

2022 Chief FOIA Officer Report

Office of National Drug Control Policy

Robert Kent, General Counsel

High-Volume Agencies Receiving More Than 50 Requests in FY2020

Content of 2022 Chief FOIA Officer Reports

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?

RESPONSE

ONDCP does not have Assistant Secretaries. The Chief FOIA Officer is the ONDCP General Counsel, who is a senior member of the agency's leadership team.

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

RESPONSE

Robert Kent, 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.

RESPONSE

ONDCP will try to send all personnel to training, but due to extremely limited staff and budgets in the Office of the General Counsel, that may not be possible every year.

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?

RESPONSE

No

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

RESPONSE

N/A

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.

RESPONSE

0

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.

RESPONSE

Due to its small size, ONDCP does not have personnel assigned full time to administration of its FOIA program. FOIA duties have been assigned primarily to two personnel in the Office of General Counsel. ONDCP will try to send all personnel to training next year, but due to extremely limited staff and budgets in the Office of the General Counsel, that may not be possible every year.

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

RESPONSE

Yes, Federal Records Management is covered in the mandatory annual ethics training.

C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, 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.

RESPONSE

No

D. Other Initiatives

10. 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; and

RESPONSE

ONDCP's FOIA officials regularly communicate FOIA standards and expectations to employees throughout the agency who are responsible for locating and providing documents. FOIA-related performance standards have been included in employee work plans where those employees are substantially involved with FOIA.

- if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

RESPONSE

The incoming Director of National Drug Control Policy (ONDCP) was briefed on ONDCP's FOIA resources, obligations and expectations on November 19, 2021. The briefing was part of a presentation by the ONDCP Office of General Counsel on our major responsibilities as an office.

11. 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.

RESPONSE

ONDCP tries to release as much information as possible when responding to requests. In the vast majority of ONDCP's responses to FOIA requests for which ONDCP had responsive documents, the responses contained either no redactions or only minor redactions for personal information. Before responses were provided to requesters, ONDCP FOIA staff review the material to ensure that where an exemption applies, the records are withheld or redacted only where ONDCP was able to articulate the harm that would have resulted from the release of such information.

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 describes your agency's efforts in this area.

1. For Fiscal Year 2021, 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 2021 Annual FOIA Report.

RESPONSE

0

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 2021 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.

RESPONSE

NA

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. 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?

RESPONSE

Yes, ONDCP's FOIA regulations were updated in October 2020. *See* 85 Fed. Reg. 65694 (Oct. 16, 2020).

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's [guidance](#), having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

RESPONSE

No, we do not have a cleared and approved SOP. However, ONDCP relies primarily on our FOIA regulation, which describes the procedures we follow in processing FOIA requests. ONDCP also has a published Student Internship Policy, which has a section that outlines steps for students and faculty to request federal work products for academic credit.

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

RESPONSE

Yes, ONDCP proactively discloses numerous documents on its website.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

RESPONSE

ONDCP updated the Drug Control Data Dashboard with an extensive array of drug-related data sets.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

RESPONSE

No

9. 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 2021 (please provide a total number or an estimate of the number).

RESPONSE

0

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

RESPONSE

Yes

11. Optional -- Please describe:

RESPONSE

ONDCP does not have personnel assigned to full time to administration of its FOIA program. Staff within the Office of General Counsel administer the FOIA among other legal duties.

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. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

RESPONSE

ONDCP proactively discloses numerous documents on its website whenever members of ONDCP's staff, believe that certain documents or data would be helpful to the public. Our Office of Budget and Performance contracts for significant research studies regarding drug use and its consequences and produces a compilation of drug-related data each year, both of which are made available to the public on our website.

2. 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.

RESPONSE

Drug-Free Communities Support Program <https://www.whitehouse.gov/ondcp/dfc/>

FY2021 DFC Grant Recipients:

[FY 2021 DFC Continuations \(Cohort 1\)](#)

[FY 2021 DFC Continuations \(Cohort 2\)](#)

[FY 2021 DFC Continuations \(Cohort 3\)](#)

[FY 2021 DFC New \(Year 1\) and Competing Continuation \(Year 6\) Grant Awards](#)

[FY 2021 DFC Continuations \(Cohorts 4 & 5\)](#)

2021 National Evaluation Report https://www.whitehouse.gov/wp-content/uploads/2021/08/FINAL_DFC-Eval-Report_2021_march12_508.pdf

