Content of 2018 Chief FOIA Officer Reports (High-Volume Agencies)

Chief FOIA Officer: Scott Blackburn, Department of Veterans Affairs

Section I: 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.

FOIA Training:

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?

- Yes

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

- American Society of Access Professionals (ASAP) National Training Conference in FY2017 blending basic, mid-level and advanced sessions covering various access issues over several days, U. S. Department of Justice's FOIA training covering the basics of FOIA, types of requests, importance of responding in a timely manner, responsibilities of a FOIA Officer, AINS (FOIAXpress training) – training on new updates applied to the database used by the Department to track and manage FOIA requests.

- One-on-one training with FOIA officers was also conducted. Topics included FOIA procedures, time frames, fee waivers, sensitive requests, privacy act systems of records, review of exemptions, use of templates, redacting, etc. Also there was a 2-day training from Dept. of Justice.

- FOIA Officers also participated in DOJ FOIA courses Advanced FOIA Seminar, FOIA for Attorneys and Access Professionals, and FOIA Amendments Training, in addition to the 2017 FOIAXpress User Conference covering FOIA topics. Including four (4) 508 compliance courses, a two (2) hour Privacy Act course, and a two-day IAPP Government Information Privacy Professional/Government training.

- OGC conducted FOIA processing/litigation training part 1, part 2 is forthcoming

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.

- 90% of FOIA professionals attended training in person or via LiveMeeting.

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

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?.

- Department FOIA Officers regularly maintains dialogue with VA requesters and organizations during the request process, and frequent requesters that seek information on the VA.

C. Other Initiatives

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

- VACO bi-weekly training sessions to new employees

- Training videos on FOIA produced by Veterans Health Administration

- VA FOIA maintains internet/intranet websites with multiple links to other references and training information

- VA FOIA working group formed to fully implement FOIAXpress throughout the agency

- VA TMS system also contains FOIA specific training for all FOIA processors

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.

VA components hold FOIA presentations for non-FOIA professionals, as well as distribute VA memoranda, regulations, and legal opinions on the requirements of non-FOIA professionals to submit responsive records.

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.

- 28

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 Department is decentralized and each component office must utilize the processing procedures to adjudicate requests for expedited processing. During FY18, the Department will implement full use of the documents management functions in FOIAXpress, which will enable FOIA staff to improve oversight and management of expedited requests.

- Prior to referral to component offices the VACO FOIA Office will flag any requests for expedited processing and provide additional guidance and recommendations to the referred office as to addressing this requirement.

- FOIA Officers will continually update other FOIA Officers within their component offices on any expedited processing requests with status updates.

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.

- There were several Department Offices that conducted self-assessments of their programs i.e. VHA, Office of the Secretary, National Cemetery Administration and the VACO FOIA Service. Each reviewed their FOIA processes, using FOIAXpress as the main tool to track requests.

•Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

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).

- 10

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.

- Department FOIA responses vary depending on the requested documents. There are several components that have processed over 20.000 pages for complex requests; simple requests average 20-200 pages.

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.

-

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.*

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

- Global War on Terror (GWOT) / Gulf War Veterans Information System (GWVIS)
- http://www.va.gov/VETDATA/

- Gross Distribution of Expenditures (GDX)
- http://www.va.gov/VETDATA/Expenditures.asp
- Request can be made by sending an e-mail to: VAVBAWAS/CO/OFO
- Veterans Benefits Administration (VBA) Performance
- http://www.vba.va.gov/reports/aspiremap.asp

Veterans Population Data
- http://www.va.gov/vetdata/Veteran_Population.asp

Agent Orange in Korea
- https://www.oprm.va.gov/docs/foia/VegControlProgCY1968Redacted.pdf
- https://www.oprm.va.gov/docs/foia/DirUSASCRURtoVA2171998Redacted.pdf
- Hearing Aid Procurement Summary (posted monthly): https://www.va.gov/oal/about/dalc.asp
- MSPV-NG Formulary (posted monthly): https://www.va.gov/officeofacquisitionoperations/sac/mspvNG.asp
- Pharmaceutical Pricing (posted bimonthly): https://www.va.gov/oal/business/fss/pharmPrices.asp
- OALC FOIA Library, including MSPV contract records and Historical VA Pharmaceutical Prices (258 documents): https://www.va.gov/oal/business/pps/foiaLibrary.asp
  https://www.oprm.va.gov/docs/foia/DOAtoSenGlenn5101996Redacted.pdf
  https://www.oprm.va.gov/docs/foia/2016PresidentialTransitionUserGuide.pdf

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

- Yes; the Agency consistently posts new updates on the public-facing internet page. Search capabilities have been enhanced to provide a user-friendly experience for our customers.

