

# Department of Homeland Security

Privacy Office

2017 Chief Freedom of Information Act Officer Report  
to the Attorney General of the United States

March 2017



Homeland  
Security

# Message from the Acting Chief Freedom of Information Act Officer

I am pleased to present the Department of Homeland Security's (DHS or Department) *2017 Chief Freedom of Information Act (FOIA)<sup>1</sup> Officer Report to the Attorney General of the United States*. The Report summarizes the Department's accomplishments in achieving its strategic goals related to transparency, openness, and implementing FOIA from March 2016 through March 2017.



DHS leadership continues to be dedicated to the Department-wide success of the FOIA program, including each Component FOIA program.

The DHS Privacy Office, which is responsible for policy and execution of the DHS FOIA program, meets regularly with DHS leadership to ensure continuing emphasis is placed on FOIA training, backlog reduction, closing of the agency's ten oldest requests, consultations and appeals, and ensuring that the DHS FOIA workforce has the resources required to keep the FOIA programs running efficiently to meet the Federal Government's Open Government goals.

The DHS Privacy Office took several steps to ensure that the FOIA program at the Department operates more efficiently. The DHS Privacy Office finalized and issued the updated FOIA regulation<sup>2</sup> to improve the management of the Department's FOIA program. Additionally, in response to my office's request, the Office of Government Information Services (OGIS) assessed the Department's FOIA policies and programs, to include a compliance assessment of six specific Components to assist the Department in its backlog reduction strategy and improve the Department's FOIA program. The results of the completed OGIS assessment were used to address both Department-wide issues and Component-specific concerns related to their administration of the FOIA.<sup>3</sup>

A word about the backlog: DHS consistently receives the largest number of FOIA requests of any federal department or agency, receiving almost 40 percent of all requests within the Federal Government. In fiscal year (FY) 2016, DHS received 325,780 FOIA requests (a 16 percent increase from the prior fiscal year) and processed 310,549. This volume reflects a continued

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<sup>1</sup> 5 U.S.C. § 552.

<sup>2</sup> The regulation was published in the Federal Register on November 22, 2016, became effective on December 22, 2016, and is available at: <https://www.federalregister.gov/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>.

<sup>3</sup> OGIS's Compliance Reports and the DHS Privacy Office and Component responses are available on OGIS's website at <https://ogis.archives.gov/foia-compliance-program/agency-compliance-reports/dhs.htm>.

interest in current events, the DHS missions and the activities of DHS Components and represents the largest amount of requests received by an agency in one fiscal year.

The majority of FOIA requests were filed with the United States Citizenship and Immigration Services (USCIS) and originated from individuals seeking immigration-related records. United States Customs and Border Protection (CBP), United States Immigration and Customs Enforcement (ICE), and the Office of Biometric Identity Management (OBIM) also received a large share of the requests. These Components received approximately 97 percent of all DHS FOIA requests in FY 2016.

The increased volume for immigration records has directly affected the Department's backlog. The Department's backlog increased from 35,374 in FY 2015 to 46,788 in FY 2016. More than 76 percent of the Department's backlog resides with USCIS. To address the backlog, USCIS plans to deploy a multi-pronged approach through the effective use of technology and resource allocation with a goal of reducing its backlog by 38,000 FOIA requests.

The growth in the backlog by itself does not explain the state of the FOIA program. Although the Department's backlog increased, four Components made significant strides in processing record numbers of requests. CBP decreased its backlog by 87 percent despite receiving 28 percent more requests in FY 2016. The National Protection and Programs Directorate (NPPD) decreased its backlog by 19 percent despite receiving 42 percent more requests in FY 2016. The Transportation Security Administration (TSA) decreased its backlog by 21 percent, responding to more than 67 percent more requests in FY 2016. ICE maintained a backlog of under 500 requests despite receiving 63,385 requests (a 42 percent increase) in FY 2016.

Reducing the backlog remained one of my top priorities this year, and I am pleased to report successful efforts. Of note, the DHS Privacy Office partnered with NPPD/OBIM leadership to execute an aggressive 40 day Backlog Reduction Plan. As a result of this partnership, the teams were able to reduce OBIM's backlog by 75 percent by the end of FY 2016 and reduce the Department's projected FY 2016 overall backlog by 26 percent. The teams processed more than 14,000 backlogged FOIA cases in 40 days.

The DHS Privacy Office and the Component FOIA Offices conducted internal training and served on various panels outside the Department that allowed them to: (1) standardize FOIA best practices across the Department; and (2) promote transparency and openness within DHS and among the requester community. Several Component FOIA Officers and staff from the DHS Privacy Office received accolades and awards from former DHS Secretary Jeh Johnson and former NPPD Under Secretary Suzanne Spaulding, and from other agencies in the areas of advancing technologies, customer service, and backlog reduction successes.

I am proud of the Department's accomplishments and will continue to work with the Deputy Chief FOIA Officer and the Component FOIA Officers to ensure continued compliance with the FOIA and to ensure efficient and effective operations throughout the Department.

The report that follows describes these and other initiatives in greater detail.

Inquiries about this report may be directed to the DHS Privacy Office at 202-343-1717 or [foia@dhs.gov](mailto:foia@dhs.gov). This report and other information about the Office are available on our website: [www.dhs.gov/FOIA](http://www.dhs.gov/FOIA).

Sincerely,

A handwritten signature in blue ink that reads "Jonathan R. Cantor". The signature is written in a cursive style with a large initial 'J'.

Jonathan R. Cantor  
Acting Chief Freedom of Information Act Officer  
U.S. Department of Homeland Security

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# I. Overview of the DHS FOIA Program

## A. Overview of the DHS FOIA Program

The Department's FOIA program began with the establishment of the Department of Homeland Security in 2003. Many of the agencies that were merged into DHS had pre-existing, well-established FOIA operations. Elements of those decentralized operations continue today. Subject to Department-wide FOIA regulations and the policy leadership of the DHS Privacy Office, DHS Components are responsible for establishing and maintaining their own FOIA programs and operationally deciding whether to establish a centralized or decentralized FOIA program at the Component or Directorate level.<sup>4</sup> Contact information for DHS FOIA Officers is provided in Appendix C.

## B. FOIA Operations and the DHS Privacy Office

In accordance with *Executive Order 13392, Improving Agency Disclosure of Information*,<sup>5</sup> the Secretary of Homeland Security (Secretary) designated the DHS Chief Privacy Officer (Chief Privacy Officer) to serve concurrently as the Chief FOIA Officer to promote efficiency, effectiveness, and statutory compliance throughout the Department.<sup>6</sup> The Chief Privacy Officer leads the DHS Privacy Office and reports directly to the Secretary on both FOIA and privacy matters. On August 29, 2011, the Secretary delegated to the Chief Privacy Officer the authority to develop and oversee the implementation of policies within the Department and, except as otherwise provided by law, carry out the functions of the agency regarding compliance with FOIA, the Privacy Act, and the *E-Government Act of 2002*.<sup>7</sup>

The DHS Privacy Office coordinates Department-level compliance with FOIA by developing Departmental policy. Additionally, the DHS Privacy Office coordinates and oversees Component FOIA Service Center operations, provides FOIA training, and prepares required annual reports on the Department's FOIA performance. The DHS Privacy Office, through its FOIA team, also processes initial FOIA and Privacy Act requests to the Office of the Secretary (including the Military Advisor's Office) and many offices within DHS Headquarters.<sup>8</sup>

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<sup>4</sup> The DHS Organizational Chart is provided in Appendix B.

<sup>5</sup> *Executive Order Number 13392*, Fed. Reg. Volume 70, 75373 (Dec. 14, 2005). The Executive Order's requirement for the establishment of the Chief FOIA Officer position was enacted into law as provisions of the FOIA (5 U.S.C. §§ 552(j), (k)) by the *OPEN Government Act of 2007*, Pub. L. 110-175, 121 Stat. 2524 (Dec. 31, 2007). The Chief Privacy Officer position was established by Section 222 of the *Homeland Security Act of 2002* (Homeland Security Act), 6 U.S.C. § 142 (2002). Section 222 assigns the Chief Privacy Officer responsibilities to ensure that privacy and transparency in government are implemented throughout the Department. These responsibilities are further described on the DHS Privacy Office website: <https://edit.dhs.gov/chief-privacy-officers-authorities-and-responsibilities>.

<sup>6</sup> Delegation to the Chief Privacy Officer to fulfill responsibilities related to the FOIA and Privacy Act programs within the Department is available at <https://www.dhs.gov/publication/foia-delegation-chief-privacy-officer>.

<sup>7</sup> Pub. L. 107-347, § 208, 44 U.S.C. § 101 note.

<sup>8</sup> In this report, a reference to the "Department" or "DHS" means the entire Department of Homeland Security, including its Components, Directorates, and the Office of the Secretary. The DHS FOIA Office processes the Privacy Office's initial requests and those for the following 14 offices: Office of the Secretary, Military Advisor's Office, Office of the Citizenship and Immigration Services Ombudsman, Domestic Nuclear Detection Office, Office

The DHS Privacy Office's FOIA team ensures full implementation of the FOIA goals and objectives in the DHS Privacy Office's Strategic Plan. Five directors and one manager assist the leadership of the Privacy Office:

1. The Acting Senior Director of FOIA Operations provides leadership and supervision for the entire FOIA workforce and is responsible for strategic planning, program management and analysis, resource allocation, budget, acquisition, internal/external communications, and human resources;
2. The Director of FOIA Disclosure helps manage the DHS Privacy Office's FOIA operations and ensures that requests for records are appropriately processed; and as the Department's FOIA Public Liaison, assists in the resolution of disputes;
3. The Director of FOIA Policy and Training prepares the annual Chief FOIA Officer Report, prepares responses to Government Accountability Office reports, provides ad hoc internal training, and prepares policy guidance;
4. The Director of FOIA Compliance and Oversight collects, compiles, and analyzes monthly FOIA reports from DHS Components, prepares the DHS Annual FOIA Report, and tracks significant FOIA activity through weekly and daily reporting;
5. The Director of FOIA Appeals and Litigation manages the administration of the DHS Privacy Office appeals process and assists the Office of the General Counsel (OGC) in litigation involving the DHS Privacy Office; and
6. The Director of FOIA Technology manages the operations of the department-wide commercial off-the shelf (COTS) web application to process FOIA and Privacy Act requests, oversees FOIA-related information technology projects, and manages the DHS Privacy Office web presence.

In addition, DHS Privacy Office FOIA staff includes 10 Government Information Specialists who: (1) process FOIA requests submitted to the Office of the Secretary and 13 other Headquarters offices;<sup>9</sup> (2) develop FOIA policy and provide FOIA-related training; (3) coordinate appeals and process records under litigation; and (4) monitor the Department's implementation and FOIA performance.

DHS programs are wide-ranging, and the processing of requests requires close coordination with many internal and external customers, including other federal agencies, state and local governments, foreign entities, and private companies. DHS Privacy Office Government Information Specialists also provide expert FOIA guidance to the Component FOIA Offices and communicate regularly with DHS's many stakeholders.

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of the Executive Secretary, Office of Intergovernmental Affairs, Management Directorate, Office for Civil Rights and Civil Liberties, Office of Operations Coordination, Office of Policy, Office of the General Counsel, Office of Health Affairs, Office of Legislative Affairs, and Office of Public Affairs. Appendix A lists the DHS Components and their customary abbreviations. Appendix D lists acronyms, definitions, and exemptions.

