



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 PENNSYLVANIA AVENUE, NW, WASHINGTON, DC 20425

www.usccr.gov

Chief FOIA Officer Report 2016

The U.S. Commission on Civil Rights (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: *Maureen Rudolph, 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?

Yes, USCCR FOIA staff attended the Department of Justice's Advanced FOIA and FOIA Litigation courses, as well as USCCR FOIA training.

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

At this time, the USCCR plans to have all FOIA staff attend at least one of OIP’s FOIA training classes in 2016.

Discretionary Releases:

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

Yes

- a. If so, please briefly describe this process

Records are reviewed for mandatory and discretionary release simultaneously.

- b. 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 2009 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. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

The USCCR only used exemptions 5 (four times for drafts) and 6 (one time for personal privacy concerning a personnel matter) during fiscal year 2015. As stated above, the Exemption 6 item did not lend itself to discretionary release. As for the Exemption 5 items, the USCCR often makes major substantive changes between drafts and final documents, so the drafts are not discretionarily disclosed.

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

The USCCR posts recent news reports, correspondence, meeting transcripts, etc. on the agency's website, which demonstrates a presumption of openness.

For examples, please go to: <http://www.usccr.gov/>

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

Processing Procedures

1. For Fiscal Year 2015, 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 2015 Annual FOIA Report).
 - a. Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2015.

The USCCR did not receive any requests for expedited processing during fiscal year 2015.

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 see response immediately above

3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.

After OIP issued the July 2, 2015 guidance, the USCCR had no need to contact a requester about whether the person was still interested in the processing of the request because the agency did not have a FOIA processing backlog.

Requester Services:

4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.
 - a. If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that here.

The USCCR is a small agency that receives less than 100 FOIA requests annually and does not have an FOIA Requester Center. The Office of General Counsel administers the agency's FOIA program. As reported in USCCR's fiscal year 2015 annual FOIA

report, there were no FOIA backlogs or appeals, so the agency's FOIA services are already robust. (This is also included as an agency success story.)

Therefore, there is no need to strengthen the services.

Other Initiatives

5. 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.

During fiscal year 2015, the agency's paper FOIA records were scanned into electronic format and the paper records were destroyed. In addition, all new FOIA requests are maintained in only electronic format. This increases processing efficiency, since all OGC staff can access the records in the office or remotely. Likewise, it is easier to search the online FOIA records for similar requests or frequent requesters. Also, this eliminates maintaining paper records. (This is also included as an agency success story.)

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material

1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.

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

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so please describe your agency's process or system.
 - a. Please note that this question is directed towards proactive disclosure of records that go beyond frequently requested records required to be posted under Subsection (a)(2) of the FOIA.

Agency management decides which records will be proactively disclosed on the website.

3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.
 - a. Please note that this question is directed at the efforts of actually posting the records online once all disclosure determinations have been made. For example, efforts to load the records in your web content platform or making the releasable documents accessible in compliance with Section 508 of the Rehabilitation Act.

No. FOIA staff are not involved with 508 compliance or preparing records for posting.

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

Yes.

If so, please briefly explain those challenges.

Due to the small size of the USCCR, the agency contracts with another federal government agency to post records on the USCCR's website, which makes it more difficult and time-consuming to post records online.

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

USCCR's Annual Statutory Report on Immigration Detention Facilities

http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf

State Advisory Committee Reports

- *Illinois – Hate Crimes*

http://www.usccr.gov/pubs/06-03-15_HateCrimesStateAdvisory.pdf

- *Nevada – Police Militarization*

<http://www.usccr.gov/pubs/NV-SAC-Police-Milreport-OSD.pdf>

USCCR Performance and Accountability Report, Fiscal Year 2015

http://www.usccr.gov/congress/FY2015_PAR.pdf

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.
 - a. For example, this can be done through social media or with the offering of e-mail subscription services.

Yes. The USCCR established a Twitter account in 2015 to publicize agency information.

