

Office of the Director of National Intelligence

2017 Chief FOIA Officer Report

ODNI's Chief FOIA Officer – Mark Ewing, Chief Management Officer

This report covers the period beginning with March 2016 through March 2017 and outlines the steps the ODNI has taken to “improve FOIA operations and facilitate information disclosure.” The ODNI is deeply committed to transparency to the best of its abilities without harming national security.

Section I: Steps Taken to Apply the Presumption of Openness

A. FOIA Training

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

2. If yes, please provide a brief description of the type of training attended and the topics covered. We conducted our bi-annual FOIA Day, here at ODNI, where we had speakers from ODNI's Office of the General Counsel, DIA, DOJ and DOD. The topics covered were, Reducing Backlogs, Update and use of Exemption 5 and Exemption 1. Several employees also attended the Department of Justice (DOJ) and American Society of Access Professional (ASAP) trainings.

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. 100%

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. N/A

B. Outreach

5. OPTIONAL: Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Yes, ODNI conducts a bi-annual FOIA Day event, as well as taking part and leading the FOIA working group, which consists of representatives from FOIA offices within the Intelligence Community, we also had Thomas Blanton, from the National Security Archives, a frequent requestor, speak at our FOIA Day event

C. Other Initiatives

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA? ODNI is developing in-house FOIA slides. Upon completion, they will be posted on the IMD Outreach and Training website. The slides will be used by its public access professionals for training purposes. Until the FOIA slides are in place, ODNI provides in-house training to its FOIA professionals. High-level training is made available to the workforce. ODNI also provides community outreach, inviting speakers from other agencies to discuss topics of interest as part of our IC FOIA Day. ODNI has partnered with other agencies such as DoD to leverage existing training. ODNI implemented a plan from last year and provided brown bag training regularly for non-FOIA professionals who are routinely tasked with conducting FOIA search and review.

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. N/A

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

A. Processing Procedures

- 1. For Fiscal Year 2016, 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 2016 Annual FOIA Report.** The average number of days ODNI took for adjudicating expedited requests was 1.
- 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.** N/A
- 3. OPTIONAL: 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.** N/A
- 4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.** Roughly 20% of our requests came from commercial requesters.

B. Requester Services

5. OPTIONAL: Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to

receive feedback, using surveys posted on the agency's website, etc. No

6. 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 how often requesters sought assistance from your agency's FOIA Public Liaison. We have had a small amount, roughly 20 requesters that sought assistance from our FOIA Public Liaison.

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide. Below is the reference guide:

https://www.dni.gov/files/documents/FOIA/odni_foia_handbook.pdf

C. Other Initiatives

8. 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. N/A

Section III: Steps Taken to Increase Proactive Disclosures

A. Posting Material

1. Describe your agency's process or system for identifying "frequently requested" records that should be posted online. DNI continues to follow the "Release to All" policy. Whenever a direct response is made to a requester under FOIA, those documents are posted to our website. Based on public interest or world events that are high profile, we may identify additional records to post.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system. Yes. All ODNI components, working with PAO, CLPT, OLA, and IMD, help identify records for proactive disclosures and often review the records prior to disclosure.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? No

4. If so, briefly explain those challenges and how your agency is working to overcome them. N/A

5. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material. Since August 2015, in cooperation with the Pilot Program, ODNI has posted all FOIA responses, and will continue to do so, despite the Pilot Program ending in 2016. Under the FOIA, ODNI released the [ICIG Semiannual Report](#). In addition many documents are proactively reviewed prior to receipt of a FOIA request and are made available to the public through posting on its public website. DNI continues to make available on its public website DNI statements, speeches,

photographs, policy documents, and technical standards, to name a few. www.dni.gov

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts. No

B. Other Initiatives

1. 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? No to both questions.

Section IV: Steps Taken to Greater Utilize Technology

A. Making Material Posted Online More Useful

1. 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.

2. If yes, please provide examples of such improvements. ODNI is currently making information available in its most useful format on our website to include sub-categorizing common reports, policies, and documents for easy retrieval purposes. The ODNI allows keyword searches on our website for the general public to pursue documents that most interests their needs.

B. Other Initiatives

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2016? Only, first quarterly report was posted on our website for FY 16.

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 2017. We have been having IT issues that we are currently working with PAO and our IT department to get it corrected. In addition, we had a significant turnover on our FOIA team that led to delayed postings due to the need to train individuals. However, the remaining three quarterly reports for FY 16 will be posted within the next 30 days.

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

Reducing Backlogs

A. Simple Track

1. **Does your agency utilize a separate track for simple requests?** Yes
2. **If so, for your agency overall in Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?** 46.65
3. **Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.** 75%
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?**
Yes

B. Backlogs

BACKLOGGED REQUESTS

5. **If your agency had a backlog of requests at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.** No
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:**

We had an increase in FOIA requests in FY 16 from FY 2015 and encountered a large turnover of employees. The turnover resulted in delayed processing of FOIA requests due to excess training sessions. There was also an increase in complex FOIA requests resulting in longer processing timeframes and extensive collaborative efforts with OGAs.

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 2016.** 76.65%

BACKLOGGED APPEALS

8. **If your agency had a backlog of appeals at the close of Fiscal Year 2016,**

did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. 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:

- * 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 2016. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A. 12.38%

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

Section VIIE, 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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

11. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report? No

12. 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 VIIE of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. ODNI FOIA was able to close 9 of our top ten oldest cases.

13. 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?

N/A

TEN OLDEST APPEALS

14. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report? No

15. 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 VIII.C.6) of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. ODNI FOIA closed 7 of its ten oldest appeals.

TEN OLDEST CONSULTATIONS

16. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report? Yes

17. 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 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

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

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015. During the last fiscal year, our office has dealt with the departures of critical personnel, as well as having to train new team members in the midst of a major upward trend of incoming requests.

19. 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

20. We have closed several our top ten oldest cases and with the new influx of personnel, we will be in a much better position to close out more cases this year.

F. Success Stories

OPTIONAL: Out of all the activities undertaken by your agency since March 2016 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, these agency success stories will be highlighted during Sunshine Week by OIP. 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.**