



THE DEPARTMENT OF JUSTICE
FREEDOM OF INFORMATION ACT
2023 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). During 2023, the Department of Justice, through its Office of Information Policy (OIP), engaged 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. Through these efforts, OIP assisted federal agencies in administering the law with a presumption of openness, utilizing technology to achieve greater efficiencies, and making more information available proactively, so that the public is better informed about what is known and done by their government.

During 2023, 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 2023 Annual FOIA Reports](#) as well as their [2023 Chief FOIA Officer Reports](#), which are compiled based on guidance developed and issued by OIP each year. After the submission of the 2023 Chief FOIA Officer Reports, OIP prepared a comprehensive summary of the efforts made by agencies to comply with the FOIA and with the Attorney General's 2022 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 comprehensive government-wide FOIA website.

A highlight of 2023 was the release of a new [FOIA Search Tool](#) on FOIA.gov that helps the public more quickly locate commonly requested information. The tool relies on a combination of logic and machine learning to provide a user with publicly available records and/or a suggestion of where to request information. OIP is currently in phase one of this multi-phase project. As the public interacts with the search tool, OIP will use data analytics to better understand how the tool is being used and assess the quality of the results so that improvements can be made.

During 2023, OIP also released an updated [FOIA Self-Assessment Toolkit](#) as a resource for agencies to use when assessing their administration of the FOIA. The 2023 update contains new modules covering Proactive Disclosures and Administrative Appeals. OIP encourages agencies to conduct self-assessments to improve their FOIA administration by, for instance, streamlining request processing, identifying new ways to use technology, and increasing proactive disclosures.

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 2023, 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 2023, OIP worked directly with agencies and participated in multiple government-wide conferences to discuss the continued implementation of the Attorney General's 2022 FOIA Guidelines and OIP policy guidance.

OIP Guidance: Applying a Presumption of Openness and the Foreseeable Harm Standard

On March 13, 2023, OIP issued [guidance](#) on applying a presumption of openness and the foreseeable harm standard. Overall, the guidance advises agencies to review records with an eye toward disclosure and with transparency in mind. The guidance discusses the requirement that agencies may only withhold information if they reasonably foresee that disclosure would harm an interest protected by an exemption or disclosure is prohibited by law. Agencies are provided with practical advice on applying this standard in light of case law that has developed since this standard was codified by the [FOIA Improvement Act of 2016](#). The guidance explains that agencies should analyze records on a case-by-case basis, while employing practical and efficient means of assessing foreseeable harm with the information and context readily available to them. The guidance also provides practical advice on considering discretionary disclosures as encouraged by the Attorney General's 2022 FOIA Guidelines.

Finally, the guidance recognizes that communication with requesters is a key element of administering the FOIA with a presumption of openness. Accordingly, the

guidance recommends that agencies should communicate promptly with requesters throughout the request process, including by providing status updates and clearly explaining the basis for denials in response letters, along with acknowledging that they have considered the foreseeable harm standard when asserting exemptions.

OIP Guidance: Standard Operating Procedures for FOIA Offices

On August 25, 2023, OIP issued [guidance](#) highlighting the importance of Standard Operating Procedures (SOPs) in effective FOIA administration. OIP's guidance explains that SOPs that document step-by-step procedures and incorporate employee best practices related to FOIA processing can standardize and institutionalize those practices, thereby improving FOIA administration overall.

OIP's guidance notes the benefits of documenting the agency's FOIA processes in SOPs for employees, agencies, and requesters. For employees, SOPs can facilitate effective employee communication, reduce learning curves for FOIA processes, and lead to increased productivity. As a result of increased efficiency, requesters can receive responses to their requests more quickly and agencies are better positioned to reduce backlogs. Additionally, agencies and requesters also benefit from greater consistency in how requests are processed.

In light of the benefits noted above, OIP's guidance provides considerations relating to the content, format, implementation, and maintenance of SOPs. OIP encourages agencies to review the guidance as they develop SOPs and ensure they remain up to date.

