

Department of Homeland Security

Privacy Office

2013 Chief Freedom of Information Act Officer Report
to the Attorney General of the United States

March 2013



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) *2013 Chief Freedom of Information Act (FOIA)¹ Officer Report to the Attorney General of the United States*, which summarizes the Department's accomplishments in achieving its strategic goals related to FOIA, transparency, and openness from March 2012 through March 2013.

In December 2011, the DHS Privacy Office (Privacy Office or Office) revised its Fiscal Year (FY) 2012-2015 Strategic Plan² to ensure alignment with the Department's core missions, as delineated in the Quadrennial Homeland Security Review (QHSR). This report addresses two of the Privacy Office's strategic goals specific to FOIA: (1) to provide outreach, education, training, and reports to promote privacy and openness in homeland security; and (2) to ensure that DHS complies with federal privacy and disclosure laws and policies. The DHS Privacy Office,³ in partnership with DHS Component FOIA Office staff, successfully implemented these goals.



FOIA Requests

In FY 2012, the Department received an unprecedented number of FOIA requests — 190,589 in total — an increase of nine percent from FY 2011's total of 175,656. DHS processed 205,895 requests — an increase of 41 percent from 145,631 in FY 2011. The Department successfully reduced its backlog by 33 percent this year despite another record-breaking year in the volume of requests received.

DHS took several steps to reduce the FOIA backlog, including the implementation of Six Sigma⁴ to help streamline operations, and the deployment of student interns, contractors, and DHS Privacy Office staff to the Components with the largest backlogs. As a standard practice, FOIA staff negotiates with requesters to narrow the scope where practicable. In addition, Office staff met with Component FOIA Officers and FOIA officials from other federal agencies to learn how technology, training, and staff development can help reduce the backlog, particularly through day-to-day case management. The senior leadership of the Office closely monitors the Department's caseload.

¹ 5 U.S.C. §552.

² <http://www.dhs.gov/xlibrary/assets/privacy/priv-strategic-plan-2012-2015.pdf>

³ FOIA staff at DHS Headquarters who report to the Chief FOIA Officer are referred to as "DHS Privacy Office" staff to distinguish them from FOIA staff working in the seven DHS Components. Those offices are referred to as "Component FOIA Offices or staff."

⁴ Six Sigma is a management philosophy that emphasizes setting extremely high objectives, collecting data, and analyzing results to a fine degree as a way to reduce defects in products and services.

FOIA Operations

The DHS Privacy Office and several of the Component FOIA Offices deployed a new electronic monitoring, tracking, and redacting commercial off-the-shelf (COTS) software solution to streamline the processing of requests and appeals under FOIA and the Privacy Act of 1974.⁵ Results of the new software implementation include: (1) increased productivity; (2) enhanced accuracy in reporting statistics, tracking cases, and ensuring data integrity; and (3) improved interoperability and standardization of the FOIA process across the Department. This year, the Office also created a new position, Director of FOIA Improvement, whose role is to increase proactive disclosures, address the backlog, conduct FOIA training, and recommend enhancements to FOIA operations.

In October 2012, the Office hosted a FOIA Appreciation Ceremony to recognize the contributions from many FOIA staff throughout the Department in reducing the backlog. Twenty-two individuals received awards and were recognized by their peers.

FOIA Training

The DHS Privacy Office and the Component FOIA Offices promote staff training to: (1) standardize FOIA best practices across the Department; and (2) promote transparency and openness among all DHS staff. We have seasoned FOIA trainers who share their expertise at industry conferences, and we invite information access experts from other agencies to train our staff. FOIA staff also participate in courses offered by other agencies.

FOIA Online

In August 2012, the Office deployed a web-based system enabling FOIA requesters to submit FOIA requests using an online form, thus reducing response time.

We also redesigned our website, www.dhs.gov/FOIA, to make it easier for the public to find documents posted online and to submit requests. To promote transparency, we enhanced our online FOIA Library to feature a large number of frequently requested records pertaining to such high visibility topics as “Occupy Wall Street,” Secure Communities Nationwide Interoperability Reports, and Prosecutorial Discretion Policy Memoranda and Guidance.

A vast array of information is posted on DHS websites, including material previously available only through a formal FOIA request, such as: historical documents; daily schedules of senior leaders; management directives; contracts; memoranda related to FOIA operations; and procurement records that include awards, orders, solicitations, and purchase cardholder lists. The report that follows describes these and other initiatives in greater detail.

⁵ 5 U.S.C. §552a.

Inquiries about this report may be directed to the DHS Privacy Office at 202-343-1717 or foia@dhs.gov. This report and other information about the Office are available on our website: 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' and a distinct 'C'.

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. Operational Overview of the DHS FOIA Program

The Department's FOIA program began with the establishment of the Department 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. The DHS Organizational Chart is provided in Appendix B. Contact information for DHS FOIA Officers is provided in Appendix C.

B. About the FOIA Operations of the DHS Privacy Office

In accordance with Executive Order 13392, Improving Agency Disclosure of Information,⁶ 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. The Chief Privacy Officer, who leads the DHS Privacy Office, reports directly to the Secretary for both FOIA and privacy-related purposes. 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 2002.⁷

The DHS Privacy Office coordinates Department-level compliance with FOIA by developing Departmental policy to implement important FOIA initiatives, including the sweeping changes set forth in the President's FOIA Memorandum and the Attorney General's FOIA Guidelines of 2009.⁸ Additionally, the DHS Privacy Office performs coordination and oversight of Component FOIA Office operations, provides FOIA training, and prepares required annual reports on the Department's FOIA performance. The DHS Privacy Office, through its FOIA unit, also processes initial FOIA and Privacy Act requests to the Office of the Secretary

⁶ 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. Congress expanded the authorities and responsibilities of the Chief Privacy Officer in 2007 in the *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Commission Act), Pub. L. 110-53, 6 U.S.C. §101 note. Section 802 of the 9/11 Commission Act added investigatory authority, the power to issue subpoenas, and the ability to administer oaths, affirmations, or affidavits necessary to investigate or report on matters relating to responsibilities under section 222 of the Homeland Security Act. These responsibilities are further described on the DHS Privacy Office website: www.dhs.gov/privacy.

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

⁸ The President's FOIA Memorandum of January 21, 2009, is available at: http://www.justice.gov/oip/foia_guide09/presidential-foia.pdf. The Attorney General's Memorandum of March 19, 2009 is available at <http://www.usdoj.gov/ag/foia-memo-march2009.pdf>.

(including the Military Advisor's Office and the Office of Intergovernmental Affairs), and all divisions within DHS Headquarters.⁹

As mentioned in last year's report, the Department filled the position of Deputy Chief FOIA Officer (DCFOIAO) at the Senior Executive Service level. The DCFOIAO advises the Chief FOIA Officer and other executive-level leaders throughout DHS on compliance with FOIA, the Privacy Act, the OPEN Government Act,¹⁰ the requirements of Section 222 of the Homeland Security Act, as amended,¹¹ and DHS policies, programs, and agreements that promote adherence to information disclosure principles. The DCFOIAO oversees the development and implementation of Department-wide FOIA/Privacy Act policies and procedures such as internal headquarters procedures and guidelines based upon new or revised legislation or recommendations. She is also responsible for the development and delivery of effective training in these areas.

