THE DEPARTMENT OF JUSTICE 2013 FREEDOM OF INFORMATION ACT LITIGATION AND COMPLIANCE REPORT

In accordance with 5 U.S.C. § 552(e)(6) (2006 & Supp. IV 2010), every year by April 1, the Attorney General submits to Congress a report detailing the Department of Justice's efforts to encourage agency compliance with the Freedom of Information Act (FOIA), as well as a listing of all FOIA litigation cases received and decided in the prior calendar year. For 2013, the Department submits the following report to Congress.

DESCRIPTION OF DEPARTMENT OF JUSTICE EFFORTS TO ENCOURAGE AGENCY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

During 2013, the Department, through its Office of Information Policy (OIP), engaged in a wide range of activities to meet its responsibility to encourage agency compliance with the FOIA throughout the Executive Branch. Significantly, OIP provided comprehensive guidance and training to all agencies concerning the application of the FOIA statute and the continued implementation of President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. See 74 Fed. Reg. 4683 (Jan. 21, 2009); 74 Fed. Reg. 51879 (Oct. 8, 2009). The President's and Attorney General's FOIA Memoranda call for federal agencies to administer the law with a presumption of openness in order to achieve an unprecedented level of transparency in the work of the Executive Branch.

"In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government."

- President Barack Obama

Also, during 2013, OIP managed the submission of agencies' Fiscal Year 2013 Annual FOIA Reports and the fourth submission of the Chief FOIA Officer Reports required by the Attorney General's FOIA Guidelines. After the submission of the Chief FOIA Officer Reports, OIP prepared a comprehensive summary of the efforts made by agencies in

complying with the Guidelines, and once again assessed each of the ninety-nine agencies subject to the FOIA on these efforts. OIP also managed the quarterly reporting requirement instituted last year for all agencies on four key FOIA statistics that are now displayed in one central location on FOIA.gov, the Department's government-wide, comprehensive FOIA website. These are just a few examples of the many efforts OIP engaged in this past year to improve agencies' FOIA administration and to encourage compliance with the law. A full summary of OIP's efforts, as required by subsection (e)(6) of the FOIA, is set forth below.

A. Policy Guidance

The primary means by which the Department of Justice encourages compliance with the FOIA is through the issuance of policy guidance designed to ensure that the Act is being properly implemented across the government. During 2013, OIP continued to provide comprehensive guidance to federal agencies, addressing a range of issues related to the FOIA and the call for increased transparency set forth in the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. This policy guidance was provided in writing and made available to agencies and the public alike in the OIP Guidance section of OIP's website. In addition to issuing guidance, during 2013 OIP worked directly with agencies and held multiple agencywide conferences to discuss the continued implementation of the Administration's FOIA Memoranda and related policy guidance.

OIP Guidance on Chief FOIA Officer Reports

On his first full day in office, January 21, 2009, President Obama signed the "Presidential Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act," which established a new policy for Executive Branch departments and agencies concerning disclosure and transparency. The President directed all agencies to administer the FOIA with a clear presumption in favor of disclosure, to resolve doubts in favor of openness, and to not withhold information based on "speculative or abstract fears." The President also called on agencies to ensure that requests are responded to with "a spirit of cooperation," that disclosures are timely, and that modern technology is used to make information available to the public even before a request is made. In closing, the President directed the Attorney General "to issue new guidelines governing the FOIA to the heads of executive departments and agencies, reaffirming the commitment to accountability and transparency."

During Sunshine Week on March 19, 2009, Attorney General Eric Holder issued new FOIA Guidelines that reinforced the President's call for the FOIA to be administered with the presumption of openness. The Guidelines also emphasize the necessity for agencies to create and maintain an effective system for responding to requests and it directs agencies to not withhold records simply because a FOIA exemption may technically apply. The Attorney General encouraged agencies to make discretionary disclosures of information whenever possible. Where full disclosure of a record is not possible, the Attorney General stressed that agencies should consider whether a partial disclosure can be made. Finally, the FOIA Guidelines called on agency Chief FOIA Officers to review their agencies' FOIA administration annually and to

report to the Department of Justice on the steps taken to achieve improved transparency.

The Attorney General gave OIP the responsibility of providing guidance to agencies on the content of these Chief FOIA Officer Reports. That guidance, which OIP first issued in September 2009, and has expanded upon in each subsequent year, has consistently required agencies to address five distinct topics all tied to the key areas covered in the Attorney General's Guidelines. First, each agency has been required to describe the steps it has taken to apply the presumption of openness. Second, agencies have been required to describe the steps taken to ensure that they have an effective and efficient system in place to respond to requests. Third, agencies have had to describe their efforts to increase proactive disclosures. Fourth, agencies have been required to describe the steps taken to greater utilize technology in administering the FOIA. And finally, agencies have been required to provide information about any backlog of requests or appeals and the steps being taken to reduce these backlogs and improve timeliness.

Each year, as agencies' implementation of the Guidelines has matured, OIP has modified the requirements for the Chief FOIA Officer Reports to build on the successes of the previous years. For example, with regard to the first section of the Chief FOIA Officer Report on applying the presumption of openness, OIP began by asking agencies to report on two questions: (1) what steps were taken to ensure that the presumption is being applied to all decisions involving FOIA, and (2) whether the agency had shown an increase in the number of requests where records were released in full or where records were released in part. In subsequent years, this section of the Chief FOIA Officer Report has been expanded with agencies asked to report on their processes for making discretionary releases and to provide examples of the types of materials that were released during the year as a matter of discretion.

On September 19, 2013, OIP once again issued new guidance to agencies on the content of their 2014 Chief FOIA Officer Reports. Based on agencies' successes in achieving a number of milestones over the years, and after consultation with civil society, OIP significantly expanded the 2014 Chief FOIA Officer Report Guidelines to address a number of new questions tied to each of the five key areas of the Attorney General's FOIA Guidelines. For example, for applying the presumption of openness, in addition to asking whether agencies held FOIA conferences or otherwise conducted training, OIP also asked agencies to provide the number of conferences or trainings held, a brief description of the topics covered, and an estimation of the number of participants in attendance. Agencies were also required to provide an estimate of the percentage of their FOIA professionals who attended substantive FOIA training and their plan to make core, substantive FOIA training available for all FOIA professionals by March 2015. In addition to providing examples of discretionary releases made during the prior year, agencies were also asked to discuss their efforts to engage in outreach with the requester community and their posting of the newly required quarterly FOIA reports.

For the section where agencies address the steps taken to ensure that they have an effective system to respond to FOIA requests, OIP added several new requirements, asking agencies to include whether they converted their FOIA professionals to the new Government Information Specialist job series, whether they maintained an average of less than ten days to adjudicate requests for expedited processing, whether any steps had been taken to make the handling of consultations and referrals more efficient, whether they used e-mail or other electronic means to communicate with requesters, and whether they notified requesters of the mediation services offered by the Office of Government Information Services (OGIS).