OIP Guidance on Chief FOIA Officer Reports

The Attorney General's 2022 FOIA Guidelines called 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 Attorney General's 2022 FOIA guidelines. On September 20, 2023, OIP [issued new guidance](#) to agencies on the content of their 2024 Chief FOIA Officer Reports.

Under OIP's 2024 reporting guidelines, 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 in place to respond to FOIA 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, improve timeliness in responding to requests, and reduce backlogs.

Each year, as agencies' implementation of the 2009 and 2022 Attorney General FOIA Guidelines has matured, OIP has modified the requirements for the Chief FOIA Officer Reports to build on the improvements made in previous years. OIP adjusted the questions for the [2024 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 2024, OIP modified or added new questions to four out of 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 2024, OIP asked agencies to describe whether they planned to track the use of Glomar responses, if they did not currently track Glomar usage.

Section II addresses the need for fair and effective systems to respond to FOIA requests. New for 2024, OIP modified its question on outreach to the requester community and open government groups to ask agencies about their outreach to requesters outside the request process, such as whether they proactively contacted frequent requesters or hosted FOIA-related conference calls with open government groups.

Section III asks agencies to describe the steps taken to increase proactive disclosures. New for 2024, OIP asked agencies how long after identifying a record for proactive disclosure it takes for them to post it. Also new for 2024, OIP asked agencies about whether they posted logs of their FOIA requests and the content and format of any posted logs.

Section IV asks agencies to report on their use of technology to improve efficiency in processing. As in prior years, for 2024, OIP asked agencies about their use of technology to make information available to the public and to gain efficiency in FOIA processing. For instance, OIP asked whether agencies reviewed FOIA-related technological capabilities, used technology to automate record processing, reviewed their FOIA websites to ensure they contain the elements noted in OIP guidance, and posted all four quarterly reports on FOIA.gov. Additionally, OIP asked agencies whether they were in compliance with the [Department of Justice and Office of Management and Budget 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 2024, OIP asked agencies to describe any steps taken to remove barriers to accessing government information.

In addition, 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 2024 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 for differently situated agencies allows OIP to more easily address the different circumstances and challenges faced by those agencies with lower-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 lower-volume agencies have the option to describe any of the steps they have taken to improve their FOIA administration.

OIP Guidance on Annual FOIA Reports

Each year, agencies are required by law to submit an Annual FOIA Report to the Attorney General in accordance with [5 U.S.C. § 552\(e\)\(1\)](#). To assist agencies with their statutorily required Annual FOIA Reports, 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; 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; and contains instructions for using the [FOIA.gov](#) Annual FOIA Report Tool developed by the Department. 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 27, 2023.

In 2023, OIP also 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 [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 and also provides a list of deadlines established by the FOIA, a suggested timeline, and links to key resources and guidance for each report.

As 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 2023 OIP created and made available on its website a [summary](#) of the key statistics reported by agencies in their Fiscal Year 2022 [Annual FOIA Reports](#).

OIP Guidance for Further Improvement Based on 2023 Chief FOIA Officer Report Review and Assessment

As noted above, in 2023, OIP conducted a detailed [assessment](#) of agencies’ progress in improving transparency and implementing the [Attorney General’s 2022 FOIA Guidelines](#) based on a review of their [2023 Chief FOIA Officer Reports](#) and the data reported in their [Fiscal Year 2022 Annual FOIA Reports](#). As a result of this review and assessment, on September 20, 2023, OIP issued [guidance](#) for all agencies to assist them in making additional improvements in the years ahead.

The guidance notes that “[a]gencies should continue their efforts to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs[.]” The guidance further emphasizes that agencies should have “effective systems in place for responding to requests in a timely manner.” To that end, the guidance advises agencies to prioritize processing simple track requests within twenty working days and highlights the availability of OIP’s recently updated [FOIA Self-Assessment Toolkit](#) which can help agencies examine their processing practices.

