

FREEDOM OF INFORMATION ANNUAL REPORT -- FY 2008

I. AGENCY: Indian Health Service

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ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:

http://www.ihs.gov/AdminMngrResources/FOIA/index.cfm?module=foia_elec_read_room

ADDRESS FOR PAPER COPIES OF THIS REPORT:

Indian Health Service

Freedom of Information Act Requester Service Center

801 Thompson Ave (TMP 450)

Rockville, Maryland 20852

II. HOW TO MAKE A FOIA REQUEST:

FOIA requests can be made using mail or fax.* Requests can also be made using the online form on our website which can be found here:

http://www.ihs.gov/AdminMngrResources/FOIA/index.cfm?module=foia_make_request

* Please note that any information that is an invasion of personal privacy will not be released. This is not the correct form to use when making a Privacy Act request (requesting your own records).

Information that was withheld by the Agency was withheld because one of the nine FOIA exemptions would apply to the released information.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS:

1. Agency-specific acronyms or other terms:

HHS – U.S. Department of Health and Human Services

OPDIVs – Operating Divisions of HHS

OS – Office of the Secretary, HHS

OASPA – Office of the Assistant Secretary for Public Affairs, HHS

AoA – Administration on Aging

ACF – Administration for Children and Families

AHRQ – Agency for Healthcare Research and Quality

ATSDR – Agency for Toxic Substances and Disease Registry

CDC – Centers for Disease Control and Prevention

FDA – Food and Drug Administration

HRSA – Health Resources and Services Administration

IHS – Indian Health Service

NIH – National Institutes of Health

OIG – Office of the Inspector General

OPHS – Office of Public Health and Science

PHS – Public Health Service

PRO – Professional Review Organization

PSC – Program Support Center

SAMHSA – Substance Abuse and Mental Health Services Administration

2. Basic terms (from FOIA UPDATE, Summer 1997):

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **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.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.

- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their annual report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That Agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)
- h. **Full Grant** - an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** - an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number - Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

- k. **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 granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
 - l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
 - m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
 - n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
 - o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
 - p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
 - q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
3. Include the following concise descriptions of the nine FOIA exemptions:
- a. **Exemption 1:** classified national defense and foreign relations information
 - b. **Exemption 2:** internal agency rules and practices

- c. **Exemption 3:** information that is prohibited from disclosure by another federal law
- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
- h. **Exemption 8:** information relating to the supervision of financial institutions
 - i. **Exemption 9:** geological information on wells

IV EXEMPTION 3 STATUTES

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
none				

V. FOIA Requests

- A. Numbers of initial requests (line 1 + line 2 - line 3 = line 4):
 - 1. Number of requests pending as of start of fiscal year: 36
 - 2. Number of requests received in fiscal year: 77
 - 3. Number of requests processed in fiscal year: 64
 - 4. Number of requests pending as of end of fiscal year: 49

	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
OS				
ACF				
AOA				
CMS				
OIG				
OPHS				
AHRQ				
CDC				
FDA				
HRSA				
IHS	36	77	64	49
NIH				
SAMHSA				
PHS Total				
HHS Total				

B. (1) Disposition of FOIA Requests:

1. Number of full grants: 3
2. Number of partial grants: 38
3. Number of full denials based on Exemptions: 6
4. Number of Full Denials Based on Reasons Other than Exemptions
 - (Total): 11
 - a. No records: 2
 - b. Referrals:
 - c. Request withdrawn: 2
 - d. Fee-related reason: 1 (delinquent)
 - e. Records not reasonably described: 0
 - f. Improper FOIA request for some other reason: 0
 - g. Not an agency record: 1
 - h. Duplicate request: 0
 - i. Other (specify): 5 (10-day closure letters for 2007)

	No. of Full Grants	No. of Partial Grants/ Partial Denials	No. of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions												
				No Records	Administratively Closed/ Referred to Another Component	All Records Referred to Another Component	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Reason	Improper FOIA Request for Other	Not Agency Record	Duplicate Request	Other *Explain in chart below*		
OS																
ACF																
CMS																
OIG																
OPHS																
AHRQ																
CDC																
FDA																
HRSA																
IHS	3	38	6	2	0	2	1	0	0	1		17				
NIH																
SAMHSA																
PHS Total																
HHS Total																

B. (2) Disposition of FOIA Requests –“Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
OS		
ACF		
CMS		
OIG		
OPHS		
AHRQ		
CDC		
FDA		
HRSA		
IHS	Administratively closed, requester did not respond/express continued interest in the records request	11

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
HRSA														
IHS				21	10	7								
NIH														
SAMH SA														
PHS Total														
HHS Total														

Section VI is not applicable to IHS since we do not process our own appeals.

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals ____

1. Number of appeals pending as of start of Fiscal Year
2. Number of appeals received in Fiscal Year:
3. Number of appeals processed in Fiscal Year:
4. Number appeals pending as of end of Fiscal Year

B. Disposition of Administrative Appeals – All Processed Appeals ____

1. Number affirmed on appeal
2. Number partially affirmed and partially reversed/remanded on appeal
3. Number completely reversed/remanded on appeal
4. Number of appeals closed for other reasons

C. (1) Reasons for denial on Appeal – Number of Times Exemptions applied

Exemption 1:

Exemption 2:

Exemption 3:

Exemption 4:

Exemption 5:

Exemption 6:

Exemption 7

Exemption 7(A):

Exemption 7(B):

Exemption 7(C):

Exemption 7(D):

Exemption 7(E):

Exemption 7(F):