On the topic of increasing proactive disclosures, OIP required agencies to not only provide examples of new material they posted online, but to specifically describe the system they have in place to identify proactive disclosures. OIP also asked agencies to report on whether they took any steps to publicize or highlight important proactive disclosures. In an effort to better understand any difficulties agencies may be facing in posting more material online, OIP asked agencies whether they encountered any challenges that make it difficult to post more records.

Finally, with regard to improving timeliness and reducing backlogs, OIP added a number of questions to the 2014 Guidelines that increase agency accountability in this area. In addition to requiring agencies to report on their progress in reducing request and appeal backlogs, and closing their ten oldest pending requests and appeals, OIP asked agencies to address whether they closed their ten oldest consultations. More significantly, given the importance of these milestones, OIP directed all agencies that were not able to close their ten oldest requests, appeals or consultations to submit a plan for closing them during Fiscal Year 2014. Moreover, agencies that were not able to reduce their backlog of requests, and that reported a backlog of more than 1,000, were required to provide a plan for achieving backlog reduction in the year ahead.

March 2013 marked the fourth year that agencies submitted to OIP their Chief FOIA Officer Reports describing the steps taken to improve their FOIA operations and facilitate information disclosure. All ninety-nine agency Chief FOIA Officer Reports were submitted to OIP for review in early 2013. OIP conducted a comprehensive review of all the Reports to ensure compliance with OIP's reporting guidelines and worked with the agencies to resolve any deficiencies in their Reports prior to clearing them for posting. After the Chief FOIA Officer Reports were posted during Sunshine Week of 2013, OIP compiled and posted a list of FOIA Success Stories illustrating significant steps taken by the fifteen departments to increase transparency. The fifteen departments are responsible for over 80% of the government' FOIA processing.

OIP Guidance on Annual FOIA Reports

To assist agencies with their statutory reporting obligations, in 2013 OIP compiled a comprehensive Annual FOIA Report Handbook that includes all of the legal, procedural, and technical requirements concerning agency Annual FOIA Reports. This is the first time that all of this important material can be located and referenced in one easy place. The Handbook contains all the legal requirements from the Department's

2008 guidance on the content of agency Annual FOIA Reports, along with additional guidance and tips for compiling the report. The Handbook also contains instructions for using the Annual FOIA Report Tool developed by the Department. The new Handbook updates and centralizes all of the guidance and instructions for these reports into one resource designed for both agency FOIA professionals and those professionals responsible for producing the Annual FOIA Report after the end of each fiscal year.

Recognizing the key role agency FOIA professionals play in properly tracking the information that goes into the Annual FOIA Report, an entire chapter of the Handbook is devoted to providing all of the guidance those professionals need as they process requests and appeals throughout the year. Additionally, the Handbook contains detailed guidance for those agency professionals responsible for preparing the Annual FOIA Report itself, including step-by-step instructions on using the DOJ Annual FOIA Report Tool, submitting the report to OIP for review and clearance, and finally posting the report to their agency's website.

Along with issuing this new Handbook, the Department also released an enhanced version of its Annual FOIA Report Tool, which agencies continued to use to prepare their Annual FOIA Reports. First released in 2010, the Annual FOIA Report Tool assists agencies by providing built-in data validation checks and allowing them to produce their Annual FOIA Report in a uniform open format (NIEM-XML), as required by the Open Government Directive. In addition to these features, the new Tool also assists agencies in preparing the human-readable version of their report by producing all of the required data charts. Using the same source of data to produce both versions of the Annual FOIA Report, the new Tool ensures better accuracy between the two versions of the report, while at the same time eliminating the need for agencies to work on two entirely separate reports every year.

The Department has received very positive feedback from agencies and the public regarding the new Annual FOIA Report Handbook and the enhanced Annual FOIA Report Tool. The Department looks forward to working with agencies and finding new ways to further improve the Annual FOIA Report process in the upcoming years.

As was done with the Chief FOIA Officer Reports, OIP managed the submission of agency Fiscal Year 2012 Annual FOIA Reports by first reviewing all ninety-nine agency Annual FOIA Reports in draft form, then working with the agencies to resolve any issues, and finally clearing the Reports for posting. As further discussed below, OIP then created and made available on its website a summary of the key statistics reported by agencies in their Annual FOIA Reports.

OIP Guidance for Further Improvement Based on 2013 Chief FOIA Officer Report Review and Assessment

As noted above, in 2013 OIP conducted a detailed assessment of agencies' progress in improving transparency and implementing the Attorney General's FOIA Guidelines based on a review of their 2013 Chief FOIA Officer Reports and the data reported in their Fiscal Year 2012 Annual FOIA Reports. As a result of this review and

assessment, on August 13, 2013, OIP issued guidance for all agencies to assist them in making additional improvements in the years ahead.

OIP's assessment revealed that the vast majority of agencies are either holding training conferences or sending their FOIA professionals to training hosted by other agencies. These efforts varied by agency, however, with some agencies citing one or two training sessions attended by staff and others hosting multiple FOIA conferences and having all of their FOIA professionals attend regular training. OIP's guidance emphasized that a proper understanding of the FOIA, including the correct application of the statute's provisions and the Attorney General's FOIA Guidelines, is the first step towards any successful FOIA administration. Accordingly, OIP advised every agency to make core, substantive FOIA training available for all of their FOIA professionals at least once each year.

With regard to improving timeliness, OIP advised agencies that are taking longer than an average of twenty days to process their simple requests to reexamine their FOIA process and take steps to meet this milestone. Further, OIP reemphasized the guidance issued in 2012 advising agencies with high processing times that have not established multi-track processing systems to consider doing so. As explained in the 2012 guidance, multi-track systems provide a mechanism for agencies to process their simple requests in a different queue from their complex requests, which in turn can allow for improved timeliness for the simple requests. Differentiating the processing queues also allows agencies to provide requesters with meaningful choices regarding processing times, based on the complexity of the request.

Finally, OIP reemphasized that each agency should make it a priority to close its ten oldest pending requests, appeals, and consultations every year. As explained in the guidance, by closing these requests, appeals, and consultations every year, the government overall will be able to reduce the age of its backlogs and eliminate those lingering requests that have remained pending for many years.

> *"By closing the ten oldest pending requests each year, agencies can make a real difference in improving FOIA administration."*
>
> *- OIP Guidance: Closing the Ten Oldest Pending Requests and Consultations*

OIP Guidance for Quarterly Reporting

On December 4, 2012, OIP notified agencies and the public that beginning January 2013 all agencies will be required to provide quarterly reporting of four key FOIA statistics to the Department of Justice that will be posted on FOIA.gov. Specifically, these four statistics include:

- the number of requests received during the reporting period,
- the number of requests processed during the reporting period,
- the number of requests in an agency's backlog at the end of the reporting period, and

- the progress being made to close the agency's ten overall oldest pending FOIA requests from the prior fiscal year.

Agencies that are decentralized in their FOIA processing are required to provide the data for the first three statistics for each of their individual components. As to the fourth statistic, in keeping with the Department's longstanding focus on reducing the age of the oldest pending requests, this metric requires agencies to report on how many of their agency's ten overall oldest pending FOIA requests from the prior fiscal year have been closed. These metrics, broken down by component, give a snapshot each quarter of how processing is proceeding during the course the fiscal year. By increasing the frequency of agency reporting of key FOIA statistics, the Department, as well as the public and agencies alike, will be able to identify trends and assess agencies' progress throughout the course of the fiscal year. This more frequent reporting is designed to increase accountability and enhance public awareness of agencies' efforts in administering the FOIA.

