



**United States Department of Justice
Chief Freedom of Information Act
Report for 2014**



*2014 Chief FOIA Officer Report
United States Department of Justice
Chief FOIA Officer: Associate Attorney General Tony West*

On his first full day in office, President Barack Obama [directed](#) the heads of all federal executive Departments and Agencies to administer the Freedom of Information Act (FOIA) with a "clear presumption: In the face of doubt, openness prevails." The President called on agencies to take affirmative steps to proactively make information available to the public and to utilize modern technology to streamline processes as a means to create a more informed citizenry. The President also instructed the Attorney General to issue new guidelines governing the FOIA that would reaffirm the federal government's commitment to accountability and transparency.

On March 19, 2009, Attorney General Eric Holder issued new [FOIA Guidelines](#) implementing the President's policy. In his Guidelines the Attorney General emphasized not only the presumption of openness, but also the need for agencies to ensure that they have in place "an effective system for responding to requests." The Attorney General highlighted the important role played by agency Chief FOIA Officers in ensuring that their agencies effectively and efficiently comply with the FOIA. The Attorney General also directed agency Chief FOIA Officers to annually review all aspects of their agency's FOIA administration and to report to the Department of Justice on the steps taken to implement the President's and Attorney General's FOIA Memoranda.

This marks the fifth year in which agencies, including the Department of Justice, have issued a Chief FOIA Officer Report. The 2014 Chief FOIA Officer Report for the Department of Justice details how despite tough fiscal times, the Department has continued to improve its administration of the FOIA by both building on our efforts undertaken in the past four fiscal years, and in developing new initiatives to further streamline our FOIA processes and improve transparency. This 2014 Chief FOIA Officer Report describes many of the Department's accomplishments during the last year, which include processing more requests, releasing information in 93.1% of requests processed for disclosure, closing the Department's ten oldest requests, appeals, and consultations, proactively posting more information online, and utilizing technology to facilitate a more efficient FOIA administration.

Decentralized Nature of FOIA Processing at the Department of Justice

At the Department of Justice, the FOIA is administered on a decentralized basis, with thirty-one separate FOIA offices handling requests made to the various Department

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components. The range in the number of FOIA requests varies widely between the components, from the Executive Office for Immigration Review (EOIR) which received 25,336 requests in Fiscal Year 2013, over one-third of the Department's total, to fourteen components which each received less than 100 requests.

During Fiscal Year 2013, the Department had 421.5 full-time FOIA employees. These employees were joined by others who work on FOIA part of the time, which combined amounted to the equivalent of 501.39 full-time FOIA staff. This is over 5% less than the number of FOIA staff the Department had in Fiscal Year 2012. As detailed below, however, despite this reduction in staffing, the Department was able to continue processing historically high numbers of FOIA requests this past fiscal year.

The Office of Information Policy (OIP), which is responsible for encouraging compliance with the FOIA both within the Department and across the federal government, is also responsible for processing FOIA requests on behalf of itself and the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legislative Affairs, Legal Policy, and Public Affairs. The remaining thirty Department components are responsible for processing requests received for their own records, based upon guidance provided by OIP. The Administrative Appeals Staff of OIP adjudicates administrative appeals of FOIA denials for all Department components, with the exception of the United States Parole Commission (USPC).

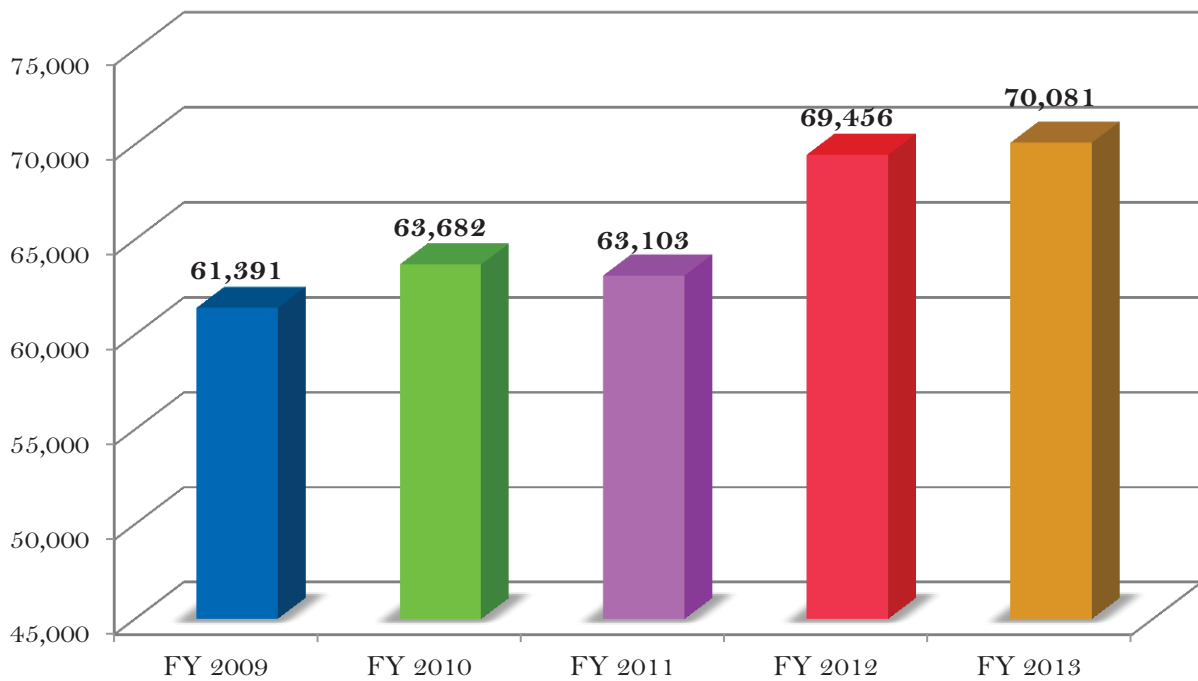
The following report provides a comprehensive review of the steps taken throughout the Department since the issuance of the last [Chief FOIA Officer Report](#) in March of 2013 to continue to implement the President's FOIA Memorandum and the Attorney General's FOIA Guidelines.

Overview of Fiscal Year 2013

Increased Numbers of Incoming Requests

In Fiscal Year 2013 the Department received 70,081 requests for records, the second highest amount of incoming requests for the entire government, and the most for the Department since Fiscal Year 2009, the first year agencies prepared their reports under new guidelines issued by OIP.¹ This also marks the third straight year in which the Department has experienced an increase of incoming requests.

