



# **U.S. DEPARTMENT OF STATE**

## **CHIEF FOIA OFFICER REPORT**

**MARCH 2022**

## Summary

The Department of State (the “Department”) is responsible for formulating and executing the foreign policy of the United States and maintains records dealing with U.S. foreign relations as well as those relating to the programs and activities that support this mission. The Department’s mission is global in nature as are the records that document that mission. As such, the Department maintains its records at dozens of locations domestically and at hundreds of posts located around the globe.

The Freedom of Information Act (“FOIA”) requests received by the Department are often a mixture of complex subject matters regarding foreign government relations, diplomacy, terrorism, armed conflicts, and security; they can require multiple searches throughout many of the Department’s approximately 270 domestic offices and overseas posts. In many of these cases, searches locate voluminous amounts of paper and electronic records, often containing highly classified or otherwise sensitive information that must be reviewed by subject matter experts within the Department as well as other U.S. Government agencies or foreign governments. These reviews are required to determine whether the release of the information could harm U.S. national security, damage relations with foreign governments, or reveal other sensitive information.

The Department makes every effort to respond to FOIA requests within the statutory response period. To implement its statutory responsibilities under the FOIA, the Department has established a centralized and comprehensive FOIA program, in which a single office, the Office of Information Programs and Services (“A/GIS/IPS”), receives and coordinates the processing of the majority of the FOIA requests made to the Department. Only two other offices, the Law Enforcement Liaison Division of the Office of Passport Services and the Office of the Inspector General, are authorized to accept FOIA requests submitted to the Department.

During this reporting period (March 2021 to March 2022), the Department continued its efforts to build its future FOIA program and to decrease the FOIA backlog. In FY 2021, the Department processed 35% more FOIA cases than in FY 2020. Despite this significant increase in cases processed, the Department’s backlog also increased in FY 2021. This increase can be attributed to an 18% increase in the number of requests received and the COVID-19 pandemic, which severely limited the number of FOIA staff that were available to work on-site to process classified information.

The Department used technology to communicate with requesters and support FOIA professionals working remotely. The Department continued its “release to one, release to all” approach to posting documents on its FOIA website. In FY 2021, the Department posted almost 8,600 records online to the public FOIA website that were released to requesters, almost a 60% increase from FY 2020 when 5,400 records were posted.

The Department’s FOIA litigation demands continued to be considerable, yet the Department ended the year with fewer litigation cases than it had at the start of FY 2021. The Department was named as a defendant in 54 new FOIA litigation cases in FY 2021, down significantly from the 84 new cases involving the Department in FY 2020 and the 86 new cases involving the

Department in FY 2019. The Department ended FY 2021 with approximately 195 total FOIA litigation cases involving 365 unique FOIA requests, continuing its streak of unprecedented FOIA litigation demands for another year.

In sum, the Department's FOIA program continues its efforts to improve its ability to process FOIA requests and remains committed to improving the timeliness of its responses to the public, using technology to process requests, and posting documents released under the FOIA to the public FOIA website. The Department will also continue to use its online presence to promote transparency and provide information to the public. Feedback is welcome and can be provided at <https://foia.state.gov/Contact/Feedback.aspx>.

**Name and Title of your Agency's Chief FOIA Officer**

Alaina B. Teplitz  
Assistant Secretary of Administration, Bureau of Administration  
U.S. Department of State

**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.

**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. See 5 U.S.C. § 552(j)(1) (2018) Is your agency's Chief FOIA Officer at or above this level?

Yes.

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

Alaina B. Teplitz  
Assistant Secretary of Administration, Bureau of Administration  
U.S. Department of State

**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 has mandatory records management training that all users of the Department's unclassified network must complete. This online records training has a FOIA module that explains each employee's responsibilities under the FOIA. In FY 2021, over 113,500 users on the Department's unclassified network completed training, a 25% increase from FY 2020. Failure to complete this training results in loss of access to the unclassified network.

Additionally, the Department offered a variety of different training sessions in the form of virtual and conference call briefings to hundreds of Department employees processing FOIA cases. Information Access training included sessions regarding the FOIA, the Privacy Act, records management, National Security Information, and the organizational structure of the Department.

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

Yes.