During this reporting period, the DCFOIAO guided the restructuring of the office to ensure full implementation of the DHS Privacy Office's Strategic Plan. Three directors assist the DCFOIAO:

1. The Director for Disclosure and FOIA Operations was promoted to Senior Director to provide greater visibility, leadership, and oversight of the DHS Privacy Office's FOIA activities, including managing the processing of FOIA and Privacy Act requests for records maintained by DHS Component FOIA Offices, coordinating the processing of FOIA requests to ensure that they are handled consistently throughout the Department, and managing the DHS Privacy Office web presence.
2. The Director for Policy and Program Development is responsible for identifying and remedying policy and program deficiencies, and serving as the DHS Privacy Office FOIA Public Liaison¹² to address FOIA-related customer service issues.
3. The Director of FOIA Improvement, a new position created this year, addresses the FOIA backlog, trains staff, increases proactive disclosures, and identifies ways to improve the FOIA program at DHS. This new Director will meet with the requester community this fiscal year in roundtable discussions to learn what information they would like to see proactively posted on agency websites. DHS encourages public feedback to improve transparency and ensure that proactive disclosures are meaningful.

Also new this year is the position of Information Systems Security Officer (ISSO), dedicated to the implementation of the new electronic monitoring, tracking, and redacting commercial off-the-shelf (COTS) software solution to process FOIA and Privacy Act requests and appeals. DHS Privacy Office staff also includes ten FOIA specialists who process the initial requests for the Office of the Secretary and all divisions within DHS Headquarters, refer requests to Component

⁹ 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 Components: Office of the Secretary, CISOMB, DNDO, ESEC, IGA, MGMT, OGC, OHA, OLA, and OPA. Appendix A lists the DHS Components and their customary abbreviations. Appendix D lists acronyms, definitions, and exemptions.

¹⁰ Pub. L. 110-175, 121 Stat. 2524 (Dec. 31, 2007).

¹¹ 6 U.S.C. § 142.

¹² This position was established in law by 5 U.S.C. § 552(l).

FOIA Offices, and assist in the preparation of the Department's required FOIA reports. The Department's 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 FOIA specialists also provide expert FOIA guidance to the Component FOIA Offices, and communicate regularly with DHS' many stakeholders.

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

A. Steps Taken to Apply the Presumption of Openness

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1a. Did your agency hold a FOIA conference or otherwise conduct training during this reporting period?

In September 2012, the DHS Privacy Office co-sponsored FOIA training with several other government agencies including the Department of Commerce, the Department of Transportation, and the Department of Energy. This one-day training event covered recent FOIA decisions; a highlight was a panel on openness, transparency, and accountability in FOIA with representatives from the requester community. In September 2012, the DHS Privacy Office provided training to DHS Office of Health Affairs (OHA) staff that included a FOIA overview and the roles and responsibilities of the staff. During the reporting period, the DHS Privacy Office conducted bi-monthly New Employee Training on FOIA along with best practices for safeguarding personally identifiable information.

The DHS Privacy Office offered training opportunities throughout the Department by bringing specialized training to the DHS campus. In May 2012, the Office of Government Information Services (OGIS) provided training on alternative dispute resolution skills. In October 2012 and December 2012, the Department of Justice (DOJ), Office of Information Policy (OIP) held workshops on the new FOIA exclusions guidance¹³ and FOIA fees and fee waivers for FOIA staff at the Department. In December 2012, DHS FOIA leadership, including the Acting Chief FOIA Officer, served on panels at the American Society for Access Professionals (ASAP) Annual Symposium and Training Conference. They addressed the Supreme Court's recent decision on the standard of harm necessary for damages under the Privacy Act, the foreseeable harm standard, discretionary releases, and the Office of Personnel Management's (OPM) new career job series that covers FOIA professionals.

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

- U.S. Immigration and Customs Enforcement (ICE) began conducting FOIA training during new employee orientations, and updated the Supervisory Leadership Training FOIA module given by instructors at the ICE Dallas Training Center.
- United States Secret Service (USSS) provided FOIA training to new special agent recruits and administrative officers from headquarters and field offices at the USSS Rowley Training Center.

¹³The new DOJ FOIA exclusions guidance is available at: <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

- Several Components including, but not limited to, the United States Citizenship and Immigration Services (USCIS), the Federal Emergency Management Agency (FEMA), National Protection and Programs Directorate (NPPD), the Office of Operations Coordination and Planning (OPS), and the Science and Technology Directorate (S&T) conducted internal training on FOIA and the use of exemptions, emphasizing the presumption of openness in all FOIA decisions. Additionally, USCIS distributed weekly FOIA Information Bulletins informing staff of recent FOIA decisions and developments.

1b. Did your FOIA professionals attend any FOIA training such as that provided by the Department of Justice?

Openness and transparency are central to both the President's and the Attorney General's vision of the Freedom of Information Act. These principles guide DHS' FOIA Program. One way these principles are instilled across the Department is through DHS FOIA professionals. 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. The initial FOIA training is reinforced through mandatory annual instruction in records management that also addresses staff FOIA responsibilities.

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 the DOJ OIP, the Department of Transportation, the Environmental Protection Agency, ASAP, and the United States Department of Agriculture (USDA) Graduate School. Staff training this year included: FOIA Fundamentals, FOIA Litigation, New Guidance on FOIA Referrals and Consultations, FOIA Administrative Forum, and FOIA for Attorneys and Access Professionals. The Department FOIA staff also attended the DOJ OIP Director's Lecture Series. Additionally, Office of Inspector General (OIG) attended and participated in specialized training and panels offered by the Council of Counsels to the Inspectors General (CCIG).

2. Did your agency make any discretionary releases of otherwise exempt information?

Yes. DHS Components made discretionary releases during the reporting period.

3. What exemptions would have covered the information that was released as a matter of discretion?

DHS used a variety of exemptions to release information in this manner:

- USCIS and FEMA released material that could have been withheld pursuant to Exemption 2.
- U.S. Customs and Border Protection (CBP) and USSS released information that could have been withheld pursuant to Exemption 7.
- DHS Privacy Office and several Components including USCIS, ICE, USSS, OIG, S&T, the United States Coast Guard (USCG), the Office for Civil Rights and Civil Liberties (CRCL), and FEMA released records eligible for exemption under Exemption 5.

4. *Provide a narrative description or some examples of the types of information that your agency released as a matter of discretion.*

- DHS Privacy Office released thousands of pages of records regarding the “Occupy Wall Street” movement.
- ICE released thousands of pages of e-mail communications between ICE attorneys and field personnel regarding individual aliens’ efforts to return to the U.S. after prevailing against ICE in their deportation proceedings, along with discussions of ICE’s policy on such returns.
- OIG released information on a discretionary basis including information in audit and inspection work papers, comments made in e-mail records discussing a particular course of action prior to a final decision being made on a draft regulation or directive, and various documents indicating that a particular issue was discussed, but did not disclose the details of that discussion.
- CRCL released intra- and inter-agency discussions on how to proceed with individual complaints.
- FEMA released information pertaining to flood mapping documents, internal memoranda and reports on policy issues, grant application evaluation sheets, and awarded grant applications and un-awarded grant applications.
- USSS released information pertaining to attorney work-product and law enforcement techniques.