Other Initiatives:

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

FOIA staff have suggested to the agency's Staff Director and Assistant Staff Director, that a webpage be set up for each USCCR briefing, which includes all press releases, panelists' statements, transcripts, and reports to proactively disclose more information. In addition, this would reduce FOIA requests for these records.

Section IV: Steps Taken to Greater Utilize Technology

Making Material Posted Online More Useable

1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website?
 - a. Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.

No.

- b. If your agency is already posting material in its most useful format, please describe these efforts.

The USCCR posts almost all records in "portable document format" (pdf) which is a universal format so users can easily view, save, print, or forward the document.

Other Initiatives

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?
Yes. See: <http://www.foia.gov/quarter.html?USCCR>

- a. Please see OIP's guidance for posting quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website, but not appearing on FOIA.gov, please contact OIP in order to resolve the issue).
3. 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 see response immediately above

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

FOIA staff use email to communicate with all requesters who provide an email address. For these requesters, all agency FOIA responses are sent via email.

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

N/A see response immediately above

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 2015, was the average number of days to process simple requests twenty working days or fewer?

6

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

71%

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 see response immediately above

Backlogs

BACKLOGGED REQUESTS:

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

The USCCR did not have a backlog of FOIA requests in 2015.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
- a. An increase of incoming requests
 - b. A loss of staff

- c. An increase in the complexity of requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase
- d. Any other reasons – please briefly describe or provide examples when possible

N/A see response immediately above

- 7. 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 2015.

- e. To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, which can be found in Section V.A of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get to the percentage.

N/A see responses immediately above

BACKLOGGED APPEALS:

- 8. If your agency had a backlog of appeals in the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

The USCCR did not have a backlog of FOIA appeals in 2015.

- 9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
 - a. An increase in the number of incoming appeals
 - b. A loss of staff
 - c. An increase in the complexity of requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase

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

N/A see response immediately above

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with “N/A.”

- a. To calculate your agency’s percentage, you must divide the number of backlogged appeals reported in Section XII.A of your Fiscal Year 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, which can be found in Section V.A of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get to the percentage.

N/A see responses immediately above

Status of Ten Oldest Requests, Appeals, and Consultations

TEN OLDEST REQUESTS:

11. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes, the USCR closed the only pending request from Fiscal Year 2014.

12. 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 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that

- a. For example, if you only had seven requests listed as part of your “ten oldest” in Section VII.E and you closed six of them, you should note that you closed six out of seven “oldest” requests.
- b.

N/A see response immediately above

13. 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?

The one pending request was closed because the USCCR provided responsive documents to the requester, not because the request was withdrawn.

TEN OLDEST APPEALS

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

The USCCR did not have any pending appeals from Fiscal Year 2014.

15. 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 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

- a. For example, if you only had seven appeals listed as part of your “ten oldest” in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven “oldest” appeals.

N/A see response immediately above

TEN OLDEST CONSULTATIONS

16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

The USCCR did not have any pending consultations from Fiscal Year 2014.

17. 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 2014 Annual FOIA Report. If you had less than ten total oldest consultations, please indicate that.

N/A see response immediately above

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

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal year 2014.

None

19. 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

20. 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 2016.

N/A

Use of the FOIA's Law Enforcement Exclusions

1. Did your agency invoke a statutory exclusion, 5 U.S.C. §§ 552(c)(1), (2), (3), during Fiscal Year 2015?

No

2. If so, please provide the total number of time exclusions were invoked.

N/A

Success Stories

1. *The USCCR did not have a request backlog or any FOIA appeals in fiscal year 2015. This reflects the FOIA staff's commitment to process each request as expediently and completely as possible.*
2. *During fiscal year 2015, the agency's paper FOIA records were scanned into electronic format and the paper records were destroyed. In addition, all new FOIA requests are maintained in only electronic format. This increases processing efficiency, since all OGC staff can access the records in the office or remotely. Likewise, it is easier to search the online FOIA records for similar requests or frequent requesters. Also, this eliminates maintaining paper records.*