffing needs were identified. As a result, the I&A FOIA staff is expected to double in size in FY 2023 to meet demand. After new staff members are onboarded, I&A will review metrics and output to ensure FOIA resources are allocated properly.

ICE:

- ICE used its FOIA case management system to monitor and report on FOIA employee performance and production statistics. The ICE FOIA management team uses this data to inform structural changes to FOIA teams.

OIG:

- OIG produced weekly and monthly reports on the status of the OIG FOIA program. This data is analyzed and utilized for a variety of FOIA program improvements such as assessing processing areas in need of more resources, strategizing to manage processing more effectively, and tracking improvements in backlog reduction rates.

Privacy Office:

- PRIV used daily, weekly, monthly, and annual statistics to perform DHS FOIA program oversight and oversight of individual PRIV staff output. This data is pulled from the new FOIA processing system. Using this data, PRIV creates performance metrics and thresholds to track performance. Although many of the oversight processes are completed informally on a daily basis, the Privacy Office also conducts a more formal analysis of resources required to perform FOIA processing work in PRIV and across the Department.

TSA:

- TSA established processing plans to close its 10 oldest FOIA requests and appeals, process and close its remaining consultations and open 2017 requests, and close 50 percent of the 2018 requests. Metrics were used to monitor and track the number of pending cases closed in FY 2022.

USCG:

- USCG distributed a dashboard to the USCG FOIA senior leadership in each office. The dashboard includes a breakdown of the total number of open requests, the total number of backlogged requests, and the progress made on closing requests. The dashboard breaks down each office by how many requests they have open and the age of each request. USCG offices and senior leaders receive a holistic view of the USCG FOIA requests and can compare the progression of their offices against other USCG units.

USCIS:

- USCIS used a robust FOIA processing system called FIRST, which allows for the tracking and monitoring of FOIA metrics and production.

USSS:

- USSS used daily FOIA processing statistics for analysts and intake, case management reports or audits, FOIA system reports, and daily logs provided by staff. These various metrics and reports are reviewed to help monitor the office output.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure it is applying the presumption of openness, please describe them here.

DHS FOIA Processing Centers' additional responses:

USCIS:

- USCIS ensured all proactive disclosures posted to the USCIS Electronic Reading Room (ERR) are accessible. USCIS FOIA personnel worked with the USCIS E-Communications (ECOMM) Team to pare down different categories used across the USCIS website to increase consistency and make locating information easier for the public.

III. Proactive Disclosures

The Attorney General's FOIA Guidelines emphasize that "proactive disclosure of information is fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

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

The Privacy Office encourages proactive disclosures by DHS FOIA Processing Centers and tracks pages added to the components' FOIA Libraries. Further, the Privacy Office requires reporting from the components to the Privacy Office on their proactive disclosures. Each FOIA Office determines which records to proactively post.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP proactively posted documents to the CBP reading room that are of public interest and were pending within the CBP FOIA request system. CBP FOIA coordinates this work with CBP leadership and public affairs.

CRCL:

- The CRCL transparency team worked to identify, process, clear, and proactively post accessible records.

FEMA:

- FEMA monitored FOIA releases and incoming requests to identify any trends in the requested or released records for potential proactive release of future records.

FLETC:

- FLETC plans to utilize the new FOIA processing system in FY 2023 to assist in making proactive release determinations.

I&A:

- I&A is in the process of reviewing its FOIA process and will create a process to better identify records for proactive posting. The process will be used to post frequently requested information.

ICE:

- ICE FOIA routinely compiled and posted commonly requested records from program offices.

OIG:

- OIG produced and posted FOIA request logs to OIG's publicly accessible electronic reading room.

Privacy Office:

- PRIV identified frequently requested records and added them to the DHS FOIA library. DHS has incorporated user-friendly functionality, such as the ability to use keywords to search for records within the FOIA Library.

TSA:

- TSA reviewed weekly FOIA case closures to identify records that should be proactively posted and tracked the records that were posted to the TSA FOIA reading room.

USCG:

- USCG maintains awareness of matters that may be of interest to the public, including those frequently covered by the media or subjects that are in high demand. USCG reaches out to the individual program office and notifies them of the trend to suggest proactively posting the records online.

USCIS:

- USCIS FOIA personnel work with multiple USCIS components to identify records to post to the USCIS Electronic Reading Room.

USSS:

- USSS tracked and flagged all similar FOIA requests during the intake process and reviewed responsive records to determine if they were similar enough to proactively post.

2. Provide examples of any 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.

The Privacy Office strategically posted records to the DHS FOIA library webpage on topics that generate a high level of public interest and originated from across the Department. For example, the Privacy Office posted records related to civil unrest, the incident that took place on January 6, 2021, and COVID-19. The Privacy Office also posts records for DHS components or offices that are unable to post certain record sets.

- DHS FOIA Library: [FOIA Library | Homeland Security \(dhs.gov\)](#).

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP continuously disclosed records related to Unaccompanied Children (UAC) Migrant Protection Protocols, Civil Unrest, and Title 42. In addition, No Mas Muertes videos were posted this year along with Death in Custody records.
- CBP FOIA Reading Room: [FOIA Reading Room | U.S. Customs and Border Protection \(cbp.gov\)](#).

CRCL:

- CRCL proactively disclosed records including onsite investigation memos and CRCL recommendation and investigation memos.
- CRCL records can be found here:
 - <https://www.dhs.gov/transparency-civil-rights-investigations>.
 - <https://www.dhs.gov/publications-library/collections/crcl-onsite-investigation-memos>.
 - <https://www.dhs.gov/publications-library/collections/crcl-recommendation-and-investigation-memos>.

FEMA:

- FEMA proactively posted material related to the COVID-19 pandemic response. For example, information about vaccine center support and funeral assistance is available and routinely updated.
- FEMA FOIA Library: [FEMA FOIA Library | Homeland Security \(dhs.gov\)](#).

I&A:

- I&A reviewed previously disclosed litigation and proactively disclosed material within the reading room and re-issued or posted responses with corrected Exemption 3 application.

ICE:

- In FY 2022, ICE proactively posted records to the ICE FOIA library, including Prison Rape Elimination Act (PREA) reports, Detention Facility Compliance Inspection reports, and Detention Contract facility documents.
- ICE FOIA Library: [FOIA Library | ICE](#).

OIG:

- OIG posted OIG FOIA logs.
- OIG FOIA Reading Room: <https://www.oig.dhs.gov/foia/reading-room>.

Privacy Office:

- PRIV regularly posted several categories of records, including FOIA request logs, various program memoranda, and the Secretary's calendars.

TSA:

- TSA proactively disclosed records including, throughput data, FOIA Logs, and TSA Contact Center Quarterly reports.
- TSA FOIA Reading Room: <https://www.tsa.gov/foia/readingroom>.

