



COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Chief FOIA Officer: Atticus J. Reaser, General Counsel
Chief FOIA Officer's Report

March 13, 2023

The Council of the Inspectors General on Integrity and Efficiency (CIGIE) submits this report in accordance with the Attorney General's Freedom of Information Act (FOIA) Guidelines issued on March 19, 2009, calling upon agencies to reaffirm the Federal Government's "commitment to accountability and transparency" and as directed in the Guidelines for 2023 Chief FOIA Officer Reports. The responses provide information about the status of CIGIE's relatively new in house FOIA program and how CIGIE anticipates managing FOIA matters going forward.

Section I: FOIA Leadership and Applying the Presumption of Openness

A. Leadership Support for FOIA

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at or above this level?

CIGIE's General Counsel serves as the Chief FOIA Officer and reports directly to the CIGIE Chairperson.

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

The General Counsel and Chief FOIA Officer is Atticus J. Reaser.

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

FOIA milestones are not yet incorporated into the agency's strategic plan. However, the Office of General Counsel (OGC) regularly meets with agency leadership, to include the Chairperson, Vice Chairperson, and Executive Director, to discuss and address the status of the FOIA-workload, as well as programmatic needs.

B. Presumption of Openness

4. The Attorney General's 2022 FOIA Guidelines provides that "agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions." Does your agency provide such confirmation in its response letters?

CIGIE was not regularly providing this confirmation; however, it has now added it to its applicable templates. We note, however, that prior to this change in the templates, CIGIE did indeed consider the foreseeable harm standard when applicable.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:

a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response?

Yes.

b. If yes, please provide:

i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);

Full *Glomar* responses: 3

Partial *Glomar* responses: None

ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

Exemption 7(C) for all 3 *Glomar* responses.

c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.

Not applicable.

6. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Not applicable.

Section II: Ensuring Fair and Effective FOIA Administration

A. FOIA Training

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

During the reporting period, CIGIE staff performing FOIA responsibilities were informed of training opportunities through DOJ and were encouraged to attend. Moreover, they were aware of and frequently utilized the tools and resources on DOJ's OIP website.

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

Yes.

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

One attorney attended 2 OIP remote training sessions and another attorney took a different OIP remote training session. These sessions collectively addressed: Exemptions 1 and 7; privacy considerations; and Exemptions 5 and 7.

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

Approximately 33%.

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

As a very small agency with less than 30 permanent employees, CIGIE currently has no full time FOIA professionals. All CIGIE personnel who have FOIA responsibilities support the FOIA program in addition to numerous other duties and areas of responsibility. Moreover, all but one of the staff members who support CIGIE's FOIA program are attorneys. Accordingly, due to scheduling conflicts and other demands, attending available training can be difficult. With that said, the individuals who attended trainings shared highlights from them with those who were unable to attend. Additionally, CIGIE legal staff routinely discuss FOIA issues at regularly scheduled meetings to ensure all those with FOIA responsibilities are aware of pressing and/or novel legal issues. CIGIE will continue to strive to send at least 80% of staff that have FOIA responsibilities to FOIA training, such as that provided by the DOJ.

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

FOIA implications of decisions are addressed regularly in meetings and briefings throughout the year and frequently. These discussions occur with CIGIE top leadership, mid-level management, and staff and are interactive.

B. Outreach

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

CIGIE has not engaged in outreach or dialogue outside of the standard request process; however, as CIGIE continues to expand and further develop its FOIA program, which has been fully in-house only since the end of Fiscal Year 2020, CIGIE will explore opportunities to engage with open government groups regarding continuous improvements of its FOIA program.

8. As part of the standard request process, do your FOIA professionals proactively contact 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? Please describe any such outreach or dialogue, and, if applicable, any specific examples.

Yes. The FOIA Public Liaison routinely contacts requesters who submit complex requests and attempts to encourage requesters to clarify or streamline the scope of the requests. Typically, this correspondence includes sending links to the agency's applicable SORN, the FOIA regulations, and links to other parts of the CIGIE website to educate requesters and to help them make informed decisions about how to clarify their requests.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during Fiscal Year 2022 (please provide a total number or an estimate of the number).

Approximately ten times.

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

The CIGIE OGC continues to work closely with the legal team of CIGIE's Pandemic Response Accountability Committee (PRAC) (which operates in a separate supervisory structure) to ensure CIGIE can continue to operate under a centralized FOIA scheme, while also leveraging the subject matter expertise of the attorneys in the PRAC to process PRAC-related requests.

CIGIE also continues to adapt its FOIA program to the statutory changes resulting from the Inspector General Empowerment Act of 2016, Public Law 114-317, 130 Stat. 1595 (IGEA). Most notably, the IGEA expanded CIGIE's responsibilities to include maintenance of the records of CIGIE's Integrity Committee by CIGIE's Chairperson. Before the IGEA's passage, the Federal Bureau of Investigation maintained Integrity Committee records. Requests for Integrity Committee records have continued to be numerous, highly complex, and time consuming.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

CIGIE's FOIA program uses data from FOIA logs, as well as the quarterly and annual reports, to track trends and has done so since Fiscal Year 2015. Based on this data, in the first quarter of FY 2022, CIGIE developed a FOIA backlog elimination plan. CIGIE came close to achieving the goals of the plan in Fiscal Year 2022.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

Section III: Proactive Disclosures

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

As a small agency, decisions regarding proactive disclosure are typically made on a case-by-case basis. Particularly as CIGIE's OGC is involved with every FOIA request, this process has worked well historically. With a recent revision to the SORN applicable to Integrity Committee records, CIGIE is anticipating proactively posting more Integrity Committee material with fewer redactions. CIGIE will reevaluate the need to implement a more formal proactive disclosure process if deemed necessary.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

CIGIE proactively posted on its FOIA Reading Room three pieces of correspondence between CIGIE and members of Congress. Links to these matters are available here: <https://ignet.gov/content/foia-reading-room-1>. Additionally, CIGIE continues to strive to provide public access to information about CIGIE, as well as the broader oversight community.

