



## **SUMMARY OF ANNUAL FOIA REPORTS FOR FISCAL YEAR 2012**

Every year, the Office of Information Policy (OIP) compiles a summary of the information contained in the Annual FOIA Reports prepared by each federal agency that is subject to the FOIA. The Annual FOIA Reports contain detailed statistics on agencies' FOIA activities, including the number of FOIA requests and appeals received, processed, and pending. These reports are required to be submitted to the Attorney General each year, no later than February 1st. See 5 U.S.C. § 552(e)(1) (2006 & Supp. IV 2010). For Fiscal Year (FY) 2012, there were ninety-nine agencies subject to the FOIA.

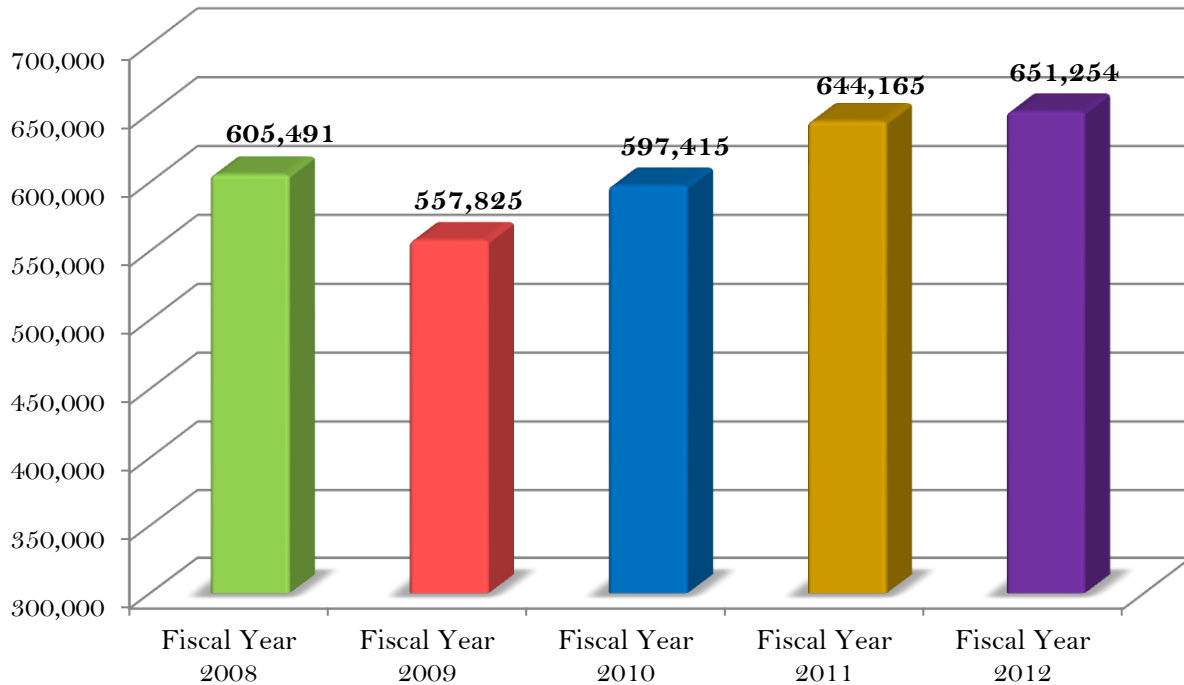
In addition to preparing this summary, OIP has once again uploaded all of the data from agencies' FY 2012 Annual FOIA Reports to [FOIA.gov](http://FOIA.gov) where it can easily be viewed online, compared with data from previous fiscal years and across agencies, and downloaded in an open (CSV) format. The purpose of this summary is to provide an overall picture of FOIA activity across the government and [FOIA.gov](http://FOIA.gov) continues to allow OIP to do this with statistics that were not readily available in past years. Since not all Annual FOIA Report data prior to FY 2010 is available on [FOIA.gov](http://FOIA.gov), OIP also compiled various statistics directly from agencies' published Annual FOIA Reports, as well as from previous Annual FOIA Report Summaries, in order to make comparisons and illustrate different data trends over time. Agencies' published Annual FOIA Reports going back to FY 1998 and OIP's Summaries of the Annual FOIA Reports are all available on the [Reports](#) page of [OIP's website](#).

### **FOIA REQUESTS**

#### *Number of Requests Received*

During FY 2012, the ninety-nine agencies subject to the FOIA collectively received a record high 651,254 requests, which is a 1% increase from the previous high of 644,165 requests received during FY 2011.

## Total Number of Requests Received



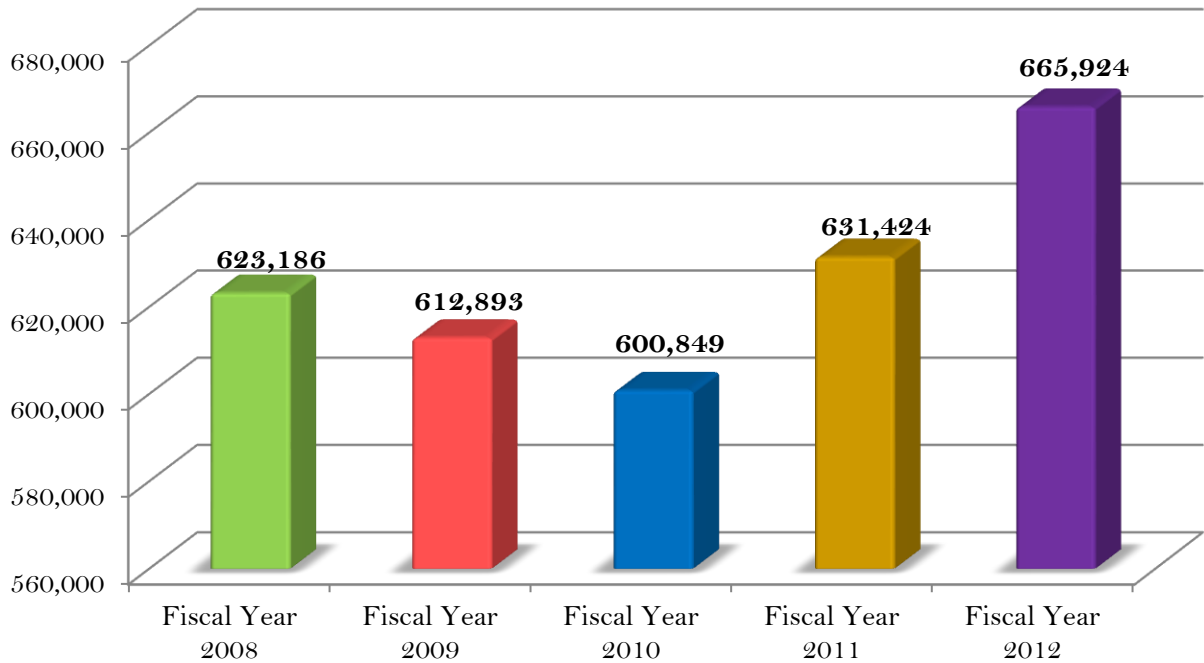
For the fifth consecutive year, DHS received the most number of requests with 190,589, which is nearly 15,000 more than it received in FY 2011. DOJ received the second highest number of requests with 69,456, and was followed by HHS (68,467), DOD (66,078), and SSA (31,329). These five agencies collectively received 425,919 requests, which accounts for over 65% of all the requests that were received by the government in FY 2012. Of the remaining agencies, only the VA (24,423) and USDA (22,175) received more than 20,000 requests. Another twenty-two agencies received between 1000 and 19,000 requests. The remaining agencies each received less than 950 requests, with fifteen receiving fewer than twenty.

