HRSA Fiscal Year 2006 Freedom of Information Annual Report

I. AGENCY: Health Resources and Services Administration
U.S. Department of Health and Human Services

REPORT PREPARED BY: Mona Finch

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ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:
http://www.hrsa.gov/foia/

ADDRESS FOR PAPER COPIES OF THIS REPORT:

Freedom of Information Officer Office of Communications
Health Resources and Services Administration, HHS
5600 Fishers Lane, Rm. 14-27
Rockville, MD 20857

II. HOW TO MAKE A FOIA REQUEST:

See HRSA FOIA Reference Guide at: http://www.hrsa.gov/foia/

A. Names, addresses, and telephone numbers of all individual agency components and offices that process FOIA requests:

Freedom of Information Officer
Office of Communications
Health Resources and Services Administration, HHS
5600 Fishers Lane, Rm. 14-27
Rockville, MD 20857

B. Brief description of agency's response time range(s):
Response times can range from same day response to more than 20 days, depending on the complexity of the request.

C. Brief description of why some requests are not granted:
Documents requested were protected by an exemption and release would have caused harm to the interest protected by the exemption.

III. DEFINITIONS OF TERMS AND ACRONYMS USED IN REPORT:

A. 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
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

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

FOIA/PA request - Freedom of Information/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself. Such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report).

Initial Request - A request to a federal agency for access to records under the Freedom of Information Act.

Appeal - A request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

Processed Request or Appeal - A request or appeal for which an agency has taken final action on the request or appeal in all respects.

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 in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).

Expedited processing - An agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

Simple request - A FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of the records requested.

Complex request - A FOIA request, that an agency using multi-track processing places in a slower track, based on the volume and/or complexity of records requested.

Grant - An agency decision to disclose all records in full response to a FOIA request.

Partial grant - An agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.

Denial - An agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of FOIA exemptions or for some procedural reason (such as because no record is located in response to a FOIA request).

Time Limits - The time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a perfected FOIA request).

Perfected request - A FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

Exemption 3 statute - A separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

Median number - The middle number, not the average. For example, of 3, 7, and 14, the median number is 7.

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.

IV. EXEMPTION 3 STATUTES:

A. List of Exemption 3 statutes relied on by the agency during report year:

42 U.S.C. 11137 (b) Health Care Quality Improvement Act of 1986
41 U.S.C. 253b (m) - National Defense Authorization Act

1. Brief description of type(s) of information withheld under each statute:

   42 U.S.C. 11137 (b) - Health Care Quality Improvement Act of 1986 and the National Practitioners Data Bank; Prohibits release of adverse reports of a physician's conduct or practice.

   41 U.S.C. 253b (m) - National Defense Authorization Act; prohibits release of contractor proposals not incorporated into agency contracts.

2. Has a court upheld the use of each statute? No

V. INITIAL FOIA/PA ACCESS REQUESTS
(Include all requests, 3rd or 1st party):

A. Numbers of initial requests (line 1 + line 2 - line 3 = line 4):

1. Number of requests pending at close of preceding fiscal year: 35

2. Number of requests received during reporting fiscal year: 242

3. Number of requests processed during reporting fiscal year: 253

4. Number of requests pending at close of reporting fiscal year: 24 (This number should match Line VII.B.1.)

B. Disposition of Initial Requests:

1. Number granted in full: 216

2. Number granted in part: 8

3. Number of full denials: 10

   a. Number of times each FOIA exemption was used:

   Exemption 1: 0
   Exemption 2: 0
   Exemption 3: 3
   Exemption 4: 7
   Exemption 5: 7
   Exemption 6: 5
   Exemption 7: 3
   Exemption 7(A): 5
   Exemption 7(B):
   Exemption 7(C):
   Exemption 7(D):
   Exemption 7(E):
   Exemption 7(F):
   Exemption 8: 0
   Exemption 9: 0

4. Other reasons for non-disclosure: 19

   a. No records: 13
   b. Referrals: 0
   c. Request withdrawn: 1
   d. Fee-related reason: 0
   e. Records not reasonably described: 2
   f. Not a proper FOIA request for some other reason: 1
   g. Not an agency record: 0
   h. Duplicate request: 1
   i. Other (specify): 0

VI. APPEALS OF INITIAL DENIALS OF FOIA/PA REQUESTS (include all access requests whether first or third party):

Appeal authority for HRSA denials is the Deputy Assistant Secretary for Public Affairs (Media), Department of Health and Human Services (HHS). Information about HRSA appeals will be included in the DASPA (Media) Annual FOIA Report for HHS.

A. Numbers of Appeals:

1. Number of appeals received during the fiscal year:
2. Number of appeals processed during the fiscal year:

B. Disposition of Appeals:

1. Number completely upheld:

2. Number partially reversed:

3. Number completely reversed:

   a. Number of times each FOIA exemption used (counting each exemption used once per appeal)

   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

4. Other reasons for non-disclosure (total):

   a. No records:
   b. Referrals:
   c. Request withdrawn:
   d. Fee-related reason:
   e. Records not reasonably described:
   f. Not a proper FOIA request for some other reason:
   g. Not an agency record:
   h. Duplicate request:
   i. Other (specify):

VII. COMPLIANCE WITH TIME LIMITS/STATUS OF PENDING REQUESTS:

A. Median Processing Time for Requests Processed During the Year

1. Simple Requests:
   a. Number of requests processed: N/A
   b. Median number of days to process: N/A

2. Complex Requests:
   a. Number of requests processed: 252
   b. Median number of days to process: 20

3. Requests Accorded Expedited Processing:
   a. Number of requests processed: 6
   b. Median number of days to process: 14

B. Status of Pending Requests (if multiple tracks are being used, report for each track as well as totals).

1. Number of requests pending as of the end of the fiscal year covered in this report (from Line V.A.4): 24

2. Median number of days that such requests were pending as of that date: Medians vary greatly from OPDIV to OPDIV. 9

VIII. COMPARISONS WITH PREVIOUS YEAR (S): (Optional):

IX. COSTS/FOIA STAFFING:

A. Staffing levels:

1. Number of full-time FOIA personnel: 2

2. Number of personnel with part-time or occasional FOIA duties (in total work-years): 1 person at .5

3. Total number of personnel (in work years): 2.5

B. Total costs (including staff and all resources):

1. FOIA processing (including appeals): $62,987

2. Litigation-related activities (estimated): $1,300

3. Total costs: $64,287

4. Comparison with previous year(s) (optional):
   Total Cost 2005: $113,700
   Total Cost 2006: $ 64,287

X. FEES:

A. Total amount of fees collected by agency for processing requests: $1074

B. Percentage of total costs: 2%

XI. FOIA REGULATIONS (including fee schedule):

The FOIA regulation implementing the 1996 amendments to the Freedom of Information Act has been published as a Notice of Proposed Rule Making and public comments have been received. The passage of PL 105-277 requiring OMB to revise circular A-110 will require further revisions to the HHS FOIA regulation and public comments on those new sections. That effort is currently underway. Until such time as the revised regulation is published as a new final rule, the current HHS FOIA regulation can be found at 45 CFR Part 5, and at: http://www.hhs.gov/foia/45cfr5.html.

XII. See HHS FY 2006 FOIA Annual Report