

2018 Chief FOIA Officer Report

National Archives and Records Administration

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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

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

A. FOIA Training

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

Answer: Yes.

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

Answer: *The Freedom of Information Act for Attorneys and Access Professionals:* An overview of the FOIA's procedural requirements and exemptions, workshops on individual FOIA Exemptions, basic principles for processing FOIA requests from start to finish, the FOIA's proactive disclosure requirements, and the interface between the FOIA and the Privacy Act.

FOIA Litigation Seminar: Guidance on successful litigation strategy, advanced litigation considerations, and details on the preparation of Vaughn Indices and declarations.

Freedom of Information and Privacy Acts - Graduate School USA: Learn How to respond to Freedom of Information Act (FOIA) and Privacy Act (PA) requests. Become skilled at the proper release of records to the public while safeguarding necessary information.

Annual National Training Conference – American Society for Access Professionals (ASAP): The program combines "nuts & bolts" training topics with the thought — provoking and practical issues associated with FOIA and Privacy Act processing and requesting as well as records management. A special feature of the program is breakout sessions for individual

agencies that give participants a unique opportunity for questions and answers as they pertain to their own agency policies.

FOIA/Privacy Act Training Workshop – ASAP: A two and half day intensive program specifically designed as an in-depth refresher course or for those who are new to working with the FOI, Privacy Acts or records management, those who have limited experience, or those who deal with the Acts as an adjunct responsibility. Instruction and practical application work sessions are utilized to include overviews of both Acts, procedural guidance, redactions, fees and fee waivers, negotiation & litigation considerations, Privacy Act processing, conditions of disclosure under the Privacy Act, and specific sessions dealing with FOIA exemptions 1, 2, 4, 5, 6 and 7, and special sessions on various hot topics.

ASAP Symposium and Training Conference: the flagship forum for the discussion of broad concepts, issues concerning government information, current and future trends in access and privacy, and best practices in these areas. The leaders in the access community concern themselves with much more than just the daily processing and practical applications of information access. They take the time to learn and understand more about the various issues that eventually shape the policies. The Symposium is designed for those persons who want to advance their awareness and understanding -hence, their careers — by listening, participating and learning the various positions and practicalities surrounding the hot topics of the day.

ASAP FOIA Training Webinars: Additional information on the courses can be found at <https://www.accesspro.org/programs/webinars.cfm>

NARA Intranet courses: *NDC F201: FOIA for All Federal Employees Topics*: General overview of FOIA; FOIA time limits; conducting searches; and reviewing records. *NDC F202: FOIA Training for FOIA Professionals, Topics*: Government obligations; receiving and acknowledging requests; processing of requested material; statutory protections; good customer service; and agency accountability. (Both courses were created by the Department of Justice).

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.

Answer: 85%

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.

Answer: N/A. NARA exceeded 80% training.

B. Outreach

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

Answer: Yes. The Archivist of the United States (“Archivist”) has continued the Freedom of Information Act (“FOIA”) Advisory Committee (“Committee”) in 2017 to advise on improvements to the FOIA and study the current FOIA landscape across the Executive Branch. The Committee is subject to the Federal Advisory Committee Act, and allows the public an opportunity to ask questions. (See <https://update.archives.gov/ogis/foia-advisory-committee>)

The Archivist and the General Counsel/Chief FOIA Officer have quarterly meetings with representatives of the requester community to discuss issues related to access to records at the National Archives, including access through the FOIA.

C. Other Initiatives

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

Answer: The Chief FOIA Officer is initiating a FOIA training module for NARA non-FOIA professionals on NARA’s online learning center, Cornerstone on Demand (COSD).

The Office of General Counsel is expanding an internal knowledge repository for FOIA related information, *e.g.*, court opinions, white papers, etc, on NARA’s Internal Collaboration Network.

A FOIA Panel discussion, titled *Access at NARA*, is scheduled for “Sunshine Week” in NARA’s McGowan Theater in coordination with the “Know Your Records” program for the public.

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

Answer: Through its core statutory mission, NARA makes the vast majority of its archival records available to the public without the need to file a FOIA request. Furthermore, due to the age of most of the records in the National Archives, NARA routinely makes discretionary releases in the processing of any access requests to our archival holdings. NARA’s holdings are described in the National Archives Catalog (see <http://www.archives.gov/research/catalog/>).

