



# Summary of Annual FOIA Reports for Fiscal Year 2021

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Highlights of Key Governmentwide FOIA Data

## SUMMARY OF ANNUAL FOIA REPORTS FOR FISCAL YEAR 2021

Every year, the Office of Information Policy (OIP) compiles a summary of the information contained in the Annual FOIA Reports that are prepared by each of the more than 100 federal agencies subject to the FOIA. As in past years, in addition to preparing this summary, OIP has published all of the data from agencies' FY 2021 Annual FOIA Reports on [FOIA.gov](https://www.foia.gov). There, this data can easily be viewed online, compared with data from previous fiscal years and across different agencies, and downloaded in an open format (CSV). The purpose of this summary is to provide an overall picture of FOIA activities across the government.

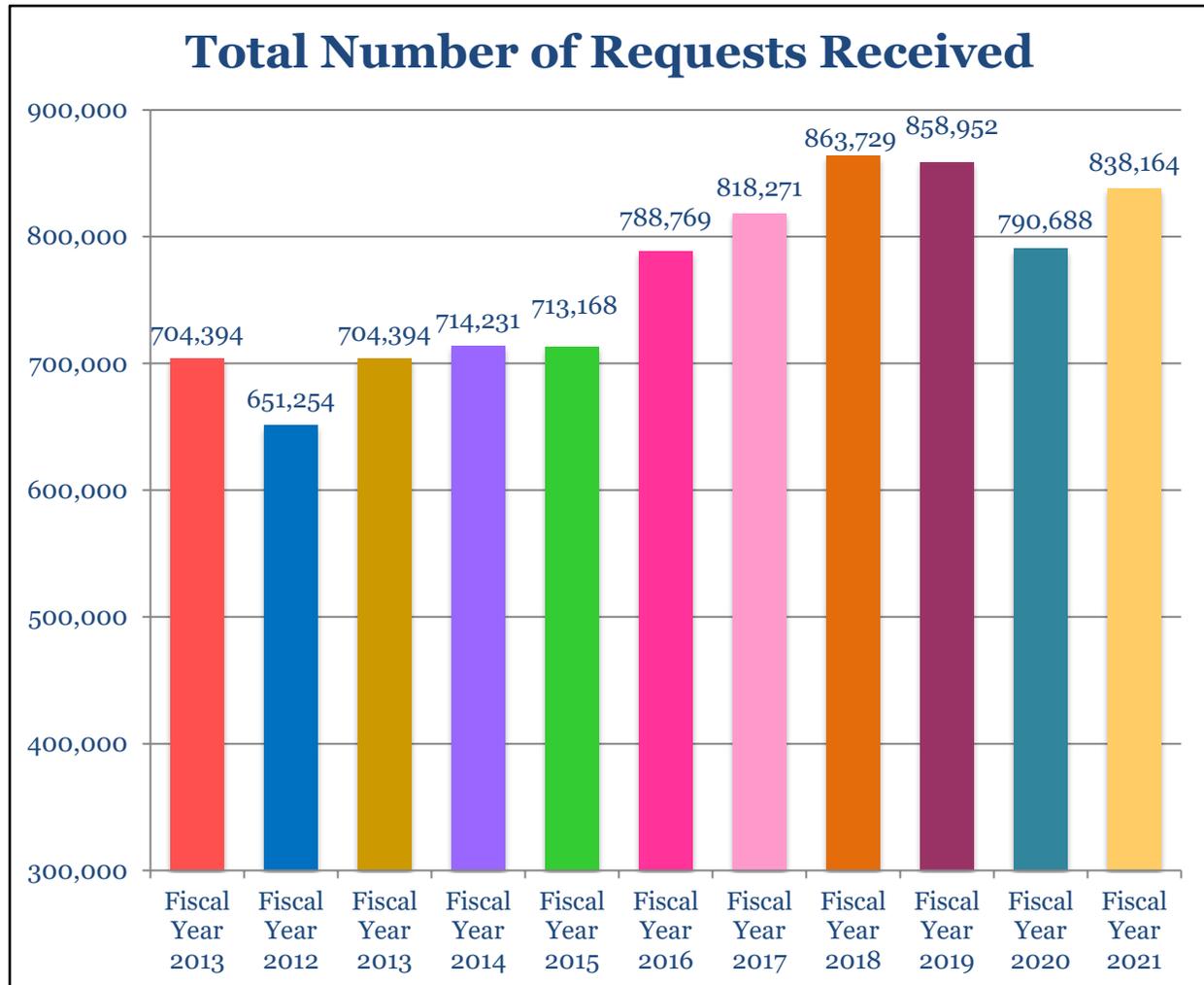
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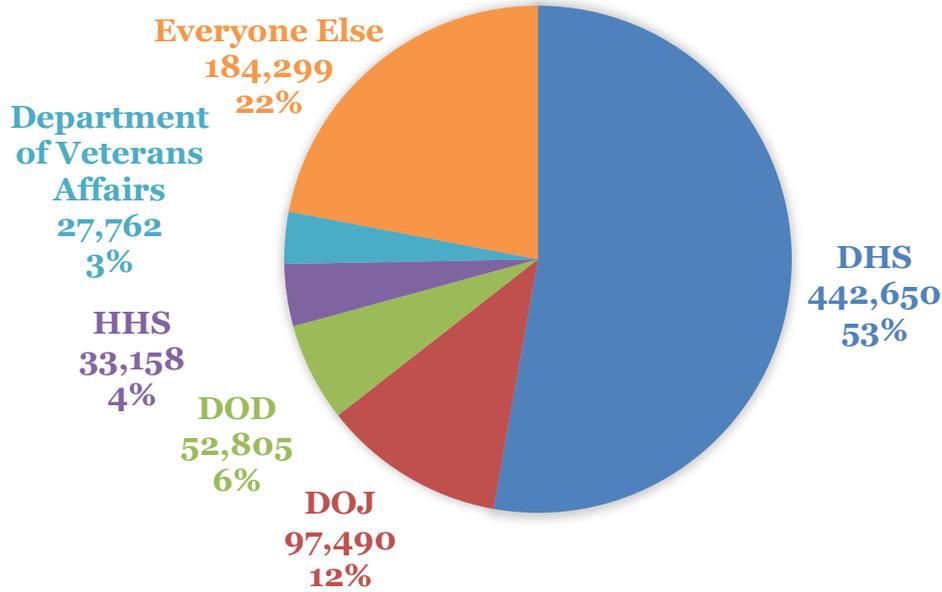
## FOIA REQUESTS

### Number of Requests Received

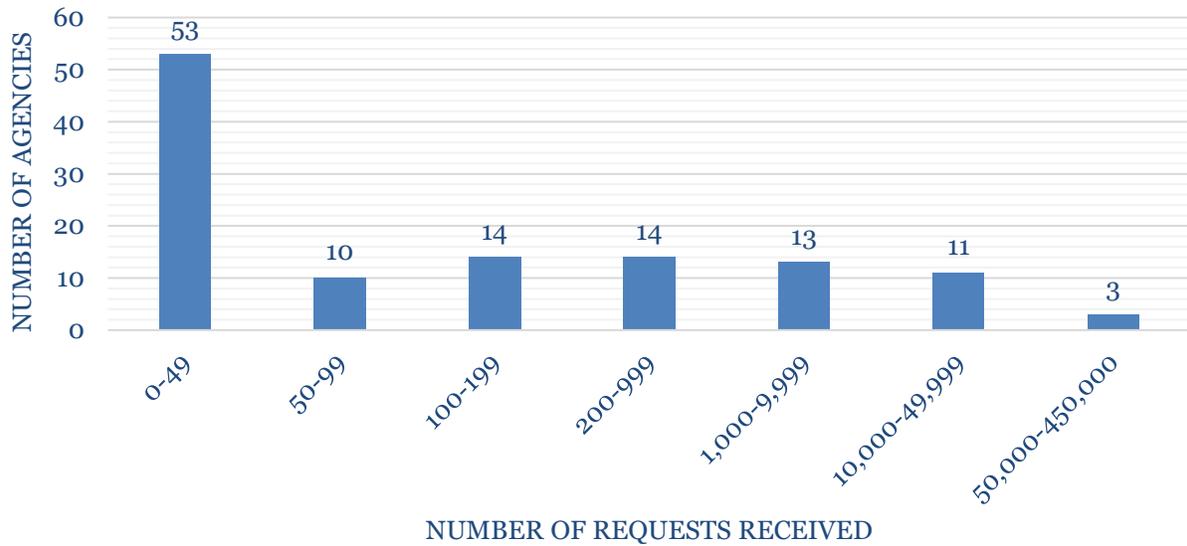
In FY 2021, the federal government overall received a total of 838,164 FOIA requests. This is about a 6% increase from the number of requests received in FY 2020. Specifically, this an increase of 47,476 requests from FY 2020. As illustrated below, five agencies collectively received the vast majority (78%) of all FOIA requests governmentwide.