CARA Grants Recipients <https://www.whitehouse.gov/wp-content/uploads/2021/06/FY-2021-CARA-Awards-Web-Spreadsheet.pdf>

Drug Control Data Dashboard:

<https://public.tableau.com/app/profile/dcdd/viz/ONDCPTableofContents/ONDCPTableofContents>

Comprehensive Addiction Recovery Act of 2016

<https://www.congress.gov/bill/114th-congress/senate-bill/524/>

Frequently Requested Records

Application of Equity in U.S. Drug Policy

- Request - <https://www.whitehouse.gov/wp-content/uploads/2021/08/ONDCP-RFI-2021-07-07-Request.pdf>

- Public Comments - <https://www.whitehouse.gov/wp-content/uploads/2021/08/ONDCP-RFI-2021-07-07-Public-Comments.pdf>

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

RESPONSE:

Yes, ONDCP updated the Drug Control Data Dashboard this year with an extensive array of drug-related data. We have taken steps to improve the presentation and usefulness of this data on the website. This has been helpful to the public, especially for frequent users of ONDCP data such as researchers. The statutory authority for the Drug Control Data Dashboard is 21 U.S.C. § 1705(f).

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

RESPONSE

Yes

5. 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.

RESPONSE

ONDCP has made an ongoing effort to provide more substantive information and data for the public through social media, email, and press releases. The Drug Control Data dashboard is posted in a machine-readable format, and allows members of the public to categorize data by individual substances with a potential for abuse. ONDCP has contracted with a private IT contractor in an effort to make our Drug Control Data Dashboard more user friendly and accessible.

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

RESPONSE

Yes. The ONDCP FOIA staff consults with the ONDCP divisions that are the owners of responsive documents to ensure that frequently requested documents are proactively disclosed on the agency's website.

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. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

RESPONSE

Yes

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

RESPONSE

The Executive Office of the President, of which ONDCP is a component, uses NIUX to search for and sort particular kinds of responsive documents such as emails. The analytical tools associated with that program can be useful. NIUX permits key word searching of agency records, such as email. We generally redact electronically in Adobe.

3. 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?

RESPONSE

YES

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

RESPONSE

YES

5. 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 2022.

RESPONSE

NA

6. 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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

RESPONSE

<https://www.whitehouse.gov/ondcp/foia-and-legal/>

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 2020 and 2021 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?

RESPONSE

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 2021?

RESPONSE

YES

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 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.

RESPONSE

54%

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?

RESPONSE

YES

B. Backlogs

When answering these questions, please refer to you Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

RESPONSE

YES

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020.

RESPONSE

NA

7. If your agency's request backlog increased during Fiscal Year 2021, 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:

RESPONSE

NA

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 2021. 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. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

RESPONSE

34%

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

RESPONSE

NA

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

RESPONSE

NA

11. If your agency's appeal backlog increased during Fiscal Year 2021, 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:

RESPONSE

NA

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 2021. 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. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

RESPONSE

NA

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 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 2021?

RESPONSE

NA

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

RESPONSE

NA

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 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

RESPONSE

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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

RESPONSE

9

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

RESPONSE

ONDCP increased its efforts to obtain responses from other agencies with equities in the responsive documents, which was the bulk of our backlogged requests.

TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

RESPONSE

NA

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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

RESPONSE

NA

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

RESPONSE

NA

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

RESPONSE

NA

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 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

RESPONSE

NA

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 2020.

RESPONSE

The vast majority of the oldest outstanding requests required approval from other agencies. We increased our efforts to obtain responses and was able to close nine of the ten oldest requests.

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.

RESPONSE

NA

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 2022.

RESPONSE

As noted above, most of ONDCP’s delays in responding to FOIA requests result from delayed responses from the consultation process with other federal agencies with equities in the information in ONDCP’s possession. ONDCP will continue to increase our efforts to obtain a

response from other agencies. We will contact the relevant agencies on a more frequent basis in order to secure responses.

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 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, 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.

RESPONSE

- ONDCP proactively discloses numerous documents on its website whenever members of ONDCP's staff, believe that certain documents or data would be helpful to the public;
- ONDCP posts its data in formats that can be used by researchers, and sometimes our website is the only source for such data;
- ONDCP also monitors if certain records are frequently requested and should therefore be posted on our website; and
- ONDCP continues to make an ongoing effort to provide more substantive information and data for the public through social media, email, and press releases.