To assist agencies in satisfying this new obligation, the Department developed, and provided agencies instructions on using, a web-based template for submitting the quarterly reports. Through the use of an Applied Programming Interface (API), the Department collects this data and displays it in one central location on the Reports page of FOIA.gov.

OIP Guidance on Using Metadata in FOIA Documents Posted Online to Lay the Foundation for Building a Government-Wide FOIA Library

A key initiative of the Department's Open Government Plan version 2.0 was the commitment to develop metadata standards that would "facilitate the ability of interested persons to search and retrieve documents across websites and disparate record keeping systems." On March 12, 2013, OIP issued the first in a series of guidance pieces designed to implement these standards across all agencies of the federal government.

As the volume of material posted to agency websites continues to increase, and given that information on a given topic often is separately maintained by multiple agencies, it is essential that the public can quickly retrieve records of interest that are posted across government websites. In an effort to make government information not only available, but also accessible and usable, this initial guidance piece introduces the concept of a standard metadata FOIA tag to be used by agencies in the posting of FOIA material on agency websites. Through the consistent use of this standardized FOIA tag in posting records in their own FOIA Libraries agencies will in effect create a virtual government-wide FOIA Library by allowing the public to run simple, topical keyword searches that will efficiently retrieve documents from across the universe of federal government FOIA Libraries.

As explained in OIP's guidance, the way that federal agencies make records available to the public, and the way that the public accesses these records, continues to evolve in the Internet era. As the volume of posted material increases, it is vital that the

public have a fast and efficient way to locate particular documents that are of interest to them. OIP's goal is to build off of existing agency procedures and standards for the posting of documents online in order to optimize the public's ability to locate material of interest while leveraging common search tools that utilize plain language and are familiar to the public. The consistent addition of a FOIA metadata tag to documents posted in agency FOIA Libraries will enable the public to more efficiently locate and retrieve government records that have been made available online pursuant to the FOIA's proactive disclosure provision.

OIP Guidance on Calculating FOIA Response Times after the Government Shutdown

As a result of a lapse in appropriations, the federal government was shutdown from October 1, 2013 through October 16, 2013. On October 29, 2013, OIP issued guidance advising agencies on how to account for the time period during the shutdown when calculating the number days it took to respond to a FOIA request or administrative appeal in agency Annual FOIA Reports. OIP's guidance acknowledged that agencies and requesters alike generally refer to the FOIA's time limits as "working days." Logically, then, it could easily be concluded that during a time when FOIA Offices had no choice but to be closed because of the lapse in funding, those days when employees were furloughed were not "working" days and so should not be counted as part of the FOIA's response times. As a matter of policy, however, and consistent with the spirit of openness in administering the FOIA, OIP directed agencies to count as part of their response times for FOIA requests and appeals the eleven days when the government was closed, which exclude the Saturdays, Sundays, and the one legal public holiday that occurred during the shutdown.

The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications

A key element of answering President Obama's and Attorney General Holder's call for agencies to work with FOIA requesters "in a spirit of cooperation" is the use of good communication practices. Accordingly, in 2010 OIP released guidance which addressed a number of areas where better communication with requesters could improve overall FOIA administration across the government. On November 22, 2013, after continued engagement with both agencies and the requester community, OIP released its second installment of guidance on this topic.

Building off the 2010 guidance, OIP's new guidance "encourages greater use of email or other technology as the means by which agencies communicate with requesters." The guidance also focuses on improving the content of agency communications to provide requesters with a greater understanding of how their requests are being handled.

Specifically, the new guidance addresses:

- Using Technology to Further Improve Communications with Requesters,

- Communicating Electronically with Requesters as the Default,
- Alerting the Public to any Limitations on the Use of Electronic Communications,
- Providing Links to Information Already Available Online,
- Communicating in a "Spirit of Cooperation,"
- Providing Requesters With a Breakdown of Fees and an Explanation When Fees Might be Higher than Expected,
- Making it Easy to Narrow Requests

By following OIP's guidance and improving the means by which agencies communicate with FOIA requesters as well as the content of those communications, agencies will help promote greater understanding of the FOIA process and facilitate timely access to information.

B. Efforts to Promote Agency Accountability

The Department, through OIP, has engaged in a number of efforts to keep agencies accountable for their administration of the FOIA. During 2013, these efforts included publishing a summary and detailed assessment of agencies' progress based on the 2013 Chief FOIA Officer Reports, posting a detailed summary of agencies' Fiscal Year 2012 Annual FOIA Reports, meeting with agency Chief FOIA Officers, and overseeing a new, government-wide quarterly FOIA reporting requirement.

Summary of 2013 Chief FOIA Officer Reports and Assessment of Agency Progress in Implementing the President's and Attorney General's FOIA Memoranda

As discussed in the Policy Guidance section above, 2013 marked the fourth year in which agencies submitted their Chief FOIA Officer Reports to the Department of Justice. These reports detail each agency's efforts throughout the year in implementing the Attorney General's FOIA Guidelines. After reviewing all of the 2013 Chief FOIA Officer Reports for completeness and clearing them for posting, OIP undertook an extensive analysis of the reports to determine the government's overall progress in implementing the FOIA Guidelines and to identify any areas for improvement. As a result of this analysis, on September 17, 2013, OIP issued a comprehensive Summary of Agency Chief FOIA Officer Reports for 2013 and Assessment of Agency Progress in Implementing the President's FOIA Memorandum and the Attorney General's FOIA Guidelines.

OIP's narrative summary of the Chief FOIA Officer Reports provides a wealth of examples from large and small agencies describing the various efforts made to implement each of the key areas addressed in the Attorney General's FOIA Guidelines. The summary also highlights those areas in which improvements could be made such as the closing of agencies' ten oldest pending requests.

In addition to the narrative summary, OIP for the third year created a detailed assessment of the efforts made by agencies in implementing the Attorney General's

FOIA Guidelines and improving FOIA administration. As was done in 2012, OIP's assessment covered all ninety-nine agencies subject to the FOIA. In conducting this assessment, OIP identified and scored each of the ninety-nine agencies on fifteen milestones, including efforts to conduct or attend FOIA training, the making of discretionary releases, improvements to efficiency, steps taken to increase proactive disclosures and make websites more useful to the public, and improvements in timelines and reductions in backlogs. These milestones are all tied to the five key areas addressed in the Attorney General's FOIA Guidelines. Generally, agencies were given a score of green if they met the respective milestone, a score of yellow if partial progress had been made, and a score of red if the milestone had not been met. To make the assessment progressively more challenging, and with the input of civil society, for 2013 OIP changed several of the milestones used in 2012 based on the progress agencies had already made in implementing the FOIA Guidelines.