## 5 AGENCIES RECEIVED OVER 75% OF ALL FOIA REQUESTS

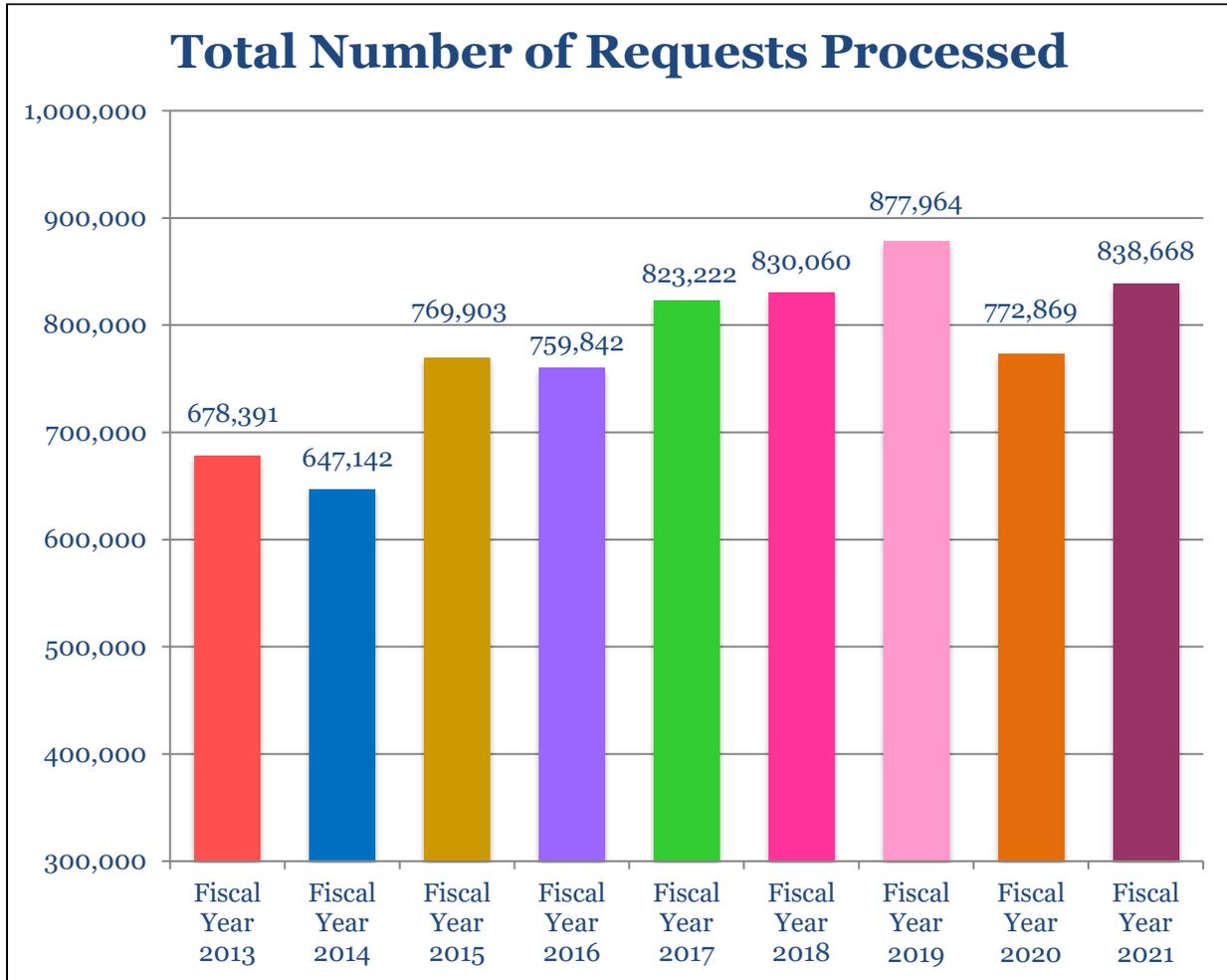


## Distribution of Requests Received

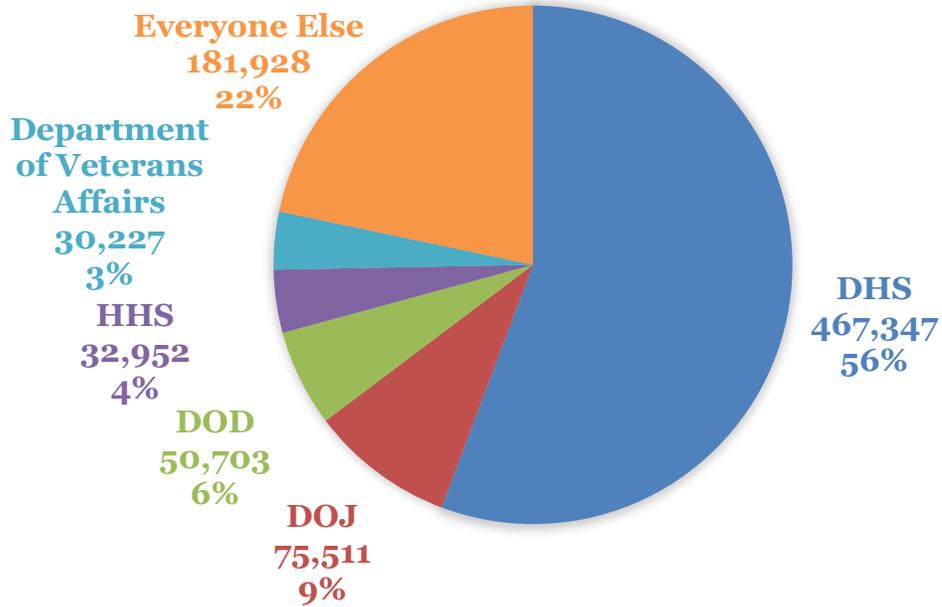


## Number of Requests Processed

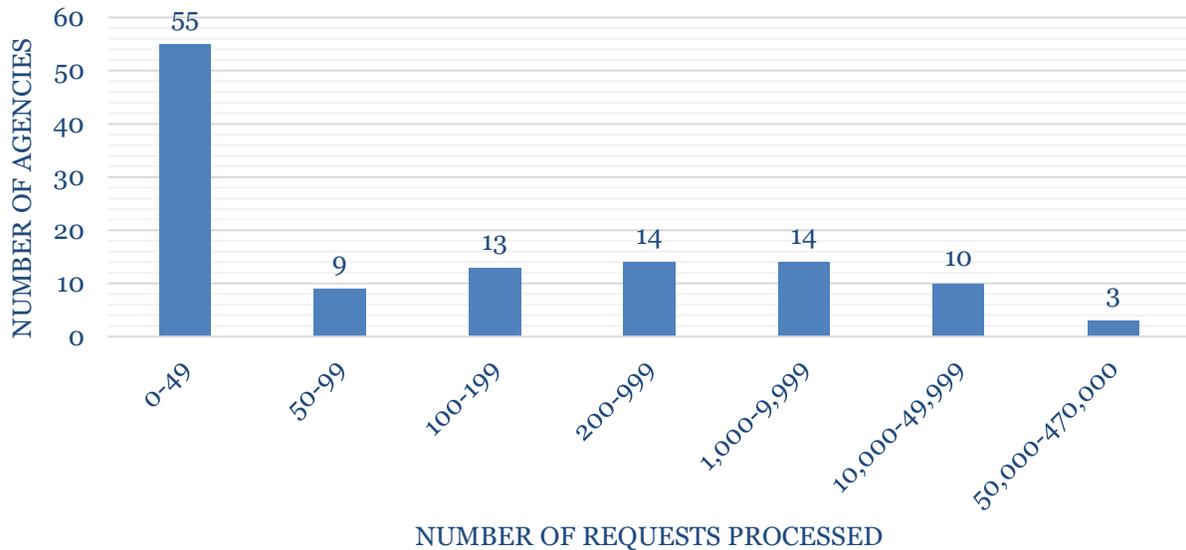
Collectively, the government overall processed 838,668 requests in FY 2021, which is an increase of 8.51% from FY 2020. The same five agencies that received the most FOIA requests also collectively processed the vast majority (78%) of FOIA requests governmentwide.



