2021 Chief FOIA Officer Report

National Archives and Records Administration

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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ'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.

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?

Answer: Yes

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

Answer: Gary M. Stern, General Counsel

B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

Answer: NARA's FOIA Council meets monthly to discuss various FOIA related topics, one of which is training and the notification of internal and external training opportunities. The members of the FOIA Council are comprised of managers of offices that process FOIA, and therefore those managers share the training opportunities back to their offices. Furthermore, the FOIA Offices also utilize NARA's Internal Collaboration Network to share training opportunities agency wide.

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

Answer: Yes

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

Answer: NARA's Chief FOIA Officer has included an agency-wide basic FOIA training module that is part of a broader basic training requirement for all NARA employees within NARA's Learning Management System (LMS). This training is mandatory, and must be completed annually.

*The Department of Justice, Office of Information Policy training:

> **Best Practices Workshop - April 20, 2020**

> **Continuing Education - May 28, 2020**

> **Exemption 1 Virtual Training - June 11, 2020**

> **Virtual Litigation Workshop - June 18, 2020**

> **Virtual Processing Start to Finish Workshop - June 30, 2020**

> **Virtual Introduction to the Freedom of Information Act - July 9, 2020**

> **Exemption (b)(7) Virtual Training - June 11, 2020**

> **Exemption 4 Virtual Training - May 14, 2020 and July 14, 2020**

> **Exemption 5 Virtual Training - May 14, 2020 and July 14, 2020**

> **Virtual Privacy Consideration - May 14, 2020 and July 21, 2020**

> **Virtual FOIA Report Training - October 14, 2020**

> **Virtual Chief FOIA Officer's Report Training - December 10, 2020**

* Joint DOJ/OIP and Office of Government Information Services (OGIS) Symposium: "Artificial Intelligence for FOIA Professionals" – November 5, 2020

*American Society of Access Professionals (ASAP) – Food For Thought - SCOTUS and Exemption 5: Deliberative Process Privilege. The program had two FOIA experts discuss the ins and outs of the arguments before the Supreme Court in *U.S. Fish & Wildlife Service v. Sierra Club.*

*ASAP – Virtual National Training Conference – Various sessions on FOIA processing, exemptions, litigation, and the intersection with the Privacy Act.

*ASAP - FOIA Exemption (b)(7) Webinar - Presented by Karen Finnegan Meyers and Joel D. Miller, this webinar covers knowledge of Exemption 7 including why the records are different and an understanding of the threshold for this exemption.

* FOIA Review Master Class (In-house review training)

> **Exemption (b)(1)**

(b)(3) Guidance - 50 USC 3024(i)(1) - Intel sources and methods; 10 USC 130b - PII for deployable units; 50 USC 3507 – CIA; 18 U.S.C. § 3521 (b)(1)(g) (Witness Security Reform Act of 1984; 42 USC 2162, 2167, 2168(a)(1)(c) - RD, FRD, TFNI, UCNI and 50 USC 435 Note Sec 1082. PubL No 102-190 (McCain Bill); 26 U.S. Code § 6103.Confidentiality and disclosure of returns and return information; 50 USC 3605 - NSA Functions and Information; 10 USC 130a - Technical military and space data and 22 USC 2778 - Arms Export and ITAR; and 41 USC § 4702 (formerly 41 U.S.C. § 253b(m)(1)) - Contractor proposals; and 42 USC 2102 - Procurement Integrity Act

Exemption (b)(5) Guidance

(b)(2) Guidance and (b)(8) Guidance

Exemptions (b)(7)(C) and (b)(7)(F)

* FOIA at the Presidential Libraries (In-house training)

Roles in FOIA Process

Overview of FOIA Process

PRA Notification

6. Please 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: 85%

7. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Answer: N/A

C. Outreach

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

Answer: Yes. The Archivist of the United States ("Archivist") has continued the Freedom of Information Act ("FOIA") Advisory Committee ("Committee") in 2020 to obtain advice on improvements to the FOIA and study the current FOIA landscape across the Executive Branch. The Committee is subject to the Federal Advisory Committee Act, and allows the public an opportunity to ask questions and provide comments. (see https://www.archives.gov/ogis/foia-advisory-committee/2020-2022-term**)**

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

D. Other Initiatives

9. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff.