### Number of Requests Processed

The government overall processed 665,924 FOIA requests in FY 2012, which is 34,500 more than the 631,424 requests processed in the prior fiscal year. This marks the second consecutive year that the government increased its processing of FOIA requests by over 5%. As with the number of requests received, this also marks the second year since FY 2008, the year agencies were advised to no longer include pure Privacy Act requests in their Annual FOIA Reports, that the government hit a new high for processing requests. Additionally, as further discussed in the "Backlogged Requests" section below, by processing 14,670 more requests than were received during FY 2012, agencies were able to reduce the government's backlog of pending requests by 14%. This achievement demonstrates the sustained efforts by agency FOIA

personnel to work to meet the demands of the increasing numbers of requests received by the government.

## Total Number of Requests Processed



For the second year in a row, the five agencies that received the most requests in FY 2012 also processed the most requests: DHS (205,895), HHS (69,256), DOJ (68,531), DOD (66,651), and SSA (31,584). These five agencies collectively processed 441,917 requests, which accounts for 66% of all requests processed by the government in FY 2012. Of the remaining agencies, ten – VA, USDA, Labor, EEOC, Treasury, State, NARA, SEC, DOT, and OPM – processed between 10,000 and 25,000 requests, and an additional fourteen processed between 1400 and 9300 requests. Seventy agencies processed between four and 943 requests, with seventeen of these agencies processing twenty or fewer requests.

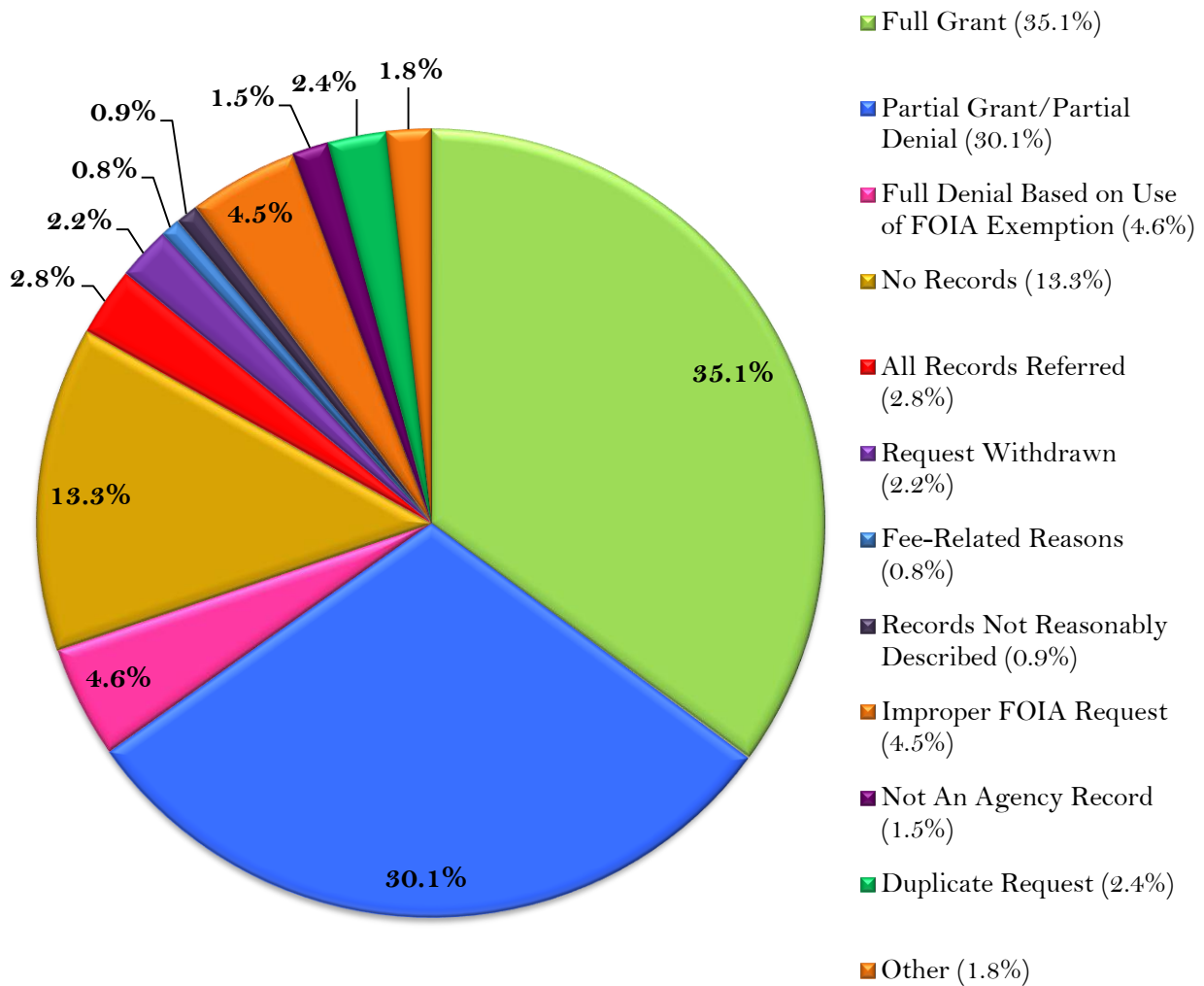
### Disposition of Requests

The Department of Justice's [2008 guidance on the content of agency Annual FOIA Reports](#) instructs agencies to include in their report a complete breakdown of the disposition of each request that is processed. All processed requests fall into two overarching categories, those which are closed after being substantively processed with decisions made to release or withhold based upon the FOIA's exemptions, and those which are closed for administrative or procedural reasons, such as when no records are located or when all the responsive records are referred to another agency for handling. Of the 665,924 requests processed by the government in FY 2012, 464,985 (69.8%) fell into the first category and were reviewed to determine if information could be disclosed. This represents a 6% increase from the 438,638 requests

processed for exemption applicability in FY 2011. It is important to note that it is only in response to these requests that agencies are in a position to determine whether to release or withhold information and so they form the universe of requests that are used to calculate the “release rate” which is discussed below.

The remaining 200,939 requests (30.2%) processed during FY 2012 were closed for administrative reasons as shown in the chart below. These include requests where no records responsive to the request could be located, which make up (13.3%) of all processed requests. Slightly over 2% of all requests were withdrawn by the requester and less than 1% were closed for fee related reasons, such as when a requester declined to pay estimated fees that were assessed under the FOIA's fee provisions.

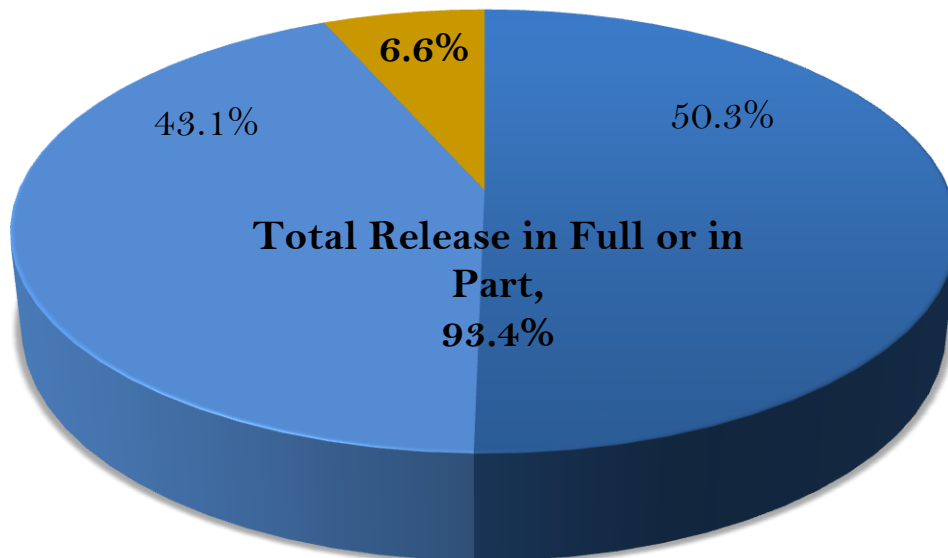
## Disposition Of All Processed FOIA Requests



Release Rate

Of the 464,985 requests that were reviewed for disclosure in FY 2012, slightly over 50% (234,049) resulted in a full release of records, and over 93% (434,258) resulted in the release of either some or all of the requested records. Less than 7% (30,727) of these requests resulted in a full denial of information based on a FOIA exemption.