USCG:

- USCG posted records relating to the grounding of the EVER FORWARD container vessel on the USCG's FOIA Public Library, which can be found here: [Frequently Requested Records \(uscg.mil\)](#)

USCIS:

- USCIS posted 168 records to the USCIS Electronic Reading Room in FY 2022. Records posted include congressional correspondence, stakeholder engagement notes, USCIS program information, and items requested three or more times.
- USCIS Electronic Reading Room: <https://www.uscis.gov/records/electronic-reading-room>.
- USCIS also proactively publishes additional items of interest on the USCIS.gov website, including immigration policy and procedural memoranda, immigration, and citizenship data, and Administrative Appeals Office (AAO) decisions, available at: <https://www.uscis.gov/laws-and-policy/policy-memoranda> , <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data> , <https://www.uscis.gov/administrative-appeals/aao-decisions>.

USSS:

- USSS posts its FOIA logs.
- USSS FOIA Reading Library: <https://www.secretservice.gov/foia/foia-reading-library>.

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?

The Privacy Office maintains the DHS FOIA website. Recently, the website was awarded an "A" on the plain language report card, a yearly review of federal websites. It was also cited as a model website. In 2022 and 2023, the report card highlighted the site for its clear language and easy navigation.

CBP, CRCL, FEMA, OIG, PRIV, ICE, TSA, USCG, and USCIS reported taking additional steps to make information posted to their websites more useful to the public.

4. 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.

DHS FOIA Processing Centers' additional responses:

Privacy Office:

- PRIV continually reviewed the FOIA library to ensure the most current versions of records are posted. Additionally, PRIV reviewed the FOIA library for duplicative postings. The findings from the duplicates review will be addressed in the next fiscal year. To make the website more user-friendly, the DHS FOIA library allows keyword searches to locate specific posted records.

CBP:

- CBP released records to the public immediately during delivery through the FOIA response system, and posted significant public interest topics to the CBP Reading Room.

CRCL:

- CRCL worked with the Office of Accessible Systems and Technology (OAST) to hire resources to help ensure accessibility for all materials posted in its libraries.

FEMA:

- FEMA's Organizations Preparing for Emergency Needs ([OpenFEMA](#)) is FEMA's most used public resource for information. Requests are often received for supplemental information that has not been proactively disclosed on OpenFEMA. FEMA works with program offices to update OpenFEMA's database with additional supplemental information or have the information readily available when it is required.

ICE:

- ICE posted all documents in various formats, including Excel, to make the information easier to open and read.

OIG:

- OIG ensured all PDFs posted in the OIG reading room have gone through Optical Character Recognition (OCR).

TSA:

- TSA reviewed, on a weekly basis, a spreadsheet of all closed cases and frequently requested records to identify items of interest for posting.

USCG:

- USCG posted records that include additional tags and multiple keywords to assist site visitors with finding a specific record or other records that may meet the same criteria.

USCIS:

- USCIS ran the search function within Adobe and the OCR function prior to publishing records to the USCIS Electronic Reading Room to identify incorrect text and make corrections. Sometimes the OCR function can recognize words incorrectly, so a "Correct Recognized Text" scan is performed to allow for a manual correction of these words.

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP reviewed the document intended for posting to confirm that the document met the CBP.gov Document Guidelines. All documents uploaded to the CBP Reading Room must be accessible and approved by the Office of Public Affairs (OPA) Publications and Branding Review Board.

CRCL:

- CRCL included personnel from the CRCL FOIA Office, CRCL Compliance Branch, DHS Office of the General Counsel, CRCL Office of Accessible Systems & Technology, and CRCL Communications staff in its proactive disclosure process.

FEMA:

- FEMA occasionally consulted with multiple components prior to proactive disclosure, depending on the record custodian.

FLETC:

- FLETC reviewed the record's content then collaborated with parties such as stakeholders or internal reviewers prior to proactively disclosing a record. FLETC ensures all edits, changes, or new content for FLETC.gov are routed through the requesting office's chain of command with final approval at the directorate senior staff level. Then, once modifications/projects are approved, the FLETC FOIA office requests that senior directorate-level staff route or send the information to the FLETC Content Manager, who posts the approved content on the website within three to five business days for minor modifications and 10 to 15 days for larger projects.

ICE:

- ICE coordinated with various ICE program offices such as the Office of Public Affairs, Homeland Security Investigations, Enforcement and Removal Operations, and IT personnel, where applicable, to proactively disclose material.

OIG:

- OIG collaborated with the OIG IT team to post proactive disclosures on its webpage by reaching out to designated IT personnel, transmitting the information to IT for posting, and reviewing the posted material before it goes live for public viewing.

Privacy Office:

- PRIV worked with Counsel on topics that may need legal review prior to posting.
- PRIV worked closely with colleagues in DHS and the White House Equitable Data working group to determine how it can ensure federal government Departments have the data they need to make equity a central element of decision-making processes.

TSA:

- TSA worked with TSA Strategic Communications and Public Affairs before posting records to the TSA FOIA Reading Room. TSA FOIA also worked with TSA Security Operations to post the bi-weekly TSA throughput data and the Customer Service Branch to post monthly compliance data.

USCG:

- USCG worked with the record custodians to obtain records for proactive posting.

USCIS:

- USCIS FOIA personnel worked with USCIS ECOMM personnel to publish records to the Electronic Reading Room. Once USCIS FOIA personnel have uploaded and saved records in draft format, an email is sent to USCIS ECOMM with a link to the draft and a request to post to the public site.

6. Optional -- Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

DHS FOIA Processing Centers' additional responses:

CRCL:

- CRCL sought additional resources to make documents accessible, which caused delays in posting materials before the new resources were available. CRCL is working on institutionalizing the processes for the prompt, affirmative posting of documents after they are issued or ready for release.

USCIS:

- USCIS continually reviewed its website layout and design to make it easier and more user-friendly. Proactive disclosures in the Electronic Reading Room are accessible.

Record categories have been streamlined across the USCIS website to make it more user-friendly and easier to search for records on specific topics.

IV. Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

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

Yes. The Privacy Office implemented its new FOIA processing system after a multi-year effort, beginning with agreement from the DHS Joint Requirements Council that upgrading the FOIA information Technology (IT) infrastructure was a Department-wide priority. The Privacy Office coordinated the effort to identify forward-looking requirements, managed the procurement process, and implemented the system. Key benefits of the new system include advanced information processing tools, video redaction, reduced administrative burden, and interoperability. The Privacy Office has provided DHS FOIA Processing Centers that use this technology with the resources to utilize the system's various efficiencies and tools.

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

Multiple DHS FOIA Offices started using a new FOIA case management and processing software that replaced multiple processing softwares across several of the FOIA Processing Centers. The Privacy Office managed the process of procuring and implementing the new technology for the Department's FOIA Offices. The Privacy Office also manages the system contract, reducing administrative burden. Additionally, the Privacy Office facilitates a working group to help DHS FOIA users with system implementation and issues Standard Operating Procedures for system use and modification.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP FOIA partnered with CBP's Office of Information Technology (OIT) to create "Bots" designed to improve efficiencies when responding to FOIA requests. CBP FOIA began using this new technology, [Robotics Process Automation](#) (RPA), for cases in litigation, email record requests, voluminous documents, and de-duplication. Additionally, the Robotics Process Automation team is working to create a "Bot" that will assist with simple, routine FOIA task closures.

