



NATIONAL MEDIATION BOARD

CHIEF FOIA OFFICER REPORT

2016

2016 National Mediation Board Chief FOIA Officer Report

Mary L. Johnson, General Counsel

FOIA Training:

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

- Yes, agency personnel attended the advanced Freedom of Information Act Seminar and FOIA for Attorneys and Access Professionals.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

- 100%

Discretionary Releases:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

- The agency does not have a formal process in place to review records for discretionary release since it is a rare occurrence that the agency does not release all requested information.

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

- The agency did not have any opportunity to make any discretionary releases, however, the agency releases almost all of the records requested under FOIA, with limited redactions, and does not formally track whether a release is discretionary.

6. 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 2009 FOIA Memoranda](#).

- N/A.

7. 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.

- N/A

8. If your agency was not able to make any discretionary releases of information, please explain why. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only

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exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

- As stated above the agency generally releases all documents with limited redactions requested under FOIA so discretionary releases are not applicable in this instance. These limited redactions were for Exemption 4 information which is not permitted for discretionary release.

Other Initiatives:

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

- There aren't any other agency initiatives at this time.

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

Processing Procedures:

1. For Fiscal Year 2015, 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 2015 Annual FOIA Report.

- The agency did not adjudicate any requests for expedited processing during Fiscal Year 2015.

2. N/A

3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request.

- The agency did not have any occasion to send a "still interested" inquiry.

Requester Services:

4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.

- The agency believes that these services are strong. Both FOIA personnel and FOIA Liaisons have resolved requester disputes. All contact information for FOIA personnel is publicly available on

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the agency's website and have been trained on reaching out to the requester in the event of an imperfect request or in the event the requester has sent their request to the wrong agency. Agency FOIA personnel work diligently to ensure that all requester questions or concerns are answered.

Other Initiatives:

5. 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.

- The agency routinely conducts self-assessments of their FOIA program. The agency is currently working with its IT department on improving search capabilities on its existing records system.

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.

- Personnel periodically review agency records to determine their status, make recommendations to Chief FOIA Officer who makes final determination and directs the records to be posted on the agency's website. Agency FOIA personnel and agency public information personnel work closely together to facilitate this process. Agency FOIA personnel also monitor the FOIA log to assist in determining frequently requested reports. Once a request has been made more than twice by different requestors the agency will designate it as a frequently requested record and post it on the agency website.

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

- The agency has previously established a process that all Board determinations, Presidential Emergency Board Reports and Public Law Boards will be proactively disclosed.

3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

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- Agency FOIA personnel are not responsible for posting any records.

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

- No.

5. If so, please briefly explain those challenges.

- N/A

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

- The Board has proactively discord representation determinations during FY 15.
- <http://www.nmb.gov/services/representation/determinations/>

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

- The agency frequently puts out Press Releases to highlight matters like this.

Other Initiatives:

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

- No.

Section IV: Steps Taken to Greater Utilize Technology

Making Material Posted Online More Usable:

1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website?

- Yes.

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

- The agency has made improvements to its Knowledge Store to allow for more user friendly search options. The agency is also currently making improvements to its records repository to improve efficiency.

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Other Initiatives:

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?

- 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 2016.

- N/A

5. 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 that are utilized by your agency to communicate with requesters?

- Yes, email.

6. If your agency does not communicate electronically with requests 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.](#)

- N/A

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

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

- No.

2. If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

- N/A

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

- N/A

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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?

- Yes.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

- The agency did not have a request backlog.

6. N/A

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2015.

- N/A.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

- The agency did not have an appeal backlog.

9. N/A

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals *received* by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A."

- N/A

TEN OLDEST REQUESTS

11. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

- N/A

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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 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

- N/A

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?

- N/A

TEN OLDEST APPEALS

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

- N/A

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 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

- N/A

TEN OLDEST CONSULTATIONS

16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

- N/A

Use of the FOIA's Law Enforcement Exclusions

1. *Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?*

- No.

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

- N/A.