### Disposition of Fiscal Year 2012 Requests Processed for Exemption Applicability



■ Release in Full (50.3%) ■ Release in Part (43.1%) ■ Denied in Full Based on FOIA Exemptions (6.6%)

Seventy-eight agencies, including ten of the fifteen departments – USDA, DOD, Education, Energy, DHS, HUD, Interior, DOJ, DOT, and Treasury – released records in full or in part in response to over 90% of the requests they processed for exemption applicability. Another twelve agencies, including DOC, HHS, and Labor, made either a full or partial release of information in response to over 80% of such requests. Notably, thirty-five agencies, including DOJ, USDA, and HHS, released records in full with no information withheld in response to over 70% of requests processed for exemption applicability. Another seven agencies, including HUD, Interior, and DOT, released records in full in response to over 60% of these requests.

Six agencies – Defense Nuclear Facilities Safety Board, Farm Credit System Insurance Corporation, National Capital Planning Commission, Postal Regulatory Commission, Selective Service System, and the U.S. African Development Foundation – released records in full in

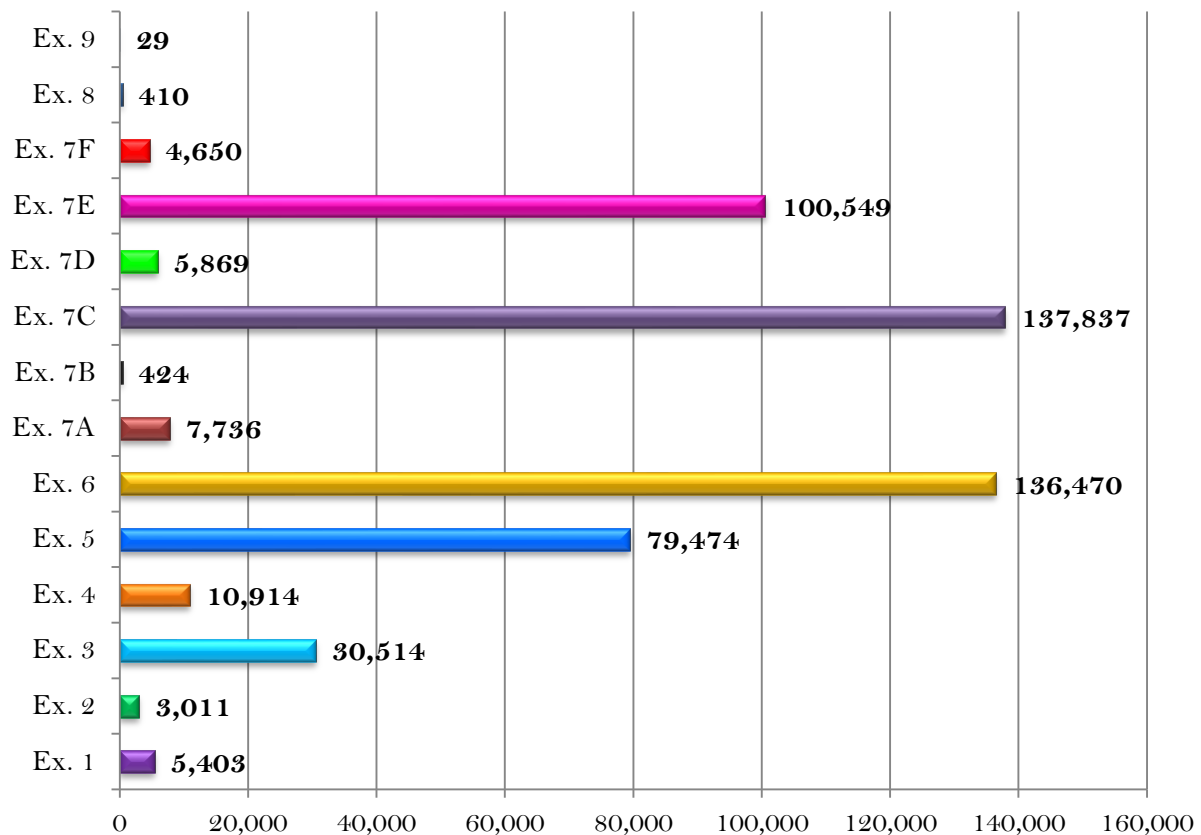
response to 100% of the requests they processed for exemption applicability. Another twenty-nine agencies were able to release records in full or in part in response to 100% of these requests.

### Use of Exemptions

The Attorney General noted in his [FOIA Guidelines](#) that "the disclosure obligation under the FOIA is not absolute." The statute includes nine exemptions from disclosure that protect important interests such as national security, personal privacy, and certain law enforcement activities.

The two FOIA exemptions used the most during FY 2012 were the FOIA's privacy exemptions, Exemptions 6 and 7(C). The third most used exemption was Exemption 7(E), which protects law enforcement techniques, procedures and guidelines. These are the same three exemptions that were most cited in FY 2011, however, Exemption 7C (137,837 citations), replaced Exemption 6 as the most frequently cited exemption in Fiscal Year 2012. With 136,470 citations, Exemption 6 was the second most used exemption in FY 2012. For the second year in a row, Exemption 7E (100,549 citations) was the third most cited exemption by agencies.

## Government Wide Exemption Totals



The least cited FOIA exemption during FY 2012 was Exemption 9 (29 citations), which is used to protect geological and geophysical information concerning wells. Only four agencies – DOD, DOE, Interior, and EPA – asserted Exemption 9 in their processing of requests during FY 2012. Exemption 8 (410 citations), which concerns information on the supervision of financial institutions, was the next least cited exemption, followed by Exemption 7B (424 citations), which concerns information that would deprive a person or a right to a fair trial or an impartial adjudication.

Overall, the number of times exemptions were cited by agencies increased from 424,309 citations in FY 2011 to 523,290 citations in FY 2012. Exemption use will fluctuate from year to year depending on the types of records that are requested and the numbers of requests that are processed. Moreover, it is important to keep in mind when examining this data that the number of times an agency uses exemptions in responding to a request does not correlate with the volume of information that is withheld.<sup>1</sup> Looking at the use of each exemption separately, the government collectively reported a decrease in the use of Exemptions 2, 3, 4, 7D, and 8 when compared to the number of times these exemptions were asserted during FY 2011.

Exemption 3 incorporates into the FOIA the nondisclosure provisions of other statutes passed by Congress. To assist agencies in properly applying this exemption, and to aid requesters in understanding the scope of material covered, for the past two fiscal years OIP has posted a [chart](#) on its website of all the Exemption 3 statutes that agencies reported citing in their Annual FOIA Reports. OIP will soon be posting the chart of all the Exemption 3 statutes that were cited during FY 2012 on the [FOIA Resources](#) page of its website. In an effort to make this information even more useful and accessible, OIP will for the first time post these lists in both PDF and open (CSV) formats.

