



2021 CHIEF FOIA OFFICER REPORT



Photo of Bison Rocky Mountain Arsenal National Wildlife Refuge Colorado by John Carr, Fish & Wildlife Service.

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The Department of the Interior 2021 Chief FOIA Officer Report

Section I: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

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

Yes.

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

Robert Anderson, Principal Deputy Solicitor, Delegated Non-Exclusive Authority of the Solicitor.

B. FOIA Training:

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

The Department provides mandatory training to all its personnel on a number of issues, including basic information on the FOIA. The Departmental FOIA Office is planning to hire a Training Officer, one of their roles will be to examine what additional training would be beneficial.

4. *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?*

Yes.

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

This year, given the Department's transition from its prior tracking and reporting system to FOIAonline, as discussed further below in our Success Stories, the Department provided extensive FOIA training on the proper use of this system and how it fit into the statutory requirements of FOIA.

Additionally, the Departmental FOIA Office (DFO) provided the first ever, in-person training and meeting of all of its FOIA officers early in 2020, as discussed further in our Success Stories. Department FOIA personnel also attended training sessions provided by the Department of Justice, including best practices sessions. They also attended FOIA training and conferences provided by other entities.

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

At least 95%.

7. *OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous*

question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Not applicable.

C. Outreach:

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

The Department engages in ongoing outreach and dialogue with the requester community during the processing of requests and during the appeal process. The Department also regularly interacts with the requester community by participating in efforts related to the Department of Justice's National FOIA Portal, assisting the Office of Government Information Services' (OGIS) ombudsman efforts related to the Department, attending meetings of the Chief FOIA Officers' Council (CFOC), and serving on the CFOC's Technology Committee. Indeed, during Sunshine Week, one of the Department's Bureau FOIA Officers received the Award for Exceptional Service by a FOIA Professional, recognizing his requester-focused FOIA approach to FOIA processing. As discussed further in our Success Stories, we invited OGIS to provide targeted training on requester communications to our Bureau FOIA Officers this year.

D. Other Initiatives:

9. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff.

In 2020, the Director of the DFO began to engage in regular communications with bureau leadership to help ensure they are fully apprised of the status of their organizations' FOIA operations, provide meaningful support to the FOIA office, and hold employees across their organizations accountable for compliance with the FOIA.

In light of the COVID-19 pandemic, the Department focused its FOIA training for much of this year on online communications. The Department posted new bulletins on collecting text messages responsive to FOIA requests, the FOIAonline electronic tracking and case management system, and preapproved withholdings on the Department's FOIA Guidance webpage at <https://www.doi.gov/foia/news/guidance>. FOIA personnel also engaged in ongoing conversations with non-FOIA professionals on FOIA matters. These conversations provided training and notice of FOIA matters and reinforced the importance of providing responsive records in a timely manner.

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

The Department is undertaking significant improvements to its FOIA program, as discussed below in our Success Stories. We intend to continue our training efforts in the year to come and pursue the increased utilization of FOIAonline to increase the availability of previously-released information to the public. These efforts are designed

to increase compliance with FOIA's statutory requirements of transparency, accountability, and prompt productions.

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

1. For Fiscal Year 2020, 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 2020 Annual FOIA Report.

33 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.

The DFO is in the process of hiring a FOIA Compliance Officer, whose charge will be to monitor, investigate, and address exactly these sorts of issues. In the interim, the DFO holds bimonthly meetings with the Bureau FOIA Officers and will hold a discussion on this issue.

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 or raw data, using active workflows and track management, reviewing and updating processing procedures, etc.

This year, the Department and each of its bureaus completed the OIP FOIA Self-Assessment Toolkit in preparation for the FOIA Officers in-person training as discussed in our Success Stories below. The Department also regularly conduct self-assessments of the Department's FOIA program by reviewing Annual Report data, conducting audits of each bureau's tracking system entries at least bi-annually, and reviewing and updating processing procedures. As noted above, the DFO is also in the process of hiring a Compliance Officer who will be engaged in such assessments on a regular basis.

4. Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency's FOIA process. In addition, describing an agency's standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.

a) Does your agency have SOPs that outline general processes for handling FOIA requests and appeals? Yes.

b) If not, does your agency have plans to create FOIA SOPs? Not applicable.

c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology? They are reviewed at least annually and updated as needed.

d) In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling requests on your website? Yes.

5. The FOIA Improvement Act of 2016 requires additional notifications 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 2020 (please provide a total number or an estimate of the number).

We estimate requesters sought assistance from the FOIA Public Liaison 16 times during FY 2020, although such requests for assistance are not always specifically framed as seeking assistance from the FOIA Public Liaison in that capacity.

6. *Does your agency frequently receive common categories of first-party requests? If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?*

We believe there are several such categories, including requests for law enforcement records from the bureaus that have law enforcement programs, including the Bureau of Indian Affairs, Bureau of Land Management, National Park Service, and the U.S. Fish and Wildlife Service. Given the size and decentralization of the Department, this is an area that is ripe for further exploration and the Department looks forward to considering this further in the coming year.

7. *The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?*

Yes.

