



Department of Defense

*Chief Freedom of Information Act Officer Report
to the Department of Justice*

For 2021

*Preparation of this study/report cost the DoD approximately
\$13,000 for the 2021 Fiscal Year*

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2021 Department of Defense Chief Freedom of Information Act (FOIA) Officer Report to the Department of Justice

Executive Summary

The 2009 Department of Justice's (DOJ) Freedom of Information Act (FOIA) Guidelines require the Chief FOIA Officer for each federal agency to submit a report to the Attorney General containing a detailed description of the steps undertaken by the agency to improve FOIA compliance and transparency. This year's report covers the period from March 13, 2020 to March 12, 2021.

As the Interim Director of Administration and Management, I also serve as the DoD Chief FOIA Officer. I am pleased to submit the 2021 Department of Defense (DoD) Chief FOIA Officer Report to the Department of Justice. As the DoD Chief FOIA Officer, I am continuing the DoD tradition of leadership dedication to the success of the Department's FOIA program through the 33 FOIA Requester Service Centers (DoD Components listed below) located around the world.

On my behalf, the Directorate for Oversight and Compliance (DO&C) within the Office of the Administration and Management, oversees all FOIA policy matters within the DoD. Through the DO&C, I ensure ongoing emphasis on FOIA including the areas of particular interest to DOJ in this year's report: applying the presumption of openness, effective systems for responding to requests, increasing proactive disclosures, increasing greater utilization of technology, and improving timeliness. This report encompasses the efforts and results of DO&C and the 33 DoD Components.

The DoD has a decentralized FOIA program, with each of the 33 DoD Components implementing their own FOIA programs. The DO&C provides overall DoD FOIA guidance to the DoD Components, helping them ensure that their processes comply with the FOIA, relevant case law, and DoD policy. The DoD Components are, in turn, responsible for establishing and maintaining FOIA processes uniquely tailored to their organizations while providing the best quality customer service possible.

During Fiscal Year (FY) 2020, DoD Components processed over 50,000 FOIA requests, and 89% of *all* received requests in FY20 were processed in less than 100 days. DoD Components remained attuned to public interest, but still faced some challenges. Only 15% of the components closed all of their ten oldest requests and there was an increase of the overall appeals backlog by 7% this fiscal year.

The 2021 DoD Chief FOIA Officer report details how DoD has continued to improve its administration of the FOIA and strengthen initiatives to further streamline our FOIA processes. Some of the key highlights in this report include details regarding DoD Components vigilance in attending and hosting FOIA training to ensure that FOIA professionals are well versed in the nuances of FOIA intricacies. Components are striving to reach more agency non-FOIA professionals through creative outreach methods, improve overall program efficiencies and provide specific items of most interest to their requester communities.

All DoD Components are focused on enhancing customer service and communications with FOIA requesters. Many report that public facing electronic tools assist requesters with tracking requests, monitoring progress towards case fulfillment, and finding released records with greater ease. They also report a variety of initiatives and steps undertaken to ensure that their FOIA systems are operating efficiently and effectively.

I am proud of the efforts of the Department to improve FOIA processes and look forward to the Department's continued work enhancing and promoting the principles of openness and transparency.

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Thomas M. Muir
Interim Director
Administration and Management

DoD Components/33 FOIA Request Service Centers

| | |
|-------------------|---|
| AIR FORCE | Department of the Air Force |
| AFRICOM | U.S. Africa Command |
| ASBCA | Armed Services Board of Contract Appeals |
| ARMY | Department of the Army |
| CENTCOM | U.S. Central Command |
| CYBERCOM | U.S. Cyber Command |
| DCAA | Defense Contract Audit Agency |
| DCMA | Defense Contract Management Agency |
| DCSA | Defense Counterintelligence and Security Agency |
| DeCA | Defense Commissary Agency |
| DFAS | Defense Finance and Accounting Service |
| DHA | Defense Health Agency |
| DIA | Defense Intelligence Agency |
| DISA | Defense Information Systems Agency |
| DLA | Defense Logistics Agency |
| DoDEA | Department of Defense Education Activity |
| DoD IG | Department of Defense Inspector General |
| DTIC | Defense Technical Information Center |
| DTRA | Defense Threat Reduction Agency |
| EUCOM | U.S. European Command |
| JPRA | Joint Personnel Recovery Agency |
| INDO-PACOM | U.S. Indo-Pacific Command |
| NAVY | Department of the Navy |
| NGA | National Geospatial-Intelligence Agency |

| | |
|-----------------|--|
| NGB | National Guard Bureau |
| NORTHCOM | U.S. Northern Command |
| NRO | National Reconnaissance Office |
| NSA | National Security Agency |
| OSD/JS | Office of the Secretary of Defense/Joint Staff |
| SOCOM | U.S. Special Operations Command |
| SOUTHCOM | U.S. Southern Command |
| STRATCOM | U.S. Strategic Command |
| TRANSCOM | U.S. Transportation Command |

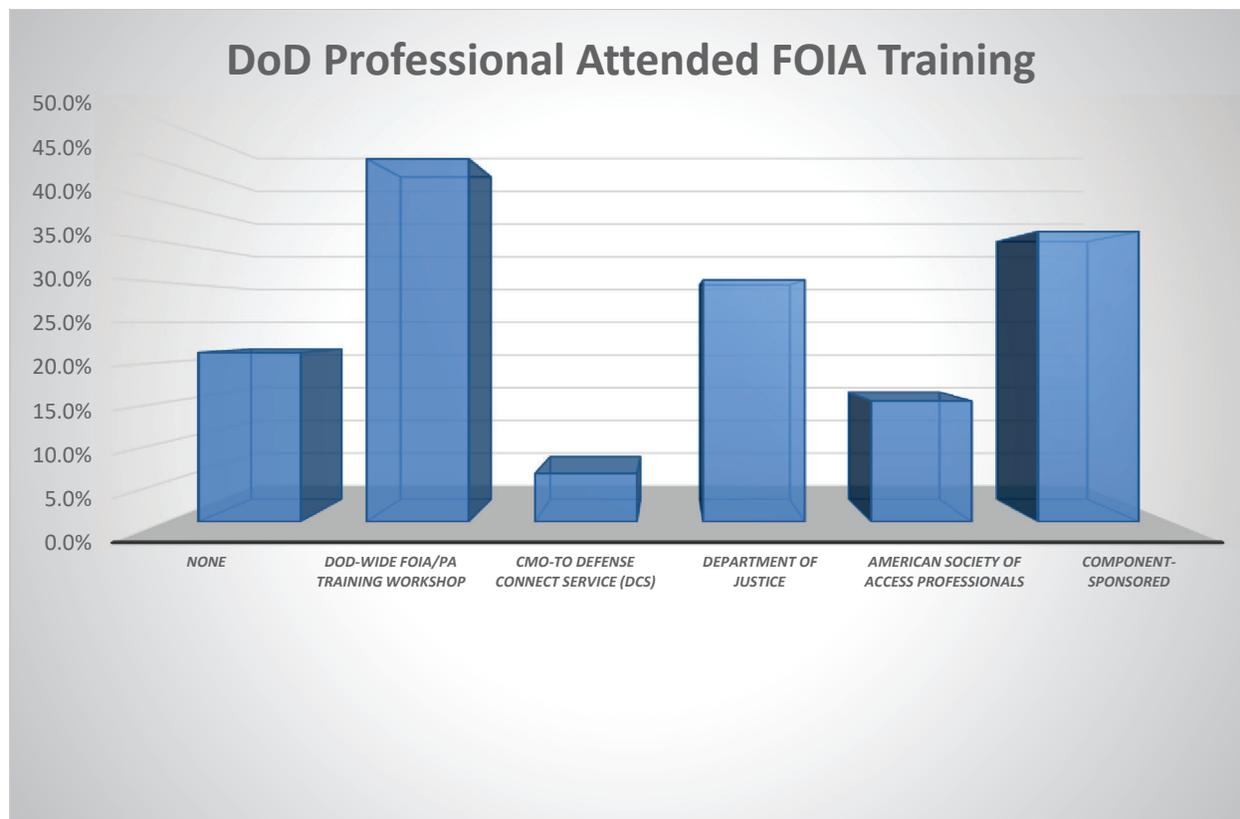
1.0 Steps Taken to Apply the Presumption of Openness