<sup>9</sup> See footnote eight for the list of 14 Headquarters offices.

## II. Promoting Openness and Efficiency: Addressing Key Areas of Interest to the Department of Justice

### A. Steps Taken to Apply the Presumption of Openness

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

#### ***FOIA Training:***

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

Yes, the DHS Privacy Office and the Component FOIA Offices held conferences and conducted training during the reporting period.

2. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.
  - The DHS Privacy Office conducted biweekly New Employee Training on FOIA along with best practices for safeguarding personally identifiable information.
  - The DHS Privacy Office meets weekly regarding its FOIA program and processing requests. Two of the meetings were devoted to training, including the following FOIA topics of interest: proper FOIA requests, exemptions, and appeals.
  - The DHS Privacy Office provided a two-hour FY 2016 Annual Report Refresher Training Workshop to the Component FOIA staff that included the reporting requirements and best practices for responding to FOIA requests.

Component FOIA Offices provide full-time and collateral FOIA staff training specific to each Component:

- United States Coast Guard (USCG) conducted the following training:
  - USCG Legal Service East Command conducted three FOIA training sessions on the following topics:
    - What is FOIA?
    - General provisions
    - Amendments

- USCG policy
  - How to submit a FOIA request
  - Negotiated releases
  - Searching for responsive records
  - Reviewing and redacting records
  - Exemptions
  - Release and denial authority
  - What is a denial?
  - Justification memo
  - Fees and fee waivers
  - Expedited processing
  - Steps in processing a FOIA request
  - References and points of contact
- USCG General Counsel conducted introductory FOIA training as part of the Legal Technician Course and the Basic Lawyer Course at the Legal Naval Justice School. Topics included:
    - Short history of FOIA
    - Brief process and procedure
    - Exemptions
    - Privacy Act distinctions
    - The role of systems of records notices
- United States Secret Service (USSS) conducted the following training:
    - FOIA training for new Special Agents, new Uniformed Division Officers, and new employees at orientation regarding FOIA statutes and regulations.
    - FOIA training to USSS Directorates and Divisions regarding the handling of FOIA requests, search requirements, and the roles and responsibilities of the program office staff responsible for conducting searches.
    - Refresher FOIA training to FOIA staff regarding processing requests and applying exemptions, including identifying factors unique to USSS that affect the processing of FOIA requests
  - CBP conducted numerous trainings, including a two-day refresher training to all staff assigned to CBP FOIA headquarters. Topics included an overview of the FOIA, exemptions and proper application, fee waiver determinations, fee categories, and requests for expedited treatment.
  - ICE conducted training during its new employee orientations, providing an overview of FOIA procedural requirements and exemptions, and conducted annual refresher training to its FOIA staff and paralegals.
  - The Office of Intelligence and Analysis (I&A) conducted New Employee Orientation FOIA training to federal employees and contractors. Topics included statutory

requirements as well as Department of Justice (DOJ) and DHS policies. I&A conducted additional training to staff at the operational-level responsible for conducting records searches and providing responsive records to I&A FOIA professionals.

- The Science and Technology Directorate (S&T) conducted two annual FOIA training sessions and New Employee Orientation FOIA training for federal employees and contractors. Topics included S&T internal processes, statutes, and exemptions.
- The TSA FOIA Officer conducted FOIA 101 training for TSA program offices and provided specialized training to several program offices to address program-specific questions regarding FOIA requests.
- USCIS hosted two DOJ Office of Information Policy (OIP) attorneys who provided one day of basic FOIA refresher training to all USCIS FOIA processors and a second day of advanced FOIA training to all USCIS FOIA managers, supervisors, and senior staff at the USCIS National Records Center in Missouri.
  - Topics covered during the basic refresher training:
    - Open government laws, policies, initiatives
    - Reasonably segregable obligation
    - Exemption 5
    - Exemptions 6 and 7(C)
    - Exemption 7
    - FOIA & Privacy Act interface
  - Topics covered during the advanced training:
    - FOIA litigation update
    - *FOIA Improvement Act of 2016*
    - Exemption 5
    - Exemption 6 and 7(C)
    - FOIA & Privacy Act interface
    - Accuracy and accountability in FOIA processing
    - Exemption 4
- NPPD provided:
  - A two-day FOIA training session to Federal Protective Service regional FOIA liaisons regarding FOIA exemptions.
  - FOIA training by OBIM FOIA Officer to the DHS Privacy Office staff regarding the use of Exemptions 6, 7(C), 7(E), and the Privacy Act exemptions for the processing of OBIM's records.

As noted above, the Department places a high priority on training and education. All DHS Headquarters personnel and most Component staff receive FOIA training as part of New

Employee Orientation. This initial FOIA training is reinforced through mandatory online annual instruction in records management that also addresses staff FOIA responsibilities. The DHS Privacy Office also provides training materials to agency staff regarding their responsibilities under the FOIA, meeting its responsibility to “offer training to agency staff” as added by the *FOIA Improvement Act of 2016*.<sup>10</sup> In October 2016, the DHS Privacy Office deployed the DOJ OIP FOIA Training for Federal Employees Department-wide through the online learning systems. The DOJ OIP FOIA Training for FOIA Professionals will be deployed in the spring of 2017.

In addition to internal training that DHS and the Components provide to their staff, FOIA professionals throughout the Department also attended classes offered outside the Department by DOJ OIP and the American Society of Access Professionals (ASAP). Staff training this year included: Introduction to the FOIA, Freedom of Information and Privacy Acts, Basic FOIA, FOIA Public Liaison and FOIA Requester Center Training, FOIA-Privacy Act Training Workshop, Best Practices Workshops, FOIA Litigation Seminar, FOIA for Attorneys and Access Professionals, Annual Report and Chief FOIA Officer Report Workshops, Fees Conference, and ASAP’s 9th Annual National Training Conference. Topics included an overview of FOIA exemptions and procedures; reasonable search and review of records; communication with requesters; litigation process; and proactive disclosure. FOIA professionals also participated in the Environmental Protection Agency’s FOIA Expertise Assistance Team webinar regarding best practices for handling complex, voluminous, and sensitive FOIA requests.

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

DHS estimates 94 percent of all DHS FOIA professionals attended substantive FOIA training during this reporting period. The DHS Privacy Office and all of the Components reported that 100 percent of the FOIA professionals attended substantive FOIA training during this reporting period, with the following exceptions: USCG reported 80 percent, the Federal Emergency Management Agency (FEMA) reported 50 percent, and the Office of Inspector General (OIG) reported 25 percent.

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

This is not applicable to DHS, however, the DHS Privacy Office plans to make training available quarterly for FOIA professionals by conducting onsite training and partnering with other agencies. As mentioned in question two, the DHS Privacy Office deployed the DOJ OIP FOIA Training for Federal Employees Department-wide through the online learning systems. The DOJ OIP FOIA Training for FOIA Professionals will be deployed in the spring of 2017.

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<sup>10</sup> *FOIA Improvement Act of 2016* (Public Law No. 114-185).

## ***Outreach:***

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

As noted in question two, FOIA professionals throughout the Department attended training outside the Department, including the ASAP annual training, in which staff had the opportunity to engage in dialogue with the requester community who were serving as panelists in various sessions.

- The DHS Privacy Office engaged in the following outreach activities:
  - The Chief FOIA Officer and the Deputy Chief FOIA Officer as members of the Chief FOIA Officer Council<sup>11</sup>, participate in meetings with the requester community to develop recommendations for increasing FOIA compliance and efficiency, disseminating information about agency experiences and best practices, and working on initiatives that will increase transparency.
  - The DHS Privacy Office Director of FOIA Technology provided a Privacy Mobile App Presentation regarding the eFOIA app to internal and external stakeholders for the Interagency Open Government Joint Stakeholder Meeting, which included outreach and dialogue with open government groups.
- USCIS conducted two outreach and information sharing sessions with representatives from the American Immigration Lawyers Association, the members of which are frequent FOIA requesters on behalf of immigrant clients.
  - The USCIS Chief FOIA Officer is a member of the FOIA Advisory Committee,<sup>12</sup> which includes meetings and frequent collaboration with the requester community in an effort to seek solutions to effectively implement FOIA at the Department.
  - During its Sunshine Week celebration, USCIS FOIA hosted an immigration attorney discussion panel, comprised of four local attorneys engaged in immigration law practice who were experienced with the filing of FOIA requests with USCIS and other DHS Components. The lively and informative question and answer session was presented to an audience of over 150 attendees.
  - The USCIS FOIA Significant Interest Group held outreach sessions via conference call with:
    - Judicial Watch;
    - Immigrant investors under the EB-5 program;
    - American Civil Liberties Union; and

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<sup>11</sup> *FOIA Improvement Act of 2016* (Public Law No. 114-185), created a new Chief FOIA Officer Council within the Executive Branch that will serve as a forum for collaboration across agencies and with the requester community to explore innovative ways to improve FOIA administration.

<sup>12</sup> Information regarding the FOIA Advisory Committee and its activities is available at <https://ogis.archives.gov/foia-advisory-committee.htm>.

- Several news media representatives.
  - The Office for Civil Rights and Civil Liberties (CRCL) provided training and outreach as part of the Federal Privacy Council's Privacy Boot Camp. Topics included a brief overview of the FOIA, the importance of transparency, Exemptions 6 and 7(C), and the access provisions of the Privacy Act.
6. If you did not conduct any outreach during the reporting period, please describe why.
- CBP, ICE, TSA, USCG, and USSS devoted their resources to backlog reduction.
  - FEMA, NPPD, and OIG did not conduct any outreach due to staff shortages. Additionally, FEMA devoted its resources to backlog reduction.
  - The Federal Law Enforcement Training Centers (FLETC), I&A, and S&T relied on the DHS Privacy Office to conduct outreach during the reporting period. Additionally, FLETC and I&A indicated there are few frequent requesters for which outreach would have been necessary.

***Other Initiatives:***

7. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.
- As noted in question two above, the DHS Privacy Office and several Components conducted New Employee Training, which includes FOIA professionals and non-FOIA professionals.
  - The DHS Privacy Office provides monthly FOIA updates and reminders of staff obligations at the monthly all hands staff meeting, which includes FOIA and non-FOIA staff.
  - The DHS Privacy Office published a weekly Chief FOIA Officer Report regarding significant FOIA activity and distributed the report to the Component FOIA staff and non-FOIA staff. Components also distributed the report to their non-FOIA staff and leadership as they deemed appropriate. The reports are posted on the public facing DHS FOIA website.
  - ICE provides internal web-based FOIA training to all of its employees.
  - CBP conducted training for designated FOIA Points of Contact regarding search requirements, proper documentation, and deadlines.
  - I&A and NPPD briefed their leadership and OGC weekly on FOIA cases and issues.

