



National Security Commission on Artificial Intelligence Fiscal Year 2020 Annual FOIA Report

SECTION I: BASIC INFORMATION REGARDING REPORT

If you have any questions about this report, please contact Michael Lueptow, General Counsel, at (703) 614-6386 or 2530 Crystal Drive, Box No. 45, Arlington, VA 22202.

The report is available on the Commission's website at <https://www.nscai.gov/resources/foia>. If you would like to request a paper copy of the report, please email FOIA@nscai.gov.

SECTION II: MAKING A FOIA REQUEST

The Commission has a centralized process for FOIA requests. You can find more information about NSCAI'S FOIA process, as well as instructions on how to submit a FOIA request on the Commission's website at <https://www.nscai.gov/resources/foia>, and on the Commission's FOIA.gov page, available [here](#). If you have any questions about making a FOIA request, please contact NSCAI's FOIA Public Liaison, at FOIAPublicLiaison@nscai.gov.

Most requests made to the Commission are denied because they are seeking records not held by the Commission. The Commission holds public meetings which are announced in the Federal Register, proactively releases preparatory materials for public meetings, and publishes minutes of Commission meetings on its website at <https://www.nscai.gov/resources>.

SECTION III: DEFINITIONS AND EXEMPTIONS

Definitions

Administrative Appeal – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.

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.

Backlog – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.

Component – for agencies that process requests on a decentralized basis, a "component" is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.

Consultation – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency or component within the same agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency or component within the same agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.

Exemption 3 Statute – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.

FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Full Grant – an agency decision to disclose all records in full in response to a FOIA request.

Full Denial – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.

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

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 granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

Expedited Processing – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.

Simple Request – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low 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 high volume and/or complexity of the records requested.

Partial Grant/Partial Denial – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.

Pending Request or Pending Administrative Appeal – a request or administrative appeal for which an agency has not taken final action in all respects.

Perfected Request – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.

Processed Request or Processed Administrative Appeal – a request or administrative appeal for which an agency has taken final action in all respects.

Range in Number of Days – the lowest and highest number of days to process requests or administrative appeals.

Time Limits – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

Exemptions

Exemption 1: classified national defense and foreign relations information

Exemption 2: information that is related solely to the internal personnel rules and practices of an agency

Exemption 3: information that is prohibited from disclosure by another federal law

Exemption 4: trade secrets and other confidential business information

Exemption 5: inter-agency or intra-agency communications that are protected by legal privileges

Exemption 6: information involving matters of personal privacy

Exemption 7: records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual⁴

Exemption 8: information relating to the supervision of financial institutions

Exemption 9: geological information on wells.

3. Agency Component Abbreviations

Component Abbreviation	Component Name
NSCAI	National Security Commission on Artificial Intelligence

IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
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V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Agency / Component	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
NSCAI	1	11	10	2
AGENCY OVERALL	1	11	10	2

V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS"

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
NSCAI	Unable to Locate or Contact Requester	1	1
AGENCY OVERALL			1

VIA. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS

Agency / Component	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
NSCAI	0	0	0	0
AGENCY OVERALL	0	0	0	0

VI.B. DISPOSITION OF ADMINISTRATIVE APPEALS -- ALL PROCESSED APPEALS

Agency / Component	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
NSCAI	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0

VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS

Agency / Component	Description of "Other" Reasons for Denial on Appeal from Chart C(2)	Number of Times "Other" Reason Was Relied Upon	TOTAL
NSCAI	N/A	0	0
AGENCY OVERALL			0

VI.C.(4). RESPONSE TIME FOR ADMINISTRATIVE APPEALS

Agency / Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
NSCAI	N/A	N/A	N/A	N/A
AGENCY OVERALL	N/A	N/A	N/A	N/A

VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
NSCAI	5	12.56	1	74	73	73	73	73	N/A	N/A	N/A	N/A
AGENCY OVERALL	5	12.56	1	74	73	73	73	73	N/A	N/A	N/A	N/A

VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
NSCAI	9	9	9	9	73	73	73	73	N/A	N/A	N/A	N/A
AGENCY OVERALL	9	9	9	9	73	73	73	73	N/A	N/A	N/A	N/A

VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

Agency / Component	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
NSCAI	0	N/A	N/A	1	41	41	1	265	265
AGENCY OVERALL	0	N/A	N/A	1	41	41	1	265	265

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
NSCAI	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2020-08-03	2019-09-11
	Number of Days Pending	0	0	0	0	0	0	0	0	41	265
AGENCY OVERALL	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2020-08-03	2019-09-11
	Number of Days Pending	0	0	0	0	0	0	0	0	41	265

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
NSCAI	1	0	139	139	0
AGENCY OVERALL	1	0	139	139	0

VIII.B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
NSCAI	1	0	36	36
AGENCY OVERALL	1	0	36	36

IX. FOIA Personnel and Costs

Agency / Component	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
NSCAI	2	1.00	3.00	333210.00	17275.00	350485.00
AGENCY OVERALL	2	1.00	3.00	333210.00	17275.00	350485.00

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
NSCAI	0.00	0.0000
AGENCY OVERALL	0.00	0.0000

XI.A. Number of Times Subsection (C) Used

Agency / Component	Number of Times Subsection Used
NSCAI	0
AGENCY OVERALL	0

XI.B. Number of Subsection (A)(2) Postings

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
NSCAI	0	0
AGENCY OVERALL	0	0

XII.A. Backlogs of FOIA Requests and Administrative Appeals

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
NSCAI	2	0
AGENCY OVERALL	2	0

XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
NSCAI	0	0	0	0
AGENCY OVERALL	0	0	0	0

XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- REQUESTS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
NSCAI	1	11	0	10
AGENCY OVERALL	1	11	0	10

**XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT --
BACKLOGGED REQUESTS**

Agency / Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
NSCAI	1	2
AGENCY OVERALL	1	2

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
NSCAI	0	0	0	0
AGENCY OVERALL	0	0	0	0

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Agency / Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
NSCAI	0	0
AGENCY OVERALL	0	0