## 5 AGENCIES PROCESSED OVER 75% OF FOIA REQUESTS

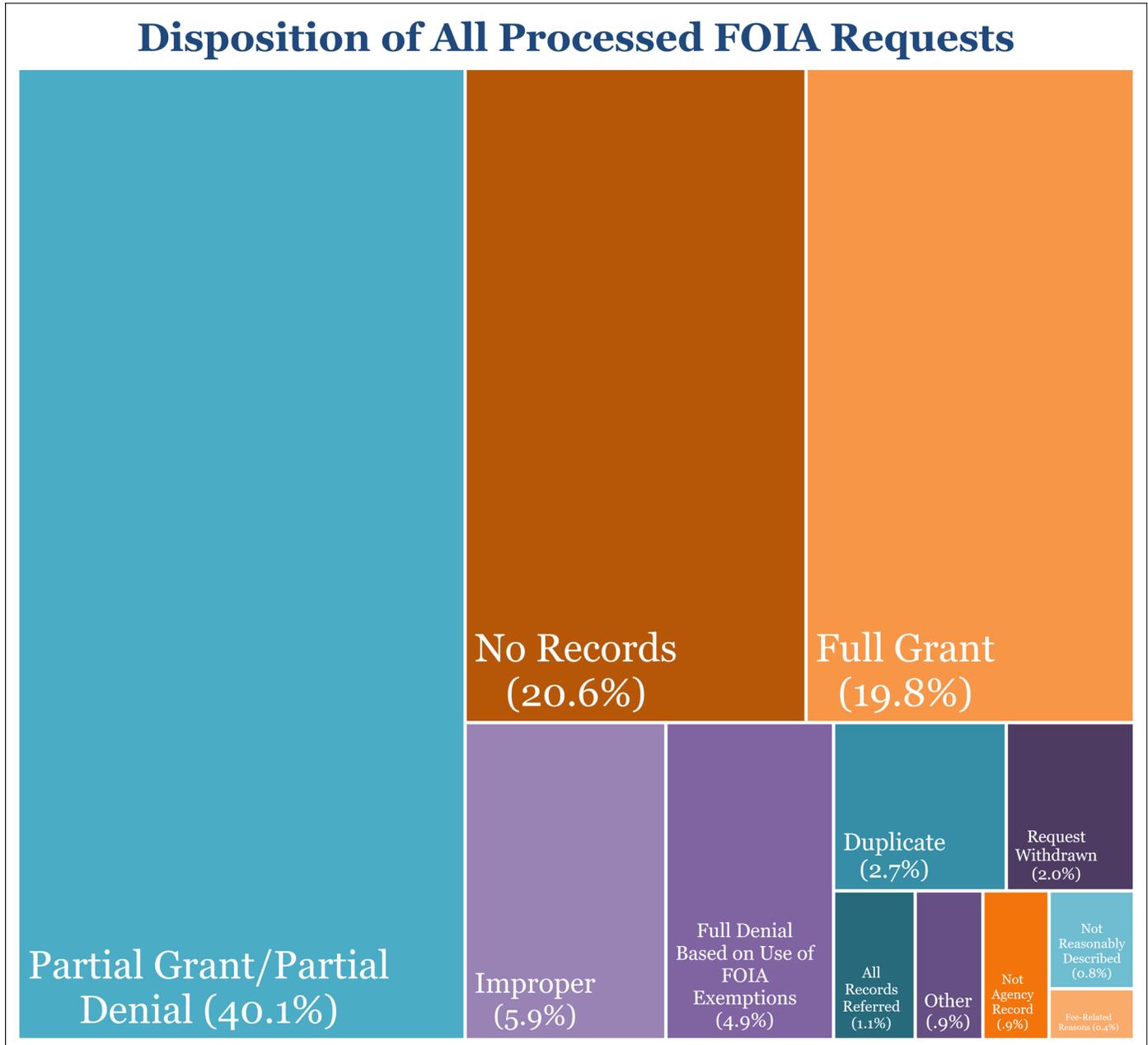


## Distribution of Requests Processed



## Disposition of Requests

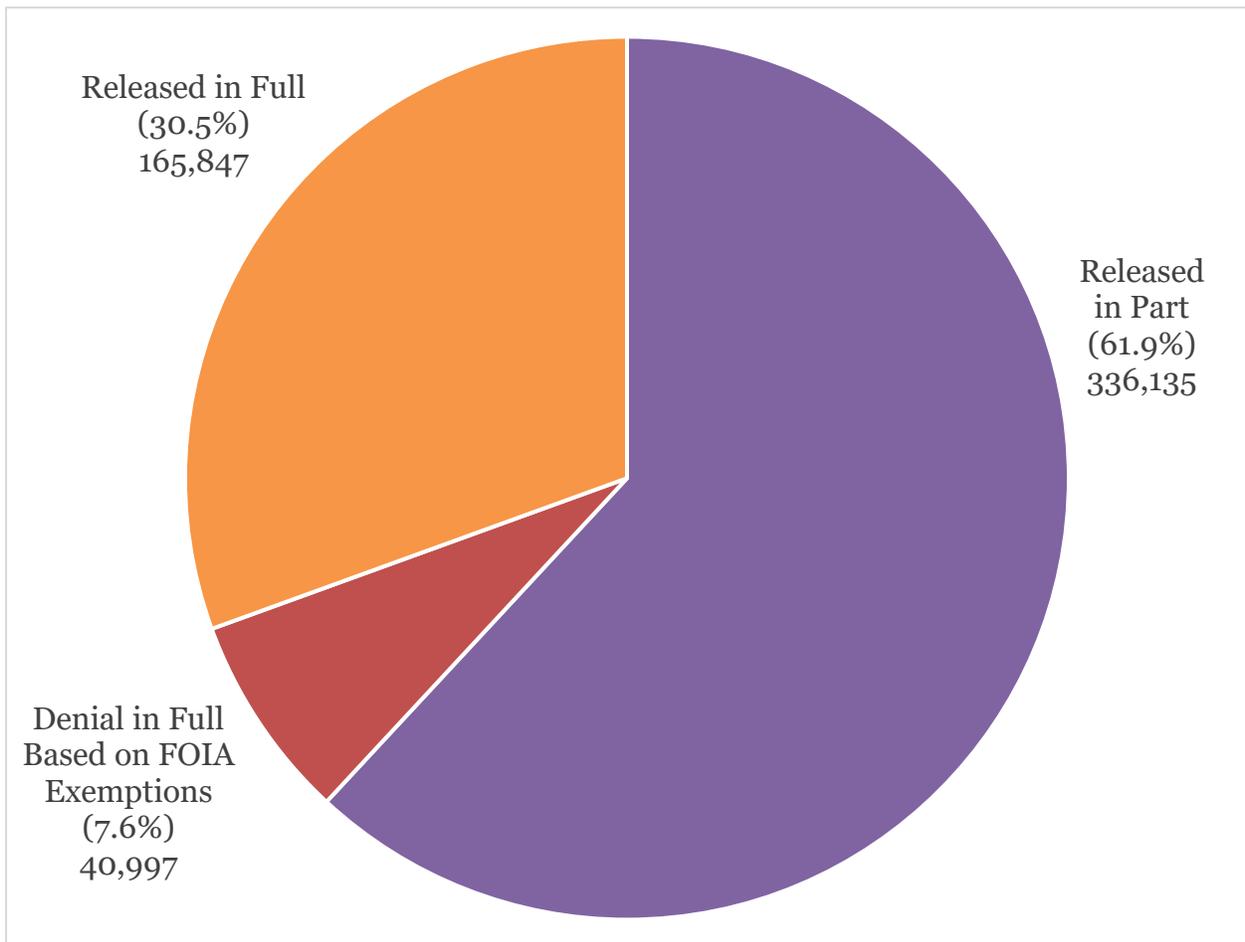
Of the 838,668 requests processed by agencies, 64.74% (542,979) were closed after being substantively processed, with decisions made to release or withhold information based upon the FOIA's exemptions. The remaining requests processed by agencies during FY 2021, 35.26% (295,689), were closed for procedural or administrative reasons.



\*Smallest boxes in bottom right hand corner are “Not Reasonably Described” – 0.8% and “Fee-Related Reasons” – 0.4%

## Release Rate for Requests Processed for Exemption Applicability

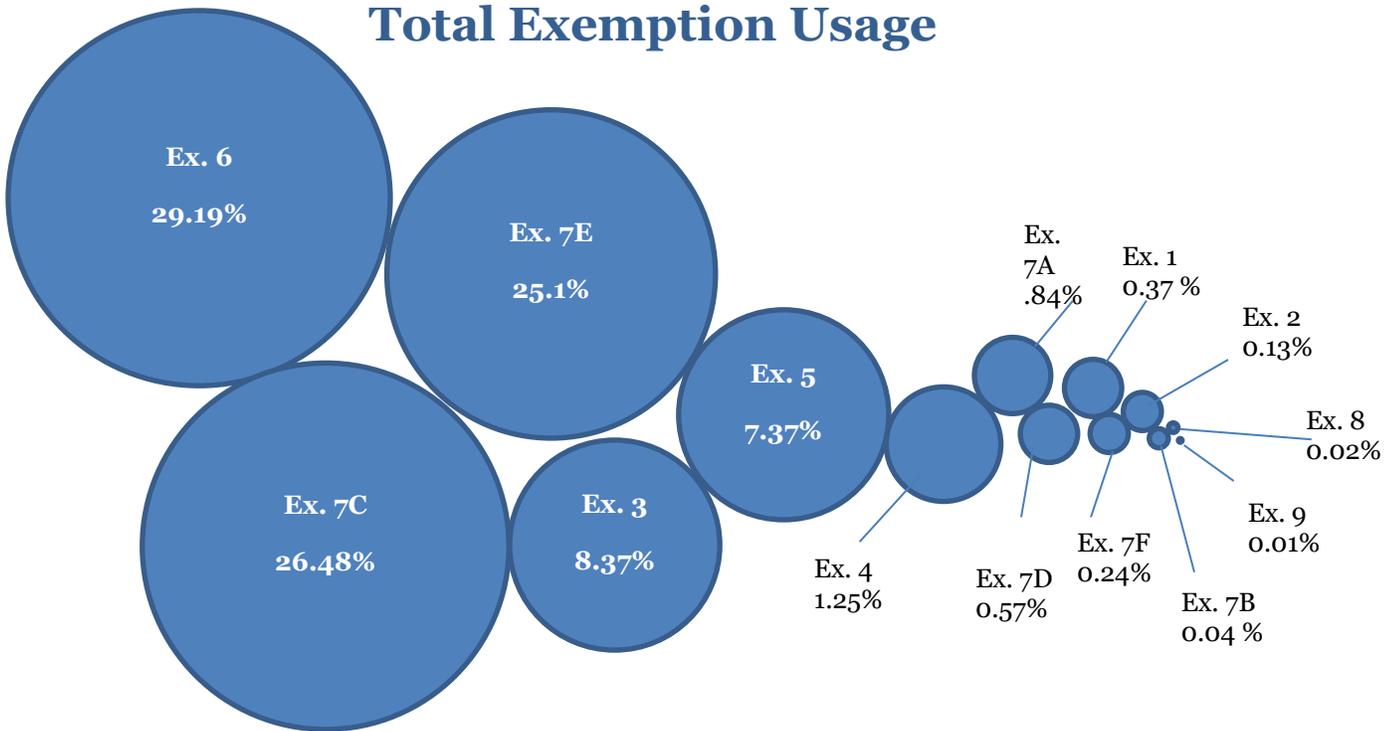
As noted above, of the 838,668 requests processed by agencies, 64.74% (542,979) were closed after being substantively processed, with decisions made to release or withhold information based upon the FOIA's exemptions. Of the 542,979 requests that were processed for exemption applicability in FY 2021, 92.45% resulted in either a full or partial release of records. Of those requests, as illustrated below, 30.5% were full disclosures, 61.9% were partial disclosures, and 7.6% were full denials based on exemptions.