8. *Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.*

Immediately before Departmental staff began working from home due to the pandemic, a notice was posted at the top of our FOIA website letting requesters know we were continuing to process FOIA requests and how requests could most efficiently be made. When the Department transitioned to FOIAonline, as discussed in our Success Stories, we updated the notice and it now reads as follows:

IMPORTANT NOTICE: The FOIA offices in the bureaus/offices of the Department of the Interior are continuing to process FOIA requests to the best of their ability during the COVID-19 pandemic.

To keep employees healthy and safe, the Department is maximizing telework flexibility and employing social distancing protocols. As a result of these precautions, most employees are working remotely and unable to collect hard copy records located in government facilities at this time. If your request is for hard copy records, the response to your request will very likely be delayed.

In addition, employees may not receive FOIA requests that are sent by U.S. mail, overnight mail services, or facsimile in a timely manner. We recommend, therefore, that requesters submit requests through FOIAonline, a secure, web-based tracking and case-management system, at <https://www.foiaonline.gov>.

Also at the start of the pandemic, the DFO took steps to ensure the FOIA Offices remained fully operational. The DFO led a series of meetings with Bureau FOIA Officers, collecting information in a shared document to track and manage questions and issues arising from the extended remote work scenario necessitated by the COVID-19 pandemic, tracking resolution of open items and collecting resources in one place. As a

result, the Department investigated and began to use a number of new tools in order to provide resources to FOIA processors to provide electronic releases to requesters.

We also altered workflows related to Exemption 4 consultations to ensure we did not release potential trade secrets or confidential commercial or financial information without providing an appropriate opportunity for submitter input, increased the frequency of our FOIA Officer meetings, and began to extensively use electronic meetings for internal and external communications.

9. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

As discussed further in our Success Stories below, we have moved to a new FOIA tracking and case management system and are working to improve the Department's FOIA program in a coordinated and thoughtful way with the guidance and support of the newly-created DFO. We are still working to fully learn and optimize this new system.

Section III: Steps Taken to Increase Proactive Disclosures

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

The Department proactively disclosed many types of materials this past reporting year. For example:

- The Office of the Inspector General posted 151 reports on various topics to its searchable reports page <https://www.doioig.gov/reports>
- Bureau of Safety and Environmental Enforcement's safety initiative to bring critical safety information directly to offshore workers on the [Outer Continental Shelf](#), a *BSEE/Safe* program that uses text messaging notification technology to send links for its published Safety Alerts and Bulletins, reached a milestone of 7,000 subscribers in January 2021. This tool is used to inform the offshore oil and gas industry of the circumstances surrounding an incident or near miss. The alerts and bulletins also contain recommendations to help prevent the recurrence of such an incident on the Outer Continental Shelf. <https://www.bsee.gov/newsroom/latest-news/statements-and-releases/press-releases/bseesafe-text-notification-service>
- U.S. Geological Survey continues to make mapping, imagery, and data sets available at <https://nationalmap.gov>, which includes The National Map Downloader, [TNM Downloader](#), where, using the USTopo or historical topographic maps, members of the public can customize a map with various data such as hydrography, topography, structures, etc. These customized maps are downloadable at no charge.

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

Yes.

3. If yes, provide examples of such improvements.

The Department's main FOIA website (<http://www.doi.gov/foia>) is updated throughout the year with new information and contains links to all of the bureau FOIA websites and FOIA Libraries to make them easy for the public to find, and all of the links (along with contact information) are frequently checked for outdated information and broken links and updated as needed.

The Department's website contains a "Customer Comment Form" inviting feedback from visitors via email.

Additionally, as discussed further below, this year the Department moved its tracking and case management systems to FOIAonline.

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

The Department emphasizes the importance of proactive disclosures in formal and informal training, including at bi-monthly FOIA Officer meetings. We also expect the migration to FOIAonline to increase our volume of proactive disclosures over time. We understand increased proactive disclosures lead to increased transparency, although it is challenging to make proactive disclosure when the FOIA staff (who would typically be making the proactive disclosures) are focusing on responding to increasing backlogs, requests, and/or litigation. We also note that the competing obligations of Section 508 of the Rehabilitation Act and FOIA are a continued unresolved challenge.

Section IV: Steps Taken to Greater Utilize Technology

1. Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.

The Department uses electronic means of search, redaction, and tracking to support its FOIA program. Particularly, this year the Department migrated from our homegrown, purely tracking-based Electronic FOIA Tracking System to FOIAonline, a more modern case-management and tracking tool that is a shared service on the cloud, as discussed in our Success Stories below. We also began using a new, secure, file-transfer tool to send large files to requesters electronically.

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

Yes.

3. Did your agency successfully post all of the required quarterly FOIA reports for Fiscal Year 2020?

No.

4. 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 2021.

Although we had posted all of the required quarterly FOIA reports on our website, OIP informed us during this reporting process that the reports had not been successfully pulled into FOIA.gov. This technical issue has now been fixed and will be watched going forward.

