

2019 Chief FOIA Officer Report

National Archives and Records Administration

Gary M. Stern, General Counsel and Chief FOIA Officer

March 4, 2019

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

Answer: Yes.

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

Answer: Gary M. Stern, General Counsel.

B. FOIA Training

3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Answer: Yes.

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

Answer: *The Freedom of Information Act for Attorneys and Access Professionals:* An overview of the FOIA's procedural requirements and exemptions, workshops on individual FOIA Exemptions, basic principles for processing FOIA requests from start to finish, the FOIA's proactive disclosure requirements, and the interface between the FOIA and the Privacy Act.

FOIA Public Liaisons and FOIA Reference Services Center Training: Guidance on implementing a successful FOIA Public Liaison program, and best practices for processing FOIAs across the agency.

FOIA Professionals Continuing Education: Advanced training on specific components of the FOIA, new court decisions, and successful implementation of other agency best practices.

FOIA Litigation Seminar: Guidance on successful litigation strategy, advanced litigation considerations, and details on the preparation of Vaughn Indices and declarations.

Freedom of Information and Privacy Acts – Graduate School USA: Learn How to Respond to Freedom of Information Act (FOIA) and Privacy Act (PA) requests. Become skilled at the proper release of records to the public while safeguarding necessary information.

Annual National Training Conference – American Society of Access Professionals (ASAP): The program combines “nuts & bolts” training topics with the thought-provoking and practical issues associated with FOIA and Privacy Act processing and requesting as well as records management. A special feature of the program is breakout sessions for individual agencies that give participants a unique opportunity for questions and answers as they pertain to their own agency policies.

FOIA/Privacy Act Training Workshop – ASAP: A two and half day intensive program specifically designed as an in-depth refresher course or for those who are new to working with the FOI, Privacy Acts or records management, those who have limited experience, or those who deal with the Acts as an adjunct responsibility. Instruction and practical application work sessions are utilized to include overviews of both Acts, procedural guidance, redactions, fees and fee waivers, negotiation & litigation considerations, Privacy Act processing, conditions of disclosure under the Privacy Act, and specific sessions dealing with FOIA exemptions 1, 2, 4, 5, 6 and 7, and special sessions on various hot topics.

ASAP Symposium and Training Conference: The flagship forum for the discussion of broad concepts, issues concerning government information, current and future trends in access and privacy, and best practices in these areas. The leaders in the access community concern themselves with much more than just the daily processing and practical applications of information access. They take the time to learn and understand more about the various issues that eventually shape the policies. The Symposium is designed for those persons who want to advance their awareness and understanding – hence, their careers – by listening, participating and learning the various positions and practicalities surrounding the hot topics of the day.

ASAP FOIA Training Webinars: Additional information on the courses can be found at <https://www.accesspro.org/programs/webinars.cfm>

NARA Intranet courses: *NDC F201: FOIA for All Federal Employees Topics:* General overview of FOIA; FOIA time limits; conducting searches; and reviewing records. *NDC F202: FOIA*

Training for FOIA Professionals, Topics: Government obligations; receiving and acknowledging requests; processing of requested material; statutory protections; good customer service; and agency accountability. (Both courses were created by the Department of Justice.) *Access Policy Workshop*.

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

Answer: 90%.

6. 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.

Answer: N/A. NARA exceeded 80%.

C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Answer: Yes. The Archivist of the United States (“Archivist”) has continued the Freedom of Information Act (“FOIA”) Advisory Committee (“Committee”) in 2017 to obtain advice on improvements to the FOIA and study the current FOIA landscape across the Executive Branch. The Committee is subject to the Federal Advisory Committee Act, and allows the public an opportunity to ask questions and provide comments. (See <https://www.archives.gov/ogis/foia-advisory-committee>.)

The Archivist and the General Counsel/Chief FOIA Officer have regular meetings with representatives of the requester community to discuss issues related to access to records at the National Archives, including access through the FOIA.