Additionally, the guidance reminds agencies of the ongoing requirement to remain interoperable with 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. Agencies with automated case management systems are required to achieve full interoperability with the National FOIA Portal by accepting requests through a structured API. Agencies without automated case management systems can achieve interoperability by accepting requests through email. Agencies were required to become fully interoperable by the end of Fiscal Year 2021, unless they sought and were granted an exception to extend no later than the August 2023. Nearly all 120 agencies were able to achieve interoperability within the deadline. OIP emphasized that, going forward, agencies must ensure that their systems remain interoperable with FOIA.gov and in line with the joint guidance. The guidance provides recommendations to assist agencies with the interoperability requirement such as testing interoperability before implementing a new case management system and ensuring agency information is correctly listed on FOIA.gov.

Finally, OIP reminded agencies of the requirement in the [Attorney General's 2022 FOIA Guidelines](#) 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.” OIP further emphasized that, as noted in the [Guidance on Applying the Presumption of Openness and the Foreseeable Harm Standard](#), if an agency has made a final determination invoking one or more FOIA exemptions (other than Exemption 3), it should explain to the requester that it considered the foreseeable harm standard.

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 2023, these efforts included publishing a [summary and detailed assessment](#) of agencies' progress based on the [2023 Chief FOIA Officer Reports](#), posting a detailed [summary of agencies' Fiscal Year 2022 Annual FOIA Reports](#), and overseeing the government-wide [quarterly FOIA reporting requirement](#).

Summary of 2023 Chief FOIA Officer Reports and Assessment of Agency Progress

As discussed in the Policy Guidance section above, 2023 marked the fourteenth 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 Attorney General's 2022 FOIA Guidelines. After reviewing all of the 2023 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 Attorney General's 2022 FOIA Guidelines and to identify any areas for improvement. As a result of this analysis, on September 20, 2023, OIP issued a [Summary of Agency Chief FOIA Officer Reports for 2023 and Assessment of Agency Progress in FOIA Administration with OIP Guidance for Further Improvement](#) (“Summary” and “Assessment”).

OIP's Summary provides a wealth of examples from large and small agencies describing the various efforts made to implement each of the key areas addressed in the

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Attorney General's 2022 FOIA Guidelines. Based on OIP's review of the 2023 reports, the Summary highlights key areas in which further improvements can be made. The Summary also provided best practices on processing simple track requests, maintaining interoperability with FOIA.gov, and confirming the foreseeable harm standard was considered in response letters.

In addition to the Summary, OIP for the tenth year, created a detailed Assessment of the efforts made by agencies in implementing the Attorney General's 2022 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 Attorney General's 2022 FOIA Guidelines. As in past years, with input from interested stakeholders, OIP continued to refine the milestones in 2023 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 the Assessment was designed to promote greater accountability in implementing the Attorney General's 2022 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 2022, 120 reports were submitted and centrally posted on [OIP's website](#).

During 2023, OIP also uploaded the data for agencies' [Fiscal Year 2022 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 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 2023, OIP issued its [Summary of Annual FOIA Reports for Fiscal Year 2022](#) (AFR Summary). OIP prepared the

AFR Summary by using [FOIA.gov](https://www.foia.gov), which allows for a detailed analysis and aggregation of statistics that was not readily available prior to creation of the site. The AFR Summary is also useful for both agency personnel and open government groups who continue to look forward to its issuance each year.

The AFR Summary highlights the number of requests received and processed by agencies, the disposition of those requests, and the time taken by agencies to respond. The AFR Summary also provides details about the number of consultations and administrative appeals received and processed, as well as data on backlogs of requests and appeals. Finally, the AFR Summary provides overall figures for the number of personnel working on FOIA and the overall costs to the government for administering the FOIA. By facilitating the comparison of data from agency Annual FOIA Reports across agencies and over time, the AFR Summary helps to ensure 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 2023. In accordance with OIP's [Quarterly Report Guidance](#), as updated in October 2021, agencies each 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. It 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 so they can take steps to reduce backlogs and improve timelines.

