

# **2015 Chief FOIA Officer Report**

**National Archives and Records Administration**

**Gary M. Stern, General Counsel and Chief FOIA Officer**

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

The guiding principle underlying the President's [FOIA Memorandum](#) and the Attorney General's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

### *FOIA Training:*

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?
  - Training can include holding an agency-wide FOIA conference, holding a seminar on a particular FOIA topic, or provided training to FOIA or agency staff during a staff meeting, among other types of training. However, the training provided should be substantive and should cover the application of the law and policy.

**Answer:** Yes.

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

**Answer:** The Office of General Counsel and the Office of Research Services conducted multiple webinars for those NARA employees who are not in the Washington Capital region with a focus on the application of FOIA exemptions for archival records. The two offices also gave four presentations for the public, volunteers and NARA staff regarding an overview of the FOIA and the many ways the FOIA intersects with the mission of the agency. The Presidential Materials Division conducted training for 17 archival staff of the George W. Bush Presidential Library on March 4 - 8 and again on August 19 -23, 2014. The training in March focused on the proper application of FOIA exemptions, as well as Presidential Records Act (PRA) restrictions, and the August training focused on FOIA administration and best practices.

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

- Such training or events can include offerings from OIP, your own agency or another agency or organization.

**Answer:** Yes.

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.

**Answer:** 70%

5. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

- Include any successes or challenges your agency has seen in implementing your plan.

**Answer:** We have offered training to all agency FOIA professionals.

*Outreach:*

6. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

- This question addresses outreach that is conducted outside of the individual request or appeal process. For example, outreach activities can include engaging with frequent requesters by holding meetings or events which include them, conducting surveys or otherwise soliciting requester feedback, or participating in any other requester initiative coordinated by your agency or by others, such as OIP.

**Answer:** Yes.

The Office of Government Information Services (OGIS), along with the Office of Information Policy (OIP), co-host a series of roundtable discussions with FOIA professionals and the FOIA requester community. These regular sessions focus on issues surrounding requests made for various types of records, such as law enforcement records, records about third parties, and contractor and other business-related records, as well as the procedural issues associated with document referrals and consultations. These sessions provide an opportunity to participate in the exchange of ideas and help increase understanding of the issues surrounding these various topical areas.

The Archivist of the United States and the General Counsel/Chief FOIA Officer have regular meetings with representatives of NARA's requester community to discuss issues related to access to records at the National Archives, including access through the FOIA.

7. If you did not conduct any outreach during the reporting period, please describe why?

**Answer:** N/A

*Discretionary Releases:*

8. Does your agency have a distinct process or system 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 of your agency have such a process or system in place?

**Answer:** Yes. Although NARA does not have a formal process for making discretionary disclosures for archival records, due to the age of most of the records in the National Archives, NARA routinely makes discretionary releases in the processing of our archival holdings, and in the processing of any access request. Moreover, the NARA FOIA Office makes discretionary releases of NARA's operational files after conducting balancing tests regarding information that is not otherwise exempt.

9. During the reporting period, did your agency make any discretionary releases of information?

**Answer:** Yes.

10. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on [implementing the President's and Attorney General's FOIA Memoranda](#).

**Answer:** (b)(5)

11. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

**Answer:** The Office of Government Information Services (OGIS) has provided online access to final response letters to FOIA requesters and/or Federal agencies who contacted OGIS for assistance with resolving FOIA disputes. The letters in this collection shed light on the mediation services OGIS provides in the context of the Federal FOIA landscape (See <https://ogis.archives.gov/about-ogis/about-ogis-final-response-letters-to-customers.htm>).

NARA also completed the proactive opening of Clinton Presidential records that had previously been withheld pursuant to the Presidential Records Act. Specifically, these documents related to appointments to Federal office and confidential communications between the President and his advisors or among those advisors. This release resulted in

approximately 30,000 pages of White House deliberations being made available to the public. Additionally, these records were all scanned and released on the Clinton Library website.

Examples of operational files that have been released as a matter of discretion are the records that document the privilege review conducted by representatives of the incumbent and former Presidents under the Presidential Records Act related to the Health Care Task Force records at the Clinton Presidential Library. These notification records are now required to be disclosed by the recent enactment of the Presidential and Federal Records Act Amendments of 2014, P.L. 113-187. (See <http://www.archives.gov/foia/pr-notifications/>).

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

**Answer:** N/A

*Other Initiatives:*

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

- Efforts can include training for non-FOIA professionals, distributing memoranda on the FOIA, announcements on FOIA matters, etc.