5. *Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.*

Component FOIA Offices have worked tirelessly to ensure that the presumption of openness is applied and have found novel ways to accomplish this:

- DHS Privacy Office requires all program offices to provide a harm analysis when recommending withholding information.
- ICE constantly reviews the types of records it processes for additional information that can be released. In November 2012, ICE issued guidance to all employees in the ICE FOIA Office directing them to release, in first-party FOIA requests, certain types of information such as various identification numbers that appear in their records that were previously withheld.
- USCG requires processors to provide a Justification Memorandum describing the rationale for withholding information. This justification must be approved by a Coast Guard attorney.
- FEMA’s Office of Chief Counsel reviews all documents when information is withheld to ensure the maximum release to the public. Program offices are required to provide a harm analysis when recommending withholding information pursuant to Exemptions 2 and 5.
- USSS continues to identify material, customarily withheld by the agency, which can be categorically released. USSS also works closely with the agency’s Public Affairs Office in an effort to offer the requesters alternate ways of obtaining information.
- CBP has cooperated with the Travel Channel on the television program “Airport 24/7: Miami,” and with National Geographic on the television programs “To Catch a Smuggler” and “Border Wars.” CBP also assisted Investigative Discovery on their television program

“Cops and Coyotes.” Additionally, CBP cooperated with the national media on stories involving the detection of fraudulent documents.

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

Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

Component FOIA Offices are satisfied with their day-to-day IT support. The DHS Privacy Office and nine of the Component FOIA Offices deployed a new electronic monitoring, tracking, and redacting COTS software solution which has resulted in enhanced IT support.

2. Do your FOIA professionals interact with your agency’s Open Government Team?

The Acting Chief FOIA Officer and DCFOIAO meet regularly with the DHS Open Government Team.¹⁴ Several Components also interact with the Open Government Team.

3. Describe the steps your agency has taken to assess whether adequate staffing is devoted to FOIA administration.

- USCG implemented a Lean Six Sigma study to identify programmatic shortfalls, including human capital gaps. USCG also revised its strategic plan to rationalize FOIA processing to better serve both the requester and the FOIA processors at the field unit level.
- TSA has begun the process of acquiring a new one-year contract vehicle to assist in addressing the backlog.
- FEMA acquired additional temporary positions and additional contractors.
- ICE hired 17 FOIA staff members.

¹⁴ Office of Mgmt. & Budget, Executive Office of the President, OMB Memorandum No. M-10-06, *Open Government Directive* (2009), available at http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf. See also DHS Open Government Plan June 10, 2010 – Version 1.1 at http://www.dhs.gov/xlibrary/assets/dhs_open_government_plan.pdf; Version 2 (undated) at <http://www.dhs.gov/xlibrary/assets/dhs-open-government-plan-v2.pdf>; and Version 2.0 Addendum (undated) at <http://www.dhs.gov/xlibrary/assets/dhs-open-gov-plan-2-addendum-ousm.pdf>.

- OIG prepared two internal analyses of its FOIA workload and staff in light of FOIA processing and litigation costs, and determined that FOIA contractor assistance was necessary.
- USCIS increased its staff of full-time FOIA processors by 35 percent, to 70 people. Based on an in-depth evaluation of average processing times per FOIA processor and the average production totals of processed FOIA requests, allowing for anticipated increases in requests each year, USCIS is confident that its current FOIA staffing is at the optimum level to meet the projected influx of requests over the next three fiscal years.
- CBP is reviewing its processes and procedures to determine how many employees it needs to reduce its backlog. USCIS continues to process all CBP documents within the A-file through the Service Level Agreement negotiated between USCIS and CBP.
- S&T conducts frequent evaluations of case workflow, reviews backlog percentage, and monitors the average response time to determine the adequacy of staffing.
- NPPD determined that additional staffing was needed to address a growing FOIA caseload and hired additional FOIA professionals to meet this need.

4. *Describe 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, streamlining consultations, eliminating redundancy, etc.*

The Component FOIA Offices have taken many steps to ensure that their FOIA systems operate efficiently.

- USCIS conducted studies to identify where it might obtain efficiencies and time savings in every step of the FOIA process. USCIS chartered a Six Sigma study that found specific areas where it might gain efficiencies and reduce processing times. USCIS also reaped further benefits from a process improvement review conducted by the National Records Center Program Management Office. This review identified additional areas where USCIS could improve and increase production, and provided it with solid projections for the number of cases it needed to close each month in order to keep pace with receipts and still continue to reduce the backlog. In addition, a reengineering team from the U.S. Military Academy is currently examining the entire USCIS FOIA process from cradle to grave to identify efficiencies and time saving steps that can be adopted to further improve FOIA processing and timeliness.
- From September 2012 through March 2013, the DHS Privacy Office and several of the Component FOIA Offices, including USSS, TSA, CBP, FEMA, USCG, Office of the General Counsel (OGC), Office of Policy (PLCY), CRCL, and S&T deployed a new electronic monitoring, tracking, and redacting COTS software solution to process FOIA and Privacy Act requests and appeals. The solution has been deployed with immediate results, including increased productivity and accuracy in reporting statistics, tracking cases, and ensuring data integrity. This software has also increased interoperability and standardized the FOIA process across the Department. Additionally, USSS reported that the solution has been deployed to streamline FOIA business processes, increase productivity, reduce its backlog, and improve customer service. USSS continues to conduct best practice reviews of FOIA and Privacy Act programs at other federal agencies in an effort to make improvements.

- TSA implemented a new ‘triage’ process to address anomalies or variances on the front-end rather than throughout the lifecycle of a case. Cases are identified as perfected or not perfected before they enter the system. If they are not perfected, TSA contacts the requester and clarifies the issues. This new process not only addresses “matured files” but also enhances customer service. Once perfected, a case is assigned to one of three tracks depending upon the expected processing time, which reduces TSA’s FOIA backlog.
- NPPD has a database that provides metrics to monitor overdue requests, measure efficiencies, and identify bottlenecks.
- As mentioned in last year’s report, in response to the continued challenges faced by some DHS Components in resolving FOIA appeals in FY 2010 — the number of appeals pending, the response time, and the number of business days the oldest appeals went unresolved — on July 8, 2011, the former Chief FOIA Officer and the General Counsel formally adopted a policy to reassign certain complex appeals to USCG Administrative Law Judges (ALJ) for processing.¹⁵ Under this mechanism, the ALJ prepares final appeals decisions on a reimbursable basis. This approach was piloted when OGC FOIA appeals that had been pending at TSA were referred to the Coast Guard ALJs for action. During the pilot, the reassigned appeals were handled expeditiously and effectively. This success prompted the decision to make the service available to all Components carrying a significant appeals backlog. Although DHS experienced a 20 percent increase in the number of FOIA appeals received in FY 2012, the appeals backlog decreased by 50 percent.

