

UNCLASSIFIED

Office of the Director of National Intelligence

2020 Chief FOIA Officer Report

(March 2019 – March 2020)

ODNI's Chief FOIA Officer – Deirdre Walsh, Chief Operating Officer

Section 1: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

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

Response: Yes.

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

Response: Deirdre Walsh, Chief Operating Officer.

B. FOIA Training

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

Response: Yes.

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

Response: ODNI hosted an Intelligence Community (IC) FOIA Officers Information Day in April 2019. The following topics were covered: GLOMAR, IC FOIA Improvement Plan, National FOIA Portal Interoperability, New OIP Guidance & Resources, and Significant Recent FOIA Court Decisions. In September 2019, ODNI hosted an IC-wide Equities Recognition training event. There were 125 registered IC professionals, representing 15 of the IC agencies/elements. The purpose of the event was to teach agencies' review staff how to recognize the equities of other IC agencies. Better equities recognition ensures proper referrals when conducting reviews.

ODNI FOIA employees also attended the Department of Justice trainings "Advanced FOIA Seminar," "FOIA Litigation Workshop," and "FOIA Professional Seminar".

UNCLASSIFIED

5. 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%.

6. 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.

C. Outreach

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

Response: Yes, ODNI’s FOIA Chief and Public Liaison engages with requesters and explains ODNI processes to enable the requesters to tailor their requests for more narrowed and accurate searches. This results in a lower number of non-responsive documents being located in the initial search, and increase processing efficiency, e.g., reduces time spent making a determination on responsiveness of the documents located in the search.

D. Other Initiatives

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

Response: The ODNI Chief Operating Officer/Chief FOIA Officer hosted mandatory information sessions for senior officials and individuals in supervisory or leadership positions within the ODNI. These sessions provided an overview of the FOIA responsibilities as they apply to each component and the employees within.

All new ODNI personnel (staff and contractors) are briefed on their responsibilities under the FOIA as part of their Entrance on Duty. In addition, FOIA information sessions are provided to components with other mission-related duties upon request. All employees hired by the FOIA Branch have specific FOIA-related performance standards listed in their employee work plans.

UNCLASSIFIED

9. 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.

Response: Our FOIA professionals work with our Civil Liberties, Privacy and Transparency Office to identify subjects of public interest for proactive review and release. We do so in an effort to release as much information as possible, consistent with our obligation to protect classified information and sensitive intelligence sources and methods.

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

1. For Fiscal Year 2019, 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 2019 Annual FOIA Report.

Response: 12.76 days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Response: We have trained additional personnel to handle the case opening procedures which ensures that there will always be someone present to meet deadlines. In addition, the initial case processors have been directed to provide all requests for expedite to the FOIA Chief upon case opening.

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 Annual Report Data was reviewed and increased emphasis was placed on processing the oldest cases. Team members were assigned to work exclusively on those oldest case categories of appeals, consults, and initial. The FOIA Branch reviewed its web pages (both internal and external), existing policies, procedures, and practices, and updated them to be more effective and efficient.

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 2019 (please provide a total number or an estimate of the number).

Response: An estimated 15 times.

UNCLASSIFIED

5. Optional -- Please describe:

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

Response: All newly received requests are searched against prior cases to determine if the same or similar request has previously been processed. This saves processing time related to search and ensures consistency in our response.

The FOIA Branch provides assistance to components regarding appropriate search terms to use and databases or systems to search.

We also work with requesters to clarify requests and/or to narrow the scope of a request so that it can be processed correctly and more quickly.

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 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.

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 other information about IC activities. These documents are available on the ODNI website at <https://www.dni.gov>, and at <https://www.intelligence.gov>. ODNI continues to follow the "Release to one/Release to all" policy as originally piloted by DOJ. Accordingly, we proactively disclose documents upon their first release.

2. 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.

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

Response: Improvements include sub-categorizing ODNI reports, policies, and other documents of interest to allow for ease of retrieval and use; enhancing the ability to conduct keyword searches of our website; and posting documents in pdf searchable format when possible.

4. Optional -- Please describe:

- Best practices used to improve proactive disclosures and;

UNCLASSIFIED

- Any challenges your agency faces in this area.