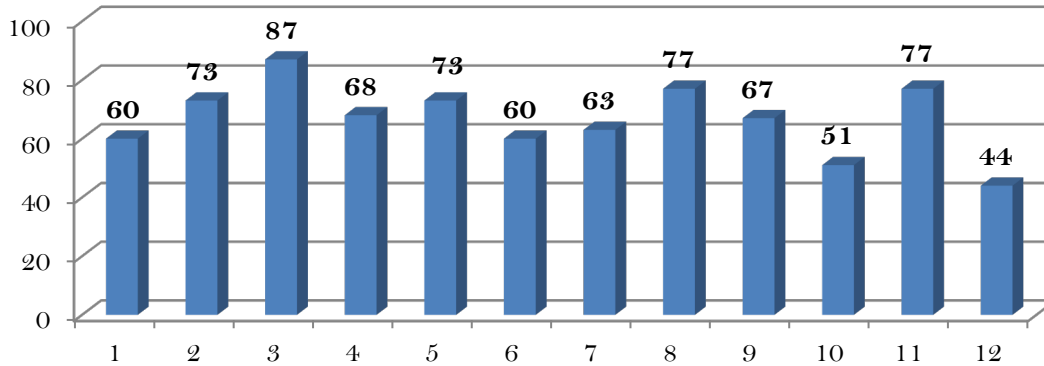
C. Counseling and Consultations

In addition to providing written policy guidance to agencies, OIP also provided [direct, one-on-one counseling](#) for agency personnel during 2023, 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 widely publicizes the phone number of the FOIA Counselor Service – (202) 514-3642 (514-FOIA). 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 2022 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 to comply with 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 800 requests for agency guidance through its FOIA Counselor service during 2023.

Agency Calls to the FOIA Counselor by Month in 2023



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. 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 also consulted on 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, including 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 and policy 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 2023, OIP handled 504 calls from members of the public.

D. Disseminating Information through *FOIA Post*

During 2023, 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 also provided for archived articles and guidance issued through predecessor publications. All the OIP guidance articles issued in 2023 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 *FOIA Post* to [announce](#) deadlines for the submission of agencies' Fiscal Year 2023 Annual FOIA Reports, Fiscal Year 2024 Quarterly FOIA Reports, and 2024 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 2023. 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 2023, OIP hosted a best practices [workshop](#) that was organized in collaboration with the Chief FOIA Officers Council Committee on Cross-Agency Collaboration and Innovation and the Office of Government Information Services (OGIS). The workshop focused on innovative methods for using and sharing resources. The panel consisted of three one-hour panel discussions and covered the following topics: building or rebuilding a successful agency information program, FOIA technology, and innovative FOIA staffing opportunities. A recap of the workshop along with the best practices discussed are available on OIP's site.

Sunshine Week Events

OIP used *FOIA Post* to [announce](#) the Department of Justice’s 2023 Sunshine Week Kick-off Event. The [Attorney General’s FOIA 2022 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 Agency’s FOIA Administration, Exceptional Advancements in Proactive Disclosure of Information, and a Lifetime Service Award.

For the first time since 2020, the Department hosted Sunshine Week both in-person and online. 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 noted that “[a]t its core, the FOIA fosters public trust – trust of those who are charged with faithfully executing the laws are in fact doing their jobs with integrity and in the public’s interest.”

In his remarks, OIP’s Director discussed some of OIP’s initiatives to assist agencies in their FOIA administration over the past year. Those efforts included launching a new [CFO Council page](#) on FOIA.gov, releasing three updated e-learning modules on OIP’s [training page](#), and making progress on the Department’s commitments as part of the [Fifth Open Government National Action Plan](#). Additionally, Director Talebian highlighted OIP’s policy guidance on a range of topics including: [Applying a Presumption of Openness and the Foreseeable Harm Standard](#), the [Interface Between the FOIA and Privacy Act](#), and [Guidance for Further Improvement Based on 2022 Chief FOIA Officer Report](#).

Justice.gov Redesign

In 2023, OIP used *FOIA Post* to announce the release of its redesigned website to align with the broader modernization of Justice.gov. The redesigned page provides enhanced functionality to meet the requirements of the [21st Century Integrated Digital Experience Act](#) and a new design based on the [U.S. Web Design System](#).