C. Steps Taken To Increase Proactive Disclosures

Describe the steps your agency has taken to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this reporting period (March 2012 through November 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make proactive disclosures of information.

1. Provide examples of material that your agency has posted online this past year.

A vast array of information is posted on DHS websites, including material previously available only through a formal FOIA request, such as: historical documents; daily schedules of senior leaders; management directives; contracts; memoranda related to FOIA operations; and procurement records that include awards, orders, solicitations, and purchase cardholder lists.

Examples include:

- All Components post their FOIA logs.
- DHS Privacy Office posted 1,245 pages of “Occupy Wall Street” records.
- ICE posted the following types of records to the ICE FOIA Library in the past year: Secure Communities Nationwide Interoperability Reports; Prosecutorial Discretion Policy Memoranda and Guidance; Detention Facility Compliance Inspection Reports; Repatriation Agreements; and Student Exchange Visitor Program Quarterly Reports.

¹⁵ Chief FOIA Officer and General Counsel Memorandum, “Reassignment of Certain Freedom of Information Act (FOIA) Appeals to United States Coast Guard Administrative Law Judges,” July 8, 2011.

- OIG continues to post OIG Reports and congressional correspondence logs as part of its ongoing proactive postings.
 - CRCL posted its *Annual Report to Congress*, Quarterly Reports to Congress, and the Annual Federal EEO Statistical Report of Discrimination Complaints.
 - The Federal Law Enforcement Training Center (FLETC) posted a 45-page document on its website titled “Holster Study and Executive Decision” to assure the public that FLETC had not banned a particular make and model of holster.
 - USCG posted its Final Action Memoranda of Mishaps on its website.
 - USCIS posted a large volume of records on its website, to include, among others:
 - Designation letters for all 218 EB-5 Regional Centers
 - American Life Seattle Regional Center
 - T-Visa Statistics from FY 2002 through FY 2011
 - USCIS Orphan Training Material 2009
 - List of all SES serving USCIS from its creation in 2003 through May 15, 2011
 - USCIS Employee Misconduct Reporting Form and Management Inquiry Handbook
 - 1994 Lawsuit against INS by African-American Employees
 - Compliance Notices issued by the E-Verify Monitoring and Compliance Branch
 - CBP posted the following information, among others, on its website:
 - CBP Performance and Accountability Report – Fiscal Year 2011
 - CBP Summary of Performance and Financial Information – Fiscal Year 2011
 - 2012-2016 Border Patrol Strategic Plan
 - U.S. Border Patrol Fiscal Year 2011 Profile
 - Foreign Trade Regulations – Automated Export System Requirements
 - Disclosure of Information for Certain Intellectual Property Rights Enforced at the Border
 - Stay Informed With CBP’s Trade Transformation Pocket Guide
 - CBP Vessel Inspection Guide
 - Wait Times: Airport and Border
2. *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, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?*

The DHS Privacy Office redesigned its public-facing FOIA website, www.dhs.gov/FOIA, to improve usability. The new site, launched in April 2012, 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 heart of the site is the FOIA Library, which the DHS Privacy Office reorganized and expanded to help users more easily find the information they seek. The FOIA Library arranges documents by type, gives prominence to recent releases, and features regularly updated material. In August 2012, the DHS Privacy Office deployed a web-based system allowing FOIA requesters to complete an online form to submit their FOIA requests, reducing response time.

OIG monitors its website to ensure materials are accessible and current. It posts frequently requested records and updates the same 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 whistleblower protection resources. In essence, Twitter serves as a secondary communication conduit (OIG's website is primary) to further the impact and accessibility of OIG publications.

3. If so, provide examples of such improvements.

ICE created several new tabs to better organize the documents posted to the ICE FOIA Library. For example, documents relating to ICE's use of Prosecutorial Discretion had been posted under the "Policies and Procedures" tab. After recognizing the high level of interest in this topic, and that FOIA requesters were unable to easily locate the records in the FOIA Library, ICE created a new tab just for Prosecutorial Discretion documents, and added over 20 additional documents to that section. Additionally, in response to numerous questions about whether or not ICE posted final orders for cases in Immigration Court online, ICE created a tab titled "Final Opinions and Orders of Cases" and inserted text stating that ICE does not issue such orders, and that the Executive Office for Immigration Review is the proper agency to contact.

USCIS redesigned its FOIA website to make it more user-friendly and easier to navigate. USCIS created and filled a position within its FOIA Office for a Management and Program Analyst whose primary duties are proactive disclosure and maintaining and continually updating the USCIS FOIA website and Electronic Reading Room.

Information on the CBP website is sorted by category with tabs for Border Security, Trade, Travel, and Newsroom. Within these tabs are sub-categories; for instance, in Border Security there are tabs for Air and Marine, U.S. Border Patrol, Field Operations/Port Security, Human Trafficking, etc. Additionally, there is a link titled "How to Use the Website."

4. Describe any other steps taken to increase proactive disclosures at your agency.

Knowing that there was continued public interest in the state of ICE's detention facilities around the country, the ICE FOIA Office reached out to the Office of Detention Oversight to receive its Compliance Inspection Reports on a regular basis so that ICE can post the reports to the ICE FOIA Library. Similarly, the ICE FOIA Office obtained copies of all Local Arrangements for the Repatriation of Mexican Nationals and posted them to the FOIA Library.

D. Steps Taken To Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the Internet to make proactive disclosures, agencies should also explore ways to utilize technology in responding to requests. For 2013, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. *Can FOIA requests be made electronically to your agency?*

Yes, FOIA requests can be made electronically to DHS.

2. *If your agency is decentralized, can FOIA requests be made electronically to all components of your agency?*

Yes, all DHS headquarters offices and Components can receive FOIA requests electronically.

Online tracking of FOIA requests:

3. *Can a FOIA requester track the status of his/her request electronically?*

A requester's ability to track his/her request online varies from Component to Component.

4. *If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed", while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.*

A requester's ability to track his/her request online varies from Component to Component, as does the type of information that is provided to the requester:

- CBP provides the following information through its tracking system:
 - Received – Your request has been properly received by the CBP FOIA Office. A notice was sent informing you of a request tracking number.
 - Assigned for Processing – Your request has been assigned for processing.
 - On Hold – Need Info/Clarification – Your request is on hold (meaning that the processing time is suspended) pending clarification of scope, request for additional information, etc. You will be notified via correspondence explaining any reason(s) your request is on hold.
 - In Process – Your request is being processed by the CBP FOIA Office.
 - Cost Estimate Sent – Your request is on hold (meaning that the processing time is suspended) pending resolution of a fee matter, e.g., estimated costs exceed what was promised to pay, estimated costs exceed \$250.00, etc. You will be notified via

correspondence explaining the specific fee matter that must be resolved before processing continues.