2013 Chief FOIA Officer Reports — Assessment of Federal Departments and Agencies — U.S. Department of Justice, Office of Information Policy

Agency	Section I: Applying the Presumption of Openness				Section II: Effective Systems for Responding to Requests			Section III: Increasing Proactive Disclosures		Section IV: Utilization of Technology (Tech.)		Section V: Reducing Backlogs & Improving Timeliness in Responding to Requests (Req.) and Appeals (App.)								
	Conducted or Attended FOIA Training or Conferences	Made Discretionary Disclosures of Information	High Release Rate for Req. Processed for Disclosure — Score	Release Rate	FOIA Staff Has Sufficient IT Support	FOIA Staff Works with Open Gov. Team	Taken Steps to Assess if there is Adequate Staffing	Taken Steps to Make Website More Useful to Public	Added New Material to Website	Offers Ability to Make FOIA Requests Electronically	Utilizing Advanced Tech. to Increase FOIA Efficiency	Processed Simple Req. in 20 Working Days or Less — Simple Track Y/N	Score	Avg. No. of Days	Agency Decreased Number of Backlogged — Req.	App.	Closed All Ten Oldest Req. & App. If not, # closed in FY 2012 — Req. Y/N	If no, # closed	App. Y/N	If no, # closed
ACUS	yellow	black	green	100.0%	green	green	green	green	green	green	black	Y	green	2	green	green	green	N/A	green	N/A
ABMC	green	black	green	100.0%	green	red	green	green	green	green	black	N	green	13	yellow	green	green	N/A	green	N/A
Amtrak	green	green	yellow	86.6%	green	black	green	green	green	green	green	Y	green	7.87	green	green	green	N/A	green	N/A
AFRH	green	yellow	yellow	75.0%	green	green	green	green	green	green	green	Y	red	111	green	green	green	N/A	green	N/A
FRB	green	green	green	91.4%	green	green	green	green	green	green	green	Y	green	3	red	yellow	red	5/10	red	0/1
BBG	green	green	green	91.3%	green	green	green	green	green	red	green	N	yellow	N/A	green	green	green	N/A	green	N/A

2013 Chief FOIA Officer Report Assessment

The issuance of this comprehensive assessment is designed to promote greater accountability in implementing the Attorney General's FOIA Guidelines and improving the government's FOIA administration, while also showcasing some of the impressive progress made by agencies over the past year. The assessment illustrates the many areas where agencies have made real progress as well as those areas where further improvements can be made. For example, while sixty-one agencies either had no backlog of pending requests or were able to reduce an existing backlog, there were others whose backlogs increased. Similarly, while sixty-four agencies closed all of their ten oldest pending requests, or had none pending to close, there were others who did not meet this milestone.

By assessing agencies on a wide variety of factors that all contribute to improving information disclosure, the public, as well as the agencies themselves, can readily see where agencies have excelled, and where further work can still be done, in improving the administration of the FOIA.

Summary of Agency Annual FOIA Reports and FOIA.gov

As noted above, each year agencies are required by law to submit an Annual FOIA Report to the Attorney General detailing a range of statistics regarding their agency's FOIA activities, such as the numbers of requests processed and received, and the time taken to process them. In addition to issuing guidance to agencies on the content of these reports and reviewing them for completeness, OIP, in accordance with 5 U.S.C. § 552(e)(4), compiles and posts all agency Annual FOIA Reports on the Reports page of its website. For Fiscal Year 2012, ninety-nine reports were submitted and centrally posted on OIP's website.

During 2013, OIP also uploaded the data for agencies' Fiscal Year 2012 Annual FOIA Reports onto FOIA.gov, the Department's comprehensive, government-wide FOIA website, so that it could be easily sorted and compared by agency and over time. In addition to many other features, FOIA.gov shines a light on agencies' administration of the FOIA by taking the detailed statistics contained in the Annual FOIA Reports and displaying them graphically. Moreover, the website contains various featured reports that highlight key measurements, such as the number of FOIA requests received by agencies with law enforcement and intelligence missions and the government's overall backlog of FOIA requests from Fiscal Year 2008 through Fiscal Year 2013.

Further, in order to provide a snapshot of government-wide FOIA activity, every year as part of its review of agencies' Annual FOIA Reports, OIP issues a detailed summary of the information contained in these reports for the given fiscal year. On June 3, 2013, OIP issued its Summary of Annual FOIA Reports for Fiscal Year 2012, which discusses the numbers of requests received and processed by agencies, the disposition of those requests, and details concerning the time taken by agencies to respond. The summary also provides details about the numbers of consultations and administrative appeals received and processed, as well as data on backlogs of requests and appeals. Finally, the summary provides overall figures for the numbers of personnel working on FOIA and the costs to the government.

For the third year, OIP prepared this detailed summary of agency Annual FOIA Reports by utilizing FOIA.gov, which has allowed for a more detailed analysis of statistics that was not readily available in past years. This yearly summary of agencies' Annual FOIA Reports is not only useful for agency personnel, but open government groups continue to look forward to its issuance as well. The Summary provides both agencies and the public with an overall picture of FOIA processing government-wide.

Through FOIA.gov and OIP's summary of the Annual FOIA Reports, the Department continues to shed an unprecedented amount of light on agencies' administration of the FOIA. By allowing the data from agency Annual FOIA Reports to more easily be compared across agencies and over time, the Department is ensuring that agencies are accountable for their FOIA administration and that the government is fully transparent concerning its FOIA responsibilities.

New Quarterly Reporting Requirement

As discussed above, in an effort to further increase agency accountability, beginning January 2013, OIP instituted a new quarterly FOIA reporting requirement for agencies on four key FOIA statistics. As more and more people have come to rely on FOIA.gov to track agencies' FOIA progress, the Department realized the benefits of providing certain FOIA data more frequently. Accordingly, this new, quarterly reporting of FOIA data allows for a more real-time assessment of the flow of FOIA requests handled by the government throughout the year. The quarterly reporting of these key FOIA statistics not only provides the public with more timely access to important FOIA data, but it also assists agencies and agency components in actively assessing the state of their FOIA caseloads in order to take the appropriate measures to reduce backlogs and improve timelines.

Meetings with Chief FOIA Officers

In yet another effort to assist agencies in their administration of the FOIA and promote further accountability, in 2013 the Associate Attorney General, who is also the Department's Chief FOIA Officer, met with the Chief FOIA Officers from those agencies that receive and process the overwhelming share of the government's FOIA requests to discuss the implementation of the Attorney General's FOIA Guidelines and other open government initiatives. The Director of OIP also individually met with many of these Chief FOIA Officers to discuss their agencies' FOIA administration in further detail, including their performance based on the most recent Annual and Chief FOIA Officer Reports. These meetings have become an invaluable opportunity for the Chief FOIA Officers to hear directly from the Department of Justice as we promote the goals of the President's and the Attorney General's directives and reinforce our joint commitment to openness and transparency.