### Backlogged Requests

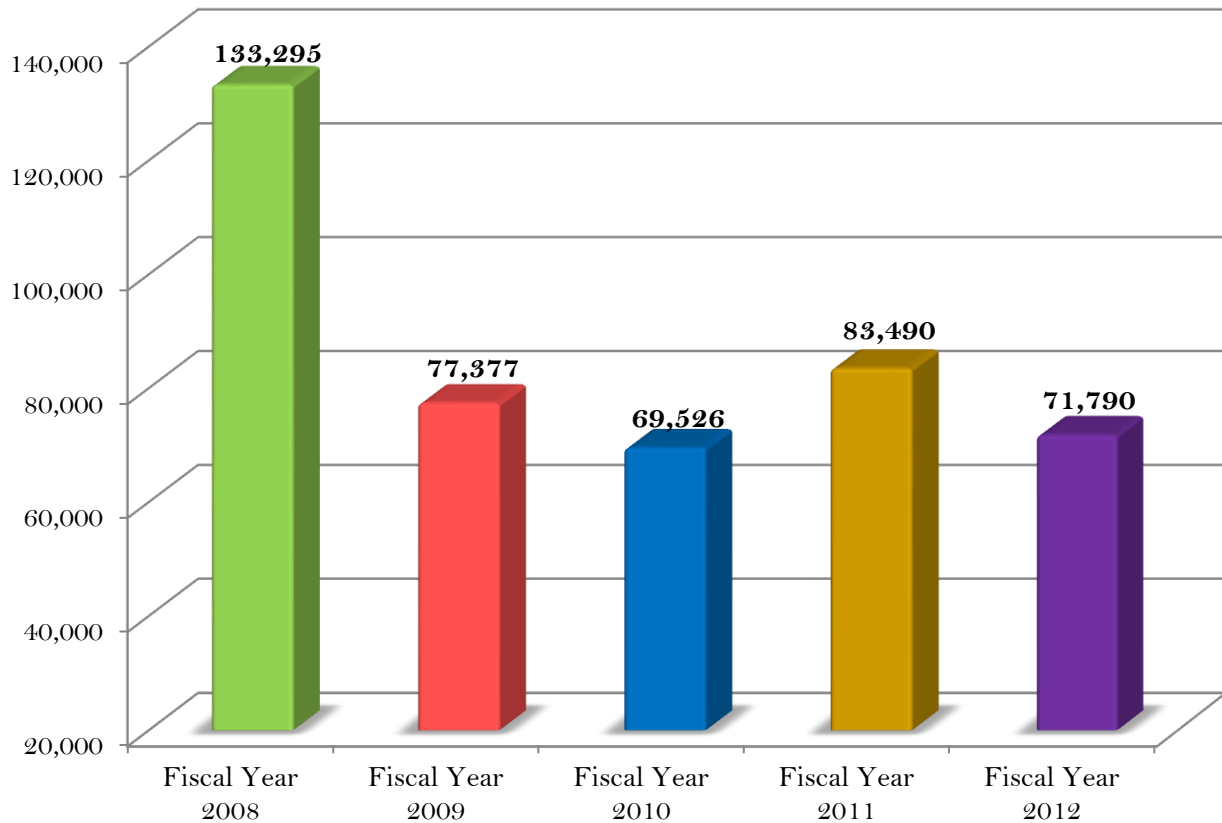
By the end of FY 2012, the government overall *decreased* its backlog of pending FOIA requests by 14% from 83,490 requests in FY 2011 to 71,790 in Fiscal Year 2012. This represents a nearly 45% reduction in backlog since the close of FY 2008, after the President and Attorney General issued their FOIA Memoranda. This achievement is particularly noteworthy given the

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<sup>1</sup> For example, it is sometimes necessary for agencies to use multiple exemptions to protect various interests connected to one piece of information that appears in the responsive records. In such a case, even though the agency might be releasing hundreds of pages of records to the requester and withholding only a small portion, if that small portion was protected under multiple exemptions, the agency would have to report asserting those multiple exemptions for the request. That number of exemptions asserted would not itself reveal that it covered only the small piece of information withheld and it would not show how much information had been released. For that reason, we calculate release rates which show the percentage of requests where records are released in full, released in part, or withheld in full based upon FOIA's exemptions.

increasing numbers of requests that agencies have received over the past four years. As noted above, the 651,254 requests received by the government in FY 2012 is a new record high.

## Number of Backlogged Requests



DHS reported the highest backlog of pending requests in FY 2012 with 28,553. However, this is a significant reduction from the 42,417 requests that DHS reported as backlogged at the close of FY 2011. DHS was able to achieve this nearly 33% reduction in backlog despite receiving nearly 15,000 more requests in FY 2012, which is a testament to the hard work of DHS's FOIA staff and their sustained efforts to improve their FOIA operations in the face of ever-increasing demands.

In addition to DHS, only five other agencies reported having a pending request backlog with more than 900 requests. These agencies in order include State (10,464 requests), NARA (7,610 requests), DOD (6,371 requests), HHS (5,740 requests), and DOJ (5,196 requests). Together, these six agencies account for nearly 90% of the total number of backlogged requests across the government.

Seventy-six of the ninety-nine agencies reported having a backlog of less than one hundred requests and thirty-three agencies had no backlog of pending requests to report at the



end of FY 2012. Of the thirty-three agencies with no backlog, twenty-seven were able to maintain this zero backlog for the second fiscal year in a row. Sixty-one agencies reported having a backlog of less than twenty requests.

Thirty-four agencies including seven departments – DOD, Education, HHS, DHS, Interior, Treasury, and VA – decreased the number of requests in their backlog at the end of FY 2012. By contrast, thirty-six agencies had an increase in their request backlog; however, fourteen of these agencies experienced a slight increase of ten or fewer requests.

### Ten Oldest Pending Backlogged Requests

A distinct aspect of backlog reduction involves the closing of the oldest pending requests at an agency. Last year, after reviewing agencies' 2012 Chief FOIA Officer Reports and issuing an assessment of agency progress in implementing the Attorney General's FOIA Guidelines, OIP issued agency-wide [guidance](#) that specifically calls attention to the importance of agencies closing their ten oldest pending requests each year. OIP's [guidance](#) explains that by closing the ten oldest requests at each agency every year, "the government overall will be able to reduce the age of its backlog and eliminate those lingering requests that have remained pending for many years."

"[A]ll agencies should make it a priority to close their ten oldest pending requests and appeals each year. By doing so systematically, year after year, the government overall will be able to reduce the age of its backlog . . . ."

*OIP Guidance for Further Improvement*  
August 7, 2012

For the second consecutive year, the ten oldest pending requests across the government date between 1992 and 1993, and are all pending at NARA.<sup>2</sup> DOD is the only other agency to report any pending requests from the 1990s. Twenty-two agencies had no pending requests at the end of Fiscal Year 2012. Of the seventy-seven agencies that had a ten oldest request to report, twenty-three had less than ten requests listed in this section, with nine of these agencies having only one. Additionally, ten agencies reported that their oldest request had been pending for fourteen days or less, with another six agencies having requests that were pending for less than ninety days. Both FDIC and the Pension Benefit Guaranty Corporation had ten requests to list in this section of their Annual FOIA Report, however, they were the only agencies to have all ten of these requests pending for less than twenty-three days.

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<sup>2</sup> The oldest pending requests are calculated by the number of days the requests have been pending as opposed to the dates the requests were received. The FOIA statute provides for the tolling of a request in certain circumstances such as when further information is needed from the requester to process the request. [See](#) 5 U.S.C. § 552(a)(6)(A)(ii). The number of days that a request is pending at an agency does not include those days that are tolled.

### Requests for Expedited Processing

During FY 2012, the government overall made a decision to grant or deny 7,313 requests for expedited processing, a 5% decrease from the 7,706 expedited processing determinations made during FY 2011. In making these determinations, agencies granted expedited processing in response to 1,398 requests, which is a 28% decrease from the 1,951 requests for expedited processing that were granted in FY 2011. However, this number is still above the four year low of 1,335 granted requests reported in FY 2010. During FY 2012, agencies collectively denied 5,915 requests for expedited processing, which is nearly a 3% increase from the 5,755 denials reported in FY 2011.

