



THE DEPARTMENT OF JUSTICE FREEDOM OF INFORMATION ACT 2022 LITIGATION AND COMPLIANCE REPORT

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

The Freedom of Information Act (FOIA) requires the Department of Justice to submit a report to Congress each year detailing the Department's efforts to encourage agency compliance with the law. 5 U.S.C. § 552(e)(6) (2018). Notably, during Sunshine Week in March 2022, the Attorney General issued new [FOIA Guidelines](#), calling on federal agencies to administer the law with a presumption of openness, to promptly make proactive disclosures, to remove barriers to access and reduce FOIA request backlogs, and to ensure fair and effective FOIA administration. The FOIA Guidelines which supersede those last issued in 2009 emphasize that "[t]ransparency in government operations is a priority of this Administration and this Department." During 2022, the Department of Justice, through its Office of Information Policy (OIP), also continued to engage in a wide range of activities to encourage agency compliance with the FOIA throughout the Executive Branch. OIP provided comprehensive guidance, training, counseling, and other resources to agencies concerning the administration of the FOIA.

During 2022, OIP continued to provide comprehensive guidance and training to agencies concerning the FOIA and the [Attorney General's 2022 FOIA Guidelines](#). Additionally, OIP managed the submission of agencies' Fiscal Year 2022 Annual FOIA Reports as well as their 2022 Chief FOIA Officer Reports, which are compiled based on guidance developed by OIP each year. After the submission of the 2022 Chief FOIA Officer Reports, OIP prepared a comprehensive summary of the efforts made by agencies to comply with the FOIA and with the Department's FOIA guidelines. For all agencies receiving more than fifty FOIA requests during the prior fiscal year, OIP once again assessed the efforts made by those agencies. OIP also managed the quarterly reporting requirement it instituted in 2013 for all agencies on four key FOIA statistics that are displayed in one central location on FOIA.gov, the Department's government-wide, comprehensive FOIA website.

A highlight of 2022 was the release of OIP's updated [FOIA e-learning modules](#). Originally issued in 2015, OIP redesigned and updated the modules to reflect changes in FOIA law and policy. Three modules address the unique needs of the federal workforce. An in-depth course for FOIA professionals provides a training session on the major procedural and substantive requirements of the law. A shorter course for federal employees provides a brief primer on the FOIA and highlights their responsibilities under the law. Finally, a brief course for agency senior executives emphasizes the importance of leadership support for an agency's FOIA program. These courses, which can be loaded into agency e-learning systems or accessed directly via web browser, making FOIA training readily available to all levels of employees.

These are just some 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

One of 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 2022, OIP continued to provide comprehensive guidance to federal agencies, addressing a range of issues related to the FOIA. This policy guidance was provided in writing and made available to agencies and the public in the [OIP Guidance](#) section of OIP's website. In addition to issuing guidance, during 2022, OIP worked directly with agencies and participated in multiple government-wide conferences to discuss the continued implementation of the Department's FOIA Guidelines and OIP policy guidance.

OIP Guidance: The Interface Between the FOIA and Privacy Act

On September 14, 2022, OIP issued [guidance](#) to assist FOIA professionals in processing requests involving Privacy Act (PA) records. OIP's [guidance](#) notes that PA requesters generally have rights of access under the FOIA. Conversely, the [guidance](#) notes not all FOIA requesters will necessarily have rights of access under the PA.

In light of the differences between the FOIA and PA, OIP's [guidance](#) explains that agencies should process first-party and third-party requests for Privacy Act records differently. Privacy Act records should only be withheld from first-party requesters when both PA and FOIA exemptions apply. Conversely, third-party requests for Privacy Act records should only be processed under the FOIA. The guidance walks through the analysis required in each case, generally noting that release of PA records is appropriate if the FOIA requires release (i.e., no FOIA exemption applies to all or portions of a PA record). OIP's [guidance](#) also addresses the handling of third-party information that may be contained within a first-party's PA record. Finally, OIP's guidance explains that any PA requests that involve analysis under the FOIA should be included in agencies' Annual FOIA Reports, while requests handled exclusively under the PA should not be included.

OID Guidance on Chief FOIA Officer Reports

The Attorney General's new [FOIA Guidelines](#) call on agency Chief FOIA Officers to review their agencies' FOIA administration and to annually report to the Department of Justice on the steps taken to improve FOIA operations and to facilitate information disclosure. OIP is responsible for providing guidance to agencies on the content of their Chief FOIA Officer Reports. The guidance that OIP first issued [in September 2009](#), and has expanded upon in each subsequent year, requires agencies to address key areas covered in the Department's FOIA guidelines. For 2023, agencies are first required to describe their FOIA leadership and efforts to apply the presumption of openness. Second, agencies must describe the steps taken to ensure that they have a fair and effective system for FOIA administration in place to respond to requests. Third, agencies are required to describe their efforts to increase proactive disclosures. Fourth, agencies are required to describe the steps taken to improve the use of technology in administering the FOIA. Fifth, agencies are required to describe steps taken to remove barriers to access, improvement timeliness in responding to requests, and reduce backlogs.

Each year, as agencies' implementation of the Department's FOIA guidelines has matured and new guidelines have been issued, OIP has modified the requirements for the Chief FOIA Officer Reports to build on the improvements made in previous years. For example, as part of the [2023 reporting guidelines](#), OIP asked agencies whether they provide requesters with confirmation that the agency considered the foreseeable harm standard in response letters, a new requirement from the [Attorney General's FOIA Guidelines](#).

On September 14, 2022, OIP [issued new guidance](#) to agencies on the content of their 2023 Chief FOIA Officer Reports. OIP continued to provide separate questions for lower-volume agencies receiving 50 requests or less and higher-volume agencies receiving more than 50 requests. As in prior years, for 2023 OIP did not require lower-volume agencies receiving 50 requests or less to provide a Chief FOIA Officer Report if the agency believes that their Annual FOIA Report provides a sufficient accounting of their efforts to effectively and efficiently administer the FOIA. Providing separate reporting requirements allows OIP to more easily address the different circumstances and challenges faced by those agencies with smaller-volume FOIA workloads, while continuing to focus in-depth on those agencies that receive a higher-volume of FOIA requests. For example, high-volume agencies are required to provide details about their use of technology, steps taken to increase proactive disclosures, and efforts to reduce backlogs, while small-volume agencies have the option to describe any of the steps they have taken to improve their FOIA administration.