**Answer:** The Archivist of the United States issued an agency-wide notice during Sunshine Week on “Leading by Example,” in which he stated that: “FOIA is everyone’s responsibility; and we must each respond promptly if we receive a request for records. However, there is much more that can be done. For example, we must maintain NARA’s operational records as carefully as we maintain the records of other agencies. And we should consider ways that we can improve the customer service that we offer our researchers.” The Office of General Counsel and the Office of Records Services conducted multiple webinars for those NARA employees who are not in the Washington Capital region with a focus on the application of FOIA exemptions in historical collections. This training is available to all NARA staff through an internal agency webpage. The two offices also gave four presentations for the public, volunteers and NARA staff regarding an overview of the FOIA and the many ways the FOIA intersects with the mission of the agency. These presentations are available online through the “Know Your Records” program (see <http://www.archives.gov/calendar/know-your-records/>). The Office of General Counsel is taking steps to create an internal knowledge repository for FOIA related information, e.g., court opinions, white papers, etc.

14. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

- If any of these initiatives are online, please provide links in your description.

**Answer:** Through its core statutory mission, NARA has been making the vast majority of its records available to the public without reliance on the FOIA. Furthermore, due to the age of most of the records in the National Archives, NARA routinely makes discretionary releases in the processing of our archival holdings and in the processing of any access request.

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

As the Attorney General emphasized in his [FOIA Guidelines](#), "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

### *Personnel:*

1. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies about the status of converting all eligible FOIA professionals to the new Government Information Series. If your agency reported that its staff was eligible for conversion but had not yet converted all professionals to the new series, what is the current proportion of personnel that have been converted?

**Answer:** There is only one NARA employee who is in the Government Information Series.

2. If your agency has not converted all of its eligible employees yet, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

**Answer:** NARA does not plan to convert to the new Government Information Series. Most NARA employees are within the Series 1420 (Archivist) or 1421 (Archives Specialist/Technician), because their core work involves archival activities, which includes, but is not comprised wholly of, FOIA responsibilities. At this point, NARA does not have any additional positions eligible for conversion to the GIS.

### *Processing Procedures:*

3. For Fiscal Year 2014, 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 2014 Annual FOIA Report.

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.

**Answer:** 3.26 days

4. 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.

**Answer:** N/A

5. If your agency has a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.

**Answer:** Yes. NARA has invested in an internal communications network that has enhanced communication between and among the various offices; requesters who do not know which archival facility holds the appropriate records to which they see access may submit their request to [FOIA@nara.gov](mailto:FOIA@nara.gov). The Office of General Counsel monitors this email account and forwards the request to the appropriate office.

6. If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.

**Answer:** See above.

*Requester Services:*

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? *See OIP Guidance, “[Notifying Requesters of the Mediation Services Offered by OGIS](#).”* (July 9, 2010).

**Answer:** Yes.

8. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? *See OIP Guidance, “[The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications](#).”* (Nov. 22, 2013)

**Answer:** The Office of General Counsel assesses fees for operational records; in those instances in which NARA charges fees the requester is clearly informed of the fee structures. In the case of accessioned archival records, NARA has published its statutorily mandated fee structure at <http://www.archives.gov/research/order/fees.html>, and all requesters are informed in writing of the cost of reproduction.

9. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester?

**Answer:** Yes.

*Other Initiatives:*

10. If there are 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., please describe them here.

**Answer:** The Chief FOIA Officer instituted Quarterly NARA FOIA Council meetings to share Best Practices among NARA offices in FY 2014. During FY 2015 the Chief FOIA Officer is expanding this meeting to monthly.

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

Both the [President](#) and the [Attorney General](#) focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

*Posting Material:*

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

**Answer:** NARA has been implementing our Strategic Goal (*see* <http://www.archives.gov/digitization/strategy.html>) to digitize our holdings for greater access to the public. Based on comments it has received from the public, NARA has focused our process in five areas: (1) Expanding the focus to new types of partnerships and new types of records. NARA's Principles for Partnerships can be found [here](#). (2) Crowd-sourcing digitization and metadata creation; (3) NARA will engage with Federal agencies to ensure that agency-digitized permanent records can flow into our [Online Public Access catalog](#); (4) Think digital first: NARA will incorporate a focus on online access into our work processes and enable created digital content to flow into our catalog; and (5) NARA will continue to leverage its own Digitization Labs for work that partners and contractors cannot do.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

**Answer:** Yes. See answer above.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

**Answer:** NARA does not have a formal process to identify “frequently requested” documents due to the fact that through its core statutory mission, NARA is implementing our Strategic Goal of digitizing and making our entire holdings publicly available. Various access requests help direct resources to those records currently requested for digitization.