ICE:

- ICE obtained licenses to an improved audio/video redaction software to be used for processing various videos in responsive record sets.

USCIS:

- USCIS continued to use a web-based, end-to-end FOIA processing system (FIRST) to respond to requests, as well as E-Discovery software to de-duplicate and cull responsive records.

USSS:

- USSS began using E-Discovery tools for email sorting. USSS is also looking into procuring an Electronic Document Review solution to assist with FOIA processing.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources have been saved since implementing the technology.

The new DHS FOIA processing system contains state-of-the-art information processing tools that have been successfully used in the private sector to handle complex data sources, including the capability to de-duplicate and automatically redact exempt information using keywords. Additionally, users can apply parameters to navigate record sets to more easily review records. These searches can be done automatically upon ingestion of record sets. The system also can automatically perform complex analytics such as email threading and keyword heat mapping.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP FOIA used the Robotics Process Automation system to search for records with specific criteria for action, saving thousands of hours of effort. Below represents FY 2023 workflow data.
 - The CBP FOIA Bot closed 12,431 simple cases and saved CBP FOIA 1,554 hours.
 - Analytical Framework for Intelligence (AFI) Entry/Exit searched 1,019 Entry/Exit/I94 cases and saved CBP FOIA 204 hours.
 - AFI including secondary inspection records searched 1,017 cases and saved CBP FOIA 127 hours.
 - E3 searched 9,136 cases and saved CBP FOIA 1,827 hours.

ICE:

- ICE used a litigation review tool called Relativity and video processing software AXON. Both tools allow for automation and assisted review in various ways.

OIG:

- OIG utilized Relativity and custodial searches.

4. 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. The Privacy Office maintains the DHS FOIA website. Recently, the website was awarded an “A” on the plain language report card, a yearly review of federal websites. It was also cited as a model website. In 2022 and 2023, the report card highlighted the site for its clear language and easy navigation.

CBP, FEMA, FLETC, ICE, OIG, PRIV, TSA, USCG, USCIS, and USSS reported that their websites were reviewed during the reporting period.

5. Did all four of your agency's quarterly reports for Fiscal Year 2022 appear on FOIA.gov?

Yes.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

N/A

7. 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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.

[FOIA Annual Reports | Homeland Security \(dhs.gov\)](#)

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

The Privacy Office ensures compliance with the interoperability standards of all DHS components participating in the technology contract. The thirteen FOIA Processing Centers that are participating in the new technology contract are able to receive requests directly via API. Additionally, all DHS FOIA Processing Centers now use electronic databases to manage their operations.

Regarding immigration-related FOIA requests, use of DHS's own FOIA portals is more efficient than use of FOIA.gov. This is because a FOIA requester may need to provide specific personal information to identify responsive records. This helps ensure that received requests for immigration-related records are perfected. Otherwise, there is an increased need to follow up

with requesters to obtain additional information that often delays the response and diverts resources from processing records.

USSS:

- USSS continues to work with its vendor to comply with the guidance and expects to achieve interoperability in 2023.

USCIS:

- USCIS uses a custom-developed solution, FIRST, that provides a 100 percent electronic experience for requesters from submitting to receiving records in their “*myUSCIS*” account. FIRST is optimized to handle the varied and complex requests received by USCIS, including the most common requests, which are for records located in an A-File.
- USCIS is working to determine how best to achieve interoperability without compromising FIRST’s features that help ensure requests are perfected prior to submission, limit the need for USCIS to ask requesters to provide additional information or verification to respond to the request, and allow for electronic delivery of responsive records rather than creating and mailing CDs, which is costly and inefficient.

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

DHS FOIA Processing Centers’ additional responses:

USCIS:

- USCIS encouraged FOIA requesters to submit requests through its online FOIA portal – FIRST. The FIRST application pursues technological innovations that reduce case processing times and potential errors. The FOIA team balances risk and return on development investment.

V. Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs

The Attorney General’s FOIA Guidelines instruct agencies “to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs.” Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

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

First-party requests constitute the bulk of the DHS FOIA workload. The Privacy Office encouraged DHS FOIA Processing Centers to provide alternative means of access to these

records when possible and is committed to reducing barriers to access without compromising customer service or individual rights.

The Privacy Office has engaged extensively with the requester community and the FOIA Advisory Committee regarding record sets that could potentially be accessible outside of the FOIA process. As described below, USCIS and other DHS FOIA Processing Centers are assessing whether certain records typically located in an A-File could be accessible outside of the FOIA process. Some records included in A-Files originate outside of DHS and may include a significant amount of third-party information or sensitive law enforcement and terrorism-related information that is subject to withholding pursuant to applicable FOIA exemptions.

As the legal custodian of A-Files, USCIS has implemented practices to streamline processing FOIA requests for A-Files, including agreements with agencies that originate records located in A-Files. This system ensures requesters can access records without needing to file FOIA requests at several agencies or wait on the response to a referral from USCIS to the originating agency. The Privacy Office will continue to support the implementation of these agreements and assist USCIS.

DHS sees promise in this alternative access method and will continue to look for alternative means to provide access to first-party requested records outside of the FOIA process as appropriate. DHS is committed to ensuring that individuals who need records, for example, to apply for benefits or navigate legal processes, including potential removal proceedings, are not disadvantaged by any change to DHS disclosure practices.

CBP, CRCL, FEMA, FLETC, TSA, and USCIS reported that they are establishing alternate means of access to first-party requesters.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

CBP:

- CBP allows travelers to retrieve their travel history and check travel compliance through the CBP I-94 website. The I-94 website provides travelers with 10 years' worth of arrival and departure history to and from the United States. Travelers can also obtain information on how much longer they can stay in the United States.

CRCL:

- CRCL allows Complainants access to their records as part of the Equal Employment Opportunity (EEO) process outside of the FOIA process.

FEMA:

- FEMA FOIA requesters can obtain several types of records directly from program offices. For example, employees can request human resources or personnel records directly from program offices. Disaster victims can also obtain certain types of records from program offices.

FLETC:

- FLETC provides access to the most frequently requested first-party records and transcript requests through the Program Support office. Former FLETC students can access their records by requesting them through the transcript request page on FLETC's website.

I&A:

- I&A FOIA has not looked into an alternative means of access for any first-party requests and does not offer one at this time.

ICE:

- ICE has determined a separate first-party request solution is cost prohibitive at this time.

OIG:

- OIG FOIA does not offer alternatives for first-party request access.

TSA:

- TSA first-party requesters are directed to the Office of Personnel Management when they seek their own employment records after they have separated from the agency for more than 90 days. TSA also refers first-party requesters who ask for their entire background investigation file to the Defense Counterintelligence and Security Agency (DCSA) for a direct response.

USCG:

- USCG is assessing whether it could implement this guidance. After review, if it is possible to provide records outside of the FOIA process, USCG will work with participating offices to create a process for records access.

USCIS:

- The majority of USCIS FOIA requests are filed by individuals seeking access to their immigration files. As USCIS transitions to electronic filing of immigration forms, requesters will have access to applications, petitions, and supporting documents submitted online through an individual's "my USCIS" account, thus reducing the reliance on the FOIA for access to parts of their immigration record.

