

Office of the Director National Intelligence

FREEDOM OF INFORMATION ACT ANNUAL REPORT

FISCAL YEAR 2020

Section I: Basic Information Regarding Report

1. Provide name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

Mrs. Sally A. Nicholson
Chief, Information Review and Release Group (IRRG)
Information Management Office (IMO)
Office of the Director of National Intelligence
Washington, D.C. 20511
(703) 275-3500

2. Provide an electronic link for access to the Report on the agency Web site.

<https://www.dni.gov/index.php/download-odni-foia-reports>

3. Explain how to obtain a copy of the Report in paper form.

Submit a written request to mail address above. FOIA requests may also be submitted electronically to DNI-FOIA@dni.gov.

Section II: Making a FOIA Request

1. Provide names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

The mailing address in Section I, above, is the single, central office which receives all FOIA requests for the Director of National Intelligence. Any FOIA requests received by components of the ODNI are referred to the FOIA Branch.

2. Provide a brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

ODNI consistently protects, among other things, classified national security

information and intelligence sources and methods pursuant to FOIA exemptions 1 and 3.

3. Provide a functional electronic link to agency FOIA regulations, including the agency's fee schedule. (NOTE: Agency FOIA Regulations were formerly listed at Section XI of the human-readable version of the Report).

<https://www.dni.gov/files/documents/FOIA/foia%20regs.pdf>

Section III: Definitions of Terms and Acronyms Used in the Report

1. Agency-specific acronyms or other terms.
 - a. ODNI: Office of the Director of National Intelligence
 - b. IM: Information Management
2. Basic terms, expressed in common terminology.
 - a. FOIA/PA Request- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requesters are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.
 - b. Initial Request – a request to a federal agency for access to records under the Freedom of Information Act.
 - c. Administrative Appeal – a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
 - d. Processed Request or Appeal – a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
 - e. Multi-track Processing – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first in/first out bases. A requester who has an urgent need for records may request expedited processing (see below).
 - f. Expedited Processing – an agency will process a FOIA request on an Expedited bases when a requester has shown an exceptional need or urgency for the

records which warrants prioritization of his or her request over other requests that were made earlier.

- g. Simple Request – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
- h. Complex Request – a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
- i. Grant – an agency decision to disclose all records in full in response to a FOIA request.
- j. Partial Grant – an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in the entirety, but to withhold others in whole or in part.
- k. Denial – an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA’s exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
- l. Time Limits – the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a “perfected” FOIA request).
- m. “Perfected” Request – a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
- n. Exemption 3 Statute – a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
- o. Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

- p. Average Number - the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

3. Concise Descriptions of FOIA Exemptions

- (b)(1) exempts from disclosure material properly classified, pursuant to an Executive Order, because it is related to matters of national defense or foreign policy;
- (b)(2) exempts from disclosure information, which pertains solely to the internal personnel rules and practices of the Agency;
- (b)(3) exempts from disclosure materials that another federal statute protects, provided that the other federal statute either requires that the matters be withheld, or establishes particular criteria for withholding or refers to particular types of matters to be withheld.
- (b)(4) exempts from disclosure information such as trade secrets and commercial or financial information obtained from a person on a privileged or confidential basis;
- (b)(5) exempts from disclosure inter-and-intra agency pre-decisional and deliberative memoranda or letters. The same section exempts attorney work-product or attorney-client information;
- (b)(6) exempts from disclosure material that would be an unwarranted invasion of the personal privacy of the individuals.
- (b)(7) exempts from disclosure law enforcement investigatory records that, if released, would either (A) interfere with enforcement proceedings, (B) deprive a person of the right to a fair trial; (C) be an unwarranted invasion of personal privacy; (D) identify a confidential source; (E) reveal investigative techniques and procedures; or (F) endanger someone's life or physical safety.
- (b)(8) exempts from disclosure information contained in reports or examinations of an agency responsible for regulating or supervising banks, savings and loans, or other financial institutions.
- (b)(9) exempts from disclosure information about wells.

4. Concise Descriptions of Privacy Act Exemptions:

- (d)(5) exempts from disclosure information compiled in reasonable anticipation of a civil action or proceeding;
- (j)(1) exempts from disclosure certain information maintained by the CIA;
- (j)(2) exempts from disclosure certain records of agencies whose primary mission is enforcing criminal laws (e.g. the Federal Bureau of Investigation, the Drug Enforcement Agency, or the Bureau of Alcohol, Tobacco, and Firearms);

- (k)(1) exempts from disclosure information properly classified pursuant to an Executive Order in the interest of national defense or foreign policy;
- (k)(2) exempts from disclosure investigatory material compiled for law enforcement purposes;
- (k)(3) exempts from disclosure information pertaining to the protective services afforded the President of the United States;
- (k)(4) exempts from disclosure information that statutes require to be maintained and used solely as statistical records;
- (k)(5) exempts from disclosure information or investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, or access to classified information, the release of which would disclose a confidential source;
- (k)(6) exempts from disclosure testing or examination material the federal government uses to determine individual qualifications for appointment or promotion, the release of which would compromise the testing or examination process;
- (k)(7) exempts from disclosure evaluation material the armed forces use to determine an individual's potential for promotion, but only if disclosure would reveal the identity of a source who furnished information after the government's express promise to keep that source's identity confidential.