Requests Received Since FY 2009

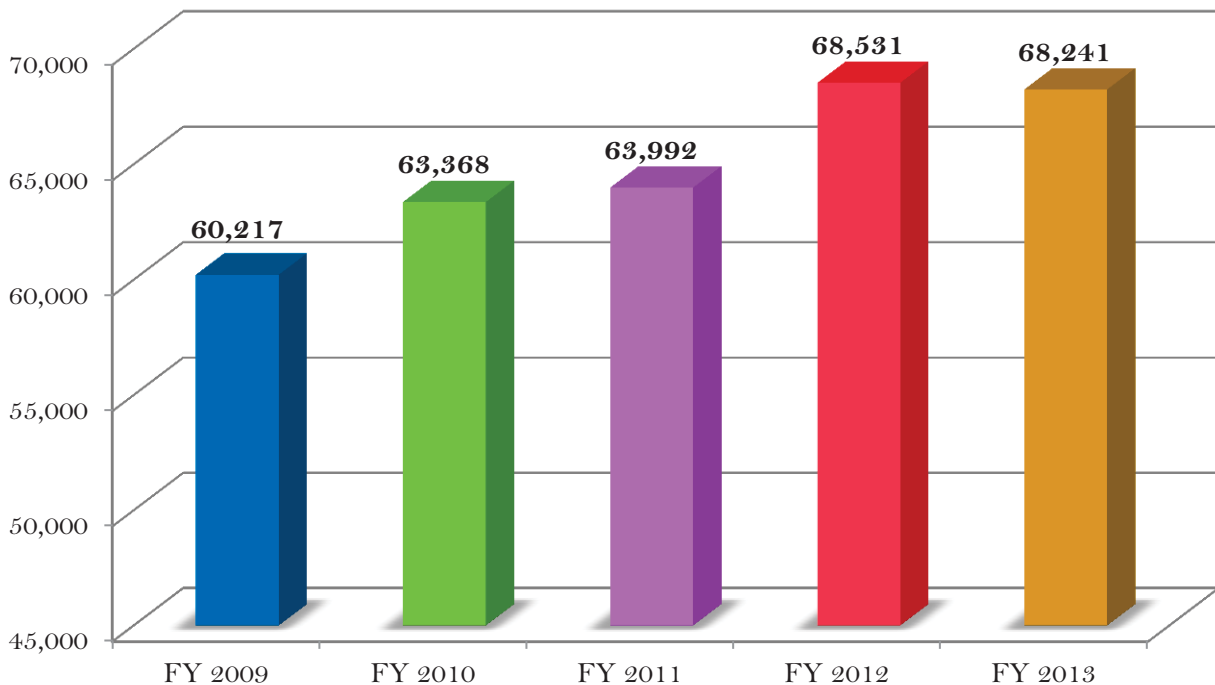


¹ In accordance with the [2008 Guidelines for Agency Preparation of Annual FOIA Reports](#), in order to provide a clear report of agency FOIA activities, beginning in Fiscal Year 2009 agencies were instructed to only include Privacy Act requests in their Annual FOIA Reports if the FOIA was utilized in any way to process the request.

Increased Numbers of Requests Processed

In an effort to meet this high demand of incoming requests, the Department continued to process requests at a high rate, processing 68,241 requests in Fiscal Year 2013. The number of requests processed by the Department during the fiscal year is nearly the same as the record high 68,531 requests processed in Fiscal Year 2012, amounting to a less than 1% decrease.

Requests Processed Since FY 2009



Maintained a High Release Rate for the Fifth Straight Year

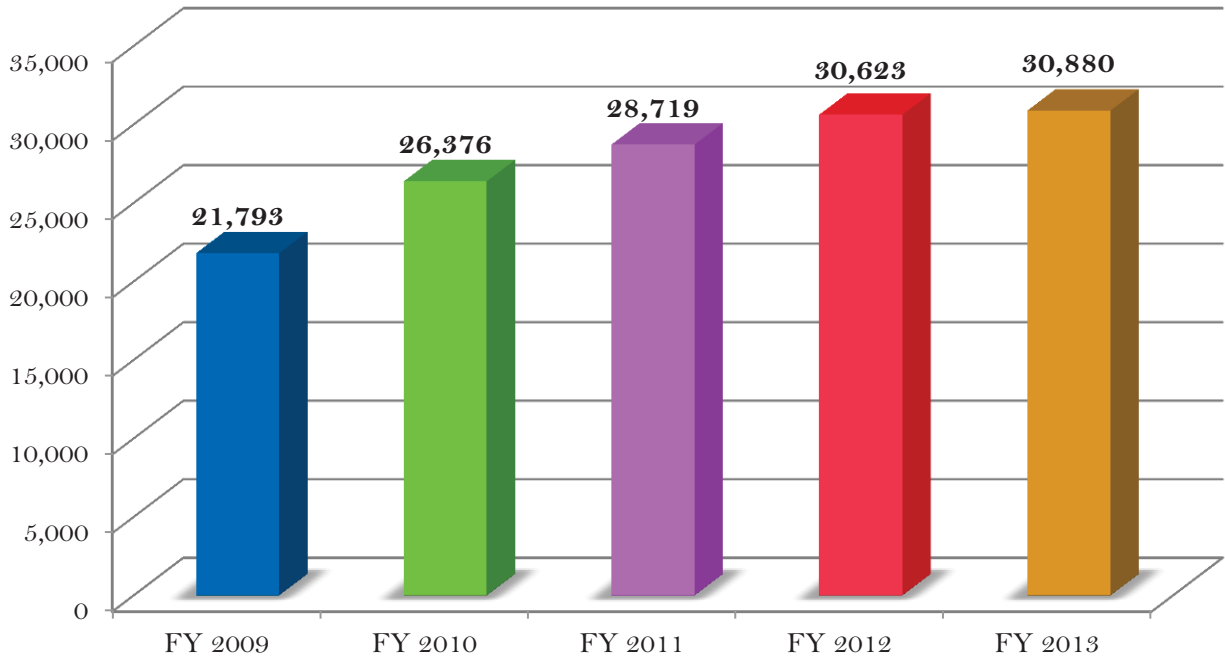
While continuing to process historically high numbers of requests, the Department was also able to continue its long-held trend of releasing information to the public. In responding to 41,057 requests where the use of exemptions were considered, the Department released information either in full or in part in 38,211 instances. Termed differently, the Department released information in response to 93.1% of requests considered for exemption applicability. This marks the fifth consecutive year the Department has maintained a release rate over 93%.

Not only did the Department maintain a high release rate, but it also continued a five year trend of releasing more information in full. In fact, since Fiscal Year 2009 the Department released records in full in over 70% of requests where the use of exemptions was considered. Moreover, during that time period, when the Department determined that records could be released, it released those records in full with no information withheld in

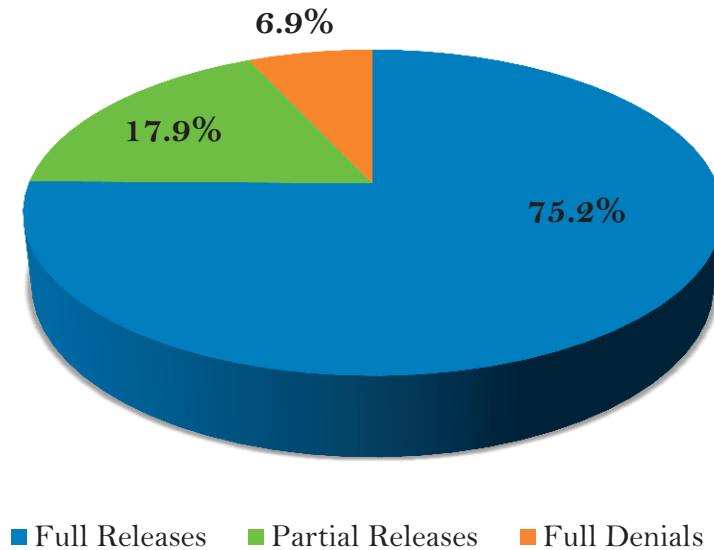
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over 74% of requests. In Fiscal Year 2013 in particular, the Department released records in full 30,880 times. This notably represents a nearly 42% increase of full releases from Fiscal Year 2009.

Releases in Full Since FY 2009



Full Releases, Partial Releases, and Full Denials in FY 2013



Backlogs and Ten Oldest Requests

As detailed more fully below, as a result of the ever-increasing demand of FOIA requests received by the Department, the complexity of those requests, and the reduction in FOIA staffing, the Department did experience an increase in its backlog of FOIA requests. However, the Department continues to maintain a relatively low backlog when compared to the number of requests it received last fiscal year. The 6,690 requests in the Department's backlog at the end of Fiscal Year 2013 amounts to less than 10% of the over 70,000 requests that were received during that year. Moreover, as discussed more fully below, the Department continued to focus on processing the oldest requests in its backlog, and was able to successfully close the ten oldest requests that were pending from Fiscal Year 2012.

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. As the president instructed, "[t]he Freedom of Information Act should be administered with a clear presumption: In the face doubt, openness prevails." The Department has engaged in a number of efforts to ensure that this presumption is fully integrated into its administration of the FOIA, including issuing government-wide guidance on the presumption, conducting a robust training program, engaging in outreach with the public, and through the numerous discretionary releases of information that are made each year.

FOIA Training

A proper understanding of the FOIA, including the correct application of the statute's provisions and the Attorney General's FOIA Guidelines, is the first step towards any successful FOIA operation. As the federal office responsible for encouraging government-wide compliance with the FOIA, OIP continues to conduct a wide range of training activities to educate FOIA personnel at all federal agencies on the legal requirements of the FOIA and the policy directives of the President and the Attorney General. OIP trains thousands of employees each year, through a variety of training sessions addressing issues ranging from utilizing proper administrative procedures, understanding exemptions, applying the FOIA's fee and fee waiver provisions, achieving transparency through proactive disclosures, improving customer service, and ensuring an effective FOIA administration. OIP also makes the training material for these courses and many others available [online](#).