OIP’s site contains all the FOIA resources previously available, presenting them in a modernized design that is mobile-friendly. Pages such as OIP’s [FOIA Library](#) have been reformatted for easier navigation and enhanced visibility of key information. [FOIA Post](#) can now be accessed from anywhere on the site using the top navigation menu. Finally, [Key Dates](#) including upcoming trainings, events, and deadlines can be easily viewed and searched. Moving forward, OIP will continue to improve the organization and presentation of released materials to enhance the user experience.

FOIA Resources: FOIA Self-Assessment Toolkit

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OIP used *FOIA Post* to [announce](#) the publication of new or updated resources for agency FOIA professionals. For instance, in 2023, OIP shared the updated [FOIA Self-Assessment Toolkit](#), as discussed further under Providing Additional FOIA Reference Materials, below.

Chief FOIA Officers Council Updates

OIP also used *FOIA Post* to provide updates about the work of the Chief FOIA Officers Council. This included announcing [upcoming meetings](#), [summarizing past meetings](#), and [highlighting](#) new resources, such as a white paper about a FOIA Reference Model from one of the Technology Committee’s working groups. Additional information about the Chief FOIA Officer Council is available under Additional Government-wide Initiatives to Further Improve the Administration of the FOIA, below.

Fifth Open Government National Action Plan Updates

OIP also used *FOIA Post* to highlight the issuance of the [Fifth Open Government National Action Plan](#) (NAP), which contains commitments to increase 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 work on multiple commitments related to FOIA and used *FOIA Post* to provide relevant updates including [announcing](#) the release of the new FOIA.gov Search Tool. Additional information about OIP’s work on the NAP commitments and FOIA.gov generally is included under Additional Government-wide Initiatives to Further Improve the Administration of the FOIA, below.

E. Use of Social Media

In an effort to reach a wider audience and disseminate important FOIA information in a timely manner, OIP continued to use its [X.com](#) account during 2023 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. 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 2023, 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. 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 2023, OIP posted updated chapters concerning Exemption 2, Exemption 5, and Reverse FOIA.

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 2023, 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. 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 2023, OIP continued this practice of reviewing all agencies' Annual FOIA Reports prior to their being posted. This review was conducted in accordance with a [2002 Government Accountability Office \(GAO\) report](#), which encouraged such discretionary OIP review activities and found that they "have resulted in improvements to both the quality of agencies' annual reports and on-line availability of information." A [follow-up GAO study](#) published in 2004 likewise found improvements in agencies' annual reporting due to OIP's government-wide review efforts.

In accordance with another provision of the FOIA, [5 U.S.C. § 552\(e\)\(4\)](#), and as mentioned above, the Department of Justice in 2023 maintained "[a single electronic access point](#)" for the consolidated availability of the Annual FOIA Reports of all federal agencies. In 2023, OIP posted [all agency Annual FOIA Reports](#) in a human-readable and uniform

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“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

In 2023, OIP released a comprehensive update to the [FOIA Self-Assessment Toolkit](#), which was developed as a resource for agencies to use when assessing their administration of the FOIA. The [Toolkit](#) now consists of 15 modules, each focusing on a distinct aspect of the FOIA process, such as Initial Mail Intake, Adjudicating Requests for Expedited Processing, and Searching for Responsive Records. The 2023 update contains new modules covering Proactive Disclosures and Administrative Appeals. Each module contains various milestones to help agencies evaluate their FOIA programs and identify areas for improvement. At the end of each module, OIP offers best practices and guidance covering the topic.

In addition to the two new modules for Proactive Disclosures and Administrative Appeals, the 2023 update contains new or revised milestones throughout all modules to address the use of technology, allocation of resources, and use of data to further agency FOIA administration. The Toolkit also incorporates requirements from the [Attorney General’s 2022 FOIA Guidelines](#) and the latest [OIP guidance](#). Finally, to make it easier for agencies to complete the assessment and track progress towards achieving milestones, OIP has made available fillable spreadsheets containing all milestones and visual snapshots of agencies’ progress.