- TSA made the following efforts to inform non-FOIA professionals of their obligations under FOIA:
    - Conducted an annual training session for the designated FOIA Points of Contact regarding records searches and search terms, simple vs. complex requests, fee assessments, and litigation.
    - Conducted individual training sessions with program offices, to include a conference call with airport Points of Contact to address specific questions regarding FOIA requests.
  - USCG developed and provided a semi-annual report to its leadership regarding non-compliance on the statutory FOIA time limits.
  - USCIS made the following efforts to inform non-FOIA professionals of their obligations under the FOIA:
    - Conducted outreach sessions with a number of USCIS program offices that routinely provide records.
    - Provided numerous briefings to records managers regarding their obligations under the FOIA.
    - Conducted a robust FOIA information campaign in FY 2016, consisting of broadcast e-mails and articles in the *USCIS Today* daily bulletin, which were sent to all USCIS employees. The campaign informed employees of their obligations under the FOIA and provided transparency into the USCIS FOIA program.
    - Presented a FOIA overview to 120 members of the Immigration Records and Identity Services Directorate during a Knowledge Café webcast.
    - Prepared lessons learned summaries on all completed FOIA litigation cases in which USCIS was a defendant, and distributed the summaries to all USCIS directorates and senior staff as a risk management and process improvement tool.
  - USSS conducted FOIA training, and provided briefings to Special Agent recruits, Uniformed Division Officer recruits, and other USSS employees regarding their obligations under the FOIA.
  - FEMA conducted training for its program offices regarding their obligations under the FOIA, including proper records searches.
8. 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 DHS Privacy Office issued a policy memorandum *Freedom of Information Act and 2016 Sunshine Week*,<sup>13</sup> in March 2016, highlighting some of the Department's

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<sup>13</sup> The DHS Privacy Office policy memorandum of March 14, 2016, is available at <https://www.dhs.gov/publication/memoranda-and-directives>.

accomplishments over the past year in furthering its openness and transparency initiatives. The memorandum also asked FOIA Officers to remind all staff about the call to action in the DOJ 2009 FOIA Guidelines, issued March 19, 2009,<sup>14</sup> that “FOIA is everyone’s responsibility.” Although this memorandum was published during last year’s reporting period, the DHS Privacy Office distributed this memorandum throughout this reporting period at training sessions.

- I&A is conducting a comprehensive internal review and audit of its FOIA program seeking ways to apply the presumption of openness, and drafting policy and guidance documents.
- FEMA collaborated with its Chief of Staff, to ensure widest distribution of a memorandum explaining staff roles and responsibilities under the FOIA.
- CRCL provided comprehensive FOIA training to its leadership and primary FOIA Points of Contact regarding conducting searches and ensuring the presumption of openness is being applied.

### ***B. Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests***

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

#### ***Processing Procedures:***

1. For Fiscal Year 2016, 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 2016 Annual FOIA Report.

As Table 1 below indicates, DHS, as a whole, adjudicated requests for expedited processing in an average of 11.5 days.

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<sup>14</sup> The DOJ 2009 FOIA Guidelines, issued March 19, 2009, and available at <http://www.usdoj.gov/ag/foia-memo-march2009.pdf>.

**Table 1. Requests for Expedited Processing in FY16 as Reported in FY16 Annual Report**

Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated within 10 Calendar Days
CBP	23	2,055	8	18.6	1,205
CRCL	0	5	1	1	5
FEMA	1	0	1	1	1
FLETC	0	0	N/A	N/A	N/A
I&A	0	15	17	16.47	3
ICE	351	153	1	1.13	504
NPPD	0	2	1	1	2
OIG	0	26	10	13.04	17
PRIV	1	33	1	4.12	31
S&T	0	0	N/A	N/A	N/A
TSA	0	0	N/A	N/A	N/A
USCG	1	1	36.5	36.5	0
USCIS	6	926	1	3.61	874
USSS	0	192	1	1	1
<b>AGENCY OVERALL</b>	<b>383</b>	<b>3,408</b>	<b>1</b>	<b>11.5</b>	<b>2,834</b>

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

The DHS Privacy Office will work closely with all the Components to ensure that the average number of days for adjudicating requests for expedited processing is less than 10 days and, to the extent possible, the hiring of additional staff and other measures mentioned by these Components throughout the report will help to accomplish this goal.

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

In FY 2015 through FY 2017, OGIS assessed the DHS Privacy Office, USCG, FEMA, USSS, CBP, TSA, and ICE regarding their FOIA policies, procedures, and compliance.<sup>15</sup> These Components have used the reports to conduct self-assessments and have implemented the recommendations in many instances.

- The DHS Privacy Office took the following steps to ensure that the FOIA program at the Department operates more efficiently:

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<sup>15</sup> OGIS's Compliance Reports and the DHS Privacy Office and Component responses are available on OGIS's website at <https://ogis.archives.gov/foia-compliance-program/agency-compliance-reports/dhs.htm>.

- Detailed an individual to the DHS Privacy Office who reviewed the processes and procedures and provided suggested process improvements, including the implementation of concrete performance metrics and deliverables for FY 2017 Performance Plans for FOIA staff; revising the DHS Privacy Office FOIA Standard Operating Procedure to reflect the updated processing procedures; and updating the template letters.
- Realigned the DHS Privacy Office into the following five concrete lines of business, to operate as a policy office: FOIA Disclosure, FOIA Policy and Training, FOIA Compliance and Oversight, FOIA Appeals and Litigation, and FOIA Technology.<sup>16</sup>
- ICE used a series of reporting mechanisms to focus its resources on closing its oldest cases and set higher production standards for its employees in their performance work plans to address an increase in cases received and to ensure production requirements are met.
- CBP used daily, weekly, and monthly reports to track efficiency of its program, ensure backlogged cases were addressed, and determine where the delays existed in program offices responsible for providing records.
- FEMA conducted a self-assessment following the OGIS review and is addressing the recommendations through the assistance of contractor support. FEMA also developed internal standard operating procedures for processing cases in the COTS web application.
- I&A revised its processes regarding how it conducts and documents searches, triages requests, and allocates its resources for litigation, incoming requests, and the backlog.
- S&T conducted self-assessments as follows:
  - Monitored workflows and used internal tracking sheets.
  - Reviewed quarterly data of FOIA requests.
  - Revised standard operating procedures and implemented best practices to process FOIA requests.
- TSA assessed its FOIA program as follows:
  - Reviewed its program as part of OGIS's compliance review and reviewed its processes as part of a Lean Six Sigma<sup>17</sup> review, and implemented suggested recommendations as appropriate.
  - Produced a variety of weekly and monthly reports, tracking both team and individual metrics and production, as well as backlog and ten-oldest-cases status.

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<sup>16</sup> See page six for specific responsibilities associated with the lines of business.

<sup>17</sup> Lean Six Sigma is a methodology that relies on a collaborative team effort to improve performance by systematically removing eight kinds of waste: Transportation, Inventory, Motion, Waiting, Over production, Over processing, Defects, and Skills.

- Established new performance goals in the second quarter focusing on case closings and pages reviewed.
  - USCG OGC audited the FOIA program and determined a need for a semi-annual report to leadership regarding all units that process FOIA requests, and identified ways to streamline the legal review process.
  - OIG conducted a self-assessment of its FOIA program using the number of litigations, number of pending FOIA requests, and number of incoming FOIA requests to support the need to hire additional staff to assist with the increasing and demanding workload.
  - USCIS conducted the following assessments:
    - USCIS FOIA used metrics reported daily, weekly, and monthly to track the progress in its major processes to achieve significant mission goals in such areas as backlog of requests, backlog of appeals, average processing times, average number of cases closed per processor, average days to print and mail out final responses on either paper or CD, and total number of FOIA requests pending for more than 365 days. The status of each metric was assessed and analyzed by senior FOIA managers who in turn investigated causes for any downward trends or missed goals. Findings were reported to the USCIS Chief FOIA Officer with actions recommended to improve efficiencies and address identified areas for process improvements.
    - USCIS FOIA managers closely reviewed and discussed the FOIA Annual Report, the DHS Monthly FOIA Report, and the monthly USCIS FOIA Management Analysis Report for data points indicating areas to be investigated further for cause and effect analysis, potential targets for continued improvement, and the need for reallocation of resources to address areas of immediate concern.
4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

The following Components processed a high volume of requests from commercial requesters in FY 2016 as follows: USCG reported 39 percent, ICE reported 21 percent, and S&T reported one third of its requests.

### ***Requester Services:***

5. Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

The DHS Privacy Office and the Components already have robust services in place to inform requesters of how the FOIA process works, to include the handling of their requests, and

resolving disputes. The DHS Privacy Office monitors its public-facing FOIA website, <http://www.dhs.gov/freedom-information-act-foia>, to improve usability. The site features a simplified menu and graphic links to rich content. Detailed information explains how to submit a FOIA request and information on where to direct it, while a link off the index page enables requesters to check the status of submitted requests. The site provides a list of FOIA Officers and Public Liaisons along with their contact information and links to the Component websites. Additionally, the response letters to requesters inform them of the availability and contact information of Public Liaisons.

6. 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 how often requesters sought assistance from your agency's FOIA Public Liaison.

The DHS Privacy Office and the majority of the Components did not track this information, with the exceptions noted below.

- CRCL, S&T, and TSA reported that no requesters sought assistance.
  - OIG reported four requesters sought assistance; I&A reported 10; and FEMA reported 40.
7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.
    - The DHS Privacy Office and several Components including CRCL, FEMA, NPPD, and S&T provide the information to the public via the following link to the DHS FOIA website: <https://www.dhs.gov/freedom-information-act-foia>. See below for the direct links to the other Components.
    - USSS: <http://www.secretservice.gov/press/foia/>;
    - CBP: <https://www.cbp.gov/site-policy-notice/foia>;
    - I&A: <https://www.dhs.gov/intelligence-and-analysis-freedom-information-act-privacy-act-office>;
    - ICE: [www.ice.gov/foia/request](http://www.ice.gov/foia/request);
    - TSA: <https://www.tsa.gov/FOIA>;
    - FLETC: <https://www.fletc.gov/freedom-information-act-foia>;
    - OIG: [https://www.oig.dhs.gov/index.php?option=com\\_content&view=article&id=11&Itemid=77](https://www.oig.dhs.gov/index.php?option=com_content&view=article&id=11&Itemid=77);

- USCG: [https://www.uscg.mil/directives/cim/5000-5999/cim\\_5260\\_3.pdf](https://www.uscg.mil/directives/cim/5000-5999/cim_5260_3.pdf); and
- USCIS: <https://www.uscis.gov/about-us/freedom-information-and-privacy-act-foia/uscis-freedom-information-act-and-privacy-act>.

*Other Initiatives:*

8. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

The DHS Privacy Office took several steps to ensure that the FOIA program at the Department operates more efficiently:

- Finalized and issued the updated FOIA regulation to improve the management of the Department's FOIA program. The regulation was published in the Federal Register on November 22, 2016, and became effective on December 22, 2016.<sup>18</sup>
- As mentioned in last year's report the DHS Privacy Office partnered with the Office of the Chief Information Officer (OCIO) to create and release the new eFOIA mobile application to simplify and enhance the submission process on a mobile device for FOIA requesters. Key features of the application allow users to: (1) submit a FOIA request to any DHS Component; (2) check the status of their requests; (3) access all of the content on the DHS FOIA website and library; and (4) view updates, changes to events such as stakeholder meetings/conference calls, and recently published documents. The DHS Privacy Office is working on an update to the submission process which will significantly reduce the number of clicks required to submit the form and improve the user's experience.
- Upgraded to the latest version of the COTS web application, which provides improved case tracking capabilities with an enhanced dashboard for FOIA leadership and staff to monitor case metrics in real time. The DHS Privacy Office continues to explore ways to improve overall system performance, including examining migration to a commercial cloud to improve scalability (ability to handle larger volumes of records at an increased speed).
- Collaborated with OCIO staff to streamline its process for searching for and retrieving e-mail records in response to FOIA requests, which allowed the FOIA staff to improve the response times to the requester.