Since March 2013, OIP hosted the following training events which were attended by nearly one-thousand FOIA professionals within the Department and across all agencies:

- *The Freedom of Information Act for Attorneys and Access Professionals* – This two-day program is designed for attorneys, Government Information Specialists, and other FOIA professionals with limited previous experience working with the FOIA who are now or soon will be working extensively with the Act. At this program OIP provides an overview of the FOIA including a discussion of the [President's FOIA Memorandum](#) and the [Attorney General's FOIA Guidelines](#). During this course OIP also provides lectures on the various FOIA exemptions and on procedural issues, as well as a discussion on proactive disclosures and the FOIA fee and fee waiver requirements. (OIP offered this training four times).
- *Advanced Freedom of Information Act Seminar* – At this seminar OIP provides advanced instruction on selected topics under the FOIA, including up-to-date policy guidance and views from the FOIA requester community. This program also serves as a forum for the exchange of ideas useful in addressing common issues that arise in administering the FOIA.
- *Freedom of Information Act Administrative Forum* – This program is designed for agency FOIA professionals who have several years of experience and who are involved in the processing of FOIA requests on a daily basis. OIP provides instruction and facilitates discussion on administrative matters arising under the FOIA, such matters as record-retrieval practices, multi-track queue usage, backlog management, affirmative disclosures, and automated record processing.

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- *Introduction to the Freedom of Information Act* – This program provides a basic overview of the FOIA for agency personnel who do not specialize in access law. It is designed for those who either work with the FOIA only occasionally or need only a general familiarity with the FOIA in order to recognize and handle FOIA-related problems that may arise in other areas of agency activity.
- *FOIA Litigation Seminar* – This course is designed for agency attorneys and FOIA professionals and focuses on the issues that arise when FOIA requests become the subject of litigation.
- *Refresher Training for Fiscal Year 2013 Annual FOIA Reports and 2014 Chief FOIA Officer Reports* – This training event provided agencies with a refresher on their FOIA reporting obligations.
- *Director Lecture Series* – OIP held two training opportunities under its Director Lecture Series, which was launched in the Summer of 2012. The first session focused on FOIA fundamentals while the second session served as a summit on FOIA fee issues. These lectures provide a unique opportunity for FOIA professionals to interact directly with the Director of OIP on a range of FOIA topics.

In addition to the training listed above which was hosted by the Department, OIP also continued to provide specialized training to agencies on any topic of interest, tailoring instructions to the needs of the particular agency involved. Specially, between March 2013 and March 2014, OIP provided specialized training for the following agencies: The Departments of Labor, Homeland Security, Treasury, Education, State, Health and Human Services, and Housing and Urban Development, as well as the Federal Highway Administration, Nuclear Regulatory Commission, Consumer Financial Protection Bureau, Office of the Director of National Intelligence, Federal Deposit Insurance Corporation, Environmental Protection Agency, and the U.S. Agency for International Development. We estimate that these training sessions were attended by approximately 700 agency employees.

Recognizing that travel requirements may limit the ability of FOIA personnel to attend training sessions, OIP also continued to offer video conference training open to all federal employees, with priority given to those outside of the Washington, D.C. area. This use of technology to conduct training is a cost-effective means of reaching a wider audience of federal FOIA professionals.

Building on this effort to make important FOIA training available to all federal employees, this past year OIP began developing a suite of four e-Learning training modules specifically designed for all levels of the federal workforce from the senior executive, to the FOIA professional, to the everyday federal employee whose records are subject to the FOIA. The full suite of training modules will be released this Summer and will serve as a valuable resource for all federal employees in need of FOIA training.

OIP also held three Department of Justice FOIA Conferences specifically for the Department's own FOIA professionals, addressing a range of issues of interest to the Department's FOIA administration. Notably, over 80% of the Department's FOIA professionals attended substantive FOIA training this past year. Separate from OIP's

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training efforts, the Department's components have also emphasized the importance of FOIA training within their own offices. Nearly half of the components reported holding a FOIA training conference or conducting their own training. For example, the Federal Bureau of Investigation (FBI) continues to set a high standard for training of FOIA staff.

By volume, the FBI is the third-largest FOIA component in the Department. While the FBI receives a significant amount of first-party requests, it also receives requests for records on a wide range of investigatory and historical matters. These requests may concern issues of current, breaking news or matters decades in the past yet still of public interest. To fully train its FOIA professionals on the proper processing of the variety of requests it receives, and the particular sensitivities of its records, the FBI provided the following training sessions for its staff this past year:

- *Other Government Agency Equity Training* (51 participants attended)
- *Declassification Review Training* (201 participants attended)
- *Basic FOIA/Privacy Act Disclosure Training* (8 participants attended)
- *Classification Liaison Training teaching FOIA professionals to recognize classified material and understand auto-declassification rules* (20 participants attended)
- *Exemption 5 Training provided by the FBI's Office of General Counsel* (201 participants attended)
- *National Security Information Classification Guide Training by FBI's National Security Branch* (51 participants attended)
- *Introductory to FOIA and Privacy Act Training* (31 participants attended)
- *Classification 50X Overview Training for FOIA/Privacy Act Processers* (201 participants attended)
- *Required Continuing Education Courses for all Employees: Identifying, Designating and Marking Classified National Security Information* (300 participants attended)
- *Records Management Division's Quarterly Enrichment Programs* (4 programs, 300 participants attended)
- *Records Information Dissemination Section Town Hall* (261 participants attended)

Similarly, the Antitrust Division's (ATR) FOIA/Privacy Act Unit participated in two in-house training sessions on the topics of: (1) FOIA administration and FOIA fees; and (2) Recent FOIA case law, Glomar responses, acknowledgement letters, exhaustion of administrative remedies, and FOIA litigation issues. The Civil Rights Division (CRT) held six conferences this past year with participation ranging from eight to forty attendees. The topics of these conferences included FOIA's procedural requirements, exemptions, and discretionary disclosures. The Tax Division conducted a number of small training sessions for its attorneys on the history of the FOIA, the presumption of openness, and the FOIA exemptions most commonly asserted by the Tax Division. Several of the Department's

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components, including the Civil Division, the Drug Enforcement Administration (DEA), the Executive Office for United States Trustees (EOUST), the Office of Community Oriented Policing Services (COPS), and the National Security Division (NSD) reported providing FOIA training to new agency employees. Finally, a number of components, including the Executive Office for United States Attorneys (EOUSA), BOP, and EOUST provided training to their staff on the proper tracking of FOIA requests and the use of their FOIA case management systems to manage workflows and process requests.

As noted above, the Department fully recognizes the importance of FOIA training in all agencies' administration of the law. It is precisely for this reason that OIP issued [guidance](#) last year that all agencies should make core, substantive FOIA training available to all of their FOIA professionals at least once each year. For this upcoming year, OIP will continue to provide comprehensive FOIA training to both the Department's FOIA professionals and professionals across the government. Such training will include the traditional FOIA workshops provided by OIP, the Director's Lecture Series, video conference training, and the suite of e-Learning modules that will be released this Summer. OIP will also continue to provide targeted training to agencies and the Department's components upon request. Details on upcoming training opportunities provided by OIP can be found on the [Training](#) page of [OIP's website](#). In addition to these efforts, OIP will continue to hold FOIA Conferences for the Department's components. The Department's components also plan to continue providing training to their staff members that is more specific to their particular needs.

Outreach

To improve not only the Department's, but also the government's overall FOIA administration, the Department has been heavily engaged in outreach with the requester community and open government groups in a variety of ways. First, OIP continued its [Requester Roundtable Series](#), where the public is able to meet with OIP's Director and representatives from other agencies to discuss various topics in FOIA administration. Three Requester Roundtables were held since March 2013 on the topics of Fees and Fee Waivers, Providing Records in Electronic Formats, and Maximizing the Administrative Appeals Process. OIP also solicited public input, and incorporated suggestions from the public, in new guidance issued on the [Importance of Good Communication with Requesters 2.0: Improving Both the Means and Content of Requester Communications](#) and the [2014 Guidelines for agency Chief FOIA Officer Reports](#). Further, recognizing the importance of technology in both improving the efficiency of agency FOIA programs and providing for a better customer experience, OIP is once again inviting the public to join the [IT Working Group](#) during Sunshine Week this year to discuss all of the technology that has been successfully utilized to improve FOIA over the past five years. Finally, OIP has also engaged open government groups and other stakeholders this past year as part of its work with the [Administration's Second Open Government National Action Plan](#) and the commitment in that Plan to modernize FOIA through five specific initiatives. Taking the lead on four of the five FOIA initiatives in the Plan, the Department looks forward to continuing to work with civil society in further improving all aspects of FOIA administration.