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

The Department's FOIA Program Manager conducted briefings for the FOIA Office analysts and reviewers and other Department employees working on the FOIA. These briefings contained reminders about annual training requirements for classified and privacy information; updates on efforts to implement records management mandates that may affect the FOIA; a review of efforts to address existing FOIA processing issues; an update on efforts to increase postings to the FOIA website; and ongoing conversations about the processing priorities, including expedited requests. In FY 2021, over 113,500 Department employees also completed a mandatory online records training that had a module explaining each employee's responsibilities under the FOIA.

Additional training was provided through a new FOIA Bootcamp starting in February 2022. This new training serves as a primer for Department FOIA employees. It included an overview of the FOIA, the history and structure of the FOIA, FOIA exemptions and exclusions, practice exercises, and a list of resources to further employees' professional growth and development. Sessions were presented by multiple subject matter experts from inside the FOIA Office and from another U.S. Government agency.

The Department continued its series of briefings to FOIA professionals on the organizational structure of the State Department. These briefings are meant to ensure that the Department is conducting high-quality searches for records sought through the FOIA and other records requests.

The FOIA Office leadership also continued to encourage and approve funding for FOIA staff to attend briefings and trainings provided by the American Society of Access Professionals ("ASAP"), the Department of Justice's ("DOJ") Office of Information and Policy ("OIP"), and the Office of Government and Information Services ("OGIS") at the National Archives and Records Administration ("NARA"), Washington, DC. The FOIA Office also held sessions for employees to share information with their colleagues who could not attend about what they learned at the off-site events.

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

Over 90% of the Department's FOIA professionals attended substantive FOIA training during this reporting period.

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.

N/A

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Yes. All agency personnel with access to the Department's unclassified network are required to take mandatory records management training each calendar year. Failure to take and pass this training results in a denial of access to the network. In FY 2021, over 113,500 Department personnel completed this training. The goal of the course is to train all personnel to identify federal records, manage records, and understand the records management lifecycle. Additionally, the course has a module that introduces the FOIA.

### **C. Outreach**

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, 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.

Yes. The Department's FOIA Public Liaison ("FPL") attended American Society of Access Professionals events, which provide opportunities to interact with the requester community.

### **D. Other Initiatives**

10. 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; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

The Department conducted agency-wide outreach on several occasions between March 2021 and March 2022. The Department issued agency-wide guidance on the use of electronic messaging applications to ensure that all official business conducted on electronic messaging devices is captured and incorporated into the Department's central filing system in compliance with federal records management laws, regulations, and policies. The Department also continues to require completion of online mandatory records management training for all Department employees, including a module on FOIA. As previously noted, over 113,500 Department employees have completed this course.

The FOIA Office regularly interacts with employees throughout the Department regarding FOIA issues. It also provides training regarding employees' FOIA responsibilities and any changes to the Department's policies implementing the FOIA. Department personnel have access to individualized FOIA briefings by the FOIA Office, including by its FOIA Program Manager. The FOIA Office also maintains an internal website where Department employees can view and download guidance on the FOIA.

The FOIA Office continues to brief outgoing officials and remind them, in writing and in individual briefings, of their responsibilities to complete any outstanding FOIA searches before departure and to preserve their records so that they can be searched in the future. Incoming officials are also briefed on their records and classification responsibilities as well as on the FOIA.

11. Optional – 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 continued its policy of “release to one, release to all” during this reporting period through a series of regular postings made to the public FOIA website ([foia.state.gov](http://foia.state.gov)) of records released in FOIA cases, excluding any Privacy Act or first-person requests involving privacy information. In FY 2021, the Department posted 8,595 additional records to its public FOIA website, making a total of 236,333 records available through the Department's transparency programs via the public website at the end of FY 2021.

## **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 describes your agency's efforts in this area.

1. For Fiscal Year 2021, 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 2021 Annual FOIA Report.

In FY 2021, the average number of days for adjudicating requests for expedited processing was 12 days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, 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 reviewed its intake and case processing procedures and assigned expedited cases to a specific FOIA case processing branch that is tracking these cases through a weekly report. This tracking is meant to further improve accountability and processing time to ensure that processing times strive to meet the statutory timeframe. The average number of days to process expedited cases at the Department dropped from 26.4 days in FY 2020 to 12 days in FY 2021.

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. 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?