OIG has taken numerous steps to improve its FOIA process:

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<sup>18</sup> The regulation is available at: <https://www.federalregister.gov/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>.

- Continues to educate its employees on FOIA search and processing requirements to ensure complete and productive searches.
- Holds internal staff meetings with an agenda focusing on consistency in FOIA responses and in the application of the exemptions.
- Improved its communications with OIG management officials to provide updated information on FOIA production.
- Conducts self-assessments of its FOIA workload and staffing needs, in order to assess its continued need for assistance.

ICE granted access in its COTS web application to its program offices and Government Information Law Division attorneys to collaborate, consult, and review records. Additionally, ICE purchased de-duplication software that has created efficiencies in both the FOIA and litigation processes.

I&A continuously reviews and updates its processes using reports generated by the COTS web application.

S&T uses the COTS web application to increase coordination efforts with other Components to determine if they have received the same request and eliminate redundancy.

TSA took the following steps to ensure that its FOIA program operates efficiently:

- Improved daily triage for incoming requests to include a search for identical or similar records already released to a different requester, which might be available for immediate release.
- Provided search terms to program offices responsible for conducting records searches.

USCIS took the following steps to improve its FOIA process:

- In September 2016, reached an agreement with the Department of State to begin processing all immigrant visa documents found in an Alien file rather than referring those documents to the Department of State, thereby substantially reducing processing times of these documents for the requester.
- Expanded the Quality Assurance program to increase the review of work performed by staff in creating cases, searching for records, and processing requests. The Quality Assurance team provided reports of findings weekly to FOIA supervisors, and analyzed the previous month's trends at monthly meetings.
- Published biweekly the *FOIA Information Bulletin* and distributed it throughout USCIS FOIA, advising of changes and improvements to processes and resulting revisions to the *USCIS FOIA Processing Guide*.

- Sent biweekly a “FOIA Friendly Reminders” e-mail to all processors and posted it to the internal website. The reminders included hot topics in the processing of FOIA requests with the aim to improve efficiencies and increase standardization of processing practices.
- The FOIA Significant Interest Group communicated weekly with USCIS headquarters program offices to follow up on all outstanding records search requests, and worked to establish expected production times so that requesters were in turn kept apprised of the status of their request.
- Revised the *FOIA Processing Guide* used by all USCIS processors and posted it electronically on the internal website.

### ***C. Steps Taken to Increase Proactive Disclosures***

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

#### ***Posting Material:***

1. Describe your agency’s process or system for identifying “frequently requested” records that should be posted online under the Subsection (a)(2) of the FOIA.
  - The DHS Privacy Office identifies frequently requested records through its COTS web application, which has a built in request comparison feature that identifies similar requests already entered in the system. Users can also manually search for past requests via key word searches through any field in the system. If there are three or more requests seeking the same records, the DHS Privacy Office will post the records to the DHS FOIA Library.
  - CBP uses its FOIAonline tracking system to mark specific records for public viewing, assigns these records key words for search purposes, and has made some records available in this manner. Additionally, CBP evaluates the records using the criteria of whether the records have been requested multiple times by different sources, whether they are related to a current event and likely to be requested again, or whether they are related to similar requests from previous years, e.g., a specific set of statistics requested each fiscal year by multiple sources. If CBP determines the records meet the aforementioned criteria, CBP posts the records in the reading room.
  - USCIS has a specialist dedicated to identifying, gathering, and posting records for proactive disclosure, to include records made available in the Electronic Reading Room and on the USCIS FOIA public website. The FOIA Officer and Deputy meet weekly

with senior FOIA section heads to identify and evaluate records that might be good candidates for proactive disclosure.

- ICE tracks incoming requests through the COTS web application, which allows the intake team to track duplicate or similar requests.
- I&A and TSA use the COTS web application to identify frequently requested records.
- FLETC monitors FOIA logs for frequently requested records.
- USSS flags frequently requested records pertaining to matters of significant interest to the general public, and posts the records to the USSS FOIA Library.
- USCG posts results of closed safety and marine casualty investigations to the USCG Maritime Information Exchange website and some administrative investigations to the USCG FOIA Library.

2. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

Yes, see the processes and systems below and question one as the process for identifying frequently requested records is interwoven with the process for identifying records for proactive disclosure. DHS and the majority of its Components review the records on a case-by-case basis to determine if the records are appropriate for proactive disclosure given the nature of the records. Further, the Department is implementing the release to one, release to all presumptive standard<sup>19</sup>, and will follow any guidance issued by OIP.

- ICE FOIA analysts notify the ICE FOIA webpage point of contact each time complete FOIA records are released. The point of contact then determines if the records fit into a category for posting. Additionally, ICE has made arrangements with several program offices to receive copies of frequently-requested reports as they are finalized so that those reports can be posted immediately.
- USSS flags frequently requested records pertaining to matters of significant interest to the general public, and posts the records to the USSS FOIA Library.
- NPPD posts contracts and items of public interest to the NPPD FOIA Library.

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<sup>19</sup> On June 30, 2016, President Obama signed into law the *FOIA Improvement Act of 2016*, which contains several substantive and procedural amendments to the FOIA as well as new reporting requirements for agencies. The President directed the Chief FOIA Officer Council to consider the lessons learned from OIP's six-month proactive disclosure pilot program and work to develop a Federal Government policy establishing a release to one, release to all presumptive standard.

- S&T collaborates with its program offices to identify records for posting. If different records of the same subject matter are requested at least two times or more, S&T asks the program office to provide records for posting about that program. These records usually consist of contract award data, fact sheets, or presentations describing the core elements of a project.
- OIG ensures the transparency of OIG operations by posting its final audit and inspection reports (with any classified or sensitive information necessarily protected). In general, if OIG receives three or more FOIA requests seeking similar information, and the responsive records are publicly releasable, OIG posts the requested records to the OIG reading room website.
- USCIS has the following processes in place regarding proactive disclosure:
  - In order to identify records for proactive disclosure and posting to the USCIS website and Electronic Reading Room, USCIS follows the standard rule of three requests for the same record, and is also implementing the release to one, release to all presumptive standard for every record it processes.
  - Coordinated with the USCIS Contracting Office to add the following language to all services contracts over \$150,000, with the aim of expediting the FOIA processing and then of posting government contracts proactively on the USCIS Electronic Reading Room: “Within 30 days of award, the contractor is required to submit a proposed redacted copy of the executed contract suitable for public posting under the provisions of the Freedom of Information Act (FOIA) to [foiaerr.nrc@uscis.dhs.gov](mailto:foiaerr.nrc@uscis.dhs.gov) with a courtesy copy to the Contracts Specialist. The proposed redactions shall identify any proprietary or confidential information the awardee believes is not releasable under FOIA. The USCIS FOIA Office will review and validate FOIA compliance of the proposed redacted version for final processing and public posting of the award document.”
  - Collaborates regularly with the Office of Immigration Investor Programs for the proactive disclosure of EB-5 program records, which remain of high interest to the public.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Yes, see below.

4. If so, please briefly explain what those challenges are and how your agency is working to overcome them.

- USSS encountered challenges posting video footage as its website does not provide the means to download or play video footage. USSS is recruiting for the position of Web Content Specialist to provide oversight of its web content.

- FEMA and TSA have relied on the DHS Privacy Office to post records and will work with their respective IT and Office of Public Affairs staff to ensure they are able to post records to their public facing websites and FOIA libraries.
  - CBP indicated the process of ensuring records are in compliance with Section 508 of the *Rehabilitation Act*<sup>20</sup> resulted in delays in posting the records.
5. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.
- The DHS Privacy Office proactively posted 333,152 pages to the DHS FOIA Library in FY 2016 including:
    - DHS FOIA logs: <http://www.dhs.gov/dhs-privacy-foia-logs>;
    - DHS FOIA Monthly Reports for FY 2016: <https://www.dhs.gov/publication/dhs-foia-https://www.dhs.gov/publication/dhs-foia-monthly-reports-fy16>
    - Congressional correspondence logs: <https://www.dhs.gov/publication/congressional-correspondence-logs>; and
    - Calendars of senior officials: <https://www.dhs.gov/events>.
  - TSA posted airport throughput and wait time data, claims data, annual reports, and FOIA logs: <https://www.dhs.gov/tsa-foia-library>.
  - USCG posted administrative investigations: [http://www.uscg.mil/foia/FOIA\\_Library.asp](http://www.uscg.mil/foia/FOIA_Library.asp).
  - OIG posted completed inspection and audit reports, management alerts, quarterly FOIA logs, and quarterly Congressional correspondence logs. In addition, OIG posted an investigative report pertaining to the Cartagena, Colombia incident involving USSS employees:
    - FY 2016 audit/inspection reports: [https://www.oig.dhs.gov/index.php?option=com\\_content&view=article&id=222&Itemid=69](https://www.oig.dhs.gov/index.php?option=com_content&view=article&id=222&Itemid=69);
    - FY 2017 audit/inspection reports: [https://www.oig.dhs.gov/index.php?option=com\\_content&view=article&id=252&Itemid=325](https://www.oig.dhs.gov/index.php?option=com_content&view=article&id=252&Itemid=325);
    - Management Alerts: [https://www.oig.dhs.gov/index.php?option=com\\_content&view=article&id=233&Itemid=210](https://www.oig.dhs.gov/index.php?option=com_content&view=article&id=233&Itemid=210); and

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<sup>20</sup> Section 508 of the *Rehabilitation Act* (29 U.S.C. 794d), as amended by the *Workforce Investment Act of 1998* (Public Law 105-220), August 7, 1998, requires information posted on agency websites be accessible to those using assistive technologies.

- OIG FOIA reading room:  
[https://www.oig.dhs.gov/index.php?option=com\\_content&view=article&id=10&Itemid=78](https://www.oig.dhs.gov/index.php?option=com_content&view=article&id=10&Itemid=78).
  - ICE posted Office of Detentions Oversight Compliance Inspection Reports, FOIA logs and a current list of detainee deaths while in ICE custody:  
<https://www.ice.gov/foia/library>.
  - USCIS posted naturalization statistics, contracts, and records pertaining to EB-5 Regional Centers, Administrative Appeals Office decisions, employment based petitions, and Alien files of interest: <http://www.uscis.gov/about-us/electronic-reading-room>.
  - USSS posted its FOIA logs:  
[http://www.secretservice.gov/data/foia/reports/FOIA\\_Logs\\_2015.pdf](http://www.secretservice.gov/data/foia/reports/FOIA_Logs_2015.pdf).
  - S&T posted Sponsorship Agreements with Federally Funded Research and Development Centers, S&T Laboratory Fact Sheets, and research center publications:
    - <https://www.dhs.gov/science-and-technology-foia-library>; and
    - <https://www.dhs.gov/sites/default/files/publications/plum-island-animal-disease-center-publications.pdf>.
  - CBP posted 11 Mutual Recognition agreements between CBP and other countries:  
<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d2801dfc18>.
6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.
- The DHS Privacy Office uses a web service called GovDelivery that allows subscribers to receive e-mail notifications whenever new material is posted.<sup>21</sup> Additionally, the DHS Privacy Office through its eFOIA mobile application enables users to view updates and alerts.
  - OIG has an e-mail subscription service and uses social media as a means of transparency, advising its Twitter followers of newly-released reports and documents.
  - ICE offers an e-mail service that allows subscribers to receive e-mail notifications whenever new documents are posted to the ICE-FOIA Library.