USSS:

- USSS receives very few first-party requests for records, so a specialized first-party request solution is not necessary at this time.

B. Timeliness

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report.

The Department's overall average days to adjudicate requests for expedited processing was six days.

4. 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 2022 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

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

Yes.

6. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2022?

Yes.

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

N/A

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

22% of the Department's FY 2022 processed FOIA requests were placed in the simple track.

9. 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

C. Backlogs

BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

No.

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

Yes. The Department processed 38,685 more requests in FY 2022 than in FY 2021, an increase of 8.3%.

12. If your agency's request backlog increased during Fiscal Year 2022, please explain why, and describe the causes that contributed to your agency not being able to reduce its backlog.

Compared to FY 2021, the Department not only processed more requests in FY 2022, it received more FOIA requests than ever before. The Department saw an approximately 22% increase in received requests. The Deputy Chief FOIA Officer is coordinating with component FOIA Officers to determine resources needed to reduce or eliminate their backlogs.

DHS FOIA Processing Centers' additional responses:

CBP:

- There are several contributing factors to CBP's FOIA Office backlog. The CBP FOIA Office is understaffed. Further CBP has experienced an increase in the complexity and volume of requests received as well as increased volume of responsive records. Contributing factors include recent events involving CBP and requests for emails, electronic media (Phone texts, photos, call logs), and videos. CBP FOIA litigation has increased, and the responsive data sets are growing larger. CBP FOIA staff also assist with litigation in either a part-time or full-time capacity to meet the production deadlines, which impacts initial processing, contributing to the backlog

CRCL:

- CRCL's FOIA Office began operation on April 23, 2021. Therefore, FY 2022 was the first full year of the program and there is no previous year's data to compare.

FEMA:

- FEMA's FOIA backlog can be tied to an increase in requests and loss of processing staff.

FLETC:

- FLETC's backlog increased by 10 cases in FY 2022. More cases were processed in FY 2022 compared to FY 2021, which contributed to the backlog.

I&A:

- I&A's increased backlog was due to dedicating FOIA processing staffing resources to processing FOIA litigation cases to meet court-imposed deadlines.

ICE:

- The ICE FOIA backlog increased in FY 2022 because the rate of incoming requests exceeded the resources available to complete the work. Additionally, FOIA staffing

vacancies, an increase in the complexity of the requests received, and the public interest in agency initiatives contributed to the backlog.

OIG:

- OIG experienced an increase in incoming FOIA requests in FY 2022. This increase also included a significant increase in the complexity of requests. OIG has since implemented a backlog reduction initiative to address the resulting backlog.

TSA:

- The TSA FOIA backlog increase was very small in comparison to the total number of requests processed. However, an increase in FOIA staff would help to offset this change and keep the backlog decreasing year over year.

USCG:

- During FY 2022, the USCG received an additional 300 FOIA requests in comparison to FY 2021. Many of those requests were for electronic communications, which required not only additional time to review and de-duplicate but also to conduct searches. In addition, there was an increase in requests for sensitive matters which required careful review to ensure the agency was providing as much information as possible while protecting information subject to a FOIA exemption.

USCIS:

- The USCIS year-end FOIA backlog increase was due largely to a 29% increase in the number of requests received compared to the previous year.

13. 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 2022. Please use the following calculation based 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.”

The Department’s FY 2022 FOIA backlog is made up of 9.67% of requests received in FY 2022.

BACKLOGGED APPEALS

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, 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 2021?

Yes. The Department’s backlog of FOIA appeals decreased by 28 requests in FY 2022 compared to FY 2021. Individual components’ FOIA appeals backlog may have increased, as described below.

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

N/A

16. If your agency's appeal backlog increased during Fiscal Year 2022, please explain why, and describe the causes that contributed to your agency not being able to reduce its backlog.

DHS FOIA Processing Centers' additional responses:

ICE:

- ICE's FOIA appeals backlog increased because the rate of incoming FOIA requests exceeded the resources available to complete the work, including FOIA appeals. The FOIA appeals backlog increased due to staffing vacancies, an increase in the complexity of the FOIA requests received, and the public interest in agency initiatives.

TSA:

- TSA had an increase of 27 FOIA appeals compared to the prior year. Much like the request backlog, this can be attributed to the need for additional staff to meet demand.

17. 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 2022. 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 2022 and/or has no appeal backlog, please answer with "N/A."

The percentage of appeals that made up the backlog in FY 2022 is 5.5% of the number of appeals received by the Department.

D. Backlog Reduction Plans

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022?

Yes. The Privacy Office continues to implement the 2021-2023 Departmental Backlog Reduction Plan. Efforts include reviewing staffing constraints, modernizing the FOIA IT infrastructure, investing in employees through training, and strengthening the regulatory environment by way of issuing guidance to processors, for example. Backlog Reduction efforts this reporting period included:

- Processing a record number of FOIA requests in FY 2022;
- Continuing review and use of DHS FOIA Office's performance metrics;
- Modernizing the DHS Monthly FOIA Report;
- Continuing the FOIA's "9 on the 9th" series; and

- Continuing the transition to a new FOIA processing system.

DHS FOIA Processing Centers' additional responses:

CBP:

- Authorized overtime
- Implemented the Robotic Process Automation (RPA) system
- Utilized TDY and Light Duty staff
- Targeted tiger teams to work on specific request types
- Trained newly onboarded staff
- Utilized the CBP contract staff
- Utilized DHS contract staff and DHS Privacy Office staff to assist with the redaction of simple requests
- Proactively posted to the Reading Room

ICE:

- Implemented a backlog reduction plan that included hiring additional FTEs and contractors; however, the increased number of incoming requests significantly outpaced ICE's predictions from early FY 2022.

TSA:

- Targeted certain years of FOIA requests for processing and closure.
- Met regularly to identify any problems/issues with processing older FOIA requests within a set time frame.

USCIS:

- Created a multi-faceted backlog reduction plan which includes people, processes, and technology. To address the backlogs USCIS is adding technological enhancements to FIRST to include the creation of a real-time FOIA backlog and compliance dashboard, the use of a FOIA backlog contractor, overtime, additional staffing, and staff members from other DHS Components and FOIA-trained USCIS non-FOIA personnel. In addition, USCIS encouraged program offices to upload responsive records into FIRST rather than mailing records, which saves time and resources. Although USCIS' backlog reduction efforts did not materialize at the end of FY 2022, data in subsequent months show USCIS's backlog is trending downward, and USCIS expects to be better positioned in FY 2023.

USCG:

- Implemented a backlog reduction plan and assisted several units with processing FOIA requests by assigning staff to complete the initial review and application of exemptions to records. For one unit, this involved more than 270 FOIA requests.

USSS:

- USSS did not provide a backlog reduction plan because its backlog was under 1,000 requests. However, due to USSS's efforts, they were able to achieve a 20% decrease in their backlog.

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency’s plan to reduce this backlog during Fiscal Year 2023.

The Department’s current backlog reduction plan implemented by the Privacy Office covers FY 2021-2023. The Privacy Office is developing an updated backlog reduction plan to cover FY 2024-2026.

