

Office of the Director of National Intelligence

2018 Chief FOIA Officer Report
(March 2017-March 2018)

ODNI's Chief FOIA Officer – Deirdre Walsh, Chief Operations Officer¹

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?

Response: Yes.

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

Response: ODNI hosted an Intelligence Community (IC) FOIA Officers Information Day in April 2017. Topics covered were: the FOIA Improvement Act of 2016; Update and Use of Exemptions 2 & 7; Privacy Act Case Processing and its Intersection with FOIA; and the Future of IC Redaction Tools and FOIA Case Management Systems. Employees also attended the Department of Justice training, “FOIA Best Practices Workshop,” and the American Society of Access Professional Annual Conference, which covers current FOIA case law, best practices, overview of FOIA exemptions, and a variety of other FOIA-related information.

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.

Response: 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.

Response: N/A.

¹ Ms. Deirdre Walsh assumed office of Chief Operations Officer on February 20, 2018. She will participate in trainings this upcoming reporting period.

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?

Response: Yes.

C. Other Initiatives

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

Response: During EOD, all new ODNI employees are briefed on their responsibilities under the FOIA. In addition, FOIA information sessions are provided to components upon request.

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.

Response: ODNI takes reasonable steps to segregate and release all non-exempt information. In addition, all withholding of information must be supported by the subject matter experts in a documented harm statement.

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 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.

Response: 0 Note - Processes are now in place to document the number of days that were spent adjudicating requests for expedited processing to enable proper reporting in the future.

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.

Response: N/A

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual

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

Response: Yes. The FOIA team performed statistical overviews of the number of requests received, the litigations underway, and also tracked the oldest cases. The team also updated the FOIA Standard Operating Procedures, and realigned team members for more efficient processing and clarity of responsibilities.

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).

Response: Twice.

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.

Response: ODNI does not track the number of pages processed by request.

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.

Response: All newly received requests are searched against prior releases to eliminate redundancy. The FOIA team provides assistance to components regarding appropriate search terms to use for the most efficient results.

Section III: Steps Taken to Increase Proactive Disclosures

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

Response: ODNI proactively disclosed a variety of documents in the past reporting year including: ODNI reports and publications, press releases, speeches, interviews, congressional testimony, policy documents, and information about intelligence community activities. These documents are available on the ODNI website, at <https://www.dni.gov>, and the newly released website at intel.gov (<https://www.intelligence.gov>).

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

Response: Yes. ODNI regularly publicizes the information it proactively discloses on

its website, <https://www.dni.gov>, as well as intel.gov (<https://www.intelligence.gov>), and on <https://www.icontherecord.tumblr.com>. Information is made public through press releases, email updates, and social media. The Department of Justice's FOIA portal and the public facing websites of the IC agencies also provide links to the ODNI sites.

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?

Response: Yes.

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

Response: Improvements include: utilizing formats such as sub-categorizing ODNI reports, policies, and other documents of interest to allow for ease of retrieval and use; ability to conduct keyword search; and posting in .pdf format when possible.

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?

Response: ODNI components help identify records for proactive disclosures. Often, disclosures posted to intel.gov are informed by public interest on a particular matter, such as documents recovered from raid on Abbottabad, and material from an upcoming IC Historian's Panel declassification project on the subject of the Vietnam War Tet Offensive. The ODNI FOIA Team works closely with the ODNI Public Affairs Office, and the Civil Liberties, Privacy and Transparency Office in order to encourage proactive disclosure on items of public interest. To date, we have not used web analytics.

Section IV: Steps Taken to Greater Utilize Technology

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.

Response: ODNI leverages technology to facilitate overall FOIA efficiency. We are able to receive and respond to consults and referrals from other government agencies through the use of email accounts on various classified networks, i.e., SIPRNET, JWICS and ICE. In addition, ODNI utilizes the Inteldocs program on Intelink to expedite processing of documents. We are currently reviewing the FOIA redaction software of several other government agencies to assist us in acquiring the most efficient tool.

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

Response: No

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.

Response: ODNI is in the process of posting all quarterly reports for Fiscal Year 2017 to its website and expects them to be current within the next 60 days.

4. The FOIA Improvement Act of 2016 requires 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 Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

Response: Once posted, the ODNI data will be available on <https://www.dni.gov>.

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

Response: ODNI is actively defining our requirements for automated tools to assist our FOIA responsibilities.

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

A. Simple Track

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

Response: Yes.

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

Response: The average number of days to process simple requests was 24.33 working days.

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

Response: 75% of requests processed by ODNI in Fiscal Year 2017 were placed in the simple track.

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?

Response: N/A.

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?

Response: No.

6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.

Response: In Fiscal Year 2017, ODNI experienced an increase in the number of incoming requests, an increase in the complexity of the requests, and a period of resource turnover.

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.

Response: 78.7% of requests make up the request backlog.

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?

Response: No.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

Response: In Fiscal Year 2017, ODNI experienced an increase in the number of incoming appeals, an increase in the complexity of the requests, and a period of resource turnover.

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".

Response: 63.2% of appeals make up the appeals backlog.

C. Backlog Reduction Plan

11. In the 2017 guidelines for Chief FOIA officer Reports, any agency with a backlog of over 1000

request in Fiscal year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and not if your agency was able to achieve backlog reduction in Fiscal Year 2017?

Response: N/A.

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 the backlog during Fiscal Year 2018?

Response: N/A.

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

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?

Response: Yes.

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.

Response: N/A.

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?

Response: Five (5) of the Ten (10) oldest requests were closed because they were withdrawn by the requester. Other than acknowledgement letters, ODNI did not provide interim responses prior to the withdrawal.

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?

Response: No.

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

that.

Response: ODNI did not close any of its ten oldest appeals.

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?

Response: No.

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.

Response: ODNI closed 8 of its 10 oldest consultations.

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.

Response: In Fiscal Year 2017, ODNI experienced an increase in number and complexity of incoming requests, appeals, and consultations. These factors created obstacles to ODNI's ability to close its ten oldest appeals and consultations from Fiscal Year 2017.

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.

Response: 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.

Response: ODNI closed its "ten oldest" requests. We are currently reviewing the FOIA redaction software of several other government agencies and actively defining our requirements for automated tools to assist our FOIA responsibilities. In addition, we have updated the FOIA Standard Operating Procedures, realigned team members for more efficient processing and clarity of responsibilities, and are working more closely with components to keep search and review taskings on track to meet deadlines.

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.

Closed all 10 of ODNI's oldest pending cases –

- Made these cases a priority.
- Designated one person on the FOIA team as the lead for the cases.
- Reached out to each requester to ascertain continued interest or to narrow scope.
- Pointed requesters to other releases related to their subject.
- Informed other agencies of the need to finalize outstanding actions on these cases.
- Weekly status updates provided to FOIA Chief.