Answer: NARA's Chief FOIA Officer has included an agency-wide basic FOIA training module that is part of a broader basic training requirement for all NARA employees within NARA's Learning Management System (LMS). This training is mandatory, and must be completed annually.

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

Answer: Through its core statutory mission, NARA proactively makes the vast majority of its archival records available to the public without the need to file a FOIA request. Furthermore, due to the age of most of the records in the National Archives, NARA routinely makes discretionary releases in the processing of access requests to our archival holdings. NARA's holdings are described in the National Archives Catalog (see http://www.archives.gov/research/catalog/).

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

DOJ's FOIA Guidelines emphasize that "[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 the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. For Fiscal Year 2020, 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 2020 Annual FOIA Report.

Answer: 5

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2020 Annual FOIA Report, 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

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc.

Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

Answer: NARA did not conduct a self-assessment of its FOIA program in FY 2020; however the Chief FOIA Officer required all of the NARA FOIA program offices to complete the OIP FOIA Self-Assessment Toolkit in FY 2018. The accumulated data was then utilized by the Chief FOIA Officer as he conducted FOIA Management Oversight Reviews of NARA's FOIA program offices. In FY 2020, the Chief FOIA Officer required all FOIA program offices to fill out a FOIA management oversight form that utilized aspects of the DOJ Self-Assessment Toolkit. Several offices which process FOIA requests completed a FOIA management oversight survey created by the Chief FOIA Officer.

4. Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency's FOIA process. In addition, describing an agency's standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.

a) Does your agency have SOPs that outline general processes for handling FOIA requests and appeals?

Answer: Yes. Each component that processes FOIAs has implemented SOPs.

b) If not, does your agency have plans to create FOIA SOPs?

Answer: N/A

c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology?

Answer: The SOPs are reviewed and updated on an annual basis by the creating office and the Office of General Counsel.

d) In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling requests on your website?

Answer: Yes. NARA has published our *FOIA Reference Guide (2018)* on our agency FOIA webpage. (see https://www.archives.gov/foia/foia-guide)

5. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2020 (please provide a total number or an estimate of the number).

Answer: 485 (estimate)

6. Does your agency frequently receive common categories of first-party requests? If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?

Answer: Yes. The National Personnel Records Center (NPRC) employs the eVetRecs online service records request software to reduce the number of first party requests for military records. (see https://vetrecs.archives.gov/VeteranRequest/home.html)

7. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

Answer: Yes. NARA updated its FOIA regulations (36 CFR 1250) on 1 February 2017. They were published on the Federal Register at 82 FR 8901.

8. Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.

Answer: Given that such a large percentage of FOIA requests received by NARA seek access to records that exist in paper format, NARA's FOIA processing capabilities has been significantly impacted by the COVID-19 pandemic. All of the NARA offices that process FOIAs have been closed for a significant portion of the reporting year due to the local health conditions in the geographic regions in which those facilities are located. As a result, NARA adjusted staff work priorities to best position these offices with the ability to continue to facilitate access to NARA's records. To that end, some of the staff in these offices were issued NARA laptops and given access to additional software such as Adobe Pro, in order to allow them to conduct searches and complete redactions where possible. In addition, the archival FOIA processing offices focused on identifying records, preparing files, and creating descriptions for records of great public interest that had previously only been available in paper format for access through NARA's catalog. Staff in these offices also spent time updating or creating processing guidance. NARA also included a notice on its website informing requesters of its closure status and encouraged requesters to communicate in electronic formats where possible to help facilitate a timely response.

9. Optional -- Please describe:

Best practices used to ensure that your FOIA system operates efficiently and effectively

Answer: The Chief FOIA Officer is committed to conducting annual FOIA management oversight reviews of the NARA FOIA program offices. This internal review will help reveal best practices and also any gaps in processing FOIAs across all of the agency.