NARA Chief FOIA Officer Gary M. Stern facilitated and moderated an event during Sunshine Week 2018 that focused on accessing Federal records at the National Archives and how different components of NARA process FOIA requests.. A panel of five experts from across the agency discussed and answered questions about accessing Executive, Judicial, Legislative, and Presidential records from our holdings.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has

considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

Answer: The Chief FOIA Officer has created a FOIA training module that all NARA staff will be required to take, starting in FY19, on NARA's online Learning Management System.

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.

Answer: Through its core statutory mission, NARA makes the vast majority of its archival records available to the public without the need to file a FOIA request. Furthermore, due to the age of most of the records in the National Archives, NARA routinely makes discretionary releases in the processing of any access requests to our archival holdings. NARA's holdings are described in the National Archives Catalog (see <http://www.archives.gov/research/catalog/>).

The National Declassification Center (NDC) initiated a program titled, *Indexing On Demand* (IOD), that asks the public to assist NARA in prioritizing series for declassification processing. Since its inception in 2015, 561 projects have been completed. These projects consist of approximately 16,917,000 pages processed with a release rate of almost 81 percent (see <https://www.archives.gov/declassification/ndc/iod>).

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

DOJ's FOIA Guidelines emphasize that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

1. For Fiscal Year 2018, 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 2018 Annual FOIA Report.

Answer: 5.47

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.

Answer: N/A

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

Answer: Yes. The Chief FOIA Officer asked all of the NARA FOIA program offices to complete the OIP FOIA Self-Assessment Toolkit. The accumulated data was then utilized by the Chief FOIA Officer as he conducted FOIA Management Oversight Reviews of NARA's FOIA program offices.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).

Answer: 121. (Note – this is an increase of 64 inquiries from FY 2018.)

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

Answer: NARA's Special Access and FOIA office (RD-F) has recently implemented a Process Improvement Tracker to track and manage the efficiency of FOIA systems and procedures. All staff have access to this electronic system and meet regularly to discuss implementation and improvements based on staff ideas. New procedures are piloted and evaluated before final implementation. RD-F also improved its triage process (a process to provide preliminary searches and identify responsive records within 20 working days), which allowed it to narrow the scope of the voluminous/complex requests and close 46% of all incoming requests within 20 working days. Additionally, triaging each request prior to review promotes timely and efficient customer service and ensures requests are valid and responsive prior to being added to our processing queues.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

Answer:

When then-Judge Brett Kavanaugh was nominated to the United States Supreme Court, NARA proactively posted all of its correspondence with the Senate Judiciary Committee and Senate

Leadership relating to the pending special access requests for Kavanaugh-related records that were in NARA's archival holdings, at: <https://www.archives.gov/news/topics/kavanaugh-records>

We also posted all previously processed Bush Presidential records related to him to the George W. Bush Presidential Library's Digital Library at:

https://www.georgewbushlibrary.smu.edu/en/Research/~/link.aspx?_id=E6EAB2CEDD264BBD915CF9C47CBB0366&_z=z. As additional records are released in response to various expedited FOIA requests, we will continue to post records on the same web page.

After President Trump announced William Barr as his nominee for Attorney General, the Reagan Library completed the last amount of material for the Barr collection and scanned all documents in anticipation of requests for this material: <https://www.reaganlibrary.gov/digital-library/william-barr>. NARA's Special Access and FOIA office (RD-F) also reviewed and released approximately 6000 pages on Barr from Department of Justice records, which will be uploaded to the National Archives Catalog.

