

**Chief FOIA Officer Report for the
Chemical Safety and Hazard Investigation Board**

March 7, 2011

I. Steps Taken to Apply the Presumption of Openness

1. Description of steps taken to ensure that presumption is being applied to all decisions involving the FOIA.

a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

All Chemical Safety and Hazard Investigation Board (CSB) personnel with responsibilities for FOIA processing and administration have been informed, and provided a copy, of the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. With this background, the personnel who make FOIA release decisions are well aware of the presumption of openness and apply it to their decision making.

b. What training has been attended and/or conducted on the new FOIA Guidelines?

The Chief FOIA Officer has discussed the President's and Attorney General's FOIA policy documents with the CSB Leadership Team, so that managers are aware that the presumption applies to records in their functional areas.

c. How has your agency created or modified internal guidance to reflect the presumption of openness?

During FY 2010, there were no specific instances of internal guidance being created or modified to reflect the presumption of openness. However, most agency policies are on a periodic review and update schedule, so there will be opportunities in the future to address the presumption of openness through new or modified guidance and policy documents.

d. To what extent has your agency made discretionary releases of otherwise exempt information?

Within the past year, the CSB has posted 37 Board Orders, which constitute agency policy, to its web site. Most of these would have been exempt under FOIA Exemption 2, but have been posted as a discretionary release. These documents were proactively disclosed even though there was no specific request for them.

e. What exemptions would have covered the information that was released as a matter of discretion?

See above. FOIA Exemption 2.

f. How does your agency review records to determine whether discretionary releases are possible?

In terms of specific records releases, the CSB seeks to apply the presumption of openness to the greatest extent possible, consistent with applicable law. For example, many records collected during CSB investigations, which are also the most frequent subject of FOIA requests to the agency, are within the scope of the Trade Secrets Act and not appropriate for discretionary disclosure. However, for other kinds of records, the CSB is making a concerted effort to identify those that can be disclosed for the sake of openness, and to reasonably segregate as much disclosable information as possible from records that still require partial exemptions.

g. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is applied.

The CSB is developing a policy on transparency. One specific objective is to develop an approach to making additional information available about recommendations issued by the CSB.

2. Disclosure Comparisons – Report the extent to which the number of requests released in full and the number of requests where records have been released in part has changed from those numbers reported in your previous year’s Annual FOIA Report.

	Full Grants	Partial Grants
FY 2009	2	8
FY 2010	1	5

II. Steps Taken to Ensure that Agency has an Effective System for Responding to Requests

a. Do FOIA Professionals within your agency have sufficient IT Support?

Our current staff does a good job, but the CSB still requires additional IT support for FOIA processing. Due to the increase in information requests to the agency, and the growing proportion of those requests that seek voluminous

records, the CSB could use 1-2 full time IT positions solely devoted to FOIA. At present, we have access to a fraction of that support. The support we do have is outstanding.

b. Describe how your agency's FOIA Professionals interact with your Open Government Team.

FOIA professionals are part of the overall Open Government Team, which include IT professionals, members of our public affairs unit, webmaster, General Counsel, and Managing Director.

c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

Over the past two years, the CSB has tracked the amount of time available for processing FOIA requests in relation to the overall FOIA workload. The overall amount of staff time available for FOIA processing is clearly inadequate in relation to the FOIA workload. Accordingly, the CSB has requested additional funding for FOIA personnel. The CSB has requested funding in its FY 2012 budget for one full time FOIA/Records Officer.

d. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

The agency has made improvements to its records management function, and the interface between the records management and FOIA functions. In FY 2009, the agency's newly-hired Information Assurance Specialist began a systematic effort to ensure the integrity, quality, and utility of the CSB's investigation case file records, which are the most frequent subject of FOIA requests. As a result of that effort investigation case files are now fully indexed so that a requester may target specific records for disclosure as opposed to making a blanket requests for records that may not be of interests.