Across the government, the average number of days to adjudicate requests for expedited processing was 12.03 days, which is an increase of just over three days from the average of 8.81 days reported in FY 2011. Moreover, of the 7,313 requests for which a determination on expedited processing was made during FY 2012, over 78% (5,729) were adjudicated within ten calendar days.

### Average Processing Time for Simple Requests

During FY 2012, the average of the processing times for simple track requests for agencies that reported data in this field of their Annual FOIA Report was 22.66 days, an improvement of just over 4% from the average of 23.65 days that was reported in FY 2011. Sixty-four agencies including six departments – Interior, VA, DOD, Treasury, DOC, and DOJ – reported processing their simple requests within an average of twenty days or less. Another twelve agencies including HUD and DOT reported processing their simple requests between an average of twenty and twenty-nine days. Twenty-two agencies reported an average processing time of above thirty days for simple requests.

After reporting the highest average processing times for simple requests last fiscal year, both State and the Legal Services Corporation made noticeable improvements in this area during FY 2012. At State, the average processing time for simple requests was reduced by 43% from 155 days in FY 2011 to 88 days in FY 2012. Similarly, the Legal Services Corporation reduced its average processing time by 96% from 223 days in FY 2011 to 8.11 days in FY 2012. Overall, the highest average processing time for simple requests during FY 2012 was reported by USAID (163.02 days). Interior, the Administrative Conference of the United States, and the Selective Service System all reported the lowest average processing times for simple requests, reporting processing them within 2 days.

### Average Processing Time for Complex Requests

The average of the processing times for complex track requests for agencies that reported data in this field of their Annual FOIA Report was 82.35 days. This marks the second consecutive year that the government has improved its average processing time for complex

requests, with a decrease of over 21 days from the average of 103.74 days reported in FY 2011, and a reduction of over 35 days from the average of 118.93 days reported in FY 2010. Across the government, NARA (917 days) reported the highest average processing time for complex requests and the Federal Mediation and Conciliation Service (8.9 days) reported the lowest. Four agencies – Federal Mediation and Conciliation Service, Federal Deposit Insurance Corporation, Federal Mine Safety and Health Review Commission, and the Federal Financial Institutions Examination Council – reported processing their complex requests within an average of twenty days or less. Nine agencies including Treasury and the VA processed their complex requests between an average of 20.6 days and 28.7 days. Twenty-three agencies including Interior, HUD, Labor, DOT, DOC, USDA, and HHS processed their complex requests between an average of thirty days and 82.35 (the government's overall average).

#### *Average Processing Time for Expedited Requests*

Due to the nature of expedited track requests, which can either be simple or complex in their scope, comparisons of average processing times are necessarily imperfect. However, for the agencies that reported data for this field, the average processing time for expedited requests during FY 2012 was 40.2 days. This is a decrease of over fifteen days from the average of 55.22 days reported in FY 2011. Twenty-nine agencies including HUD, DOC, HHS, and DOD reported processing their expedited requests within an average of twenty days or less. Another eight agencies including DOT, Treasury, USDA and VA processed their expedited requests between an average of 23.69 days and thirty-six days. All but nine agencies processed these requests within an average of less than 100 days.

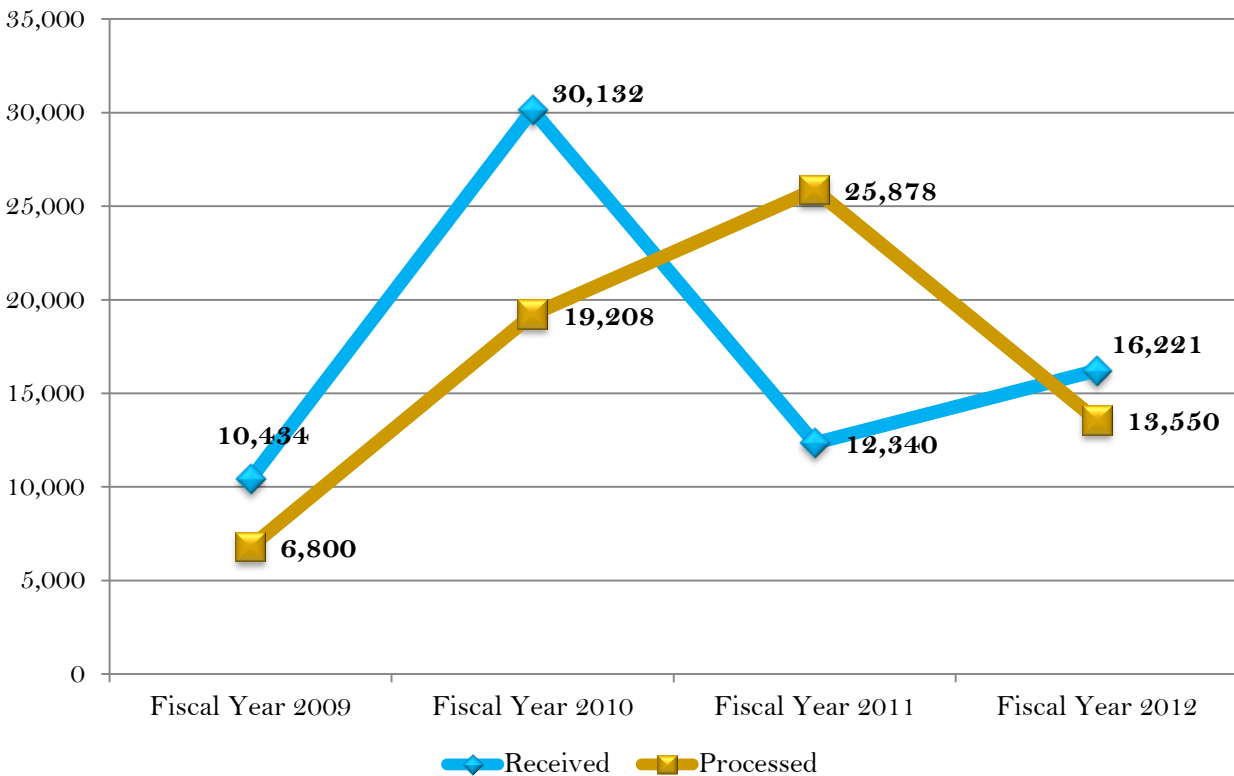
### **CONSULTATIONS ON FOIA REQUESTS**

#### *Consultations Received, Processed, and Pending*

Across the government forty of the ninety-nine agencies subject to the FOIA received documents for consultation from other agencies during Fiscal Year 2012. Agencies in receipt of consultations are being asked to provide their views on the disclosability of records that are being processed by another agency. There were a total of 16,221 consultations received by the forty agencies in FY 2012, an increase of 31.5% from the 12,340 consultations received in FY 2011. For the second year in a row, the fifteen cabinet departments received the vast majority of these consultations, receiving 14,895, which accounts for nearly 92% of all the consultations received by the government. For the third consecutive year, State received the most consultations across the government with 10,946, which is an increase of over 45% from the 7,535 reported in FY 2011. The consultations received by State alone account for over 67% of the total number of consultations received by the government. DOD (2,144) and the CIA (1,116), which received the second and third most consultations, are the only other agencies to receive more than 1000 consultations in FY 2012. Labor (118), DOE (278), Treasury (324), DHS (338), and DOJ (607) are the only other agencies to receive more than 100 consultations. Another eleven agencies including Interior, DOT, HHS, USDA, and DOC received between ten

and eighty consultations. The VA and twenty other agencies received between one and eight consultations, with Education, HUD, and fifty-seven additional agencies receiving none.

## Consultations



During FY 2012, thirty-nine agencies processed 13,550 consultations, which is a 47% decrease from the 25,878 consultations that were processed in FY 2011. Notably, nearly 62% (8,363) of the consultations processed by the government were handled by State. The fifteen departments collectively processed over 91% (12,346) of all consultation processed in FY 2012.