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 2023, 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, Legislative Affairs, Public Affairs, and Legal Policy. In addition to posting frequently requested records on [various topics](#), OIP also proactively posted records that had not previously been requested, including the [Memorandum for Chief FOIA Officers From the Co-Chairs of the Chief FOIA Officers Council Regarding FOIA.gov Interoperability Deadline and Sunset of FOIAonline](#).

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.

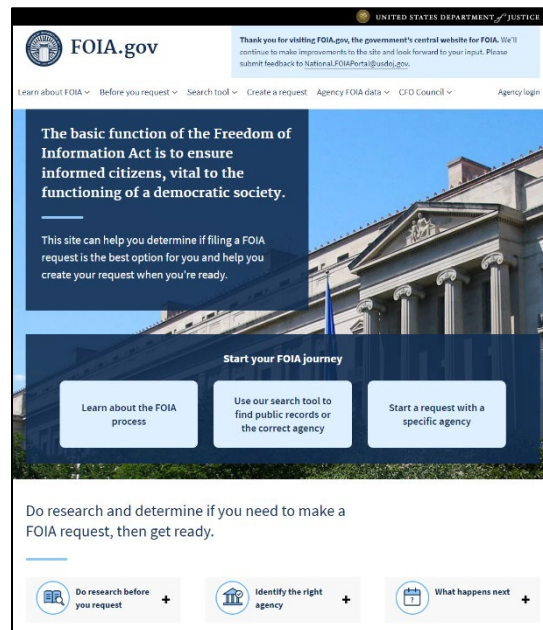
G. Additional Government-wide Initiatives to Further Improve the Administration of the FOIA

During 2023, 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 made progress on 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 in having 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 2023, OIP was pleased to launch a new [Search Tool](#) to help the public more quickly locate commonly requested information. The [Search Tool](#) is designed to simplify the process of making FOIA requests and finding federal government documents. The [tool](#) contains “common topics” that launch users into logic-based pathways that ask a series of questions to help get the user to the right place. Alternatively, users can enter their own search terms. The tool relies on a combination of logic and machine learning to provide a user with publicly available documents or a suggestion of where to request information. OIP is currently in phase one of this multi-phase project. As the public interacts with the search tool, OIP will use data analytics to better understand how the tool is being used and assess the quality of the results so that improvements can be made.



[FOIA.gov](#) homepage

As part of the release of the Search Tool, the FOIA.gov homepage was refreshed to provide clear options for a user to start their FOIA journey. There are now three buttons allowing users to choose whether to learn about the FOIA process, access the new Search Tool, or start a request with a specific agency. Further, the [agency search functionality](#), while now on a new page, continues to provide quick access to agency mission and contact

information and provides the option to submit a FOIA request directly from FOIA.gov. OIP will continue making improvements to the efficiency and usability of the FOIA Search Tool.

As in prior years, in 2023 OIP continued to improve the data validation and other functionality released in 2019 as part of the FOIA.gov Annual Report Tool. The Annual Report Tool provides agencies a centralized location to submit and validate their Annual FOIA Report data. In 2023, all 120 submitting agencies were again 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](#). OIP assessed agencies on their compliance with interoperability requirement as part of the [2023 Assessment of Agency Chief FOIA Officer Reports](#) and reminded agencies of the ongoing requirement in its [Guidance for Further Improvement Based on 2023 Chief FOIA Officers Report Review and Assessment](#).

In addition, [FOIA.gov](#) continues to include individual agency and component pages containing a description of key FOIA resources and average processing times by agency for simple and complex requests. The website also provides contact information for each agency, including 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 2023, [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 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](#) 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](#).

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

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promoting the development and use of common performance measures for agency compliance with the FOIA.

The Chief FOIA Officers Council held two public meetings in 2023. On April 25, 2023, the Council met virtually with agency FOIA professionals and members of the public. The Council heard updates from OIP and OGIS. OIP 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. The Council's two Committees also provided updates. The Committee on Cross-Agency Collaboration and Innovation highlighted the work of the Government Information Specialist Professionalization Subcommittee and FOIA Resources Subcommittee. The Technology Committee discussed the steps agencies are taking to better utilize technology as well as the role of data, Artificial Intelligence (AI), and machine learning in FOIA processing. Finally, the Technology Committee discussed potential topics for the 2024 NexGen FOIA Tech Showcase and provided an overview of its working groups.