As in previous years, OIP adjusted the questions for the [2023 Chief FOIA Officer Report Guidelines](#) based on agencies' success in meeting a number of milestones over the years, as well as to address newer challenges and to incorporate input from various stakeholders. Updating the questions each year allows OIP, as well as the agencies themselves, to identify best practices and common challenges as we continue to refine our FOIA processes. For 2023, OIP modified or added new questions to all five sections of the Chief FOIA Officer Report.

Specifically, Section I asks agencies to identify steps they have taken to apply the presumption of openness, including through leadership, outreach, and training. New for 2023, OIP asked agencies to describe the steps taken to incorporate FOIA into the agency's

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core mission. Additionally, in accordance with Attorney General's [2022 FOIA Guidelines](#), OIP asked whether they provided confirmation that they considered the foreseeable harm standard in response letters to requesters. Finally, OIP asked agencies a series of questions on the tracking of data related to *Glomar*, or neither confirm nor deny, responses.

Section II of the Chief FOIA Officer Report addresses the need for fair and effective systems to respond to FOIA requests. New for 2023, OIP asked agencies whether they proactively contacted requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly. OIP also asked agencies how they used data or processing metrics to ensure efficient management of their FOIA workload.

Section III of the Chief FOIA Officer Report asks agencies to describe the steps taken to increase proactive disclosures. OIP continued to emphasize the importance of intra-agency communication on proactive disclosures by clarifying that collaboration with agency staff outside the FOIA office could include interactions with IT or data personnel.

Section IV asks agencies to report on their use of technology to improve efficiency in processing. New for 2023, OIP asked agencies whether they used any technology to automate record processing. Additionally, OIP asked agencies whether they were in compliance with DOJ and OMB joint [Guidance](#) establishing interoperability for the National FOIA Portal on [FOIA.gov](#).

Section V asks agencies to discuss steps taken to remove barriers to access, improve timeliness in responding to requests, and reduce any backlogs. New for 2023, OIP asked agencies that did not process simple requests within 20 days whether the simple track average processing time decreased compared to the previous Fiscal Year. Additionally, OIP asked whether any requests were the subject of FOIA litigation during the reporting period and, if so, to describe the impact on the agency's overall FOIA request processing and backlog. Finally, OIP asked agencies how many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA.

The new structure of the Chief FOIA Officer Report Guidelines issued by OIP and the questions asked of agencies fully implemented and satisfied a [recommendation](#) from the Government Accountability Office that "the Director of the Office of Information Policy should evaluate the usefulness and burden of performance information collected, and identify ways reporting can inform current and emerging FOIA challenges and risks, such as the number of requests for which unusual circumstances apply or the effect of litigation on overall FOIA request processing and backlog."

March 2022 marked the thirteenth year that agencies submitted to OIP their [Chief FOIA Officer Reports](#) describing the steps taken to improve their FOIA operations and to facilitate information disclosure. Agencies submitted their 2022 Chief FOIA Officer Reports to OIP for review in early 2022. OIP conducted a comprehensive review of all the reports to ensure compliance with the reporting guidelines and worked with the agencies to resolve any issues in their reports prior to clearing them for posting. After the Chief FOIA Officer Reports were posted during Sunshine Week of 2022, OIP compiled a [Summary and Assessment of Agency 2022 Chief FOIA Officer Reports](#), discussed in greater detail in Section B, Efforts to Promote Agency Accountability, below.

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OIP Guidance on Annual FOIA Reports

To assist agencies with their statutory reporting obligations, OIP continued to update and disseminate its comprehensive [Annual FOIA Report Handbook](#). The Handbook includes all of the legal, procedural, and technical requirements concerning agency Annual FOIA Reports. The Handbook contains instructions for using the [FOIA.gov](#) Annual FOIA Report Tool developed by the Department and centralizes all of the guidance and instructions for agency Annual FOIA 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. The Handbook is a “living document” that OIP will continue to update as changes to legal, procedural, or technical requirements are made. OIP released the latest version of the handbook on September 14, 2022.

In 2022, OIP continued to make available a [raw data template](#) to assist agencies in compiling and posting the raw data from their Annual FOIA Reports, along with its [guidance](#) issued during 2016 addressing the requirements of the *FOIA Improvement Act of 2016*. Additionally, as in previous years, OIP continued to provide agencies with an updated “[Agency Reporting Obligations At-A-Glance](#)” resource that summarizes all reporting obligations throughout the year. The document briefly describes agency reporting obligations, as well as deadlines established by the FOIA, a suggested timeline, and links to key resources and guidance for each report.

As was done with the Chief FOIA Officer Reports, OIP managed the submission of agency Annual FOIA Reports by first reviewing all 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, in 2022 OIP created and made available on its website a [summary](#) of the key statistics reported by agencies in their Fiscal Year 2021 [Annual FOIA Reports](#).

*OIP Guidance for Further Improvement Based on 2022 Chief FOIA Officer
Report Review and Assessment*

As noted above, in 2022 OIP conducted a detailed [assessment](#) of agencies’ progress in improving transparency and implementing the [Department’s 2009 FOIA Guidelines](#) based on a review of their [2022 Chief FOIA Officer Reports](#) and the data reported in their [Fiscal Year 2021 Annual FOIA Reports](#). As a result of this review and assessment, on August 25, 2022, OIP issued [guidance](#) for all agencies to assist them in making additional improvements in the years ahead.

OIP’s guidance notes that although the FOIA itself does not mandate timeframes for posting records proactively, the Attorney General’s new [FOIA Guidelines](#) direct agencies to “post records online as soon as feasible” and to “continue to maximize their efforts to post . . . quickly and systematically in advance of any public request.” Accordingly, OIP recommended that agencies post records that fall within FOIA’s proactive disclosure provisions as soon as feasible and without delay. OIP further recommended that FOIA professionals should consult with their data, IT, and program office colleagues to ensure that disclosures are made in accordance with relevant open data and digital services policies and best practices.

Additionally, OIP emphasized the importance of examining whether agencies have “records that they could make more readily accessible without requiring individuals to file FOIA requests,” as provided in the Attorney General’s Guidelines. OIP noted that this is particularly relevant to agencies that handle many similar requests from requesters seeking information about themselves. OIP highlighted that agencies could consider providing access to such records through online databases or other processes outside of FOIA.

Finally, OIP reminded agencies of the requirement to complete [quarterly FOIA reports](#) throughout the fiscal year. In 2021, OIP issued [Updated Guidance for Quarterly FOIA Reporting](#) that changed how agencies provide their quarterly data. OIP reiterated that as of Quarter 4 of Fiscal Year 2021, agencies must enter their quarterly data directly into FOIA.gov.

B. Efforts to Promote Agency Accountability

The Department of Justice, through OIP, has engaged in a number of efforts to keep agencies accountable for their administration of the FOIA. During 2022, these efforts included publishing a [summary and detailed assessment](#) of agencies’ progress based on the [2022 Chief FOIA Officer Reports](#), posting a detailed [summary of agencies’ Fiscal Year 2021 Annual FOIA Reports](#), and overseeing the government-wide [quarterly FOIA reporting requirement](#).

Summary of 2022 Chief FOIA Officer Reports and Assessment of Agency Progress

As discussed in the Policy Guidance section above, 2022 marked the thirteenth 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 to implement the Department’s FOIA Guidelines. After reviewing all of the 2022 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 Department’s FOIA Guidelines and to identify any areas for improvement. As a result of this analysis, on August 22, 2022, OIP issued a [comprehensive Summary of Agency Chief FOIA Officer Reports for 2022 and Assessment of Agency Progress in FOIA Administration with OIP Guidance for Further Improvement](#).

OIP’s [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. Based on the review of the 2022 reports, the summary highlights key areas in which further improvements can be made. For 2022, OIP emphasized the importance of proactive disclosures, removing barriers to access by providing alternative means of access for commonly requested records, and completing quarterly FOIA reports throughout the fiscal year.

In addition to the narrative, OIP for the ninth year, created a detailed [assessment](#) of the efforts made by agencies in implementing the Department’s 2009 FOIA Guidelines and improving FOIA administration. Focusing on those agencies that receive higher numbers of requests, OIP’s assessment covered agencies that received more than 50 requests during the prior fiscal year. In conducting this assessment, OIP identified and scored each of the agencies on several milestones tied directly to the five key areas addressed in the

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Department's 2009 FOIA Guidelines. As in past years, with input from interested stakeholders, OIP continued to refine the milestones in 2022 to reflect agencies' progress in administering the FOIA. OIP used a five-level scoring system to illustrate the levels of success achieved by agencies and included a detailed methodology of how each milestone was scored.

The issuance of this [assessment](#) was designed to promote greater accountability in implementing the Department's FOIA Guidelines, and to encourage improvement in the government's overall FOIA administration, while also showcasing some of the 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. 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. These reports detail a range of statistics regarding each agency's FOIA activities, such as the numbers of requests received and processed, 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 in a "single electronic access point," by posting them on the [Reports](#) page of its website. For Fiscal Year 2021, 118 reports were submitted and centrally posted on [OIP's website](#).

During 2022, OIP also uploaded the data for agencies' [Fiscal Year 2021 Annual FOIA Reports](#) onto [FOIA.gov](#), the Department's comprehensive, government-wide FOIA website. 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 allowing them to be easily be sorted and compared by agency and over time.

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. In 2022, OIP issued its [Summary of Annual FOIA Reports for Fiscal Year 2021](#). The Summary highlights 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 eleventh year, OIP prepared this Summary by using [FOIA.gov](#), which allows for a detailed analysis of statistics that was not readily available prior to creation of the site. This yearly Summary of Agency Annual FOIA Reports is useful for both agency personnel and open government groups who continue to look forward to its issuance each year.

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By allowing the data from agency Annual FOIA Reports to be more easily 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.

Quarterly Reporting Requirement

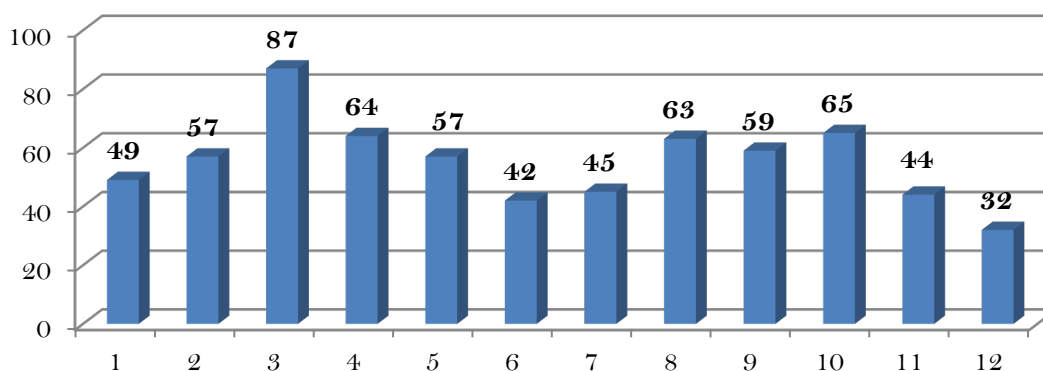
Pursuant to the [Quarterly FOIA Reporting](#) requirement instituted by OIP in January 2013, OIP continued to facilitate agencies' quarterly reporting of FOIA data in 2022. In accordance with OIP's [quarterly report guidance](#), as updated in October 2021, agencies input their quarterly data into FOIA.gov so that it then collectively appears on the [FOIA.gov Quarterly Data page](#). The quarterly data consists of: (1) the number of requests received during the reporting period; (2) the number of requests processed during the reporting period; (3) the number of requests in an agency's backlog at the end of the reporting period; and (4) the progress being made to close the agency's ten overall oldest pending FOIA requests from the prior fiscal year. This 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 through the year in order to take the appropriate measures to reduce backlogs and improve timelines.

C. Counseling and Consultations

In addition to providing written policy guidance to agencies, OIP also provided [direct, one-on-one counseling](#) for agency personnel during 2022, 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 confidential legal advice and policy guidance to FOIA personnel government-wide. 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 [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 also more general anticipatory inquiries regarding agency responsibilities and administrative practices under the FOIA. The Department of Justice encourages agencies intending to deny FOIA requests raising novel issues to consult with OIP to the extent practicable. See [28 C.F.R. § 0.24\(i\) \(2021\)](#). OIP has found that such consultations are very valuable in ensuring agency compliance with the FOIA. OIP handled 664 requests for agency guidance through its FOIA Counselor service during 2022.

Agency Calls to the FOIA Counselor by Month in 2022



Sometimes a determination is made that a [FOIA Counselor](#) inquiry requires more extensive discussion and analysis by OIP attorneys, including supervisory attorneys. On those occasions, OIP 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 conducts 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's review of the 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.

OIP also makes itself available to advise agencies on their FOIA processes generally, on matters such as incorporating quality assurances into their workflows and using active case management to ensure an effective system for responding to requests. OIP may provide this advice in response to specific requests from agencies or more informally in the context of other discussions.

In addition to providing legal advice to agencies, OIP also frequently receives calls from the public as well. Often these individuals contact OIP with questions about how to make a FOIA request or locate a particular document. OIP staff assists these callers and continue to serve as a resource where anyone can call and learn about the FOIA process. During 2021, OIP handled 661 calls from members of the public.

D. Disseminating Information through *FOIA Post*

During 2022, OIP continued to disseminate a wide variety of news and information using the [FOIA Post blog](#). *FOIA Post* allows for quick transmittal of the most up-to-date FOIA news and information to both the public and government personnel. The blog includes a 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

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also provided for archived articles and guidance issued through predecessor publications. All the OIP guidance articles issued in 2022 were disseminated to agencies – and made available to the public – through announcements on *FOIA Post*. OIP also used *FOIA Post* to announce the issuance of the above-mentioned Annual FOIA Report [summary](#), new Chief FOIA Officer Report [guidelines](#), FOIA [reporting deadlines](#), and other relevant FOIA news. All training programs and FOIA conferences were likewise publicized on *FOIA Post*. Set out below are some highlights of OIP’s use of *FOIA Post* to communicate with the FOIA community.

Announcing Upcoming FOIA Reporting Deadlines

OIP continued to use [the FOIA Post announcement](#) to provide deadlines for the submission of agencies’ Fiscal Year 2022 Annual FOIA Reports, Fiscal Year 2023 Quarterly FOIA Reports, and 2023 Chief FOIA Officer Reports. As mentioned previously, the three reports serve a vital role in illustrating the steps taken and the progress made by agencies in administering the FOIA, and provide valuable information about how agencies promote efficiency, make more information available proactively, and use technology to improve FOIA administration.

Best Practices Workshops

OIP continued to use *FOIA Post* to [announce](#) FOIA *Best Practices* workshops held throughout the year. As part of the [Second United States Open Government National Action Plan’s](#) commitment to further modernize FOIA and improve internal agency FOIA processes, OIP began holding a series of FOIA *Best Practices* workshops in 2014, and continued the workshops in 2022. Each workshop in the Best Practices series focuses on a specific FOIA topic, with a panel of representatives sharing experiences, lessons learned, and strategies for success in these areas. Through these workshops, agencies can continue to learn from one another and leverage the successes of others in their own organizations for the overall benefit of FOIA administration across the government.

In 2022, OIP hosted a virtual follow-up [workshop](#) for the [NexGen FOIA Tech Showcase](#) that was organized by the Chief FOIA Officers Council Technology Committee, OIP, and the Office of Government Information Services (OGIS). The workshop offered government FOIA professionals an opportunity to share their experiences and ask questions about various technologies used by agencies for FOIA administration. In addition, a panel of agency representatives discussed their experiences using different types of FOIA technologies.

Sunshine Week Events

OIP used *FOIA Post* to [announce](#) the Department of Justice’s 2022 Sunshine Week Kick-off Event. The [Attorney General’s FOIA Guidelines](#) emphasize the critical importance of FOIA professionals to the day-to-day implementation of the law. At its annual Sunshine Week event, the Department once again recognized and celebrated the accomplishments of these agency FOIA professionals. Agencies were [invited](#) to nominate FOIA professionals for various awards recognizing their service. At the event, the Department presented awards for Exceptional Service by a FOIA Professional or Team of FOIA Professionals, Outstanding Contributions by a New Employee, Exceptional Advancements in IT to Improve the

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Agency's FOIA Administration, Exceptional Advancements in Proactive Disclosure of Information, and a Lifetime Service Award.

2022 marked the Department's second entirely virtual Sunshine Week kickoff event. It began with keynote remarks from the Associate Attorney General of the United States, who emphasized "the fundamental importance of access to government information and an engaged citizenry to our democracy." Associate Attorney General Gupta shared that in her own work outside of government, she had "relied on the FOIA's disclosure mandates" and "seen firsthand the critical role that the FOIA plays in ensuring the public's access to government records." The Director of OIP then discussed some of OIP's initiatives to assist agencies in their FOIA administration the past year. Those efforts included continuing to work with agencies to become interoperable with the National FOIA Portal on FOIA.gov and providing advice to agencies in response to calls to the FOIA Counselor Service.

Chief FOIA Officer Council Updates

OIP continued to use *FOIA Post* to provide updates related to the Chief FOIA Officers (CFO) Council, which is co-chaired by the Directors of OIP and OGIS. OIP used *FOIA Post* to announce CFO Council meetings and related events in [February](#), [April](#), and [November](#). OIP also used *FOIA Post* to [publicize](#) the presentation of the Attorney General's new FOIA Guidelines to the CFO Council. During the presentation, the Director of OIP emphasized key elements of the Attorney General's FOIA Guidelines, in particular focusing on removing barriers to access by examining alternative means of access to records outside the FOIA process and ensuring agency FOIA websites enable the public to easily find records. At that same meeting, the OGIS Director discussed the importance of providing requesters with estimated dates of completion (EDC) and shared several recommendations for agency compliance with the requirement to provide an EDC, including ensuring FOIA professionals have necessary resources and use of average processing times to determine EDCs. Minutes, agendas, and other information about all CFO Council meetings is available on [FOIA.gov](#).

OIP Director Testifies Before Senate Committee

OIP also used *FOIA Post* to publicize that on March 29, 2022, OIP's Director testified in a hearing before the Senate Judiciary Committee entitled, "The Freedom of Information Act: Improving Transparency and the American Public's Right to Know for the 21st Century." In his testimony, Director Talebian highlighted the Attorney General's new [FOIA Guidelines](#). He also discussed government-wide FOIA administration and OIP's role in encouraging compliance with the FOIA, highlighting OIP's guidance, training, and other resources; efforts to promote agency accountability through reporting; the work of the Chief FOIA Officers Council; and continued development of FOIA.gov and the National FOIA Portal.

Director Talebian acknowledged the challenges agencies faced due to the high volume of complex requests and recent events, and reiterated OIP's commitment to encouraging government-wide compliance with the FOIA.

FOIA Summit for Agency FOIA Professionals

In April 2022, OIP [announced](#) a FOIA Summit for Agency FOIA Professionals, hosted jointly with the Department of Homeland Security Privacy Office. The FOIA Summit was an opportunity for agency FOIA professionals to hear about how other agencies were continuing to adapt in light of COVID-19 challenges and best practices for leveraging FOIA data to strengthen FOIA programs. Participants also had the opportunity to hear about recent Government Accountability Office FOIA reports and recommendations, and perspectives on FOIA litigation trends.

Associate Attorney General Vanita Gupta Highlights Importance of FOIA Training and New E-Learning Resources

In September 2022, OIP [announced](#) that Associate Attorney General Vanita Gupta had issued a [memorandum](#) to agency Chief FOIA Officers and General Counsels emphasizing the importance of FOIA training, underscoring the [Attorney General's FOIA Guidelines](#) issued earlier this year. The memorandum highlighted three new [training modules](#) that OIP made available to all agencies.

OIP designed the modules to address the unique needs of multiple levels of the federal workforce. An in-depth course for FOIA professionals provides a training session on the major procedural and substantive requirements of the law. A shorter course for federal employees provides a brief primer on the FOIA and highlights their responsibilities under the law. Finally, a brief course for agency senior executives emphasizes the importance of leadership support for an agency's FOIA program. Along with these updated training modules, OIP also updated its [FOIA Infographic](#), a one-page resource to help new employees understand what the FOIA is and how the FOIA process works at their agencies.

In her [memorandum](#), the Associate Attorney General states that “[a] proper understanding of the FOIA and of the [Attorney General's FOIA Guidelines](#) . . . is fundamental to any agency's successful FOIA operation.”

E. Use of Social Media

In an effort to reach a wider audience and disseminate important FOIA information as soon as practical OIP continued to use its [Twitter](#) account during 2022 to notify the public of the Office's activities and the most recent FOIA news.

F. Providing Additional FOIA Reference Materials

In addition to using [FOIA Post](#) to timely disseminate policy guidance and other useful information concerning the FOIA, OIP also creates or makes available additional FOIA reference materials 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 online publication is a legal treatise on the FOIA and is widely relied upon, as intended, by government personnel.

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Members of the public also consult it. The Guide contains an extensive discussion of the case law interpreting the FOIA's many procedural requirements, its exemptions, and other relevant topics such as litigation considerations and reverse FOIA actions.

In 2022, OIP's subject matter experts prepared updates to the [Guide](#), taking into account recent changes in the FOIA, hundreds of court decisions impacting the interpretation of the FOIA, and guidance issued by OIP. The [Guide](#) also contains detailed discussions of the FOIA's procedural requirements, including the fee and fee waiver provisions, exemptions, discretionary releases and waivers, as well as litigation considerations. OIP is currently updating individual chapters on a rolling basis to continue to provide the most up-to-date treatise on the current state of the FOIA. In 2022, OIP posted updated chapters concerning: Exemption 6, Exemption 7, Exemption 7(A), Exemption 7(C), Exemption 7(D), Exemption 7(E), Exemption 8, Exclusions, Waiver and Discretionary Disclosure, and Attorney Fees.

Resources on Exemption 3 Statutes

OIP has a dedicated section on its website, under [FOIA Resources](#), to address Exemption 3 of the FOIA. This section is designed to offer resources to assist agencies in properly processing FOIA requests and to aid requesters in understanding the scope of Exemption 3. In 2022, OIP continued to make available its chart of all [the statutes that courts have found to qualify as Exemption 3 statutes](#) under the FOIA. OIP also continued to make available its charts reflecting all of the [Exemption 3 statutes cited by agencies in their Annual FOIA Reports](#).

Summaries of Court Decisions

Each year the federal courts issue several 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. As a resource for those professionals, in addition to substantive and procedural policy guidance, OIP provides agencies as well as 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 highlights 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. These cases can all be searched by topic, chronologically, and through key words.

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\(e\)\(1\)](#). 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 the agencies' Annual FOIA Reports promptly available on its central [Reports](#) page. In 2022, OIP

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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\(e\)\(4\)](#), and as mentioned above, the Department of Justice in 2022 maintained "[a single electronic access point](#)" for the consolidated availability of the Annual FOIA Reports of all federal agencies. In 2022, OIP posted [all agency Annual FOIA Reports](#) in a human-readable and uniform "open" format on its centralized Annual FOIA Report website, as well as included all the data from the reports on FOIA.gov.

FOIA Self-Assessment Toolkit

OIP continued to make available its [FOIA Self-Assessment Toolkit](#), which was developed as a resource for agencies to use when assessing their administration of the FOIA. OIP has [encouraged](#) agencies to conduct self-assessments to review and improve their FOIA program. By examining their procedures, practices, and results, agencies can improve their FOIA administration by, for instance, streamlining request processing, identifying new ways to use technology, and increasing proactive disclosures.

The [FOIA Self-Assessment Toolkit](#) consists of 13 modules, each focusing on a distinct aspect of the FOIA process, such as Initial Mail Intake, Adjudicating Requests for Expedited Processing, Searching for Responsive Records, Requester Services, FOIA Reporting, and FOIA Websites. It uses an evidence-based approach to help agencies objectively and meaningfully evaluate their performance. During 2022, OIP continued a comprehensive review to update and expand the *Toolkit* as a result of agency feedback and changes to FOIA law and policy. This update is also included as a commitment in the [Fifth U.S. Open Government National Action Plan](#), discussed in Subsection G, below. OIP looks forward to releasing the updated version in 2023.

Proactive Disclosures

In keeping with the Department'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 on its website. In 2022, OIP continued to update the [FOIA Resources](#) section of its website with the Exemption 3 charts discussed above. As noted above, OIP also posted government-wide [guidance](#) on the FOIA on its website and regularly used its blog, [FOIA Post](#), to notify agencies and the public about 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 events.

OIP also continued to post [monthly FOIA logs](#) for requests made to OIP and the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General,

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Legislative Affairs, Public Affairs, and Legal Policy. In addition to posting frequently requested records on [various topics](#), OIP also posted records that had not previously been requested such as the [Department Policy on Compassionate Release Waivers in Plea Agreements](#).

FOIA Reference Guide

OIP continues to maintain an electronic copy of its [Department of Justice Freedom of Information Act Reference Guide](#) on the Department's FOIA website. This reference guide 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. Additional Government-wide Initiatives to Further
Improve the Administration of the FOIA**

During 2022, OIP also made substantial progress on several other FOIA initiatives, including enhancing the services provided on FOIA.gov, co-chairing the Chief FOIA Officer Council, and participating as a member of the FOIA Federal Advisory Committee. The Department also made multiple commitments related to FOIA as part of the [Fifth U.S. Open Government National Action Plan](#).

FOIA.gov

Since its launch in 2011, [FOIA.gov](#) has continued to serve as a central resource for educating the public on the FOIA both in terms of agency Annual FOIA Report data and taking part in the FOIA process. 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 over time.

In 2022, OIP was pleased to launch a new [CFO Council page](#) on [FOIA.gov](#). This page provides a central location for all information related to the CFO Council, rather than the previously duplicative pages that were maintained on the OIP and OGIS websites. The new page [features](#) an overview of the CFO Council's mission and includes summaries of the Council's meetings. Additionally, the pages feature the work of the [Council's Technology Committee](#) and [Committee on Cross-Agency Collaboration and Innovation](#).

Chief FOIA Officers Council

The FOIA Improvement Act of 2016¹³ established the Chief FOIA Officers (CFO) Council, which is tasked with:

- Developing recommendations for increasing FOIA compliance and efficiency;
- Disseminating information about agency experiences, ideas, best practices, and innovative approaches related to FOIA;
- Identifying, developing, and coordinating initiatives to increase transparency and FOIA compliance; and
- Promoting the development and use of common performance measures for agency compliance with the FOIA.

The CFO Council is co-chaired by the Directors of OIP and the Office of Government Information Services (OGIS) and is composed of all agency CFOs and the Deputy Director for Management from the Office of Management and Budget (OMB).

The materials associated with the Council's work, including minutes of the meetings, will be made publicly available on this page. Council meetings are open to the public. Notice of all meetings will be provided in the Federal Register at least ten business days in advance, and details will also be posted on this site.

Information about the Council's two committees are available at the links below:

[Technology Committee](#)

[Committee on Cross-Agency Collaboration and Innovation](#)

Public comments submitted to the Council, along with instructions for submitting comments, are available [here](#).

FOIA.gov CFO Council Page

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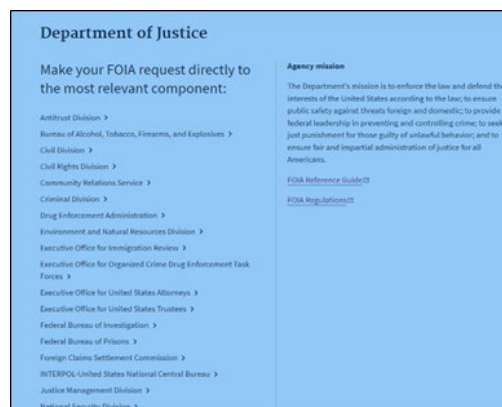
In addition, OIP began further improvements to FOIA.gov through its work to develop a guided user experience to help members of the public locate information. The interactive tool will use a combination of logic-based and machine learning-enhanced capabilities to provide an intuitive and informative user experience. Through this project, OIP aims to make it easier for the public to find information they seek and to minimize misdirected, improper, or unnecessary FOIA requests, saving time for both requesters and agencies. During 2022, the project team conducted robust discovery, seeking input from agency and public stakeholders.

During 2022, OIP also continued to improve the data validation and other functionality released in 2019 as part of the FOIA.gov Annual Report Tool. The Tool provides agencies a centralized location to submit and validate their Annual FOIA Report data. In 2022, all 118 submitting agencies were required to upload their Annual FOIA Reports through the tool.

Further, consistent with its [guidance](#) issued in light of the *FOIA Improvement Act of 2016*, OIP continued efforts to help agencies become interoperable with the National FOIA Portal on [FOIA.gov](#). The *FOIA Improvement Act of 2016* required the creation of a central, online request portal that allows a member of the public to submit a request for records under the FOIA to any Federal agency from a single website. Accordingly, unless granted an exception by OMB and DOJ, agencies with automated case management systems were required to achieve full interoperability with the National FOIA Portal by accepting requests through a structured API by the end of Fiscal Year 2021. Agencies without automated case management systems can achieve interoperability by accepting requests through email.

In addition, [FOIA.gov](#) continues to include individual agency and component pages containing a description of key FOIA resources and their average processing times for simple and complex requests. The website also provides contact information for each agency, including their FOIA Requester Service Centers and FOIA Public Liaisons, which agencies can update themselves as needed. There are also tools to assist the public in locating the right agency and aids to assist in making a request. For each agency, a customized request form incorporates any specific regulatory requirements of that agency to ensure that the requester provides the agency with all the required information right at the outset of the request process. The request forms all follow a similar pattern to bring more consistency to the request-making process. All these features are designed to educate the public, simplify the process, and improve FOIA administration overall.

In 2022, [FOIA.gov](#) continued to serve 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. As in prior years, explanatory videos are embedded into the website and the site contains a section addressing frequently



[DOJ's FOIA.gov page](#)

asked questions, as well as a glossary of FOIA terms.

Finally, in keeping with the Department's commitment to making government more transparent and accessible, [FOIA.gov](https://www.foia.gov) offers select content in English and Spanish. Individuals with limited English proficiency can access the [Spanish translations](#) for the "Learn about FOIA" sections of [FOIA.gov](https://www.foia.gov).

Chief FOIA Officers Council

The *FOIA Improvement Act of 2016* established the [Chief FOIA Officers \(CFO\) Council](#), which is composed of all agency Chief FOIA Officers, the Directors of OIP and OGIS, and the Deputy Director for Management from the Office of Management and Budget (OMB). The Chief FOIA Officers Council is tasked with developing recommendations for increasing FOIA compliance and efficiency; disseminating information about agency experiences, ideas, best practices, and innovative approaches related to FOIA; identifying, developing, and coordinating initiatives to increase transparency and FOIA compliance; and promoting the development and use of common performance measures for agency compliance with the FOIA.

The Chief FOIA Officers Council held three public meetings in 2022. On February 2, 2022, the co-chairs of the Council met virtually with requesters. During the meeting requesters had the opportunity ask questions and share concerns about the FOIA process.

Subsequently, on April 21, 2022, the Associate Attorney General of the United States provided remarks at the Chief Officers Council focusing on the key aspects of the new [Attorney General's FOIA Guidelines](#). In addition to hearing updates from OIP and the OGIS, the Council also heard updates from the Committee on Cross-Agency Collaboration and Innovation and the Technology Committee. The Committee on Cross-Agency Collaboration and Innovation highlighted the work of the Government Information Specialist Professionalism Subcommittee, Pandemic/Virtual FOIA Office Subcommittee, and FOIA Resources Subcommittee. The Technology Committee summarized the [NexGen FOIA Tech Showcase](#) that it held in February 2022. The Showcase was intended to identify FOIA technology solutions for federal agencies in response to existing FOIA case processing challenges. The event was also designed to help federal agencies better understand the potential of advanced and emerging technologies for case processing.

The November 3, 2022 meeting similarly included updates from OIP, OGIS, and the Council's two Committees. OIP provided updates about upcoming reporting requirements, the recently-issued FOIA-Privacy Act guidance, and FOIA.gov. OIP also shared updates regarding the collaboration of OIP, OGIS, and the Office of Shared Services and Performance Improvement at the General Services Administration to develop shared FOIA business standards. In furtherance of this effort, an interagency working group will be convened as part of the Council. The meeting also featured a presentation from the Centers for Disease Control and Prevention, which provided an overview of recent challenges, successes, and outreach methods, and a joint presentation from the Federal Bureau of Investigation and Department of State about an inter-agency FOIA personnel exchange program they recently completed.

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These 2022 meetings were open to the public and livestreamed online. OIP published all meeting materials on the Chief FOIA Officers Council page on [FOIA.gov](https://www.foia.gov). In addition to these public meetings, the two committees of the Chief FOIA Officers Council meet regularly throughout the year and made noticeable achievements in sharing best practices on key areas of FOIA administration.

FOIA Advisory Committee

As part of another ongoing initiative, the Director of OIP continued serving on the [FOIA Federal Advisory Committee](#). In 2022, the committee's work was conducted over two sequential terms: 2020-2022 and 2022-2024. In total, the committee met seven times in 2022 (2020-2022 term: March 10, April 7, May 5, June 9; 2022-2024 term: September 8, September 14, and December 1).

At the conclusion of the 2020-2022 term, the committee issued the [2020-2022 Term FOIA Advisory Committee Final Report and Recommendations](#). The report includes a discussion of 21 recommendations from four subcommittees — Classification, Legislation, Process, and Technology. After the issuance of the report, new members were selected, and the Committee began its 2022-2024 term. OIP continues its work to review and consider how it may implement the recommendations of the 2020-2022 FOIA Advisory Committee.

National Action Plan

In 2022, the U.S. Government issued its [Fifth Open Government National Action Plan](#), which committed the government to increasing the public's access to data to better advance equity, engage the public in the regulatory process, make government records more accessible to the public, and improve the delivery of government services and benefits, among other areas. OIP is leading efforts to strengthen access to government information through the FOIA. Building on its work to implement the Attorney General's March 2022 [FOIA Guidelines](#), OIP intends to bolster openness and transparency by:

- Issuing an updated FOIA Self-Assessment Toolkit to reflect additional milestones for proactive disclosures, use of technology, and requirements of the Attorney General's new FOIA Guidelines.
- Leading the development of shared FOIA business standards to make it easier for agencies to acquire technology and, in turn, improve efficiency and consistency in processing FOIA requests.
- Developing an interactive tool to help the public more easily locate records online or find the right agency to submit their FOIA requests when information is not already posted.

As mentioned throughout this report, OIP has already begun work on these initiatives. OIP looks forward to releasing the updated FOIA Self-Assessment Toolkit in 2023. The FOIA Business Standards interagency working group has been established and began meeting in 2023. OIP is actively working on the development of the interactive tool/guided user experience on FOIA.gov. OIP looks forward to providing updates on all of these initiatives in the coming months via [FOIA Post](#) and the Chief FOIA Officers Council

H. Outreach

To improve not only the Department's, but also the government's overall FOIA administration, the Department engages in outreach with the requester community and other outside stakeholders in a variety of ways. For example, in 2022 OIP invited members of civil society to attend its annual Sunshine Week kickoff event. OIP's Director also met with a group of representatives from various civil society organizations during 2022. Additionally, OIP engaged with outside stakeholders and advocates, as well as the public, through its participation in the Chief FOIA Officers Council and its membership on the FOIA Federal Advisory Committee.

I. 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. In 2022, to facilitate maximum participation, OIP was once again pleased to furnish speakers and workshop instructors for virtual agency training sessions conducted to promote proper administration of the FOIA within the Executive Branch.

OIP conducted numerous FOIA-training programs in 2022, which ranged from half-day introductory sessions for non-FOIA personnel to advanced programs for highly experienced FOIA personnel. Specifically, in 2022 OIP hosted the following events:

- *Virtual Procedural Requirements and Fees Workshop* – This provides an overview of the FOIA's procedural requirements, fees, and fee waivers, and a discussion of the FOIA's proactive disclosure requirements. This virtual workshop was held twice in 2022.
- *Virtual Exemption 1 and Exemption 7 Workshop* – The Exemption 1 workshop gives an overview of Executive Order 13526 and the withholding of classified national security information. The Exemption 7 workshop gives an overview of the FOIA's primary exemption for law enforcement records, including this exemption's threshold requirement and substantive subparts. This workshop was held twice in 2022.
- *Virtual Exemption 4 and Exemption 5 Workshop* - The workshop provides an overview of Exemption 4 which protects trade secrets, certain commercial and financial information, and the submitter-notice process for exemption determinations. Additionally, the workshop provides an overview of Exemption 5, which incorporates civil discovery privileges into the FOIA. This workshop was held twice in 2022.
- *Virtual Privacy Considerations* - This program covers the FOIA's privacy exemptions and the Privacy Act. Topics include the interface between the FOIA and the Privacy Act, as well as an overview of FOIA Exemptions 6 and 7(C). This session was held twice in 2022.

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- *Virtual Litigation Workshop* – This workshop covers considerations that arise during FOIA litigation. Sessions include guidance on successful litigation strategy, as well as, details on the preparation of Vaughn Indices and declarations. This course was held once in 2022.
- *Virtual Continuing FOIA Education* – This course is designed as a program for experienced FOIA professionals with lectures on new or recent developments in FOIA administration as well as an update on recent FOIA court decisions. This course was held once in 2022.
- *Virtual Introduction to the Freedom of Information Act* – This program provides a basic overview of the FOIA for agency personnel who do not specialize in access law. It is designed for those who either work with the FOIA only occasionally or need only a general familiarity with the FOIA to recognize and handle FOIA-related problems that may arise in other areas of agency activity. This course was held twice in 2022.
- *Virtual Processing from Start to Finish Workshop* – This workshop takes attendees through the process of a FOIA request from receipt by the agency to final response to the requester. This course was held once in 2022.
- *Virtual Annual/Quarterly FOIA Report Training* – These training events provided agencies with a refresher on their FOIA reporting obligations. This training event was held once time in 2022.
- *Virtual Chief FOIA Officer Report Training* – This training event provided agencies with a refresher on their Chief FOIA Officer reporting obligations. This training event was held once time in 2022.
- [*Best Practices Workshops*](#) – As noted above, OIP launched the Best Practices Workshop Series in 2014 as a part of the [Second United States Open Government National Action Plan's](#) commitment to modernizing FOIA and improving internal agency FOIA processes. Each workshop focuses on a specific FOIA topic, with a panel of representatives sharing experiences, lessons learned, and strategies for success in these areas. Through these workshops, agencies can continue to learn from one another and leverage the successes of others in their own organizations for the overall benefit of FOIA administration across the government. In 2022, OIP hosted a follow-up workshop for agencies to facilitate discussion after the [NexGen FOIA Tech Showcase](#).

In addition to the events hosted by OIP, approximately 21 professional staff members from OIP gave a total of 9 individual agency trainings during the year. Such individualized training sessions were conducted for the:

- Small Business Administration
- Federal Aviation Administration
- Department of Treasury
- Department of Agriculture
- Department of Education

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- Department of Education, Office of Inspector General
- Housing and Urban Development
- Centers for Disease Control and Prevention
- Environmental Protection Agency, Inspector General

In addition, OIP provided training for components of the Department of Justice. In 2022, over 7,900 individuals registered for training at OIP-hosted courses.

J. Legislative and Regulatory Proposals

During 2022, 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 continues to review and make suggested revisions to language contained in proposed FOIA regulations of other agencies.

K. Congressional and Compliance Inquiries

In 2022, OIP responded to four congressional inquiries pertaining to FOIA-related matters. OIP also looked into twenty matters (sometimes involving multiple issues) from members of the public who had concerns about how the FOIA was being administered at an agency. In response to each of these compliance inquiries, OIP discussed the issues with the agency involved and, whenever appropriate, provided guidance on the steps needed to address the concern.

LISTS OF FOIA LITIGATION CASES RECEIVED AND DECIDED DURING 2022

In accordance with [5 U.S.C § 552\(e\)\(6\)](#), the Department of Justice is required to provide a “listing of the number of cases arising under this section; a listing of each subsection, and any exemption, if applicable, involved in each case arising under this section; the disposition of each case arising under this section; and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4).” Because FOIA cases are often brought in one year, but not resolved until a subsequent year, the Department attaches to this report two separate lists of FOIA litigation cases for 2022, one showing the FOIA cases “received” or filed during 2022 and the second showing the dispositions “rendered” or decided in 2022. 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 2022

The first list contains all of the cases filed as FOIA claims in federal district court during 2022. This information is derived directly from the federal courts’ docketing systems through the Public Access to Court Electronic Records ([PACER](#)). According to PACER, in 2022, 797 cases were filed in the federal district courts as FOIA claims. This represents a fraction of one percent of the hundreds of thousands of FOIA requests agencies have historically received every year. For example, in Fiscal Year 2021 alone the government overall received 838,164 FOIA requests.

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It is important to note 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 2022, OIP observed 18 cases in which the courts dismissed claims because they were not actually 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. This list does not include those cases.

List of Decisions Rendered in 2022

The second list attached to this report contains all of the FOIA cases in which a decision was rendered by the federal courts in 2022. 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, each subsection and the exemptions (if any) involved, and any costs, fees or penalties assessed. If a court assessed attorney fees and costs pursuant to [5 U.S.C. § 552\(a\)\(4\)\(E\)](#), the amount is noted under "Fees and Costs" and subsection (a)(4)(E) is noted under "Subsections and Exemptions." Going beyond the requirements of the FOIA, the "Fees and Costs" list also reflects those cases where court filings indicate that a party agreed to pay attorney fees or costs. In such cases, the amount is included under "Fees and Costs," however, no subsection is listed since fees and costs were not assessed by the court.

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 2021, but appealed and affirmed in 2022, would be found on the lists of cases in which a decision was rendered for both 2021 and 2022.

Report on any Notification to the U.S. Office of Special Counsel

During 2022, the United States courts made no written findings pursuant to [5 U.S.C. § 552\(a\)\(4\)\(F\)\(i\)](#). Accordingly, no notification to the U.S. Office of Special Counsel was necessary.