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<sup>21</sup> To receive the e-mail notifications, sign up at <https://www.dhs.gov/subscribe-foia-library-notifications>. Select How to Subscribe, select free e-mail subscription service, provide your e-mail address when prompted, and then select Freedom of Information Act.

## *Other Initiatives*

7. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

The Department remains committed to increasing proactive disclosures as mentioned throughout the report, and uses its FOIA requester outreach activities to solicit feedback regarding the content of its websites and reminds requesters of the wealth of records and data available on the websites.

### *D. Steps Taken to Greater Utilize Technology*

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

#### *Making Material Posted Online More Usable:*

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

Yes, see below.

2. If yes, please provide examples of such improvements.
  - As mentioned throughout the report the DHS Privacy Office through its eFOIA mobile application enables users to access all of the content on the FOIA website, including the DHS FOIA Library from their mobile devices. The material posted is in PDF format, which is easily accessible on any computer or mobile device.
  - CBP uses FOIAonline to mark its records for public viewing and assigns these records key words for search purposes. FOIAonline is an internet-based website accessible and searchable by mobile devices.
  - ICE is collaborating with its Office of Public Affairs to enhance the public's interface with the ICE FOIA website with the goal of making the requester's experience interactive.
  - FEMA procured a contract to assist in the development of a FEMA FOIA website, to include a FOIA library, which would allow the public access to areas of high interest such as public assistance claims records.
  - OIG monitors its website to ensure materials are accessible and current. Frequently requested records are posted and updated, as required. OIG also uses social media as a means of transparency, advising its Twitter followers of newly-released reports, ways to

report allegations, and about whistleblower protection resources. Twitter serves as a secondary communication conduit to further the impact, and accessibility, of OIG publications. Additionally, the public is provided with the option of signing up for e-mail notifications each time a new report is posted on the website.

- I&A is a participating agency in the development of the Principles of Intelligence Transparency for the Intelligence Community (IC). As mentioned in last year's report, the Director of National Intelligence (DNI) published the four Principles, which are intended to facilitate IC decisions on making information publicly available in a manner that enhances public understanding of intelligence activities, while continuing to protect information when disclosure would harm national security. The Principles are summarized below and posted on the DNI webpage:  
<http://www.dni.gov/index.php/intelligence-community/intelligence-transparency-principles>.
    - Provide appropriate transparency to enhance public understanding of the IC.
    - Be proactive and clear in making information publicly available.
    - Protect information about intelligence sources, methods, and activities.
    - Align IC roles, resources, processes, and policies to support transparency implementation.
  - USCIS has taken the following steps to make the posted information more useful:
    - Requested all contracts that meet certain criteria be submitted by the vendors to USCIS in a redacted format for proactively posting to the USCIS Electronic Reading Room.
    - Meets monthly with Office of Chief Counsel representatives to evaluate FOIA litigation cases that might involve records appropriate for posting in the Electronic Reading Room.
    - Collaborated with its Immigrant Investor Program Office to proactively post Regional Center Termination Notices to the Electronic Reading Room and is collaborating with its Office of Communications to create a new page, which will include a filter and a sorting feature for FY 2017.
3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?

DHS and its Components listed below interacted with the following agency staff to identify new ways to post agency information online:

- The DHS Privacy Office, ICE, and TSA interacted with their respective Offices of Public Affairs.
- OIG interacted with its Office of Public Affairs and information technology staff.

- I&A interacted with its Office of Public Affairs, information technology staff, and staff from its program offices.
- USCIS interacted with its Immigrant Investor Program Office and Office of Communications.
- USSS interacted with staff from its program offices.
- S&T interacted with its Office of Corporate Communications, Office of Security, Office of the Associate General Counsel, and staff from its technical program offices.

*Use of Technology to Facilitate Processing of Requests:*

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools?

Yes, the DHS Privacy Office and the Component FOIA Offices conducted and attended training for processing tools during the reporting period as noted below:

- The DHS Privacy Office provided the following training on its COTS web application:
    - Two training sessions to its staff regarding the upgrades to the application, including the new reporting features, Advanced Document Review, and redaction features for OBIM cases.
    - Training to OIG to track and process cases more effectively.
    - Training to FEMA regarding Advanced Document Review for the processing of e-mail requests.
  - CBP provided training to its staff regarding its use of the Analytical Framework for Intelligence (AFI)<sup>22</sup> system for searching records. See question five below for its capabilities.
  - ICE provided training to its staff on its COTS web application to assist with redaction and data quality assurance.
  - OIG conducted training on its eDiscovery tool.
  - FEMA provided training on its COTS web application for new employees, and is implementing targeted, specific refresher opportunities throughout the year.
5. Beyond using technology to redact documents, is your agency taking steps to use more advanced technology to facilitate overall FOIA efficiency, such as improving record search

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<sup>22</sup> For information regarding AFI, see DHS/CBP/PIA-010-Analytical Framework for Intelligence (AFI), September 2016, available at: <https://www.dhs.gov/publication/analytical-framework-intelligence-afi>.

capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, please describe.

- The DHS Privacy Office and the Components have been using a COTS web application for the past four years, which allows for document sharing and complete interoperability between all Components that use the application. The application provides a de-duplication capability that is currently being used by a small number of Components. This capability allows FOIA staff to upload documents and e-mail correspondence files and reduce duplicates based on a comparison process performed by the application.
- The eFOIA mobile application that the Department launched allows mobile device users to submit requests to any DHS Component as well as check the status of any request submitted to any DHS Component currently using the COTS web application.
- FEMA is participating in a pilot for an Electronic Records Management System at one of its regional offices, which will allow for faster document searches.
- S&T uses its internal SharePoint sites to coordinate the reviews of records with its program offices.
- USCIS has been actively engaged in FY 2016 in the procurement of a new FOIA processing system. Among the requirements for the new system are de-duplication capabilities, ability to release records to requesters electronically, improved user interface for printing requests from teleworkers, and enhanced speed in all processing actions. USCIS uses the Enterprise Collaboration Network to coordinate records searches with its program offices. Additionally, USCIS is arranging for a demonstration of an eDiscovery tool that may assist with record searches.
- CBP's new AFI system performs searches for multiple requests in batches, eliminating the need for staff to search each request individually, which in turn allows the staff to focus on other requests. Further, AFI produces records for some request types that require no redactions, which can be immediately finalized and provided to the requester. CBP used its FOIAonline tracking system for referrals and consultations to other agencies using the system.
- ICE deployed a new eDiscovery tool for use in FOIA and litigation requests. The tool with its analytic capabilities is used in conjunction with the COTS web application to assist with culling and de-duplicating voluminous amounts of records. The tool includes de-duplication capabilities, analytics, e-mail threading, and enhanced reporting features to manage the records more efficiently. The tool has improved the productivity and response time to requesters.
- OIG uses its eDiscovery tool to sort and de-duplicate e-mails. OIG began using the COTS web application to track and process requests more effectively.
- FLETC uses SharePoint to communicate, consult, and share records.

- USSS continues to take steps to use de-duplication software solutions and technology to sort and index voluminous records and blur faces to further enhance efficiencies.

6. Are there additional tools that could be utilized by your agency to create further efficiencies?

USCIS initiated a strategic study in FY 2016 on the expanded digitization of agency records and scanning on demand, which have the potential to significantly reduce times for records searches and production of records in response to FOIA requests.

***Other Initiatives:***

7. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

Yes, DHS posted all of the required quarterly reports to DOJ on the FOIA.gov website.

8. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2017.

This is not applicable to DHS.

***E. Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs***

The President and the U.S. Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2016 Annual FOIA Report and, when applicable, your agency's 2015 Annual FOIA Report.*

***Simple Track Requests:***

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

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

Yes, DHS utilizes a separate track for simple requests. In FY 2016, the Department received 325,780 FOIA requests, and processed 310,549 requests as compared to 348,878 in FY 2015.

DHS closed 166,545 simple perfected requests in FY 2016, a nine percent increase compared with the 152,481 closed in FY 2015. The Department closed 123,229 complex perfected requests in FY 2016, a 31 percent decrease compared with the 179,011 closed in FY 2015. In total, DHS closed 289,774 perfected simple and complex requests in FY 2016 and released responsive records in 70 percent of those cases.

2. If so, for your agency overall, for Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?

The response time for simple perfected requests that were closed in FY 2016 increased by 32 percent, from 25 to 33 days, the median number of days increased from nine to 10 days.

- Eight of the 14 processing Components had median processing times of 20 days or fewer for simple perfected closed requests.
- Seven of the 14 processing Components had average processing times of 20 days or fewer for simple perfected closed requests.
  - As Table 2 below indicates, the DHS Privacy Office, CBP, I&A, ICE, S&T, USCG, and USSS had median and average response times for simple perfected closed requests of 20 days or fewer.

**Table 2. Response Time for All Processed Perfected Requests in FY16 as Reported in FY16 Annual Report**

Component	Simple			
	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days
CBP	15	20	<1	389
CRCL	20.5	32.43	<1	227
FEMA	48	95.39	<1	961
FLETC	26	69.06	1	335
I&A	17	19.24	<1	95
ICE	1	6.09	1	709
NPPD	173	166.61	<1	450
OIG	14	26.86	1	183
PRIV	6	7.18	<1	20
S&T	8	10.24	1	54
TSA	311.5	350.26	<1	1,202
USCG	8	8.95	<1	20
USCIS	23	23.74	1	441
USSS	10	10.71	1	20
<b>AGENCY OVERALL</b>	<b>10</b>	<b>32.91</b>	<b>&lt;1</b>	<b>1,202</b>

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

In FY 2016, DHS processed 310,549 requests, of those 166,545 or 54 percent were simple.

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

This is not applicable to DHS.

### ***Backlogged Requests***

Section XII.A of your agency’s Annual FOIA Report, entitled “Backlogs of FOIA Requests and Administrative Appeals” shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

5. If your agency had a backlog of requests at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015?

No. As Table 3 below indicates, the DHS backlog increased in FY 2016 by 32 percent. CBP decreased its backlog by 87 percent, NPPD decreased its backlog by 19 percent, TSA decreased its backlog by 21 percent, and ICE maintained a backlog of under 500 requests.

**Table 3. Comparison of Backlogged Requests from Previous and Current Annual Report<sup>23</sup>**

<b>Component</b>	<b>Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report</b>
CBP	9,280	1,172
CRCL	14	56
FEMA	760	1,447
FLETC	22	20
I&A	32	15
ICE	555	471
NPPD	4,749	3,825
OIG	91	112
PRIV	52	149
S&T	1	2
TSA	876	692
USCG	1,904	2,180
USCIS	16,247	35,763
USSS	791	884
<b>AGENCY OVERALL</b>	<b>35,374</b>	<b>46,788</b>

<sup>23</sup> Find the 2015 Annual Report at <https://www.dhs.gov/sites/default/files/publications/dhs-foia-annual-report-fy-2015.pdf>.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors: an increase in the number of incoming requests, a loss of staff, and/or an increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

As mentioned in question five, although the Department was not able to decrease its backlog, several Components decreased their backlogs. The DHS Privacy Office and the Components increased their backlogs for a variety of reasons including the loss of FOIA staff and leadership, inadequate staffing levels, an increase in the number of incoming requests, an increase in the complexity of requests received, the high volume of responsive records requiring additional reviews by program offices, and active litigation with demanding production schedules. Additionally, the DHS Privacy Office assisted OBIM in reducing its backlog and began processing CRCL cases.