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Discretionary Disclosures

In his FOIA Guidelines, the Attorney General "strongly encouraged agencies to make discretionary disclosures of information." After [reviewing](#) the first set of agency Chief FOIA Officer Reports submitted in 2010, OIP found a strong correlation between those agencies that reviewed their documents with the presumptions of openness in mind and those agencies that were able to identify additional information that could be released as a matter of discretion. Accordingly, OIP issued [guidance](#) that each agency "should institute a system, or add a step in their processing procedures, to affirmatively consider whether more information can be released as a matter of administrative discretion."

All components of the Department have added a distinct step in their FOIA processing to consider whether a discretionary release can be made prior to using a FOIA exemption to withhold information. For example, the FBI routinely considers the age and sensitivity of its files to determine if a discretionary release is possible. Many of the Department's components employ a multi-tiered approach in reviewing records for discretionary release. At OIP, for example, a formal process is in place in which the Initial Request Staff's senior management reviews any instance of exemption usage along with the initial processor's recommendations regarding discretionary release. This tiered approach ensures that exemptions are not only applied properly, but that they are only asserted when there is a foreseeable harm in disclosure or when disclosure is prohibited by other legal authorities.

At the Department, the most frequently used exemptions continue to be Exemptions 6 and 7(C). Over half (56.9%) of the exemptions invoked by the Department during Fiscal Year 2013 were attributed to Exemptions 6 and 7(C). These exemptions, which both protect individual personal privacy, do not afford agencies an opportunity to make discretionary releases. The Department has, however, looked for opportunities to make discretionary releases of information protected by other exemptions and has found such opportunities for material covered under Exemptions 2, 5, 7(D), and 7(E). The discretionary release of certain law enforcement information otherwise protected under Exemption 7 was made in response to requests seeking historical or closed matters, where the Department elected to make a discretionary release to further the public's access to such records, in keeping with the Attorney General's FOIA Guidelines.

As explained in OIP's [guidance](#) on the President's FOIA Memorandum and the Attorney General's FOIA Guidelines, Exemption 5 holds the greatest potential for agencies to make discretionary releases. Accordingly, many of the Department's components have focused on these types of records in making discretionary disclosures. This past fiscal year in particular, despite continuing to process records at record high levels, the Department's use of Exemption 5 decreased by nearly 6%. While the use of any particular exemption will fluctuate from year-to-year depending on the types of records requested, it is significant that less than 6% of the Department's overall exemption usage during Fiscal Year 2013 was attributed to Exemption 5. Moreover, the Department used Exemption 5 to withhold information in response to only 3.2% of requests processed for disclosure.

Some examples of the discretionary releases made by the Department this past year include:

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- Information contained in former Attorney General Alberto Gonzales's briefing material regarding his travel to Egypt;
- Draft correspondence including extensive editorial notes and recommendations, and attorney and professional staff deliberative discussions and analysis related to the processing of various FOIA requests and administrative appeals by OIP;
- E-mails and draft copies of correspondence from the Office of Legislative Affairs concerning a Departments investigation;
- Communications regarding the January 2013 White House meeting on gun violence;
- Historical draft testimony on the topic of establishing task forces on organized crime;
- Historical Attorney General Memoranda concerning the resumption of FBI file destructions in accordance with National Archives and Records Administration (NARA) records schedules;
- Communications regarding the planning of a press conference held in Philadelphia on July 28, 2009;
- Briefing material on the White House summit on intellectual property rights;
- Memoranda to and from the Attorney General concerning the prosecution of individuals of interest to the FBI;
- Deliberative e-mails between the Office of the Deputy Attorney General and the U.S. Attorneys for the State of California regarding medical marijuana;
- E-mails concerning the Attorney General's attendance and speech at the Lavender Law Conference in 2012;
- The Foreign Claims Settlement Commission (FCSC) released draft decisions and memoranda;
- The Office of Legal Counsel (OLC) released older opinions from prior administrations;
- OLC also released form-and-legality memoranda that accompany executive orders and presidential proclamations. OLC has released several batches of these memoranda, in full, including ones written under the current administration;
- CRT released memoranda providing the legal and factual rational for actions taken or not taken in specific law enforcement efforts. These memoranda had previously been withheld in full but once the cases were closed CRT released material as a matter of discretion, protecting only personally identifiable information related to subjects, victims, or witnesses;

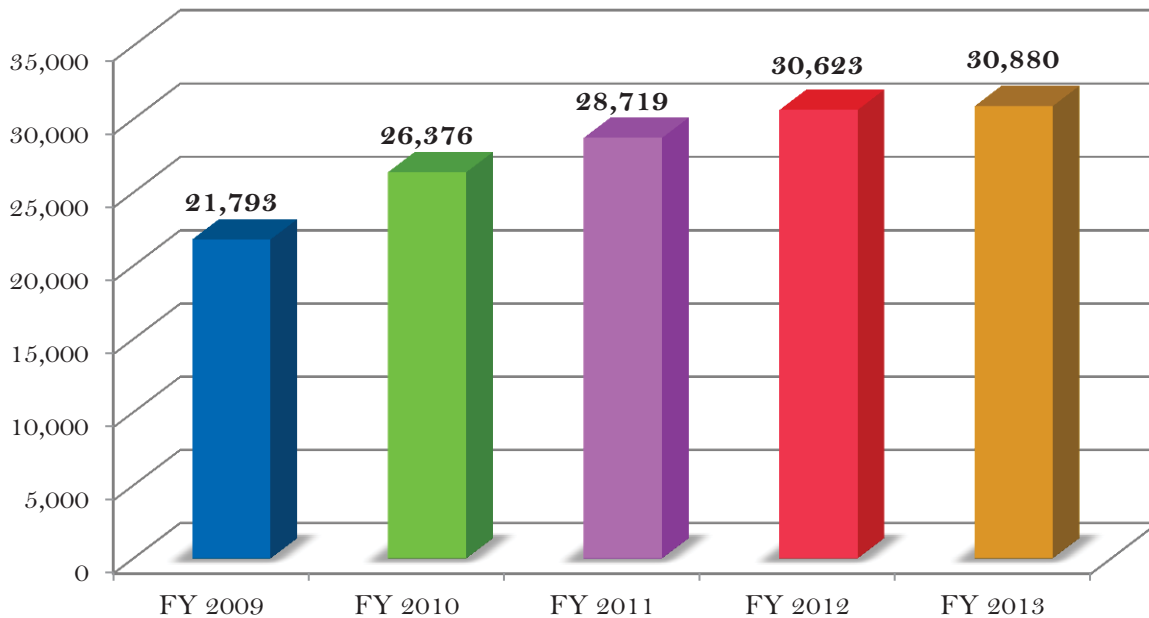
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- EOIR released deliberative information from internal reports and documents as well as e-mail communications between high ranking personnel;
- EOIR also released statistical data that provides the public with greater understanding of the information being released;
- The Criminal Division released historical documents sent to the Director of the FBI from the Assistant Attorney General;
- EOUST released e-mails containing deliberative information concerning the civil enforcement efforts of a particular United States Trustees Program (USTP);
- EOUST also released attorney work-product concerning private bankruptcy trustees whose work performance USTP monitors;
- The Office of Justice Programs (OJP) released e-mails discussing criminal intelligence and information database issues, a potential response to a media inquiry, and discussions on budget projections to operate in shared space;
- The Civil Division's most common discretionary releases consisted of deliberative or attorney work-product records that were older than twenty-five years;
- The FBI routinely releases historic law enforcement information from investigative files that contain investigative techniques, informant information, and internal deliberative process that is no longer sensitive based on the date of the information. For example, this past fiscal year the FBI released this type of information when processing a request for records on the Alger Hiss/Whittaker Chambers investigation from the 1940s. The FBI released a copious amount of information within the investigative file, which contained the deliberative process of government officials deciding whether to prosecute Alger Hiss for espionage and perjury. The FBI also released informant reporting and investigative techniques discussed in the file that lost their sensitivity with the passage of time and through the publicity of the case;
- EOUSA released notes from its case files and records that could have been protected pursuant to the attorney work-product privilege;
- BOP made discretionary releases of deliberative process documents in relation to Correctional Program materials;
- In appropriate cases, the Office of Professional Responsibility (OPR) made discretionary releases of draft letters and portions of draft reports;
- ATR released several intra-agency memoranda regarding an investigation that was conducted over ten years ago; and
- The Environmental and Natural Resources Division (ENRD) released records related to settlement negotiations, including its attorneys' hand-written notes on calls between the parties.