- Document Delivered – Responsive documents have been delivered. If delivery was made via the Public Access website, the download icon will be present. Otherwise, the records will be delivered in the method requested.
 - Closed – CBP’s response to your request was sent and your case is closed.
 - DHS Privacy Office, FEMA, and S&T provide the following information to the requester:
 - Case number
 - Date received
 - Case status
 - Date closed
 - ICE provides the following information through its tracking system:
 - Initials of the processor working on the request
 - Date received
 - Method of receipt – mail, fax, e-mail
 - Process type: simple or complex
 - Disposition of request: pending, case open, case closed
 - USCIS informs each requester to which one of the processing tracks the request has been assigned, and where the request stands in the processing queue. This data is updated every 24 hours.
5. *In particular, does your agency tracking system provide the requester with an estimated date of completion for their request?*

At this time, the Components’ online tracking systems do not allow them to provide an estimated date of completion for requests. All Components provide requesters estimates, when requested.

6. *If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?*

From September 2012 through March 2013, the DHS Privacy Office and several of the Component FOIA Offices, including USSS, TSA, CBP, FEMA, USCG, OGC, PLCY, CRCL, and S&T deployed a new electronic monitoring, tracking, and redacting COTS software solution to process FOIA and Privacy Act requests and appeals. The DHS Privacy Office and the Components are reviewing the software in consideration of the online tracking of requests.

Use of technology to facilitate processing of requests:

7. *Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving records search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?*

The DHS Privacy Office and several of the Component FOIA Offices deployed a new electronic monitoring, tracking, and redacting COTS software solution to streamline the processing of

FOIA and Privacy Act requests and appeals. Results of the new software implementation include: (1) increased productivity; (2) enhanced accuracy in reporting statistics, tracking cases, and ensuring data integrity; and (3) improved interoperability and the standardization of the FOIA process across the Department. In addition, Component FOIA Offices use SharePoint for document sharing for both consultations and referrals, and to process requests.

The OGC, the Office of the Chief Information Officer (CIO), and the DHS Privacy Office are researching long-term solutions for enterprise management of electronic records and e-discovery as part of a senior level working group known as the Executive Steering Committee (ESC). In October 2011, the Department stood up an Information Governance Working Group (IGWG) whose membership includes representatives across the Department from Records Management, Privacy/FOIA, and OGC. The working group's intended outcomes will result in a transition plan that will support the Department as it moves from the "as-is" to the "to-be" state in Information Governance. During this reporting period, the IGWG has been reviewing strategic improvement opportunities including the use of technology to improve the Department's FOIA processing. The group conducted a data call to determine where the deficiencies exist and to identify gaps and is providing the information to the ESC for consideration. This is an ongoing initiative.

8. If so, describe the technological improvements being made.

- ICE uses software to sort and de-duplicate large FOIA requests, for FOIA litigation cases, and to refer documents electronically to other government agencies.
- OIG and the DHS Privacy Office procured high speed scanners that have improved productivity in three ways:
 - Less time is spent scanning documents.
 - The method by which records are scanned, saved, and processed is more efficient due to the vastly improved scanning capabilities, including a stand-alone computer that allows staff to scan and save records directly to their computers.
 - The high-speed scanners allow FOIA staff to provide requesters with Portable Document Format (PDF) copies of records instead of hard copy records in many cases, saving both staff time and government resources, especially when the requester is entitled to 100 pages without charge.
- USCIS implemented a new electronic staffing sheet that enhanced the thoroughness of record searches by delineating who conducted the search, what records were searched for, and what search terms were utilized. USCIS now utilizes SharePoint software to conduct electronic searches for responsive records from agency program offices. The program offices can then upload the records electronically to SharePoint for downloading and processing by USCIS FOIA. To enhance the ability to make timely referrals to ICE, USCIS has provided ICE with certain key functions of the electronic FOIA processing system to improve the speed of ICE's receipt of the referred documents.
- CBP, in addition to launching the COTS system, expanded a scripting tool used in its TECS¹⁶ system to automatically redact multiple types of records in TECS.

¹⁶ The TECS system is the updated and modified version of the former Treasury Enforcement Communications System. For information regarding TECS, see DHS/CBP/PIA-009 TECS System: CBP Privacy and Secondary Processing (December 22, 2010), available at <http://www.dhs.gov/xlibrary/assets/privacy/privacy-pia-cbp-tecs.pdf>.

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

The President and the 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 and appeals.

1. 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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

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

Yes, DHS utilizes a separate track for simple requests. In FY 2012, the Department received an unprecedented number of FOIA requests —190,589 in total — an increase of nine percent from FY 2011's total of 175,656. DHS processed 205,895 requests, an increase of 41 percent from 145,631 in FY 2011. DHS closed 78,432 simple perfected requests in FY 2012, a 21 percent increase compared with the 64,895 closed in FY 2011. The Department closed 111,811 complex perfected requests in FY 2012, a 73 percent increase compared with the 64,792 closed in FY 2011. In total, DHS closed 190,243 perfected simple and complex requests in FY 2012. Of the 205,895 total requests closed in FY 2012, DHS released responsive information in 68 percent of cases. The percentage of FOIA requests with information released is even higher--86 percent--when 22,705 requests were eliminated because they were duplicative or withdrawn or were records that do not exist or fall under the purview of another agency.

b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

While the Department closed 41 percent more requests in FY 2012 compared to FY 2011, the response time for simple perfected requests that were closed in FY 2012 increased to an average of 72 days, with a median of 44 days. The significant number of closures for the Department's older portion of its backlog caused response times to be skewed. Despite this increase, many individual Components enjoyed successes in this area in FY 2012:

- 14 of the 18 processing Components had median processing times under 20 days for simple perfected closed requests.
- 13 of the 14 processing Components had average processing times under 20 days for simple perfected closed requests.

- Office of Intelligence and Analysis (I&A) reduced its median response time for simple perfected requests from 23 days in FY 2011 to eight days in FY 2012, a 65 percent reduction.
 - DHS Privacy Office, CRCL, Management Directorate (MGMT), OGC, OIG, OPS, S&T, TSA, USCG, and USSS had median and average response times for simple perfected closed requests less than 20 days.
- c. *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.

2. Sections XII.D.(2) and XII.E.(2) of your agency’s Annual FOIA Report, entitled “Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report—Backlogged Requests/Appeals,” show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. Refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E. entitled “Pending Requests—Ten Oldest Pending Requests,” and Section VI.C.(5), entitled “Ten Oldest Pending Administrative Appeals,” from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.

- a. *If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?*

As Table 1 below indicates, DHS decreased its backlog in FY 2012 by 33 percent. USCIS significantly reduced its backlog by 60 percent. CRCL, FEMA, FLETC, I&A, and TSA also reduced their backlogs. OPS, PLCY, and S&T were able to keep their backlogs at zero.