As with the number of consultations received, DOD and the CIA processed the second and third most consultations in FY 2012, processing 2,191 and 1,007 consultations, respectively. Labor (123), DOE (266), Treasury (326), DHS (336), and DOJ (596) were the only other agencies to process more than 100 consultations during FY 2012. Out of these eight agencies, Labor, Treasury, and DOD were able to process more consultations than they received, thereby reducing their overall backlog of pending consultations. Across the government, thirty of the forty agencies that received consultations in Fiscal Year 2012 were able to process all of the consultations they received during the year.

A total of twenty-two agencies reported ending Fiscal Year 2012 with a pending consultation still open. That is a slight increase of one agency from the twenty-one agencies

that reported a pending consultation open at the end of Fiscal Year 2011. The number of pending consultations across the government increased from the 3438 reported in FY 2011 to 6,150 in Fiscal Year 2012. For the second year in a row, State and DOD reported having the highest number of pending consultations with 4,452 and 1,015, respectively. These two agencies combined accounted for nearly 89% of all pending consultations at the end of FY 2012. CIA (348) and DOE (107) were the only other agencies to have more than 100 pending consultations. Only four other agencies of the forty that received consultations during the year – Treasury (28), EPA (32), DHS (45), and DOJ (85) – reported having more than ten pending consultations at the end of FY 2012.

### Ten Oldest Pending Consultations

In [guidance](#) posted last year, OIP stressed the importance of closing the ten oldest consultations pending at each agency, and called on agencies to "assess the steps needed to respond on any pending consultations, identify any barriers to doing so, and devise strategies that will allow for the consultations to be finished prior to the close of the fiscal year." The guidance noted that "[i]f those agencies in receipt of consultations from other agencies can commit to closing their ten oldest pending consultations each year, that in turn will facilitate the closing of the oldest requests themselves." The full [guidance](#) article is available on the [OIP Guidance](#) page of OIP's [website](#).

Of the twenty-two agencies that had pending consultations at the end of FY 2012, ten agencies including VA, USDA, and DOT reported that their oldest pending consultation was dated during 2012. Another four agencies – Treasury, DOJ, USAID, and the Office of the U.S. Trade Representative – reported that their oldest pending consultation was dated during 2011. The ten oldest pending consultations across the government at the end of FY 2012 are dated between 2001 and 2003, marking the first time that the government's oldest pending consultation is dated in the 2000s. The nine oldest of these consultations are dated between 1/8/01 and 10/21/03, and are all pending at DOD. The tenth oldest pending consultation is dated 11/24/03, and is pending at the CIA. Notwithstanding these consultations, only State and EPA reported any pending consultations dated prior to 2009.

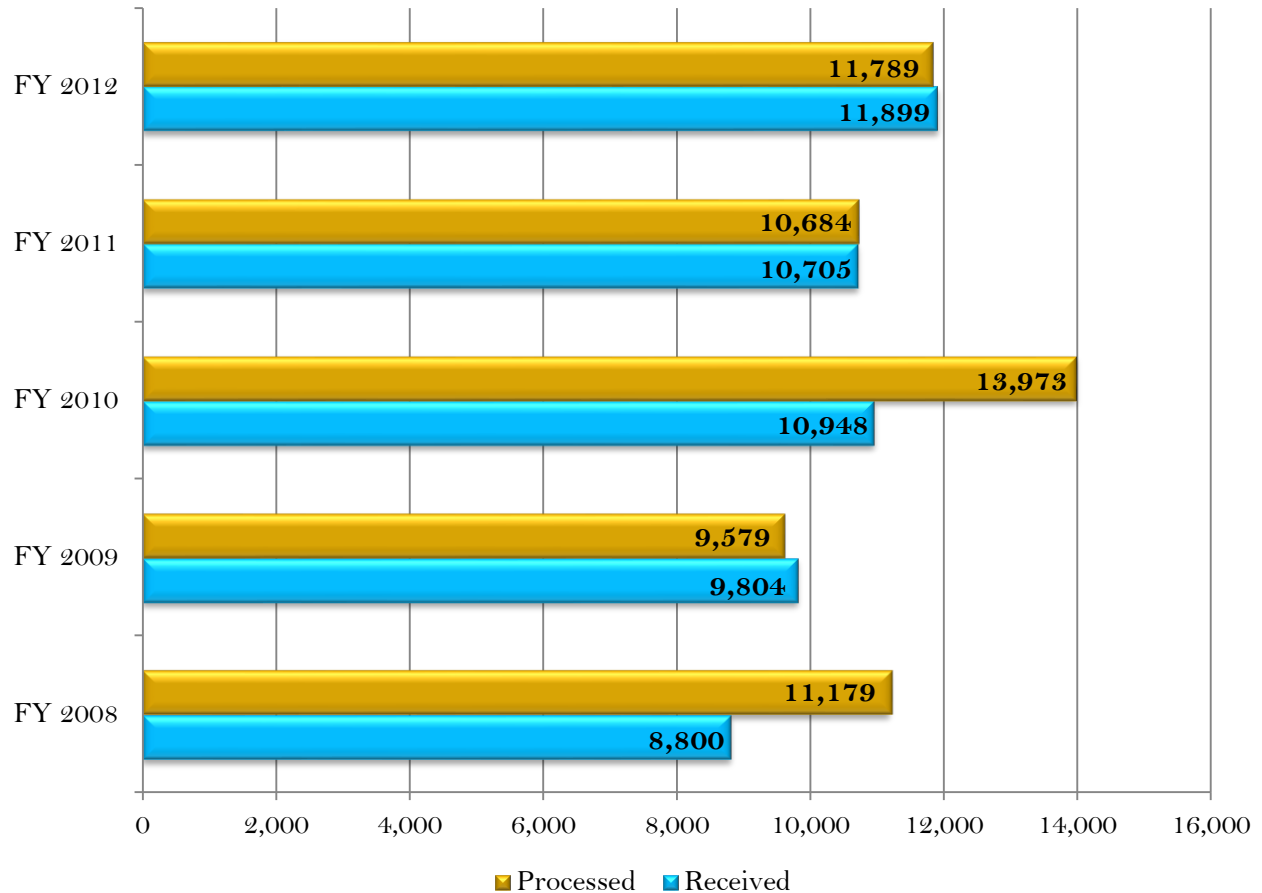
## **ADMINISTRATIVE APPEALS**

### Number of Administrative Appeals Received and Processed

The government overall received 11,899 administrative FOIA appeals in FY 2012, which is an increase of just over 11% from the 10,705 received in FY 2011. DOJ continues to receive the most number of appeals across the government. During FY 2012, DOJ received 3,569 appeals, which accounts for nearly 30% of all appeals received by the government, and is an over 9% increase from the 3,258 appeals DOJ received in FY 2011. For the second consecutive year, DHS and DOD received the next most appeals with 2,345 and 1,148, respectively. Additionally, these three agencies once again accounted for the majority (nearly 60%) of the

appeals received by the government. No other agency received more than one thousand appeals during FY 2012. Labor (414) and SSA (867) were the only other agencies to receive more than 400 appeals. Notably, the 867 appeals received by SSA is an over 780% increase from the 98 appeals it received in FY 2011. Twelve other agencies including DOT, Interior, USDA, State, VA, HHS, and Treasury received more than 100 appeals during FY 2012. Twenty-six agencies received no appeals.