7. 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 2016.

DHS received 325,780 requests in FY 2016. The backlog of 46,788 requests comprises 14 percent of requests received.

### ***Backlogged Appeals***

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015?

In FY 2016, the DHS appeals backlog decreased by 38 percent. Table 4 below indicates USSS eliminated its backlog, and FLETC and USCIS maintained backlogs at zero. CBP, ICE, OGC, and OIG reduced their backlogs.

**Table 4. Comparison of Backlogged Administrative Appeals from Previous and Current Annual Report**

Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
CBP	15	12
FEMA	33	36
FLETC	0	0
ICE	83	8
OGC	32	29
OIG	2	1
TSA	3	9
USCG	20	23
USCIS	0	0
USSS	3	0
<b>AGENCY OVERALL</b>	<b>191</b>	<b>118</b>

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors: an increase in the number of incoming appeals, a loss of staff, and/or an increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

FEMA’s backlog increased due to loss of staff and an increase in the number of incoming requests.

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2016. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with “N/A.”

DHS received 5,608 appeals in FY 2016 with a backlog of 118 appeals, for which two percent of the appeals make up the backlog.

***Backlog Reduction Plans:***

11. In the 2016 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2015 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 2016?

As noted in last year’s report, the DHS Privacy Office and the Components were committed to reducing their backlogs and implemented several plans. Backlog reduction plans mentioned and implemented from last year’s report include:

- The DHS Privacy Office responsible for the oversight of the Department’s FOIA program, took the following actions:
  - Entered into an Interagency Agreement with FEMA for a support services contract to eliminate FEMA’s FOIA backlog of 775 requests. The task required completion by the end of February 2017. The DHS Privacy Office detailed a Government Information Specialist to serve as the project lead. As a result of this agreement, in FY 2016, 536 cases were processed, and the average age of requests in the backlog decreased by 35 percent.
  - Partnered with NPPD/OBIM leadership to execute an aggressive 40 day Backlog Reduction Plan. As a result of this partnership, the teams reduced OBIM’s backlog by 75 percent by the end of FY 2016 and reduced the Department’s projected FY 2016 overall backlog by 26 percent. The teams processed more than 14,000 backlogged FOIA cases in 40 days.
  - Sent monthly e-mails to the Component FOIA officers containing charts depicting DHS FOIA Backlog monthly statistics including a summary and analysis. The e-mails also included 10 Oldest Requests, FOIA Appeals, and Proactive Disclosure information, and suggested steps to improve production.
  - Convened weekly management meetings, conducted oversight of the FOIA processing workload, and devoted considerable executive attention to requests that require other offices to provide the DHS Privacy Office with responsive materials.
  - Leadership met weekly to discuss the 10 oldest FOIA requests, appeals, and outstanding consultations, and determine what steps needed to be taken to complete the processing of these requests.
  - On a monthly basis, or as needed, the Acting Senior Director of FOIA Operations, along with senior staff, reviewed the workload of each analyst to determine whether

- cases needed to be redistributed, and to consider, together with the Deputy Chief FOIA Officer, the possible reallocation of resources where needed. In addition, on a quarterly basis, the Acting Senior Director of FOIA Operations, together with other senior staff members, reviewed the existing backlog to determine the number of cases pending for more than the 20 days, as provided by statute.
- The Acting Senior Director of FOIA Operations continued to monitor staffing levels and make recommendations to the DHS Privacy Office leadership to ensure that the number of personnel dedicated to FOIA was adequate to process expected increasing workloads. However, the Department notes that staffing will continue to be a challenge. Thus, it may be increasingly difficult to maintain appropriate staffing levels to fulfill the mission in the manner in which the Department is accustomed.
- CBP implemented the following actions to reduce the FOIA backlog:
    - Built better relationships within and managed the workload of field employees who process FOIA requests on a regular basis;
    - Established daily and weekly productivity goals for CBP FOIA staff and field employees; and
    - Implemented new search tools to increase the speed of records searches and redaction of information.
  - USCIS took the following steps to reduce its backlog:
    - Expanded the use of overtime for its staff to seven days a week and a maximum of 30 hours per week;
    - Actively recruited for and filled 30 additional FOIA positions;
    - Established a full-time case approving team of five specialists dedicated to reviewing and approving final actions on all processed FOIA cases, which resulted in an increase in the number of cases approved and processed on a daily basis; and
    - Executed a contract for backlog processing in October 2016 and began training the contractor staff on FOIA processing and the use of the electronic processing system in October 2016.

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2016, what is your agency's plan to reduce this backlog during Fiscal Year 2017?

The DHS Privacy Office and the Components listed above will continue to implement the above plans along with the following efforts for the year ahead:

- With the entrance of new leadership, FEMA has established strong performance metrics to ensure staff is clear on mission goals and expectations.
- USCIS is taking the following steps to reduce its backlog:
  - Recruiting for and filling the 10 new positions approved for in FY 2017;

- Executing the recently awarded backlog contract, with a goal of processing 38,000 backlogged FOIA requests in 12 months; and
- Authorizing overtime in FY 2017.
- USSS has requested additional positions, is using interns, and has on-site vendor support to address issues with its COTS web application.
- USCG plans to increase communication with its field offices and leadership through the issuance of its semi-annual backlog report.

***Status of Ten Oldest Requests, Appeals, and Consultations:***

Section VII.E, entitled “Pending Requests – Ten Oldest Pending Requests,” Section VI.C.(5), entitled “Ten Oldest Pending Administrative Appeals,” and Section XII.C., entitled “Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency,” show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

***Ten Oldest Requests:***

13. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

Yes, DHS closed the 10 oldest requests pending at the end of FY 2015.

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

This is not applicable to DHS.

**Table 5. Ten Oldest Pending Requests as Reported in the 2015 Annual FOIA Report<sup>24</sup>**

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
CBP	Date of Receipt	2013-08-13	2013-07-24	2013-07-10	2013-07-03	2013-07-02	2013-06-24	2013-06-24	2013-06-19	2013-06-05	2013-03-01
	Number of Days Pending	557	571	581	586	587	593	593	596	600	674
CRCL	Date of Receipt	2015-04-23	2015-04-23	2015-03-19	2015-03-16	2015-03-02	2015-01-28	2015-01-12	2014-12-23	2014-12-08	2014-12-08
	Number of Days Pending	115	115	140	143	153	176	188	202	213	213
FEMA	Date of Receipt	2012-11-13	2012-11-13	2012-11-13	2012-10-15	2012-08-21	2012-07-09	2012-06-19	2012-06-13	2012-04-10	2012-03-09
	Number of Days Pending	752	752	752	773	812	843	857	861	907	929
FLETC	Date of Receipt	2015-07-02	2015-07-01	2015-07-01	2015-06-19	2015-06-11	2015-05-26	2015-04-29	2015-04-27	2015-03-30	2015-03-23
	Number of Days Pending	65	66	66	74	80	92	111	113	133	138
I&A	Date of Receipt	2015-05-04	2015-04-30	2015-04-02	2015-04-02	2015-04-02	2015-03-16	2014-11-10	2014-09-30	2014-04-08	2013-07-30
	Number of Days Pending	108	110	130	130	130	143	233	262	387	567
ICE	Date of Receipt	2013-11-19	2013-11-12	2013-11-10	2013-10-18	2013-06-21	2013-04-12	2013-04-12	2013-04-05	2012-11-27	2012-11-12
	Number of Days Pending	487	492	493	509	594	644	644	649	742	753
NPPD	Date of Receipt	2015-04-20	2015-04-20	2015-04-08	2015-04-08	2015-03-30	2015-03-16	2014-10-23	2014-08-25	2014-08-18	2014-05-23
	Number of Days Pending	118	118	126	126	133	143	245	288	293	354
OIG	Date of Receipt	2013-12-04	2013-11-13	2013-09-09	2013-08-30	2013-06-13	2013-05-20	2013-03-13	2013-03-01	2013-02-28	2013-02-01
	Number of Days Pending	476	491	538	544	600	618	666	674	675	694
PRIV	Date of Receipt	2014-07-31	2014-07-29	2014-07-07	2014-06-18	2014-06-17	2014-06-02	2014-04-17	2014-04-17	2014-04-03	2013-12-31
	Number of Days Pending	287	295	312	324	325	336	367	367	377	440
S&T	Date of Receipt	N/A	2015-05-28	2015-04-24							
	Number of Days Pending	0	0	0	0	0	0	0	0	90	114
TSA	Date of Receipt	2011-02-23	2010-12-27	2010-12-23	2010-12-21	2010-12-10	2010-11-12	2010-11-01	2010-10-28	2010-10-28	2010-10-14
	Number of Days Pending	1,201	1,243	1,245	1,247	1,254	274	1,283	1,285	1,285	1,295

<sup>24</sup> The requests, appeals, and consultations reported in the *2015 FOIA Annual Report* that are still pending are highlighted in red in the Ten Oldest Pending Requests (Table 5) and Ten Oldest Pending Appeals (Table 6).

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
USCG	Date of Receipt	2010-08-20	2010-08-12	2010-08-04	2010-08-01	2010-07-30	2010-07-28	2010-07-19	2010-05-26	2010-05-17	2010-05-07
	Number of Days Pending	1334	1340	1346	1348	1349	1351	1358	1396	1403	1409
USCIS	Date of Receipt	2014-12-11	2014-12-11	2014-12-11	2014-12-04	2014-12-03	2014-11-13	2014-11-13	2014-10-20	2014-09-17	2014-08-07
	Number of Days Pending	210	210	210	215	216	230	230	248	271	300
USSS	Date of Receipt	2010-06-08	2010-06-08	2010-06-08	2010-06-08	2010-06-08	2010-06-08	2010-04-20	2010-03-12	2009-10-26	2009-01-30
	Number of Days Pending	1,387	1,387	1,387	1,387	1,387	1,387	1,422	1,449	1,548	1,739
<b>AGENCY OVERALL</b>	<b>Date of Receipt</b>	<b>2010-06-08</b>	<b>2010-06-08</b>	<b>2010-06-08</b>	<b>2010-05-26</b>	<b>2010-05-17</b>	<b>2010-05-07</b>	<b>2010-04-20</b>	<b>2010-03-12</b>	<b>2009-10-26</b>	<b>2009-01-30</b>
	<b>Number of Days Pending</b>	<b>1,387</b>	<b>1,387</b>	<b>1,387</b>	<b>1,396</b>	<b>1,403</b>	<b>1,409</b>	<b>1,422</b>	<b>1,449</b>	<b>1,548</b>	<b>1,739</b>

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

- USCG closed six requests and provided no interim responses
- CBP closed two requests and provided no interim responses.

**Ten Oldest Appeals:**

16. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

No, DHS did not close the 10 oldest administrative appeals pending at the end of FY 2015.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

As noted in question 16, and as Table 6 below indicates, DHS did not close the 10 oldest administrative appeals pending at the end of FY 2014. DHS closed three of the 10 oldest appeals in FY 2015 and 74 percent of the 10 oldest administrative appeals for all the Components combined.