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These are only some of the many examples of discretionary disclosures made by the Department this past year. These select examples coupled with the Department's sustained high release rate of more than 93%, and the continued increase of full releases since Fiscal Year 2009, all concretely demonstrate that the presumption of openness is fully incorporated into the FOIA processing decisions made at the Department of Justice.

Releases in Full Since FY 2009



Quarterly Reports

In January 2013, OIP instituted a new quarterly reporting requirement for all agencies. on four key FOIA statistics, thereby allowing for a more real-time assessment of the flow of FOIA requests handled by the government throughout the year. The four key statistics are the numbers of requests received, processed, and in an agency's backlog for each quarter of the fiscal year, as well as the status of the agency's ten oldest pending requests. This new reporting requirement is specifically designed to provide even greater transparency to the FOIA process by proactively shedding light on agencies' raw statistics throughout the fiscal year and not just at the end. To facilitate the viewing of this data by both agencies and the public, all agency quarterly reporting is displayed on the [Reports](#) page of [FOIA.gov](#). In accordance with the January 2013 [Guidance for Quarterly Reporting](#), the Department posted all of the required quarterly FOIA reports for Fiscal Year 2013.

Section II: Steps Taken to Ensure that the Department Has an Effective System for Responding to FOIA 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.

Personnel

A key component of an agency having an effective system for responding to requests is the quality of its FOIA professionals who are on the frontline of processing the increasing numbers of requests that are received each year. Both the President and the Attorney General have emphasized the importance of the work performed by agency FOIA professionals, and the vital role they play in maintaining a transparent and accountable government. In recognition of their important role and in an effort to professionalize the government's FOIA and Privacy Act workforce, on March 9, 2012, OPM [announced](#) the creation of a new job category specifically for FOIA and Privacy Act professionals called the Government Information Series. As of March 2014, twenty-seven out of the thirty-one Department components that process FOIA requests have converted all their eligible FOIA professionals to the new Government Information Series or an equivalent series. The remaining four components all reported that they are actively working with their Human Resources Offices to convert all eligible positions to the new series. The Department fully expects that all appropriate FOIA professionals will be converted to the Government Information Series within the upcoming year.

Processing Procedures – Requests for Expedited Processing

The FOIA contains a requirement that agencies establish procedures in their regulation, that provide "for expedited processing of requests" in certain circumstances. [5 U.S.C. § 552\(a\)\(6\)\(E\)\(i\) \(2006 & Supp. IV 2010\)](#). Agencies that receive requests for expedited processing are required to "make a determination of whether to provide expedited processing" within ten days. [Id. § 552\(a\)\(6\)\(E\)\(ii\)\(I\)](#). During Fiscal Year 2013, the Department's overall average number of days to adjudicate requests for expedited processing was 4.12 days.

Processing Procedures – Streamlining the Referral and Consultation Process

The process of engaging in a FOIA consultation has historically required some additional time to be added to the overall processing of a request. Frequently records require multiple consultations with various agencies or agency components and the coordination of all the views being solicited can be quite time consuming. To tackle this problem for the Department overall, OIP examined a range of solutions including the use of more advanced technology such as shared platforms for document review. After much weighing and analysis, OIP determined that the simplest and most immediately effective solution was to streamline the process through the organized use of e-mail.

Accordingly, OIP issued a [memorandum](#) to all of the Department components providing a new protocol for transmitting consultations and referrals, which was to be instituted starting May 1, 2013. The memorandum instructed Department components to create a specific e-mail account for sending and receiving consultations and referrals, and to consistently utilize e-mail both to transmit document referrals and to distribute documents for consultation. By using dedicated e-mail accounts the time required for transmitting consultations and referrals should be improved. Further, the new protocol instructs components with records that require multiple consultations to send their request for views

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on disclosability to all involved components in one e-mail. By doing so, the components in receipt of the consultation will know immediately which other components have been asked for their views, which can be helpful in providing their own views. Similarly, the new protocol requires components to reply to all the components that received the consultation request so that again, the other components can have the benefit of each other's views on the proper handling of the documents. This protocol will allow the Department's components to operate more effectively by creating a collaborative environment for views to be shared, eliminating the need to coordinate various stakeholder views in a piecemeal manner.

In addition to streamlining the consultation process through the coordinated use of e-mail, many of the Department's components reached agreements with other agencies on how to process records that are common sources of consultations and referrals. By forming such agreements the Department has obviated the need for repeated consultations and referrals for the same types of records. For example, EOIR continued to work under a longstanding agreement with DHS on the processing of immigration records. Additionally, the FBI reached an agreement within the Intelligence Community to process other agency information under certain circumstances. OIP's Initial Request Staff, OLC, the United States Marshals Service (USMS), and the Criminal Division also reached similar agreements to streamline the FOIA process and avoid the need for making certain referrals and consultations.

Requester Services

On November 22, 2013, OIP issued a second installment of [guidance](#) on the importance of good communication with FOIA requesters. Building off of guidance issued in 2010, this new guidance directed agencies to, among other things, communicate with requesters electronically as a default. All of the Department's components report communicating with requesters electronically whenever feasible.

On July 9, 2010, OIP issued [guidance](#) to agencies notifying them of the mediation services offered by the Office of Government Information Services (OGIS) and advising them to inform requesters of the availability of mediation in their final responses during the administrative appeals process. Since the issuance of this guidance, the Department has continued to provide such notification to requesters in its administrative appeal responses, advising several thousand requesters each year of OGIS's mediation services.

Other Initiatives

In addition to the above, the Department has engaged in a number of other initiatives to ensure that its administration of the FOIA is as efficient and effective as possible. The Associate Attorney General, who also serves as the Department's Chief FOIA Officer, continued to hold meetings of the Department's FOIA Council. The FOIA Council was established by the Associate Attorney General to serve as a high-level forum within the Department for the heads of each component to discuss our overall administration of the FOIA.

With the support of the Associate Attorney General, this past year OIP also initiated a comprehensive, Component Improvement Initiative. As part of this initiative, OIP began conducting a wide-ranging review of each component's FOIA operations to identify where

improvements can be made and to share best practices that have resulted in success with other components. During meetings with the components, OIP has already made significant headway towards improving, among other things, backlogs, proactive disclosures, FOIA websites, and the overall processing of requests. Additionally, OIP continues to regularly hold conferences specifically for the Department's FOIA offices to provide targeted training and guidance, and to discuss current issues regarding our overall administration of the FOIA.

Many of the Department's components have also taken steps to make sure their FOIA operations are operating efficiently and effectively. For example, in June 2013 the FBI finished an in depth study of its initial processing workflow, with emphasis on identifying manual processes which could be eliminated by technological enhancements. This study will form the basis for much of the improvements made to the FBI's system in Fiscal Year 2014. By moving to a new version of its FOIA Document Processing System (FDPS) that will help digitally manage its FOIA requests, the FBI will be able to streamline quality reviews and increase oversight for managers to ensure it is working on cases in an efficient manner. The Civil Division also reported regularly engaging in self-assessments and in Fiscal Year 2013 it successfully implemented a complete restructuring of its FOIA processes by streamlining functions and integrating advanced review and search tool into its FOIA system. As a result of these advancements, the Civil Division was able to reduce its FOIA backlog by 50%. With similar success, components like OIP's Initial Request Staff, OLC, the Criminal Division, USPC, the Tax Division, BOP, and ENRD also engaged in regular reviews of their FOIA programs and found ways to improve their administration of the FOIA. As discussed more fully in Section IV below, many of these improvements involved the streamlining of traditionally time-consuming manual processes through the use of advanced technologies.