Contact Sheets of Photographs of Persian Gulf War from the George H.W. Bush Library:

<https://bush41library.tamu.edu/audiovisual/contact-sheets/>

Cheney Vice Presidential Photographs of John McCain:

[https://catalog.archives.gov/search?q=2018-0011-S&f.oldScope=\(descriptions%20or%20online\)&f.locationIds=48&SearchType=advanced&offset=260](https://catalog.archives.gov/search?q=2018-0011-S&f.oldScope=(descriptions%20or%20online)&f.locationIds=48&SearchType=advanced&offset=260)

The National Declassification Center (NDC) has released a listing of [115 entries](#) that have completed declassification processing between June 1, 2018 and September 28, 2018, and are now available for researcher request. This release consists of records from both military and civilian agencies.

Highlights include:

- Department of State, Policy Planning Council; Numerical Files,
- Department of State, General Records Relating to the United Nations Educational, Scientific, and Cultural Organization (UNESCO),
- Foreign Service Posts of the Department of State, Israel, U.S. Consulate General, Jerusalem: Classified Central Subject Files, 1964-1976,
- Naval Districts and Shore Establishments, Scientific Notebooks [United States Naval Research Laboratory Scientific Notebooks],
- Central Intelligence Agency, Intelligence Document Collection,
- Army Staff, Operational Files Relating to the Persian Gulf War, and
- U.S. Air Force Commands, Activities, and Organizations, Classified Research and Development Case Files

2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).

Answer: Because NARA has a decentralized FOIA program, each FOIA program office uses a different approach to track multiple requests for the same records, and some of have not succeeded in ensuring that all such requests are posted online. The Chief FOIA Officer is working with each office to establish a process in their FOIA SOPs. In light of the more than 30 FOIA requests for records related to the Supreme Court nomination of Brett Kavanaugh, NARA has posted all responsive records on our website.

3. 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?

Answer: NARA publishes electronic finding aids and summary descriptions on various series in our holdings. The finding aids and descriptions are made available on www.archives.gov with references to available documents. The goal of this effort is to provide more context to released materials and provide immediate access to records not available yet in the National Archives Catalog.

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

Answer:

[Records of the JFK Assassination Collection](#)

[Records of Brett Kavanaugh](#)

[Records of the Watergate Special Prosecution Force](#)

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

Answer: Releasing records to the public is part of NARA's core mission, and we have made digitizing our paper records a key strategic goal. However, due to the massive volume of our archival records, NARA is not able to digitize unilaterally. Therefore, in accordance with NARA's Digitization Strategy, NARA is digitizing our holdings using a five-prong approach: Partnerships, Crowd Sourced Digitization, Agency Transfers, Culture of Digitization, and NARA Digitization Projects. (See <http://www.archives.gov/digitization/pdf/digitization-strategy-2015-2024.pdf>)

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

Answer: NARA manages four primary electronic records management systems used in daily operations to conduct searches for records in response to FOIA requests for civilian, military, and presidential records. First, the Case Management and Reporting System (CMRS) was developed for the National Archives National Personnel Records Center in St. Louis, Missouri. This system processes thousands of FOIA requests for approximately 100 million military service records. Second, the Electronic Records Archives (ERA) system serves as NARA's national records management program and is used in the retrieval of federal civilian records (some emails) and presidential electronic records including email. This database offers multiple functions in managing inventory searches for responsive records. ERA/Executive Office of the President (EOP), is an ERA function that was specifically developed to search several data sets including emails contained in federal and presidential record holdings.

Third, NARA uses a two-pronged approach to search FOIA requests for operational records involving internal email records. NARA uses Google's Gmail for day-to-day email activities, and ZL Technologies' Unified Archive (ZLUA) to manage and conduct searches to fulfill FOIA requests. Both Gmail and ZLUA are separate cloud-based services that NARA uses in tandem to provide NARA with browser-based email. ZLUA is able to search thousands of mails by name, category, and date. In addition to ZLUA, NARA uses other commercial software products to identify responsive email records with greater efficiency.