## Administrative Appeals



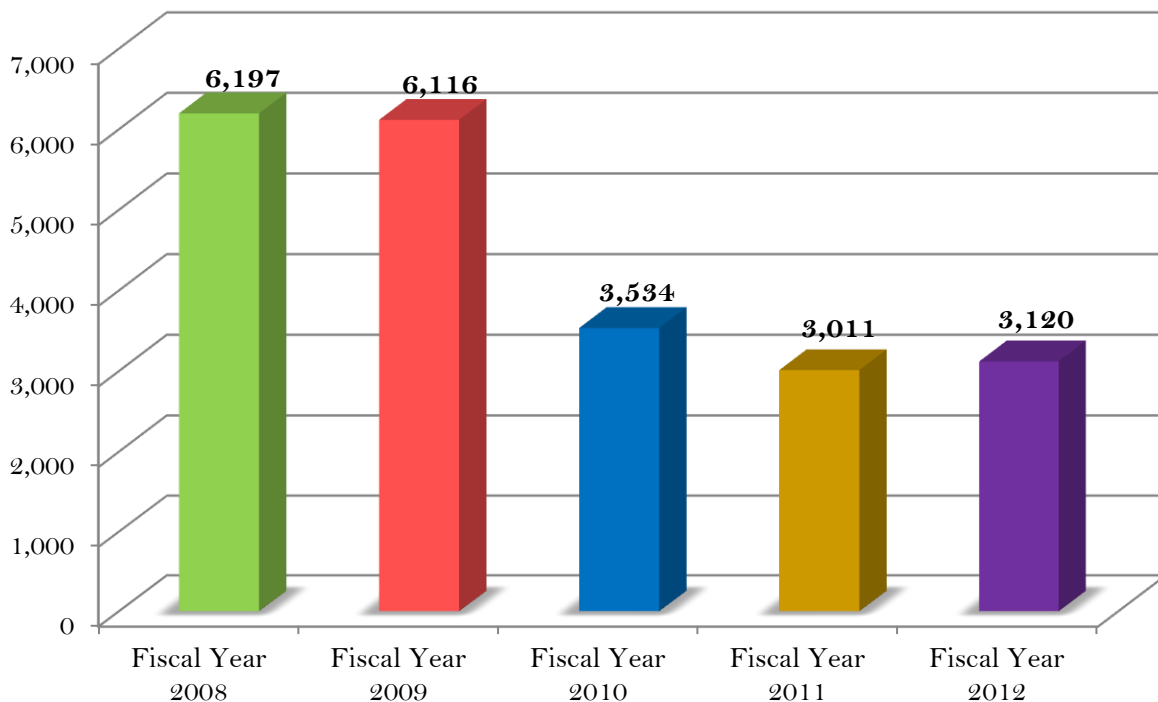
The government overall processed 11,789 appeals during FY 2012, which is an increase of just over 10% from the 10,684 appeals that were processed in FY 2011. The agencies that received the most appeals in FY 2012 also processed the most. DOJ, DHS, and DOD each processed 3,412, 2,490, and 1,080 appeals, respectively. In response to receiving a dramatically increased number of appeals during FY 2012, SSA processed the next most number of appeals with 844, which is a 744% increase over the 100 appeals it processed in FY 2011. Thirteen agencies including State, DOT, USDA, Interior, HHS, Treasury, VA, and Labor processed between 121 and 380 appeals. Another twenty-one agencies including Education, HUD, DOE, and DOC

processed between eleven and ninety-six appeals. Thirty-three agencies processed between one and ten appeals.

### Backlogged Administrative Appeals

The government's overall backlog of administrative appeals increased by less than 4% from 3,011 backlogged appeals at the end of FY 2011 to 3,120 at the close of FY 2012.

## Number of Backlogged Administrative Appeals



DOD had the highest number of backlogged appeals at the end of FY 2012 with 769, and was followed by DOJ (353 backlogged appeals) and State (352 backlogged appeals). As noted above, however, both DOJ and DOD were among the top three agencies in terms of the number of appeals received and processed. Sixty of the ninety-nine agencies subject to the FOIA closed FY 2012 with no pending appeals in their backlogs. Of the seventy-two agencies that either received or processed appeals during FY 2012, thirty-four ended the fiscal year with a zero backlog.

### Ten Oldest Pending Administrative Appeals

The oldest pending administrative appeals across the government are dated between 1995 and 1998, and are all pending at either DOD or the CIA. The oldest pending appeal at the

close of FY 2012 remained with the CIA and was dated 4/26/95. The CIA also had three other appeals dated during 1995, which all together represent the four oldest appeals in the government. DOD's two oldest appeals which are both from 1997 represent the government's overall fifth and sixth oldest appeals.

As noted above, sixty agencies reported having no pending administrative appeals at the end of FY 2012. Eleven agencies only had one or two appeals listed as their oldest pending appeals, with four of these agencies – Federal Housing Finance Agency, NASA, Federal Energy Regulatory Commission, and the U.S. Trade and Development Agency – reporting that their oldest pending appeals had been pending for less than twenty days.

### Processing Time for Administrative Appeals

The average of the processing times for adjudicating appeals for those agencies that reported data in this field of their Annual FOIA Report was 86.89 days, an increase of almost six days from the average of 81.01 day reported in FY 2011. For the third year in a row, Interior had the highest overall processing time for appeals across the government with 911 days. State (472 days) is the only other agency to report an average processing time above 270 days. Seven agencies including Education, DOD, and USDA reported average processing times between 200 and 270 days. Fifty-one agencies reported processing their appeals under an average of 100 days, with twenty-seven of these agencies reporting an average processing time of twenty days or less.

## **STAFFING LEVELS**

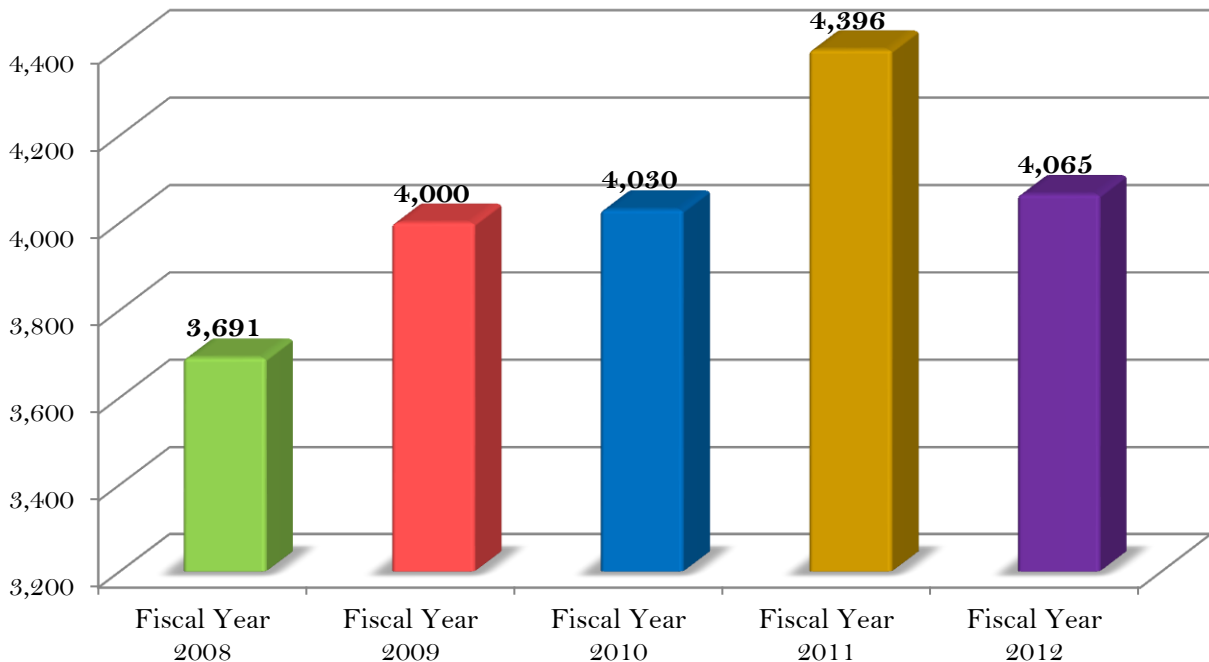
During FY 2012, 4065 "full-time FOIA staff"<sup>3</sup> were devoted to the administration of the FOIA throughout the federal government. This is a 7.5% decrease from the 4,396 "full-time FOIA staff" reported in FY 2011, and breaks a three year trend in which the number of FOIA staff had increased every year. This decrease in "full-time FOIA staff" is largely attributed to the reduction of staff at DOD. Reporting a government-wide high of 1,035 "full-time FOIA staff" in FY 2011, DOD reduced that number to 719 in FY 2012. Even with this reduction, however, DOD still reported having the most number of "full-time FOIA staff" in the government. For the second year in a row, DOJ reported the second highest number of "full-time FOIA staff," maintaining the 529 "full-time FOIA staff" reported at the end of FY 2011. DHS, HHS, USDA, VA, Labor, State, Interior, Treasury, DOT, and EPA were the only other agencies to report more than 100 "full-time FOIA staff" during FY 2012. Notably, the twelve agencies that reported having the most "full-time FOIA staff" in FY 2012 accounted for nearly 80% of all FOIA staff across the government.

