

U.S. Commission on Civil Rights (USCCR) 2015 Chief FOIA Officer Report

The USCCR receives less than 1,000 requests annually, so the agency used the Chief FOIA Officer report template for small agencies.

Name and Title of the Chief FOIA Officer: *Rorey Smith, General Counsel*

Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice? Such training or events can include offerings from OIP, your own agency or another agency or organization.

Yes, all staff with FOIA responsibilities attended Department of Justice training during this reporting period.

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

100% - All staff with FOIA responsibilities attended substantive FOIA training during this reporting period.

3. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan. Include any successes or challenges your agency has seen in implementing your plan.

During this reporting period and for the next reporting period, the USCCR established training plans for all staff with FOIA responsibilities to attend Department of Justice FOIA training. To date, the plan has been successfully implemented.

Outreach:

Not required.

Discretionary Releases:

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

Yes

If so, please briefly describe this process.

Records are reviewed for mandatory and discretionary release simultaneously.

If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?

N/A

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

No

6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance [on implementing the President's and Attorney General's FOIA Memoranda](#).

N/A

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

N/A

8. If your agency was not able to make any discretionary releases of information, please explain why.

During this reporting period, the USCCR only withheld two documents under Exemptions 5 (because the harm of releasing drafts of Commission civil rights reports was too great) and 6 (personal privacy concerning a personnel matter). All other records were released under FOIA. Therefore, the USCCR was not able to make any discretionary releases of information.

Other Initiatives:

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

If any of these initiatives are online, please provide links in your description.

The Commission has begun to livestream its monthly business meetings.

For example, the Commission December 12, 2014, meeting can be accessed:

https://www.youtube.com/watch?v=myT_3BM3yag

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

Personnel:

Not required.

Processing Procedures:

1. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

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Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.

N/A

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A

Requester Services:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "[Notifying Requesters of the Mediation Services Offered by OGIS](#)". (July 9, 2010)

The USCCR had its first FOIA appeal in years during this reporting period. Unfortunately, the deciding official did not mention OGIS in the decision. However, FOIA staff have notified the deciding official about adding a paragraph to decision letters informing requestors about FOIA mediation offered by the Office of Government Information Services (OGIS), within the National Archives and Records Administration.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "[The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications](#) ." (Nov. 22, 2013)

The USCCR did not collect any FOIA fees during the reporting period.

5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See [id.](#)

The USCCR did not provide any FOIA fee estimates during the reporting period.

Other Initiatives:

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

N/A

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

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

Yes. The USCCR's FOIA staff maintain a log which includes a brief description of requested records. FOIA staff can see which records are repeatedly requested and should be proactively disclosed.

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

Yes. FOIA staff work closely with the agency's Staff Director (Presidentially-appointed

administrator) to proactively post information online.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

The USCCR FOIA staff track all requests on a log. Any item requested at least three times is considered "frequently requested" and should be posted online.

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

The Commission is required to submit an annual report to Congress and the President on civil rights enforcement. The Commission has now established a dedicated webpage that includes the statutory report, transcript of the proceeding, and witness statements.

Patient Dumping Enforcement - http://www.eusCCR.com/patient_dumping.html

Commission statements on high-profile civil rights issues have been placed on the Commission's website.

Commission statement on the Ferguson grand jury decision - http://www.usCCR.gov/press/2014/Ferguson-PR_Nov-25-2014.pdf

Commission letter to Attorney Holder on DOJ profiling guidelines - http://www.usCCR.gov/press/2014/PR_DOJ-Guidelines.pdf

Other Initiatives:

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

FOIA staff met with the agency's national program office director and suggested that a webpage be set up for each USCCR briefing, not only the annual statutory report.

Furthermore, FOIA staff provided guidance to the regional program office director about items to be posted on a webpage for federal advisory committee members.

Section IV: Steps Taken to Greater Utilize Technology

Online Tracking of FOIA Requests and Appeals:

Not required.

Making Material Posted Online More Useful:

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

Yes.

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

Patient Dumping Briefing, March 14, 2014 webpage
http://www.eusCCR.com/patient_dumping.html

This webpage contains links to the USCCR, 2014 Statutory Enforcement Report, the Briefing Transcript, and all of the Panelists' Written Statements. Previously, a requestor could find the annual Statutory Enforcement Report on one USCCR webpage. The individual may or may not find the Briefing Transcript on the agency's website. In addition, the person would have to make a FOIA request for the Panelists' Written Statements.

The webpage was established after the USCCR received two requests for the Panelists' Written Statements

FOIA staff suggested to national program office staff that a webpage be set up for each USCCR briefing, not only the annual statutory report. If all reports, transcripts, and panelists statements are available on one webpage for each briefing, then it is easier for the searcher to locate materials. In addition, the FOIA staff will have less FOIA requests for these items.

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

Yes.

4. If so, please briefly explain what those challenges are.

Due to the small size of the USCCR, the website is not operated by the agency, but maintained by another federal entity. This makes posting USCCR records more difficult, than if it was done in house.

Use of Technology to Facilitate Processing of Requests:

Not required.

Other Initiatives:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Yes

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.

N/A

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "[The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.](#)" (Nov. 22, 2013)

Yes

If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

The USCCR uses email to communicate with requesters.

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means?

N/A

If yes, does your agency inform requesters about such limitations? See [id.](#)

N/A

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

Simple Track

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

Yes

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Yes

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

63.6 %

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A

Backlogged Requests

The USCCR did not have any backlogged requests. Accordingly, the answers to questions 5-6 are "N/A" for not applicable.

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

N/A

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."

N/A

Backlogged Appeals

The USCCR did not have any backlogged appeals. Accordingly, the answers to questions 7-8 are "N/A" for not applicable.

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

N/A

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year

2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

N/A

Backlog Reduction Plans:

Not required.

Status of Ten Oldest Requests, Appeals, and Consultations:

The USCCR did not have any pending requests, appeals, or consultations from FY 2013. Accordingly, the answers to questions 9-18 are "N/A" for not applicable.

Ten Oldest Requests

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

N/A

10. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

N/A

Ten Oldest Appeals

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

N/A

13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual

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

N/A

Ten Oldest Consultations

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

N/A

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

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

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

N/A

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

N/A

18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.

N/A

Interim Responses:

Not required.

Use of the FOIA's Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No.

Success Story

Not required.