C. Counseling and Consultations

In addition to providing written policy guidance to agencies and conducting seminars on such guidance, OIP also provided direct, one-on-one counseling for agency personnel and other interested parties during 2013, as a further means of encouraging agency compliance with the FOIA. OIP's counseling activities were conducted largely over the telephone by experienced OIP attorneys known to FOIA personnel throughout the Executive Branch as "FOIA Counselors." Through this FOIA Counselor service, OIP provided information, advice, and policy guidance to FOIA personnel government-wide, as well as to other persons with questions regarding the proper interpretation or implementation of the Act. OIP has established a special telephone line to facilitate its FOIA Counselor service -- (202) 514-3642 (514-FOIA) -- which it publicizes widely. While most of this counseling was conducted by telephone, other options were made available as well. The counseling services provided by OIP during the year are summarized below.

OIP provided FOIA Counselor guidance to agencies on a broad range of FOIA-related subjects, including guidance pertaining to the continued implementation of the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. Most of

the FOIA Counselor calls received by OIP involve issues regarding proposed agency responses to initial FOIA requests or administrative appeals, but many are more general anticipatory inquiries regarding agency responsibilities and administrative practices under the Act. The Department of Justice specifies that all agencies intending to deny FOIA requests raising novel issues should consult with OIP to the extent practicable. See 28 C.F.R. § 0.24(i) (2013). OIP has found that such consultations are very valuable in ensuring agency compliance with the Act. Over, 2,500 requests for guidance were received by OIP through its FOIA Counselor service during 2013.

Calls to the FOIA Counselor by Month in 2013
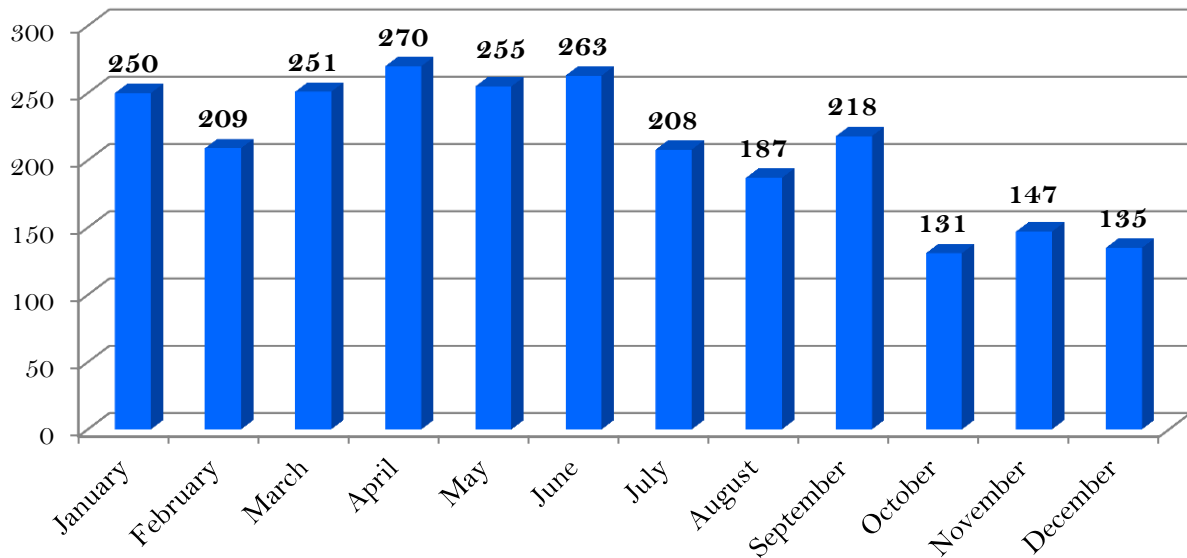
Approximately forty-three percent of these calls were from members of the public. Often these individuals contact OIP with questions about how to make a FOIA request or locate a particular document.

Estimated Breakdown of Callers to the FOIA Counselors in 2013
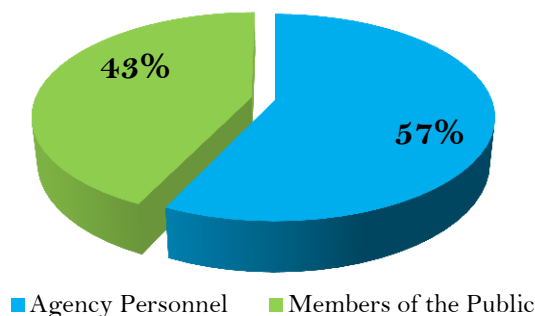
Sometimes a determination is made that a FOIA Counselor inquiry requires more extensive discussion and analysis by OIP attorneys, including supervisory attorneys. On such occasions, OIP often convenes a meeting or teleconference between agency representatives and senior OIP staff to thoroughly discuss and resolve all factual, legal, and policy issues related to the matter. OIP conducted similar discussions within the Department of Justice as well.

An additional counseling service provided by OIP pertains to FOIA matters in litigation, where advice and guidance are provided at the request of the Department's litigating divisions. This service involves OIP review of issues and proposed litigation positions in a case from both legal and policy standpoints. Further, OIP is consulted in all instances in which the Department must decide whether to pursue a FOIA or FOIA-related issue on appeal. OIP is regularly consulted on all FOIA cases, as well as all FOIA-related issues, that are handled by the Office of the Solicitor General.

D. Disseminating Information through *FOIA Post*

As reported in last year's Report, in 2012 the Department enhanced its popular *FOIA Post*, an online and cost-efficient replacement for OIP's longtime *FOIA Update* newsletter, by converting it into a blog. As the Department's first-ever FOIA blog, the new, improved *FOIA Post* allows for quick transmittal of the most up-to-date FOIA news and information to both the public and government personnel. In establishing this blog, the Department also added a distinct search feature that allows users to use key terms to search through all of OIP's blog posts for any information that is of particular interest. Similar full-text search tools are also provided for the archived articles issued through the original version of *FOIA Post* and *FOIA Update*.

FOIA Post continued to serve as one of the primary means by which OIP disseminated information concerning the FOIA to government personnel during 2013. All the various OIP guidance articles issued in 2013 were disseminated to agencies – and made available to the public – on *FOIA Post*. OIP also used *FOIA Post* to announce several FOIA Requester Roundtables, the issuance of the abovementioned summaries and assessment of agencies' FOIA administration, meetings with the FOIA Technology Working Group, and other relevant FOIA news. All training programs and FOIA conferences were likewise publicized on *FOIA Post*.

Sunshine Week Activities

FOIA Post was also used to announce a number of activities held to commemorate Sunshine Week 2013. To mark the fourth anniversary of the Attorney General's FOIA Guidelines, the Department held a celebration on March 11, 2013, the first day of Sunshine Week. At the celebration, the Director of OIP highlighted a number of accomplishments achieved by the government over the past year, including agencies processing more requests than were received, improving average response times, reducing overall government backlogs, and releasing records in full or in part in over 93% of requests processed for disclosure. The Director also noted a number of

OIP's efforts to improve FOIA administration across the government, including the new online version of the *United States Department of Justice Guide to the Freedom of Information Act* and the new quarterly reporting requirements. Additionally, at the Department's invitation, representatives from the General Services Administration, Small Business Administration, the Department of Education, the National Oceanic and Atmospheric Administration, and the Office of Personnel Management also shared their respective agency's success stories over the past year.