Response: ODNI components help identify records for proactive disclosures. Also, many of the categories of records posted to intel.gov are informed by public interest on a particular subject matter. Further, the IC Historians' Panel identifies material for declassification review. The ODNI FOIA Branch also works closely with the ODNI Strategic Communications Division and the Civil Liberties, Privacy and Transparency Office in order to encourage proactive disclosure of items of public interest.

Section IV: Steps Taken to Greater Utilize Technology

1. Is your agency leveraging or exploring any new technology to facilitate efficiency in its administration that you have not previously reported? If so, please describe the type of technology.

Response: Yes. We are working closely with another IC agency to develop and refine a FOIA case management system that will have additional uses and benefits over the current platform. In the short term we are working internally to reorganize our case files and enable more accurate and efficient searches.

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

Response: Yes.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2019?

Response: Yes.

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 2019.

Response: N/A.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

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

UNCLASSIFIED

6. Optional -- Please describe:

- The best practices used in greater utilizing technology and;
- Any challenges your agency faces in this area.

Response: Challenge - ODNI must also be able to communicate with both IC and non-IC agencies to facilitate efficient referrals, consultations, and coordination.

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, ODNI uses a separate track for simple requests.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?

Response: Yes. The average number of days to process simple requests was 11.91 working days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.

Response: 39.22 %

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.

B. Backlogs

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

Response: No.

UNCLASSIFIED

6. If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018?

Response: Yes.

7. If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

Response: In Fiscal Year 2019, ODNI experienced an increase in the number of incoming requests, an increase in the complexity of the requests, and a period of resource turnover.

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 2019. If your agency has no request backlog, please answer with "N/A."

Response: 111.53 %

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

Response: Yes

10. If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?

Response: N/A

11. If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

Response: N/A

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 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."

Response: 129.41 %

UNCLASSIFIED

C. Backlog Reduction Plans

13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 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 2019?

Response: N/A.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?

Response: N/A.

D. Status of Oldest Requests, Appeals, and Consultations

OLDEST REQUESTS

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Response: 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 2018 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

Response: ODNI closed 8 of its 10 oldest requests.

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

Response: The FOIA Branch continuously audits the FOIA processing queues and identifies requests that can be completed with minimal outside consultations. ODNI FOIA reaches out to requesters to verify continued interest when a request has been on the backlog for an extended period, or if the subject of the request no longer appears to be of public interest.

UNCLASSIFIED

TEN OLDEST APPEALS

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Response: 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 VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

Response: ODNI closed 6 of its 10 oldest appeals.

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

Response: ODNI FOIA contacted requesters to discuss the reason for their appeal, and was able in several instances to provide enough information pertaining to the types of records under the purview of ODNI to gain agreement from the requester to withdraw.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Response: Yes

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

Response: N/A.

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 2019.

Response: In Fiscal Year 2019, ODNI experienced an increase in number and complexity of incoming requests, appeals, and consultations. In addition, outstanding consultations regarding our oldest requests and appeals negatively impacted our ability to close these cases. Although, these factors

UNCLASSIFIED

created obstacles to ODNI’s ability to close its ten oldest requests and appeals, ODNI was still able to close its ten oldest consultations.

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.

Date received	Consultation sent	Last contact
02-20-2013	08-13-2019 follow up	01-31-2020 final response
08-05-2013	08-13-2019 follow up	01-31-2020 final response

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 2020.

Response: We have 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 2019 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.

Leadership Support to FOIA

ODNI’s Chief Operating Officer/Chief FOIA Officer included a FOIA briefing as part of the newly instituted Management Stand Down Training. These training sessions, held at least 4 times during the past few months, are currently mandatory for all Senior Staff and Supervisory personnel, with the intent to expand to the entire workforce in the near future.

UNCLASSIFIED

This type of Senior Leadership involvement and support of the FOIA program underscores the importance of compliance with FOIA laws and regulations. Providing staff with a better understanding of FOIA requirements and processes creates an environment that promotes more efficient processing of FOIA requests. Having the backing of the Chief Operating Officer/Chief FOIA Officer engenders trust in the FOIA program of the ODNI and goes a long way to fostering better relations across all levels.

IC-Wide Equities Training

ODNI hosted its first ever IC-wide equities training event in September 2019.

There were 15 of the IC agencies represented among the 125 registered attendees.

Nine of the IC agencies/elements presented briefings.

The event was open, not only to FOIA professionals, but also to Pre-publication, Classification, and Transparency offices.