

FOIA request volume in FY 18 'well on-pace' to break new records



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The Justice Department's Office of Information Policy believes fiscal 2018 will mark yet another record year for the volume of new Freedom of Information Act requests filed by the public.

Justice OIP Director Melanie Ann Pustay, speaking Monday at an agency kick-off event for Sunshine Week, said the volume of requests from fiscal 2018 was "well on-pace" to exceed the previous year.

"We predict now that we will have, yet again, record high numbers of requests received and processed across the government," Pustay said.

Agencies, she said, are in the process of finalizing their chief FOIA officer reports, which will highlight progress made on the five "pillars" of OIP guidance — the presumption of openness, proactive disclosure, improving timeliness and reducing backlogs, as well as maximizing technology and creating efficient systems to respond to requests.

In fiscal 2017, the government's 400-plus FOIA offices spread out across 116 agencies, [received a record 800,000 FOIA requests](#).

However, agencies also reduced the overall backlog of unfulfilled requests by 3.2 percent in FY 2017 and reduced their response times for simple FOIA requests.

In the meantime, 24 agencies under the Chief Financial Officers Act have until May 10 to come up with a plan to become fully interoperable with the National FOIA Portal on FOIA.gov, and then deliver on that plan within two years.

Office of Management and Budget Deputy Director for Management Margaret Weichert and Principal Deputy Associate Attorney General Jesse Panuccio, [in a Feb. 13 memo](#), said agencies should include an estimated cost and timeframe of when they will connect to FOIA.gov through an application programming interface (API).

In May 2018, OIP launched the first iteration of its National FOIA portal, aimed at serving as a one-stop shop for FOIA requests.

No 'one-size-fits-all' fix in FOIA.gov interoperability

In a Feb. 25 interview, Pustay said nearly 300 of about 440 agency FOIA offices are already interoperable with FOIA.gov through a structured email approach.

"There's just such an incredible variance across government agencies, in terms of their missions, their types of records, their number of FOIA requests, the way agencies approach the handling or management of their FOIA requests," Pustay said. "Because of that, we've always known we don't want a one-size-fits-all solution."

Pustay said there are more than 40 agencies that receive fewer than 50 requests a year, and manage those requests through unsophisticated tracking systems or even just an Excel spreadsheet.

For large agencies that receive the majority of FOIA requests, Pustay said the best technical solution going forward is to have the request come from the national FOIA portal and go directly into the agencies' automated case management system.

"Once every agency has developed their API and is interoperable with the National FOIA portal through the API, from the user's point of view, it will just be one seamless experience," she said.

Austin Evers, the executive director of American Oversight, said FOIA.gov helps ensure requests get routed to the correct agency, but the staffing at agency FOIA offices remains a challenge, given the growing volume of requests they receive.

"Solving the intake problem through FOIA.gov does essentially nothing to solve the most broken aspect, which is the output side of FOIA," Evers said in an interview.

Along with increased staffing, Evers said FOIA officers should have the tools necessary to confirm whether email records have been released under earlier requests.

"There are standards that apply to the private sector that I think the government can draft on," Evers said.

Nate Jones, the director of the Freedom of Information Act Project at the National Security Archive, said FOIA.gov "begins to address the problem" of streamlining the request process, but added that the website still lacks features like real-time tracking of requests.

FOIA marked its 50th anniversary in 2016, while another landmark piece of legislation, the Inspector General Act, turned 40 years old last year.

Jones noted the oversight offices those two laws created hold significantly different levels of independence and authority at their agencies.

"IGs are independent and can report what they want to. FOIA officers, I think, should have that independence, but never quite have gotten yet – and hopefully they're still fighting for it – the ability to search for the documents themselves and not rely on other people ... and then determine themselves what should be released and what shouldn't without having to permission from often the very people who want this information withheld," Jones said.

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