1.1 FOIA Training

The DO&C is the office within DoD responsible for FOIA policy as well as encouraging and promoting FOIA and Privacy Act (PA) training within the Department. In this capacity, the DO&C conducts in-person FOIA/PA compliance workshops and virtual training. In February 2020, DO&C conducted a three-day FOIA/PA compliance workshops at the Joint Base Pearl Harbor-Hickam, Hawaii. This training featured expert instructors from multiple DoD Components. FOIA topics included DoD FOIA policy, the FOIA exemptions, document declassification, fees and fee waivers, litigation considerations, mechanics, and best practices in processing FOIA requests. PA topics included conditions of disclosure, privacy concerns with information sharing and social media, and system of records notices. A second FOIA/PA compliance workshop was scheduled for April 2020, at the Mark Center in Alexandria, Virginia, but was cancelled due to COVID-19.

The DO&C also continued to provide virtual training through the Joint Knowledge Online (JKO) tool, which is available to DoD personnel world-wide. The JKO tool allows uploading previously recorded material and is the current platform upon which DOJ's Office of Information Policy (OIP) FOIA training videos are hosted.

During this reporting period, 79% of DoD FOIA professionals received formal FOIA training. Over 45% of the DoD Components sent representatives from their FOIA professional staff to the DoD-wide FOIA/PA Training Workshop and to the DO&C Defense Connect Service (DCS) training. Additionally more than 30% of the Components sent personnel to DOJ's OIP training. Approximately 15% of DoD Components sent personnel to the American Society of Access Professionals training, as well as provided internal training. Due to COVID-19, or the lack of personnel, 21% of DoD Components were unable to attend training this year. DoD intends to provide additional DoD-wide FOIA/PA Training Workshops and strongly encourage Components to conduct their own internal trainings to increase the overall percentage of training.



The DoD Components that reported hosting their own training for FOIA professionals provided a variety of venues and methods of substantive teaching regarding applying and implementing FOIA. For example:

- The ARMY conducted a 3-day Records Management-FOIA-Privacy-Civil Liberties Virtual Symposium on 25-27 August 2020. The virtual symposium was conducted with over 1,000 participants. FOIA training session addressed FOIA policies and appeal requirements. The session also included open discussion on various FOIA issues, policies and best practices.
- DoD IG FOIA Office provided training to OIG component FOIA points of contact. This training included best practices in searching for federal records, how to respond to search taskings with a voluminous amount of responsive records, and a high-level overview of pertinent aspects of the FOIA. DoD IG also held virtual internal FOIA training for the Government Information Specialists in office. This training reinforced DoD IG's request processing practices and created an opportunity to review the policies behind the practices.
- AIR FORCE, DFAS, DLA, DTRA and OSD/JS offered comprehensive training to their FOIA professionals and SMEs (Subject Matter Expert) on subjects such as component policies, case processing, FOIA challenges, and openness in government. SMEs are defined as individuals who have special skills or knowledge on a particular function or topic and are routinely involved in the FOIA process.

- NAVY conducted several virtual meetings pertaining to its FOIA program and current FOIA laws and practices. Each session drew an attendance of approximately 200 NAVY personnel. NAVY typically hosts a week-long seminar, which was cancelled due to COVID-19.

1.2 Outreach

During this reporting period, 75% of the DoD Components reported no engagement in formal outreach activities with the requester community. However, throughout the year, these Components were proactive in contacting individual requesters and engaging in substantive exchanges designed to more fully educate, explain, and provide specifically detailed information. Some of the smaller Components with low requester volume indicated that the types of record requests they received lend themselves to more personalized interactions with requesters from the beginning of the FOIA process. Smaller staffs result in requesters working with the same FOIA professional which facilitates better anticipation of high-demand materials.

A few of the DoD Components reported engagement in formal outreach activity. For example:

- DoD IG's FOIA Director is a member of the Technology Committee of the Chief FOIA Officers (CFO) Council. This group studies the utilization and deployment of technology in FOIA programs across agencies and identifies best practices and recommendations that can be implemented across agencies. The results are shared with the requester community.
- ARMY Components continue to work closely with ARMY public affairs offices worldwide and with command related/community outreach groups, ensuring open dialogue to address general questions, provide feedback on complaints and recommendations, and questions related to FOIA processing and specific FOIA cases. These outreach activities often include spouses of military personnel and veteran outreach programs.
- DoDEA worked with the FOIA Public Liaison to arrange a meeting with a frequent requester to discuss the capabilities of one of its student programs.
- DCSA improved the design of its website, which provides the public with information about how to submit a FOIA request.

1.3 Other Initiatives

The DoD Components reported a variety of methods to inform non-FOIA professionals about FOIA and indicated that the most effective tool is senior leadership awareness and reinforcement of the importance of FOIA.

Similar to last year, the most commonly employed methods for informing non-FOIA professionals are general FOIA training for all personnel and more detailed training for SMEs. The general training is necessarily broad and introductory in nature while the SME training features detailed guidance on the proper application of FOIA exemptions, with the objective of SMEs understanding both the FOIA and the particular agency policies.

For instance:

- CENTCOM conducted quarterly meetings and provided SMEs with FOIA policy documentation. CENTCOM also published a Command Compliance Memorandum reiterating the significance of the FOIA program.
- AIR FORCE Senior Leaders and Commanders regularly remind and reaffirm to the Office of Professional Responsibility (OPR), the AF's commitment to full compliance with the FOIA to mitigate litigation penalties, to support FOIA professionals, and to ensure FOIA programs are adequately resourced and processes are continually analyzed for improvements. With the ongoing increase in the AF FOIA backlog, senior leadership continually addresses the historically high AF FOIA backlog with their OPR's to highlight the importance of providing responsive documents/records in a timely manner in order to remain compliant with the law. In addition, AF FOIA office and Requester Service Centers (RSC) provide their senior leadership monthly FOIA program updates and reiterate their obligations under the FOIA.
- DHA provided four one-on-one trainings for FOIA Liaisons within DHA Program Offices. The trainings were done virtually and via email, and included information and guidance for how to conduct records searches and respond to the DHA FOIA Service Center. The trainings also reviewed the responsibilities and requirements for DHA FOIA Liaisons.
- CYBERCOM provided a 30 minute FOIA presentation at the command's "Lunch and Learn" series. The objective was to provide greater insight into the command's FOIA program to CYBERCOM personnel.
- There are several DoD Components, such as NGA, OSD/JS, TRANSCOM and others that conduct "one-on-one" trainings with SMEs regarding topics such as the history of the FOIA, requirements of the FOIA, and how to properly search for responsive documents.

Another DoD initiative is to ensure the presumption of openness is being applied throughout the agency. Some examples of this initiative are as follows:

- The annual DCAA Report to Congress highlights DCAA's audit performance, recommendations to improve the audit process, industry outreach activities, and key accomplishments. This report is posted online.
 - <https://www.dcaa.mil/Portals/88/FY2019%20DCAA%20Report%20to%20Congress.pdf?ver=2020-06-08-105608-830>
 - <https://www.dfas.mil/foia/foiareadingroom/>
- AIR FORCE FOIA office routinely publishes all FOIA responses, including frequently requested documents, to its FOIA Library, except for privacy specific responses. In the current reporting period, 34,902 pages of released documents were added to its Library. AIR FORCE continues to publish written guidance AIR FORCE-wide to legal and FOIA

professionals about the impact and presumption of disclosure of the FOIA Improvement Act of 2016, and the application of specific FOIA exemptions under this law.