Exemption 8: _0

Exemption 9: 0

(2) Reasons for denial on Appeal – Reasons other than exemptions

- a. No records:
- b. Referrals:
- c. Request withdrawn:
- d. Fee-related reason:
- e. Records not reasonably described:
- f. Improper request for other reason:
- g. Not an agency record:
- h. Duplicate request:
- i. Request in litigation:
- j. Appeal based solely on denial of request for expedited processing:

(3) Reasons for denial on Appeal - Other

Administrative closures, records previously released to appellant

(4) Response time for administrative appeals

- a. Median number of days:
- b. Average number of days:
- c. Lowest Number of days:
- d. Highest number of days:

(5) Ten Oldest Pending Appeals

VII. B. Processed Requests - Response Time for Perfected Requests in Which Information Was Granted

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
OS												
ACF												
AOA												
CMS												
OIG												
OPHS												
AHRQ												
CDC												
FDA												
HRSA												
IHS	16	20	12	24	44	36	42	66	14	20	3	28
NIH												
SAMH SA												
PHS Total												
HHS Total												

VII. C Processes Requests – Response Time in Day Increments (Simple, Complex & Expedited Requests)

Simple Requests

	1–20 Days	21 – 40 Days	41 – 60 Days	61 – 80 Days	81- 100 Days	101- 120 Days	121- 140 Days	141- 160 Days	161- 180 Days	181- 200 Days	201- 300 Days	301- 400 Days	401+ Days	TOTAL
OS														
ACF														
AOA														
CMS														
OIG														
OPHS														
AHRQ														
CDC														
FDA														
HRSA														
IHS	20	5	6	6			3			2				42

	1-20 Days	21 - 40 Days	41 - 60 Days	61 - 80 Days	81- 100 Days	101- 120 Days	121- 140 Days	141- 160 Days	161- 180 Days	181- 200 Days	201- 300 Days	301- 400 Days	401+ Days	TOTAL
AHRQ														
CDC														
FDA														
HRSA														
IHS		5												5
NIH														
SAMHSA														
PHS Total														
HHS Total														

VII. D. Pending Requests –All Pending Perfected Requests

	Simple			Complex			Expedited Processing		
	Number Pending	Median Number Of Days	Average Number Of Days	Number Pending	Median Number Of Days	Average Number Of Days	Number Pending	Median Number Of Days	Average Number Of Days
OS									
ACF									
AOA									
CMS									
OIG									
OPHS									
AHRQ									
CDC									
FDA									
HRSA									
IHS	3	34	41	44	42	61	2	23	34
NIH									
SAMHSA									
PHS Total									
HHS Total									

VII. E. Pending Requests- Ten Oldest Pending Perfected Requests

	10th Oldest Request And Number of Days Pending	11th	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request And Number of Days Pending
OS											
ACF											
AOA											
CMS											
OIG											
OPHS											
AHRQ											
CDC											
FDA											
HRSA											
IHS	6/7/07 515	5/15/07 540	5/10/07 545	4/10/07 575	4/10/07 575	3/19/07 595	3/29/07 605	3/29/07 605	11/13/06 695	10/04/06 725	
NIH											
SAMHSA											
PHS Total											
HHS Total											

REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER
(continued)

Requests for Expedited Processing (See chart)

VIII. A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
OS					
ACF					
AOA					

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
CMS					
OIG					
OPHS					
AHRQ					
CDC					
FDA					
HRSA					
IHS	4	0	10	14	5
NIH					
SAMHSA					
PHS Total					
HHS Total					

VIII. B. Requests for Fee Waiver

	Number Requested	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OS				
ACF				
AOA				
CMS				
OIG				
OPHS				
AHRQ				
CDC				
FDA				
HRSA				
IHS	2	0	10	20
NIH				
SAMHSA				
PHS Total				
HHS Total				

FEES COLLECTED FOR PROCESSING REQUESTS (See Chart)

	Personnel			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of Full-Time FOIA Staff "	Processing Costs	Litigation-Related Costs	Total Costs
OS						
OS						
ACF						
AOA						
CMS						
OI						
OIG						
OPHS						
AHRQ						
CDC						
FDA						
HRSA						
IHS	2	6.75*	8.75*	\$301,000	\$0	\$301,000
NIH						
SAMHSA						
PHS Total						
HHS Total						

***NOTE:** This number reflects the 12 Area FOIA Coordinators and the three part-time personnel assisting with the FOIA program. They are accounted for in this way because FOIA processing is not their only or main duty.

FEES COLLECTED

	Total Amount of Fees Collected	Percentage of Total Costs
OS		
ACF		
AOA		
CMS		
OIG		
OPHS		
AHRQ		

	Total Amount of Fees Collected	Percentage of Total Costs
CDC		
FDA		
HRSA		
IHS	890.00	0%
NIH		
SAMHSA		
PHS Total		
HHS Total		

FOIA REGULATIONS

<http://www.hhs.gov/foia/45cfr5.html>

BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

*NOTE: Only backlogged FOIA requests represented in this chart.

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
OS		
ACF		
AOA		
CMS		
OIG		
OPHS		
AHRQ		
CDC		
FDA		
HRSA		
IHS	49	
NIH		
SAMHSA		
PHS Total		
HHS Total		

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

NOT APPLICABLE TO THIS AGENCY

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

NOT APPLICABLE TO THIS AGENCY

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
OS		
ACF		
AOA		
CMS		
OIG		
OPHS		
AHRQ		
CDC		
FDA		
HRSA		
IHS	36	49
NIH		
SAMHSA		
PHS Total		
HHS Total		

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

NOT APPLICABLE TO THIS AGENCY