FOIA professionals and Information Management professionals have worked to develop a method for conducting FOIA reviews directly in the CSB's electronic records management program. Previously, the CSB had been implementing a stand-alone electronic FOIA processing system

In another step to ensure the effectiveness of its FOIA response system, the CSB is seeking in its FY 2012 budget request a full time FOIA/Record Officer. Given the volume and complexity of CSB investigation files – and the increasing number of requests for them – the reality is that the agency will need to invest substantially more labor hours in order to reduce or eliminate its backlog and to improve FOIA response/processing times. The additional position requested represent the CSB's assessment of what is required to maintain an effective FOIA program – including the proactive discretionary

release of information, prompt processing of all requests, and the elimination of the backlog by the close of FY 2012.

III. Steps Taken to Increase Proactive Disclosures

- a. **Has your agency added new material to your agency web site since last year?** Yes.

- b. **What types of records have been posted?**

Board votes. Board Orders (Policy Statements). Investigation Reports. Recommendations Information. Video Animations.

- c. **Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.**

Board Orders. Board votes.

- d. **What system do you have in place to routinely identify records that are appropriate for posting?**

Publication and dissemination of public safety information (e.g., investigation reports, safety recommendations, and safety videos) are an inherent part of the CSB's statutory mission. Thus, the systems by which such information products are developed and produced specifically contemplate that they will be designed to be appropriate for public internet posting and will, in fact, be posted in that manner.

- e. **How you utilize social media in disseminating information?**

The CSB makes extensive use of social media to disseminate information. The CSB has an official agency presence on both Facebook and Twitter. The CSB internet home page offers a direct link to those social media sites. In addition, CSB safety videos – which are among the CSB's most important and effective safety products – are available on YouTube.

- f. **Describe any other steps taken to increase proactive disclosure at your agency.**

The CSB is pursuing a major initiative, which we believe to be unprecedented for a multi-member agency, to proactively disclose the voting results and underlying records for every written vote taken by the Board. This initiative – which includes all Board voting actions going forward, as well as all those that have occurred since the CSB began operating in 1998 – covers over 800 voting actions and will provide a wealth of information to the public about the Board's decision- and policy-making on a wide range of substantive and administrative matters. These records are being disclosed through a dedicated page on the CSB website that allows the public to search by vote category,

status, and/or date, as well as to browse the entire collection. In addition, interested members of the public can subscribe to an RSS feed to receive automatic notification when new voting records are posted.

As another proactive disclosure step, the CSB has posted on its website all of the agency's non-sensitive Board Orders (administrative policies). These are records that in the past might have been considered exempt from disclosure under a "low 2" analysis, but are now being affirmatively released in accordance with the presumption of openness.

IV. Steps Taken to Greater Utilize Technology

1. **Electronic receipt of FOIA requests:**

a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?

The CSB will accept requests submitted by e-mail. The CSB does not have a system by which a request can be submitted via the CSB web site. As the CSB is a small agency, there are not individual components that receive requests. All requests are directed to the FOIA Officer.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

Not applicable. There is only one component.

c. What methods does your agency use to receive requests electronically?

Email.

2. **Electronic tracking of FOIA requests:**

a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?

The CSB does not track requests electronically. Establishing a formal system for receiving requests electronically would require additional personnel time and financial resources to assess the extent to which existing CSB information systems can receive requests, or would require modifications and upgrades in order to do so. It would also be necessary to develop appropriate policy and technical controls to ensure that security issues in an electronic FOIA request system (e.g., secure handling of

combined FOIA/Privacy Act requests containing Personally Identifiable Information) are properly addressed.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

The CSB only has one component that receives FOIA requests. As stated in response 2.a., the CSB does not track requests electronically.

c. What methods does your agency use to track requests electronically?

The CSB does not track requests electronically.

3. Electronic processing of FOIA requests:

a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?

There is only one component that processes FOIA requests.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

c. What methods does your agency use to process requests electronically?

The CSB uses various electronic tools to process FOIA requests. Investigation records (the most commonly requested records) are maintained in an electronic records management system. That system allows for the creation of a working copy of investigation case files for FOIA review purposes. FOIA personnel can thus work freely in their copy of the case file to review records electronically, make redactions using commercial software to, track and record exemption determinations for specific records, and prepare electronic copies of records for release.