Section III: Steps Taken to Increase Proactive Disclosures

The President's FOIA Memorandum and the Attorney General's FOIA Guidelines recognize that increasing transparency requires more than improvements to an agency's FOIA process. Achieving a more open government also requires agencies to make proactive disclosures of records to the public in advance of receiving a FOIA request. The Department has continued to make records available to the public proactively, posting a wide range of material. In addition, the Department has taken several steps to make that information more useful to the public.

Posting Material

In order to answer the Attorney General's call for agencies to "readily and systematically post information online" it is important that each agency have a process in place to identify records for proactive disclosures. All Department components have put a process in place to identify records of public interest that can be proactively posted online. While components use different strategies for identifying this information, each component has tailored its process or method of identifying proactive disclosures based on its current operations and the types of records that are of interest to the community of individuals that most frequently visit their websites.

By way of a few examples, COPS automatically reviews for posting the successful applications of a majority of the grant programs it administers. OLC has a process in place

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to regularly consider and select opinions for official publication. This process includes an internal publication review committee, which considers factors such as the potential importance of the opinion to other agencies or officials in the Executive Branch, the likelihood that similar questions may arise in the future, the historical importance of the opinion or the context in which it arose, and the potential significance of the opinion to OLC's overall jurisprudence. OLC also solicits and considers the views of the Executive Branch official or agency that requested the advice, and any other agencies that have interests that might be affected by publication. The Criminal Division began an initiative whereby its FOIA/Privacy Act Unit solicits ideas for proactive disclosures directly from each Criminal Division section. DEA reported that it works closely with its Congressional and Public Affairs Offices, as well as various program offices, to identify records that might be appropriate for proactive disclosure. The Office of the Solicitor General (OSG) has instituted a process to automatically post each printed brief that it files with the Supreme Court.

Using these various methods to identify proactive disclosures, the Department has embraced the ideals of openness and transparency through the regular postings of material to its website. Every Department component maintains a [FOIA Library](#) on its website to centralize, organize, and publicize proactive disclosures made in connection with their FOIA administration. Components also frequently post material elsewhere on their websites where it would best serve the communities most interested in the material. A wealth of information was added this past year to the Department's website. Some examples of these new postings include:

- OIP regularly posted new material and FOIA resources on its website. Some examples of material posted since March 2013 include:
 - Through its blog, [FOIA Post](#), OIP continued to inform both agencies and the public of new developments and upcoming events concerning the FOIA
 - FOIA continued to update and post important FOIA resources such as OIP's lists of [Statutes Found to Qualify Under Exemption 3 of the FOIA](#) and [Statutes Used in Agency Annual FOIA Reports](#)
 - OIP continued to post its guidance articles to agencies on the implementation of the FOIA. Specifically, OIP posted the following guidance articles this past year:
 - [Using Metadata in FOIA Documents Posted Online to Lay the Foundation for Building a Government-Wide FOIA Library](#)
 - [Guidance for Quarterly FOIA Reporting](#)
 - [Guidance for Further Improvement Based on 2013 Chief FOIA Officer Report Review and Assessment](#)
 - [Guidelines for 2014 Chief FOIA Officer Reports](#)
 - [Department of Justice Handbook for Agency Annual Freedom of Information Act Reports](#)
 - [Calculating FOIA Response Times after the Government Shutdown](#)
 - [The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications](#)

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- OIP continued to regularly post new [summaries of court decisions on the FOIA](#)
- OIP also posted the following in its [FOIA Library](#):
 - [Attorney General Memorandum to the United States Attorneys and Assistant Attorney General for the Criminal Division Regarding Department Policy on Charging Mandatory Minimum Sentences and Recidivist Enhancements in Certain Drug Cases](#)
 - [Deputy Attorney General Cole letter to Associated Press President and Chief Executive Officer Gary B. Pruitt](#)
 - [Attorney General Memorandum for All Department of Justice Employees Regarding Budgetary Conditions for the Remainder of Fiscal Year 2013](#)
 - [Attorney General Memorandum for All Department of Justice Employees on Sequestration and Safety Actions Regarding the Bureau of Prisons Institutions](#)
 - [Deputy Attorney General Memorandum for the Heads of Department Components on Sending Restrictions Under Sequestration](#)
- In addition, OIP continued to post [monthly FOIA logs](#) for requests made to OIP and the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legislative Affairs, Public Affairs, and Legal Policy. Further, OIP and the Office of Public Affairs posted [Calendars](#) for the Attorney General and other Senior Department Officials;
- As indicated above, COPS [posted successful grant applications](#) for multiple grant programs administered by the agency. COPS also posted interactive maps for the public to easily locate the desired grant application;
- FCSC posted its [Commission decisions](#) and [Annual Reports](#);
- OLC continued to add to its online collection of [historical OLC opinions](#). During this reporting period alone OLC posted seventy opinions, memoranda, and correspondence that were not previously available in any form, and it has published three new book volumes, one of which is now available electronically in its [FOIA Library](#);
- CRT proactively posted on its [FOIA Library](#) historical records, technical assistance letters with determinations on legal issues related to disability rights, settlement agreements, consent decrees, and court opinions;
- USMS published [arrest statistics](#) organized by state;
- EOIR posted [Board of Immigration Appeals Precedent Decisions](#), [Office of the Chief Administrative Hearing Officer Decisions](#), [List of Free Legal Service Providers](#), [List of Recognized Organizations and Individuals who are Accredited Representatives to practice before EOIR](#), [Operating Policy and Procedure Memoranda \(OPPMS\)](#), [Immigration Law Advisor - Agency Newsletter](#),

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[Immigration Judge Complaint Statistics](#), [EOIR Press Release Fact Sheets](#), and [EOIR's Organizational Chart](#);

- The Office of the Pardon Attorney (OPA) posted information on [clemency statistics](#), [clemency recipients](#), and [Presidential Clemency Actions during the Obama administration](#). In its [FOIA Library](#), OPA also posted clemency application forms, clemency denials by President Obama, and Congressional testimony;
- The Criminal Division posted records concerning the use of [Pen Register/Trap and Trace devices](#) by law enforcement agencies;
- EOUST posted a [complete list](#) of materials regarding its program. Some examples include: [EOUST's Annual Reports of Significant Accomplishments](#), [Bankruptcy Fact Sheets](#), [Press Releases](#), [testimony and speeches](#), [Bankruptcy Data & Statistics](#), [Significant Guidance Documents and Outreach](#), [Consumer Information](#) including [Limited English Proficiency \(LEP\) data](#), and [USTP News and Important Notices](#);
- The Tax Division launched a whole new [web page](#) for record pertaining to the Division's Directive No. 144 to further the efforts of the Division and the U.S. Attorneys' Offices in stolen identity refund fraud (SIRF) cases. The Tax Division also continued to post press releases about its [offshore compliance initiative](#);
- Among other things, the Justice Management Division (JMD) posted its [FY 2014 Budget and Performance Summary](#), [FY 2014 Budget Fact Sheet](#), [Congressional Budget Submissions](#), [FY 2014 Exhibit 300S](#), [The Department of Justice's FY 2014 Contingency Plan](#), [Federal Employee Viewpoint Surveys](#), updated information on [Veteran Recruitment](#), [Reports to Congress Summarizing Assets Forfeiture Program activities](#), and [Annual Financial Statements detailing audit results](#);
- OJP [posted](#) copies of previously-funded grant applications and fact sheets on DNA Backlog, Human Trafficking, and Faith-Based Program Mentoring;
- The Civil Division regularly posted press releases and information about the resolution of cases of interest on its [website](#). One recent example concerns a [\\$2.2 Billion settlement with Johnson & Johnson](#) for civil and criminal health care fraud violations;
- The FBI continued to add more records of public interest to [The Vault](#), which contains 6,700 documents and other media that have been scanned from paper into digital copies. Examples of the material added during this reporting period include records on Gene Kelly, a well-known dancer, actor, and film executive; Michael Hastings, a journalist and author; investigations of threats made against Senator Daniel K. Inouye; Vice President Spiro Agnew; former Congressman and Mayor Ed Koch; Rodney King; Carlos Fuentes, a noted Mexican writer;

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Muammar Qadhafi, ruler of Libya; U.S. Astronaut Neil Armstrong; and Whitney Houston;

- OVW [posted](#) information about grant-funded activities which are organized by fiscal year, the particular OVW grant program, and by state;
- The Office of the Inspector General (OIG) routinely [posted](#) audits, inspection and special reports to its website. OIG also posted its [semi-annual reports](#) and [Congressional testimony](#);
- OSG posted each [printed brief](#) that it filed in the Supreme Court;
- Among other things, ATR posted the following material on its [website](#): Business Review Letters, which are statements of the Division's current law enforcement intentions with respect to certain proposed business conduct, Economic Discussion Papers written by Division economists, Guidelines regarding intellectual property, Division comments filed with other federal agencies, Congressional testimony and speeches by Division officials, press releases, Division court filings, information regarding criminal enforcement of federal antitrust laws, Division workload statistics, and comments by the public regarding cases and workshops;
- ATR also posted a number of data sets on [Data.gov](#) which include: select case filings, select appellate briefs, ten year workload statistics, appropriation figures for fiscal years 1903-2012, and Sherman Act violations yielding a corporate fine of \$10 million or more;
- ATF posted a listing of all [Federal Firearms Licensees](#);
- ENRD's websites continued to be updated with [consent decrees](#), [reports](#), [press releases](#), and [speeches](#) that illustrate the Division's recent work.