> *"This commitment – and the unprecedented efforts that we've launched to fulfill it – underscores the sacred bond of trust that must always exist between the government and all those we are privileged to serve."*
>
> *- Attorney General Eric Holder*

E. Use of Social Media

In an effort to reach a wider audience and disseminate important FOIA information as soon as practical, during 2013 OIP continued to use its Twitter account to notify interested parties of the Office's activities and the most recent FOIA news. In announcing the use of Twitter through *FOIA Post*, OIP noted that "[a]s agencies and offices continue to proactively disclose information online, it is important that the public be made aware of such releases [and that] . . . [s]ocial media offers government offices an efficient way to notify the public of proactive disclosures." OIP also noted that "by utilizing social media, agencies can rapidly convey information to a broad audience, in a timely fashion, keeping with the FOIA's goal of letting the public know what their government is doing."

F. Providing Additional FOIA Reference Materials

In addition to utilizing *FOIA Post* to timely disseminate policy guidance and other useful information concerning the FOIA, OIP also creates or makes additional FOIA reference materials available for agencies to use.

Department of Justice Guide to the Freedom of Information Act

The preeminent reference document created by OIP is the *United States Department of Justice Guide to the Freedom of Information Act*. This publication is a legal treatise on the FOIA and is widely relied on by government personnel as well as members of the public. The *Guide to the FOIA* contains an extensive discussion of the case law interpreting the FOIA's procedural requirements, its exemptions and exclusions, as well as litigation-related issues. The *Guide* also reflects the President's and Attorney General's Memoranda on the FOIA as well as all the changes made to the FOIA by the OPEN Government Act of 2007.

This past year OIP revised and issued an updated edition of the *Guide to the FOIA* which reflects recent changes in FOIA law. A distinct feature of the new edition of the *Guide* is the transition from a paper publication to a 100% online resource that now

serves as a "living document" that OIP will regularly update to include significant new developments in FOIA as the occur. In addition to allowing for the more timely transmission of information to those who rely on the *Guide* to understand and implement the FOIA statute this new online publication will allows user to, for the first time, conduct keyword searches throughout the entire *Guide*, and also includes links to source material.

Resources on Exemption 3 Statutes

OIP has established an independent section dedicated to Exemption 3 of the FOIA on the FOIA Resources page of its website. This section is designed to offer resources that will assist agencies in properly processing FOIA requests and aid requesters in understanding the scope of Exemption 3. In 2013, OIP added to this section of its website a chart of all the statutes reported in agencies' Fiscal Year 2012 Annual FOIA Reports as used by them in conjunction with Exemption 3. Notably, for the first time, OIP provided this chart in an open, machine-readable format (CSV), as well as in a portable document format (PDF). To further assist agencies in properly processing requests and in preparing their Annual FOIA Reports, in 2013 OIP also continued to update its chart of all the statutes that courts have found to qualify as Exemption 3 statutes under the FOIA. This chart, which includes a description of the material covered by the various statutes and the corresponding case citations, is also posted on the FOIA Resources page of OIP's website.

Summaries of Court Decisions

Each year the federal courts issue hundreds of decisions in FOIA cases, addressing all aspects of the law. These decisions shape the way the law is interpreted and applied by the thousands of attorneys and access professionals across the government who handle FOIA requests, administrative appeals, and litigation. To aid those professionals, in addition to substantive and procedural policy guidance, OIP provides agencies and the public with detailed summaries of every FOIA case decided in the United States, at both the district court and appellate levels. For every court decision in its summaries, OIP highlighted each FOIA exemption and procedural or litigation-related issue that was discussed in the opinion. Because court decisions play such an important part in the interpretation of the FOIA and its proper administration, OIP provides these summaries to help ensure that all FOIA professionals have ready and current access to the most recently decided court opinions. All of the summaries are compiled in one central location on the Court Decisions section of OIP's website.

Notably, in 2013 OIP launched a new Court Decisions page and the most significant update to this FOIA resource since its introduction. The new, enhanced Court Decisions page adds two powerful features for viewing and searching through OIP's case summaries while continuing to allow users the ability to view summaries by topic and chronologically. The first new feature improves upon users' ability to view case summaries by specific topics. Previously, these summaries were sorted into separate topical pages, with each page only containing those portions of the case summary that were relevant to the specific topic selected. For example, a court may

have addressed both an agency's use of Exemption 5 and Exemption 6 in its decision, but the topical page for Exemption 5 would only list the relevant information for that exemption. On the new Court Decisions page, users are able to view the entire summary of the court's decision, including those portions relevant to the selected topic. Additionally, the summaries are fully tagged with all relevant topical categories, which can easily be accessed at the bottom of each summary. This allows users to continue their search of new topics as they read through case summaries.

The second new feature provides the capability for case summaries to be searched using any keywords or phrases that are of interest. Searches can even be conducted by specific courts. For example, a search using the terms "Exemption 6" and "S.D.N.Y" would produce all of the decisions involving Exemption 6 from the District Court for the Southern District of New York.

The new Court Decisions page contains all case summaries decided since January 2013 and each summary is posted based on the date the decision was issued by the court. Summaries of decisions decided between May 2009 and December 2012 are available in the Court Decisions Archive. As more decisions are added, the list of available topical categories will be expanded to cover all the areas addressed by the courts. OIP believes that the enhancements made to this new page will continue to make these summaries a valuable FOIA resource for both agencies and the public.

Centralized Access to all Agency Annual FOIA Reports

As noted above, agencies are required to compile and submit to the Attorney General an Annual FOIA Report each year in accordance with 5 U.S.C. § 552(e)(1). In 2013, for the seventh year in a row, OIP completed and posted the Department's Annual FOIA Report in advance of the statutory deadline. By completing and publicly posting the Department's Annual FOIA Report early, OIP continues to serve as an example to other agencies.

As mentioned above, as part of its government-wide guidance responsibilities, every year OIP reviews each agency's Annual FOIA Report prior to it being posted. Once they are finalized, OIP makes all of the agency Annual FOIA Reports promptly available on its central electronic site. In 2013, OIP continued this practice of reviewing all agencies' Annual FOIA Reports prior to their being posted. This review was conducted in accordance with a 2002 Government Accountability Office (GAO) report which encouraged such discretionary OIP review activities and found that they "have resulted in improvements to both the quality of agencies' annual reports and on-line availability of information." A follow-up GAO study published in 2004 likewise found improvements in agencies' annual reporting due to OIP's government-wide review efforts.

In accordance with another provision of the FOIA, 5 U.S.C. § 552(e)(4), the Department of Justice in 2013 maintained "a single electronic access point" for the consolidated availability of the Annual FOIA Reports of all federal agencies. In 2013,

OIP posted all agency Annual FOIA Reports in a human-readable and uniform "open" format on its centralized Annual FOIA Report website.