While not technically proactive disclosures pursuant to FOIA, CIGIE continues to post material to its websites. For example, on IGNet.gov, CIGIE makes available: CIGIE's Annual Report to the President and Congress; the Integrity Committee Annual Report; updated information about Integrity Committee processes; Training Institute schedules; CIGIE "views letters," which are letters from CIGIE leadership to Congress, usually expressing CIGIE's views on legislation that affects the Inspector General community; and updated resources, such as manuals for various aspects of oversight, including peer reviews.

On Oversight.gov, CIGIE has consolidated in one place all public reports from IGs in order to improve the public's access to independent and authoritative information about the Federal Government. The site includes a publicly accessible, text searchable repository of reports published by IGs. See <https://www.oversight.gov/>.

On PandemicOversight.gov, CIGIE makes information available through various publicly accessible data and interactive tools that display where pandemic program funding money is being spent. See <https://www.pandemicoversight.gov/>.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes. CIGIE is in the process of redesigning its main website, IGNet.gov, to include improved search functionality and a generally improved user experience.

4. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

The redesigned website is still in the development phase.

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

Currently, only to the extent required to retrieve and post information on CIGIE's websites.

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

Section IV: Steps Taken to Greater Utilize Technology

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. CIGIE attorneys supporting the FOIA program have reviewed and become familiar with the e-discovery tools currently available to the agency. To date, these tools appear adequate.

CIGIE, however, is exploring other options for tracking its requests. As the number of requests have been increasing, the current spreadsheet-based tracking system has become strained and is being reevaluated.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

Not applicable.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

No.

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

Yes.

The CIGIE home page includes a clear link to the FOIA homepage, which in turn includes a drop-down menu for the following areas of interest: Annual Chief FOIA Officer Reports; Annual FOIA Reports; FOIA Reading Room; FOIA Guide and Handbook; FOIA Regulations; and FOIA Quarterly Reports. Moving forward, as a part of its website update, CIGIE plans to improve the content and search functionality of the FOIA Reading Room.

5. Did all four of your agency's quarterly reports for Fiscal Year 2022 appear on your agency's website and on FOIA.gov?

Yes.

6. If your agency did not successfully post all quarterly reports, please explain why, and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2022.

Not applicable.

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.

2021 Annual Report

Raw Data: [https://www.ignet.gov/sites/default/files/files/CIGIEFY16-21\(rawdataforFY21annualreport\).csv](https://www.ignet.gov/sites/default/files/files/CIGIEFY16-21(rawdataforFY21annualreport).csv)

Final Report: <https://ignet.gov/sites/default/files/files/CIGIEFY2021FINAL.pdf>

2022 Annual Report

Raw Data: [CIGIEFY19-22\(rawdataforFY22annualreport\).xlsx](CIGIEFY19-22(rawdataforFY22annualreport).xlsx) (live.com)

Annual Report: [CIGIEFY22FINAL\(formatted\).pdf](CIGIEFY22FINAL(formatted).pdf) (ignet.gov)

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes. Almost half of CIGIE's new requests come from the National FOIA portal.

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

Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reducing Backlogs

A. Remove Barriers to Access

1. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

First-party requesters may also access their records through Privacy Act requests.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

The most common first-party request is submitted by complainants and witnesses in Integrity Committee matters. Previously, CIGIE would return responsive records to such requesters in a redacted form to protect third-party privacy interests. With changes to the applicable SORN, CIGIE now has greater discretion to release a fuller version of records submitted by first-party requesters, even if third-party privacy interests are implicated.

B. Timeliness

3. For Fiscal Year 2022, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report.

This data was reported as N/A on the Fiscal Year 2022 report.

4. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not applicable.

5. Does your agency utilize a separate track for simple requests?

Yes.

6. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2022?

Yes. The average number of days to process a simple request in Fiscal Year 2022 was 1 day.

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

Not Applicable.

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

13.25%

9. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Not applicable.

C. Backlogs

BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

Yes.

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

Not applicable.

12. If your agency's request backlog increased during Fiscal Year 2022, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible

Not applicable.

13. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

27.27%

BACKLOGGED APPEALS

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

The backlog of administrative appeals remained at one.

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

Yes. In Fiscal Year 2022, CIGIE processed 6 administrative appeals, compared to processing 2 administrative appeals in Fiscal Year 2021.

16. If your agency's appeal backlog increased during Fiscal Year 2022, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible

Not applicable.

17. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2022 and/or has no appeal backlog, please answer with "N/A."

14.29%

D. Backlog Reduction Plans

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2022?

Not applicable.

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during Fiscal Year 2023.

Not applicable.

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

Yes.

21. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Not applicable.

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

CIGIE closed the 17 oldest open requests.

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

Yes.

24. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable.

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

Not applicable.

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

Not applicable.

27. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

Not applicable.

F. Additional Information about FOIA Processing

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

By the end of Fiscal Year 2022, CIGIE had two requests in litigation. Both are complex and involve law enforcement records that are subject to a Privacy Act system of records. Responding to the litigation has impacted CIGIE’s ability to promptly respond to newer requests.

29. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency’s FY22 raw data).

48.