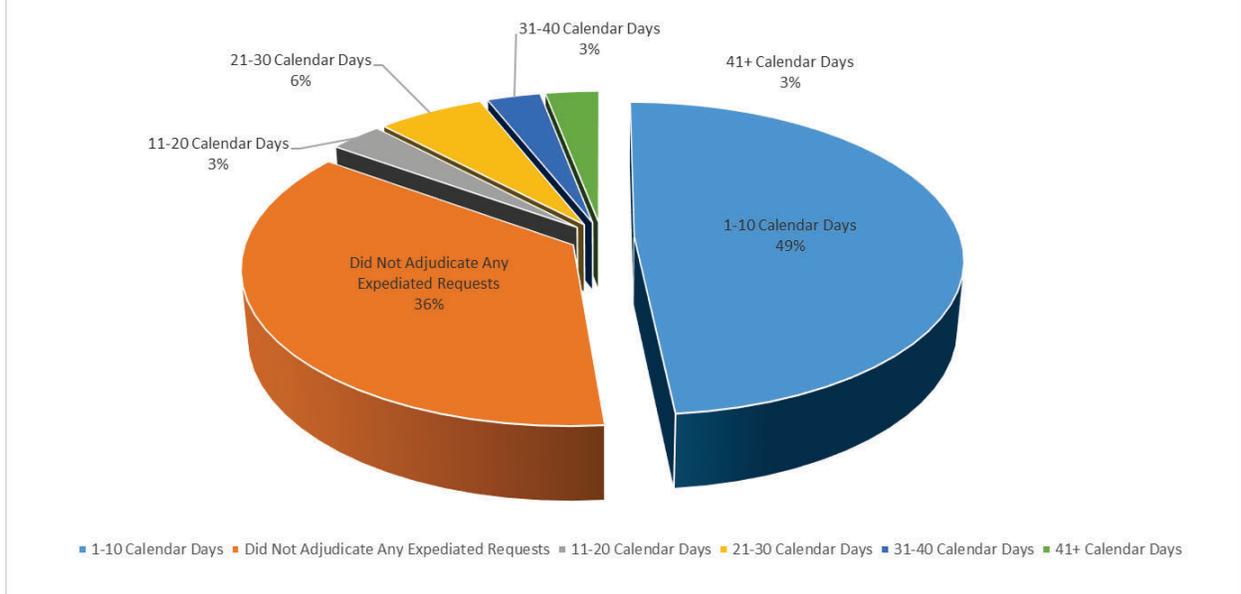
- <https://www.foia.af.mil/Library/>
- DoD IG regularly posts reports on its agency website in a searchable format. Some of the reports can also be located on the oversight.gov sight.
 - <https://www.dodig.mil/reports.html>
 - <https://www.oversight.gov/reports>
- TRANSCOM updated sections of its FOIA/Privacy Act website. Specific FOIA changes include the removal of all outdated forms and adding the FOIA electronic form with a link to its location on FOIA.gov
 - <https://www.ustranscom.mil/foia/index.cfm>

2.0 Steps Taken to Ensure that DoD has an Effective System in Place for Responding to Requests

2.1 Processing Procedures

For FY20, the average number of days reported for adjudicating requests for expedited processing in DoD was 7 days. Of the 33 Components, 36% reported not adjudicating any requests for expedited processing; and 49% of the Components reported adjudicating requests within an average of 10 calendar days, a decrease from the previous year. Five components did not adjudicate these requests within a 10 calendar day average. This was attributed to human error and lack of close queue management. The Components continued to work hard this fiscal year to address problems previously reported with processing procedures, understaffed offices, other duties, and conflicting priorities.

DoD Components Average Number of Days for Expedited Requests in FY20



Approximately 75% of the DoD Components report conducting some form of a self-assessment of their FOIA programs. For example, the Army FOIA Office reviews FOIA processing data monthly, which is generated from the Army's Freedom of Information Act Case Tracking System, and provides the data to Army senior leadership. The categories typically reviewed are backlog stats, processing timelines, cases received and processed, and cases one year and older. Subsequently, findings may indicate a need for revised policies or procedures, system updates, software enhancements or new or revised configuration changes, need for additional personnel, or specific training requirements.

Throughout the Department, the most popular methods of self-assessing FOIA programs are analyzing the data from the previous year's FOIA Annual Report and continuous process improvement (CPI) style initiatives where staff members are encouraged to suggest and implement improvements and streamlining opportunities.

For instance:

- DLA has engaged in a top-to-bottom self-assessment of its FOIA program by analyzing the DoD FOIA Regulation, DoJ FOIA Guide Information, Case Law, and its existing processes and workflows. DLA has documented its desired to-be state workflow using Microsoft Visio and is having an independent analysis conducted of the draft workflow against the OIP FOIA Self-Assessment Toolkit to identify any gaps requiring inclusion in the workflow or development of stand-alone SOPs, internal guidance, or training tools. Once the gaps are addressed, the DLA FOIA Office will submit the to-be workflow to the DLA Office of General Counsel for review. Once reviewed and any legal objections addressed, DLA will move to the to-be workflow processes.
- The NAVY conducted self-assessments weekly, monthly, and quarterly. The assessments included the comparison of weekly productivity to historical productivity, review of

individual workload and capabilities, critical analysis of processing procedures in order to identify inefficiencies, promoting opportunities for improvement, and performing a detailed analysis of Annual Report data to identify long-term trends.

- DTIC reviewed past reporting data to ensure it was meeting FOIA requirements such as the 20-day processing requirement. DTIC also reviewed its internal process to identify any potential areas that may cause delay. The new document delivery process was analyzed to determine how it would affect processing and plans were made for necessary adjustments.
- OSD/JS continually looked for efficiencies in its internal FOIA processes. When all employees were sent home at the start of the pandemic in March, OSD/JS used this time to establish electronic files on cases, ensured that standard operating procedures were created or updated as needed.
- The DoDEA FOIA program conducted a self-assessment by analyzing and discussing the information collected from the previous annual reports and comparing the data with the current annual report data with its leadership.
- AFRICOM conducted its annual internal control evaluation, which identifies risk and deficiencies. These risks and deficiencies are then evaluated for corrective actions.
- CENTCOM updated the Command's FOIA Program regulation; reviewed and completed FY20 Annual Report; conducted weekly reviews of the oldest cases; established working groups to systematically review requests which yielded voluminous responsive information; conducted an annual manager's internal control program review; a risk assessment analysis; and conducted working groups for numerous aggregated requests submitted by the same requesters.