Proactive Disclosures

In keeping with the Attorney General's focus on increasing proactive disclosures, OIP proactively posted a variety of information concerning the FOIA that is useful to both agencies and the public alike on its website. In 2013, OIP continued to update the FOIA Resources section of its website with the Exemption 3 charts discussed above. As noted above, OIP also posted agencywide guidance on the FOIA on its website and regularly posted on its blog, *FOIA Post*, to notify agencies and the public on new FOIA developments and events. Under the Court Decisions section of OIP's website, OIP regularly posted summaries of the new FOIA decisions issued by the federal courts. OIP also continued to update the Training section of its website to notify agency personnel and the public of upcoming FOIA training opportunities and Requester Roundtables. The Key Dates and Reporting Requirements section was also updated throughout 2013 with a calendar of key FOIA events, including training sessions, workshops, and conferences, as well as key deadlines for federal agencies. The calendar is presented both chronologically, by month, and topically.

OIP continued to update its FOIA Library in 2013 by posting FOIA-processed documents such as the Attorney General Memorandum to the United States Attorneys and Assistant Attorney General for the Criminal Division Regarding Department Policy on Charging Mandatory Minimum Sentences and Recidivist Enhancements in Certain Drug Cases, Deputy Attorney General Cole's Letter to Associated Press President and Chief Executive Officer Gary B. Pruitt, the Attorney General Memorandum for All Department of Justice Employees Regarding Budgetary Conditions for the Remainder of Fiscal Year 2013, the

> *"The President's memorandum instructs agencies to 'use modern technology to inform citizens what is known and done by their Government.' Accordingly, agencies should readily and systematically post information online in advance of any public request."*
>
> *- Attorney General Eric Holder*

Attorney General Memorandum for All Department of Justice Employees on Sequestration and Safety Actions Regarding the Bureau of Prisons Institutions, and the Deputy Attorney General Memorandum for the Heads of Department Components on Spending Restrictions Under Sequestration. In addition, OIP continued to post monthly FOIA logs for requests made to OIP and the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legislative Affairs, Public Affairs, and Legal Policy. Further, OIP and the Office of Public Affairs posted Calendars for the Attorney General and other Senior Department Officials.

As noted above, for additional reference purposes, OIP continued during 2013 to make available on its website all issues of the original *FOIA Post*, as well as OIP's former newsletter, *FOIA Update*, in a digital and keyword searchable format.

FOIA Reference Guide

OIP also continued to maintain on the Department's FOIA website an electronic copy of its *Department of Justice Freedom of Information Act Reference Guide*, which provides the public with information about how to make a request to the Department, describes how the FOIA process works, and contains descriptions of each of the Department's components and the type of records they maintain.

G. Outreach

FOIA Technology Working Group

During 2013, OIP twice convened the FOIA Technology Working Group to explore the use of technology in improving agencies' FOIA administration. The Technology Working Group serves as a forum for agency personnel to both discuss the application of technological and digital tools to various aspects of FOIA administration and to share best practices in the use of such technologies. In the first of these meetings held during Sunshine Week 2013, the Working Group discussed many important aspects of how to promote a culture of openness through the use of technology. OIP's Director provided details on OIP's recently published guidance on the use of uniform metadata tagging for FOIA documents posted online in FOIA Libraries. She was also joined by staff from the Department's Civil Division to discuss the Department's recently completed digital-FOIA pilot program. The Working Group also discussed how social media platforms could be used as a tool to inform the public of the availability of government operational and policy documents which agencies make available to the public proactively, and some of the challenges that agencies face when posting material and documents online. During the meeting, representatives from the requester community emphasized the benefits of agencies using technology to electronically communicate with requesters. This formed the basis of OIP's new guidance, The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.

During the second meeting on August 5, 2013, the Working Group focused on implementing innovative uses of technology through the revamping and launching of new agency FOIA websites. OIP highlighted the Department of State's newly redesigned FOIA website during this meeting and representatives from the Department of State discussed all of the efforts that went into launching the site and the new features it provides both the public and agency personnel.

United States Second Open Government National Action Plan

During 2013, OIP also engaged with agencies and the public as part of our work with the Administration's Second Open Government National Action Plan and the commitment in that Plan to modernize FOIA through five specific initiatives. Taking the lead on four of the five FOIA initiatives in the Plan, the Department looks forward to

continuing to work with both agencies and the public in further improving all aspects of FOIA administration. The four FOIA initiatives that the Department will be leading include:

- Improving the FOIA customer experience through a consolidated online FOIA service that allows the public to submit a request to any Federal agency from a single website and includes additional tools to improve the customer experience,
- Streamlining the FOIA process by developing core FOIA regulations and common practices for federal agencies,
- Improving internal agency FOIA processes, and
- Improving FOIA training by making standard e-Learning resources available for all federal employees.

FOIA.gov

With well over two million visitors since it was launched in 2011, FOIA.gov continues to revolutionize the way in which FOIA data and information is made available to the public. While it was initially a project undertaken by the Department in response to a strong interest by open government groups to have a "dashboard" that illustrates statistics collected from agencies' Annual FOIA Reports, the Department almost immediately began to expand its capabilities and has continued to add new features every year.

As described above, FOIA.gov takes the detailed statistics contained in agency Annual FOIA Reports and displays them graphically. The website allows users to search and sort the data in any way they want, so that comparisons can be made between agencies and over time. In 2013, the Department added the data from agencies' Fiscal Year 2012 Annual FOIA Reports so that it too can now be sorted and compared. New charts and graphs showed the evolution of key FOIA statistics over the past four fiscal years. During 2013, OIP and the Department also captured on FOIA.gov's Reports page agencies' new Quarterly Report data. FOIA.gov was also updated throughout 2013 with recent FOIA news and spotlights on the new releases agencies have made that are likely to be of interest to public.

FOIA.gov also serves as an educational resource for the public by providing useful information about how the FOIA works, where to make requests, and what to expect through the FOIA process. Explanatory videos are embedded into the website and the site contains a section addressing frequently asked questions as well as a glossary of FOIA terms. The website also provides updated contact information for each agency, including their Chief FOIA Officer and all their FOIA Requester Service Centers and FOIA Public Liaisons. Moreover, the site includes hyperlinks to over 100 agency online request forms, including OIP's online portal which allows the public to make and track the status of their requests and administrative appeals. With this added feature,

when a requester is on the site and decides to make a request to an agency with an online request-making capability, he or she may do so directly from FOIA.gov with just a couple clicks.

In addition to these resources, FOIA.gov offers users a "Find" feature that allows the public to enter search terms to locate information on any topic across all federal government websites. The search feature captures not just those records posted in agency FOIA Libraries, but also records posted anywhere on an agency's website. This more expansive search capability is particularly significant given the steady stream of information that agencies are proactively making available on their websites. FOIA.gov's "Find" feature provides an easy way for potential FOIA requesters to first see what information is already available on a topic. This might preclude the need to even make a request in the first instance, or might allow for a more targeted request to be made.

Finally, in keeping with the Department's commitment to making government more transparent and accessible, FOIA.gov offers select content in English and Spanish. Individuals with limited English proficiency can now access the Spanish translations for the "What is a FOIA?" and "Learn" sections of FOIA.gov.