Any challenges your agency faces in this area

Answer: The ever increasing volume of records, both analog and digital, that come into the National Archives each year, coupled with a long-static workforce, means that NARA's FOIA programs have been limited in being able to keep up with, much less reduce, some of its FOIA backlogs. NARA hopes to be able to utilize enhanced technology for processing of FOIAs in the coming years as one way to realize the agency's goal.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long 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.

1. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

Answer: NARA proactively released various [Presidential Records Act (PRA) questions under the Trump Administration](#).

NARA has also proactively released [National Archives and Records Administration Procedures Relating to the COVID-19 Pandemic](#), and the [Records regarding the Equal Rights Amendment](#).

The National Declassification Center (NDC) released a listing of 206 entries that completed declassification processing between October 1, 2019 and December 31, 2019. These records are now available for researcher requests. This release consists of textual and special media records from military and civilian agencies as well as the Richard Nixon Presidential Library and Museum. The FY2020-Q1 Release List is available to [view or download in PDF and Excel formats](#).

Highlights from the released records include:

- **Bureau of Ships, Preliminary Design History and Data Files of Ships, 1909-1966**
- **Bureau of Ships, Ship Records Relating to Mine Warfare, Radiological Defense, and Counter-Measures, 1940-1970**
- **Office of the Chief of Naval Operations, Secret Naval Intelligence Reports**
- **Office of the Chief of Naval Operations, Operational Archives Publications and Other Records Regarding World War II and the Korean War**
- **Department of State, Records Relating to the U.S.-Canada International Joint Commission**
- **Bureau of Aeronautics, Reports Relating to Nuclear Energy**
- **Foreign Service Posts of the Department of State, Classified Files Maintained by Robert Strausz-Hupe, Ambassador to Ceylon, Belgium, Sweden, and NATO, 1970-1977**
- **Office of the Chief of Ordnance, Joint Army-Navy-Air Force (JANAF) Project Files**
- **Atomic Energy Commission, Decimal Correspondence Relating to the X-10 Reactor Plant**
- **Richard Nixon Presidential Library and Museum, White House Tapes: Sound Recordings of Meetings and Telephone Conversations of the Nixon Administration (February 16, 1971-July 18, 1973)**
- **Department of the Navy, Hardtack Eniwetok (Motion Picture)**
- **Department of the Navy, Operation Sailor Hat (Motion Picture)**
- **Department of the Navy, Polaris Weapons Systems Development, 1959 (Motion Picture)**

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

Answer: NARA publishes electronic finding aids and summary descriptions on various series in our holdings. The finding aids and descriptions are made available on www.archives.gov with references to available documents. The goal of this effort is to provide more context to released materials and provide immediate access to records not available yet in the National Archives Catalog.

3. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

Answer: A small representation of the work at NARA includes:

- **A new finding aid for an improved search within Native American photos. Further information is located at https://www.archives.gov/news/articles/indian-affairs-photos.**
- **A new pathway to more than a million digitized and born digital records available online across the National Archives' 14 Presidential Libraries. The Presidential Library Explorer provides an efficient way for visitors to search through records in the Libraries' holdings which are available in the National Archives Catalog.**
- **A unique telework project that allows increased Black History records accessibility across NARA's holdings. Further information can be located at https://www.archives.gov/news/telework-black-history.**

4. Optional -- Please describe:

Best practices used to improve proactive disclosures

Answer: Releasing records to the public is part of NARA's core mission, and we have made digitizing our paper records a key strategic goal. However, due to the massive volume of our archival records, NARA cannot digitize everything by itself. Therefore, in accordance with NARA's Digitization Strategy, NARA is digitizing our holdings using a five-prong approach: Partnerships, Crowd Sourced Digitization, Agency Transfers, Culture of Digitization, and NARA Digitization Projects. (See http://www.archives.gov/digitization/pdf/digitization-strategy-20152024.pdf.)