Table 1. Number of Backlogged Requests as Reported in the 2012 FOIA Annual Report¹⁷

Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report	Number of Backlogged Requests Decreased	Number of Backlogged Request Increased
CBP	4,356	10,648	n/a	6,292
CRCL	6	0	6	n/a
FEMA	485	306	179	n/a
FLETC	5	2	3	n/a
I&A	22	3	19	n/a
ICE	18	2,443	n/a	2,425
MGMT	3	13	n/a	10
NPPD	65	2,288	n/a	2,223
OGC	5	5	n/a	n/a
OIG	0	11	n/a	11
OPS	0	0	0	0
PLCY	0	0	0	0
PRIV	4	5	n/a	1
S&T	0	0	0	0
TSA	580	542	38	n/a
USCG	471	782	n/a	311
USCIS	35,780	10,727	25,053	n/a
USSS	571	778	n/a	207
AGENCY OVERALL	42,371	28,553	13,818	n/a

b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

DHS decreased the appeals backlog in FY 2012 by 50 percent. As Table 2 below indicates, ICE, OGC, USCG, and USCIS have reduced their backlogs. CBP, FLETC, and USSS were able to keep their appeals backlogs at zero.

¹⁷ Find the 2012 FOIA Annual Report at www.dhs.gov/FOIA.

Table 2. Number of Backlogged Appeals as Reported in the 2012 FOIA 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 FY 2012	Number of Backlogged Appeals Decreased	Number of Backlogged Appeals Increased
CBP	0	0	0	0
FLETC	0	0	0	0
ICE	18	0	18	N/A
OGC	141	99	42	N/A
OIG	12	13	N/A	1
TSA	2	10	N/A	8
USCG	49	33	16	N/A
USCIS	105	10	95	N/A
USSS	0	0	0	0
AGENCY OVERALL	327	165	162	N/A

c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

DHS closed eight of the ten oldest requests in Fiscal Year 2012 and 96 percent of the ten oldest requests for each of the Components combined. During the first quarter of Fiscal Year 2013, DHS closed the remaining two oldest pending requests as of the end of Fiscal Year 2011.

Table 3 below shows the ten oldest requests that were pending for each Component as of the end of Fiscal Year 2011, and shows that the Components have closed 99 percent of them.

Table 3. Ten Oldest Pending Requests as Reported in the 2011 FOIA Annual Report¹⁸

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
CBP	Date of Receipt	1/13/2011	1/13/2011	1/8/2011	1/7/2011	1/7/2011	1/7/2011	1/7/2011	1/7/2011	1/7/2011	11/26/2010
	Number of Days Pending	181	181	184	185	185	185	185	185	185	214
CRCL	Date of Receipt	N/A	N/A	N/A	N/A	9/28/2011	9/2/2011	8/8/2011	8/8/2011	8/2/2011	8/1/2011
	Number of Days Pending	0	0	0	0	2	28	53	53	59	60
FEMA	Date of Receipt	12/18/2008	12/3/2008	12/1/2008	10/28/2008	10/3/2008	9/10/2008	8/8/2008	7/16/2008	6/11/2008	9/7/2007
	Number of Days Pending	697	708	710	732	748	765	787	804	828	1,018
FLETC	Date of Receipt	N/A	N/A	N/A	N/A	N/A	8/4/2011	7/7/2011	5/10/2011	3/31/2011	3/31/2011
	Number of Days Pending	0	0	0	0	0	41	61	103	131	131
I&A	Date of Receipt	5/10/2011	5/2/2011	4/18/2011	3/29/2011	3/2/2011	1/26/2011	1/26/2011	12/13/2010	12/7/2010	10/1/2010
	Number of Days Pending	103	109	119	133	152	176	176	205	209	253
ICE	Date of Receipt	5/11/2011	4/27/2011	4/26/2011	4/26/2011	4/7/2011	2/24/2011	1/31/2011	1/28/2011	11/22/2010	5/17/2010
	Number of Days Pending	100	110	111	111	124	154	171	172	217	350
MGMT	Date of Receipt	9/23/2011	9/23/2011	9/23/2011	9/19/2011	9/17/2011	9/12/2011	9/12/2011	8/31/2011	8/30/2011	4/15/2011
	Number of Days Pending	6	6	6	10	10	15	15	23	24	121
NPPD	Date of Receipt	2/23/2011	1/25/2011	1/19/2011	1/19/2011	11/18/2010	11/17/2010	11/15/2010	11/1/2010	10/4/2010	6/21/2010
	Number of Days Pending	157	177	181	181	221	222	224	233	252	325
OGC	Date of Receipt	N/A	N/A	N/A	N/A	N/A	9/16/2011	12/18/2010	8/12/2010	8/6/2010	5/5/2010
	Number of Days Pending	0	0	0	0	0	15	287	415	421	514
OIG	Date of Receipt	N/A	9/29/2011	9/29/2011	9/22/2011	9/22/2011	9/19/2011	9/19/2011	9/13/2011	9/12/2011	9/7/2011
	Number of Days Pending	0	2	2	7	7	10	10	14	15	18
OPS	Date of Receipt	N/A	N/A	N/A							
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
PLCY	Date of Receipt	N/A	9/21/2011	9/20/2011							
	Number of Days Pending	0	0	0	0	0	0	0	0	8	9
PRIV	Date of Receipt	9/14/2011	9/14/2011	9/14/2011	9/14/2011	9/13/2011	9/2/2011	8/11/2011	5/16/2011	4/19/2011	5/7/2010
	Number of Days Pending	13	13	13	13	14	21	37	99	118	355
S&T	Date of Receipt	N/A	N/A	8/25/2011							
	Number of Days Pending	0	0	0	0	0	0	0	0	0	27
TSA	Date of Receipt	10/2/2008	8/20/2008	8/13/2008	6/23/2008	6/19/2008	6/19/2008	6/17/2008	8/2/2006	11/1/2004	10/27/2004
	Number of Days Pending	749	779	784	820	822	822	824	1294	1735	1738
USCG	Date of Receipt	7/8/2009	6/29/2009	6/19/2009	6/10/2009	6/3/2009	6/2/2009	5/27/2009	5/26/2009	5/26/2009	1/12/2009
	Number of Days Pending	568	575	581	588	593	594	598	599	599	695
USCIS	Date of Receipt	6/24/2010	6/23/2010	6/11/2010	6/3/2010	5/20/2010	5/18/2010	4/30/2010	4/9/2010	4/2/2010	3/30/2010
	Number of Days Pending	317	318	326	332	341	343	355	369	374	376
USSS	Date of Receipt	2/2/2006	2/2/2006	1/19/2006	1/19/2006	1/19/2006	1/19/2006	1/19/2006	12/2/2005	12/2/2005	11/30/2005
	Number of Days Pending	1420	1420	1430	1430	1430	1430	1430	1461	1461	1463
US-VISIT	Date of Receipt	N/A	N/A	N/A	9/21/2011	9/20/2011	9/14/2011	9/12/2011	9/7/2011	6/15/2011	3/9/2011
	Number of Days Pending	0	0	0	7	8	12	14	17	77	147
AGENCY OVERALL	Date of Receipt	1/19/2006	1/19/2006	1/19/2006	1/19/2006	1/19/2006	12/2/2005	12/2/2005	11/30/2005	11/1/2004	10/27/2004
	Number of Days Pending	1,430	1,430	1,430	1,430	1,430	1,461	1,461	1,463	1,735	1,738

¹⁸ The requests and appeals reported in the *FY 2011 FOIA Annual Report* that are still pending are highlighted in red in both the Ten Oldest Pending Requests and the Ten Oldest Pending Appeals tables.

d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

As Table 4 below indicates, DHS did not close the ten oldest administrative appeals pending at the end of Fiscal Year 2011. DHS was able to close five of the ten oldest appeals in Fiscal Year 2012 and 77 percent of the ten oldest administrative appeals for all the Components combined.