DHS FOIA Processing Centers’ additional responses:

CBP:

- Authorize overtime;
- Utilize TDY and Light Duty staff;
- Create tiger teams to work on specific request types;
- Utilize CBP Contract staff; and
- Proactively post to the Reading Room.

ICE:

- ICE FOIA intends to continue the contractor support and hire more FTEs to address the increase in incoming FOIA requests.

USCG:

- USCG will continue to work on obtaining additional personnel to provide FOIA support. The FOIA Office will provide processing assistance to offices experiencing difficulties reducing their program office’s backlogged requests. Additional emphasis will be placed on conducting training and open communication for new and seasoned FOIA personnel. Finally, the USCG FOIA Office will continue to triage and assist with the expedited review of requests.

USCIS:

- USCIS will continue to undertake substantial efforts with respect to its overall FOIA program, including, but not limited to, bolstering resources/personnel, continued use of overtime and backlog contractor resources, and deploying additional technological enhancements to the FIRST system to improve efficiency. USCIS is also investing in other technological enhancements, such as an application programming interface (API) to allow requesters who utilize third party software to submit requests instead of filing requests online. This will allow USCIS to realize efficiencies within FIRST and reduce the time it takes to intake requests and provide responsive records to requestors.

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

No.

21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

The Department closed eight of the 10 oldest requests.

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

The Department issued FOIA performance metrics for DHS FOIA Processing Centers. In addition to encouraging backlog reduction, the metrics require reduction of the percentage of requests that are pending more than 200 days.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP FOIA partnered with the CBP Office of Chief Counsel to procure a new E-discovery platform called RelativityOne. This tool quickly sorts through emails to de-duplicate pages, automatically redacts personally identifiable information (PII) subject to a FOIA exemption, and uses records custodians to identify key information. This reduced the amount of time it took to process a request and the number of pending cases that were beginning to age.

FEMA:

- FEMA FOIA worked on an approach to narrow the scope of received requests and perform routine proactive disclosures to close out any pending older cases when possible.

FLETC:

- FLETC engaged with requesters to modify or clarify their requests to ensure the FLETC FOIA office processed the request as efficiently as possible.

I&A:

- I&A backlogged FOIA cases are tracked by the analyst assigned to process the cases. This allows frequent review and assessment of backlogged cases.

ICE:

- ICE continued to process its 10 oldest cases in accordance with the FOIA.

OIG:

- OIG implemented a backlog reduction initiative that assigned dedicated resources for backlogged FOIA case processing.

TSA:

- TSA assigned the same types of FOIA requests with the same subject matter to an analyst to ensure uniformity in processing and increase closures. Additionally, TSA identified simple cases that could be processed and closed out quickly. TSA met with its analysts weekly to make sure they were meeting their goals in closing the 10 oldest requests, pending consults, appeals, all 2017 cases, and 50 percent of the 2018 cases. Where needed, TSA contacted requesters to narrow the scope of voluminous requests.

USCG:

- USCG engaged with units that had the oldest requests to provide guidance and assistance in responding to these requests. USCG initiated a working group with the unit with the oldest requests and completed the initial review of and application of exemptions to responsive records.
- USCG implemented mechanisms to quickly de-duplicate records for faster review. In one instance, this de-duplication process reduced the number of potentially responsive records from more than 10,000 pages to approximately 1,500.

USCIS:

- USCIS employed the use of E-Discovery software to cull down potentially responsive records using keyword searches, resulting in a reduction of records to be processed. Additionally, the agency is supplementing current staff by hiring additional Government Information Specialists dedicated to processing the agency's most complex and voluminous requests.

USSS:

- USSS established a working group to address the remaining four requests due to their voluminous number of records to be processed.

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

Yes.

24. 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 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

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

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP FOIA performed weekly audits of its oldest appeals, including mean and median processing times, and the rate of response for incoming appeals. The agency is proud to once again report that it closed more than 99.5% of the appeals it received and processed those appeals in a timely and efficient manner. CBP processed appeals with a median of six days and an average of 12 days.

FEMA:

- FEMA worked on an approach to narrow the scope of requests and perform routine proactive disclosures to close out any pending older cases when possible.

FLETC:

- FLETC took steps to transfer FOIA appeals processing to an electronic system rather than manually moving documents around for signature and approval between the FOIA office, the Office of Chief Counsel, and the appeal authority.

OIG:

- OIG dedicated resources to process outstanding FOIA appeals.

TSA:

- TSA FOIA worked closely with the TSA Chief Counsel’s office and the FOIA appeal official to ensure all entities were aware of processing and closure goals.

USSS:

- USSS worked with the USSS Chief Counsel’s Office to set up a monthly meeting to discuss the trends in appeals and how the FOIA office can improve initial processing to reduce the number of FOIA appeals.

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

No.

27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

The Department closed eight of the 10 oldest consultations.

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

DHS FOIA Processing Centers' additional responses:

CBP:

- CBP processed its oldest consultation requests and interim releases were provided to the requesters. The remaining records for each of the requests are videos that are under review for processing.

FLETC:

- FLETC joined the Department in utilizing the new electronic FOIA processing system to more efficiently process consultation requests and help gain traction processing its older consultation requests.

ICE:

- ICE closed many of its oldest consultation cases and will continue to lean into the new technology acquired, such as case management and audio/visual redaction tools, to improve timelines.

OIG:

- OIG implemented a backlog reduction plan that includes dedicated resources to process backlogged consultation cases.

Privacy Office:

- PRIV closed its 10 oldest cases and appeals. The backlogged consultations were not closed due to dependencies on other federal agencies for record review.

TSA:

- TSA closed its 10 oldest appeals and consultations. TSA closed nine of its 10 oldest requests. TSA FOIA meets weekly with the assigned analyst for a status update to ensure it meets its FY 2023 goals.

USCIS:

- USCIS is committed to processing FOIA requests efficiently and timely. Obstacles that prevent closing older requests include the broad scope of the requests, which produce voluminous potentially responsive records that must be reviewed page by page. Additionally, USCIS has limited staff available to process requests. USCIS works with individual requesters to attempt to narrow the scope of requests and/or to develop mutually agreeable rolling production schedules.

USSS:

- USSS closed nine out of 10 of its oldest consultations. Appeals and requests for all 10 oldest were closed. USSS Chief Counsel's Office handles all FOIA appeals. USSS FOIA continues closing the oldest consultations.

F. Additional Information about FOIA Processing

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

Yes. CBP, FEMA, ICE, OIG, PRIV, TSA, USCG, and USCIS had requests that were the subject of FOIA litigation during the reporting period.

DHS FOIA Processing Centers' additional responses:

CBP:

- At CBP, FOIA litigation takes priority over other FOIA responsibilities. When a request moves to litigation, resources are shifted from initial FOIA request processing, therefore, increasing the backlog. CBP has 128 open FOIA litigation cases. The most common reason for litigation is constructive denial (requests not being answered within 20 days).