4. Electronic preparation of your Annual FOIA Report:

a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.

In addition to the electronic tools provided by the Department of Justice Office of Information Policy, the CSB uses commercial database software tool to compile and analyze FOIA request and processing data to create the inputs needed for the Annual FOIA Report.

b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.

Current software is acceptable. We have begun a dialogue with IT staff to determine what other options might be available.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

	Number of Backlog Requests at End of FY	Average Age (Days) of Backlog Requests	Number of Backlog Appeals at End of FY	Average Age (Days) of Backlog Appeals	Date of Oldest Pending Request
FY 2009	26	357	0	0	5/2/05
FY 2010	41	333	0	0	5/2/05

2. Description of Backlog Status and Backlog Reduction Steps

In FY 2008, the CSB reduced its FOIA backlog by 30%. Further reduction did not occur in FY 2009 for several reasons. In FY 2009, the number of FOIA requests received by the CSB increased by almost 40 percent. The time available for processing these requests declined, however, by over 30 percent. While the CSB still managed to process a greater number of overall requests in FY 2009, the overall backlog grew by one request. The average number of days backlogged complex requests had been pending also increased by 50 days in FY 2009.

In FY 2010, the CSB was able to achieve a small reduction in the average age of backlogged requests. That was achieved through a targeted effort to proactively engage the requesters for some of the oldest pending requests and determine whether the requesters still needed the records and, if so, how those requests could be completed and closed most effectively. The CSB was also able to close 5 of 10 of its 10 oldest FOIA requests that had been pending as of the end of FY 2009.

However, because of the inadequate personnel time available for FOIA processing, the total number of requests in the backlog increased, as new complex requests came in that could not be fully processed. By way of illustration, comparing FY 2010 with FY 2008 (the year in which the CSB reduced its backlog by almost one-third), the staff time available for

processing requests in FY 2010 declined by approximately 66% from the FY 2008 level.

Based upon these trends, the CSB has concluded that further backlog reduction will require the investment of additional resources into FOIA processing. Accordingly, the CSB has requested one full time FOIA/Records Officer in its FY 2012 budget request.

3. Description of Steps Agency is Taking to Improve Timeliness in Responding to Requests and to Administrative Appeals

a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes. Given other agency priorities, it has been difficult to accomplish these goals. The CSB has requested one full time position to focus on FOIA/Records matters as part of its FY 2012 budget request. Please see- www.csb.gov/assets/news/document/2012_Budget_Request_FINAL.pdf.

b. Has your agency increased its FOIA staffing?

No. Attempts have been made to increase resources devoted to processing FOIA requests, but to date, the CSB has been unable to meet this objective.

c. Has your agency made IT improvements to improve timeliness?

Yes. As described above, FOIA professionals have worked with Information Management staff to develop a method for conducting FOIA reviews directly in the CSB's electronic records management program.

d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

Yes. The Chief FOIA Officer has been heavily and directly involved in addressing capacity issues. He has begun to assist directly in the processing of requests due to the shortage of staff available to process such requests.

Other Steps to Improve Timeliness

Within its current resource constraints, the CSB has looked for ways to increase the efficiency of processing requests in order to improve timeliness. For example, the Chief FOIA Officer has taken a more direct role in identifying early relatively simple requests and working with information management staff to promptly collect responsive records for review. FOIA personnel have also been coordinating closely with information management staff to prioritize the availability of investigation records for FOIA review and

to produce case file indices that can be sent to requesters to assist them in modifying the scope of their requests.

VI. Spotlight on Success

As noted previously, the CSB achieved a substantial success for openness and proactive disclosure with the creation of its Open Government web page. The CSB has posted on that web page hundreds of Board voting records and all but a handful of the Board Orders (policy documents). These are records that were not previously public, but can now be easily reviewed and searched on the Internet. The end result is a significant net increase in substantive information about the CSB's policies and operations that is available to the public without the need for any request.