Table 4. Ten Oldest Pending Appeals as Reported in the 2011 FOIA Annual Report

Component	Sub-Row Heading	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
CBP	Date of Receipt	2011-09-20	2011-09-20	2011-09-20	2011-09-14	2011-09-14	2011-09-14	2011-09-13	2011-09-13	2011-09-13	2011-09-07
	Number of Days Pending	9	9	9	13	13	13	14	14	14	18
FLETC	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
ICE	Date of Receipt	2010-11-22	2010-10-27	2010-10-01	2010-09-20	2010-09-14	2010-08-26	2010-08-25	2010-06-14	2010-03-02	2009-11-16
	Number of Days Pending	217	234	251	260	264	277	278	330	404	480
OGC	Date of Receipt	2007-09-30	2007-09-27	2007-09-14	2007-08-20	2007-08-10	2007-07-25	2007-05-21	2007-05-01	2006-12-26	2006-09-20
	Number of Days Pending	1001	1003	1012	1016	1036	1048	1093	1107	1194	1259
OIG	Date of Receipt	2011-03-09	2011-01-26	2010-11-15	2010-11-10	2010-10-27	2010-09-15	2010-09-15	2009-01-14	2008-11-25	2008-11-14
	Number of Days Pending	145	174	222	224	234	263	263	698	734	741
TSA	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	2011-09-28	2011-09-21	2011-08-15	2011-06-02
	Number of Days Pending	0	0	0	0	0	0	4	9	36	88
USCG	Date of Receipt	2010-06-09	2010-06-09	2010-06-09	2010-05-12	2010-05-10	2010-05-01	2010-04-30	2009-12-01	2009-11-19	2009-03-10
	Number of Days Pending	333	333	333	352	354	359	360	460	467	644
USCIS	Date of Receipt	2011-07-06	2011-07-06	2011-07-06	2011-07-06	2011-07-06	2011-07-06	2011-07-06	2011-07-06	2011-07-06	2011-07-06
	Number of Days Pending	59	59	59	59	59	59	59	59	59	59
USSS	Date of Receipt	N/A									
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	Date of Receipt	2007-09-30	2007-09-27	2007-09-14	2007-08-20	2007-08-10	2007-07-25	2007-05-21	2007-05-01	2006-12-26	2006-09-20
	Number of Days Pending	1,001	1,003	1,012	1,016	1,036	1,048	1,093	1,107	1,194	1,259

3. If you answered “no” to any of the above questions, describe why that has occurred. In so doing, please answer the following questions then include any additional explanation:

Request backlog:

a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

The DHS backlog decreased by 33 percent.

b. Was the lack of a reduction in the request backlog caused by a loss of staff?

Question not applicable.

c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Question not applicable.

d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Question not applicable.

Administrative Appeal Backlog:

a. Was the lack of a reduction in the backlog of administrative appeals the result of an increase in the number of incoming appeals?

The DHS appeals backlog decreased by 50 percent.

b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

Question not applicable.

c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

Question not applicable.

d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

Question not applicable.

4. OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters, agencies facilitate access to the requested information.

If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number 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:

- DHS Privacy Office and CBP issued two.
- ICE issued 10.
- OIG issued six interim responses in four of the cases.
- TSA issued 12.
- USCIS estimated it issued interim responses in fewer than 1,000 cases.

III. Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptions circumstances to "treat the records as not subject to the requirements of [the FOIA], 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

- 1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?*

ICE was the only DHS Component to use FOIA law enforcement exclusions.

- 2. If so, what was the total number of times exclusions were invoked?*

ICE estimates that it applied the exclusion fewer than 10 times during this reporting period.

IV. Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas.

Note: Because DHS is one of the largest agencies, we have listed more than one success story to highlight the accomplishments of several DHS FOIA Offices.

1. DHS deployment of electronic COTS solution increases interoperability and standardizes FOIA process

The DHS Privacy Office and several of the Component FOIA Offices deployed a new electronic monitoring, tracking, and redacting COTS software solution to streamline the processing of FOIA and Privacy Act requests and appeals. Results of the new software implementation include: (1) increased productivity; (2) enhanced accuracy in reporting statistics, tracking cases, and ensuring data integrity; and (3) improved interoperability and standardization of the FOIA process across the Department.

2. Use of Working Groups to Share Best Practices and Develop Training Programs

OIG is a founding member of a new OIG FOIA Working Group (Working Group or group) made up of FOIA professionals from other Offices of Inspector General. The purpose of the Working Group is to discuss common FOIA issues and challenges within the OIG Community. The Working Group meets on a quarterly basis to discuss and share best practices and to develop training programs. Its key activities also include scheduling training with guest speakers on key FOIA issues, and to provide a listserv "forum" through which FOIA professionals ask and answer FOIA questions for other group members.

During this reporting period, OIG assisted with the start-up and development of the group as one of the group's seven founding members. OIG also participated in organizational meetings, training panels, and provided extensive advice via the listserv to other OIG FOIA professionals seeking advice on particular FOIA issues. The Working Group enhances FOIA processing and transparency throughout the OIG community.

3. USCIS Backlog Reduction through multi-pronged approach

USCIS' FOIA Office is focused on reducing its backlog, which totaled 35,125 requests as of March 2012.

Staffing was the priority so USCIS increased the total number of FOIA processors to 70. USCIS also added a new career position titled Public Information Specialist; these are multi-skilled personnel who process cases and handle other FOIA administrative duties. USCIS also hired more supervisors and case approvers to increase the number of processed cases that are closed

each month. Additionally, USCIS filled six new GS-12 expert processor positions, affording its top producers a non-supervisory promotion opportunity.

USCIS conducted studies to identify where it might obtain efficiencies and time savings in every step of the FOIA process. USCIS chartered a Six Sigma study that found specific areas where it might gain efficiencies and reduce processing times. USCIS also reaped further benefits from a process improvement review conducted by the National Records Center Program Management Office. This review identified additional areas where USCIS could improve and increase production, and provided it with solid projections for the number of cases it needed to close each month in order to keep pace with receipts and still continue to reduce the backlog.

USCIS obtained additional funding for overtime work for its FOIA processors. Overtime was expanded to cover seven days a week, with extended hours made available during the work week as well. USCIS continued to authorize this overtime throughout FY2012. Telework for employees was introduced for the first time, and 20 staff members participate. As a result, production numbers by teleworkers increased by an average of 30 percent as compared to non-teleworkers.

A monthly awards program was established in USCIS FOIA to recognize top performers in a variety of categories with cash and time-off awards, which boosted morale and motivated staff to improve their production numbers.

As a result of these efforts, USCIS reduced its backlog from 35,126 in March 2012 to 1,262 in February 2013, a 96 percent reduction in twelve months.