FOIA.gov

Launched during Sunshine Week three years ago, [FOIA.gov](#) continues to serve as the government's one-stop shop for FOIA data and resources. Among many other functions, [FOIA.gov](#) takes the detailed statistics contained in agency Annual FOIA Reports and displays them graphically. The website also allows users to search and sort the data in any way they want, so that comparisons can be made between agencies and over time. This past year the Department continued its efforts to enhance FOIA.gov to provide additional resources and up-to-date information for the benefit of the public. The "Reports" page of the website was regularly updated to add agencies' Quarterly FOIA Report data. Additionally, the Department added to the website the data from agencies' Fiscal Year 2013 Annual FOIA Reports, so that they too can now be sorted and compared by agency and over time. New charts and graphs show the evolution of key FOIA statistics over the past six fiscal years. [FOIA.gov](#) also continued to be updated with recent FOIA news and spotlights on the new releases agencies have made that are likely to be of interest to public.

Making Posted Material More Useful

Not only has the Department continued its trend of posting more information online, but it has also continued to work to find ways to make that information more useful to the public. The Department welcomes [public feedback](#) through its main website and it strives to implement any suggestions that would make the information posted online more useful. Apart from the main site, many of the Department's components have also built separate mechanisms for receiving public feedback on their individual webpages. For example, the FBI asks users to fill out a survey on their experience with its website. Through this mechanism, users have been able to give the FBI very useful comments on how the website could be improved to provide easier navigation through the site and easier identification of posted information. Similarly, EOUST has established [eight topical e-mail addresses](#) designed to receive public feedback on the content and presentation of posted materials. FOIA.gov, the Department's comprehensive FOIA website, and the websites of OIP, ATR and EOIR also provide similar tools for receiving public feedback.

Other components such as the FBI and EOIR improved their websites with search functions that make it easier for the public to locate records of interest. In particular, this past year OIP improved the searchability of a number of important FOIA resources provided on its website. First, OIP issued the newest edition of the [Department of Justice Guide to the Freedom of Information Act](#), which serves as a comprehensive legal treatise on the FOIA relied on by both agency personnel and the public. As promised in the Department's [Open Government Plan version 2.0](#), a distinct feature of the new edition of the *Guide* is the transition from a paper publication to, for the first time, a fully searchable online resource that will regularly be updated as new decisions impact the state of the law. In addition to using keywords to search through the *Guide*, users are able to click on links to source material such as summaries of the court decisions and OIP Guidance.

OIP also launched a new page on its website for the summaries of the [significant FOIA decisions](#) it regularly issues throughout the year. The new, enhanced Court Decisions page adds two powerful features for viewing and searching through case summaries while continuing to allow users to view these summaries by topic and chronologically. Using the new search functions, visitors can now locate full summaries of cases by topic and through keywords or phrases. In addition, OIP continues to improve the usability of several of the FOIA reports and resources on its website by posting them in open formats. This past year in particular, OIP posted its [Chart of Exemption 3 Statutes](#), [Assessment of Agency Annual and Chief FOIA Officer Reports](#), and [Litigation and Compliance Report](#) in both human readable and open formats.

To aid the public in their search for specific grant applications, COPS improved its website by developing interactive maps for the public to easily locate the desired information by location. The Tax Division improved its website by adding explanatory material about the information it posted. Similarly, OSG provided narrative introductions on its Briefs webpage that describes how briefs are grouped on the website, the available format options, and the means for locating them. The DEA just recently completed preliminary reconstruction of its current FOIA website. Additional enhancements to the new website include added functionality to its [Tip Line](#) page and a new roll over feature on some of the images on the site.

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A number of components made efforts to publicize the material they posted online so that those who were interested were aware of its availability. For example, components such as the Tax Division and OIG did so through press releases. OIP continued to highlight a number of newly posted material on its website through its blog, *FOIA Post*. ATR publicized its posting to subscribers through GoDelivery and RSS feed updates.

In a further effort to publicize proactive disclosures and reach new audiences in different ways, the Department also continued to maintain a strong presence on various social media platforms, including Facebook, YouTube, MySpace, and Twitter. In addition to the primary Department accounts on those platforms, many Department components maintain similar accounts that provide information uniquely important to that component. To highlight just a few, CRT, OJP, OIP, FBI, EOIR, OIG and many of the United States Attorney's Offices maintain Twitter accounts that are frequently updated. These accounts provide a constant stream of information of interest to the public related to ongoing litigation, indictments, issuance of guidance, notice of upcoming conferences, press releases, the investiture of immigration judges, and many other topics.

While the Department strives to proactively post as much information on its websites as possible, there are sometimes limitations that can make such postings difficult. Some of the Department's components reported that additional postings were not feasible because the majority of the records they handle are not appropriate for release. For example, EOIR mostly handles first-party Immigration records, which cannot be posted online. However, for those instances where records are appropriate for posting, one challenge cited by various components is the additional resources required to code the records so that they are compliant with Section 508 of the Rehabilitation Act. One component with a robust FOIA Library and history of proactive disclosures also cited server space and the resources need to manage its website as an additional challenge.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum is 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. The Department continues to embrace the use of technology to improve all aspects of our FOIA administration. Particularly, we have found great potential in technological solutions that help with the core functions of document processing.

Online Tracking of FOIA Requests

Currently, nine of the Department's components provide electronic tracking of FOIA requests. All users that submit requests through OIP's [online FOIA portal](#) may also track the status of that request online. OIP's portal provides this service for requests made to itself, as well as the Offices of the Attorney General, Deputy General, Associate Attorney General, Legislative Affairs, Public Affairs, and Legal Policy. Moreover, all administrative appeals submitted to the Department with the exception of USPC can be submitted and tracked through OIP's portal as well. In addition to using OIP's portal, requesters may submit and track their requests through separate online portals provided on the [FBI's](#) and [BOP's](#) websites.

Through the online tracking capabilities currently available from OIP's, FBI's, and BOP's portals, requesters are provided with a variety of information concerning the status of their request. This includes information indicating that a search for responsive records is ongoing, that responsive material is pending review, that the Department is awaiting fee payment, that the request has been forwarded to another Department component, or that its processing has been completed. Currently, these online tracking systems do not provide estimated dates of completion.

Additional Department components such as EOIR, COPS, CRT, NSD, OSG, and the Organized Crime Drug Enforcement Task Forces have indicated that they are taking steps to establish similar online tracking capabilities. However, a number of components have explained that they do not expect to provide a public tracking feature in the near future because the low volume of requests they receive and the small pool of potential users that would benefit from such a feature would not justify the resources that would need to be expended. For example, CRS only received sixteen requests last fiscal year and it closed all of those requests within twenty-one days. All of the Department's components continue to provide status updates and estimated dates of completions upon request through their Requester Service Centers and by e-mail.

Use of Technology to Facilitate Processing of Requests

Going beyond the use of technology to receive and track requests, OIP has championed the use of advanced technological solutions that assist with the core functions of document processing as a key component of improving FOIA administration. OIP continues to lead the effort to explore the use of these more advanced technologies for the benefit of not only the Department's, but all agencies', FOIA administration.