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

**Answer:** The National Archives National Declassification Center (NDC), in partnership with the Central Intelligence Agency's (CIA) Historical Review Program, hosted a free symposium to tell the story of the people of Berlin and their struggle for freedom. (*see <http://www.archives.gov/research/foreign-policy/cold-war/berlin-wall-1962-1987/>*).

At the request of the White House, the NDC produced two CD collections that included a number of recently declassified records responsive to a request by the Brazilian National Truth Commission for records relating to human rights abuses during the 1964 – 1985 timeframe. Vice President Biden provided the initial collection to the Brazilian Government during his June 16-17 visit to Brazil and a second tranche was given in December. The NDC is working with the National Security Council and pertinent agencies within the declassification community as well as with other NARA staff on an expanded project, encompassing recently located unclassified records as well as records requiring final declassification processing. The Richard Nixon Presidential Library and Museum opened to the public approximately 193 days of former White House Chief of Staff, H.R. (Bob) Haldeman’s audio diary online at [www.nixonlibrary.gov](http://www.nixonlibrary.gov).

The Clinton Presidential Library digitized approximately 30,000 pages of White House deliberations. *See <http://clinton.presidentiallibraries.us/collections/show/43>*.

*Other Initiatives:*

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

**Answer:** N/A

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

A key component of the President’s [FOIA Memorandum](#) was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that describes your agency's efforts in this area.

*Online tracking of FOIA requests:*

1. Can a member of the public track the status of his or her request or appeal electronically?

**Answer:** Yes, depending on how they filed their request initially. The NARA FOIA Officer has been using the FOIAonline Portal to track those FOIA requests for operational records which have been submitted electronically via FOIAonline. All other components of NARA allow a requester to examine, via our website, their place in the overall NARA queue. The requester will need to communicate with the individual FOIA component to determine where the request resides in that office's specific queue.

2. If yes, how is this tracking feature provided to the public? For example, is it being done through the regular posting of status logs, an online portal, or through another medium?

**Answer:** The FOIAonline Portal is an online portal, while the NARA queue is a monthly updated log posted in NARA's FOIA [Electronic Reading Room](#).

3. If your agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some online tracking features may tell the requester whether the request is "open" or "closed," while others will provide further details throughout the course of the processing, such as "search commenced" or "documents currently in review."

**Answer:** The FOIAonline Portal allows the public to see the following fields: Tracking Number, Type of request, Phase of request, Requester, Requester Organization, Date Submitted, Due Date, and Detail of request. The NARA queue that can be found on our webpage lists the case number and the date of the request.

4. If your agency does provide online tracking for requesters, does this feature also provide an estimated date of completion?

**Answer:** FOIAonline provides an automated date based on the statutory deadline. The FOIA queue does not; however, the NARA office that handles FOIAs for accessioned records in the Washington, DC area gives an estimated date in their initial response letters.

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

**Answer:** NARA is in the process of expanding the data that can be found in our on-line FOIA queue, and preparing for the possible move of all of our offices to an online portal.

*Making Material Posted Online More Useful:*

6. 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?

- Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.

**Answer:** Yes.

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

- If your agency is already posting material in its most useful format, please describe these efforts.

**Answer:** NARA's Strategic Plan for 2014-2018 describes where we are headed and is our guide for aligning priorities and assigning resources. With the help of our staff and stakeholders, we will take stock of accomplishments and improve the way we measure our success. The agency's Goal 3: "Maximize NARA's Value to the Nation," is directly related to making our material posted online more useful, especially noted in the two objectives: Objective 1: Reform and modernize records management policies and practices within the Federal Government to effectively support the transition to a digital government, and Objective 2: Drive public and commercial use and re-use of government records to create measurable economic activity.

NARA has established an 18-month pilot project at the Clinton Library to digitize records requested through the FOIA per the Presidential Records Act. Upon receipt of a FOIA request, materials will be reviewed and digitized, with the creation of necessary metadata. Then the digitized records (along with copies of withdrawal sheets) will be provided electronically to the President's access representative as part of the notification process required by the Presidential Records Act. After the access representative has reviewed the records per the PRA and E.O. 13489, those digitized records will be placed in NARA's online Catalog for public access. Also, as part of this project, personnel will digitize other materials that already have been systematically processed and are ready for public access. This pilot will provide valuable information in determining the best way to make the most records available in digital form – not just at the Clinton Library but across the National Archives' numerous holdings.