CRCL:

- CRCL is processing records in six FOIA litigation cases that were referred to CRCL for processing and direct response to the requester. Additionally, CRCL has ongoing FOIA litigation cases due to constructive denials. These cases have an impact on the FOIA program's processing resources and budget.

FEMA:

- FEMA had one new FOIA litigation filed in FY 2022. The focus of the litigation was to challenge FEMA's compliance with FOIA's reading room requirements.

ICE:

- ICE was the defendant in 57 new FOIA litigation cases during the reporting period. FOIA litigation did not impact the agency's overall FOIA request processing and backlog. The most common reason for litigation is constructive denial.

OIG:

OIG experienced an increase in FOIA litigation in FY 2022. The cause of the litigation was most commonly constructive denials due to the volume and complexity of FOIA requests received by the agency. OIG does not have a separate FOIA litigation team, and each litigation case requires dedicated resources to meet separate litigation demands, which reduces the agency's ability to process other FOIA requests in a timely matter.

Privacy Office:

- PRIV had approximately 37 requests transferred into the litigation stage during FY 2022. Common causes were the overall high volume of requests received, including an increase in complex FOIA requests seeking records about high-profile DHS actions or programs. PRIV also received several overly broad requests. PRIV's litigation workload is large and requires its own team to process these cases. The PRIV FOIA litigation team is solely responsible for litigation review and thus is not assisting with additional incoming

requests. There is also a potential financial burden due to attorney’s fees and/or settlements.

TSA:

- TSA litigation cases primarily arise due to constructive denials. This happens for various reasons such as the complexity of the request, the volume of records to be processed, and the overall lack of TSA FOIA resources or staff.

USCG:

- USCG had approximately 11 FOIA litigation cases in FY 2022. The basis of the cases were typically requesters unsatisfied with the initial response to their FOIA requests. Assisting USCG attorneys and DOJ attorneys with FOIA litigation resulted in a loss of time to provide training and process incoming requests.

USCIS:

- Litigation cases make up a small number of the USCIS FOIA workload; however, litigation takes extensive time and resources to resolve and can adversely impact the agency’s overall FOIA efficiency. Responding to litigation cases adds additional steps to the usual FOIA process, including coordination with counsel and DOJ representatives, further negotiations with plaintiffs, as well as additional interaction with USCIS Components. The agency maintained an average of 85 active litigation cases during FY 2022, closing a total of 23 cases. The most common causes for litigation are failure to respond within the statutory timeframe and allegations of improper withholding.

USSS:

- USSS had approximately 12 FOIA civil actions filed in FY 2022. Common causes of the litigated requests were: requesters questioning the adequacy of searches; dissatisfaction with the responses received; and the length of time required to process sensitive records as well as voluminous results of potentially responsive records from email searches. The USSS Office of the Chief Counsel processes all litigated FOIA requests in coordination with the FOIA office. The requests in litigation often yield voluminous search results and require additional FOIA staff assistance, taking away from the standard processing of routine FOIA requests.

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency’s FY22 raw data).

FY 2022 cases with unusual circumstances are listed for each of the DHS FOIA Processing Centers:

Agencies	Number of Cases with Unusual Circumstances in FY22
CBP	92,127
CRCL	47
FEMA	483

FLETC	43
I&A	32
ICE	13,022
OIG	97
PRIV	70,698
TSA	407
USCG	1,640
USCIS	180,260
USSS	233
DHS TOTAL	359,089

APPENDIX A: Composition of the Department of Homeland Security

Missions:

The U.S. Department of Homeland Security (DHS) has six overarching homeland security missions: counter terrorism and enhance security; secure and manage our borders while facilitating trade and travel; enforce and administer our immigration laws; safeguard and secure cyberspace; build resilience to disasters; and provide essential support for national and economic security. DHS carries out these missions in coordination with federal, state, local, international, tribal, and private sector partners.

Offices:

The Office for Civil Rights and Civil Liberties (CRCL) provides 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 the Citizenship and Immigration Services Ombudsman (Ombudsman) is dedicated to improving the quality of citizenship and immigration services delivered to the public by providing individual case assistance, as well as making recommendations to improve the administration of immigration benefits by U.S. Citizenship and Immigration Services (USCIS).

The Office of the Executive Secretary (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.

The Office of the General Counsel (OGC) integrates over 2,500 attorneys from throughout the Department into an effective, client-oriented, full-service legal team. The Office of the General Counsel comprises a headquarters office with subsidiary divisions and the legal offices for nine Department Components.

The Office of the Immigration Detention Ombudsman (OIDO) examines immigration detention to promote safe and humane conditions. The Office assists individuals with complaints about the potential violation of immigration detention standards or misconduct by DHS or contract personnel. OIDO provides independent oversight of immigration detention facilities—including conducting announced and unannounced inspections and reviewing contract terms for immigration detention facilities and services—and tracks trends and systemic issues across facilities.

The Office of the Inspector General (OIG) provides independent and objective oversight to promote excellence, integrity, and accountability within DHS.

The Joint Requirements Council (JRC) validates capability gaps, associated with operational requirements and proposed solution approaches to mitigate those gaps through

the Joint Requirements Integration and Management System, leveraging opportunities for commonality to enhance operational effectiveness directly and better inform the DHS's main investment pillars.

The Office of Legislative Affairs (OLA) serves as the 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 Military Advisor provides counsel and support to the Secretary and Deputy Secretary in affairs relating to policy, procedures, preparedness activities, and operations between DHS and the Department of Defense.

The Office of Partnership and Engagement (OPE) mission is to ensure a unified approach to external engagement through coordination of the Department of Homeland Security's outreach efforts with critical stakeholders nationwide. OPE partners and conducts strategic engagements and outreach with state, local, tribal, territorial (SLTT) governments, elected officials, the private sector, faith-based and non-governmental organizations (NGO), academia, and communities. OPE advocates and represents interests of these stakeholders through the Department's policy making process and serves as a conduit for the Secretary to engage with stakeholders and to share information. Additionally, OPE oversees four (4) advisory councils: the Homeland Security Advisory Council, the Tribal Homeland Security Council, the Faith-based Security Advisory Council, and the Homeland Security Academic Partnership Council.

The Privacy Office (PRIV) sets privacy and FOIA policy for the Department. It also works to preserve and enhance privacy protections for all individuals and to promote transparency in the Department's operations.

The Office of Public Affairs (OPA) coordinates the public affairs activities of all the Department's components and offices and serves as the federal government's lead public information office during a national emergency or disaster.

The Office of Strategy, Policy, and Plans (PLCY) serves as a central resource to the Secretary and other Department leaders for strategic planning and analysis, and facilitation of decision-making on the full breadth of issues that may arise across the dynamic homeland security enterprise.

Operational and Support Components:

U. S. Customs and Border Protection (CBP) is one of the Department of Homeland Security's largest and most complex components. It has responsibility for securing and facilitating trade and travel while enforcing hundreds of U.S. laws and regulations, including those encompassing customs, immigration, border security, and agricultural protection.

The Cybersecurity and Infrastructure Security Agency (CISA) leads the national effort to defend critical infrastructure against the threats of today while working with partners across all levels of government and in the private sector to secure against the evolving risks of tomorrow.