- Yes VA's FOIA websites inform our customers of the publicly posted documents.

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?

- Yes

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

- The VA posts responses in excel and PDF formats which provides the public with easier access and readability format.
- VA's program offices make determinations regarding documents or records, policies, or updates likely to be of interest to the Veterans we serve. Topics may include internal VA processes, finding on significant points of interest regarding health care, and services for Veterans that can be posted proactively on the FOIA internet site. VA FOIA Service also participates in VA's Open Data Workgroup which meets quarterly and reviews documents of interest to determine which information should be posted on the public website.

- The VACO FOIA Office provides support to VA's decentralized FOIA Offices by posting records for all administrations/offices upon request. In addition to posting FOIA responses upon an administration or office's receipt of 3 or more requests for the same information, VACO FOIA posts other records and reports that are updated on a quarterly or yearly basis. Examples include: FOIA logs, purchase card holders, Physicians Guides to Disability Evaluation Examinations, OIG reports, VA data breaches, VA Pharmaceutical Pricing, MSPV Formulary, and Hearing Aid Procurement Summaries.

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?

- The Agency posts responses that are requested 3 or more times. In addition each activity actively post responses that are of interest to the public.

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.

- Clearwell and E-Discovery are tools that VA FOIA Officers are using to search for responsive emails associated with cases in litigation. Training more FOIA Officers in the use of Clearwell and E-Discovery will result in greater efficiency in VA's response to email search requests.

- VA is also transitioning to an E-Recordkeeping System which will improve record gathering

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

VA quarterly reports were posted on the VA FOIA website. However, the reports did not appear on FOIA.gov.

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. VA will ensure successful posting moving forward on FOIA.gov

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.

- https://www.oprm.va.gov/docs/foia/VA-FY16-FOIA-Report.csv

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

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.

Does your agency utilize a separate track for simple requests?

- Yes, most component offices utilize a simple track, depending on volume and the number of FOIA personnel a component employees

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?

- No

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

- 82%

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?

- No

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?

- Yes

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: N/A

•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.

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.

- 12%

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?

- Yes

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: N/A

•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.

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."

- 20%

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 you 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?

Yes, the Department implemented a backlog reduction plan which reduced backlogs by 36%

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? If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?

The Department is decentralized, some components process FOIA's as a collateral duty. Due to the scope and voluminous nature of requests the Department is receiving, it is difficult for some administrations to process requests within the designated time frame.

The Department is now utilizing shared FOIA processors and detailing to assist other component offices when needed.

Providing additional training to FOIA analysts

VA Central FOIA Office providing additional oversight and guidance to administrations in the processing and segregation of requests.

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?

- 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.

- Overall 8 out 10 oldest FOIA requests were closed in FY17

On average for entire Agency closed 8 or 10 oldest requests. Number varied by administrations

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?

- Overall 4 out of 10 requests were withdrawn. Numbers were not provided as to interim responses provided

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?

- Yes

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.

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?

- No, VA had one pending consultation pending at the end of FY16

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.

- VA had less than 10 consultations pending

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.

- Staffing shortages for VACO offices
- Requests are more complex

- Responses to requests are voluminous

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.

- N/A

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.

- Provide additional staffing for offices that are processing voluminous and complex requests

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.

- The VA OALC FOIA office went from reviewing 120,000 pages in FY 2014, to 132,000 pages in FY 2015, to 135,000 pages in FY 2016, and to 186,000 pages in FY 2017. When redacting, the VA OALC FOIA office went from reviewing 200 pages/day per FOIA Officer in FY 2013, to 300 pages/day in FY 2014, to 370 pages/day in FY 2015, to 380 pages/day in FY 2016, and to 390 pages/day in FY 2017.