The National Archives Catalogue is the online public portal to access our digital archival records and information about those records. It currently provides access to nearly one

million electronic records, which are not available elsewhere online. We have updated the Catalog to allow include crowd sourcing tools directly in the user interface to enhance the level of access of materials that are made available online. Users can tag and transcribe digital content at the image level. These public contributions are indexed and fully searchable so that others using the Catalog can more easily find and use our materials. For instance, a ship manifest that has been tagged with names or fully transcribed could potentially be name-searchable – this is a level of access that would not be possible without the participation of the crowd. Along with the development of the new catalog, NARA developed a Catalog API that could leverage the descriptive metadata and digital content made available in the catalog for reuse by “non-traditional” users of archives, such as developers and citizen hackers. The Catalog aims to make our holdings and information about our holdings accessible so that others can make it even more accessible and usable on a broader scale.

8. Have your agency’s FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?

**Answer:** Yes.

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

- For example, this can be done through social media or with the offering of e-mail subscription services.

**Answer:** NARA engages the public on 15 social media platforms, including Flickr, Foursquare, Facebook, Twitter, Youtube, Blogs, Tumblr, iTunes U, Google+, Wikispaces, Dipity, GitHub, Instagram, Storify, and Pinterest. Our content on these platforms received more than 54 million views in Fiscal Year 2013. For additional information regarding our social media content, statistics, and strategy, please see <http://www.archives.gov/social-media>.

10. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

**Answer:** Yes.

11. If so, please briefly explain what those challenges are.

**Answer:** There were technical limitations of the online Catalog that reduced our ability to upload bulk collections. The new Catalog, implemented in December, lifts this limitation, and NARA is now able to increase the volume of uploaded material.

*Use of technology to facilitate processing of requests:*

12. 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? If yes, describe the technological improvements being made.

**Answer:** Yes. NARA has an intra-office team looking at multiple advanced search and processing products to improve efficiencies in de-duplication, record search, and sorting, in addition to enhanced Records Management tools supporting President Obama's 2011 Memorandum on Managing Government Records and the 2012 OMB/NARA Implementing Directive.

13. Are there additional tools that could be utilized by your agency to create further efficiencies?

**Answer:** N/A

*Other Initiatives:*

14. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

- Please see OIP's [guidance](#) for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website, but not appearing of FOIA.gov, please contact OIP in order to resolve the issue.)

**Answer:** Yes.

15. 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 2015.

**Answer:** N/A

16. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "[The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.](#)" (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

**Answer:** Yes. Email is one means of electronic communication that we use with requesters. The Office of General Counsel also uses the communication capabilities of FOIAonline.

17. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See [id.](#)

**Answer:** N/A

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

The [President](#) and the [Attorney General](#) have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. *For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.*

**Simple Track:** 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.

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

**Answer:** Yes.

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

**Answer:** It was fewer than 20 days -- 13.6 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

**Answer:** 94%

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?

**Answer:** N/A

**Backlogs:** 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. You should refer to these numbers from your Annual FOIA Reports for both

*Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.*

## **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

**Answer:** NARA's backlog increased.

- If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests
- A loss of staff
- An increase in the complexity of the requests received

**Answer:** During the last quarter of FY 2014 the National Personnel Records Center (NPRC) received an increase of over 2,000 requests, in addition to the increase of over 1,000 requests received across the agency.

6. 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 2014.

- To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

**Answer:** 42%

## **BACKLOGGED APPEALS**

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

**Answer:** No. The backlog of appeals increased.

- If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeal
- A loss of staff

- An increase in the complexity of the appeals received

**Answer:** The appeal backlog increased because NARA has now become the appeal authority for FOIA requests that involve material that contains national security information; NARA is not the agency with the classification equity in a vast majority of the documents it possesses. NARA is not an Original Classification Authority (OCA), and therefore does not have authority to declassify the information contained in our classified holdings. All FOIA requests that involve classified material require consultation with, at minimum, the creating/originating agency. This process inevitably adds to the number of days needed for the review and processing of classified appeals.

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

- To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of appeals received in Fiscal Year 2014, which can be found in Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

**Answer:** 34.5%

#### **Backlog Reduction Plans:**

9. In the 2014 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2013 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 2014?

**Answer:** NARA did not implement a backlog reduction plan because our backlog shrank by 1,100 cases.

10. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2014, what is your agency's plan to reduce this backlog during Fiscal Year 2015?

**Answer:** The Chief FOIA Officer is conducting an analysis of the state of FOIA across all affected NARA components in order to identify agency barriers to meeting the 20-day deadline for FOIA requests agency-wide, and will consider whether additional resources should and can be directed at our FOIA programs.

**Status of Ten Oldest Requests, Appeals, and Consultations:** 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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

## **TEN OLDEST REQUESTS**

11. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

**Answer:** 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 VII.E of your Fiscal Year 2013 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 six of them, you should note that you closed six out of seven "oldest" requests.

**Answer:** NARA was able to close eight out of the "ten oldest" requests.

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?

**Answer:** Four of the eight "ten oldest" requests were administratively closed. All ten of the "ten oldest" requests have had multiple interim responses. Virtually all of NARA's oldest FOIA requests involve requests for access to classified information that has been referred to another agency for declassification review, because, as stated earlier, NARA does not have original declassification authority. Accordingly, NARA is subject to, and dependent on, other federal agencies' workloads, which prevents us from completing these requests.

## **TEN OLDEST APPEALS**

14. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

**Answer:** 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 VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

- For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.

**Answer:** Three out of ten appeals were closed.

## **TEN OLDEST CONSULTATIONS**

16. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

**Answer:** N/A

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 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

- For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.

**Answer:** N/A

### ***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 2013.

**Answer:** As noted above, NARA is constrained in reducing the ten oldest FOIAs because almost all of them involve classified information that requires referrals to the agencies with OCA for declassification decisions. It is important to note that for most of these "ten oldest" cases, NARA has been able to complete the FOIA processing of most of the records responsive to the request, and only a few documents remain pending with several originating agencies.

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.

**Answer:** NARA was able to close eight of its ten oldest cases. NARA is waiting on returns from various agencies for the remaining cases. The remaining case information is:

1. Oldest request received on 08/31/1993; original consultation on 01/06/1994; most recent and last consultation date of 08/17/2012.
2. 2<sup>nd</sup> oldest request received on 09/09/1993; original consultation on 11/09/1994; in negotiation with requester regarding closing of case.

20. 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 2015.

**Answer:** NARA will resume its efforts to contact those originating agencies that possess the classification equities and press them to complete the declassification review of the remaining records responsive to each request, including by contacting the Chief FOIA Officer of each agency; it will also reach out to the requesters to further negotiate the scope of their requests.

21. Does your agency have a system in place to provide interim responses to requesters when appropriate? *See OIP Guidance*, “[The Importance of Good Communication with FOIA Requesters](#).” (Mar. 1, 2010)

**Answer:** Yes.

22. If your agency had a backlog in Fiscal Year 2014, 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.

**Answer:** 25%

### **Use of FOIA’s Law Enforcement “Exclusions”**

Did your agency invoke a statutory exclusion, 5 U.S.C. §§ 552(c)(1), (2) or (3), during Fiscal Year 2014?

**Answer:** No.

If so, please provide the total number of times exclusions were invoked.

**Answer:** N/A

## NARA Success Stories

Out of all the activities undertaken by your agency since March 2014 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.

- During FY2014, NARA completed the proactive opening of Clinton Presidential records that were requested under FOIA but withheld pursuant to the Presidential Records Act. Specifically, these documents related to appointments to Federal office and confidential communications between the President and his advisors or among those advisors. This release resulted in approximately 30,000 pages of deliberative documents being made available to the public.
- The Special Access and FOIA Staff, under the leadership of Mary Kay Schmidt and Laurie Madsen of the National Declassification Center (NDC), and students Elyse Cooper and Patricia Cooper of the Archives II Processing Staff, completed a joint project that consisted of scanning, reviewing, and redacting 21 cubic feet of records documenting the Vietnam War Crimes Working Group's investigations into numerous alleged War Crimes.
- The NDC FOIA/MDR Division exceeded its Open Government goal by reducing its backlog of open FOIA cases by more than 10%, dropping down from 1808 open cases at the end of FY 2013 to 1606 open cases at the end of FY 2014. In addition, the NDC hired a new lead Archives Specialist who will be responsible for working with the Office of Research Services (Reference) and directly with researchers to help them narrow and focus their requests.
- The National Personnel Records Center, working in conjunction with all the military service departments, completed a FOIA project for Scripps News, which sought releasable information on 700 veterans who were separated from service for misconduct. Since the researcher did not provide enough information to readily identify the correct record for each veteran, staff members had to probe several sources before they located responsive records. After the initial research was completed, the requester asked the Project Lead to expand the scope of the information normally released by the service departments. The Project Lead worked closely with the service departments and the researcher to satisfy everyone's concerns and needs and complete the project ahead of the agreed upon date.