4. Office Realignment Yields Direct Line of Accessibility to Records

S&T's FOIA Office was realigned to the Knowledge Management and Process Improvement Office (KPO). KPO's goal is to facilitate access and sharing of information for the Directorate and the office comprises the FOIA Office, Privacy Office, Knowledge Management Office, and the Office of Change Management. Having these offices under one umbrella provides S&T FOIA with a direct line of accessibility to requested records.

S&T's KPO spearheaded efforts to ensure that program managers upload relevant project and program documentation to S&T's SharePoint sites, which has operated as another resource to gather responsive records for FOIA requests. The FOIA Office uses this resource to ensure a wide-ranging search for responsive records. Since the FOIA Office has been utilizing this repository of records for processing FOIA requests, the estimated timeframe to locate and receive records from specific program offices has decreased from 13-15 business days to 10 business days. Overall, S&T's ability to respond to FOIA requesters within the required 20-day business period has increased by 26 percent.

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:

Citizenship and Immigration Services Ombudsman (CISOMB) provides recommendations for resolving individual and employer problems with the United States Citizenship and Immigration Services in order to ensure national security and the integrity of the legal immigration system.

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.

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

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

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

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 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 and supervises audits, investigations, and inspections relating to the programs and operations of the Department, and recommends

ways for the Department to carry out its responsibilities in the most effective, efficient, and economical manner possible.

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.

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.

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

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

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

Office of Operations Coordination and Planning (OPS) provides Departmental Leadership situational awareness, promotes information sharing, integrates and synchronizes strategic operations and planning, and administers the DHS continuity program.

DHS Components and Directorates:

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

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.

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

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

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 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.

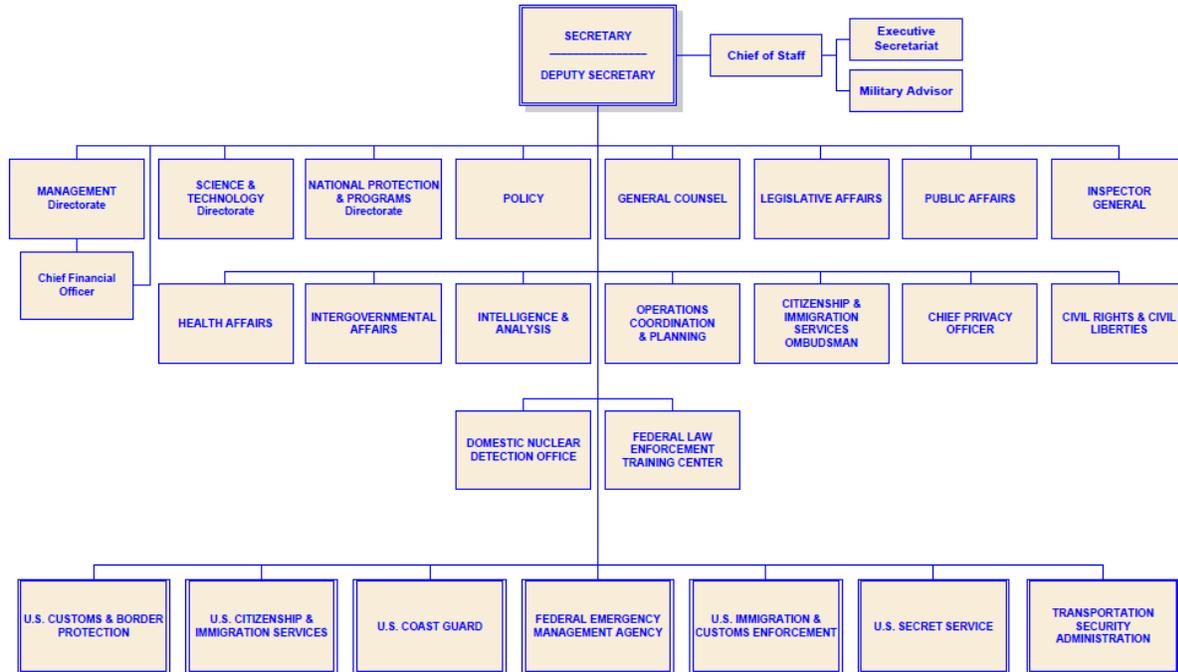
United States Customs and Border Protection (CBP) is responsible for securing the border against all transnational threats and facilitating trade and travel while enforcing hundreds of U.S. regulations, including immigration and drug laws.

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.

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

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Acting Chief FOIA Officer
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Delores J. Barber
Deputy Chief FOIA Officer
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Washington, DC 20528-0655

Department of Homeland Security Component FOIA Officers

Privacy Office
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Senior Director, FOIA Operations
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Program Development
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Commandant (CG-611)
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U.S. Citizenship and Immigration Services
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National Records Center, FOIA/PA Office
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Lee's Summit, MO 64064-8010

U.S. Customs and Border Protection
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Washington, DC 20229-1181

Office for Civil Rights and Civil Liberties
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DHS-CRCL-FOIA
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Federal Law Enforcement Training Center
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Office of the General Counsel
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U.S. Department of Homeland Security
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U.S. Immigration and Customs Enforcement
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Transportation Security Administration
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APPENDIX D: Acronyms, Definitions, and Exemptions

1. Agency-specific acronyms or other terms

a.	CBP	United States Customs and Border Protection
b.	CFO	Chief Financial Officer
c.	CISOMB	Citizenship and Immigration Services Ombudsman
d.	CRCL	Office for Civil Rights and Civil Liberties
e.	DNDO	Domestic Nuclear Detection Office
f.	ESEC	Office of the Executive Secretary
g.	FEMA	Federal Emergency Management Agency
h.	FLETC	Federal Law Enforcement Training Center
i.	I&A	Office of Intelligence and Analysis
j.	IGA	Office of Intergovernmental Affairs
k.	ICE	United States Immigration and Customs Enforcement
l.	MGMT	Management Directorate
m.	NCSC	National Cyber Security Center
n.	NPPD	National Protection and Programs Directorate
o.	OGC	Office of the General Counsel
p.	OHA	Office of Health Affairs
q.	OIG	Office of Inspector General
r.	OLA	Office of Legislative Affairs
s.	OPA	Office of Public Affairs
t.	OPS	Office of Operations Coordination and Planning
u.	PLCY	Office of Policy
v.	PRIV	Privacy Office
w.	S&T	Science and Technology Directorate
x.	TSA	Transportation Security Administration
y.	USCG	United States Coast Guard
z.	USCIS	United States Citizenship and Immigration Services
aa.	USSS	United States Secret Service
bb.	US-VISIT	United States Visitor and Immigrant Status Indicator Technology

2. Definition of terms, expressed in common terminology

- a. **Administrative Appeal** – A request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **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 the 2012 FOIA Annual 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 requests first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it 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. DHS applies this same interpretation of the term “FOIA request” even to “first-party” requests from persons not covered by the Privacy Act, e.g., non-U.S. citizens, because DHS by policy provides such persons the ability to access their own records in DHS’ Privacy Act “mixed systems of records” as if they are subject to the Privacy Act’s access provisions, and DHS processes the requests under FOIA as well. Thus, all requests that require DHS to utilize FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of the 2012 FOIA Annual 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. **Perfected 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