H. Training, Public Presentations, and Briefings

As yet another method for encouraging compliance with the FOIA, OIP held a variety of training programs throughout the year. These programs included continued training on the President's and Attorney General's FOIA Memoranda. During 2013, OIP furnished speakers and workshop instructors for seminars, conferences, individual agency training sessions, and similar programs conducted to promote the proper administration of the FOIA within the Executive Branch. Additionally, OIP conducted presentations aimed at fostering a greater understanding of the Act's administration outside the Executive Branch. This included developing a greater international understanding of the FOIA.

In conjunction with the Department of Justice's National Advocacy Center, OIP conducted numerous FOIA-training programs in 2013, which ranged from half-day introductory sessions for non-FOIA personnel to advanced programs for highly experienced FOIA personnel. OIP's basic two-day training course entitled "The Freedom of Information Act for Attorneys and Access Professionals" was conducted four times and the course entitled "Introduction to the FOIA" was conducted once.

For those agency personnel who already have experience working with the FOIA, in 2013 OIP held an "Advanced Freedom of Information Act Seminar." This seminar provides advanced instruction on selected substantive and procedural topics under the FOIA, including up-to-date policy guidance.

 OIP also conducted a "FOIA Litigation Seminar." The seminar, designed for agency attorneys and FOIA personnel, focused on the issues that arise when FOIA requests become the subject of litigation. The course provided guidance on successful

litigation strategy and addressed "Open America" stays and the preparation of Vaughn indices and declarations.

OIP also continued its Director's Lecture Series, which was launched in the Summer of 2012. The Director's Lecture Series is designed to provide an opportunity for FOIA professionals to interact directly with the Director of OIP on a range of FOIA topics. In 2013, the Director's Lecture Series included two specialized training sessions: "FOIA Fundamentals" and a "FOIA Fee Summit."

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

Building on this effort to make important FOIA training available to all federal employees, during 2013 OIP began developing a suite of four e-Learning training modules specifically designed for all levels of the federal workforce from the senior executive, to the FOIA professional, to the everyday federal employee whose records are subject to the FOIA. The full suite of training modules will be released this Summer and will serve as a valuable resource for all federal employees in need of FOIA training.

Also in 2013, OIP teamed with the Office of Government Information Services (OGIS) to provide training on dispute resolution and customer service skills for FOIA professionals. This training emphasizes the value of effective communication with requesters and provides an overview of the communication techniques utilized by dispute resolution specialists.

Eighteen professional staff members from OIP gave a total of 268 training presentations during the year, including several training sessions designed to meet the specific FOIA-training needs of individual agencies. Such individualized training sessions were conducted for the Department of Education, the Department of the Treasury, the Department of Labor, the Department of Homeland Security, the Department of State, the Department of Health and Human Services, the Department of Housing and Urban Development, the Council of Counsels for Inspector Generals, the Central Intelligence Agency, Federal Highway Administration, Nuclear Regulatory Commission, Consumer Financial Protection Board, U.S. Agency for International Development, Office of the Director of National Intelligence, Environmental Protection Agency, and the Federal Deposit Insurance Corporation. In addition, OIP provided training for components of the Department of Justice. In 2013, nearly one thousand individuals were trained by OIP sponsored training alone.

Furthermore, OIP continued to reach out to the requester community and members of the public. In 2013, OIP professionals gave training presentations at seminars hosted by the American Society for Access Professionals, an association which includes members of the FOIA requester community. Additionally, OIP hosted four Requester Roundtable events which were open to any interested members of the FOIA

community. These events continue to serve as a unique opportunity for the requester community and OIP's FOIA professionals to engage in a dialogue and share ideas for improving FOIA administration.

During 2013, the Director of OIP gave a total of ninety presentations at a variety of FOIA-training programs and other forums. In addition to the training programs described above, the Director met with a number of representatives from foreign countries interested in learning about the American experience with open government, particularly in light of the Administration's new FOIA Memoranda.

I. Legislative and Regulatory Proposals

During 2013, OIP reviewed numerous draft or preliminary legislative proposals relating to the FOIA or to information policy more generally. As a result of this review, OIP made recommendations in many instances, most frequently in connection with the technical sufficiency of proposed statutory nondisclosure provisions intended to serve as Exemption 3 statutes under the Act. OIP likewise identified issues and suggested revisions to language contained in proposed FOIA regulations submitted by agencies.

J. Congressional and Compliance Inquiries

In 2013, OIP responded to sixteen congressional inquiries pertaining to FOIA-related matters. OIP also received eleven matters from members of the public who had concerns about how the FOIA was being administered at an agency. In response to these compliance inquiries, OIP discussed the issues with the agency involved and, whenever appropriate, made recommendations on the steps needed to address the concern.

LISTS OF FOIA LITIGATION CASES RECEIVED AND DECIDED DURING 2013

In accordance with 5 U.S.C § 552(e)(6), the Department of Justice attaches to this report two separate lists of FOIA litigation cases for 2013. These lists will also be posted on OIP's website in an "open" format so that the public may manipulate and sort through the data in accordance with their particular interests.

List of Cases Received in 2013

As required by the statute, the first list contains all of the cases filed as FOIA claims in federal district court during 2013. This information is derived directly from the federal courts' docketing systems through the Public Access to Court Electronic Records (PACER). According to PACER, in 2013, 371 cases were filed in the federal district courts as FOIA claims. It is important to note, however, that not all claims that are originally filed as FOIA claims remain as such on the court's docket. In many instances a court will determine after a case is filed that the lawsuit does not actually

pertain to an agency action under the FOIA. During 2013, OIP observed over 150 cases in which the courts dismissed claims because they were actually not FOIA actions. This can happen, for example, when a requester attempts to file a lawsuit against a state agency or public organization that is not subject to the FOIA.

As a point of reference, during Fiscal Year 2013 the government overall received 704,394 FOIA requests. In comparison to the number of lawsuits filed during Calendar Year 2013, this only amounts to 0.05% of the requests agencies reported receiving in Fiscal Year 2013.

List of Decisions Rendered in 2013

The second list attached to this report contains all of the FOIA cases in which a decision was rendered by the federal courts in 2013. The list was compiled through the Summary of Court Decisions issued by OIP on a weekly basis and a survey of PACER. The list is organized alphabetically, and as required by Section (e)(6) of the FOIA, contains a description of the disposition in each case, the exemptions (if any) involved, and any costs, fees or penalties.

The list does not include cases that were dismissed as non-FOIA claims (e.g. a case brought against a state agency) or "reverse" FOIA lawsuits, which are actions brought under the Administrative Procedure Act. They do include cases involving the National Labor Relations Board, the Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Tennessee Valley Authority, and the National Railroad Passenger Corporation, all of which, by statutory authority or agreement with the Attorney General, handle FOIA cases in which they are the defendant. Finally, it should be noted that this list of cases may include cases which were listed in previous reports. For example, a case initially decided in 2012, but appealed and affirmed in 2013, would be found on the lists of cases in which a decision was rendered for both 2012 and 2013.

Report on any Notification to the Special Counsel

During 2013, the United States courts made no written findings pursuant to 5 U.S.C. § 552(a)(4)(F)(i). Accordingly, no notification to the Special Counsel was necessary.