Countering Weapons of Mass Destruction Office (CWMD) works to prevent attacks against the United States using a weapon of mass destruction through timely, responsive support to operational partners. CWMD leads DHS efforts and coordinates with domestic and international partners to safeguard the United States against chemical, biological, radiological, nuclear, and health security threats.

The Federal Emergency Management Agency (FEMA) supports state, local, tribal, and territorial partners to ensure we work together to help people before, during, and after disasters.

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

The Office of Intelligence and Analysis (I&A) equips the Homeland Security Enterprise with the timely intelligence and information it needs to keep the homeland safe, secure, and resilient.

U.S. Immigration and Customs Enforcement (ICE) promotes homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration.

The Management Directorate (MGMT) is responsible for budget, appropriations, expenditure of funds, accounting, and finance; procurement; human resources and personnel; information technology systems; facilities, property, equipment, and other material resources; providing biometric identification services; and identification and tracking of performance measurements relating to the responsibilities of the Department.

- **Federal Protective Service (FPS)** is an operational component within the DHS Management Directorate that provides law enforcement and security services to approximately 9,000 federal facilities nationwide.
- **The Office of Biometric Identity Management (OBIM)** operates within the DHS Management Directorate and provides biometric identity services to DHS Components, the Departments of Defense, Justice, and State, state, local, tribal, and territorial entities, the Intelligence Community, and international mission partners.

The Office of Situational Awareness (OSA) provides situational awareness, a common operating picture, and decision support for the homeland security enterprise on threats, incidents, hazards, and events impacting the homeland.

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

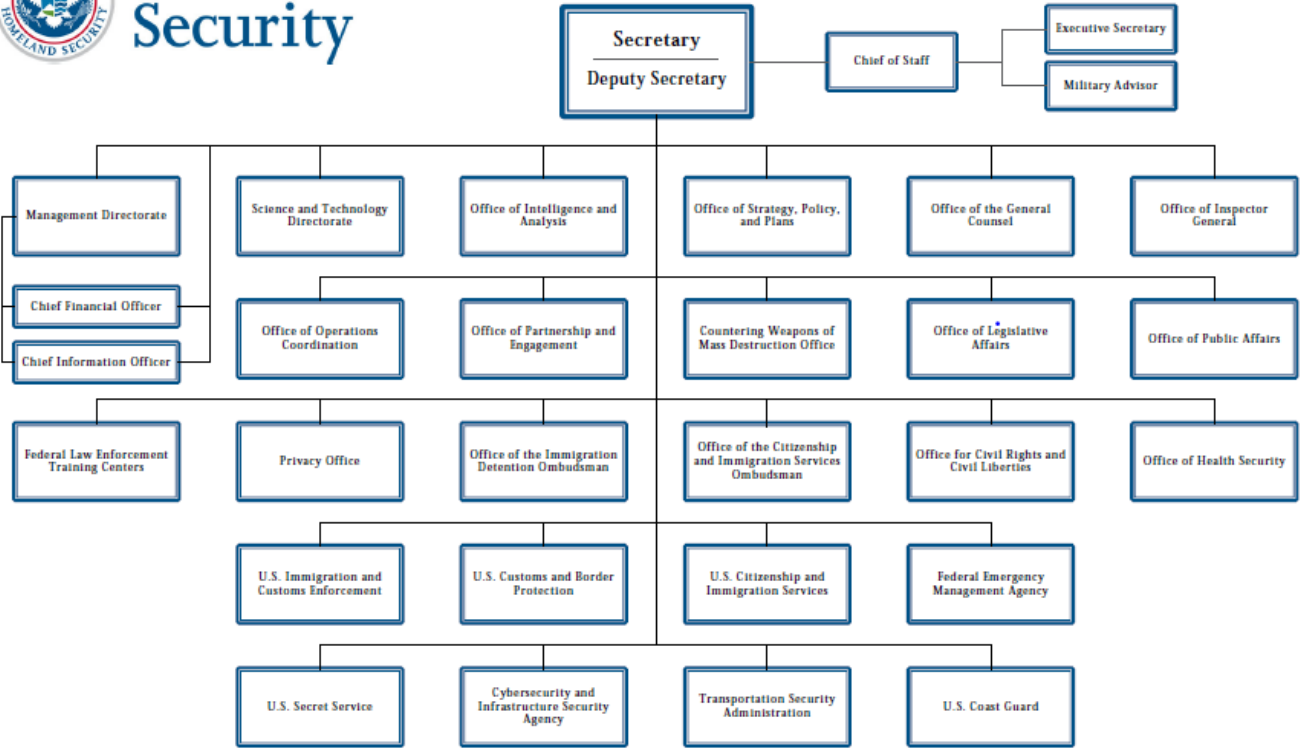
The United States Coast Guard (USCG) is one of the six armed forces of the United States and the only military organization within the Department of Homeland Security. The USCG protects the maritime economy and the environment, defends our maritime borders, and saves those in peril.

U.S. Citizenship and Immigration Services (USCIS) oversees lawful immigration to the United States and upholds America's promise as a nation of welcome and possibility with fairness, integrity, and respect for all we serve.

The Science and Technology Directorate (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 United States Secret Service (USSS) safeguards the nation's financial infrastructure and payment systems to preserve the integrity of the economy, and protects national leaders, visiting heads of state and government, designated sites, and National Special Security Events.

APPENDIX B: DHS Organizational Chart



APPENDIX C: Acronyms, Definitions, and Exemptions

1. Agency-specific acronyms or other terms:

a.	CBP	U.S. Customs and Border Protection
b.	CISA	Cybersecurity and Infrastructure Security Agency
c.	CISOMB	Office of the Citizenship and Immigration Services Ombudsman
d.	CRCL	Office for Civil Rights and Civil Liberties
e.	CWMD	Countering Weapons of Mass Destruction Office
f.	DHS	U.S. Department of Homeland Security
g.	ESEC	Office of the Executive Secretary
h.	FEMA	Federal Emergency Management Agency
i.	FLETC	Federal Law Enforcement Training Centers
j.	FPS	Federal Protective Service ²
k.	I&A	Office of Intelligence and Analysis
l.	ICE	U.S. Immigration and Customs Enforcement
m.	MGMT	Management Directorate
n.	MIL	Military Advisors Office
o.	NCSC	National Cyber Security Center
p.	OBIM	Office of Biometric Identity Management
q.	OCF	Office of Community Partnerships
r.	OGC	Office of the General Counsel
s.	OIDO	Office of the Immigration Detention Ombudsman
t.	OIG	Office of Inspector General
u.	OLA	Office of Legislative Affairs
v.	OPA	Office of Public Affairs
w.	OPE	Office of Partnership and Engagement
x.	OSA	Office of Homeland Security Situational Awareness
y.	PLCY	Office of Strategy, Policy, and Plans
z.	PRIV	Privacy Office
aa.	S&T	Science and Technology Directorate
bb.	TSA	Transportation Security Administration
cc.	USCG	United States Coast Guard
dd.	USCIS	U.S. Citizenship and Immigration Services
ee.	USSS	United States Secret Service

2. Definition of terms, as used in this report:

- 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. Under section 704 of the Administrative Procedures Act, the Department’s response to an administrative appeal is considered final agency action that is then appealable to a federal district court.

