

# **2014 Chief FOIA Officer Report of the Office of National Drug Control Policy**

## **Section I: Steps Taken to Apply the Presumption of Openness**

### *FOIA Training:*

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Yes.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

The ONDCP Office of Legal Counsel conducted one session of FOIA training in 2013 that was made available to all ONDCP employees and mandatory for component FOIA liaisons. The training was a general overview of the FOIA process including the most recent guidance provided by the Department of Justice. Approximately fifteen people attended.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

No.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

Due to its small size, ONDCP does not have personnel assigned full time to administration of its FOIA program. FOIA duties have been assigned to one attorney in the Office of Legal Counsel. He conducted a mandatory FOIA training for component FOIA liaisons, who assist in identifying documents responsive to FOIA requests.

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

The attorney who served as ONDCP's FOIA officer retired during 2013. ONDCP is in the process of hiring an attorney whose responsibilities will include administration of the FOIA program. That individual will receive formalized FOIA training including participation in programs such as those provided by the Department of Justice. As noted above, ONDCP conducts a FOIA training session for component FOIA liaisons each year.

### *Outreach:*

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

No.

*Discretionary Disclosures:*

7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

Before a response is provided to the requester, the attorney responsible for the FOIA program reviews the material to ensure that where an exemption applies, the records will be withheld or redacted only where ONDCP is able to articulate the harm that would result from the release of such information. The vast majority of ONDCP's responses are made without redactions, excepting personal information which we cannot share.

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Yes.

9. What exemptions would have covered the information that was released as a matter of discretion?

The information was in the nature of inter-agency and/or intra-agency communications protected by Exemption 5.

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

See answer to #9.

11. If your agency was not able to make any discretionary releases of information, please explain why.

Not applicable.

*Other Initiatives:*

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

No. As noted above, ONDCP's former FOIA officer retired in the middle of 2013, and we are in the process of hiring a new attorney whose duties will include FOIA. Quarterly reports will be part of his FOIA related responsibilities.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

None.

## **Section II: Steps Taken to Ensure ONDCP Has an Effective System in Place for Responding to Requests**

### *Personnel:*

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

Due to its small size, ONDCP does not have personnel assigned full time to administration of its FOIA program. FOIA responsibilities have been assigned to one of the attorneys in the Office of Legal Counsel. Because ONDCP does not have any personnel assigned full time to FOIA, the newly created Government Information Specialist job series is not applicable to any of our employees.

2. If not, what proportion of personnel has been converted to the new job series?

See previous answer.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

See previous answer.

### *Processing Procedures:*

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

No. Staff shortage is being remedied, as explained above.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

ONDCP had no consultations and referrals in FY2013.

### *Requester Services:*

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

Yes, ONDCP does use e-mail and other electronic means to communicate with requesters.

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

No.

8. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.

Annual training of FOIA liaisons in each agency component to facilitate process for identifying and reviewing requested materials.

### **Section III: Steps Taken to Increase Proactive Disclosures**

#### *Posting Material:*

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

No.

2. If so, describe the system that is in place.

Not applicable.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

Much of the information ONDCP utilizes in formulating policy comes from publicly available sources generated from outside the agency. However, the ONDCP Office of Research and Data Analysis contracts for significant research studies regarding drug use and its consequences which are made available to the public on the ONDCP website. The Office of Research and Data Analysis also produces a compendium of drug-related data each year which is made available to the public electronically in a Data Supplement to the National Drug Control Strategy.

#### *Making Posted Material More Useful:*

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, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

No.

5. If so, provide examples of such improvements.

Not applicable.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

No.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

No.

8. Describe any other steps taken to increase proactive disclosures at your agency.

ONDCP has made an ongoing effort to provide more substantive information and data on its website, and through social media.

## **Section IV: Steps Taken to Greater Utilize Technology**

### *Online tracking of FOIA requests:*

1. Can a FOIA requester track the status of his/her request electronically?

No.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

Not applicable.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

Not applicable.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

Not applicable.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

The agency is exploring the available options for establishing an online tracking system.

### *Use of technology to facilitate processing of requests:*

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced 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?

No.

7. If so, describe the technological improvements being made.

Not applicable.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

Yes, the agency is exploring additional technological tools.

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs**

### *Simple Track Requests:*

1. 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.

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

No.

- b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

Not applicable.

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

No.

### *Backlogs and "Ten Oldest" Requests, Appeals and Consultations:*

2. 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. 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

#### Backlogs

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

No. FY2012 – 3 requests, FY2013 – 6 requests

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

There was no backlog of administrative appeals in either year.

### Ten Oldest Requests

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

Yes.

- d. 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 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

There were only three pending requests at the end of FY2012 listed in Section VII.E.

### Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

None pending from FY2012.

- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

### Ten Oldest Consultations

- g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

None pending from FY2012.

- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

### *Reasons for Any Backlogs:*

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

#### Request and/or Appeal Backlog

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

Yes, the number of incoming requests increased significantly.

- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

Yes. Due to its small size, ONDCP does not have personnel assigned full time to administration of its FOIA program. FOIA duties have been assigned to one of the four attorneys in the Office of Legal Counsel. In past years, that has enabled ONDCP to respond in a timely and complete manner to the FOIA requests that the Agency receives. The individual who served as ONDCP's longtime FOIA Officer retired during 2013, and the Agency also unexpectedly lost two other attorneys. The serious staff shortage that resulted explains the increased response time for some FOIA requests in 2013.

- c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?

No.

- d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

None.

"Ten oldest" Not Closed

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.

Not applicable.

- f. If your agency was unable to close any of its ten oldest requests or appeals 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.

Not applicable.

*Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:*

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014.

Not applicable.

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.

Not applicable.

*Interim Responses:*

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes, interim responses are provided when appropriate.

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

The backlog consisted of only six requests. None involved interim responses.

**Use of FOIA's Law Enforcement "Exclusions"**

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

No.

2. If so, what was the total number of times exclusions were invoked?

None.

**Spotlight on Success**

ONDCP is in the process of hiring an attorney whose responsibilities will include administration of the FOIA program. He will replace the Agency's longtime FOIA officer who retired in 2013.