Any challenges your agency faces in this area

Answer: No.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. 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 that describes your agency's efforts in this area.

1. Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.

Answer: Unlike years past, NARA staff have relied on technology as a critical bridge to support a network between hundreds of staff working remotely to maintain the agency's mission during the global Covid-19 pandemic. Staff relied on five primary electronic records management systems to conduct searches for records in response to FOIA requests for civilian, military, and presidential records. In addition to the five primary systems used to search, staff utilized Google video and audio platforms to communicate and identify ways to continue to serve FOIA requesters.

The Electronic Records Archives (ERA) system serves as NARA's main electronic records repository and is used to preserve and process electronic federal civilian records (including some emails) and presidential electronic records, including emails. ERA/Executive Office of the President (ERA/EOP), is an ERA instance that was specifically developed to search and review electronic Presidential records, but also includes emails of EOP components that create federal records.

The Case Management and Reporting System (CMRS) was developed for NARA's National Personnel Records Center (NPRC) in St. Louis, MO. This system allows NPRC personnel to process tens of thousands of FOIA requests for approximately 100 million military service personnel and medical records.

The majority of our FOIA requests for NARA's operational records are for internal email records. NARA uses Google Gmail for day-to-day email activities, and ZL Technologies' Unified Archive (ZLUA) to manage and conduct searches to fulfill FOIA requests, as appropriate. Both Gmail and ZLUA are separate cloud-based services NARA uses in tandem to provide NARA with browser-based email. The ZLUA tool allows NARA staff to search thousands of emails by name, category, and date. In addition to ZLUA, NARA uses other commercial software products to identify responsive email records with greater efficiency.

NARA has implemented a new FOIA tracking tool for Accessioned Records called "Inquiry." This tracking system was created for all units in the Office of Research Services to log and track incoming FOIA requests for accessioned archival records.

Another electronic records management system, the Holdings Management System (HMS) is used internally by NARA staff to search our internal records inventory. This system allows staff to quickly determine a records classification, location and if the records are already available for public access.

And finally, NARA's premier research tool, the National Archives Catalog, is used by both NARA staff and the public to search across the National Archives holdings for digitized and electronic records, record descriptions, authority records, and web pages from Archives.gov and the Presidential Libraries.

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

Answer: NARA regularly reviewed our FOIA webpage in FY 2020 and made changes in response to the COVID-19 pandemic. NARA conducted a Web Content Inventory, which is still underway, of all web pages containing FOIA content. The audit, launched by our Office of Innovation, was designed to provide important content upgrades, identify any information errors, improve layout, and provide the most efficient and accurate information for the public. In our review, we updated FOIA point of contact phone numbers, and email addresses, and we made sure that voice mail recordings were up to date with the most accurate contact information for all NARA components responsible for receiving FOIA requests.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2020?

Answer: Yes. See https://www.archives.gov/foia/reports/quarterly

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 2021.

Answer: N/A

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.

Answer: Yes. The following link - https://www.archives.gov/foia/reports - will take you to NARA's webpage which contains the raw statistical data.

6. Optional -- Please describe:

Best practices used in greater utilizing technology

Answer: N/A

Any challenges your agency faces in this area

Answer: N/A

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of 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 FY 2019 and 2020 Annual FOIA Reports.

A. 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 your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2020?

Answer: No

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2020 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Answer: 97.38%

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. NARA tracks simple requests.

B. 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 2019 and Fiscal Year 2020 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 2020, according to Annual FOIA Report Section XII.A, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?

Answer: NARA's backlog increased by 152 requests. This is a direct result of our facilities being closed most of the reporting time period.

6. If not, according to Annual FOIA Report Section V.A, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019?

Answer: No. NARA processed 68,062 requests in 2019 and 25,721 requests in 2020. Note that the discrepancy in processed FOIAs is solely due to the COVID-19 pandemic.

7. If your agency's request backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to 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. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

Any other reasons – please briefly describe or provide examples when possible.