² FPS is an operational component within the DHS Management Directorate that provides law enforcement and security services to approximately 9,000 federal facilities nationwide.

- 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 for a response.
- c. **Consultation** – The procedure whereby the agency responding to a FOIA request 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 provides its views on the record to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- d. **Exemption 3 Statute** – A federal statute other than FOIA that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.³
- e. **FOIA Processing Center** - For agencies that process requests on a decentralized basis, a “processing center” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in the Annual FOIA Report data for both the agency overall and for each principal processing center of the agency.
- f. **FOIA Request** – A FOIA request is generally a request to a federal agency for access to records concerning another person (in other words, a “third-party” request), an organization, or a particular topic of interest. Moreover, because requesters covered by the Privacy Act who seek records concerning themselves (in other words, “first-party” requesters) are afforded the benefit of the access provisions of both FOIA and the Privacy Act, the term “FOIA request” also includes any such “first-party” requests when an agency determines that it must search beyond its Privacy Act “systems of records” or when the agency applies a Privacy Act exemption and therefore looks to FOIA to afford the greatest possible access. DHS applies this same interpretation of the term “FOIA request” even to “first-party” requests from persons not covered by the Privacy Act, e.g., non-U.S. citizens. Because DHS policy provides non-U.S. citizens the ability to access their own records as if they are subject to the Privacy Act’s access provisions, DHS processes the requests under FOIA as well. Additionally, a FOIA request includes records referred to DHS 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. (Consultations are reported separately in Section XII of the Annual FOIA Report.)
- g. **Full Grant** – An agency decision to disclose all records in full in response to a FOIA request.

³ Pursuant to 5 U.S.C. § 552(b)(3) as amended by sec. 564 of Public Law 111-83, a statute enacted after October 28, 2009, can qualify as an Exemption 3 law only if it cites specifically to 5 U.S.C. § 552(b)(3).

- h. **Full Denial** – An agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- i. **Multi-Track Processing** – A system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first-in/first-out basis.
 - i. **Expedited Processing** – An agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** – A FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
 - iii. **Complex Request** – A FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- j. **Partial Grant/Partial Denial** – An agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- k. **Pending Request or Pending Administrative Appeal** – A pending request is one where the agency has not yet provided a response to the requester. A pending administrative appeal is where one where the agency has not taken final action in all respects.
- l. **Perfect Request** – A request for records that reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed.
- m. **Processed Request or Processed Administrative Appeal** – A processed request is one where the agency has provided a complete response to the requester’s initial request. A processed administrative appeal is one where the agency has advised the requester of its final decision on the requester’s appeal as to the handling of the initial request.
- n. **Range in Number of Days** – The lowest and highest number of days required to process requests or administrative appeals.

- o. **Time Limits** – The time period in the statute for an agency to respond to a FOIA request (ordinarily 20 working days from receipt of a perfected FOIA request).⁴

3. Concise descriptions of FOIA exemptions:

- a. **Exemption 1:** classified national defense and foreign relations information.
- b. **Exemption 2:** internal agency rules and practices (personnel).
- c. **Exemption 3:** information that is prohibited from disclosure by another federal law.
- d. **Exemption 4:** trade secrets and other confidential or financial information obtained from a person.
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges, such as the deliberative process privilege, attorney work product privilege, and attorney client privilege.
- f. **Exemption 6:** information that, if released, would be a clearly unwarranted invasion of personal privacy.
- g. **Exemption 7:** law enforcement records where the disclosure would A) interfere with enforcement proceedings, B) deprive a person of a fair trial or impartial adjudication, C) constitute an unwarranted invasion of personal privacy, D) identify a confidential source, E) disclose law enforcement techniques and procedures or guidelines for law enforcement investigations or prosecutions, or F) endanger the life or physical safety of any individual.
- h. **Exemption 8:** information relating to the supervision of financial institutions.
- i. **Exemption 9:** geological/geophysical information concerning wells.

⁴ Absent “unusual circumstances,” the FOIA provides that agencies should make a determination with respect to an appeal within twenty working-days of its receipt by the agency. 5 U.S.C. § 552(a)(6)(A)(ii).

APPENDIX D: Names, Addresses, and Contact Information for DHS FOIA Officers

U.S. Department of Homeland Security Chief FOIA Officer

Mason C. Clutter
Chief Privacy Officer and Chief FOIA Officer
Privacy Office, Mail Stop 0655
U.S. Department of Homeland Security
2707 Martin Luther King Jr. AVE SE, Mail Stop 0655
Washington, DC 20528-0655

Department of Homeland Security FOIA Officers

Catrina Pavlik Keenan
Deputy Chief FOIA Officer
DHS Privacy Office
U.S. Department of Homeland Security
Ph: 202-343-1743 or 866-431-0486
Fax: 202-343-4011
E-mail: foia@hq.dhs.gov
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528-0655

Cynthia Munita
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Ph: USCIS Contact Center 800-375-5283
(TTY 800-767-1833)
National Records Center, FOIA/PA Office
P. O. Box 648010
Lee's Summit, MO 64064-8010

Rosemary Law
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Ph: 202-401-1474 or 866-644-8360
E-mail: crclfoia@hq.dhs.gov
Attention FOIA, Mail Stop 0190
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528-0655

Kathleen Claffie
U.S. Coast Guard
U.S. Department of Homeland Security
Ph: 202- 475-3515 Fax: 202-475-3927
Commandant (CG-6P)
MAIL STOP 7710
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Washington, DC 20593-7710

Sabrina Burroughs
U.S. Customs and Border Protection
U.S. Department of Homeland Security
Ph: 202-325-0150 Fax: 202-325-1476
FOIA Division
90 K Street NE
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2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528-0655

Gregory Bridges
Federal Emergency Management Agency
U.S. Department of Homeland Security
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500 C Street, SW Mail Stop 3172
Washington, DC 20472-3172

Alicia Mikuta
Federal Law Enforcement Training Centers
U.S. Department of Homeland Security
Ph: 912-267-3103; Fax: 912-267-3113
Building No.681
1131 Chapel Crossing Road
Glynco, GA 31524

Fernando Pineiro
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U.S. Department of Homeland Security
Ph: 866-633-1182; Fax: 202-732-4265
500 12th Street, SW, Mail Stop 5009
Washington, DC 20536-5009

Roy Jones
Office of Inspector General
U.S. Department of Homeland Security
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U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0305
Washington, DC 20528-2600

Cindy Falkenstein
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U.S. Department of Homeland Security
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Kevin Tyrrell
United States Secret Service
U.S. Department of Homeland Security
Ph: 202-406-6370; Fax: 202-406-5586
245 Murray Lane, SW, Building T-5
Washington, DC 20223

Teri Miller
Transportation Security Administration
U.S. Department of Homeland Security
Ph: 1-866-FOIA-TSA
6595 Springfield Center Drive
Springfield, VA 22150