**Table 6. Ten Oldest Pending Appeals as Reported in the 2015 Annual FOIA Report**

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
CBP	Date of Receipt	2015-02-10	2015-01-21	2014-11-07	2014-06-05	2014-03-07	2014-03-07	2013-12-23	2013-12-16	2013-12-16	2013-12-12
	Number of Days Pending	167	181	234	345	409	409	463	468	468	470
FEMA	Date of Receipt	2012-03-06	2011-11-07	2011-10-28	2011-10-05	2011-05-13	2010-08-27	2010-05-06	2009-08-31	2009-02-26	2008-11-20
	Number of Days Pending	932	1018	1024	1041	1144	1329	1410	1588	1720	1790
FLETC	Date of Receipt	N/A	N/A	N/A							
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
ICE	Date of Receipt	2015-03-26	2015-03-23	2015-03-11	2015-03-03	2015-02-18	2015-01-12	2015-01-12	2015-01-05	2014-12-23	2014-12-17
	Number of Days Pending	135	138	146	152	161	188	188	193	202	206
OGC	Date of Receipt	2015-04-29	2015-04-01	2015-03-19	2015-03-03	2015-02-12	2015-02-10	2015-01-29	2015-001-15	2014-12-15	2014-08-27
	Number of Days Pending	111	131	140	152	165	167	175	185	208	286
OIG	Date of Receipt	N/A	2015-08-25	2015-07-09							
	Number of Days Pending	0	0	0	0	0	0	0	0	27	60
TSA	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	2015-09-25	2015-08-05	2015-01-21	2012-11-15
	Number of Days Pending	0	0	0	0	0	0	4	41	181	750

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
USCG	Date of Receipt	2014-10-16	2014-10-10	2014-10-10	2014-10-01	2014-06-09	2014-02-19	2014-02-18	2013-11-19	2013-09-09	2009-03-10
	Number of Days Pending	250	254	254	261	343	421	422	487	538	1712
USCIS	Date of Receipt	2015-09-16	2015-09-16	2015-09-16	2015-09-16	2015-09-16	2015-09-16	2015-09-16	2015-09-16	2015-09-16	2015-09-09
	Number of Days Pending	11	11	11	11	11	11	11	11	11	16
USSS	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	2015-09-10	2015-07-15	2015-04-23	2015-04-14
	Number of Days Pending	0	0	0	0	0	0	15	56	115	122
AGENCY OVERALL	Date of Receipt	2011-11-07	2011-10-28	2011-10-05	2011-05-13	2010-08-27	2010-05-06	2009-08-31	2009-03-10	2009-02-26	2008-11-20
	Number of Days Pending	1,018	1,024	1,041	1,144	1,329	1,410	1,588	1,712	1,720	1,790

***Ten Oldest Consultations:***

18. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

No, DHS did not close the 10 oldest consultations at the end of FY 2015.

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

DHS closed seven of the ten total oldest consultations from the Fiscal Year 2015 report.

**Table 7. Ten Oldest Pending Consultations as Reported in the 2015 Annual FOIA Report**

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
CBP	Date of Receipt	7/13/2013	7/13/2013	7/12/2013	7/12/2013	7/2/2013	6/14/2013	5/31/2013	4/10/2013	2/27/2013	2/21/2013
	Number of Days Pending	578	578	579	579	587	599	609	646	676	680
CRCL	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
FEMA	Date of Receipt	N/A	9/1/2015	4/10/2015							
	Number of Days Pending	0	0	0	0	0	0	0	0	22	124
FLETC	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
I&A	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
ICE	Date of Receipt	8/16/2013	8/16/2013	8/16/2013	8/16/2013	8/16/2013	8/16/2013	6/24/2013	6/24/2013	6/24/2013	6/16/2013
	Number of Days Pending	554	554	554	554	554	554	593	593	593	598
NPPD	Date of Receipt	N/A	8/14/2015								
	Number of Days Pending	0	0	0	0	0	0	0	0	0	34
OIG	Date of Receipt	N/A	12/17/2014								
	Number of Days Pending	0	0	0	0	0	0	0	0	0	206
PRIV	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
S&T	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
TSA	Date of Receipt	9/30/2015	9/28/2015	8/27/2015	8/10/2015	4/14/2015	3/8/2015	3/5/2015	6/24/2014	8/6/2012	10/28/2010
	Number of Days Pending	1	3	25	38	122	148	150	332	823	1,285

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
USCG	Date of Receipt	4/29/2014	4/2/2014	3/31/2014	3/25/2014	1/15/2014	12/23/2013	11/4/2013	6/20/2013	5/2/2011	3/21/2011
	Number of Days Pending	372	391	393	397	446	463	498	595	1,153	1,183
USCIS	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/26/2014	10/31/2013
	Number of Days Pending	0	0	0	0	0	0	0	0	264	500
USSS	Date of Receipt	5/28/2015	4/29/2015	4/8/2015	3/27/2015	3/10/2015	2/6/2015	4/25/2014	9/3/2013	4/3/2013	2/13/2013
	Number of Days Pending	90	111	126	137	147	169	374	542	651	686
AGENCY OVERALL	Date of Receipt	5/31/2013	4/10/2013	4/3/2013	2/13/2013	2/27/2013	2/21/2013	8/6/2012	5/2/2011	3/21/2011	10/28/2010
	Number of Days Pending	609	646	651	676	680	686	823	1,153	1,183	1,285

***Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:***

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

The Components faced obstacles this year in closing the oldest requests and appeals from FY 2015, as noted below:

- CBP: the large volume of responsive records requiring analysis.
- OIG: the loss of staff and the large volume of complex records requiring analysis and coordination among multiple offices. Additionally, OIG devoted its attention and resources to responding to litigation with demanding production schedules.
- USSS: the large volume of complex records requiring evaluation and coordination among multiple offices.
- CRCL and NPPD: insufficient staffing levels due to vacancies.
- I&A: the loss of staff, and requests requiring multiple consultations and coordination with other federal agencies.
- USCG: two of the 10 oldest appeals are still undergoing legal sufficiency reviews requiring coordination and responses from four offices.

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

This is not applicable to DHS.

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

- The DHS Privacy Office will continue to send monthly e-mails to the Component FOIA officers containing charts depicting DHS FOIA Backlog monthly statistics including a summary and analysis.
- TSA will continue to prioritize closure of the 10 oldest cases by meeting regularly with its program offices.
- I&A plans to conduct a comprehensive audit and assessment of its backlogged requests and establish completion date goals.
- OIG will continue to hold quarterly case reviews with a focus on ways to close the 10 oldest requests more quickly. OIG added four contractors to help support its FOIA staff.
- NPPD filled its Chief FOIA Officer position and is filling other vacancies and onboarding more personnel.
- USCIS reached out to its program offices seeking records and will engage its leadership as appropriate.
- USCG will engage its leadership at the unit/directorate level through the distribution of metrics in its semi-annual backlog report.
- FEMA plans to conduct a comprehensive audit and assessment of its backlogged appeals and establish completion date goals.

***Interim Responses:***

23. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes, DHS and the Components have systems in place to provide interim responses to requesters as appropriate.

- The DHS Privacy Office sends interim responses to requesters in accordance with its internal policy: “It is this office’s policy that when working on a request that involves a voluminous amount of material or which involves searches in multiple locations, that whenever feasible, we should provide the requester with interim responses rather than waiting until all records are located and processed. Although there are situations where records need to be reviewed in their totality to ensure proper handling, in other cases

rolling releases of records are possible. Whenever such rolling releases are possible we should make them to facilitate access to the requested records.”

- CRCL, CBP, FEMA, FLETC, OIG, I&A, ICE, NPPD, S&T, USCG, USCIS, and USSS send interim responses to requesters when the records are voluminous and complex, and keep the requesters updated with their progress in processing the requested records.
- TSA sends interim responses to requesters on a case-by-case basis, reviewing and identifying similar documents appropriate for release to individual and multiple requesters.

24. If your agency had a backlog in Fiscal Year 2016, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Several of the Components issued substantive interim responses for cases in the backlog:

- USCIS issued interim responses for 35 percent of the cases in the backlog for requests for records that did not pertain to Alien files; FEMA for less than five percent; and TSA for less than one percent.
- S&T issued interim responses for two cases in the backlog; and USSS and I&A for one case in their backlogs.

### III. Spotlight on Success

- The DHS Privacy Office finalized and issued the updated FOIA regulation to improve the management of the Department's FOIA program. The regulation was published in the Federal Register on November 22, 2016, and became effective on December 22, 2016.<sup>25</sup>
- The DHS Privacy Office partnered with NPPD/OBIM leadership to execute an aggressive 40 day Backlog Reduction Plan. As a result of this partnership, the teams reduced OBIM's backlog by 75 percent by the end of FY 2016 and reduced the Department's projected FY 2016 overall backlog by 26 percent. The teams processed more than 14,000 backlogged FOIA cases in 40 days. Former DHS Secretary Johnson and former NPPD Under Secretary Spaulding recognized the teams for their collaborative efforts, customer service, and backlog reduction successes.
- USCIS conducted a robust FOIA information campaign in FY 2016, consisting of broadcast e-mails and articles in the *USCIS Today* daily bulletin, which were sent to all USCIS employees. The campaign informed employees of their obligations under the FOIA and provided transparency into the USCIS FOIA program.
- FEMA closed its 10 oldest requests from FY 2015, while reducing the average age of backlogged requests from 273 days in FY 2015, to 154 days in FY 2016, a 35 percent reduction.

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<sup>25</sup> The regulation is available at: <https://www.federalregister.gov/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>.

## APPENDIX A: Composition of the Department of Homeland Security

The Office of the Secretary oversees Department of Homeland Security (DHS) efforts to 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 - in coordination with federal, state, local, international, tribal, and private sector partners.

### Offices:

**Office of the Citizenship and Immigration Services Ombudsman (CISOMB)** assists individuals and employers with problems with United States Citizenship and Immigration Services to improve the delivery of immigration services.

**Office for Civil Rights and Civil Liberties (CRCL)** supports the Department as it secures the Nation while preserving individual liberty, fairness, and equality under the law.

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

**Office of the Executive Secretariat (ESEC)** assures the accurate and timely dissemination of information and written communications from throughout the Department and our homeland security partners to and from the Secretary and Deputy Secretary.

**Office of Intergovernmental Affairs (IGA)** promotes an integrated national approach to homeland security by ensuring, coordinating, and advancing federal interaction with state, local, tribal, and territorial governments.

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

**Office of the General Counsel (OGC)** integrates approximately 1700 lawyers from throughout the Department comprised of a headquarters office with subsidiary divisions and the legal programs for eight Department Components.

**Office of Health Affairs (OHA)** coordinates all medical activities of the Department of Homeland Security to ensure appropriate preparation for and response to incidents having medical significance.

**Office of Inspector General (OIG)** conducts independent and objective inspections, audits, and investigations to provide oversight and promote excellence, integrity, and accountability in DHS programs and operations.

**Office of Legislative Affairs (OLA)** serves as primary liaison to members of Congress and their staffs.

**Office of Public Affairs (OPA)** coordinates the public affairs activities of all of the Department's Components and offices.

**Office of Operations Coordination (OPS)** provides decision support and enables the execution of Homeland Security responsibilities across the enterprise; promotes situational awareness and information sharing; integrates and synchronizes strategic operations and planning; and administers the DHS continuity program.

**Office of Policy (PLCY)** develops Department-wide policies, programs, and planning to promote and ensure quality, consistency, and integration across all homeland security missions.