5. *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 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.*

<https://www.doi.gov/foia/DOI-FOIA-Annual-Reports>

6. *Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.*

In addition to FOIAonline, we are exploring other best practices in greater utilizing technology such as conducting centralized searches (where appropriate) and utilizing document review platforms. We continue to be part of the Chief FOIA Officers' Council Technology Committee to ensure we are up to date on government-wide best practices and continued our internal Departmental subcommittee on FOIA and technology. A challenge this year was working through the issues resulting from the Department's transition from a Google platform to a Microsoft 365 platform.

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

A. Simple Track:

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

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

Yes.

2. *If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2020?*

No.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2020 that were placed in your simple track.*

62%.

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

Not applicable.

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.

BACKLOGGED REQUESTS

5. *If your agency had a backlog of requests at the close of Fiscal Year 2020, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?*

No.

6. *If not, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019?*

No.

7. *If your agency's request backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able 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.

Our backlog increased in Fiscal Year (FY) 2020, in part due to continued effects from past sustained increases in the volume and complexity of incoming requests. Specifically, from FY 2016 to FY 2019, incoming FOIA requests to the Department increased nearly 24 percent (from 6,428 to over 7,970). Litigation also increased during that time period, as discussed in past reports, particularly over agency non-response to initial FOIA requests. This created backlogs in many bureaus that are still being worked through.

We have also been affected by attrition of staff and FOIA Officers. Additionally, many FOIA processors work on FOIA matters only as a collateral duty, which has the effect of FOIA work being a lower priority.

8. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2020.*

To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2020 Annual FOIA Report by the number of requests received in Fiscal Year 2020, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

71%

BACKLOGGED APPEALS

9. *If your agency had a backlog of administrative appeals in Fiscal Year 2020, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?*

Yes.

10. *If not, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?*

Not applicable.

11. *If your agency appeal backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able 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.

Not applicable.

12. *If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2020. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A."*

To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2020 Annual FOIA Report by the number of appeals received in Fiscal Year 2020, which can be found in Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

231%

C. Backlog Reduction Plans:

13. *In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 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 2020.*

The Department implemented a backlog reduction plan last year and, as planned, we achieved the migration to FOIAonline and the creation of the FOIA Support Team (FST) in the DFO to assist bureaus with the greatest need of backlog assistance. Although the Department was not able to achieve an overall backlog reduction in Fiscal Year 2020, the Office of the Secretary FOIA Office was able to reduce its sizable backlog with the assistance of the FST. We are in the process of increasing the FST's staffing in the current fiscal year to further assist these backlog reduction efforts. Additionally, the DFO is seeking to ensure leadership attention throughout the bureaus on this important issue.

14. *If your agency had a backlog of more than 1000 requests in Fiscal Year 2020, what is your agency's plan to reduce this backlog during Fiscal Year 2021?*

It has been just over a year since the establishment of the DFO and nearly half a year since our migration to FOIAonline. We are hopeful these improvements, the increased

staffing for the DFO discussed above, and other upcoming changes to the Department's FOIA structure and assessments of current operations will increase processing capacity and reduce the backlog in the long-term.

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

TEN OLDEST REQUESTS

15. In Fiscal Year 2020, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2019 Annual FOIA Report?

No.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Five.

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

Each bureau was encouraged to close their 10 oldest requests, even if those requests were not on the list of the Department's 10 oldest.

TEN OLDEST APPEALS

18. In Fiscal Year 2020, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2019 Annual FOIA Report?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable.

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

Ongoing adjudication of open appeals.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2020, did your agency close the ten oldest consultations reported pending in your Fiscal Year 2019 Annual FOIA Report?

Yes.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2019 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

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

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

The DFO is in the process of hiring a Compliance Officer who will monitor this requirement and assess the obstacles to compliance.

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

Not applicable.

25. *If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2021.*

The DFO is in the process of hiring a Compliance Officer who will monitor this requirement and assess the obstacles to compliance.

F. Success Stories

Out of all the activities undertaken by your agency since March 2020 to increase transparency and improve FOIA administration, 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.

- In March 2020, and for the first time ever, the newly-created Departmental FOIA Office (DFO) held a two-day offsite training event for the Department’s Bureau FOIA Officers. The event included an evaluation of each FOIA program. It also included training sessions addressing substantive FOIA issues; FOIA processing best practices; and FOIA stakeholder collaboration, including requester relationships. The Secretary and Solicitor spoke at the event to emphasize the importance of FOIA compliance to the entire Department. In preparation for the event, each Bureau FOIA Officer completed the OIP FOIA Self-Assessment Toolkit and the results of these assessments and possibilities for improvement were extensively discussed at the meeting. Both the Office for Government Information Services and the Office of Information Policy made presentations, as did the Department’s Collaborative Action and Dispute Resolution Office. This event was a great success that the DFO intends to offer similar events going forward.
- The Department migrated from our legacy, limited tracking system to FOIAonline, a more modern case-management and tracking tool that is a shared service on the cloud. We anticipate FOIAonline will, long-term, greatly assist in our intake process (substantially decreasing the amount of time our processors spend on this step and decreasing errors that negatively impact requesters), facilitate proactive releases, streamline our internal tracking and review, and allow requesters to search for materials other requester have already received (decreasing the need for repetitive requests).