

# Freedom of Information Act FY 2008 Annual Report

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Homeland  
Security

## New Data Elements

- Number of times each (b)(3) statute was invoked
- For requests pending at end of FY, average number of days pending
- Average number of days and range in number of days taken to process (in addition to median)
- Number of requests processed in specific time periods: in 20-day increments up to 200, 201-300 days, 301-400 days, and over 400 days
- Median, average, and range to process requests granted in full or in part
- Median, average, and range to process administrative appeals
- Ten oldest pending requests, date of receipt, and number of days pending
- Ten oldest appeals, date of receipt, and number of days pending
- Number of requests for expedited processing adjudicated, median and average number of days to adjudicate, and number adjudicated within 10 calendar days
- Number of requests for a fee waiver adjudicated, median and average number of days to adjudicate
- Concise description of FOIA exemptions and an overview, where appropriate, of certain general categories of agency records to which those exemptions apply



## What Gets Reported?

### ✦ FY 2007 Definition of a FOIA Request

FOIA/PA request – Freedom of Information Act/Privacy Act request. A FOIA request is generally a request or access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

### ✦ FY 2008 Definition of a FOIA Request

FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where any agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report. See Section 6 of DHS Component Annual Report Template.)



## DHS Component Annual Report Template

- Section 1: Exemption (b)(3) Statutes
- Section 2: Initial Requests – “All purported requests”
- Section 3: Initial Requests – “Perfectured”
- Section 4: Administrative Appeals
- Section 5: Expedited Processing and Fee Waivers
- Section 6: Consultations
- Section 7: FOIA Personnel and Costs
- Section 8: Fees Collected for Processing Requests
- Section 9: Comments



## Section 1: Exemption (b)(3) Statutes Cited

- List all Exemption 3 Statutes relied upon.
- Provide a brief description of the types of information withheld.
- Indicate whether the court has upheld the use of the statute by providing a case citation, where applicable.
- Provide the number of times each statute was relied upon counting each statute only once per request.

1. EXEMPTION (b)(3) STATUTES CITED			
STATUTE	TYPE OF INFORMATION WITHHELD	CASE CITATION	NUMBER OF TIMES RELIED UPON



## Section 2: “All Purported” Initial Requests

- ✦ Includes both perfected and non-perfected, initial FOIA requests
- ✦ Does not include consultations, which are reported in Section 6 of the template



## Section 2.a. Received, Processed, and Pending Initial FOIA Requests

- Provide the numbers of received, processed, and pending requests as described in Columns 1-4.
  - The number in Column 1 must match the number of “Requests Pending as of End of Fiscal Year” from last year’s report.
  - The sum of Columns 1 and 2 minus the number in Column 3 must equal the number in Column 4.
- Provide the number of backlogged requests in Column 5.
  - Include requests pending over 20 working days
  - When unusual circumstances are present, the time limit may be extended up to 10 additional working days.

2. a. RECEIVED, PROCESSED, AND PENDING FOIA REQUESTS				
Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year	Number of Backlogged Requests as of End of Fiscal Year



## Section 2.b. Disposition of All Processed Initial Requests

- Provide the number of request dispositions for each applicable column, selecting only one column per request.
- Report a request in one of the nine “Full Denial Based on Reasons Other than Exemptions” columns only if the request cannot be counted in one of the first three columns.
- The number in the “Total” column on the right must match the number in Column 3 of the previous chart in Section 2.a.

2.b. DISPOSITION OF INITIAL REQUESTS (To include all processed requests; Claim only 1 per request)												
No. of Full Grants	No. of Partial Grants/Partial Denials	No. of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									Total
			No Records	Referred	Request Withdrawn	Fee-Related Reason	Not Reasonably Described	Improper Request	Not Agency Record	Duplicate	Other	

Should match #  
in Column 3 of  
chart 2.a.



## Section 2.c. Descriptions of “Other Reasons”

- Provide descriptions of “other reasons” used for full denials and the total number of times each reason was relied upon.
- The total should match the number in the “Other” column from the chart in Section 2.b.

2.c. DISPOSITION OF FOIA REQUESTS – “OTHER” REASONS (Full denials based on reasons other than exemptions)	
Description of “Other” Reasons for Denials (from Sect. 2.b. above)	Number of Times “Other” Reasons Invoked
	Total: _____



## Section 2.d. Number of Times Exemptions Applied

- For each request, report all exemptions applied; however, report each exemption only once per request.

2.d. DISPOSITION OF FOIA REQUESTS – NUMBER OF TIMES EXEMPTIONS APPLIED (For each request, report all exemptions applied; however count each exemption once per request)													
(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)(A)	(b)(7)(B)	(b)(7)(C)	(b)(7)(D)	(b)(7)(E)	(b)(7)(F)	(b)(8)	(b)(9)



## Section 2.e. Comparison of Requests from Previous Years and Current Annual Report

- Provide the number of requests received and processed during FY 07 and the number of requests received and processed during FY 08.
- The numbers in Columns 2 and 4 of Chart 2.e. should match the Columns 2 and 3 of Chart 2.a.