**Privacy Office (DHS Privacy Office or PRIV)** works to preserve and enhance privacy protections for all individuals and to promote transparency of Department operations.

**DHS Components and Directorates:**

**United States Customs and Border Protection (CBP)** is responsible for securing the border against all transnational threats and facilitating trade and travel while enforcing hundreds of U.S. laws and regulations, including immigration and drug laws.

**Federal Emergency Management Agency (FEMA)** supports our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.

**Federal Law Enforcement Training Centers (FLETC)** mission is to "Train those who protect our homeland." FLETC serves as an interagency law enforcement training organization for 91 federal agencies or Partner Organizations. FLETC also provides training to state, local, rural, tribal, territorial, and international law enforcement agencies.

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

**United States 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.

**Management Directorate (MGMT)** provides Department-wide leadership and direction on the full spectrum of management issues. These efforts include integrating common operating standards; managing the Department's delegations and directives; leading investment and portfolio management; and administering six functional lines of business, which are financial management, human resources, facilities and logistics, information technology, security, and procurement.

**National Protection and Programs Directorate (NPPD)** leads the national effort to protect and enhance the resilience of the Nation's physical and cyber infrastructure.

**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.

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

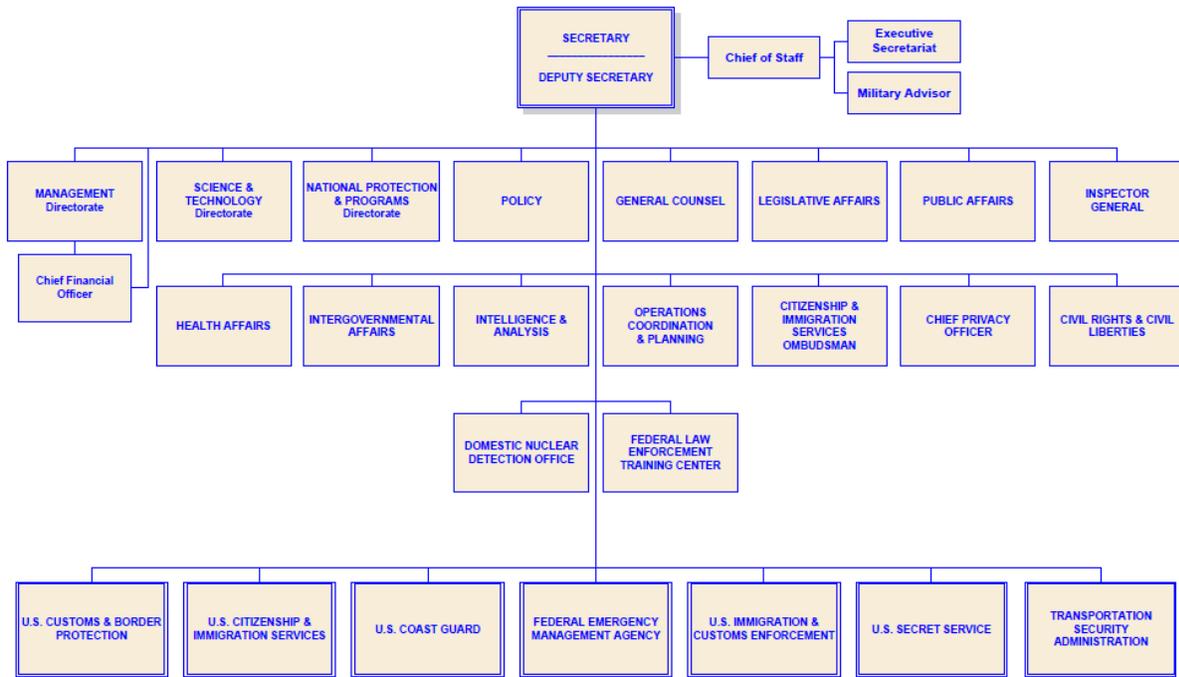
**United States Coast Guard (USCG)** is one of the five armed forces of the United States and the only military organization within the Department of Homeland Security. The Coast Guard protects the maritime economy and the environment, defends our maritime borders, and saves those in peril.

**United States Citizenship and Immigration Services (USCIS)** grants immigration and citizenship benefits, promotes awareness and understanding of citizenship, and ensures the integrity of our immigration system.

**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

## U.S. DEPARTMENT OF HOMELAND SECURITY



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

### Department of Homeland Security Chief FOIA Officer

Jonathan R. Cantor  
Acting Chief FOIA Officer  
Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0655  
Washington, DC 20528-0655

James V.M.L. Holzer  
Deputy Chief FOIA Officer  
Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0655  
Washington, DC 20528-0655

### Department of Homeland Security Component FOIA Officers

Privacy Office  
Nicole Barksdale-Perry, Acting  
Senior Director, FOIA Operations  
Ph: 202-343-1743; Fax: 202-343-4011  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0655  
Washington, DC 20528-0655

U.S. Coast Guard  
Gaston Brewer  
Ph: 202-475-3525; Fax: 202-475-3927  
Commandant (CG-611)  
2701 Martin Luther King Jr Ave, SE  
Stop 7710  
Washington, DC 20593-0001

U.S. Citizenship and Immigration Services  
Jill Eggleston  
Ph: 816-350-5521; Fax: 816-350-5785  
National Records Center, FOIA/PA Office  
P. O. Box 648010  
Lee's Summit, MO 64064-8010

U.S. Customs and Border Protection  
Sabrina Burroughs  
Ph: 202-325-0150; Fax: 202-325-0230  
FOIA Officer  
1300 Pennsylvania Avenue, NW  
Room 3.3D  
Washington, DC 20229

Office for Civil Rights and Civil Liberties  
Bradley White  
Ph: 202-343-1743; Fax: 202-343-4011  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0655  
Washington, DC 20528-0655

Federal Emergency Management Agency  
Eric Neuschaefer  
Ph: 202-646-3323; Fax: 202-646-3347  
Records Management Division  
500 C Street, SW, Mail Stop 3172  
Washington, DC 20472

Office of Biometric Identity Management  
Aeron McGraw  
Ph: 202-295-5454; Fax: 202-298-5201  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0628  
Washington, DC 20528-0628

Federal Law Enforcement Training Centers  
Alicia Aldridge  
Ph: 912-261-4512; Fax: 912-267-3113  
Building No.681, Suite B187  
1131 Chapel Crossing Road  
Glynco, GA 31524

U.S. Immigration and Customs Enforcement  
Catrina Pavlik-Keenan  
Ph: 866-633-1182; Fax: 202-732-4265  
500 12<sup>th</sup> Street, SW, Mail Stop 5009  
Washington, DC 20536-5009

National Protection and Programs  
Directorate  
Toni Fuentes  
Ph: 703-235-2211; Fax: 703-235-2052  
U.S. Department of Homeland Security  
Washington, DC 20528-0380

Office of Inspector General  
Avery Roselle  
Ph: 202-254-4001; Fax: 202-254-4398  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0305  
Washington, DC 20528-0305

Office of Intelligence and Analysis  
Brendan Henry  
Ph: 202-447-3783; Fax: 202-612-1936  
U.S. Department of Homeland Security  
Washington, DC 20528-0001

Science and Technology Directorate  
Katrina Hagan  
Ph: 202-254-6342; Fax: 202-254-6739  
U.S. Department of Homeland Security  
Washington, DC 20528-0001

Transportation Security Administration  
Regina McCoy  
Ph: 1-866-FOIA-TSA; Fax: 571-227-1406  
601 S. 12th Street  
11th Floor, East Tower, TSA-20  
Arlington, VA 20598-6020

United States Secret Service  
Latita Payne  
Ph: 202-406-6370; Fax: 202-406-5586  
Freedom of Information Act and Privacy  
Act Branch  
245 Murray Lane, SW Building T-5  
Washington, DC 20223

## APPENDIX D: Acronyms, Definitions, and Exemptions

### 1. Agency-specific acronyms or other terms

AFI	Analytical Framework for Intelligence
ASAP	American Society of Access Professionals
CBP	United States Customs and Border Protection
CFO	Chief Financial Officer
CHCO	Office of the Chief Human Capital Officer
CISOMB	Office of the Citizenship and Immigration Services Ombudsman
COTS	Commercial off-the-shelf
CRCL	Office for Civil Rights and Civil Liberties
DHS	Department of Homeland Security
DNI	Director of National Intelligence
DNDO	Domestic Nuclear Detection Office
DOJ	Department of Justice
ESEC	Office of the Executive Secretary
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Centers
FOIA	Freedom of Information Act
FY	Fiscal Year
I&A	Office of Intelligence and Analysis
IC	Intelligence Community
ICE	United States Immigration and Customs Enforcement
IGA	Office of Intergovernmental Affairs
MGMT	Management Directorate
NPPD	National Protection and Programs Directorate
OBIM	Office of Biometric Identity Management
OCIO	Office of the Chief Information Officer
OGC	Office of the General Counsel
OGIS	Office of Government Information Services
OHA	Office of Health Affairs
OIG	Office of Inspector General
OIP	DOJ Office of Information Policy
OLA	Office of Legislative Affairs
OPA	Office of Public Affairs
OPS	Office of Operations Coordination
PLCY	Office of Policy
PRIV	Privacy Office
S&T	Science and Technology Directorate
TSA	Transportation Security Administration
USCG	United States Coast Guard
USCIS	United States Citizenship and Immigration Services
USSS	United States Secret Service

## 2. Definition of terms, expressed in common terminology

- a. **Administrative Appeal** – A request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **Average Number** – The number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8, determined by dividing 24 by 3.
- c. **Backlog** – The number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** – For agencies that process requests on a decentralized basis, a “Component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in Annual FOIA Report data for both the agency overall and for each principal Component of the agency.
- e. **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.
- f. **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.
- g. **FOIA Request** – A FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), an organization, or a particular topic of interest. Moreover, because requesters covered by the Privacy Act who seek records concerning themselves (i.e., “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 where an agency determines that it must search beyond its Privacy Act “systems of records” or where the agency applies a Privacy Act exemption and therefore looks to FOIA to afford the greatest possible access. Prior to January 25, 2017, DHS applied 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 by policy previously provided such persons the ability to access their own records in DHS’s Privacy Act “mixed systems of records” as if they were subject to the Privacy Act’s access provisions, and DHS processed the requests under FOIA as well.<sup>26</sup>

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<sup>26</sup> Additional information regarding the exclusion of protections of the Privacy Act for non-U.S. citizens is in

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of the Annual FOIA Report.)

- h. **Full Grant** – An agency decision to disclose all records in full in response to a FOIA request.
- i. **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.
- j. **Median Number** – The middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **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.
- l. **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.
- m. **Pending Request or Pending Administrative Appeal** – A request or administrative appeal for which an agency has not taken final action in all respects.

- n. **Perfect Request** – A request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. **Processed Request or Processed Administrative Appeal** – A request or administrative appeal for which an agency has taken final action in all respects.
- p. **Range in Number of Days** – The lowest and highest number of days to process requests or administrative appeals
- q. **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).

### 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 business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges.
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records A) could reasonably be expected to interfere with enforcement proceedings, B) would deprive a person of a right to a fair trial or an impartial adjudication, C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, D) could reasonably be expected to disclose the identity of a confidential source, E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or procedures, or F) could reasonably be expected to endanger the life or physical safety of any individual.
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells