Department of Defense

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

For 2019

Preparation of this study/report cost the DoD approximately $30,000 for the 2019 Fiscal Year

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2019 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, 2018 to March 12, 2019.

I am pleased to submit the 2019 Department of Defense (DoD) Chief FOIA Officer Report to the Department of Justice. As the Acting Chief Management Officer for DoD, I am the senior advisor to the Secretary of Defense and the Deputy Secretary of Defense on business transformation and lead the Department's efforts to streamline business processes and achieve greater efficiencies in management, headquarters, and overhead functions. I also serve as the DoD Chief FOIA Officer, and in that capacity, have continued 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 Chief Management Officer 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 FOIA 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 each component while providing the best quality customer service possible.

During Fiscal Year (FY) 2018, DoD Components processed over 54,000 FOIA requests, and 89% of *all* received requests in FY18 were processed in less than 100 days. DoD Components remain attuned to public interest with 45% of the Components closing all of their ten oldest requests, and the DoD was able to decrease its overall appeals backlog by 2% this fiscal year.

The 2019 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 are helping requesters better track requests, monitor progress towards case fulfillment, and find 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. The most cited methods are concentrated on case management system upgrades and modifications coupled with certain key process and programmatic centralization efforts.

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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Lisa W. Hershman
Acting Chief Management Officer

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
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
DSS	Defense Security Service
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-Pacfic 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

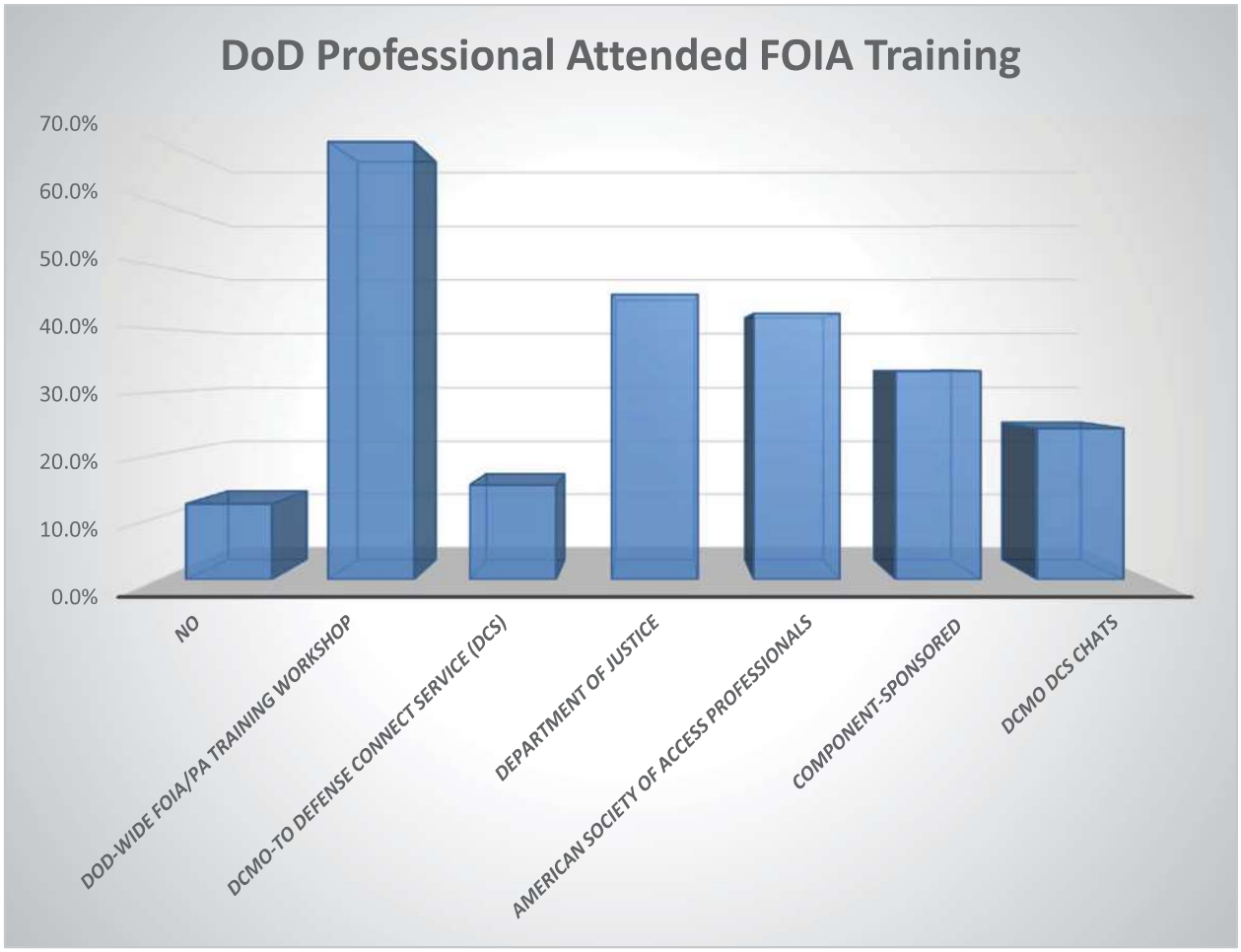
The DO&C is the office within DoD responsible for FOIA policy as well as encouraging and promoting FOIA and Privacy Act (PA) training within the Department. In this capacity, the DO&C conducts in-person FOIA/PA compliance workshops and virtual training. During this reporting period, DO&C conducted two three-day FOIA/PA compliance workshops featuring 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.

- The three-day workshops were held in the National Capitol Region (NCR) and in Europe in the spring of 2018. The target audiences for the first workshop were DoD FOIA professionals and attorneys in the NCR and on the Eastern seaboard. The target audiences for the workshop in Europe were the DoD FOIA professionals and attorneys based in Europe and other locations abroad. In total, there were 455 DoD FOIA professionals and attorneys who attended the workshops.

- For 2019, the DoD will hold two three-day FOIA/PA compliance workshops; one will be held at MacDill Air Force Base in Tampa, FL (May 2019), and the other at Scott Air Force Base, IL (August 2019).

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 for uploading previously recorded material from the Defense Collaboration Services (DCS) and is the current platform upon which DOJ's Office of Information Policy (OIP) FOIA training videos are hosted.

During this reporting period, over 85% of DoD FOIA professionals received formal FOIA training. Over half of the DoD Components sent representatives from their FOIA professional staff to the DoD-wide FOIA/PA Training Workshop and to the DO&C DCS training. Over 45% of the Components sent personnel to DOJ's OIP training, as well as the American Society of Access Professionals training. Most of the DoD Components also hosted internal training for their own personnel. The components that did not send their personnel for training this year were balancing funding and personnel turnover.



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 Air Force conducted annual FOIA Computer Based Training testing and provided training during bi-weekly teleconferences. It also conducted periodic DCS training as well as and FOIA training for its legal staff. After the DoD FOIA/Privacy Workshops, the Air Force provided breakout sessions, which provided Air Force personnel training that was specific to the Air Force.

- Numerous Army commands have internal FOIA training programs including the Intelligence and Security Command (INSCOM). A select group of INSCOM FOIA personnel provided FOIA training to personnel in Europe and Stateside. The Installation Management Command (IMCOM) continued providing training at the "FOIA Academy," which provides detailed training on IMCOM policy and procedures.

- OSD/JS conducted trainings with several sub-components to provide techniques and new procedures that would assist in speeding up the search and review process for records.

- DHA provided FOIA Response Training, which is a general overview of the Freedom of Information Act, focusing particularly on the FOIA process within DHA as it relates to the FOIA Service Center and the management of contractual information.

- DLA, NGA, NORTHCOM, NRO and NSA all offered comprehensive training to their FOIA professionals and taught on subjects such as component policies and case processing procedures while also covering FOIA challenges and openness in government.

- NSA also hosted brown bag sessions inviting personnel from the NSA Declassification Services Division to share its knowledge. The topics included the development of a new Declassification Guide, as well as discussions about reviewing older Agency records. It also provided training on its FOIA/PA case management system whenever updates occurred throughout the year.

1.2 Outreach

The OSD/JS staff continues to provide the DoD representative to the FOIA Federal Advisory Committee, which is a public forum for FOIA requesters and professionals to discuss ideas and concerns. The Committee is composed of ten government and ten non-government members, supported by the Office of Government Information Services, and governed by the provisions of the Federal Advisory Committee Act, as amended 5 U.S.C. App. The Committee studies the current FOIA landscape across the Executive Branch and may recommend legislative action, policy changes or executive action.

Throughout the year, 82 % of the DoD Components reported no engagement in formal outreach activities with the requester community. However, 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 information requested from them lends itself 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. For instance, DISA and DTIC communicate with requesters via email and telephone conversations to discuss their agency's FOIA process and respond to inquiries.

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

- NGA participated in the FOIAXpress Conference and ASAP training. Both the trainng and the conference gave NGA opportunities to connect with the requesters. NGA plans to creatie a survey where requesters have the ability to provide feedback on its customer service.

- 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.

- DoDEA worked with the FOIA Public Liaison to arrange a meeting with a frequent requester to discuss the capabilities of one of their programs concerning their students.

- OSD/JS met with a frequent requester that had over 100 FOIA requests pending in its office. It discussed with the requester how it could prioritize the requests and provide the requester with answers in a more expedient fashion. OSD/JS continues to have a positive relationship with the requester community.

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.

Similiar 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 the subject matter experts (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 – in terms of the law, and the particular agency policies – in terms of practical application.

For instance:

- JPRA provided uniform guidance, primarily to archivists and SMEs, which clearly outlines proper search procedures, requirements for line-by-line reviews, appropriate application of exemptions, and referral and consultation procedures.

- Senior leaders within the Air Force Office of the Chief Information Officer sent messages to all leaders to reaffirm the Air Force 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.

- CENTCOM conducted quarterly meetings on FOIA policies and EUCOM conducted annual FOIA training to SMEs and POCs.

- CYBERCOM provided desk-side training to all of its Action Officers. DSS, NORTHCOM, and TRANSCOM provided FOIA training to all new employees and refresher training on an annual basis.

- NSA provided a FOIA overview to its Public Affairs Office and its Interagency Engagement Office (which works with the White House and NSC).

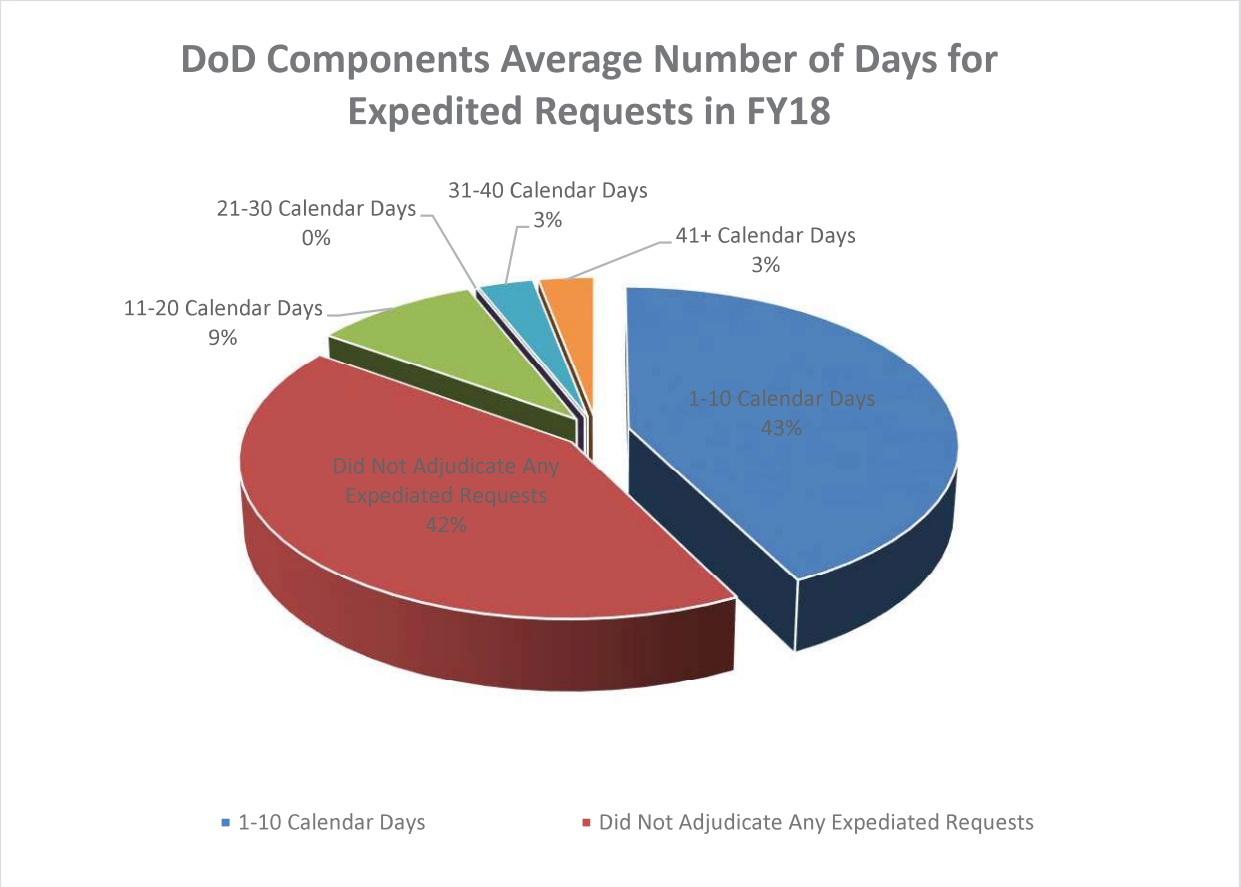
Another DoD initiative is to ensure the presumption of openness is being applied throughout the agency. Some examples of these intiatives are as follows:

- DeCA works closely with requestors to ascertain what information they are most interested in and then attempt to make such information part of proactive disclosure postings. These records are available at:
    - https://commissaries.com/our-agency/business-with-deca/contracting/recently-awarded-contracts
    - https://commissaries.com/our-agency/FOIA/FOIA-Electronic-Reading-Room
- STRATCOM's FOIA Manager ensures SMEs understand that FOIA is a releasing statute, not a withholding statute, and to ensure its SMEs comply with the statutory requirement to reasonably segregate releasable from non-releasable information. The Army FOIA Office continues to emphasize the importance of openness, timely processing and responses to requests by issuing guidance, assessing FOIA Offices throughout the Army, and advising leadership of program requirements.
- DCAA publishes reports to its public website that provide insight into the Agency's mission and accomplishments. This year the "Report to Congress" and "DCAA's Strategic Plan 2016-2020," were posted on line.
    - http://www.dcaa.mil/strategic_plan.htm
    - http://www.dcaa.mil/report_to_congress.html
- TRANSCOM is in the process of redesigning its website and SharePoint site to make it more user friendly. It has also updated its FOIA status page to provide more in depth status information and consistently contacted its requesters to educate them on FOIA procedures.
    - https://www.ustranscom.mil/foia/request-status.cfm.
- The Air Force routinely publishes records released under the FOIA to its FOIA Library, except for privacy specific responses. During this reporting period, 245 new records were added to the Air Force FOIA library.

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

2.1 Processing Procedures

For FY18, the average number of days reported for adjudicating requests for expedited processing in DoD was 5.7 days. Of the 33 Components, 42% reported not adjudicating any requests for expedited processing, while 43% reported adjudicating requests within an average of 10 calendar days, a decease from the previous year. Only five components did not adjudicate these requests within an average of 10 calendar days, and this was attributed to human error, systemic issues with FOIAonline 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.



Additionally, 73% of the DoD Components report conducting some form of self-assessment of their FOIA programs. For example, DoD IG has a unique approach in analyzing request data on a weekly basis and running metric comparisons against previous year data which includes FOIA analyst queues, oldest 40 cases, and outstanding consultations. The leadership encourages analyst feedback and specifically sets aside time at the end of the fiscal year to exchange verbal self-assessments of the program.

The most popular methods of self-assessing FOIA programs in the DoD are case tracking software assessments and continuous process improvement (CPI) style initiatives where staff members are encouraged to suggest and implement improvements and streamlining opportunities.

For instance:

- The past three years DISA has conducted an ongoing review of its FOIA Program to identify areas where it can improve the processing of FOIA responses. The FOIA Office has also worked with developers to create a new software tracking tool to aid in its review. As a result of its efforts, progress has been made in reducing its backlog and the time for processing incoming requests.

- Navy conducted an audit of tits participation in FOIAonline, which has led to FOIAonline providing regular updates on all cases processed. This is in addition to a regular self-assessment by Components conducted on a weekly, monthly, and quarterly basis concerning trends in productivity, performance of individual workers, and inefficiencies in process.

- DFAS continues to use the Managers' Internal Control Program for implementing its ongoing self-assessments. DFAS created high level and business level process maps for FOIA program key processes which includes key objectives, associated risk, non-key and key controls, test controls and desktop instructions. Its assessments include key controls for daily, weekly, and monthly basis reporting.

- The Army uses annual report data and status reports generated by the Army's Freedom of Information Act Case Tracking System to measure progress.

- CENTCOM, in the course of its self-assessment, updated the Command FOIA Processing Guide along with conducting weekly reviews of the ten oldest cases.

- DCAA has undergone a FOIA processing consolidation so that all review is executed at the headquarters, and it updated the processing guide to more clearly articulate changes.

- DHA took an in-depth look at overall functionality, to include processes and procedures. As a result, DHA implemented a plan of action and milestones to improve problem areas identified during a compliance review. DHA also reviewed and improved existing policies and procedures, implemented new procedures to improve accuracy and efficiency, and analyzed historical data to help determine potential output capabilities.

- DIA continued its best practice of a quality review of all the open cases at the start of the year to ensure that all cases were moved to the right processing step. It also verified continuity of its FOIA program via established Internal Control Procedures and reported findings.

- INDO-PACOM conducted a self-assessment against the case tracking database by executing a thorough scrub of data entry comparisons to case files, and ensuring workflow and track management were accurately captured.

- DoDEA implemented the DOJ toolkit and reviewed quarterly reporting data from its divisions.

- Air Force continued to conduct backlog reduction reviews with all FOIA offices that did not meet the 10 percent reduction goal and obtained backlog reduction plans from those FOIA offices and tracked the monthly process of those plans.

- EUCOM republished its official EUCOM Instruction (ECI), which provides procedural details to assist with each section's responsibilities with FOIA. EUCOM also created FOIA monitors from each directorate that receive annual training and assist the SMEs with search and review.

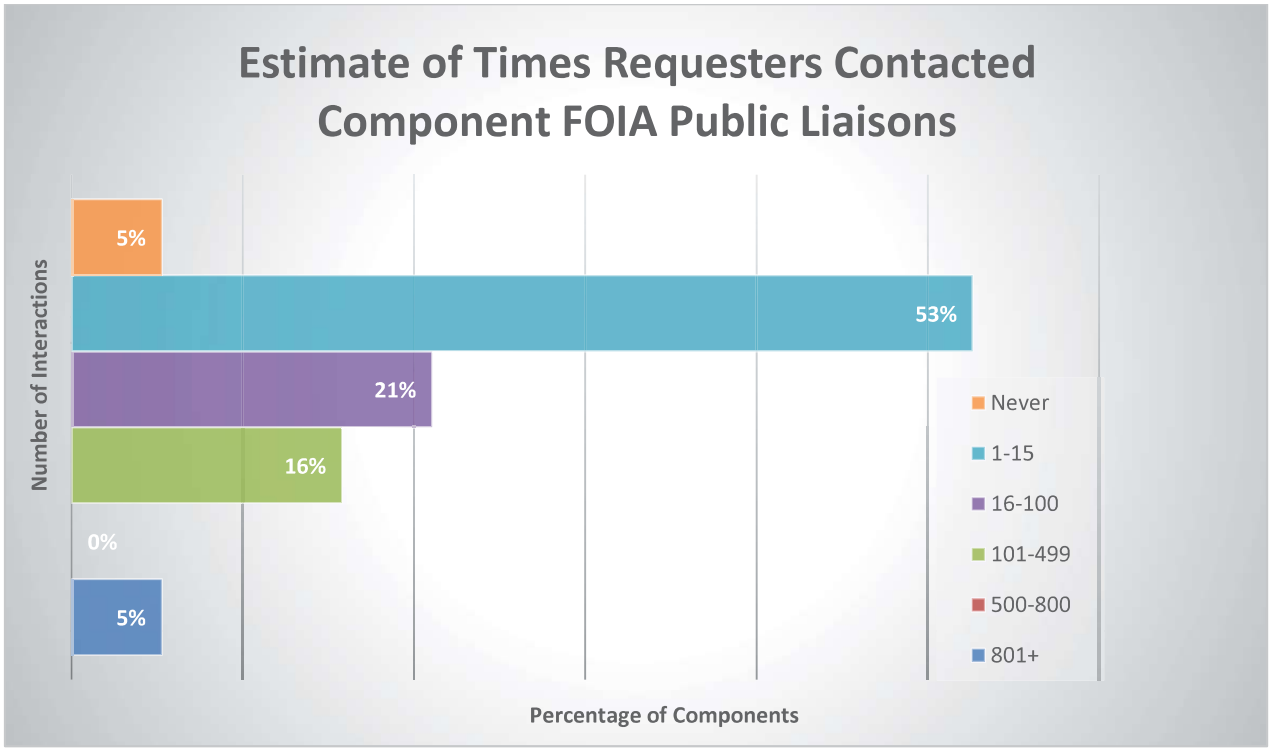
- OSD/JS reviewed its workflow and continues to look for opportunities to update procedures and improve efficiencies. It established working groups to create and re-work standard operating procedures and templates.

- Finally, NRO, DoD IG, NORTHCOM, DTRA, INDO-PACOM, NGA, TRANSCOM, SOCOM, AFRICOM, DTIC, DLA and DSS all report CPI activities, using tools such as FOIAonline, the Annual report and the OIP FOIA Self-Assessment toolkit to review internal processes and identify potential areas for improvement.

2.2 Requester Services

All the DoD Components make their 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 contact information is also included in response letters to requesters. Additionally, some Components provide an anonymous feedback mechanism through online surveys.

The chart below indicates the frequency of FOIA requesters contacting FOIA Public Liaisons for assistance throughout FY18.



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 1,000 interactions, including the shared FOIA Public Liaison, during this reporting period.

2.3 Other Initiatives

DoD Components report a variety of initiatives and steps undertaken to ensure that their FOIA systems are operating efficiently and effectively. Improving the centralized systems previously initiated, updating tools and formally implementing overhauled processes from previous reporting periods top this year's list of consistently improving efficiencies. As noted above, the DoD FOIA program operates on a federated model but some of the Components are continuing to focus on efforts to internally centralize key systems.

For example, DHA held meetings and coordinated with its stakeholders to either implement or update procedures to improve response times. These efforts included: hosting stragetic planning meetings with subComponents and providing desk-side training as needed, establishing a shared mailbox specifically for tracking appeals correspondence, coordinating with program offices and designated FOIA POCs to assist with records searches, and developing FOIA training detailing the processes and procedures for responding to FOIA requests. DHA's goal is to ultimately define and implement DHA policies and procedures that will be applicable to all DHA Components and will focus on eliminating redundancy and improving efficiency.

Additionally, DTRA now utilizes FOIA Express on the unclassified and classified network. This change helps to eliminate redundancy and facilitates any needed redactions. DISA also has created a new software case tracking tool, which it continues to update to meet its FOIA processing needs.

Other highlights include:

- EUCOM republished the EUCOM FOIA Instruction, which now has adjustments to its internal routing procedures that helps expedite the routing to the IDA for signature.

- INDO-PACOM streamlined the review process by conducting in-depth analysis of the information being requested and makes release recommendations to the SMEs and to the release authority.

- CENTCOM established a working group to review workflow processes, eliminate redundancies in methodologies, formulate records search consistency, review standardize/specialized software for proper redaction requirements, and review governing policy.

- STRATCOM provided its FOIA Manager with privileged access to entire command's unclassified and classified restricted and limited access electronic folders. This has greatly reduced the reliance on individual directorates/divisions/branches to conduct thorough records searches. Having this type of access also identifies ownership of records for SME FOIA reviews.

- TRANSCOM 's new FOIA Program Manager removed and replaced redundant procedures and updated the administrative status page. Other intitiatives the TRANSCOM FOIA Program Manager is undertaking include revising command FOIA search and review processes and updating the website.

- DoD IG met with component Senior Officials on a quarterly basis to discuss the improvement of the search process and the easiest way to provide documents to the FOIA

office for review and eventual release. DoD IG reviewed case files at each stage of the process to ensure accuracy and efficiency in processing.

- OSD/JS is purchasing extra licenses for its FOIA case tracking system and redaction software to share with its Components to improve efficiency. Some of the OSD/JS Components (SME offices) use different redaction software which means that OSD/JS action officers have to re-redact when records are provided to their office. Giving the Components access to this software and training them to use it eliminates this re-work. Additionally, OSD/JS has given their Components access to their FOIA tracking system so that they will have ready access to the number of cases tasked to them which have gone unanswered. This eliminates the need to continue to provide updated lists to the Components.

- Finally, all DoD Components are participating in a working group to establish and accept an enterprise-wide FOIA case management standard process, which if successful will provide consistency in how DoD FOIA offices track cases, maintain records, and produce reports, leading to overall greater efficiency and the reduction of the FOIA backlog. This working group, in addition to the highlights above, shows that DoD Components are open to trying new approaches that will streamline their overall process and are committed to long-term process improvement.

3.0 Steps Taken to Increase Proactive Disclosures

3.1 Posting Material

With respect to making and improving proactive disclosures of information, DoD Components have taken these actions:

- DIA proactively posts news articles about DIA sponsored or attended events, articles about DIA, Congressional speeches and testimonies on its website: www.dia.mil/News/Speeches-and-Testimonies and http://www.dia.mil/News/Articles%20www.dia.mil/News/DIA-in-the-News/

- Army reports releases related to monthly Court-Martial Results of Trial, Army 15-6 Investigations and military insignia documents, https://www.foia.army.mil/readingroom/index.aspx.

- The DCAA website, www.dcaa.mil, contains information to assist stakeholders and provide general information to the public. This information includes audit guidance documents and checklists to help businesses prepare for DCAA audits. DCAA has also posted the outside auditor's review of DCAA's financial statements

- NRO has a number of proactive releases on a wide variety of topics, http://www.nro.gov/whatsnew.html.

- ASBCA proactivly posted over 400 opinions and significant orders in FY18, http://www.asbca.mil/Decisions/decisions2017.html.

- DeCA proactively posted detailed commissary sales information and FY18 cumulative sales, on its FOIA reading room website. https://www.commissaries.com/node/1840

- The Air Force proactively disclosed a variety of subjects on its FOIA reading room website, http://www.foia.af.mil/Library/, including aircraft accident reports, historical reports, contracts, mission reports, audit reports, radar reports, FOIA logs, FOIA annual reports, organizational charts, phone books/directories, FOIA training material, policy, guidance, flight operation, unit history, and historical honors.

- NSA reports posting rolling releases related to a FOIA litigation case regarding Inspector General reports. NSA also posted several editions of the "New Wave" publication: https://www.nsa.gov/resources/everyone/digitalmedia-center/publications/the-next-wave/. The NSA Inspector General has created its own website to include unclassified reports: https://oig.nsa.gov. Finally, NSA has published on the topic of Cybersecurity: https://www.nsa.gov/what-we-do/cybersecurity.

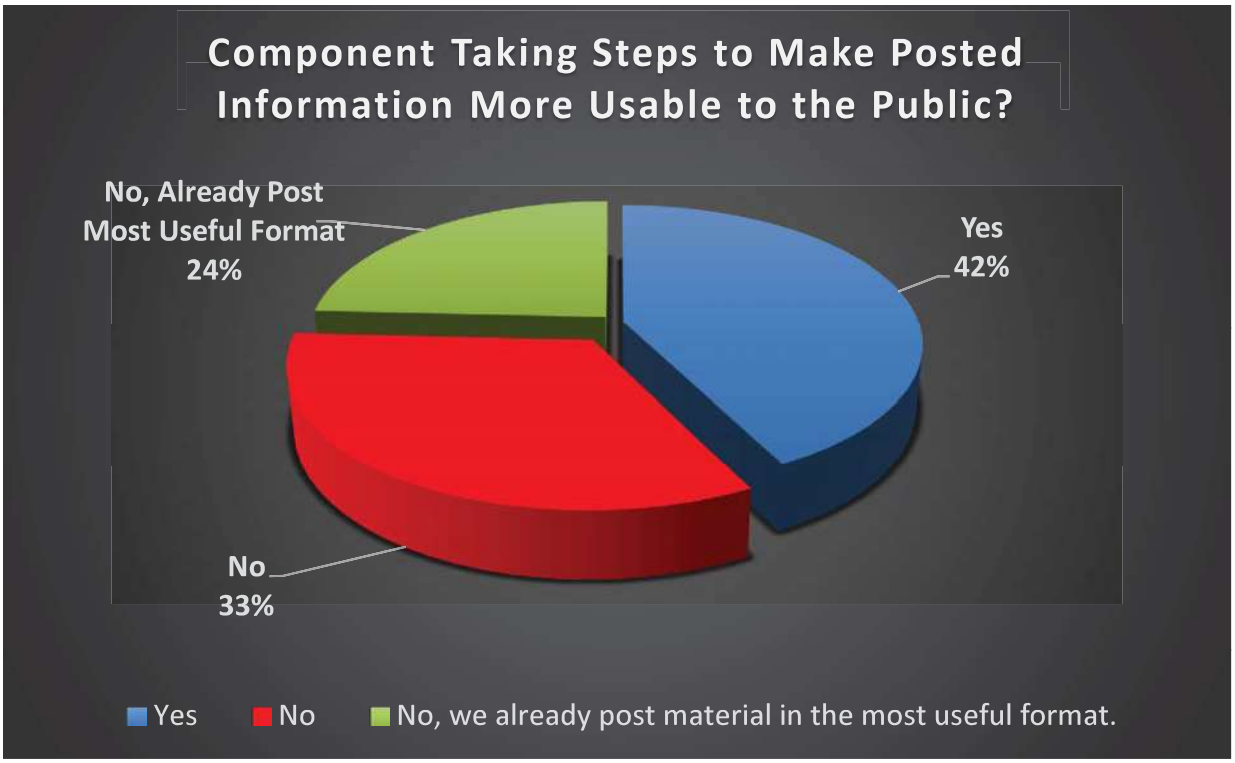
- DLA reports regular proactive disclosures, on subjects such as ammunition codes, CAGE codes and Master Requirements Data. http://www.dla.mil/HQ/InformationOperations/LogisticsInformationServices/FOIAReading.aspx.

- DSS reports proactive releases through several of its Directorates, including Counterintelligence, http://www.dss.mil/ci/index.html.

- AFRICOM reports proactive releases on transcripts and other senior leader engagements, http://www.africom.mil/media-room/transcripts.

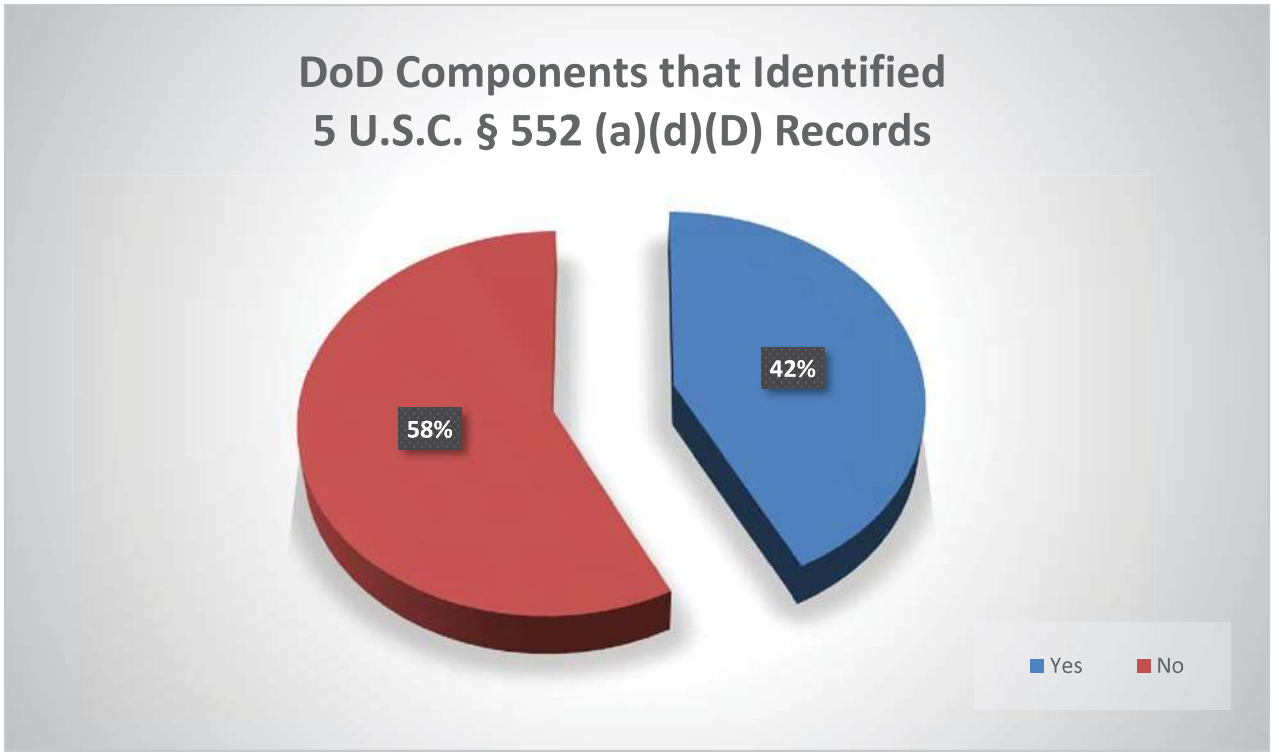
During the reporting period, many DoD Components publicized and highlighted these important disclosures for public awareness. DoD IG offers an email subscription service for notification of new postings. DoDEA creates specific webpages if there is a crisis at a particular school so that the relevant material is consolidated in one location. 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.

Additionally, component Public Affairs offices highlight important releases through regular media events and publications. Most Components also report that they are either already posting information in the most useful format or taking active steps to make the posted information more useful to the public, particularly to the community of individuals who regularly access the sites.



DoD IG has a policy to actively review reports for proactive release. They post at least the title and report number for classified reports - unless the title itself includes classified information. DoD IG has been recognized by non-governmental oversight entities for this policy. Finally, every DoD IG report published on the agency website is also published on oversight.gov to increase visibility. Several DoD Components such as DFAS, NGA, DoDEA, DeCA and DCAA have engaged with the requester community to receive assistance and feedback in determining what to post.

Since FY17, DoD Components actively taking steps to make posted material more useable to the public have increased from 38% to 42 % for FY18. This increase is partially attributed to the extra effort that Components have taken to proactively disclose information and make it readily available to the public.



Finally, in addition to the increase of posting usuable material, approximately 42 % of DoD's Components identified records that were proactively disclosed pursuant 5 U.S.C. § 552 (a)(d)(D). These are records that have been requested and released 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 Officers' personal knowledge of previous requests.

3.2 Other Initiatives

Outside of the techniques and methods discussed above, DoD Components also mention practices such as reaching out to requesters to determine what to post, encouraging offices to proactively post material they have determined is clearly releasable to the public, and giving FOIA managers the authority to post directly from their program offices.

4.0 Steps Taken to Greater Utilize Technology

4.1 Leveraging Technology

DoD is committed to making its electronic and 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. Thoughout the year, all DoD Components were encouraged to ensure that FOIA websites are working and are in compliance. DoD Componets were also encouraged to review and ensure that websites are compliant with OIP's Guidance concerning FOIA websites, including but not limited to a clear link to the Components homepage and ensuring the FOIA homepage contains key information and available resources.

In FY18, aproximately 60% 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. DISA, for example, is updating its newly created FOIA tracking database to enhance retrieval and sorting capabilities. 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. Many Components have also shifted to document sharing platforms so that there is greater ease and faster exchange for consultations and referrals.

Some Components are exploring or implementing central repositories so that FOIA professionals can execute searches without awaiting subcomponent or SME search execution. Components report successful partnerships in the efforts which require close cooperation with records management officials. Air Force, NGA and NSA, for example, have worked with their records management officials and IT divisions to incorporate electronic records management technology that will improve their search capabilities. Several Components reported working with their Knowledge Management Officers to better present information that has been difficult to find on component websites and improve the relevance of what is posted.

4.2 Other Initiatives

DoD posted all four quarterly reports consisting of information from all 33 Components during FY18, and the data is accessible at the following link: https://www.foia.gov/quarter.html?DoD.

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

All DoD Components are currently participating in a multi-phase workshop to explore a enterprise-wide FOIA case management system. If successful, the result will be a Department-wide FOIA case management system with standardized processes that will provide consistency in how DoD FOIA offices track cases, maintain records, and produce reports; leading to overall greater efficiency in FOIA processing and the reduction of the DoD FOIA backlog. Many Components are contining to explore moving into cradle to grave electronic processing, including providing released materials in electronic form to the public. Navy, DFAS, CENTCOM and OSD/JS have reported that offices within their FOIA programs have started the transition to fully electronic processing.

Further, some components have identified best practices with leveraging technology to facilitate overall FOIA efficiency. For example:

- NSA and DLA are currently working to obtain de-duplication software to improve their search and review process.
- DISA is looking at updating its newly created FOIA tracking database to enhance retrieval and sorting capabilities.

- ASBCA employs its document management program to search and obtain requested records. Additionally, they actively use electronic document sharing platforms for consultations and referrals.

- DHA is upgrading its FOIA case management system to simplify FOIA processing and significantly reduce the time required for logging new requests.

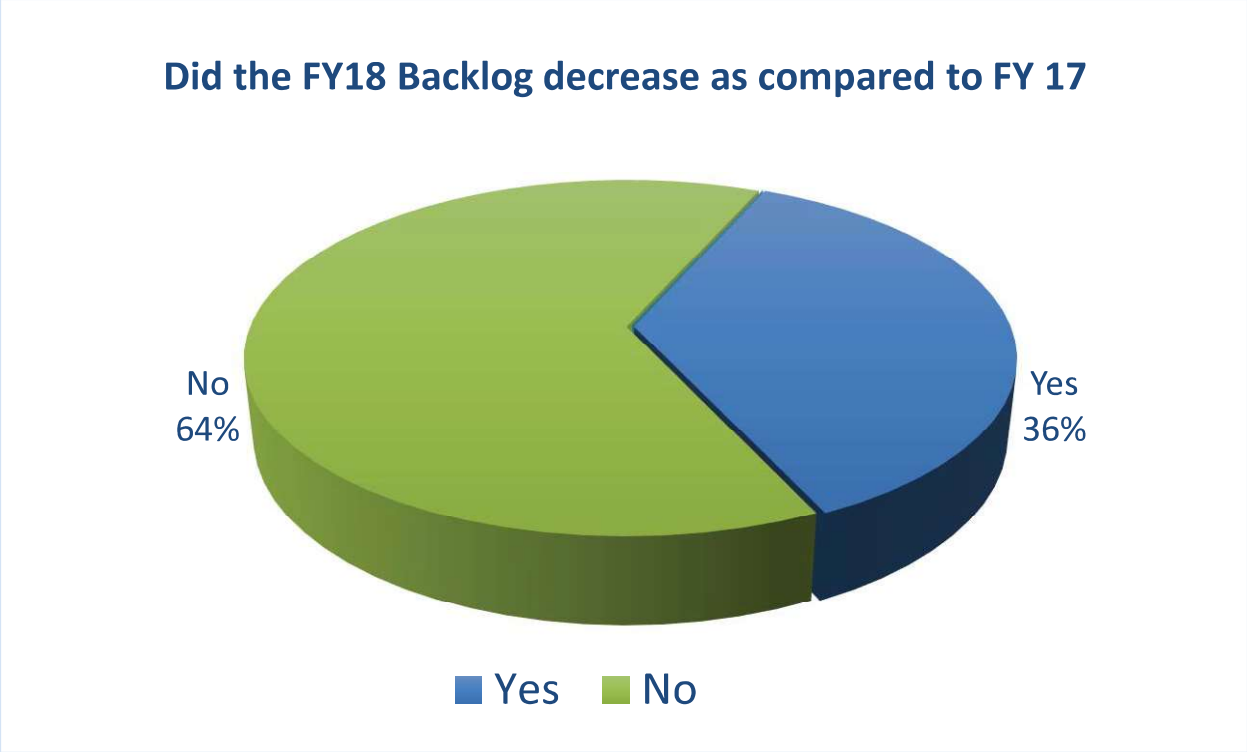
5.0 Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

5.1 Simple Track

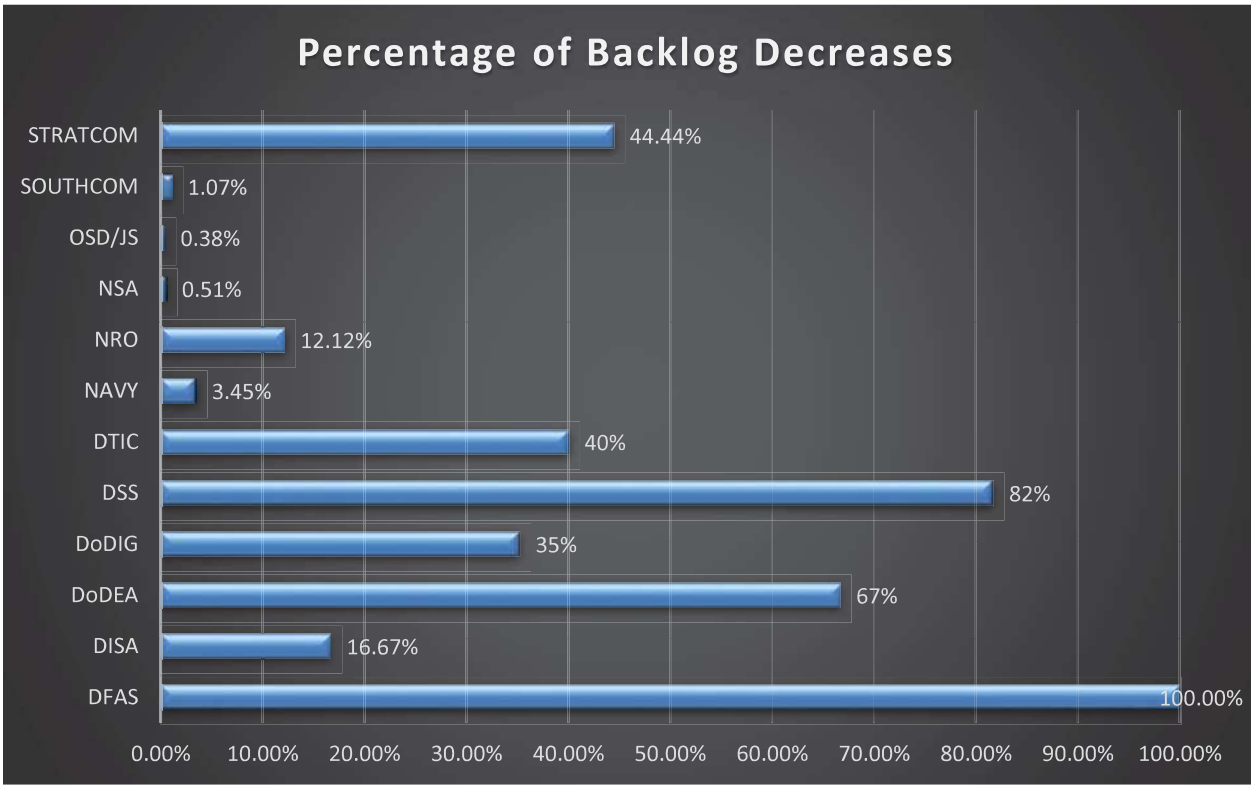
All DoD Components use a separate track for simple requests. For DoD as a whole, the average number of days to process simple requests was 24.6 days. Additionally, 73% of Components reported simple request processing times averaged 8 days. Considering that 53% of all FY18 requests processed by DoD Components were in the simple track, most requesters are seeing their cases resolved in less than 20 days.

5.2 Backlogs

For DoD overall, the backlog went up 9.41% from FY17. Of the 33 DoD Components, 9% had no request backlog at the end of FY17, while 39% had less that 10 requests backlogged at the end of FY17.



In FY18, only 37% of DoD Components experienced a decrease in backlogs, a decline from FY17 when 50% of DoD Components experienced a decrease in backlogs, and a drop from FY16, where 44% of Components had a backlog decrease.



Twenty-one Components reported having no decrease for a variety of reasons, the primary one being an increase in the complexity of the requests received, followed closely by an increase in overall FOIA related volume of work and the continued issue of the lack of experienced personnel. Overall for DoD, the backlogged requests represent 19.9% of the overall requests received in FY18. Many Components indicated that while technological efforts are providing efficiencies overall, last year's difficulties with the migration of FOIAonline to the cloud, the systematic failure of FOIAonline and subpar FOIA case management tools, caused temporary setbacks with case processing and diverted valuable resources such as manpower to address the problems. The Components also point to the increased complexity of requests concerning classified records, the increased workload represented by litigation efforts, and the failure to receive timely responses from consultations sent to other government agencies as additional significant backlog complicating factors.

A continuing factor that challenges DoD Components' ability to reduce the backlog is the joint efforts to share and produce collaborative information across the DoD Components, and their subcomponents, as well as within the United States Government itself. This jointness and broader collaboration at the outset of record creation is causing complex issues on the other side of the records lifecycle as FOIA professionals are attempting to provide fully reviewed and releasable material to the public. These issues are not limited to traditional FOIA processing as it also affects material under litigation. When Components report litigation burdens, they frequently are not

pointing solely to their own component but also to work they are obligated to execute for other Components or agencies in response to litigation driven deadlines.

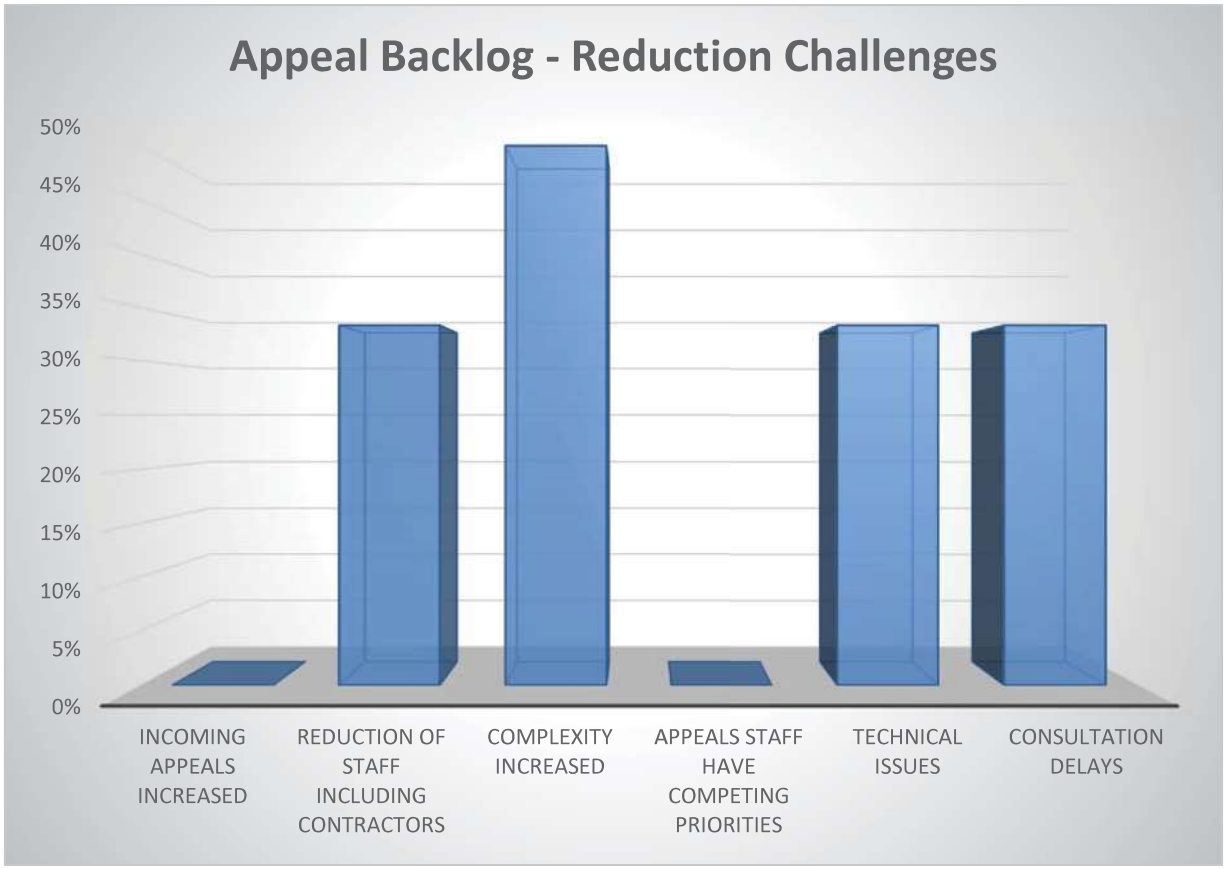
Another factor is that while some Components actively engage in rolling, or incremental, releases, those cases remain in their backlog despite the fact that records are regularly produced and made available to requesters. Additional concerns regarding backlog reduction efforts are those requesters who submit complicated requests that are not clearly defined and specific at the beginning of the process. Requesters who submit well delineated requests facilitate searching the correct office, for the right material of interest, and benefit themselves greatly in regards to enabling the FOIA programs to expeditiously begin and complete the process without delays related to understanding which records and defined topics have been requested.

In fact, DoD FOIA professionals have a strong desire to help the public find records of interest. Many of these professionals enjoy working with requesters who understand that while there are a variety of issues and steps outside of the FOIA professional's control, the FOIA professional wishes to engage in productive dialog and understand the specifics that the requester is seeking, so that the most effective searches can be executed quickly. Specificity in request formulation is something that can be refined in discussions with the FOIA professional, but it is also incumbent on requesters to do their own research in attempting to focus a request at inception. Requests that indicate, "…everything pertaining to…" a broad topic or "…any and all…" related to a broad topic, do not help the FOIA professional locate the right office or record set to search for responsive material. However, requests that provide details concerning people, places, events, and timelines are constructed to provide multiple specific sets of information for most effective search opportunities.

DoD records are usually not so easily located by the FOIA professional as an internet search engine query, but if a requester was looking for more information from the office that is responsible for the records or created them, a little research before filing the request would provide a great deal of specificity that enables the FOIA professional to quickly determine where to send the request for a search that has the greatest opportunity of locating the particular materials desired.

Requesters who perform more thorough research position their requests to have the maximum potential for quickly reaching the correct office and locating responsive material. Unfortunately, sometimes even the best set of search terms and descriptive information still fails to locate responsive material for a variety of reasons such as the records were not permanent and were therefore destroyed in accordance with the records schedule or the records are permanent and have already been transferred to the National Archives and Records Administration.

In many cases, requesters appeal responses including those indicating "no records." Of the 33 DoD Components, 14 do not process their own appeals because the OSD/JS FOIA Appeals Branch handles the actions for them. Of the remaining 19 Components, 68% report decreases or no appeal backlogs in comparison to FY17. Additionally, the overall DoD appeal backlog decreased 2%, a continued pattern of decrease in the overall appeals backlog from the previous reporting period. The six Components experiencing an increase in their appeals backlog report similar overlapping issues as the request backlogs, namely the complexity and volume increases coupled with staff decreases. Many of the Components with increases report multiple challenges as depicted in the chart below.



Overall, DoD received 1,171 appeals during the fiscal year resulting in 80% of the incoming appeals comprising the backlog.

5.3 Backlog Reduction Plans

At the end of FY17, DoD had five Components with backlogs over 1,000 request: DIA, OSD/JS, NSA, Air Force, and Navy. These five Components initated plans to reduce the respective backlogs. While OSD/JS, NSA, and Navy saw some reduction in their backlogs, DIA and Air Force both increased. All five 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 system (e.g. FOIAonline). Together, DIA and Air Force backlogs increased by 139 cases over the previous reporting period. These Components with over 1,000 requests at the end of FY17, were joined by Army at the end of FY18.

DIA developed a plan to bring key offices together to address systemic issues affecting security and classification, education hiring and retention, resources, technology, and oversight and advocacy.

OSD/JS reports that it is restructuring its office and releasing the function of processing litigation cases to its OGC. This move will give OSD/JS additional civilian personnel to focus on backlog reduction.

NSA will continue to increase its workforce by adding qualified contractor personnel and employing more retired annuitants. Additionally, NSA will add language to its website, which will better inform

requesters of the types of information available to them as well as the limitations related to requesting classified records. NSA is also looking forward to the arrival of a new Electronic Records Management system that will serve more effectively as a central repositiory for records needed to respond to FOIA requests.

Army, Air Force and Navy senior leaders will continue to emphasize the importance of FOIA throughout the Components, plan to more closely monitor subcomponents carrying backlogs, and will require reporting from subcomponents on root cause resolution.

5.4 Status of Ten Oldest Requests, Appeals, and Consultations

In FY18, DoD closed seven of its ten oldest requests. Out of the seven cases closed, none were closed due to the requester withdrawing the request. In fact, all the Components closed at least one of their ten oldest and 45% closed *all* of their ten oldest.

- ASBCA, DCMA, DeCA, DFAS, DHA, DIA, DISA, DLA, DoD IG, DSS, EUCOM, NGB, NRO, OSD/JS, and STRATCOM closed all of their ten oldest.
- NSA and SOUTHCOM closed nine of their ten oldest.
- CENTCOM, DCAA, DoDEA, and JPRA closed seven of their ten oldest.
- DTIC and NAVY closed six of their ten oldest.
- Air Force and NORTHCOM closed five of their ten oldest.
- DTRA closed seven of its ten oldest.
- SOCOM and NGA closed two of their ten oldest.
- Army and INDO-PACOM closed one of their ten oldest.

In FY18, DoD closed all ten of its ten oldest appeals. Of the 19 DoD Components that process appeals, 14 reported backlogged appeals at the end of FY17.

- Army, DCMA, DHA, DISA, DSS, Navy, NRO, and OSD/JS closed all of their ten oldest.
- DIA and NSA closed six of their ten oldest.
- DTRA closed four of its six oldest.
- DoD IG closed three of its ten oldest.
- NGA closed two of its ten oldest.
- DLA closed two of its eight oldest.
- Air Force was unable to close any of its ten oldest.

In FY18, DoD closed three of its ten oldest consultations. Of the 33 DoD Components, 13 reported no outstanding consultations at the end of FY17.

- AFRICOM, DISA, DoD IG. DSS, NGB, NRO, OSD/JS, SOCOM, STRATCOM and TRANSCOM closed all of their ten oldest.
- SOUTHCOM, NSA and DIA closed all but one of their ten oldest.
- Army closed all but two of its ten oldest.
- NGA closed four of its ten oldest.
- Navy and Air Force closed three of their ten oldest.
- DTRA closed two of of its three oldest.

During FY 18, the DoD focused on reducing the overall age of its backlog by concentrating on closing its ten oldest Requests, Appeals, and Consultations. To reduce this age, some offices applied resources to close more than the 10 oldest, if possible. For example, the OSD/JS FOIA Appeals office, which adjudicates appeals for 19 of the 33 DoD Components, reduced the age of its backlog by closing its 20 oldest appeals.

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 complexity of cases, personnel turnover, and short staffing along with case volume, records classification status, and other requirements such as litigation mandated deadlines. Additionally, eight Components reported that they were unable to close some of their ten oldest requests because they were awaiting responses from consultations.

CYBERCOM:

Date Received	Date consult sent to agency	Date last contacted agency
01/19/2017	07/11/2018	12/13/2018
07/11/2018	12/04/2018	12/20/2018
08/03/2018	11/09/2019	12/18/2018

DIA:

Date Received	Date consult sent to agency	Date last contacted agency
11/19/2004	07/17/2018	09/20/2018
03/03/2005	02/01/2018	11/1/2018
07/12/2005	06/01/2018	11/29/2018
09/12/2013	05/08/2018	11/21/2018

DoD IG:

Date Received	Date consult sent to agency	Date last contacted agency
07/21/2016	07/07/2017	08/13/2018
10/09/2009	09/26/2017	11/14/2018

DTRA:

Date Received	Date consult sent to agency	Date last contacted agency
02/02/2015	12/29/2017	11/27/2018

NORTHCOM:

Date Received	Date consult sent to agency	Date last contacted agency
01/31/2012	06/21/2016	11/14/2018
12/12/2013	05/22/2014	08/22/2018
03/10/2014	05/22/2014	09/30/2017
05/20/2015	06/08/2015	11/14/2018
02/08/2016	06/10/2016	11/14/2016
04/20/2016	06/10/2016	11/14/2018

NSA:

Date Received	Date consult sent to agency	Date last contacted agency
01/01/2002	06/01/2017	10/01/2018
11/01/2007	03/01/2012	06/01/2014
02/09/2007	11/01/2018	11/01/2018
02/04/2009	11/01/2018	11/01/2018

SOUTHCOM:

Date Rece ived	Date consult sent to agency	Date last contacted agency
06/02/2010	10/01/2015	07/23/2018
08/20/2010	06/09/2016	07/23/2018
10/01/2010	09/08/2016	07/23/2018
07/15/2011	09/09/2015	07/23/2018
09/12/2011	06/14/2016	07/23/2018
09/16/2011	05/24/2017	07/23/2018

TRANSCOM:

Date Received	Date consult sent to agency	Date last contacted agency
12/12/2016	02/15/2017	07/27/2018
03/06/2017	03/14/2017	10/19/2018
03/17/2017	N/A	10/14/2018
08/23/2017	03/30/2018	N/A
08/23/2017	03/30/2018	N/A

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 regarding how they intend

to close them. The methods identified include aggressively monitoring metrics, increasing the frequency of status checks as well as expanding senior leader reporting. Personnel are also being augmented where possible. The remaining Components having ten oldest pending requests, appeals and consultations described similar plans, as well as strategies for regularly contacting agencies holding these older consultations.

6.0 Success Story

There were numerous activities undertaken by the DoD and the DoD Components since March of 2018 to increase transparency and improve FOIA administration. DoD remains steadfast in its commitment to sustainable training and outstanding customer service. Achieving these important goals across the 33 DoD Components illustrates purposeful action at all levels and the CMO continues leading the way through online training modules and cost effective compliance workshops in areas with significant DoD active-duty and civilian personnel concentrations. These training opportunities afford DoD personnel around the globe opportunities to expand their FOIA knowledge.

- The Army, which has the largest DoD Component FOIA program, successfully closed the ten oldest requests and decreased their appeals backlog despite an increase in incoming appeals. Additionally, the Army was able to reduce the average number of days to process expedited cases by 45%.

- OSD/JS reduced its appeals backlog by 15%, closed its 20 oldest appeals and its 10 oldest initial cases. OSD/JS conducted trainings and meetings with offices maintaining records to ensure that timely and accurate reviews were being conducted.

- DCAA completed the ninth consecutive fiscal year with no request backlog. It was able to achieve this accomplishment by actively posting DCAA publications to the agency's website and posting active contractor listing and the previous year FOIA logs to the agency's FOIA Reading Room.

- DoD IG was highlighted in a report issued by the Project on Government Oversight for its proactive release policy; specifically for its policy of posting titles and other unclassified information on classified reports. DoD IG proactively released 300 records in FY18.

- NRO successfully closed its ten oldests appeals and consultations from FY18, and reduced its backlog by 10%. Also, in addition to the records released through FOIA, NRO posted 146 records that were processed through its discretionary release program.

- AFRICOM contacted requesters regarding older requests to see if they were still interested in the records. As a result of this out reach, AFRICOM was able to reduce its backlog by 14%.

- DIA reduced its appeals backlog by 20%.

- The 33 DoD Components continue showcasing a commitment to the principles of openness as over 54,000 FOIA requests were processed during FY18. 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.