Subsequently, on November 9, 2023, the Associate Attorney General provided remarks at the Chief Officers Council focusing on the new [Search Tool on FOIA.gov](#). The Associate Attorney General highlighted the use of technology such as AI to increase automation in record processing as an emerging and promising area, but emphasized the importance of ensuring that there is sufficient human monitoring and appropriate safeguards so that the government appropriately complies with the FOIA. The State Department also presented about how it is exploring the use of AI for declassification of records more than 25 years old, improvement of the FOIA customer service experience, and FOIA case processing. Finally, the Council received updates from OIP, OGIS, and the Council's two Committees.

These 2023 meetings were open to the public and livestreamed online. OIP published all meeting materials on the Chief FOIA Officers Council page on [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.

The Committees completed multiple deliverables in 2023. The Technology Committee's FOIA Reference Model working group published a [white paper](#) in April 2023 about the development of a FOIA Reference Model that details the FOIA process, including activities, functions, processes, and data. This model provides a common language to assist agencies in identifying technology needs and examining their procedures for areas of improvement. In October 2023, the COCACI Resources Working Group facilitated a best practices workshop on Innovative Methods for Using and Sharing Resources. A recap of the event is available on FOIA Post and a summary of all the best practices discussed is available on OIP's [Best Practices Workshop page](#).

FOIA Advisory Committee

As part of another ongoing initiative, the Director of OIP continued serving on the [FOIA Federal Advisory Committee](#). The Advisory Committee's work was conducted during the 2022-2024 term. In total, the committee met four times in 2023 (March 2, June 8, September 7, and December 7) and discussed a range of issues such as challenges and

opportunities in FOIA administration, the FOIA Reference Model, and incorporating AI in FOIA. In addition, the Advisory Committee heard updates from its three subcommittees: the Implementation Subcommittee, Modernization Subcommittee, and Resources Subcommittee. 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 2023, OIP continued work on the initiatives established by the [Fifth Open Government National Action Plan](#). OIP is leading the National Action Plan efforts to strengthen access to government information through the FOIA. In 2023, building on its work to implement the Attorney General's 2022 [FOIA Guidelines](#), OIP made the following commitments as part of the Fifth NAP:

- Issuing an updated FOIA Self-Assessment Toolkit to reflect additional milestones for proactive disclosures, use of technology, and requirements of the Attorney General's 2022 FOIA Guidelines. OIP completed this commitment during 2024.
- Developing an interactive FOIA Search 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. OIP completed this commitment in 2024.
- 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. During 2024, OIP formed a working group and developed draft business capabilities and activities in line with the Federal Integrated Business Framework. These baseline standards will soon be published for public comment. OIP will continue to work collaboratively with the working group, Business Standards Council, and OGIS to finalize the baseline standards.

OIP looks forward to providing continuing updates on these initiatives in the coming months via [FOIA Post](#), the Chief FOIA Officers Council, and the [National Action Plan Commitment Tracker](#).

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 2023 OIP invited members of civil society to attend its annual Sunshine Week kickoff event. As in prior years, OIP also 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 2023, to facilitate maximum participation,

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OIP once again furnished speakers and workshop instructors for virtual agency training sessions conducted to promote proper administration of the FOIA within the Executive Branch. Additionally, OIP provided briefings and engaged with international delegations and officials interested in the U.S. experience with open government.

