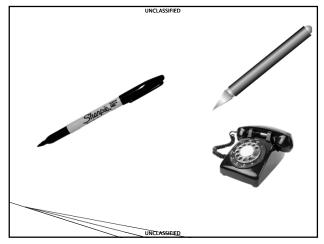UNCLASSIFIED

FOIA Backlogs – Why Won't They Go Away?

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True or False: FOIA backlogs are systematically linked to many issues.

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True or False:
Managing FOIA operations is tantamount to solving complicated puzzle.

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True or False:
Typically, as FOIA backlogs increase, so do response times.

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True or False:
As FOIA backlogs and response times increase, so does customer satisfaction.

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Now what?

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Don't panic!!

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Envision what the FOIA program is supposed to look like and how it supposed to operate.

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With strategic intent, identify the critical pieces of your FOIA operation that need immediate attention.

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3 Tips for FOIA!   (TODAY!)

✓ Effective Management

✓ Administration and Triage

✓ Communications with the Requester Community

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Effective Management

✓ Leadership Support

- Present the goals to senior leadership in order to obtain their feedback and their commitment to support the FOIA improvement efforts across the organization.
- Develop a strategic plan to present to senior leadership.
- Identify key objectives and corresponding short and long term goals.

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✓ Include measurable metrics in performance evaluation contracts

- Assign requests based on ability & experience of staff (branch A handles simple; branch B handles complex)

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✓ Meet regularly with staff
- Establish expectations
- Solicit staff input re options, improvements, or alternatives to approaching a problem request

✓ Review 10 oldest requests for pending issues; collectively address challenges
- Also reflects well on Annual Report, which tracks the oldest requests

✓ Reach out to Public Affairs/Press Office
- Proactively create webpages on emerging issues
- Post agency records routinely on the subject

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✓ All staff should understand the environment in which you work
- Emerging issues, legislative changes, case law
- Ensure adequate training in FOI, IT, etc.
- In highly complex organizations, need to know what's done in each agency component

✓ Beware of quotas in redaction and release
- Not all redaction issues are equal in complexity or volume

✓ Communicate with agency level management
- Provide metrics, compete for resources, etc.

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Administration & Triage

✓ Ensure staff have full understanding & knowledge of record keeping & databases
- Should know what records are the most easily located and released

✓ Triage incoming requests and only log "perfected" requests

✓ If request isn't clear, make early contact before logging, & document

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✓ Is the request appropriately routed to your agency (may be referral)?

✓ Is consultation necessary with other components or agencies?

✓ Is this a full denial? If so, process as "simple"

✓ Was the record previously released, or on line

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✓ Send partial responses
- Demonstrates requester contact, initiation of FOI processes, provides "simple" records
- Assists in agency defense if litigation results from non-response
- Provide requesters with direct contact information, not just web address or toll free number

✓ Follow-up with requesters who received partials
- Confirm whether this met their needs; if so, close the file. If not, submit new request
- If needs are met, send email or form letter of confirmation

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Communications with the Requester Community

✓ Maintain the integrity of the administrative record
  - If an appeal is filed, or litigation results, the agency will rely on your documentation
  - The lack of admin records could result in adverse judgment, and assessment of attorney fees

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✓ Encountering Requesters
  - Explain decentralization if appropriate
  - Estimated volume; need for consultations
  - Narrow a request through negotiation or explaining how records are maintained and can be provided
  - Focus on options, such as date range, fee cut-off, single firm records, single incidents, etc., rather than "any and all records relating to…"

✓ First party requests require authorization if received from someone other than the individual (generally must be original signature & designation)

✓ Use your agency FOI Public Liaison, and OGIS

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3 Tips in FOIA Backlog Reduction

✓ The three tips – program functions – will work together, and overlap
  - Think of FOI management as a "Venn Diagram" which uses all of the above (and more)

✓ FOIA is a job that matters!

✓ Questions?

✓ Thank you for your participation!

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3 Tips for FOIA!   (Tomorrow!)

✓ Effective Management

✓ Technology

✓ Artificial Intelligence

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Questions????

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