2.e. COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT			
Number of Requests <u>Received</u>		Number of Requests <u>Processed</u>	
Number Received During Fiscal Year 2007	Number Received During Fiscal Year 2008	Number Processed During Fiscal Year 2007	Number Processed During Fiscal Year 2008



## Section 3: Response Time for Processed and Pending Initial FOIA Requests

- Only report response times for perfected requests.
- If using multi-track processing, report response times separately for each track.
- If not using multi-track processing, at a minimum, report separately requests which have been granted expedited processing.



## Sections 3.a. and 3.b. Response Times for Perfected Requests

- ✦ In Chart 3.a. provide the median, average and range in number of days to process all perfected requests.
- ✦ In Chart 3.b. provide the median, average and range in number of days to process requests either Granted In Full or Granted In Part.

3.a. MEDIAN PROCESSING TIME OF <b>ALL PERFECTED REQUESTS</b>											
SIMPLE				COMPLEX				EXPEDITED			
Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days
3.b. MEDIAN PROCESSING TIME OF <b>REQUESTS GRANTED IN FULL OR IN PART</b>											
SIMPLE				COMPLEX				EXPEDITED			
Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days



## Sections 3.c. through 3.e. – Response Times in Day Increments

- ✦ In Charts 3.c. through 3.e., for each processing track, provide the number of perfected requests processed in each of the thirteen designated time increments.
- ✦ The total columns should reflect the number of requests processed for each track.

3.c. PROCESSED REQUESTS – RESPONSE TIMES FOR <u>SIMPLE REQUESTS</u> IN DAY INCREMENTS													
1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
3.d. PROCESSED REQUESTS – RESPONSE TIMES FOR <u>COMPLEX REQUESTS</u> IN DAY INCREMENTS													
1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
3.e. PROCESSED REQUESTS – RESPONSE TIMES FOR <u>EXPEDITED REQUESTS</u> IN DAY INCREMENTS													
1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total



## Section 3.f. – All Pending Perfected Requests

- Provide the number of perfected requests pending in each processing track, and provide the median and average number of days those requests have been pending.

3.f. PENDING REQUESTS – ALL PENDING <u>PERFECTED</u> REQUESTS								
SIMPLE			COMPLEX			EXPEDITED		
Number Pending	Median No. of Days	Average No. of Days	Number Pending	Median No. of Days	Average No. of Days	Number Pending	Median No. of Days	Average No. of Days



## Section 3.g. – Ten Oldest Pending Perfected Requests

- Provide the dates of receipt and number of days pending for the ten oldest pending, perfected requests.

3.g. PENDING REQUESTS – TEN OLDEST PENDING <u>PERFECTED</u> REQUESTS										
	10 <sup>th</sup> Oldest	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request
Date of Receipt										
No. of Days Pending										



## Section 4: Administrative Appeals of Initial Determinations

- ✦ To be reported by all components that process administrative appeals.
- ✦ If more than one component adjudicates an administrative appeal, each component should report separately.



## Section 4.a. Received, Processed, and Pending Appeals

- Provide the numbers of appeals received, processed, and pending as described in Columns 1-4.
- The sum of Columns 1 and 2 minus the number in Column 3 must equal the number in Column 4.
- Provide the number of backlogged requests in Column 5.

4.a. RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS				
Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year



## Section 4.b. Disposition of All Processed Administrative Appeals

- Provide the number of appeal adjudications as described in Columns 1 through 4 below.
- The number in the “Total” column must match the “Number of Appeals Processed in Fiscal Year” from last year’s report.
- The sum of Columns 1 and 2 minus the number in Column 3 must equal the number in Column 4.

4.b. DISPOSITION OF ADMINISTRATIVE APPEALS (To include all processed appeals; report disposition on ALL applicable charts)				
Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	Total

e.g. Request was in litigation, appeal was a duplicate, appeal was premature, etc.



## Sections 4.c. – 4.e. Reasons for Denial on Appeal

- ✦ If administrative appeal results in a denial based on exemptions (Chart 4.c.) and *also* a denial for other reasons (Charts 4.d. and 4.e.), report appeal on all applicable charts.
- ✦ For each appeal, report all exemptions applied; however report each exemption only once per appeal.

3.c. REASONS FOR DENIAL ON APPEAL – NUMBER OF TIMES EXEMPTIONS APPLIED													
(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)(A)	(b)(7)(B)	(b)(7)(C)	(b)(7)(D)	(b)(7)(E)	(b)(7)(F)	(b)(8)	(b)(9)

  

3.d. REASONS FOR DENIAL ON APPEAL – REASONS OTHER THAN EXEMPTIONS										
No Records	Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Not Reasonably Described	Improper Request	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Expedited Processing	Other

3.e. REASONS FOR DENIAL ON APPEAL – “OTHER” REASONS	
Description of “Other” Reasons for Denials (from Sect. 3.d. above)	No. of Times Invoked



## Section 4.f. Response Times for Administrative Appeals

- ✦ In Chart 4.f. provide the median, average, and range in number of days to respond to administrative appeals.
- ✦ In Chart 4.g. provide the date of receipt of the ten oldest appeals and the number of days pending.