## Use of Exemptions

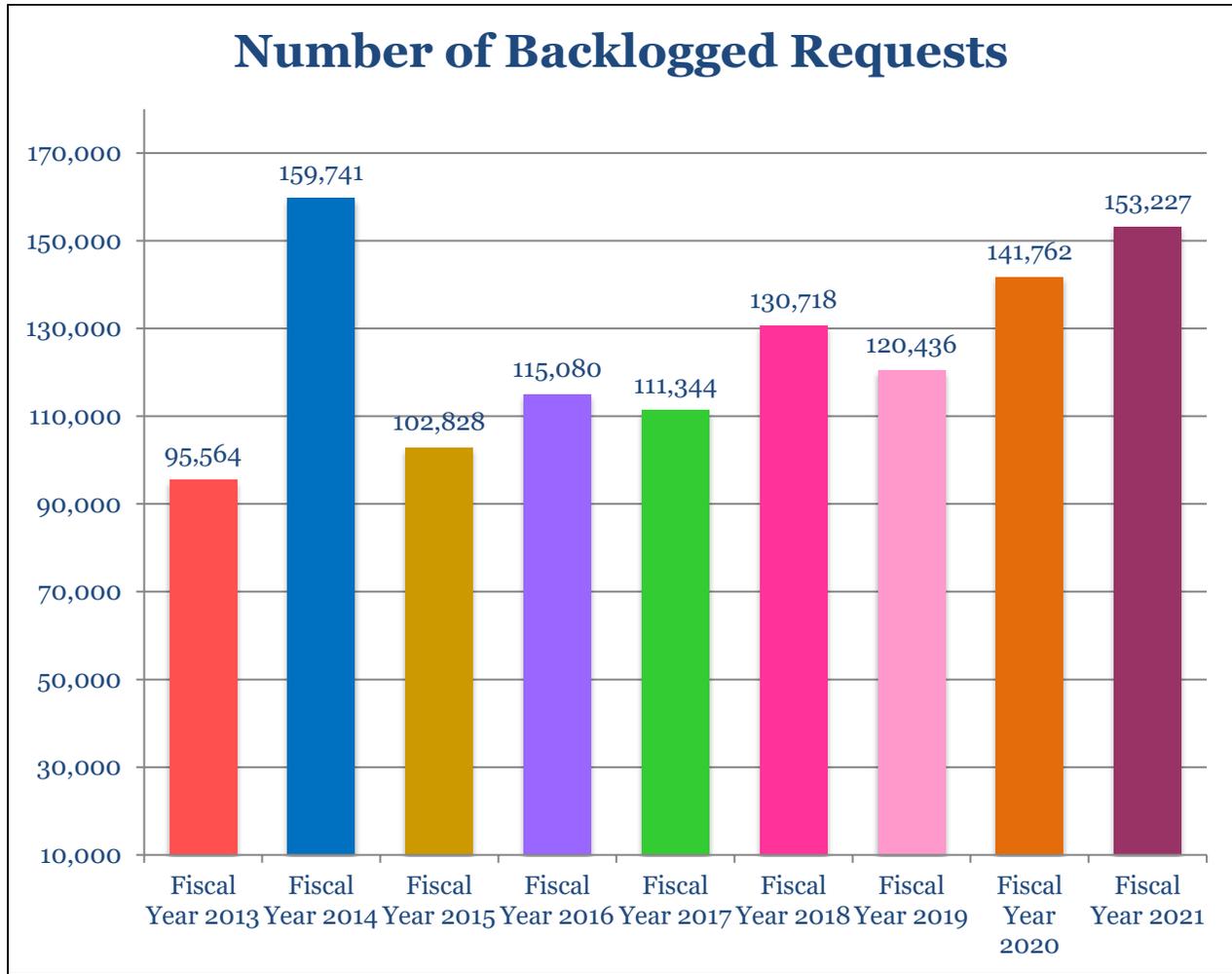
The FOIA includes nine exemptions from disclosure that protect important interests such as national security, personal privacy, and certain law enforcement interests. As has been the case for many years, the FOIA's privacy exemptions, Exemption 6 (29.19%), which protects that, if disclosed, would invade another individual's personal privacy, and 7(C) (26.48%), which protects information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy, were the most cited FOIA exemptions in FY 2021. Over half of the exemptions cited by agencies were those two exemptions. Exemption 7(E) (25.1%), which protects law enforcement techniques, procedures, and guidelines, was the third most used exemption.

### Total Exemption Usage



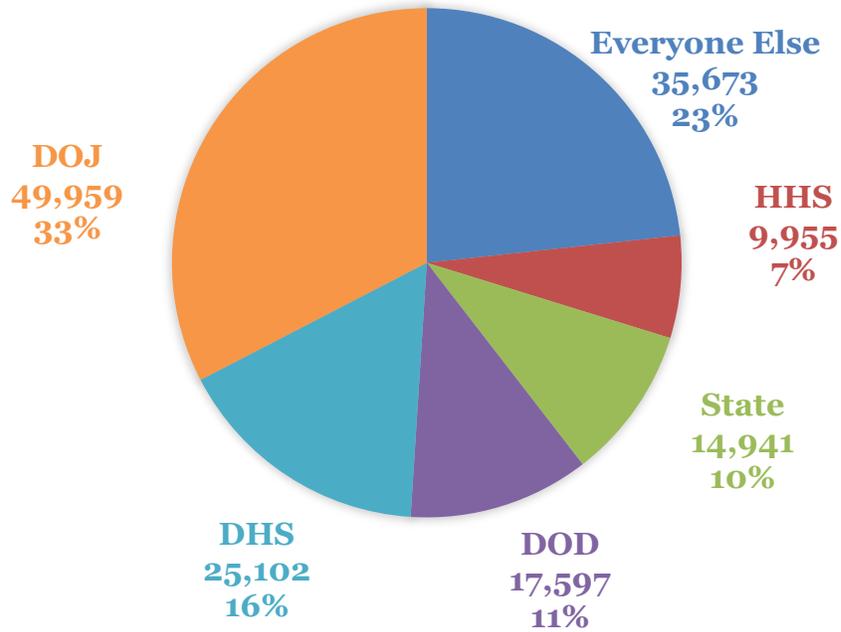
## Backlogged Requests

The total number of backlogged requests across the government at the end of FY 2021 was 153,227, which is an 8.09% increase from the number of backlogged requests reported at the end of FY 2020.<sup>1</sup>

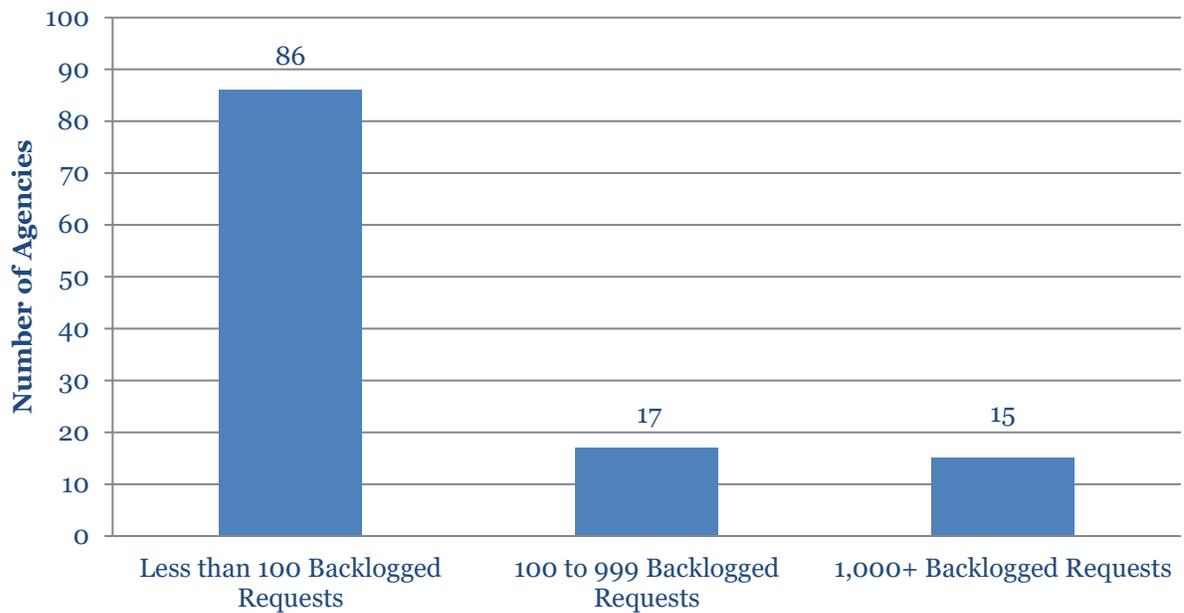


<sup>1</sup> A request is reported as “backlogged” when it has been pending at an agency longer than the statutory time period of twenty working-days or, if unusual circumstances are present, up to thirty working-days.

## 5 AGENCIES ACCOUNT FOR 77% OF BACKLOGGED REQUESTS



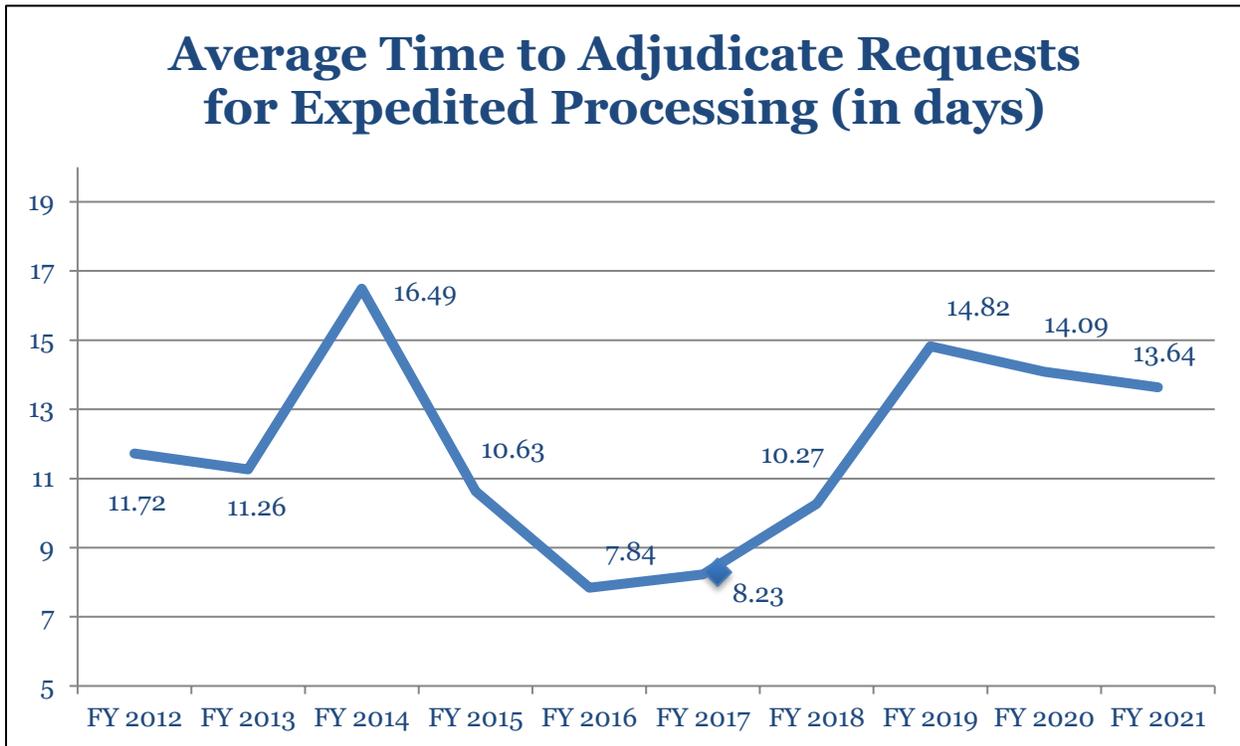
## Distribution of Backlogged Requests



## Requests for Expedited Processing

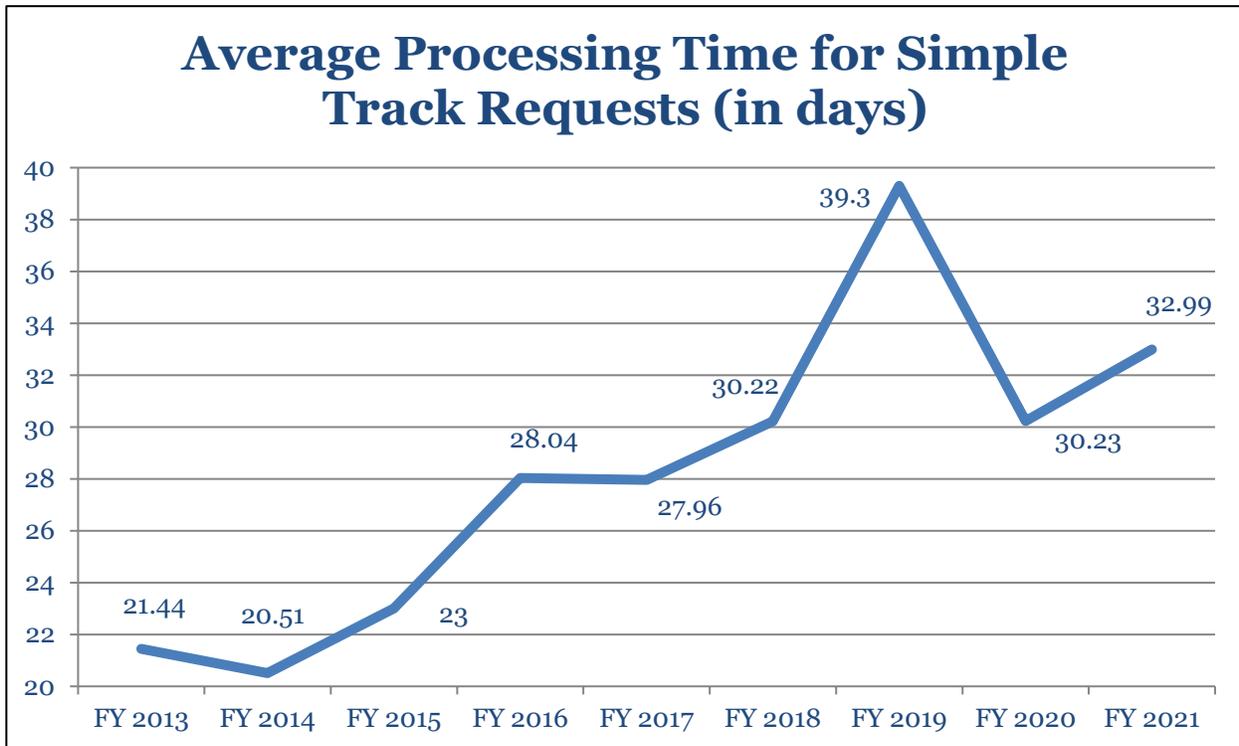
In FY 2021, the government overall made a decision to grant or deny 32,331 requests for expedited processing. This is a 22.11% increase (5,855) from the total number of expedited processing determinations made during FY 2020 (26,476).

Across the government, agencies averaged 13.64 days to adjudicate requests for expedited processing, a slight decrease from FY 2020. In total, agencies adjudicated 79.7% (25,771) of all requests for expedited processing made during FY 2021 within ten calendar days.



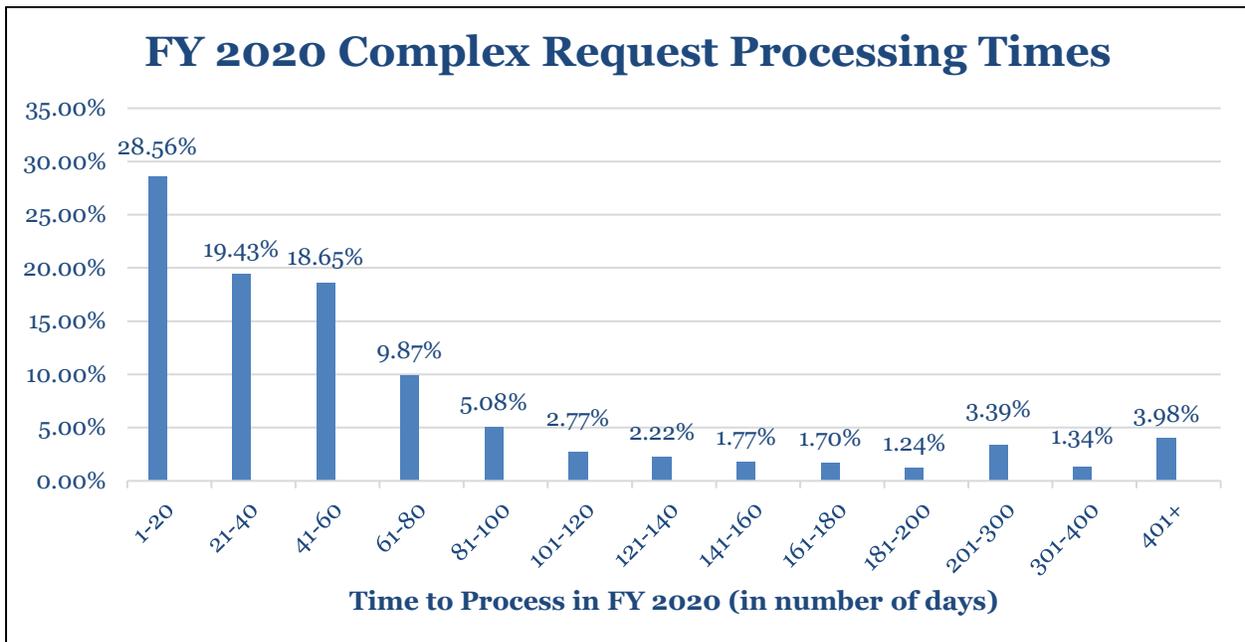
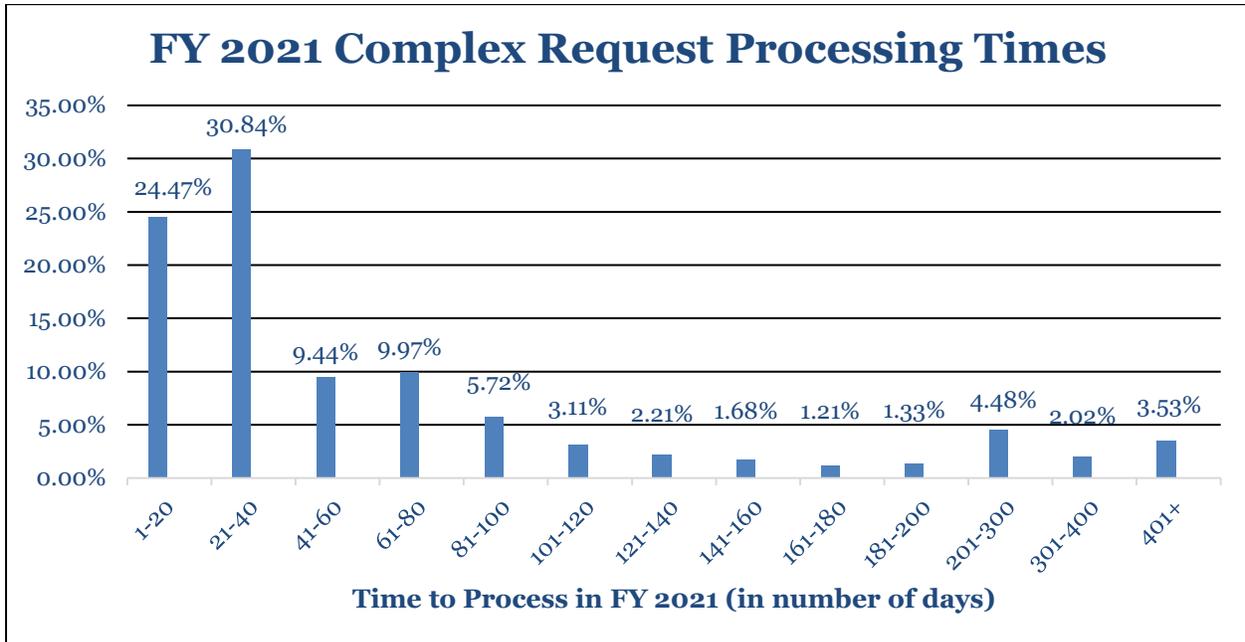
## Average Processing Time for Simple Requests

The average processing time for simple track requests for agencies that reported data in this field in their FY 2021 Annual FOIA Report was 32.99 days. This is an increase of more than 2 days from the FY 2020 average of 30.23 days. Sixty-seven agencies, including two departments – Education and Treasury – reported processing their simple track requests within an average of twenty days or less. Sixteen agencies, including DHS and USDA reported processing these requests between an average of 20.3 days and 30 days.



## Time to Process Complex Requests

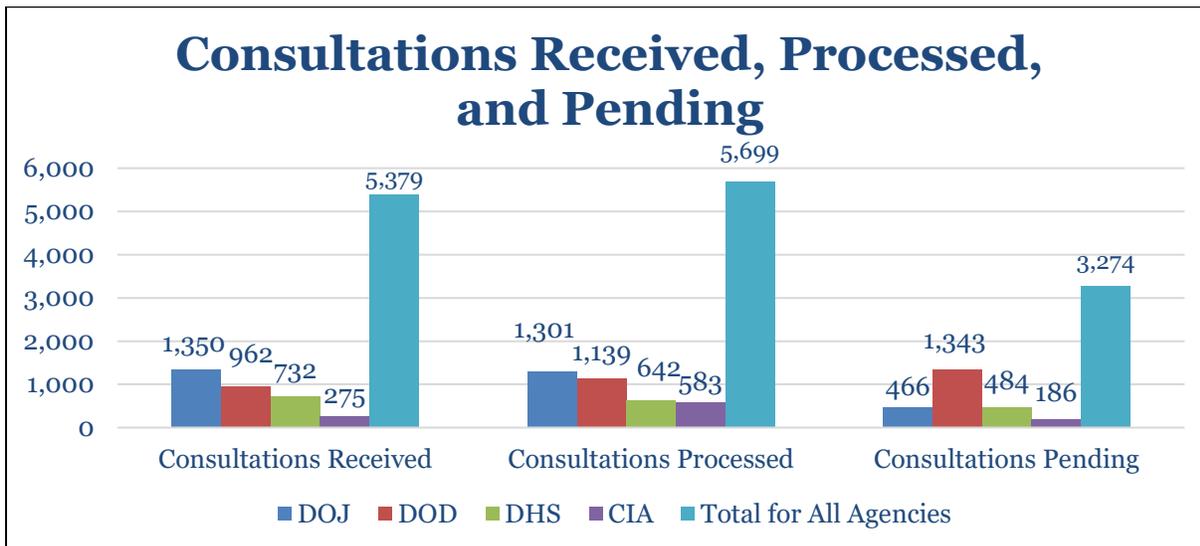
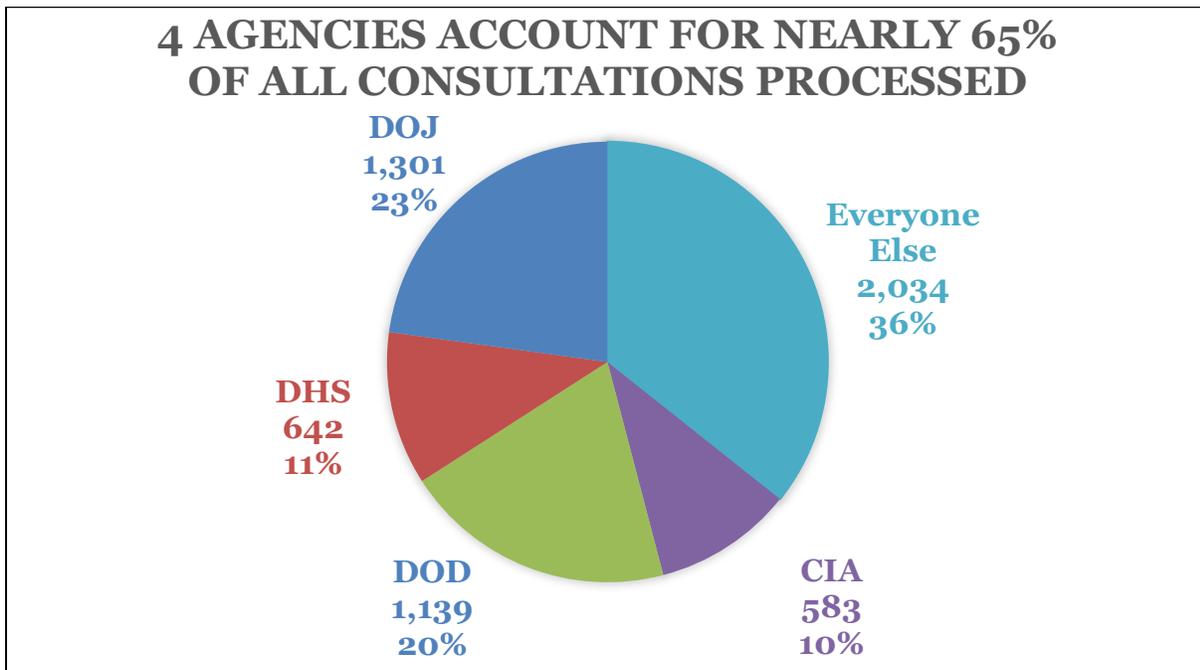
Complex requests typically seek a high volume of material or require additional steps to process such as the need to search for records in multiple locations. Complex requests often take longer to process than more targeted “simple” requests. Notable for FY 2021, the percentage of complex requests processed in fewer than 40 days increased by more than 7% as compared to FY 2020. A total of 80.44% of complex requests were processed in 100 days or less.



## CONSULTATIONS ON FOIA REQUESTS

### Consultations Received, Processed, and Pending

During FY 2021, sixty-nine agencies received documents on consultation from another agency. Agencies in receipt of such consultations are asked to provide their views on the disclosability of records that are being processed by another agency. A total of 5,379 consultations were received by agencies in FY 2021, with DOD, DOJ, DHS, and CIA receiving and processing the majority of consultations.



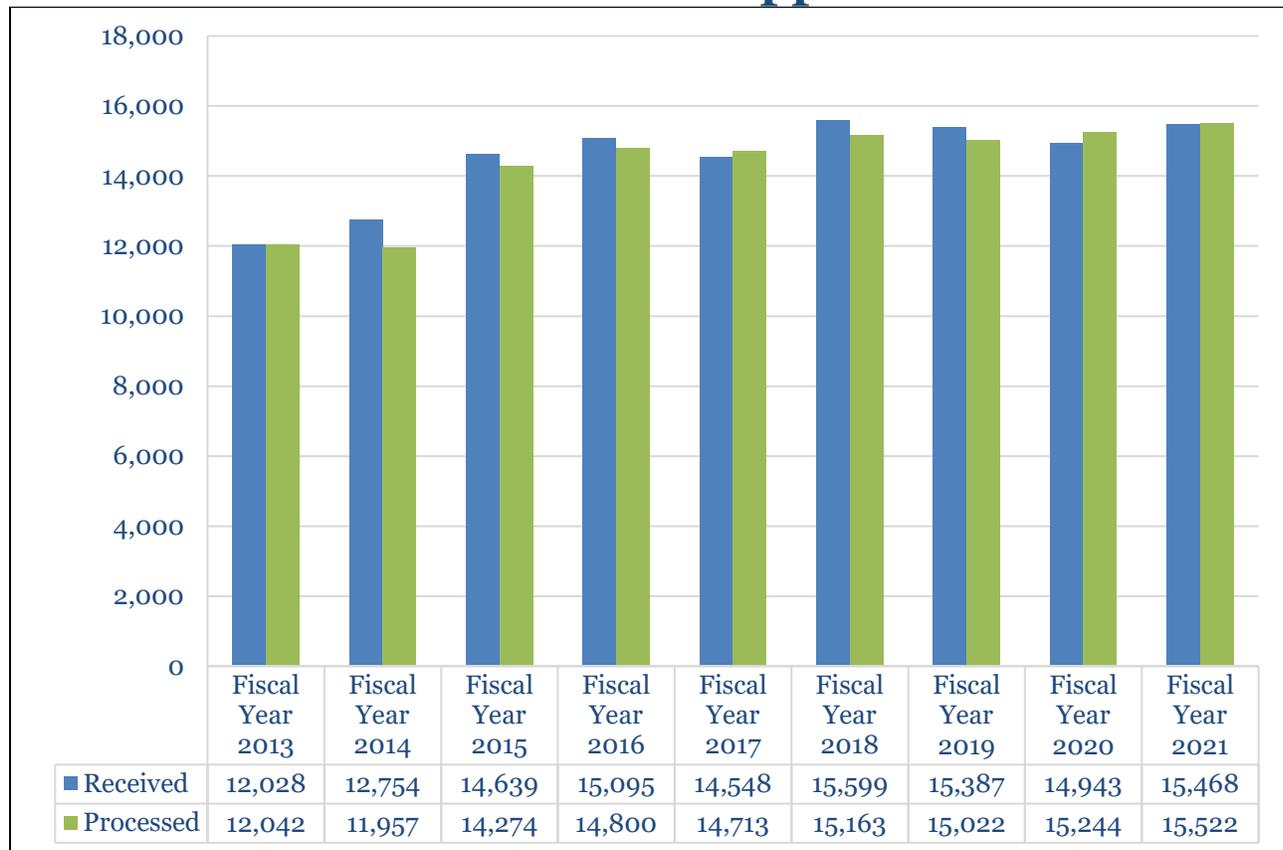
## ADMINISTRATIVE APPEALS

### Number of Administrative Appeals Received and Processed

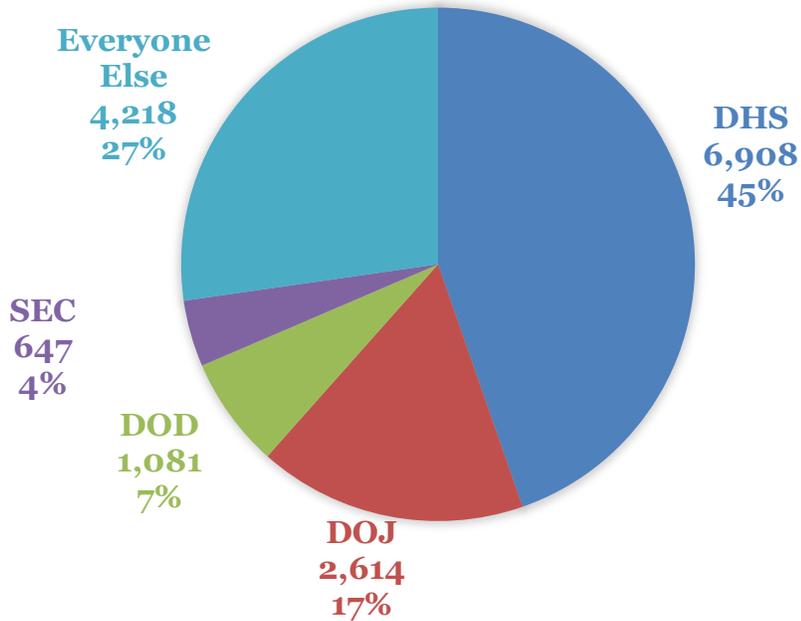
In FY 2021, the government overall received 15,468 appeals, which is a slight increase (3.51%) from the 14,943 appeals received in FY 2020. Forty-four agencies received no appeals during the fiscal year.

The government overall processed 15,522 appeals during FY 2021, which is the highest number of FOIA appeals ever processed in a fiscal year. This is a slight increase from the 15,244 processed during FY 2020 and the seventh consecutive fiscal year that over 14,000 appeals have been processed. The three agencies that received the most appeals also processed the most appeals: DHS (6,579), DOJ (2,771), and DOD (1,095). These three agencies together processed 67.3% of the total number of appeals processed by the entire government in FY 2021. For the second year in a row, agencies processed more appeals than were received during the fiscal year.

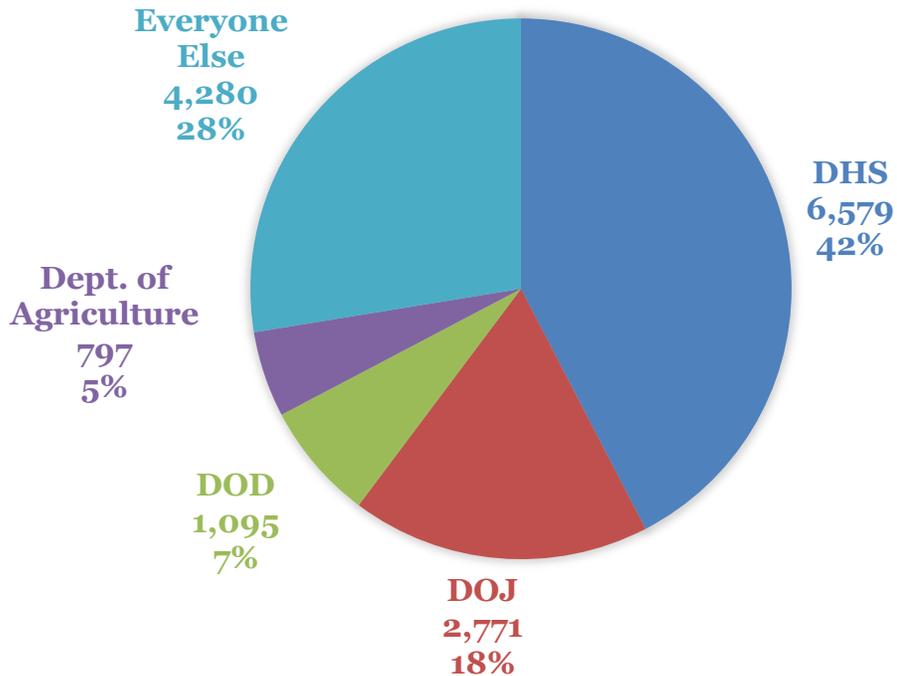
### Administrative Appeals

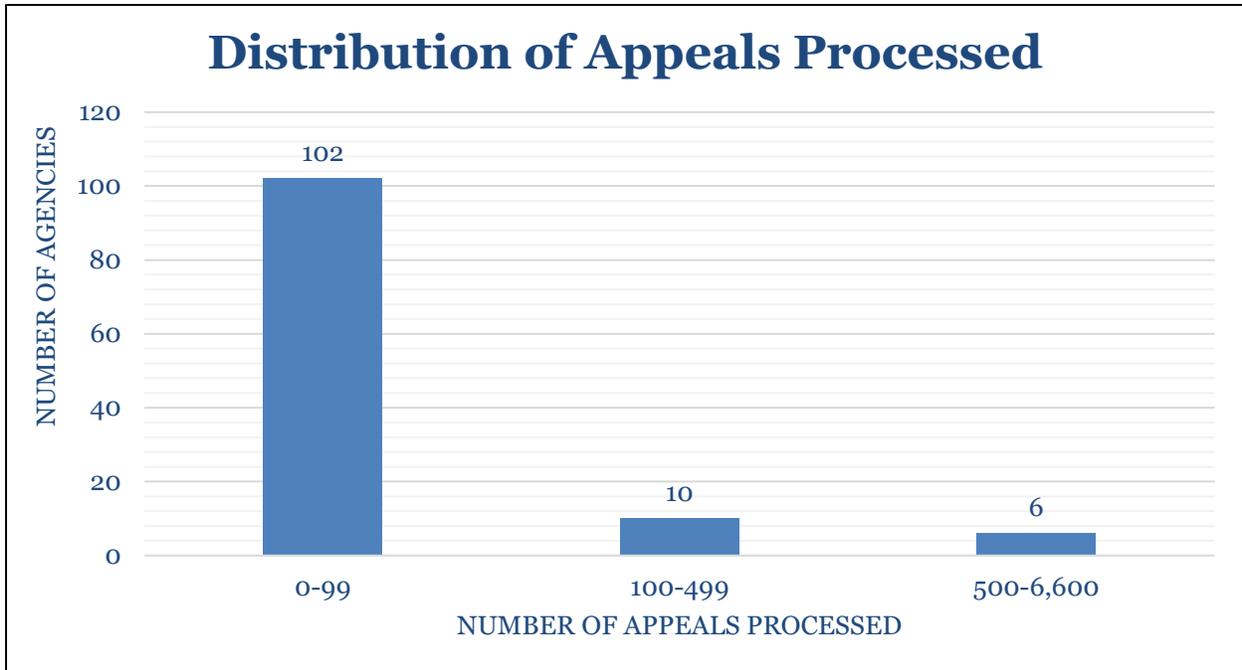


### 4 AGENCIES RECEIVED 73% OF FOIA APPEALS



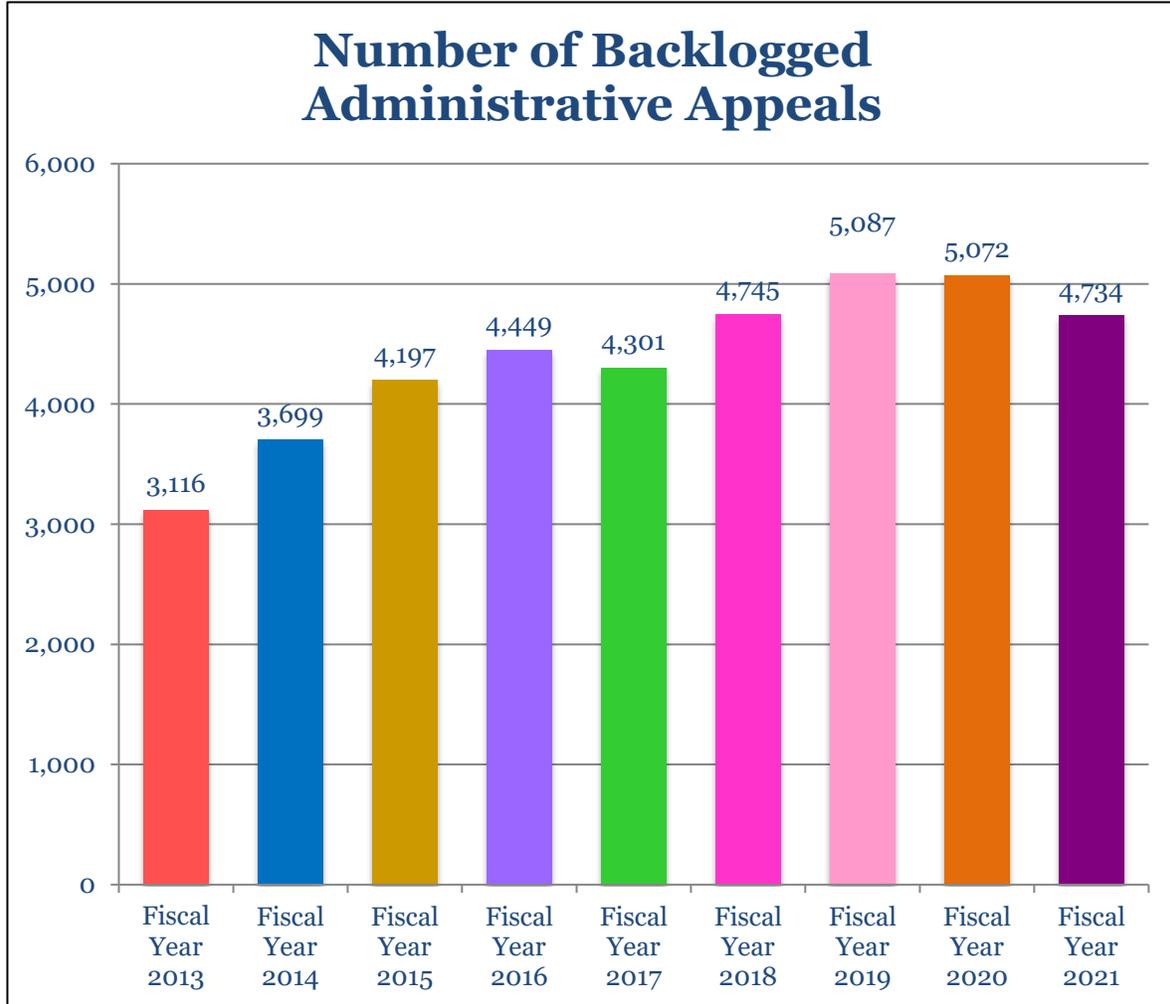
### 4 AGENCIES PROCESSED 73% OF FOIA APPEALS