No. The Department's draft FOIA regulations were submitted for public comment during this reporting period and are pending the Federal Register notice of the final rule.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as an agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

Yes.

Agency FOIA SOPs are reviewed/updated quarterly, semi-annually, or annually, as necessary, to account for changes in law, best practices, and technology as developments in case law arise or as statutory amendments require. SOPs are posted for internal staff on the Department's intranet website as a resource that describes the Department's standard processes for handling requests.



5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

N/A

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

Yes.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

The Department receives first-party requests on various subjects. Most requests involve access to personnel-related records, including medical files, which can be obtained without the need to submit a FOIA request.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing, and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

Yes, the Department has assessed its FOIA program on more than one occasion during this reporting period.

To improve its FOIA program, the Department has implemented a backlog reduction plan. The Department is currently in the third year of this 7-year plan. The Department's plan provides for distinct resources for both FOIA and FOIA litigation demands.

The Department has established metrics to track progress toward keeping up with perfecting incoming requests received by the Department, a weekly FOIA backlog report, and additional weekly reports to track simple and expedited cases received and pending in the Department. This data helps to inform management about the volume of incoming requests and make decisions about how to apply resources to meet the demands of incoming FOIA requests, which increased in FY 2021.

During the rating period, the Department continued its internal State Department FOIA Working Group comprised of employees from the FOIA Office, other Department offices that regularly receive FOIA cases, and all other Department offices that play a role in the Department's FOIA process. The governance body, chaired by the Director of the FOIA Office in the bureau overseen by the Chief FOIA Officer, reviewed the results of the OIP annual reports and discussed how to address any deficiencies or areas for improvement.

9. 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 2021 (please provide a total number or an estimate of the number).

The FOIA Public Liaison, who also serves as the Department's FOIA Program Manager, was contacted approximately 1,200 times during FY 2021 (approximately 260 times by phone and 940 by email), for an average of 100 times per month.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. The Department has taken hiring actions and is in the process of filling vacancies, including adding three employees to the Office's new FOIA Search Team.

11. Optional – Please describe:

Best practices used to ensure that your FOIA system operates efficiently and effectively. Any challenges your agency faces in this area.

One best practice the Department has implemented is the use of a team in the Department's Library to conduct searches. Trained researchers in the Government Information Specialist and Technical Information Services Federal job series analyze incoming FOIA requests and conduct searches of the Department's centralized archive of electronic records (known as "eRecords") and, if appropriate, the electronic manifests of retired paper files. This search team also makes recommendations regarding any additional Department bureaus or offices that should be tasked to search for responsive records.

Key challenges currently include the COVID-19 pandemic, which has limited the FOIA Office's access to classified information to process cases. Other challenges include the growing volume of electronic data retrieved in response to searches and challenges associated with different file types.

### **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. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

The Department continues its “release to one, release to all” approach to posting FOIA documents online, which it did throughout the reporting period. Except for first-person requests (i.e., those involving privacy or personally identifiable information), the Department endeavors to post on its FOIA website (<https://foia.state.gov>) those documents released to the public in the previous month.

2. Provide examples of 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.

These proactive releases include the posting of records released in response to both FOIA and FOIA litigation cases. Collections of records pertaining to specific subjects may be found at: <https://foia.state.gov/Search/Collections.aspx>. Additional content has been proactively released on the Department’s FOIA website. This approach allows the public to access thousands of documents that would otherwise only be available to individual requesters. As noted above, 8,595 records were posted to the public FOIA website in FY 2021, for a total of 236,333 records posted to the public FOIA website as of the end of FY 2021.

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Yes. The Department regularly publishes reports and other information on its public website at [www.state.gov](http://www.state.gov) (e.g., the Department’s annual Country Reports on Human Rights Practices and the annual Trafficking in Persons Report). The Office of the Historian maintains a public website at [history.state.gov](http://history.state.gov), which provides in-depth information to the public on the history of U.S. foreign policy. In addition to a [full text archive of the \*Foreign Relations\* series](#), the website includes valuable encyclopedic content on the history of [U.S. relations with states around the world](#) and a database of the [Department’s principal officers and chiefs of mission](#).

4. 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.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

The Department continues to make sure that any material posted to the FOIA website is searchable by the public, not just posted online. We also work to group certain web

postings together to make it easier for the public to find records that we have posted online.