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

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

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

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

Answer: 7.5 days.

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.

Answer: N/A

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.

Answer: Yes. The Chief FOIA Officer asked all of the NARA FOIA program offices to use the OIP FOIA Self-Assessment Toolkit to assess their respective programs. The Chief FOIA Officer is reviewing the results to understand strengths and weaknesses in NARA's application of the FOIA, and to use the results for appropriate capital investments, and procedural enhancements.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).

Answer: 57 requests.

5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.

Answer: Estimates are not available for the whole agency.

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

Answer: N/A

Section III: Steps Taken to Increase Proactive Disclosures

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

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

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

Answer: NARA released the unclassified electronic records created by the Assassination Records Review Board (ARRB), including 52,387 emails and 16,627 files from the ARRB drives, which are located in NARA's Catalog: <https://catalog.archives.gov/id/74887465>. These office records of the ARRB are distinct from the "JFK assassination records" that NARA has been releasing pursuant to the John F. Kennedy Assassination Records Collection Act of 1992.

The National Declassification Center (NDC) proactively declassified and released the Central Subject Files of the U.S. Embassy Djakarta, Indonesia, 1963-1969 via the National Archives Catalog. This record series, which was subsequently digitized by the [National Security Archive](#), consists of correspondence, telegrams, airgrams, memoranda, reports, newspaper accounts, and other documents that pertain to subjects that were of interest to the Ambassador and staff of the Embassy. This series also contains documents that were originated by or sent to the U.S. Consulates at Medan and Surabaya. To search for the digitized embassy records please visit the National Archives Catalog at <https://catalog.archives.gov/>.

The Presidential Materials Staff posted in the NARA Catalog the images of Vice President Cheney celebrating the 400th Anniversary of the founding of Jamestown. See: [Cheney Vice Presidential Photographs of the 400th Anniversary of the Founding of Jamestown](#)

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

Answer: Yes. See press release regarding the ARRB email release. <https://www.archives.gov/press/press-releases/nr18-05>.

NDC website: <https://www.archives.gov/declassification/ndc> and NDC Blog: <https://declassification.blogs.archives.gov/>

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

Answer: Yes.

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

Answer: The public's access to our holdings and the information about these holdings is accomplished through the online NARA Catalog. The Catalog allows the public to participate directly in contributing information about the holdings as a way to improve accessibility of our records. Crowd sourcing of digitization and metadata creation is critical to our success in making access happen.

In early FY 2016 the National Archives launched the History Hub. History Hub is a pilot crowdsourcing platform sponsored by the National Archives. It is a place to share information, work together, and find people based on their experience and interests. Experts from the National Archives and other institutions, history enthusiasts, and citizen archivists are available to help with research.

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

Answer: N/A

Section IV: Steps Taken to Greater Utilize Technology

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

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

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

Answer: NARA has recognized that advanced search capabilities is essential across the agency. NARA is in the process of updating its Electronic Records Archives (ERA 2.0), which is the platform that NARA uses for storing and processing archival records. The first phase of ERA 2.0 system will be deployed by the end of FY 2018, and we expect that FOIA search and review technologies will be added on in subsequent years.

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

Answer: Yes, although posting of our fourth quarter report was delayed by two weeks.

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

Answer: The delay was due to a faulty calendar notification, which has since been corrected.

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

Answer: All raw statistical data is posted here: <https://www.archives.gov/foia/reports>.

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

Answer: N/A

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

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

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

A. Simple Track

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

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

Answer: Yes.

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

Answer: Yes. 8.65 days.

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

Answer: 95.7%

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

Answer: N/A. NARA tracks simple requests.

B. Backlogs

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

BACKLOGGED REQUESTS

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

Answer: NARA's backlog decreased.

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.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A

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 2017.

Answer: Backlog is 3.41% of total FOIAs received.

BACKLOGGED APPEALS

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

Answer: No. NARA's appeal backlog increased.

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

An increase in the number of incoming appeals.

A loss of staff.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

Any other reasons – please briefly describe or provide examples when possible.

Answer: The Office of General Counsel, which supports NARA's appellate authority while also processing FOIA requests for operational records, received an increase in regular requests of 23.5% from the previous year. Thus, even though NARA increased the number of appeals responded to from the previous year by 25%, the backlog continued to grow due to a further increase in appeals.

Furthermore, the appeal backlog increased because NARA has now become the appeal authority for FOIA requests of archival records that contain classified national security information, instead of the agency with the classification equity. However, because NARA does not have authority to declassify the information contained in our classified holdings, all FOIA requests that involve classified material require consultation with the creating/originating agency, and often with multiple other agencies/components. This process inevitably adds to the number of days needed for the review and processing of appeals for the withholding of classified information.

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

Answer: 230%. NARA's appeal backlog has grown from 158 to 173. NARA received 75 appeals in 2017.

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did 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 2017?

Answer: NARA is in the process of reassessing its backlog reduction plan. During FY 2017, NARA's Office of Inspector General (OIG) completed an [audit of NARA's FOIA program](#). In conjunction with the OIG's audit recommendations, the Chief FOIA Officer will review and revise the backlog reduction plan previously submitted to NARA's senior management.

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

Answer: NARA is currently developing a plan to reduce its FOIA backlog.

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

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

TEN OLDEST REQUESTS

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

Answer: No.

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

Answer: NARA was able to close 8 of the 10 oldest FOIAs.

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?

Answer: None.

TEN OLDEST APPEALS

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

Answer: No.

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

Answer: 2 of 10.

TEN OLDEST CONSULTATIONS

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

Answer: Yes.

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

Answer: N/A

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

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

Answer: NARA's ten oldest FOIA requests are all for classified archival records that were created by other agencies, and are therefore waiting on consultations to other agencies for their declassification decisions. NARA has assigned an employee in the National Declassification Center to track the ten oldest requests and to regularly contact those agencies that are slow in making their declassification determinations.

NARA's appeal backlog increased because NARA has now become the appeal authority for FOIA requests of archival records that contain classified national security information instead of the agency with the classification equity. NARA does not have authority to declassify the information contained in our classified holdings. All FOIA requests that involve classified

information require consultation with the creating/originating agency, and often with multiple other agencies/components. This process inevitably adds to the time needed for the review and processing of appeals for the withholding of classified information.

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.

Answer:

* 1998-10-01(received), 2012-02-14(re-consulted), 2016-04-13(last correspondence)

* 1998-10-28(received), Closed on 2017-10-24

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.

Answer: NARA will continue to press those originating agencies that possess the classification equities to complete the declassification review of the remaining records responsive to each appeal, including by contacting the Chief FOIA Officer of each agency. The Office of General Counsel, which supports the Deputy Archivist’s appellate responsibilities, has added an additional archivist, and is adding a government information specialist (GIS) to the staff, which should help reduce the appeal backlog.

Furthermore, NARA’s backlog reduction plan will likely require additional staff to work FOIAs. NARA continues to maintain our goal to reduce the FOIA backlog by a minimum of 10% per year.

F. Success Stories

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

Answer:

Special Access and FOIA Staff fully implemented a change to their process to streamline and more efficiently process FOIA requests. They incorporated Archives Technicians into the process. These technicians are locating, indexing, and scanning FOIA requested records so that higher paid reviewers are freed up to complete the review electronically without the administrative burden of indexing and scanning. This contributed to a 25% increase in cases closed.

Those Presidential Libraries subject to the FOIA also engage in systematic processing of large volumes of records that they make available to the public. Examples of this effort can be seen at the Ronald Reagan Presidential Library and the William J. Clinton Presidential Library. The Reagan Library processed several series or collections (totaling 234,494 pages) resulting in the closure of 18 FOIA requests, and supplying an additional 29 FOIA requesters with a minimum of one segment of records responsive to their FOIAs, and the Clinton Library uploaded 525,757 digitized pages related to 38 whole and 8 segments of FOIA cases to the National Archive Catalog (NAC).

Following the nomination of Neil M. Gorsuch to the Supreme Court of the United States, the George W. Bush Library received two special access requests and three FOIA requests (two of which were expedited). Archives staff identified and reviewed records responsive to the Senate Judiciary Committee request and the first expedited FOIA request, and they completed review of these records in less than a month. The Library posted PDFs of the records related to Neil M. Gorsuch that were provided to the Senate Judiciary Committee on its website the Monday morning following the Friday evening release to the Senate Judiciary Committee.