3. Agency Component Abbreviations

Component Abbreviation	Component Name
ODNI	Office of the Director of National Intelligence

IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
50 U.S.C. § 3024(i)(1) (formerly at 50 U.S.C. § 403-1(i)(1)) (National Security Act of 1947)	Intelligence sources and methods	CIA v. Sims, 471 U.S. 159, 167 (1985).	ODNI	218	218
50 U.S.C. § 3507 (formerly at 50 U.S.C. § 403g) (Central Intelligence Agency Act of 1949)	Intelligence sources and methods; certain information pertaining to Agency employees, specifically: "the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency"	Assassination Archives & Research Ctr. v. CIA, No. 18-5280, 2019 WL 691517 (D.C. Cir. Feb. 15, 2019) (per curiam); ACLU v. DOJ, 681 F.3d 61, 72-75 (2d Cir. 2012); Berman v. CIA, 501 F.3d 1136, 1137-38, 1140 (9th Cir. 2007); Makky v. Chertoff, 489 F. Supp. 2d 421, 442 (D.N.J. 2007), aff'd on other grounds, 541 F. 3d 205 (3d Cir. 2008).	ODNI	68	68

V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Agency / Component	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
ODNI	588	527	406	709

V.B.(1). DISPOSITION OF FOIA REQUESTS -- ALL PROCESSED REQUESTS

Agency / Component	Number of Full Grants	Number of Partial Grants / Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in Chart Below	
ODNI	38	199	25	86	2	15	0	3	3	1	3	31	406

V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS"

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
ODNI	Litigation	17	31
	Unable to Locate or Contact Requester	6	
	Request Opened in Error	5	
	Early appeal filed, request administratively closed due to ODNI tracking system limitations and processed on appeal	3	

VI.C.(2). REASONS FOR DENIAL ON APPEAL -- REASONS OTHER THAN EXEMPTIONS

Agency / Component	No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
ODNI	15	0	3	0	0	0	0	0	18	0	0

VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS

Agency / Component	Description of "Other" Reasons for Denial on Appeal from Chart C(2)	Number of Times "Other" Reason Was Relied Upon	TOTAL
ODNI	N/A	0	0

VI.C.(4). RESPONSE TIME FOR ADMINISTRATIVE APPEALS

Agency / Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
ODNI	111	320.07	1	1889

VI.C.(5). TEN OLDEST PENDING ADMINISTRATIVE APPEALS

Agency / Component		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
ODNI	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	2020-02-25	2019-07-26	2019-01-15	2014-10-15
	Number of Days Pending	0	0	0	0	0	0	154	298	432	1497

VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
ODNI	1	4.68	<1	316	28.50	214.36	<1	1823	92.50	74	<1	111

VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
ODNI	1	1.69	<1	16	6.0	194.43	<1	1823	N/A	N/A	N/A	N/A

VII.C. PROCESSED SIMPLE REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
ODNI	187	0	0	0	1	1	0	0	0	0	0	1	0	190

VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
ODNI	87	10	11	3	12	5	0	3	0	3	5	8	35	182

VII.C. PROCESSED REQUESTS GRANTED EXPEDITED PROCESSING -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
ODNI	1	0	0	0	2	1	0	0	0	0	0	0	0	4

VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

Agency / Component	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
ODNI	115	478.00	566.30	594	578.00	625.63	0	N/A	N/A

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
ODNI	Date of Receipt	2014-04-08	2014-04-01	2014-04-01	2014-04-01	2014-04-01	2014-04-01	2014-03-25	2013-12-16	2013-12-12	2013-11-27
	Number of Days Pending	1629	1634	1634	1634	1634	1634	1639	1706	1708	1718

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
ODNI	6	38	<1	<1	38

VIII.B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
ODNI	107	0	<1	<1

IX. FOIA Personnel and Costs

Agency / Component	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
ODNI	8	1.00	9.00	1853000.00	137849.00	1990849.00

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
ODNI	0.00	0.0000

XI.A. Number of Times Subsection (C) Used

Agency / Component	Number of Times Subsection Used
ODNI	0

XI.B. Number of Subsection (A)(2) Postings

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
ODNI	6	10

XII.A. Backlogs of FOIA Requests and Administrative Appeals

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
ODNI	696	4

XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
ODNI	21	90	81	30

XII.C. CONSULTATIONS ON FOIA REQUESTS -- TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
ODNI	Date	2019-09-30	2019-08-30	2019-08-26	2019-08-12	2019-08-01	2019-08-01	2019-08-01	2019-07-31	2019-07-03	2019-05-23
	Number of Days	253	273	277	287	294	294	294	295	314	342

XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- REQUESTS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
ODNI	503	527	464	406

XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED REQUESTS

Agency / Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
ODNI	561	696

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
ODNI	17	25	31	45

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Agency / Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
ODNI	22	4