Automating many of the internal processes for handling FOIA requests can bring great benefits in efficiency. For example, conducting an adequate search for responsive records often involves the review of both paper and electronic records originating with multiple employees throughout the agency. In turn, these searches can locate hundreds, if not thousands, of pages of material that need to be reviewed for both responsiveness and duplication before a FOIA disclosure analysis can be conducted. With the widespread use of email and the common practice of employees forwarding the same email to multiple other people, with each employee then building still further on that email, long chains of overlapping and duplicative email are frequently created. The benefits of using technology to de-duplicate and sort and thread all those emails automatically, rather than doing so manually, are readily apparent.

The Department's FOIA personnel, like those around the government, are highly-trained, specialized professionals with expertise in the appropriate application of FOIA exemptions and disclosure policies. Their skills are best utilized when directed towards the review of responsive records, not to the important, though administrative, tasks of conducting records searches and identifying duplicative documents. Put simply, the faster an agency can identify the corpus of records responsive to a request, the faster it can make appropriate disclosure determinations on that material and respond to the requester.

Yet the potential benefits of these digital tools do not end there. Various platforms are available that allow for the electronic processing, review, and redaction of records. OIP, the Civil Division, the Criminal Division, CRT, and the Tax Division all reported using platforms to improve workflows and automate search and de-duplication processes. Several of the Department's components that are not currently utilizing these tools reported that their use would be very helpful in achieving efficiencies in their FOIA programs.

Indeed, through the use of digital tools in FOIA this past year the Civil Division approximates costs savings of approximately 88% from the de-duplication and search of records, and 70% for the initial review that is conducted. Working with JMD, OIP began embedding multiple platforms of these digital tools in its search, review and production procedures for all FOIA requests received by the Office. The benefits of utilizing these tools has proven to be significant and OIP looks forward to continuing to work both within the Department and across agencies to modernize the administration of the FOIA through the use of these advanced technologies.

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

In their FOIA Memoranda, both the President and the Attorney General emphasized the importance of improving timeliness in responding to requests. As discussed above, despite the challenges of meeting the ever-increasing numbers of requests received by the Department, the increasing complexity of those requests, and a reduction in FOIA staffing, the Department has made great efforts to timely process a high number of requests every year. This past fiscal year, the Department worked to meet the record high numbers of requests it received, by processing 68,241 requests. As noted above, over the past five years, the Department has processed over 16% more than it did in the five years prior to the issuance of the President's and Attorney General's FOIA Memoranda.

Simple Track Request

The Department's overall average number of days for processing simple track requests during Fiscal Year 2013 was 21.75 days. Notably, 85% of the perfected requests processed by the Department this past fiscal year were categorized as simple requests. Accordingly, for the overwhelming majority of perfected requests processed by the Department, the requester received a final response within an average of less than twenty-two days.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations

As discussed above, this past fiscal year the Department received a record high number of incoming requests. By continuing to process requests at a high level, the Department was able to mitigate the impact of the increase and so while our backlog increased, it did so by less than 1,800 requests. This increase was attributed to a confluence of circumstances including the receipt of over 70,000 requests for the first time, an increase in the complexity of the requests received, and an over 5% reduction in the number of staff members who were able to work on FOIA. The FBI, which received the third most requests this past fiscal year, was also impacted by its efforts to upgrade its FOIA Document Processing System. This upgrade required employees to take significant time away from

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processing requests to test the new system and learn how it works. As detailed in Section II above, however, by moving to this upgraded system to digitally manage its FOIA requests, the FBI expect to increase efficiencies in the upcoming year.

While the backlog of pending requests did increase this past year, it is important to note that the Department continued to maintain a relatively low backlog when compared to the number of requests it received. The 6,690 requests in the Department's backlog at the end of Fiscal Year 2013 amounts to less than 10% of the over 70,000 requests that were received during that year. Moreover, twenty-five of the Department's components ended Fiscal Year 2013 with sixty or fewer backlogged requests, and of those, seven had no backlog at all.

In fact, twenty of the Department's components were able to either reduce their backlog of requests this past fiscal year or maintain a backlog of zero. For example, both the DEA and the Civil Division reduced their backlog of requests by over 55%. This marks the second consecutive year that the DEA reduced its backlog by over 55%. Notably, OIP, which processes requests on behalf of the Department's senior management offices, achieved backlog reduction for itself and the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, and Legal Policy.

Despite receiving over 3,000 administrative FOIA appeals, the most received across the government, the Department was able to reduce its backlog of appeals by over 6% from 353 appeals in Fiscal Year 2012 to 331 in Fiscal Year 2013.

In addition to focusing on reducing the number of requests in an agency's backlog, OIP has issued guidance on number of occasions stressing the importance of agencies reducing the age of their backlogs by closing their ten oldest requests, appeals and consultations. The Department is pleased to report that it successfully closed its ten oldest pending requests, appeals, and consultations from Fiscal Year 2012. Notably, this marks the sixth consecutive year that the Department closed its ten oldest pending request and appeals.

Plan for Reducing Backlog

The Department is engaged in a number of initiatives aimed at improving the Department's overall FOIA administration, including reducing backlogs. With the support of the Associate Attorney General, OIP is working with each component through the Component Improvement Initiative to identify causes contributing to backlogs and to assist components in overcoming those challenges and finding further efficiencies. As the Department's Chief FOIA Officer, the Associate Attorney General will continue to convene the Department's FOIA Council to manage the Department's overall FOIA administration and to provide top level support for backlog reduction efforts. Additionally, as part of this year's Chief FOIA Officer Report, OIP asked each component that experienced a backlog increase to provide their individual plans for reducing their backlog in the upcoming year. A number of components reported plans to hire additional FOIA professionals and adjust workflows to maximize efficiencies.

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Interim Responses

OIP has issued [guidance](#) to all agencies encouraging them to provide interim responses whenever possible, particularly when processing requests that involve a voluminous amount of material or that require searches in multiple offices. These interim responses foster continued communication between the agency and the requester, provide records more readily as they are processed for disclosure, and facilitate the agency's ultimate response. All of the Department's components reported having a process in place to provide interim responses to requesters when appropriate. Over the past year, the Department has provided an interim release in response to approximately 600 backlogged requests that were not otherwise closed.

FOIA Exclusions

In the 1986 FOIA amendments, Congress created three law enforcement exclusions, which authorize agencies under certain exceptional circumstances, to "treat the records as not subject to the requirements of [the FOIA]."

In September of 2012, OIP issued [guidance](#) on the use of exclusions. In Fiscal Year 2013, the Department invoked an exclusion in response to 123 requests, which is 0.18% of all requests processed

Spotlight on Success

- The Department continues to lead by example, both in its own administration of the FOIA and in its policy and oversight role for all agencies' administration of the statute. During this past year the Department was heavily engaged in working with the Administration on efforts to modernize FOIA through the five specific commitments made in the Second Open Government National Action Plan for the United States. Specifically, OIP is taking the lead on four of these five commitments, which include: (1) improving the customer experience through a consolidated online FOIA service, (2) developing common FOIA regulations and practices for federal agencies, (3) improving internal agency FOIA processes, and (4) improving FOIA training by making standard e-learning resources available for all federal employees. The Department is also supporting, and will be participating in, the fifth commitment to establish a FOIA Modernization Advisory Committee.
- During Fiscal Year 2013, the Department continued to process requests at a high rate (over 68,000) while also increasing the number full releases made and maintaining a release rate of over 93%. The Department also closed its ten oldest requests, appeals, and consultations from the prior fiscal year, and responded to 85% of the perfected requests it processed within an average of under twenty-two days. Notably, this marks the sixth consecutive year that the Department has closed its ten oldest pending requests and appeals.
- The Department also continued to expand on its robust training program in an effort to provide quality FOIA training to FOIA professionals both within the Department and across all agencies. OIP trained thousands of FOIA professionals this past year on a wide range of issues. In an effort to provide important FOIA training to all federal employees, this Summer OIP will be releasing a suite of e-Learning training modules designed for every level of agency employee.
- OIP continues to lead the effort to explore the use of advanced technologies that assist with the core functions of document processing. Several of the Department's components are already using these tools for the electronic processing, review, and redaction of records. Working with JMD, OIP has begun embedding multiple platforms of these digital tools in its search, review and production procedures for all FOIA requests received by the Office. The benefits of utilizing these tools has proven to be significant and OIP looks forward to continuing to work both within the Department and across agencies to modernize the administration of the FOIA through the use of these advanced technologies.