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<sup>3</sup> This includes both full-time FOIA professionals and the cumulative percentages of the time spent on FOIA by personnel who work on FOIA as a part of their duties.



## Number of "Full-Time FOIA Staff" Across the Government

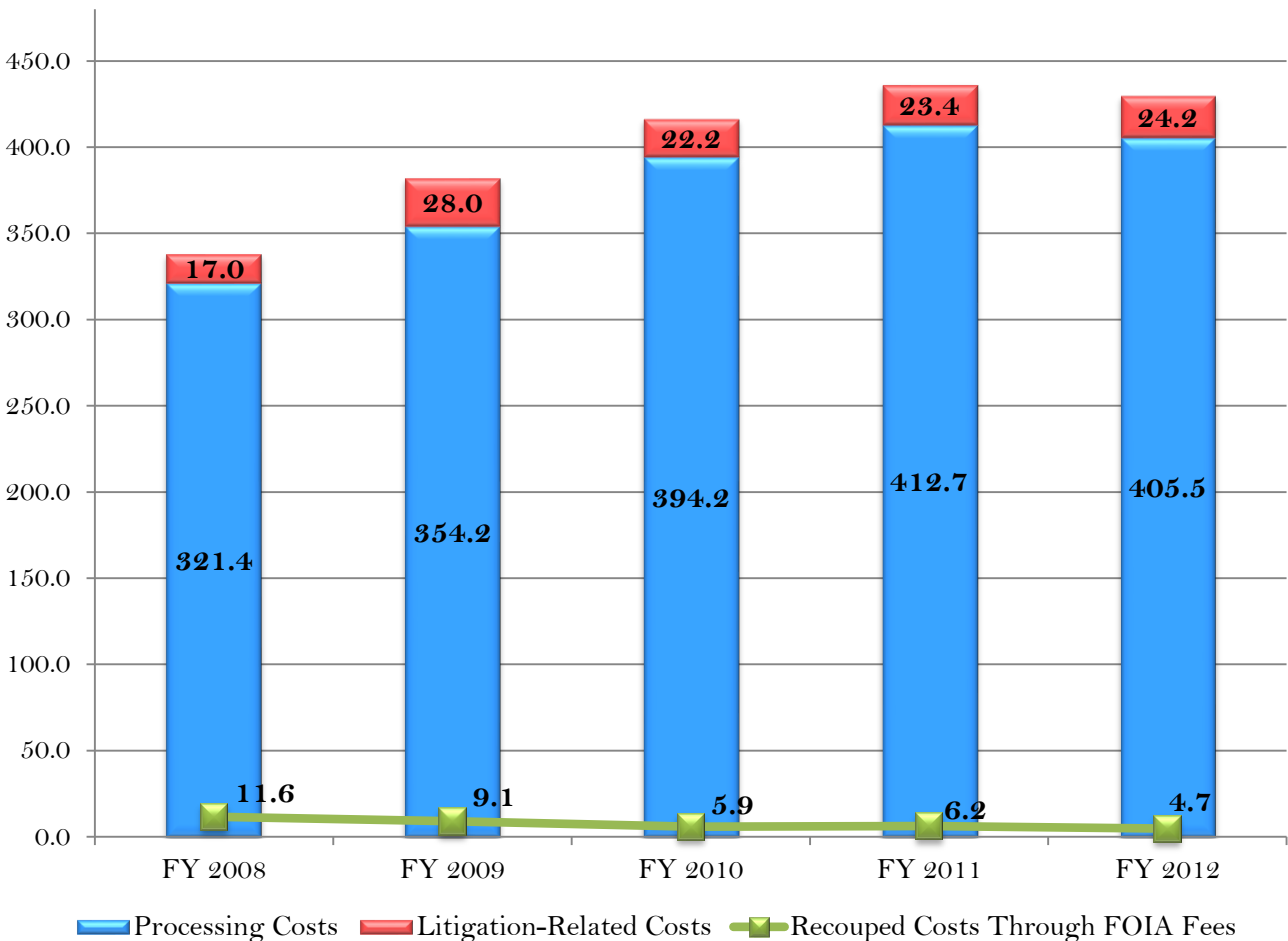


Thirty-one agencies reported having less than one "full-time FOIA staff" in FY 2012. When adding together all of the "full-time FOIA staff" reported by these agencies, it is the equivalent of nearly eleven staff members. Another forty-four agencies reported having between one and twenty "full-time FOIA staff." The remaining departments and agencies reported a range of "full-time FOIA staff" between twenty-one and just over ninety-one.

### COSTS

In FY 2012, the total cost of all FOIA related activities across the government was an estimated \$429,624,295.40, which is a 1.4% decrease or just over \$6 million less than was spent during FY 2011. For the second year in a row, nearly 95% (\$405,464,199.93) of this total cost was attributed to the actual processing of FOIA requests and appeals, and just over 5% (\$24,160,095.47) was reported to have been spent on litigation-related activities. During FY 2012, the government overall collected \$4,788,879.89 in FOIA fees, which amounts to just over 1% of the total costs related to the government's FOIA activities.

## Approximate Cost of All FOIA Related Activities (in millions of dollars)



For the third consecutive year, DOD reported incurring the highest total costs for FOIA-related activities, spending over \$76 million. However, this is a nearly 20% reduction when compared to the nearly \$94 million DOD spent on FOIA in FY 2011. DOJ and HHS once again reported the second and third highest total costs in FY 2012, spending over \$67 million and \$49 million, respectively. DHS (\$38.63 million) is the only other agency to spend more than \$20 million on FOIA-related activities. DOT, Interior, USDA, Labor, Treasury, State, VA, EPA and CIA are the only other agencies to have spent between \$10 and \$18.5 million on FOIA-related activities during FY 2012. Sixty-five agencies reported spending less than one million dollars, with thirty-nine of these agencies spending less than \$100,000. Twenty-one agencies, including HUD, Education, DOC, and DOE reported spending between one and nine million dollars.

Notably, sixty-four agencies reported no expenditures on litigation related activities in FY 2012, with another ten spending between \$300 and \$16,000. DOJ, DOD, CIA, DHS, and HHS

all reported spending over one million dollars on litigation related activities. Another eleven agencies including DOC, DOT, DOE, Treasury, Labor, USDA, Interior, and State reported spending between \$100,000 and \$975,000.

### **CONCLUSION**

During FY 2012, the federal agencies subject to the FOIA continued to face increasing numbers of incoming requests. In response to this increasing demand and with reduced FOIA staff, agencies processed a record high 665,924 requests, which led to a 14% reduction in the government's overall backlog of pending requests. Agencies achieved these important milestones while continuing to maintain a high release rate of over 93% and improving processing times for both simple and complex requests. Although much was achieved during FY 2012, there is still work to be done to ensure that progress continues to be made in FY 2013. Agencies should particularly focus on reducing the age of their backlogs by closing the ten oldest pending requests that are reported in their FY 2012 Annual FOIA Reports.