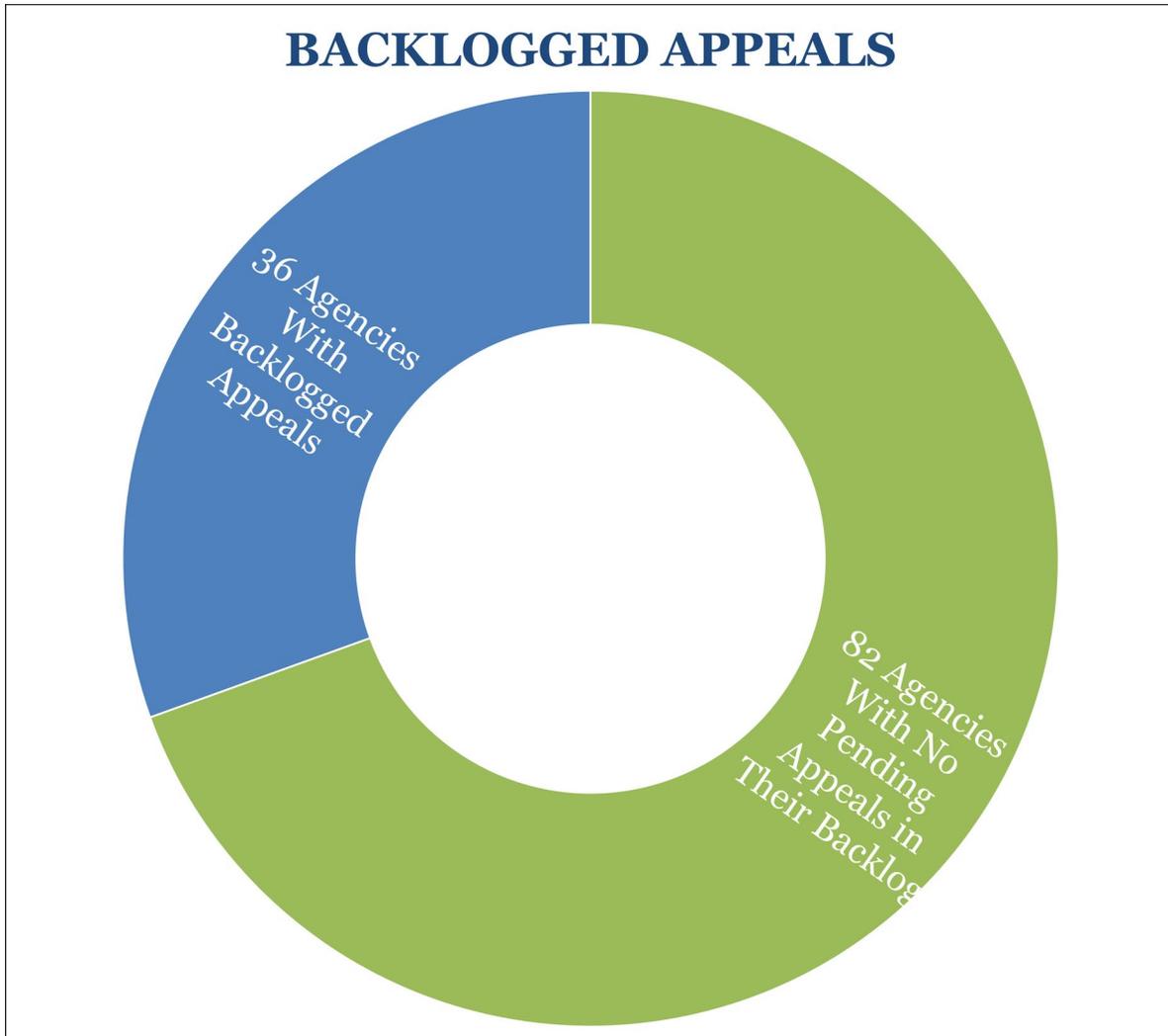


## Backlogged Administrative Appeals

The overall backlog of administrative appeals at the end of FY 2021 was 4,734, which is a decrease of 338 appeals (-6.66%) as compared to FY 2020.



Eighty-two of the 118 agencies subject to the FOIA ended FY 2021 with no pending appeals in their backlog.

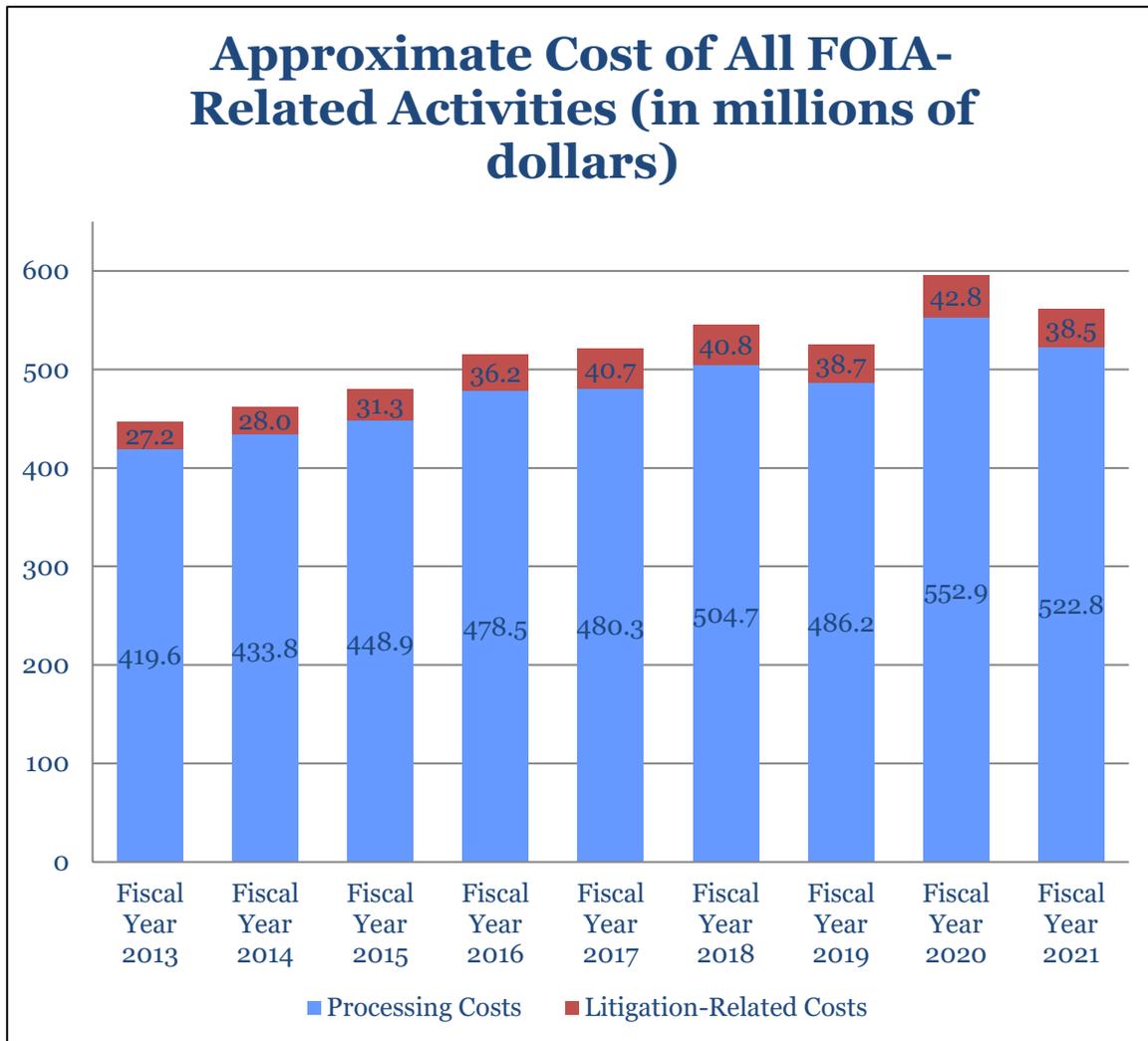


## Processing Time for Administrative Appeals

The average processing time for adjudicating appeals for those agencies that reported data in this field of their FY 2021 Annual FOIA Report is 80.68 days. This is a decrease of 8.43 days from the average of 89.11 days reported in FY 2020. The average processing time for the agencies that processed the most appeals were 24.0 days (DHS), 72.17 days (DOJ), and 305.56 days (DOD).

## STAFFING LEVELS & COSTS

During FY 2021, 5362.55 “full-time FOIA staff” were devoted to the administration of the FOIA throughout the government.<sup>2</sup> The total estimated cost of all FOIA related activities across the government was \$561,338,899.40. More than 93% (\$522,807,985.80) of the total costs was attributed to the administrative processing of requests and appeals by agencies. Roughly 6.9% (\$38,530,913.53) was reported to have been spent on litigation-related activities. By the end of the fiscal year, agencies reported collecting a total of \$2,094,233.86 in FOIA fees. The FOIA fees collected in FY 2021 amounts to less than 0.4% of the total costs related to the government’s FOIA activities.



<sup>2</sup> This includes both full-time FOIA professionals and the cumulative percentages of the time spent on FOIA by personnel who work on FOIA as a part of their duties.

## EXCLUSIONS

During FY 2021, exclusions were invoked by five agencies: DOJ (113); SEC (19); EPA (2); SBA (1); and Treasury (1). When compared to the 542,979 requests reviewed by the government this past fiscal year for exemption applicability, exclusions were used in response to 0.025% of requests processed for disclosure.

## PROACTIVE DISCLOSURES

Subsection (a)(2) of the FOIA requires agencies to proactively make available to the public non-exempt information from certain categories of records without waiting for a specific request to be received. These categories are:

1. Final agency opinions and orders rendered in the adjudication of cases,
2. Specific policy statements that are not published in the Federal Register,
3. Administrative staff manuals and instructions to staff that affect a member of the public, and
4. Records that have become or are likely to become the subject of subsequent requests or those records that have been requested three or more times – commonly referred to as frequently requested records.

Agency program offices typically publish the first three categories of records while agency FOIA offices are more directly involved in identifying and posting the final category. Approximately 37,394,302 records that qualified as subsection (a)(2) records were posted online during FY 2021. Nearly 99% (37,007,067) of these records were made available by agency program offices outside of the FOIA office. The National Archives and Records Administration, the Department of Commerce, and the Federal Communications Commission reported the highest numbers of (a)(2) records posted by program offices, comprising over 96% of all program office postings. The FOIA offices across the government reported posting 387,235 subsection (a)(2) records online. Among the FOIA offices, Department of Homeland Security (139,483) reported posting the highest number of proactive disclosures.

The numbers of subsection (a)(2) postings can vary by agency based on the opportunities each agency may have in posting the four required categories of proactive disclosures. For example, not all agencies adjudicate cases that would result in the agency having records that would fall into the first category above. Other agencies, particularly smaller ones, may also not have new records every year that fall into the other categories, such as frequently requested records. As noted above, the number of requests received by agencies varies significantly with 53 agencies receiving less than 50 requests.

Furthermore, agencies may proactively disclose other information even if they did not have any (a)(2) disclosures in a given fiscal year and those postings would not be counted in this section of the Annual FOIA Report. During FY 2021, 23 agencies reported zero (a)(2) proactive disclosures. All of these agencies explained to OIP that they did not have any (a)(2) disclosures because, for example, they process primarily first-party requests, did not

have frequently requested records during the reporting period, or did not have any updates to policies or other documents required to be disclosed pursuant to (a)(2).

## CONCLUSION

As discussed in agency Chief FOIA Officer Reports, the COVID-19 pandemic, which began in March 2020, had varying impacts on agencies' FY 2021 FOIA administration. In FY 2021, the government processed more requests (838,668) than it received (838,164). The federal government also received 47,476 more requests than it did in FY 2020 (790,688), an approximately 8% increase. The request backlog also increased proportionally by 8%, resulting in an increase of 11,465 requests. Further, the government's overall average number of days to adjudicate requests for expedited processing decreased by nearly half a day despite requests for expedited processing increasing more than 22%. A higher number of complex requests were processed in less than 40 days during FY 2021 (55.31%) as compared to FY 2020 (47.99%). Additionally, the federal government not only processed more appeals (15,522) than it received (15,244) but also processed the highest number of FOIA appeals ever processed during a fiscal year, resulting in a more than 7% appeal backlog reduction. Moreover, the average processing time for adjudicating appeals decreased by more than 8 days.