We continue to post documents released under the FOIA to the FOIA website. The records released in most FOIA litigation cases, except in certain instances such as Privacy Act and first-person requests, are also being posted to the FOIA website, making them simultaneously available to both the plaintiffs in those cases and the public. Below is a link that includes documents proactively disclosed on the website:

<https://foia.state.gov/Search/Collections.aspx>

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

No.

Optional – Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your agency faces in this area

The Department is using its available resources to post online as many documents as possible each month. Beginning in calendar year 2017, nearly all documents released in FOIA cases are posted on the FOIA website, except for documents responsive to certain Privacy Act and first-person requests as well as in a few other instances. The preponderance of information released through the Department's FOIA process is now posted online within two months of the release of that information to the public. This approach exceeds the requirement to post records that have been or are likely to be requested multiple times. It is part of a strategy to use the website to promote transparency and to avoid duplicative requests in the future.

#### **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 reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

During the reporting period, the Department developed plans to launch updates to its public FOIA website including the expected launch of the Public Access Link feature in FOIAXpress. Additional plans to modernize the Department's public FOIA website and the Virtual Reading Room were also begun.

The Department changed and enhanced its current technology to more efficiently respond to FOIA demands, including the management of the Department's cloud-based eRecords archive and FOIAXpress. Each digital record in the eRecords repository is metadata enriched. These metadata fields serve as the building blocks that allow records to be more easily discoverable by searchers. The Department continues to explore products to leverage Artificial Intelligence to improve the electronic management of records in the eRecords archive. The Department also began exploring the use of technology assisted review to filter content from search results, thereby reducing the amount of non-responsive material that must be reviewed.

3. 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.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

Yes.

5. 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.

N/A

6. 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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

<https://foia.state.gov/Learn/Reports.aspx>

7. Optional – Please describe:

- Best practices used in greater utilizing technology
- Any challenges your agency faces in this area

There have been major improvements in the Department’s management of electronic records in a centralized, cloud-based eRecords archive that is interoperable with FOIAXpress. FOIAXpress allows one platform to complete all aspects of the FOIA process electronically, including searching for records previously provided in response to FOIA requests contained in its document storage component. The Department continues to explore products to leverage Artificial Intelligence to improve the electronic management of records in the eRecords archive. The Department also began exploring the use of technology assisted review to filter content from search results, thereby reducing the amount of non-responsive material that must be reviewed.

**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 FY 2020 and 2021 Annual FOIA Reports.

**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, according to Annual FOIA Report section VII.A., was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

No.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1.) divided by (requests processed from Section V.A.) x 100.

9.86%

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?

N/A

## **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 2020 and Fiscal Year 2021 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 2021, according to Annual FOIA Report Section XII.A., did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No.

6. If not, according to Annual FOIA Report Section V.A., did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

Yes.

7. If your agency's request backlog increased during Fiscal Year 2021, please 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.

The Department received approximately 18% more FOIA requests in FY 2021 than in FY 2020. This increase in the number of incoming requests, coupled with a decrease in FOIA staffing numbers, contributed to the increase in the FOIA backlog. The Department has been actively filling and recruiting for its FOIA vacancies and has also hired additional FOIA contract support.

The FOIA program also faced significant challenges and constraints because of the COVID-19 pandemic. Out of a paramount concern for the safety of its employees, for most of FY 2021, the Department remained in a maximum telework posture and limited on-site presence to mission critical functions only. This posture severely limited the number of FOIA staff that were available to work on-site to process information stored on secured networks and directly contributed to an increase in the FOIA backlog.

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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A.) divided by (requests received from Section V.A.) x 100. If your agency has no request backlog, please answer with "N/A".

139%

## **BACKLOGGED APPEALS**

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2. of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No.

10. If not, according to section XII.E.1. of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

Yes.

11. If your agency's appeal backlog increased during Fiscal Year 2021, please 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.



In FY 2021, the Department processed 37% more FOIA appeals than in FY 2020. Despite this significant increase in appeals processed, the Department's appeals backlog also increased in FY 2021. This increase can be attributed to an 84% increase in the number of appeals received as well as the effects of the COVID-19 pandemic, which severely limited the number of FOIA staff that were available to work on-site to process appeals, in particular those appeals involving the review of classified information.