OIP conducted numerous FOIA-training programs in 2023, which ranged from half-day introductory sessions for non-FOIA personnel to advanced programs for highly experienced FOIA personnel. Specifically, in 2023 OIP hosted the following events for government officials:

- *Virtual Procedural Requirements and Fees Workshop* – This workshop 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 2023.
- *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 2023.
- *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 2023.
- *Virtual Privacy Considerations* - This course 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 course was held twice in 2023.
- *Virtual Advanced Freedom of Information Act Training* – This course covers advanced topics in FOIA administration, including advanced privacy considerations and advanced procedural requirements. This course was held once in 2023.
- *Virtual Litigation Workshop* – This workshop covers considerations that arise during FOIA litigation, including guidance on successful litigation strategy, as well as the preparation of Vaughn Indices and declarations. This workshop was held once in 2023.
- *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 2023.

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- *Virtual Introduction to the Freedom of Information Act* – This course 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 2023.
- *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 workshop was held once in 2023.
- *Virtual Annual/Quarterly FOIA Report Training* – This training event provided agencies with a refresher on their FOIA reporting obligations. This training event was held once in 2023.
- *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 in 2023.
- *Virtual Administrative Appeals, FOIA Compliance, and Customer Service* – This training event covers the FOIA administrative appeal process, an overview of how agency FOIA professionals can help their agency accurately report about their FOIA administration, and an overview of OGIS with a focus on providing good customer service. This training event was held once in 2023.
- *Virtual Litigation Seminar* – This seminar provides lectures and instruction on considerations that arise in the course of FOIA litigation, including guidance on successful litigation strategy, advanced litigation considerations, and the preparation of *Vaughn* Indices and declarations. This seminar was held once in 2023.
- [*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. As mentioned above, in 2023, OIP hosted a best practices [workshop](#) focused on innovative methods for using and sharing resources that was organized by the Chief FOIA Officers Council Committee on Cross-Agency Collaboration and Innovation, OIP, and OGIS.

In addition to the events hosted by OIP, approximately 19 professional staff members from OIP gave a total of 10 individual agency trainings during the year. Such individualized training sessions were conducted for the:

- Defense Health Agency
- Federal Aviation Administration
- Department of Treasury
- Department of Defense/Information Management and Compliance Office

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- Department of Interior/Office of the Solicitor
- Department of Education
- Nuclear Regulatory Commission
- Department of Energy
- Central Intelligence Agency
- Federal Trade Commission

In addition, OIP provided training for components of the Department of Justice. In 2023, over 7,000 individuals registered for training at OIP-hosted courses across the government.

OIP continued to make available its [e-learning training modules](#). OIP designed the modules to address the unique needs of multiple levels of the federal workforce. An in-depth course for FOIA professionals covers 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. OIP also continued to make available 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.

Finally, in 2023 OIP participated in multiple international delegations and meetings concerning access to information. OIP's Director and staff members provided overviews of the United States' FOIA administration at five delegation meetings held in Washington, D.C. The meetings included participants from Africa, Asia, Europe, the Caribbean, and Central and South America. OIP's Director and Chief of Staff also participated in a series of workshops in Pristina, Kosovo focused on enhancing institutional transparency through access to public documents and information. Additionally, OIP's Director joined the delegation representing the United States at the Council of Europe's Group of States Against Corruption plenary session in Strasbourg, France, which included discussion of recommendations related to FOIA.

J. Legislative and Regulatory Proposals

During 2023, 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 2023, OIP responded to four congressional inquiries pertaining to FOIA-related matters. OIP also looked into twenty-one 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, where appropriate, provided guidance on the steps needed to address the concern.

LISTS OF FOIA LITIGATION CASES RECEIVED AND DECIDED DURING 2023

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 2023, one showing the FOIA cases “received” or filed during 2023 and the second showing the dispositions “rendered” or decided in 2023. 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 2023

The first list contains all of the cases filed as FOIA claims in federal district court during 2023. This information is derived directly from the federal courts’ docketing systems through the Public Access to Court Electronic Records ([PACER](#)). According to PACER, in 2023, 834 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 2022 alone, the government overall received 928,353 FOIA requests.

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 2023, OIP observed 32 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 2023

The second list attached to this report contains all of the FOIA cases in which a decision was rendered by the federal courts in 2023. 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

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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 2022, but appealed and affirmed in 2023, would be found on the lists of cases in which a decision was rendered for both 2022 and 2023.

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

During 2023, 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.