Fourth, NARA uses the internal Holdings Management System (HMS) to search our internal records inventory. This system allows staff to quickly determine a records classification, location and if the records are already available for public access. And finally, the primary records management system is the National Archives Catalog. This system is used by staff and public to search multiple National Archives resources for digitized and electronic records, authority records, and web pages from Archives.gov and the Presidential Libraries.

In addition to the above noted systems, NARA also uses several smaller systems critical in identifying and locating a wide range of records in our holdings. These systems also support searches in response to FOIA requests.

2. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Answer: NARA revised its online FOIA Reference Guide in 2018; this included updates to eleven sections (totaling 24 pages) currently on our agency website. The revisions included

additional information explaining access to certain types of archival and operational records. This revision also included updates to the following: links to important resource tools, FOIA public liaison contacts, NARA field office contacts and current copy reproduction fees. We also provided a new list of frequently requested records that do not require a FOIA request.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?

Answer: No.

4. 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 2019.

Answer: During FY 2018, NARA inadvertently failed to upload the 4th Quarterly FOIA Report. An automatic calendar announcement will be implemented for the team that manages the reporting so that this mistake will not be repeated.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.

Answer: The following link will take you to our www.archives.gov/foia website page which contains raw statistical data for reports for 2017 and 2018.

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

Answer: This year represents the culmination of multiple best practices initiated in increments by the Chief FOIA Officer, the FOIA Officer, the Director of Litigation and members of our FOIA processing team in the Office of General Counsel. Our best practices addressed several key issues critical in improving overall efficiency in the administration of day-to-day duties. Staff were actively engaged in educating our internal stakeholders on how to use technology, training our new Government Information Specialist (GIS) in the use of technology, and using technology to track hundreds of FOIA referrals processed annually by our operational FOIA team. Below are a few highlights:

- Revised search letter templates to instruct internal staff on how to use technology to gather responsive emails in response to operational FOIA request
- Developed Power Point slides illustrating the use of technology for training new FOIA staff and detailees; the slides complement new standard operating procedures
- Developed a FOIA spreadsheet to track and count FOIA requests referred to other parts of our agency; this data was used to better assess staffing needs resulting in the hiring of a new GIS

- Developed a spreadsheet to manage our appeal backlog, part of a strategy to reduce our appeal backlog

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2018 Annual FOIA Report and, when applicable, your agency's 2017 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

Answer: Yes. NARA tracks simple, complex and expedited requests.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018?

Answer: Yes. 11.47 working days

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.

Answer: 97.43%

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?

Answer: N/A, NARA tracks simple requests.

B. Backlogs

Section XII.A of your agency’s Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

Answer: NARA’s backlog decreased by 251 cases.

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?

Answer: N/A. NARA closed more requests than received.

7. If your agency’s request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

An increase in the number of incoming requests.

A loss of staff.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

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

Answer: N/A

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018. If your agency has no request backlog, please answer with “N/A.”

Answer: Backlog is 3.42% of total FOIAs received

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

Answer: Yes. NARA received 76 appeals and closed 84 appeals. NARA’s appeal backlog decreased from 173 to 154.

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

Answer: NARA's appeal backlog was reduced by the closing of 24 additional appeals during FY 2018 compared to FY 2017.

11. If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

An increase in the number of incoming appeals.

A loss of staff.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

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

Answer: N/A, the number of appeals roughly stayed the same.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

Answer: Backlog is 202.6% of total FOIA appeals received. NARA's appeal backlog decreased from 173 to 154. NARA received 76 appeals in 2018.

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018?

Answer: NARA is in the process of reassessing its backlog reduction plan. During FY 2017, NARA's Office of Inspector General (OIG) completed an [audit of NARA's FOIA program](#). In conjunction with the OIG's audit recommendations, the Chief FOIA Officer is in the process of revising the backlog reduction plan previously submitted to NARA's senior management.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?

Answer: NARA is currently developing a plan to manage and, where possible, reduce its FOIA backlog.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Answer: Yes.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

Answer: N/A

17. 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?

Answer: None.

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

Answer: NARAs ten oldest cases are also the oldest cases in the Federal Government and all see access to classified archival records that were created by other agencies. All classified cases are referred for consultation to the creating agency for review and declassification determination. In some of these cases, NARA's Chief FOIA Officer contacted the Chief FOIA Officer of the determining agencies to ask for their assistance to have the oldest cases reviewed and returned to NARA within the fiscal year.

TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Answer: No.

20. 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 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

Answer: NARA closed 3 of the 10 oldest appeal cases.

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

Answer: NARA reviewed all the backlog appeals and organized the cases on a spreadsheet from simple and ready to close to those that are more complex and/or awaiting outside review. Staff pulled from the spreadsheet the oldest cases that were simple and ready to close first. This allowed staff to quickly move through the easier cases first. The goal for Fiscal Year 2018 was for staff to complete at least one appeal a week. A staff of three closed 84 FOIA appeals in Fiscal Year 2018.

TEN OLDEST CONSULTATIONS

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Answer: NARA does not have a backlog of consultations. NARA makes an effort to complete all consultations within 20 working days.

23. 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 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

Answer: N/A

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

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.

Answer: NARA's ten oldest FOIA requests are all for classified archival records that were created by other agencies, which therefore require us to wait on consultations to other agencies for their declassification decisions. NARA has assigned an employee in the National Declassification Center to track the ten oldest requests and to regularly contact those agencies that are slow in making their declassification determinations.

In the same way, NARA is the appeal authority for FOIA requests of archival records that contain classified national security information instead of the agency with the classification equity. NARA does not have authority to declassify the information contained in our classified holdings. All FOIA requests that involve classified information require consultation with the creating/originating agency, and often with multiple other agencies/components. This process inevitably adds to the time needed for the review and processing of appeals for the withholding of classified information.

25. 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.

Answer: N/A. NARA was able to close its ten oldest with assistance from various agency's FOIA offices around the government.

26. 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 2018.

Answer: While NARA did close its ten oldest FOIAs, we will continue to press those originating agencies that possess the classification equities to complete the declassification review of the remaining records responsive to each request and appeal, including by contacting the Chief FOIA Officer of each agency. In FY 2018, the Office of General Counsel, which supports the Deputy Archivist's appellate responsibilities, added a government information specialist (GIS) to the staff, which should help reduce the appeal backlog.

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer:

- When then-Judge Brett Kavanaugh was nominated to the Supreme Court in June 2018, NARA received over 30 FOIA requests (three FOIA lawsuits) and special access requests from the Senate Judiciary Committee and former President George W. Bush for an unprecedented volume of records, totaling the equivalent of over four million pages of records. Given the Senate's requested short turn-around time of roughly two months, NARA sent and received multiple letters on how we would respond in accordance with the Presidential Records Act (PRA). In order to be as transparent as possible about how we would review and provide access to the records, NARA created a "[Kavanaugh Landing Page](#)" link on our website concerning "National Archives Records Related to Judge Brett M. Kavanaugh," which serves to describe and explain the records we possess, the process that we were required to follow under the PRA, and how to find the records that we continue to post online once they have been reviewed and cleared for release.
- When veterans pass away, NARA plays a critical role, as the custodian of military personnel records, in determining the availability of burial benefits for service men and women. In recent weeks, archival staff provided the necessary records in response to the death of Congressman John Dingell (D-MI), who served in the U.S. House of Representatives from 1955-2015. Last year, NARA's National Personnel Records Center

(NPRC) processed 53,800 burial requests for veterans. Often on short notice, NPRC staff work into the evenings and on weekends, if required, to provide the appropriate military records in response to a veteran's death. Requests for official military records are often submitted by Arlington Cemetery, the Army's Congressional Inquiries Division, and other organizations. NARA staff work closely with families and the armed services to ensure qualifying veterans receive the burial benefits to which they are entitled.