4.f. RESPONSE TIMES FOR ADMINISTRATIVE APPEALS			
Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days

4.g. TEN OLDEST PENDING ADMINISTRATIVE APPEALS										
	10 <sup>th</sup> Oldest	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Appeal
Date of Receipt										
Number of Days Pending										



## Section 5: Requests for Expedited Processing and Fee Waiver

- ✦ Include requests made both at the initial and administrative appeal levels.
- ✦ Include requests for expedited processing and/or fee waiver that were adjudicated.
- ✦ Do not include requests where the issues of expedited processing and/or fee waiver were not adjudicated or the request became moot for various reasons.



## Section 5.a. Expedited Processing

- Provide the number of requests for expedited processing granted and denied.
- Provide the median and average number of days to adjudicate and the number of requests adjudicated within 10 calendar days.

5.a. REQUESTS FOR EXPEDITED PROCESSING (For this section only, count calendar days, not working days)				
Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days



## Section 5.b. Fee Waiver

- Provide the number of requests for a fee waiver granted and denied.
- Provide the median and average number of days to adjudicate in working days.
- Do not include additional days that may precede consideration of the fee waiver request.
  - Time spent while fee waiver request is held in abeyance
  - Time spent waiting for clarification or perfection of the request

5.b. REQUESTS FOR FEE WAIVER			
Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate



## Section 6: Consultations

- DOJ defines a consultation as “the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because the other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.”
- Report on consultations received from other agencies, not consultations sent to other agencies.



## Sections 6.a. and 6.b. Consultations Received, Processed, and Pending

- In Chart 6.a. report the number of consultations pending at the start of the FY, received, processed, and pending at the end of the current FY.
- Column 1 of Chart 6.a. should match the number of requests pending at the end of FY 07, as reported in last year's annual report.
- In Chart 6.b. provide the dates of receipt of the ten oldest pending consultations as of the end of the current FY.

6.a. CONSULTATIONS ON FOIA REQUESTS – RECEIVED, PROCESSED, AND PENDING CONSULTATIONS										
Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Component as of <u>Start</u> of the Fiscal Year		Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year			Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Component During the Fiscal Year			Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Component as of <u>End</u> of the Fiscal Year		
6.b. CONSULTATIONS ON FOIA REQUESTS – TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT YOUR COMPONENT										
	10 <sup>th</sup> Oldest Consultation	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Consultation
Date of Receipt										
Number of Days Pending										



## Section 7: Personnel and Costs

- Provide the number of full-time and full-time equivalent FOIA employees.
  - “Full-Time” = performs FOIA duties 100% of time
  - “Equivalent Full-Time” = the sum of percentages of collateral-duty employees where the sum equals 100% (See page 26 of DOJ annual report guidance)
- Provide processing costs, to include all costs expended at initial request and administrative appeal levels.
  - Salaries of FOIA personnel
  - Overhead costs
  - FOIA-related expenses
- Provide litigation costs
  - Salaries of personnel involved in litigating FOIA requests
  - Litigation overhead costs
  - Other FOIA litigation-related expenses

7.a. PERSONNEL			7.b. COSTS		
Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full-Time FOIA Staff” (Sum of columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation-Related Costs	Total Costs



## Section 8: Fees Collected

- Report the dollar amount of fees collected from FOIA requesters for processing their requests.
- Include fees received for search, review, duplication, and any other direct cost permitted by the DHS FOIA Regulations.

8. FEES COLLECTED FOR PROCESSING REQUESTS	
Total Amount of Fees Collected	Percentage of Total Costs



## Section 9: Comments

- ✦ If unable to comply with a specific reporting requirement, include an explanation in Section 9.

9. COMMENTS



## Lists of Request Data Used to Calculate Medians/Averages

- ✦ For each processing track, “simple,” “complex,” and “expedited,” list all processed, perfected requests and the number of days to process each (in 3 separate lists).
- ✦ For each processing track, “simple,” “complex,” and “expedited,” list the number of processed, perfected requests either Granted In Full or Granted in Part and the number of days to process each (in 3 separate lists).
- ✦ For each processing track, “simple,” “complex,” and “expedited,” list perfected requests and the number of days pending (in 3 separate lists).
- ✦ List all requests where expedited processing was adjudicated and the number of calendar days to adjudicate.
- ✦ List all requests where a fee waiver was adjudicated and the number of days to adjudicate.
- ✦ List all processed administrative appeals and the number of days to process.

<b>(EXAMPLE)</b> List all processed " <u>Simple</u> " perfected requests and the number of days to process each:		
	<i>Request No.</i>	<i># of Days to Process</i>
	08-001	20
	08-002	5
	08-003	19
	08-004	22
<b>Total # of requests:</b>	4	



## Submitting the Component Annual Reports

- ✦ New data elements should be reported no later than for the period of July 1, 2008 to September 30, 2008, and for prior months, to the extent doing so is feasible.
- ✦ Component annual reports are due to the DHS Privacy Office by October 31, 2008.



# Questions? Concerns?

Please do not hesitate to contact us if we can be of assistance on any disclosure matter:

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