Answer: The increase in NARA's backlog is partly attributed to COVID-19. NARA's facilities were closed to staff or allowed to operate with only a skeletal staff for most of the reporting period, such that FOIA requests for records that could only be accessed at the facility could not be answered in a timely manner. Furthermore, the consolidation of all classified Presidential records to the National Declassification Center has been halted due to the pandemic which delays the processing of those records requested. Another contributing factor is NARA received an increased number of complex requests for large volumes of records, but not a requisite increase in staff. For example, NARA received multiple FOIA requests relating to the 2017 Woman's March Photograph in conjunction with the *Rightfully Hers: American Woman and the Vote Exhibit*.

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2020. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100.   If your agency has no request backlog, please answer with "N/A."

Answer: Backlog is 13.65% of total FOIA requests received.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2020, according to Section XII.A of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?

Answer: No, NARA's appeal backlog increased from 95 to 99.

10. If not, according to section VI.A of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?

Answer: Yes, NARA received 49 appeals and closed 56 appeals.

11. If your agency's appeal backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

An increase in the number of incoming appeals.

A loss of staff.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

Any other reasons – please briefly describe or provide examples when possible.

Answer: One contributing factor to the growth of the appeal backlog is the complexity of the requests. Many of the appeals were for classified archival records that were created by other agencies. All classified cases are referred to the creating agency for review and declassification determination. Another contributing factor is the COVID-19 pandemic, since so many of NARA's facilities were closed to the staff and therefore FOIA appeals that relate to records located at the facility could not be answered in a timely manner.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2020. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A."

Answer: 202%

C. Backlog Reduction Plans

13. In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2020?

Answer: No, NARA was unable to implement a backlog reduction plan for the three archival program offices that comprise the vast majority of NARA's FOIA backlog due to resource limitations with respect to both staff and technology, as well as because most of our facilities were closed for most of the year due to the Covid-19 Pandemic. As OIP noted in 2018, "agencies' backlogs may increase due to circumstances outside of their control. Many agencies strive to respond to significantly more requests received while relying on the same amount of (or, in some instances, fewer) experienced FOIA staff. As the number of requests received across the government continues its upward trend, many agencies reach a point at which, despite their best efforts to streamline processing and leverage technology, their backlog will nevertheless increase."

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2020, please explain your agency's plan to reduce this backlog during Fiscal Year 2021.

Answer: In light of the Covid-19 Pandemic, virtually all of NARA's facilities remain closed in FY 2021, which is causing our backlogs to increase. Once we are able to return to our buildings, we will be able to assess the extent of the backlog and consider options for addressing it.

D. Status of 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 2019 and Fiscal Year 2020 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2020, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E of your Fiscal Year 2019 Annual FOIA Report?

Answer: No

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2019 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

Answer: NARA closed 7 out of the 10 oldest cases. NARA's oldest cases were also the oldest cases in the Federal Government and all were requests for classified archival records that were created by other agencies. All classified cases were referred to the creating agency for review and declassification determination. Due to COVID-19 and the closure of buildings to staff, the three remaining open cases could not be closed.

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

Answer: NARA's oldest cases were also the oldest cases in the Federal Government and all were for classified archival records that were created by other agencies. All classified cases are referred to the creating agency for review and declassification determination. In some of these cases, NARA's Chief FOIA Officer contacted the Chief FOIA Officer of the determining agencies to ask for their assistance to have the oldest cases reviewed and returned to NARA within the fiscal year.

TEN OLDEST APPEALS

18. In Fiscal Year 2020, did your agency close the ten oldest appeals that were reported pending in Section VII.C.(5) of your Fiscal Year 2019 Annual FOIA Report?

Answer: No

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2019 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

Answer: NARA did not close any of its ten oldest appeals. NARA's oldest appeals are all for classified archival records that were created by other agencies, which have to be sent out on consultation with these agencies. The agencies have not yet responded.

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

Answer: In FY 2020, staff continued its practice of identifying simple and ready to close appeals within its backlog to more complex appeals or appeals awaiting outside review. Using these distinctions, NARA was able to focus its efforts on closing any outstanding simpler appeals as well as older, more complex appeals that were ready to close. Staff also closed all incoming appeals that were simple and ready to close. NARA's appeal backlog only grew by four requests and those were requests that are awaiting outside review.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2020, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2019 Annual FOIA Report?

Answer: Yes

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2019 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

Answer: N/A

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

Answer: NARA's ten oldest FOIA requests were all for classified archival records that were created by other agencies, and are therefore waiting on consultations to other agencies for their declassification decisions. NARA has assigned an employee in the National Declassification Center and the Presidential Libraries to track the ten oldest requests and to regularly contact those agencies that are slow in making their determinations. In addition, even though NARA is the appeal authority for FOIA requests of archival records that contain classified national security information instead of the agency with the classification equity, NARA does not have the authority to declassify the information contained in our classified holdings. All FOIA requests and appeals that involve classified information require consultations with the creating/originating agency, and often with multiple other agencies/components. This process inevitably adds to the time needed for the review and processing of requests and appeals for the withholding of classified information. During the pandemic, agencies

were unable to respond to our requests for consults in a timely manner.   Nor were NARA staff able to process consultation returns while the buildings were closed due to COVID-19.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: Three of the ten oldest were not closed in FY 2020:

Case Number	Initial Date	Sent Consult	Last Contact
F05-001	**12/20/2004**	**Unknown**	**2/19/2020**
F05-002	**12/20/2004**	**Unknown**	**2/19/2020**
F05-003	**12/20/2004**	**Unknown**	**2/19/2020**

*Note: the sent consult date is currently "unknown" because the information is stored in closed facilities.

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2021.

Answer: NARA will continue to press those originating agencies that possess the classification equities to complete the declassification review of the remaining records responsive to each request or appeal, including by contacting the Chief FOIA Officer of each agency. NARA has completed a Backlog Reduction Plan that addresses how NARA transmits, and receives back, classified records requiring referral for FOIA and Mandatory Declassification Review (MDR) to and from agencies which would significantly improve both the response time and document accountability.

F. Success Stories

Out of all the activities undertaken by your agency since March 2020 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, but should not be something that you have reported in a prior year. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

The National Archives and Records Administration has many success stories across the agency, but in particular:

- Special Access and FOIA program prepared 3,905 electronic National Mediation Board, U.S. Attorneys, and Secretary of Defense unclassified case files totaling an estimated 71, 104 pages for future electronic release in the National Archives Catalog. Staff also prepared 213 Federal Bureau of Investigation (FBI) and Department of justice case files for posting to the National Archives Catalog for access by the general public.
- Staff with our 14 Presidential Libraries and the Center for Legislative Archives created or enhanced 389,200 descriptions of their archival holdings. Additionally, the Presidential Library staff added thousands of born-digital and digitized archival records to the National Archives Catalog to facilitate online access to the material. For example, the Obama Library staff made more than 8,000 high-resolution Obama Presidential images available in the Catalog.
- NARA's Office of General Counsel has continued to process FOIAs and FOIA Appeals during the COVID-19 pandemic. The office has transitioned to a fully electronic case file, and with the exception of a handful of requesters all communication is conducted electronically.
- The National Archives at St. Louis went completely digital in 2020. Staff now use the Pay.Gov website (https://www.pay.gov/public/home) to process payments for FOIA and reference requests seeking copies of historical military records. The records are delivered using the One.Hub website (https://www.onehub.com/), which generates a link that is provided to the requester by NARA staff. St. Louis staff launched projects to digitize Air Force Award cards and launched a large scale digitization of the World War I military burial files for entry into our National Archives Catalog. St. Louis staff receive FOIA requests for Persons of Exceptional Prominence (PEP) Official Military Personnel files (OMPFs). PEP records can now be accessed for order using the Social Networks and Archival Context (SNAC) website portal (https://snaccooperative.org/). This website has increased the visibility for veterans featured in our PEP holdings.