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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A.) divided by (appeals received from Section VI.A.) x 100. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

75.5%

### **C. Backlog Reduction Plans**

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 were 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 2021?

Yes. The Department has developed a multi-year plan that allows for compliance with its increasing FOIA litigation demands while making concurrent progress in reducing its FOIA backlog. Under this plan, the Department estimates that it will be able to eliminate its FOIA backlog and keep up with incoming requests by FY 2027.

The Department continues to follow its backlog reduction plan and update and revise its FOIA policies and procedures to improve its FOIA program.

The Department's plan provides for distinct resources for both FOIA and FOIA litigation demands and sets an annual monthly closure rate target for FOIA requests with the goal of eliminating the backlog while keeping up with new, incoming FOIA requests. The Department has been given permission to fill key FOIA vacancies that will allow for dedicated resources in each program and will mitigate against the need to shift resources from FOIA to FOIA litigation cases.

The Department continues internal and external training of its full-time 306 series Government Information Specialists to process FOIA requests. The Department also hired new part-time retired annuitants and new full-time contract employees to process FOIA requests. The Department intends to hire additional Government Information Specialists and contract employees in FY 2022.

The Department intends to continue its practice of “release to one, release to all,” in which records released in FOIA cases are posted to the public FOIA website. Among other benefits, that practice enables the Department to close cases based on previous releases where records have already been posted online.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency’s plan to reduce this backlog during Fiscal Year 2022? In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

The Department will continue to implement the steps noted above, including updating its FOIA processes and using FOIAXpress.

#### **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 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

#### **OLDEST REQUESTS**

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 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 fewer than ten total oldest requests to close, please indicate that.

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

The Department continued to work on as many cases as possible remotely. Many of the Department’s oldest cases either contain classified information or are processed using a classified network, which was not accessible to the majority of FOIA employees throughout FY 2021.

## TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5., of your Fiscal Year 2020 Annual FOIA Report?

No.

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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

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

The Appeals Officer continues to work on the oldest pending appeals and is taking steps to improve and streamline the appeals review process, including adding more personnel. The ongoing COVID-19 pandemic and the Department's posture maximizing telework created challenges for completing the 10 oldest appeals and many of the other older appeals. Case processing capabilities were seriously constrained due to reduced reviewer resources, limited remote access to certain Department systems, and only a small fraction of the staff on-site at Department workstations. Once employees are able to safely return to work on a permanent basis, the Department plans to permanently shift resources to focus on the appeals backlog.

## TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

No.

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 2021 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

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## 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 Department's FOIA program faced significant challenges and constraints due to the COVID-19 pandemic. For most of FY 2021, the Department remained in a maximum telework posture, and employee on-site presence was severely limited. The inability of the majority of FOIA staff to access classified information systems continued to be the primary obstacle in closing the oldest FOIA requests, including appeals.

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.

N/A

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 2022.

The Department closed 9 of its oldest pending requests, 8 of its oldest appeals, and 4 of its oldest consultations.

The Department will continue with its efforts to close its oldest pending cases. Case processing capabilities were seriously constrained due to reduced reviewer resources, limited remote access to certain Department systems, and only a small fraction of the staff on-site at Department workstations. Once employees are able to safely return to work on a permanent basis, the Department plans to permanently shift resources to focus on closing the .10 oldest requests, appeals, and consultations.

## F. Success Stories

Out of all the activities undertaken by your agency since March 2021 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.

- **Records and FOIA Training:** In FY 2021, over 113,500 users of the Department's unclassified network completed mandatory records management training, which includes a module that explains each employee's responsibilities under the FOIA. In February and March of 2022, the FOIA Office introduced a FOIA Bootcamp. The Bootcamp is a comprehensive training program that all FOIA employees must complete. Topics covered included an overview of the FOIA, the history and structure of the FOIA, FOIA exemptions and exclusions, practice exercises, and a list of resources to further

employees' professional growth and development. Presenters included multiple subject matter experts from inside the FOIA Office and from another U.S. Government agency. The FOIA Office will be providing this training to employees throughout the Department who have FOIA responsibilities.

- **Nearly 8,600 Records Posted Online:** In FY 2021, the Department posted nearly 8,600 additional records to its public FOIA website, increasing the overall number of records available to the public via this site to 236,333 records.