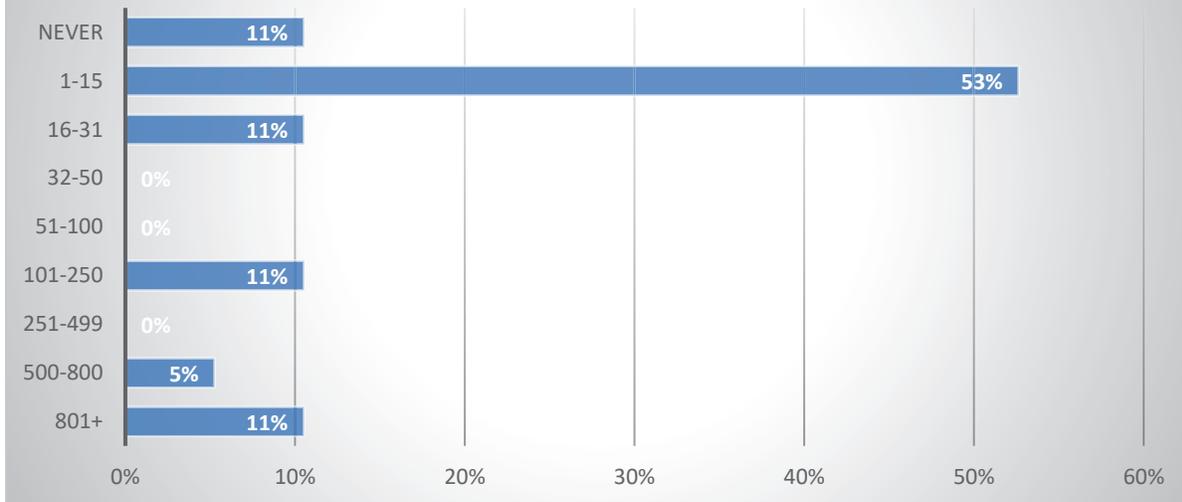
Standing Operating Procedures (SOPs) can improve the consistency and quality of an agency's FOIA process. Eighty-eight percent of DoD's Components have SOPs. Sixty four percent of DoD Components describe their FOIA process on their websites to show that DoD has effective systems in place. The majority of components review the accuracy of their procedures, on an annual basis, some components review SOPs montly, biannually, or on an "as needed basis." There are 4 components that do not have SOPs.

2.2 Requester Services

All the DoD Components have FOIA Public Liaisons available for feedback, questions and concerns. Contact information is posted on <https://www.foia.gov/report-makerequest.html> as well as component websites. The FOIA Public Liaison's contact information is also included in response letters to requesters. Additionally, some Components provide an anonymous public feedback mechanism through online surveys.

The chart below indicates the frequency of FOIA requesters contacting FOIA Public Liaisons for assistance throughout FY20.

Estimate of Times Requesters Contacted Component FOIA Public Liaisons



The DoD has 19 FOIA Public Liaisons for the 33 DoD Components. Eighteen Components have their own FOIA Public Liaisons, whereas the FOIA Public Liaison for OSD/JS also serves as the FOIA Public Liaison for 15 other DoD Components. The DoD estimates a total of well over 2,500 interactions, including the shared FOIA Public Liaison, during this reporting period.

A FOIA request made by a requester seeking records concerning themselves is called a "first-party" request. Within DoD, 48% of Components frequently receive this type of request. Common "first-party" requests at DoD are for personnel records or internal investigations.

Events related to the COVID-19 pandemic significantly impacted DoD's ability to administer the FOIA. For full transparency to the public, DPCLTD requested that DoD Components add the following statement to their websites. "As a result of increases in the Health Protection Condition (HPCON) level, our offices are limited to mission-essential personnel only and maximizing the use of telework for other personnel. This means that we are unable to handle requests sent via traditional methods and can only respond to electronic inquiries while under elevated HPCON levels."

Most DoD FOIA professionals are not considered mission-essential personnel and were not able to access DoD installations and facilities while DoD was at HPCON level Charlie and above. On March 12, 2020, the Secretary of Defense raised Pentagon HPCON Level to Alpha. On March 15th the HPCON Level was changed to Bravo. Then on March 24th, the HPCON Level was changed to Charlie.

DoD Facility access limitations brought paper mail, classified processing, and access to internal FOIA systems nearly to a stand-still. Additionally, tasked searches were dependent on the status of personnel assigned to those offices and their capability to search and/or respond to FOIA, in addition to pandemic-related duties. Components have executed several strategies to mitigate COVID-19's impact on FOIA operations. For example:

- DIA modified work schedules to maximize on-site coverage using teams.
- AIR FORCE has implemented all incoming requests be placed in the Complex tracking queue and provided notices and instructions on public facing website to requesters regarding possible delays in processing due to the limited staffing posture. In addition, AIR FORCE. Managers routinely communicate with requesters and provide status updates regarding any process delays due to the pandemic or otherwise as they process their case thereby informing them of any processing delays.
- DHA updated public facing websites and communications documents to inform requesters of changes due to COVID-19. DHA also modified communications including revised templates and letters to requesters informing them of changes and instructions due to facility closures.
- NGB established electronic workflows to manage the processing of FOIA requests. Requesters were kept apprised of the most efficient means of addressing concerns regarding their requests electronically as well as being provided with the option of receiving records electronically.
- CYBERCOM monitored its FOIA inbox remotely and communicated with requesters regarding the impact of COVID-19.
- DFAS established procedures to ensure seamless processing of incoming requests. Specifically, an electronic fax system was implemented that automatically sent incoming faxes directly to the DFAS FOIA organizational email box. Additionally, all incoming FOIA mail was coordinated to be delivered to one location. DFAS had an employee collect, scan, and send incoming mail to its organizational email box for further processing.

DoD Components have taken several steps to ensure their FOIA processes operated efficiently and effectively. For example:

- ASBCA encouraged its FOIA professionals to take semi-annual training. ASBCA created its own FOIA database to track, monitor, and close out FOIA requests.
- NGA is integrating an Electronic Documents Review (EDR) tool in its case management system. This will assist in the processing of large documents, specifically identifying redundancy in email searches. DIA totally redesigned its internal-to-agency FOIA tasking process, which provides clear, step-by-step instructions for non-FOIA professionals to complete FOIA search and responsive records review tasks.
- ARMY conducted reviews of its electronic case management system to troubleshoot and address any existing issues. ARMY also conducts reviews of the operating system, analyzes proposed upgrades, implement changes, that enhances its case management system's capabilities in order to provide an efficient and effective ARMY enterprise FOIA operating system.
- CENTCOM uses several software tools which identify and remove duplicate documents.

- INDOPACOM uses a homegrown Task Management System (TMS), which can provide online search capability across the entire Headquarters Staff.

Finally, in accordance to the FOIA Improvement Act, DoD has updated its FOIA Regulations.

3.0 Steps Taken to Increase Proactive Disclosures

3.1 Posting Material

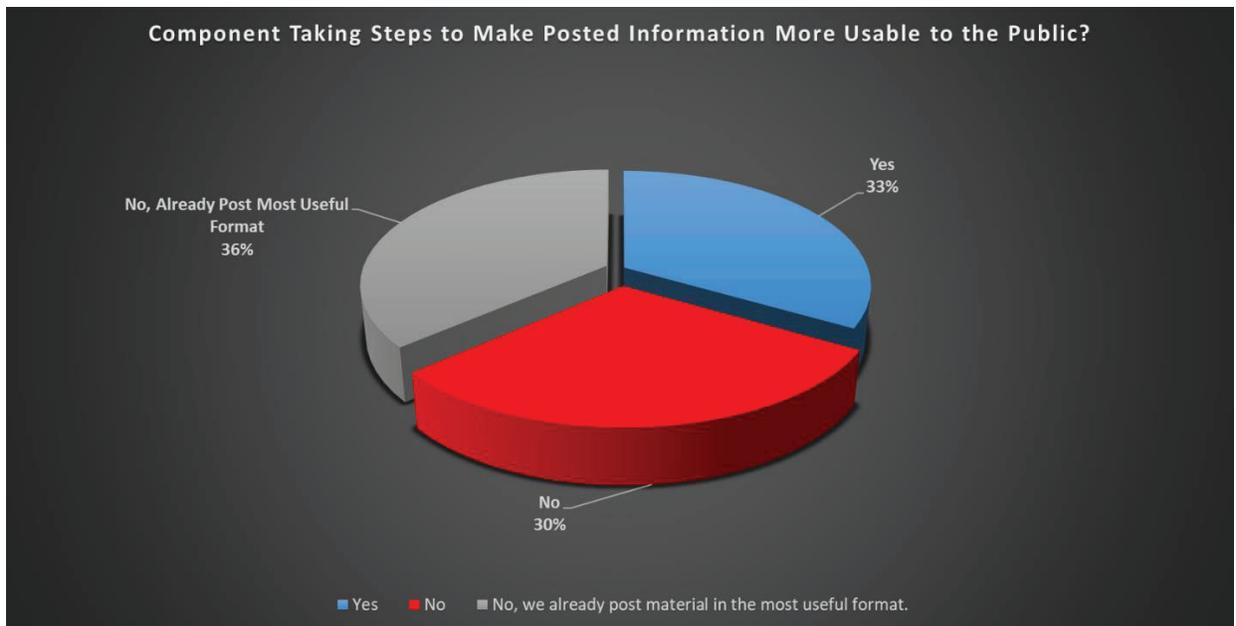
Several DoD Components have taken steps to improve proactive disclosure of information, such as:

- NAVY posted records relating to the Pearl Harbor Shipyard Shooting Investigation and records relating to the COVID-19 response onboard the USS THEODORE ROOSEVELT.
 - <http://www.secnav.navy.mil/foia/readingroom/>
 - <https://www.hqmc.marines.mil/Agencies/USMC-FOIA/FRR/>
- DISA proactively discloses its FOIA logs at the close of each Fiscal Year, <https://www.disa.mil/About/Legal-and-Regulatory/Accessibility/FOIA-Reading-Room>
- ASBCA proactively posted opinions and significant orders in FY20.
 - <http://www.asbca.mil/FOIA/foia.html>
 - <https://www.asbca.mil/Decisionsdecisions2020.html>
 - <http://www.asbca.mil/Reports/reports.html>
 - <http://www.asbca.mil/Charter/charter.html>
 - <http://www.asbca.mil/Rules/rules.html>
 - <http://www.asbca.mil/ADR/adr.html>
 - <http://www.asbca.mil/Bios/biographies.html>
- DeCA proactively posted information for FY20 on their FOIA reading room website. <https://commissaries.com/our-agency/FOIA/FOIA-Electronic-Reading-Room>.
- AIR FORCE proactively disclosed material/documents via the AF FOIA Library: These documents include President of the United States, First Lady of the United States, congressional travel records, senior leader reports of investigation, records related to current news events, aircraft accident reports, historical reports, contracts, mission reports, government purchase card holders, audit reports, radar report, FOIA logs, FOIA annual

reports, organizational charts, phone books/directories, policy, guidance, flight operation, unit history, historical honors, mechanical report, factsheets, and more.

- <https://www.compliance.af.mil/Library/>
- <https://www.af.mil/>
- CYBERCOM worked with Public Affairs to proactively disclose multiple documents.
 - <https://www.cybercom.mil/FOIA/Reading-Room/>
- OSD/JS proactively released a variety of reports and additional material of interest to the public. Proactive releases include:
 - Ethics memoranda of current and former Secretary of Defense and the Deputy Secretary of Defense documents, which were released in the litigation for Aid to Ukraine
 - https://www.esd.whs.mil/FOIA/Special-Collections-Library/USAI_1/
 - Rumsfeld Snowflake litigation records
 - [https://www.esd.whs.mil/FOID/Snowflakes/RDD MDR](https://www.esd.whs.mil/FOID/Snowflakes/RDD_MDR)
- TRANSCOM's FOIA logs are automatically posted in the reading room when completed:
 - <https://www.ustranscom.mil/foia/index.cfm?thisview=readroom#hideD>

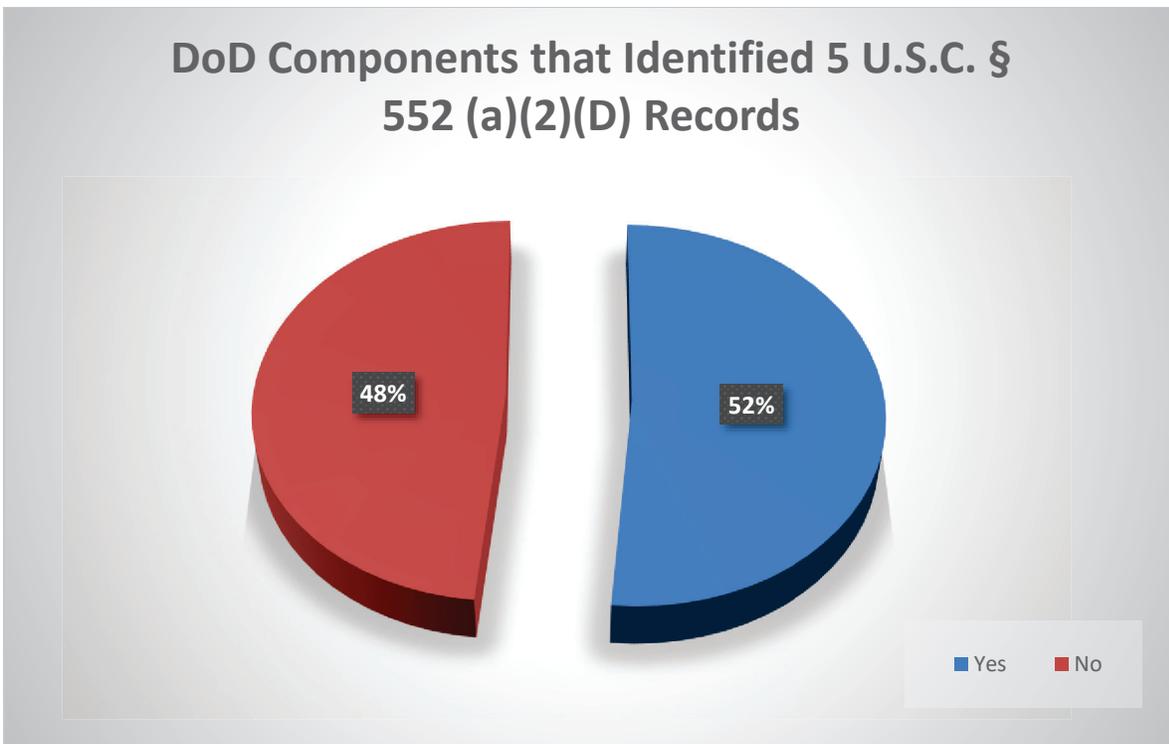
During the reporting period, many DoD Components publicized and highlighted these important disclosures for public awareness. Most components are on social media and report making announcements through a variety of platforms including Facebook, Twitter, YouTube, Flickr, RSS feeds, LinkedIn, and blog posts.



In FY20, 36% of DoD Components reported they already post information in the most useful format. This is an increase from 24% for FY19. This increase is partially attributed to the extra effort that DoD Components have made to proactively disclose information and make it readily available to the public.

Thirty-three percent of DoD Components reported they are currently taking steps to make posted information more usable to the public. For example, DTIC maintains and continually improves the search features available on its public website, so that the public can more easily find DoD scientific and technical documents. NSA has a continued effort to redesign the Office of Information Management presence on NSA.gov, so requesters can easily locate records of interest. OSD/JS is working to improve the search capabilities on its FOIA records website. The majority of DoD Components ensure documents are searchable and released if they are identified to have been requested three or more times, in accordance with 5 U.S.C. § 552(a)(2)(D).

DoD Components that Identified 5 U.S.C. § 552 (a)(2)(D) Records



In FY20, over half of DoD Components identified records that were proactively disclosed pursuant 5 U.S.C. § 552(a)(2)(D). These are records that have been requested and released under FOIA three or more times. These records are identified through various methods throughout the Department, such as: reviewing case logs; conducting searches for similar requests in the case management system; and FOIA Action Officer personal knowledge of previous requests.

3.2 Other Initiatives

Outside of the techniques and methods discussed above, DoD Components also practice reaching out to requesters to determine what to post, encouraging internal offices to proactively post material they have determined is clearly releasable to the public, and seeking authority from program offices for FOIA personnel to post new material.

4.0 Steps Taken to Greater Utilize Technology

4.1 Leveraging Technology

DoD continues to be committed to making its information technologies accessible to individuals with disabilities in accordance with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended in 1998. Throughout the year, all DoD Components were encouraged to ensure that FOIA websites were working and 508 compliant. DoD Components were also encouraged to review and ensure that websites are compliant with DOJ's Guidance concerning FOIA websites, including clear links to the components homepage and ensuring FOIA homepages contain key information and available resources.

In FY20, approximately 58% of DoD Components reported that they were continuing to identify best practices to leverage technology facilitating overall FOIA efficiencies. Several components reported working with their case management systems to automate internal steps and processes, improve case visibility and implement document release automation. Components also reported using e-Discovery tools to search and de-duplicate emails. This feature is particularly useful with multiple strings of emails where unmodified original messages are repeated as the electronic conversation continued. Some DoD Components also engaged in document sharing platforms to expedite record processing, which increases efficiency.

4.2 Other Initiatives

DoD posted all four quarterly reports on time. The reports consisted of information from all 33 Components during FY20, and the data is accessible at the following link:
<https://www.foia.gov/data.html>.

DoD also posted the data used for compiling the current and previous Annual FOIA Report. Those files, as well as the narratives, are available at the following link:
<http://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/>.

DoD continues to explore the feasibility of implementing an enterprise-wide FOIA case management system. This system would provide consistency in how DoD FOIA offices track cases, maintain records, conduct internal consultations and referrals, and produce reports. The objective is to provide DOD FOIA Offices with more consistent technical support and improved efficiency in FOIA processing.

Some components have identified best practices for leveraging technology to facilitate overall FOIA efficiency and appropriate levels of security. For example:

- In an effort to promote a collaborative FOIA environment, CYBERCOM Offices assigned to conduct searches have been utilizing commercial search tools, which provides rapid search capability of indexed files.
- AIR FORCE, ARMY, CENTCOM, and TRANSCOM use DoD SAFE, an encrypted file transfer tool, to transfer files for consultations, referrals, and requester responses.
- The OSD/JS is implementing software to deduplicate documents within its FOIA tracking tool. Additionally, OSD/JS hopes to establish a FOIA eDiscovery team to improve record search capabilities and to eliminate the need for components to conduct searches.

5.0 Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

5.1 Simple Track

In FY19, DoD received 56,524 requests and processed 54,545 requests for records under the FOIA. In FY20 DoD received 54,023 requests and processed 50,006 requests. Of the 50,006 cases processed, 22,417 were processed under the simple track. All DoD Components use a separate track

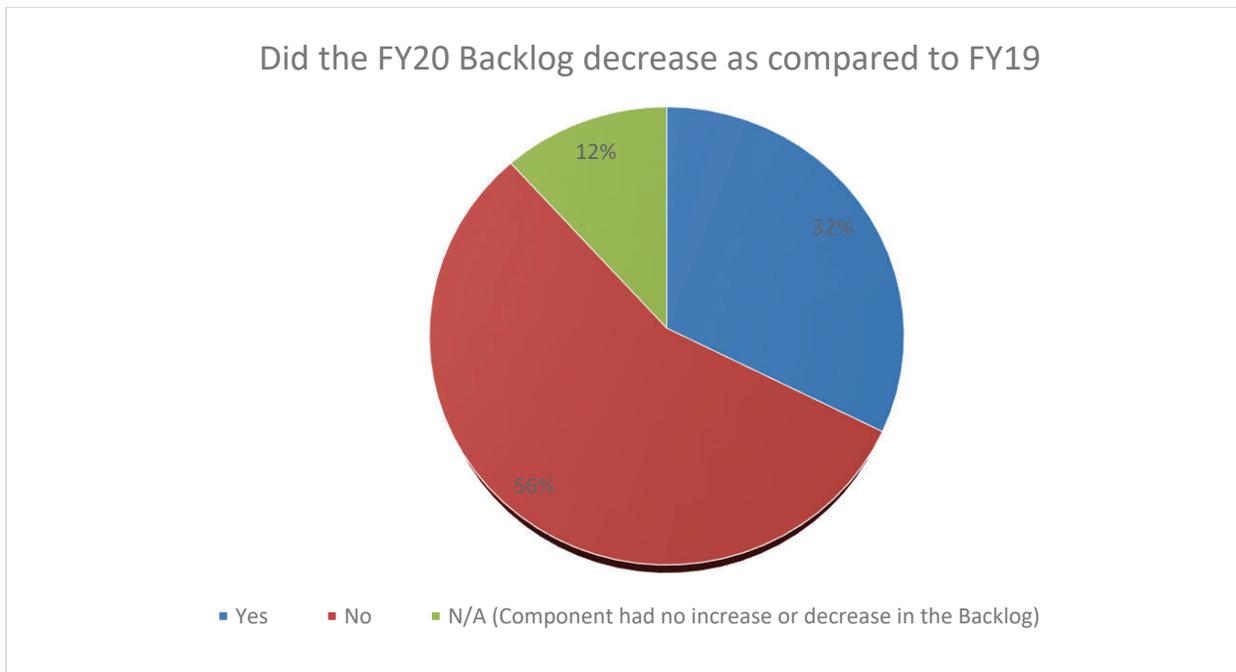
for simple requests. For DoD as a whole, the average number of days to process simple requests was 23.5 days. However, 76% of Components reported simple request processing times averaged 9 days. Considering that 51% of all FY20 requests processed by DoD Components were in the simple track, most requesters are seeing their cases resolved in less than 20 days.

5.2 Backlogs

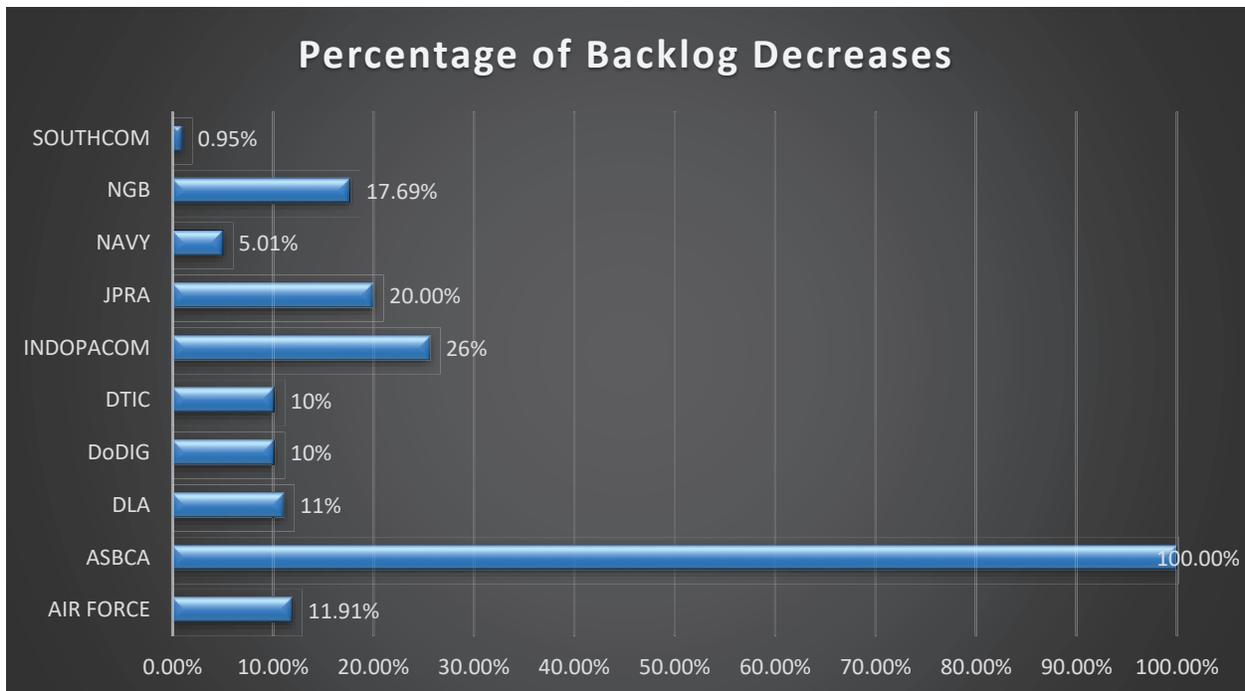
Overall the backlog increased 21% from FY19. During this reporting period, DoD recorded a backlog of 16,000 FOIA request, which is an increase from 13,215 reported in FY19. DOD's overall percentage of requests that make up the backlog is 29.6%.

Of the 1,025 appeals received, 954 (93%) are identified as backlogged appeals. The number of backlogged appeals increased from FY19's 889 to FY20's 954, which is a 7% increase. In FY19, DoD processed 950 appeals. In FY20 DoD processed 902 appeals, which is a 5% decrease.

Of the 33 DoD Components, 12% had no request backlog at the end of FY20, while 33% had less than 10 requests backlogged at the end of FY20.

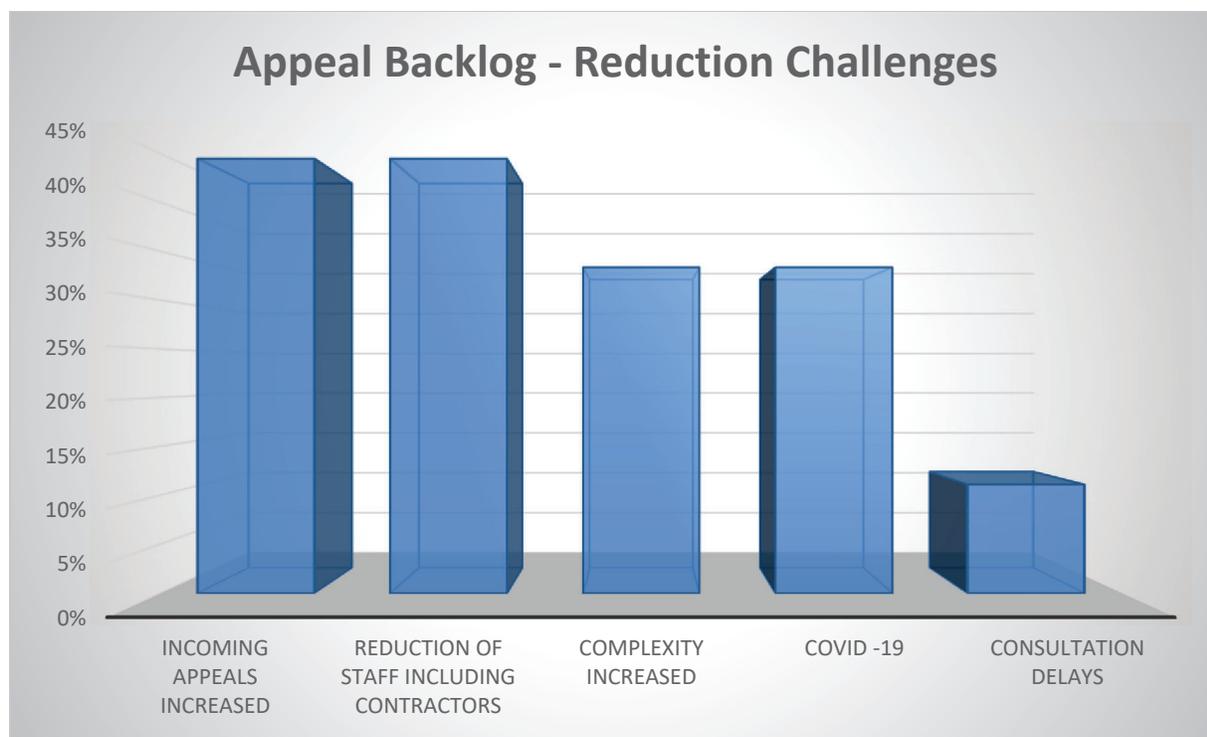


In FY20, 32% of DoD's Components decreased their FOIA backlogs. This is an improvement from last year's 24%.



Nineteen components reported having no decrease for a variety of reasons. The primary reason for a lack of reduction was the increase of incoming appeals. Other reasons include an increase in the complexity of the requests received and COVID-19, followed closely by an increase in overall FOIA-related volume of work. Some of these complexities include the intake process; searches for responsive records; applying exemptions; and the continued issue of the lack of experienced personnel.

DoD FOIA professionals maintain a strong desire to assist the public in their efforts to find records of interest. Technology remains a driving force behind improving FOIA efficiencies; however, temporary setbacks with case processing, such as case management system failures and litigation efforts, diverted valuable resources such as manpower from backlog reduction efforts. More specifically, DoD Components increased litigation efforts by executing additional searches and processing and creating Vaughn Indices and declarations for other DoD Components or agencies in response to litigation driven deadlines. These burdens subject DoD Components to stringent court-ordered timelines. For Components that do not have dedicated FOIA litigation support teams, these litigation support activities takes resources away from regular FOIA processing.



Overall, DoD received 1,025 appeals during the fiscal year. Of the 33 DoD Components, 14 do not process their own appeals because DPCLTD handles the actions for them. Of the remaining 19 Components, 53% report decreases or no appeal backlogs in comparison to 74% reported in FY19. Additionally, the overall DoD appeal backlog increased 7%. The DoD Components experiencing an increase in their appeals backlog (AIR FORCE, DCSA, DHA, DLA, DISA, DTRA, NAVY, NRO, NSA, and OSD/JS) report similar overlapping issues as the request backlogs, namely the complexity and volume increases coupled with staff decreases, as depicted in the chart above.

5.3 Backlog Reduction Plans

At the end of FY20, DoD had eight components with backlogs over 1,000 requests: AIR FORCE, ARMY, CENTCOM, DHA, DIA, NAVY, NSA, and OSD/JS. These eight components initiated plans to reduce the respective backlogs and while AIR FORCE and NAVY saw some reduction in their backlogs, ARMY, CENTCOM, DHA, DIA, NSA and OSD/JS backlogs increased. Seven DoD Components reported that the execution of their backlog reduction plans were complicated by staffing losses, the inability to locate and hire qualified personnel, and difficulties with FOIA case management systems.

DIA developed the FY19 FOIA Backlog Improvement Plan and implemented it starting in February 2019. One of the initiatives captured in the improvement plan focused on professional, team, and organizational training regarding obligations under the FOIA. The most significant initiative of the plan involves transitioning to a FOIA action officer’s ownership of the case, for the entire life cycle of the case. This initiative will move away from the assembly line-based FOIA process and promote ownership and responsibility for individual action officers.

OSD/JS continues to involve senior leadership in their quest to have searches and reviews returned to the FOIA Office at a quicker rate, through bi-annual memoranda sent from OSD/JS senior leadership to other DoD Component senior leadership. OSD/JS also conducted training with component FOIA contacts and Subject Matter Experts.

The AIR FORCE backlog reduction plan includes reviewing its current operations and procedures. It also includes recommendations regarding training and leadership involvement.

CENTCOM is working to expand its FOIA operations to include hiring a number of FOIA specialist positions.

DHA drafted a mitigation plan for reducing the backlog which included detailed roles and responsibilities for team members, as well as follow-up strategies with stakeholders.

5.4 Status of Ten Oldest Requests, Appeals, and Consultations

In FY20, DoD closed zero of its overall the ten oldest requests.

However, many Components were successful in closing some of their ten oldest cases:

- DCSA, DeCA, DFAS, DoDEA, DTIC, EUCOM, and INDO-PACOM closed all of the ten oldest.
- DCMA, DLA, and OSD/JS closed nine of the ten oldest.
- NAVY and TRANSCOM closed eight of the ten oldest.
- AFRICOM, DHA, and NGB closed five of the ten oldest.
- DTRA, NORTHCOM, NRO closed four of the ten oldest.
- SOCOM, STRATCOM closed three of the ten oldest.
- NGA and NSA, closed two of the ten oldest.
- AIR FORCE, CYBERCOM, DIA, JPRA, closed one of the ten oldest.

In FY20, DoD closed one of the ten oldest appeals. Of the 19 DoD Components that process appeals, 14 reported backlogged appeals at the end of FY20.

- ARMY closed all of the ten oldest.
- DCMA closed two of the two oldest.
- DISA closed its only appeal.
- DoD IG closed eight of the ten oldest.
- DLA closed seven of the ten oldest.
- NAVY closed four of the ten oldest.

- AIR FORCE, NGA and NRO closed two of the ten oldest.
- DIA and OSD/JS closed one of the ten oldest.

In FY20, DoD was unable to close any of the Department’s ten oldest consultations. Of the 33 DoD Components, 19 reported no outstanding consultations at the end of FY20. Components that have success in closing some of their ten oldest consultations include:

- AFRICOM closed three of the three oldest.
- TRANSCOM closed two of the two oldest.
- NGB closed two of the three oldest.
- CYBERCOM, DCSA, DISA, INOPACOM, and NORTHCOM closed the oldest request.
- NRO closed nine of the ten oldest.
- NGA and OSD/JS closed eight of the the ten oldest.
- CENTCOM closed five of the ten oldest.
- ARMY, DIA and Navy closed four of the ten oldest
- AIR FORCE closed one of the ten oldest.

During FY20, DoD focused on reducing the overall age of the backlog by concentrating on closing the ten oldest requests, appeals, and consultations. Some offices instituted bi-weekly meetings with appellate authorities to discuss processing efficiencies and applied resources to close more than the 10 oldest, if possible. Some Components actively followed up with status inquiries to sub-components, for estimated dates of completion.

5.5 Additional Information on Ten Oldest Requests, Appeals and Consultations & Plans

As with other challenging areas, the inability to close the remaining open ten oldest requests and consultations were a result of personnel turnover and limited staffing, voluminous cases, records classification status, complex requests, and COVID-19. Furthermore, some DoD Components reported that they were unable to close some of their ten oldest requests because they were awaiting responses from consultations.

ARMY:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 03/14/2015 | 01/01/2020 | 12/01/2020 |

CENCOM:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 09/09/2015 | 06/18/2019 | 11/30/2020 |
| 04/26/2016 | 07/08/2020 | 11/05/2020 |

DIA:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 05/02/2012 | 08/14/2019 | 11/16/2020 |
| 04/22/2014 | 02/50/2015 | 11/16/2020 |

DTRA:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 03/10/2019 | 04/15/2019 | 07/29/2020 |

NORTHCOM:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 02/08/2016 | 06/10/2016 | 07/13/2020 |

NSA:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 10/10/2006 | Unknown | Unknown |
| 02/23/2007 | 11/2018 | 11/2018 |
| 09/12/2007 | N/A | N/A |
| 04/17/2008 | 03/14/2017 | 07/17/2019 |
| 02/23/2009 | 02/03/2020 | 02/03/2020 |
| 11/27/2009 | 041/30/2019 | 02/03/2020 |
| 01/05/2010 | 04/30/2019 | 02/03/2020 |
| 02/25/2010 | 10/18/2018 | 10/18/2018 |

STRATCOM:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 07/26/2018 | 09/17/2018 | 09/11/2020 |

TRANSCOM:

| <u>Date Received</u> | <u>Date consult sent to agency</u> | <u>Date last contacted agency</u> |
|----------------------|------------------------------------|-----------------------------------|
| 08/23/2017 | 09/19/2019 | 09/02/2020 |

The DoD Components that did not close the ten oldest pending requests or consultations comprising the overall DoD oldest cases, described a variety of methods for how they intend to close them. The methods identified include restructuring the responsibilities of FOIA personnel,

closely monitoring metrics, increasing the frequency of status checks as well as continued focus on prioritizing the oldest requests for processing and closure. Personnel are also being augmented where possible. The remaining components with ten oldest pending requests, appeals and consultations described similar strategies for regularly contacting agencies holding these older consultations.

6.0 Success Story

There were numerous activities undertaken by DoD and the DoD Components since March of 2020 to increase transparency. DoD remains steadfast in its administration of the FOIA, commitment to sustainable training, and outstanding customer service. Achieving these important goals across the 33 DoD Components is furthered by purposeful action at all levels.

- NGB was able to streamline its processes and reduce the number of pending FOIA requests from FY19 to FY20 by 16% and the backlog from FY19 to FY20 by 17%. Effective monitoring of workflow and adaptation has increased efficiency and effectiveness, while giving the office the ability to test new processing methods.
- OSD/JS FOIA conducted a FOIA Update and Re-cap to keep the components informed of the processes, the accomplishments, and the goals. Awards were presented to components who reduced their backlogs of taskers and who improved tasker returns from the prior year. During this forum, components were able to articulate their challenges and they have adopted the concept of ONE Team.
- ARMY conducted the 2020 Records Management-FOIA-Privacy and Civil Liberties Virtual Symposium. The symposium was hosted by the Administrative Assistant to the Secretary of the Army (AASA) from 25-27 August 2020. This forum allowed officials from HQDA, Army commands, Army service component commands, direct reporting units, National Guard Bureau, U.S. Army Reserve an opportunity to address Army compliance with DoD and Federal mandates in FOIA, Privacy, and Records Management. In addition to the AASA, DAASA, and numerous other guest speakers, FOIA specific presentations were given by Ms. Joo Y. Chung, OSD, (Director of Oversight and Compliance), Ms. Martha Murphy, (Director, Office of Government Information Services – NARA), LTG Charles N. Pede (HQDA, Office of the Judge Advocate General), and Mr. Luke Moyer (HQDA, Office of the General Counsel).
- DoD IG was forced to reconfigure its operations due to the pandemic and convert to virtual communications and processing. Despite this virtual work environment, DoD IG successfully hired and trained four new Government Information Specialists. In addition to hiring several new employees, DoD IG reduced its backlog by 13%.
- DIA established 4 FOIA Teams, led by a senior FOIA SME, who mentors and guides junior officers and new FOIA apprentices.
- AIR FORCE successfully reduced overall AF FOIA backlog by 12% at the end of FY20. Despite reduction in staffing due to attrition (decrease in contractors, retirement, new positions) and COVID-19 safety measures, the AIR FORCE continued to review all backlogs, conduct backlog reviews, conduct virtual program assessments & training, and

facilitate bi-weekly meetings to ensure the agency put forth its best effort in meeting the reduction goal. With the emphasis on properly closing out requests and engaging FOIA Managers in process improvement discussions, this increased their knowledge base regarding processing and improved communication between all FOIA Offices.

- The 33 DoD Components continue showcasing a commitment to the principles of openness as over 54,500 FOIA requests were processed during FY20. Given the often complex nature of requests submitted to DoD and the extraordinary mission of protecting American assets at home and abroad, it is truly remarkable that over 85% of all received requests were processed in less than 100 days.