

January 31, 2001

Mrs. Pamela Maida
Office of Information and Privacy
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Flag Building, Room 570
Washington, D.C. 20530-0001

Dear Mrs. Maida:

Under the Freedom of Information Act, 5 U.S.C. 552(e), enclosed is the Department of the Interior's annual report of activities for fiscal year 2000. The report also may be found at the following Internet address: <http://www.doi.gov/foia/00anrep.htm>.

If you have any questions regarding the enclosed report, please contact me at (202) 208-5342.

Sincerely,

/s/

Alexandra Mallus
Departmental Freedom of
Information Act Officer

Enclosure

cc: Richard Huff, DOJ (w/o enclosure)
Daniel Metcalfe, DOJ (w/o enclosure)

DEPARTMENT OF THE INTERIOR

Freedom of Information Act 2000 Annual Report (October 1, 1999 - September 30, 2000)

I. Basic Information Regarding Report

A. Questions about the report should be directed to:

Alexandra Mallus
Departmental FOIA Officer
Office of Information Resources Management (OIRM)
Department of the Interior (DOI)
1849 C Street, NW
MS-5312-MIB
Washington, DC 20240
Telephone No.: (202) 208-5342

B. The electronic address for this report on DOI's World Wide Web site is:

<http://www.doi.gov/foia/00anrep.htm>.

C. A copy of this report in paper form may be obtained by contacting the Departmental FOIA Officer (see A, above).

II. How to Make a FOIA Request (see DOI's **Guide for Obtaining Information** which is located at the following Internet address: <http://www.doi.gov/foia/foia-guide.htm>).

A. FOIA requests should be submitted to the FOIA contact at the bureau/office where the records are maintained. If it is unclear where to send the request, contact the Departmental FOIA Officer. A list of DOI's FOIA contacts may be found at the following Internet address:
<http://www.doi.gov/foia/contacts.html>.

B. While 18 may reflect the median number of days to process a request in DOI (see Line VII.A.1.b.), the timeframes in a large, highly decentralized organization, such as DOI, are often longer than they would be in a small, centralized agency. In DOI, the response time varies considerably depending on the existing workload, the complexity of the request, the volume of responsive records, and the need to consult and coordinate with other bureaus/offices and agencies.

C. DOI makes records available to the public unless the information is protected by one or more of the nine specific FOIA exemptions and disclosure is either prohibited by statute or Executive order, or disclosure could potentially result in harm to an individual, a commercial entity, or the Government (see 43 CFR § 2.16(c)(2) and § 2.21).

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms. N/A

B. Basic terms, expressed in common terminology.

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report).
2. Initial Request -- a request to a Federal agency for access to records under the Freedom of Information

Act.

3. Appeal -- a request to a Federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. Multi-track processing -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.
8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 statute -- a separate Federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median number -- the middle, not average number. For example, of 3, 7, and 14, the median number is 7.
16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

A 1. and 2. List of Exemption 3 statutes relied on by DOI during current fiscal year with a brief description of the type of information withheld under each statute, and a statement of whether a court has upheld the use of each statute.

a. Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470hh(a).

1) Used to withhold the location of archaeological sites, maps showing archaeological site locations, and specific archaeological site data from a cultural resources inventory.

2) DOI is not aware of any court cases upholding the use of this statute.

b. Federal Cave Resources Protection Act of 1988, 16 U.S.C. § 4301.

1) Used to withhold information concerning the location of caves and site specific information relating to Karst invertebrates in caves.

2) DOI is not aware of any court cases upholding the use of this statute.

c. National Defense Authorization Act For Fiscal Year 1997 (contains a provision which amends the Federal Property and Administrative Services Act of 1949 (41 U.S.C. § 253b)).

1) Used to withhold certain contract proposals.

2) DOI is not aware of any court cases upholding the use of this statute.

d. National Parks Service Omnibus Management Act of 1998 (16 U.S.C. § 5937).

1) Used to withhold the location of endangered species.

2) Pertinent litigation:

(i) Southwest Center for Biological Diversity v. Department of Agriculture, No. Civ. 98-1022-PHX-SMM (D. Ariz. Sept. 28, 2000) (determining that section 207 of the National Parks Omnibus Management Act of 1998 is an exemption (3) statute that protects all information in Forest Service records that identifies the location of goshawk nest sites located within one square mile of a National Park boundary); and

(ii) Pease v. United States Dep't of Interior, No. 1:99CV113, slip op. at 2, 4 (D. Vt. Sept. 17, 1999) (finding that the agency properly withheld, pursuant to exemption (3) (section 207 of the National Parks Omnibus Management Act of 1998), "certain information pertaining to the location, tracking and/or radio frequencies of grizzly bears" in the Yellowstone National Park ecosystem).

e. Endangered Species Act (16 U.S.C. §§ 1531-34).

1) Used incorrectly to withhold specific site locations for pygmy owls.

2) Pertinent litigation:

National Association of Home Builders of the United States v. United States Department of the Interior: Fish and Wildlife Service, Civil Action No. 99-1923 (D.D.C. Sept. 2, 2000) (holding that section 1533 of the Endangered Species Act is not an exemption (3) statute and the agency could not withhold information about the pygmy owl on that basis. However, the court upheld the agency's withholding, pursuant to exemption (6), of the names and addresses of private individuals and the locations of public parcels of land that are home to pygmy owl nesting sites).

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year 596*
2. Number of requests received during current fiscal year 5,161
3. Number of requests processed during current fiscal year 4,966
4. Number of requests pending as of end of current fiscal year 791

(*NOTE: Although DOI indicated in the Annual Report for FY 99 that there were 591 requests pending at the end of the fiscal year, the figure denoted is correct. The [+5] difference is due to an error in accounting.)

B. Disposition of initial requests.

1. Number of total grants 2,937
2. Number of partial grants 761
3. Number of denials 177
 - a. Number of times each FOIA exemption used (counting each exemption once per request)
 - (1) Exemption 1 0
 - (2) Exemption 2 23
 - (3) Exemption 3 16
 - (4) Exemption 4 149
 - (5) Exemption 5 299
 - (6) Exemption 6 419
 - (7) Exemption 7 (A) 31
 - (8) Exemption 7 (B) 6
 - (9) Exemption 7 (C) 83
 - (10) Exemption 7 (D) 0
 - (11) Exemption 7 (E) 13
 - (12) Exemption 7 (F) 1
 - (13) Exemption 8 0

4. Other reasons for nondisclosure (total) 1,324

a. no records	<u>569</u>
b. referrals	<u>288</u>
c. request withdrawn	<u>140</u>
d. fee-related reason	<u>143</u>
e. records not reasonably described	<u>58</u>
f. not a proper FOIA request for some other reason	<u>36</u>
g. not an agency record	<u>50</u>
h. duplicate request	<u>24</u>
i. other (specify)	<u>16</u>
	<u>13</u>
- Denied under the Privacy Act (5 U.S.C. 552a(d)(5))	
	<u>1</u>
- Records illegible	
	<u>1</u>
- Record requested was publicly available	
	<u>1</u>
- Documents under Federal Court protective order	

VI. Appeals of Initial Denials of FOIA/PA Requests.

A. Numbers of appeals.

1. Number of appeals received during fiscal year 277
2. Number of appeals processed during fiscal year 266

B. Disposition of appeals.

1. Number completely upheld 29
2. Number partially reversed 40
3. Number completely reversed 6

- a. Number of times each FOIA exemption used (counting each exemption once

per appeal)

(1) Exemption 1	<u>0</u>
(2) Exemption 2	<u>5</u>
(3) Exemption 3	<u>1</u>
(4) Exemption 4	<u>10</u>
(5) Exemption 5	<u>25</u>
(6) Exemption 6	<u>27</u>
(7) Exemption 7(A)	<u>6</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>7</u>
(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>0</u>
(12) Exemption 7(F)	<u>0</u>
(13) Exemption 8	<u>0</u>
(14) Exemption 9	<u>1</u>

4. Other reasons for nondisclosure (total) 102

a. no records	<u>47</u>
b. referrals	<u>5</u>
c. request withdrawn	<u>19</u>
d. fee-related reason	<u>16</u>
e. records not reasonably described	<u>3</u>
f. not a proper FOIA request for some other reason	<u>3</u>
g. not an agency record	<u>2</u>
h. duplicate request	<u>0</u>
i. other(specify)	<u>7</u>
-Appeals closed because	<u>3</u>

appellant sued & issues
in appeal addressed
in litigation

-Old appeals - tried to contact 2
appellant regarding further
interest, no longer at given
address

-Appeals for expedited processing 2
denied

(NOTE: 89 appeals were closed because records were subsequently released, responses were subsequently provided, or due to moot issues.)

VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year.

1. Regular requests

a. number of requests processed 4,966

b. median number of days to process 18

2. Requests accorded expedited processing

a. number of requests processed 8

b. median number of days to process 12

(NOTE: DOI does not use multitrack processing at this time.)

B. Status of pending requests.

1. Number of requests pending as of end of 791
current fiscal year

2. Median number of days that such requests were 22
pending as of that date

VIII. Comparisons with Previous Year(s) (Optional)

A. Comparison of numbers of requests received

- 9% decrease from FY 1999

B. Comparison of numbers of requests processed

- 11% decrease from FY 1999

C. Comparison of median numbers of days requests were pending as of end of fiscal year

- 27% decrease from FY 1999

D. Other statistics significant to agency - Not Available

E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog - reduction efforts, specification of average number of hours per processed request; training activities; public availability of new categories of records):

- The Department and the bureaus continue to enhance their FOIA home pages making more information available on-line. This has contributed to a decrease in the number of FOIA requests received by some bureaus.
- The Department initiated a DOI-wide FOIA tracking system pilot project. The pilot began October 1, 2000, and is scheduled to run through March 31, 2001. At the end of that period, bureaus/offices will have the option of continuing the pilot for an additional 18 months.
- Most bureaus/offices now accept and respond to FOIA requests electronically--several bureaus have developed an on-line form which the public can use to submit their requests to the bureaus electronically.
- In December, the Department and the Office of the Solicitor (SOL) provided FOIA/Privacy Act/Records training to employees at headquarters. In March, the Department conducted specialized training for employees attending the American Society of Access Professionals Western Symposium.
- During FY 2000, the Department provided assistance to the Bureau of Indian Affairs (BIA), the National Park Service (NPS), and the Bureau of Reclamation (BOR) in conducting FOIA/Privacy Act training for their employees in the field.
- SOL continues to hold brown bag lunches periodically for its attorneys, both in headquarters and in the field, and Departmental personnel working in the area of information access law--pertinent FOIA/Privacy Act issues are discussed.
- BIA, Central Office, is now using a database program to track FOIA requests. This has helped the bureau manage the program more effectively.
- In July, BIA conducted Bureau-wide FOIA/Privacy training for its employees in Tulsa, OK--over 120 employees attended.
- In November, the Fish and Wildlife Service (FWS) conducted training for its Regional FOIA Officers in Williamsburg, VA. The bureau also provided FOIA/Privacy/Records training to its employees in Hadley, MA, in August 2000.
- FWS assigned an additional part-time FTE to the FOIA program allowing the bureau to provide more detailed FOIA guidance to its program offices and regions.
- To reduce the existing backlog, the NPS FOIA Officer worked with program offices in the Washington area, one-on-one, and provided guidance for responding to FOIA requests. Similar efforts were undertaken by NPS' Regional FOIA Coordinators.
- In July, the NPS, Inter-Mountain Regional Office, conducted training for its employees at Glacier National Park.
- The FOIA Officer, Office of the Secretary, developed "sample language" to be used in responding

to FOIA requests (shared with other bureaus/offices).

- The FOIA Officer, Office of Surface Mining, worked with regional and field offices to ensure that requests are processed correctly and on time. Increased use of OSM's Correspondence Tracking System in FY 2000 and the regional offices' capability to enter incoming requests into the system has improved the efficiency of the FOIA program and reduced FOIA response time.

- In March, BOR conducted FOIA training for its employees in Denver.

IX. Costs/FOIA Staffing.

A. Staffing Levels.

1. Number of full-time FOIA personnel 20
2. Number of personnel with part-time or occasional FOIA duties (in total work years) 111
3. Total number of personnel (in work years) 131

B. Total Costs (including staff and all resources).

1. FOIA processing (including appeals) \$5,044,570
2. Litigation-related activities (estimated) \$146,356
3. Other administrative costs
4. Total costs \$5,190,926
5. Comparison with previous year(s)
 - 3% decrease from FY 1999

C. Statement of additional resources needed for FOIA compliance -

-Additional resources are needed throughout the Department to ensure total compliance with the FOIA. This is especially true in the bureaus where FOIA is handled as a "collateral duty." Bureaus/offices are receiving increasingly complex and voluminous requests, many of which require coordination with other components in DOI and other Federal agencies. Such requests take longer to process--as a result, the Department's FOIA backlog has increased. In addition, the increase in appeals and litigation, new Privacy Act requirements, and coordination efforts relating to the implementation of E-FOIA have added to the existing workload burden. Given existing staff, it is difficult to ensure appropriate oversight of the FOIA program. Additional FTEs should be provided for the FOIA program both at the Department level and the bureau level. In some bureaus, there has been a significant turnover in FOIA personnel. Many of the new FOIA Coordinators have received little if any FOIA training. Time and money are needed to bring coordinators up to the appropriate level of expertise. Finally, funding is needed to develop, implement, and maintain a web-based, multi-user, DOI-wide FOIA tracking system. Funding is also needed to ensure that bureaus/offices have the technology they need to manage the FOIA program effectively.

X. Fees

A. Total amount of fees collected by agency for processing \$123,985 requests

B. Percentage of total costs 2%

XI. FOIA Regulations (Including the Fee Schedule)

A copy of DOI's FOIA regulations, including the fee schedule (43 CFR Part 2, Subparts A & B) may be found at the following Internet address: <http://www.doi.gov/foia/foiaregs.html>. A copy of the regulations in paper form may be obtained by contacting the Departmental FOIA Officer (see I. A., above). Please note that DOI's FOIA regulations are in the process of being revised.



- [Click here to view previous DOI FOIA Annual Reports](#)