



MEASURING TRANSPARENCY UNDER THE FOIA:

The Real Story Behind The Numbers

Citizens for Responsibility and Ethics in Washington
OpenTheGovernment.org

December 2011

INTRODUCTION

Well past the mid-point of the Obama presidency, Citizens for Responsibility and Ethics in Washington (CREW), with the assistance of OpenTheGovernment.org (OTG) set out to answer the question whether the administration's stated commitment to increase transparency, especially through the Freedom of Information Act (FOIA), actually has resulted in a more open and accountable government. Armed with the 2010 annual FOIA reports submitted to the Department of Justice (DOJ) by federal agencies and departments and a data crunching tool developed by DOJ, www.foia.gov (FOIA.gov), CREW and OTG conducted our own data analysis of the 15 highest FOIA volume agencies and departments.¹

This effort follows a previous report CREW issued – *FOIA at the Midterm: Obstacles to Transparency Remain*²-- that tried to answer the question, based on responses to a questionnaire targeted for FOIA professionals working in the federal government, whether the administration's open government reforms really have changed how agencies view their responsibilities under the FOIA. Changing the agency culture regarding the FOIA undoubtedly takes time, which is why we waited until now to take a more granular look at that culture and what the government's numbers show.

The results paint a very mixed picture on the FOIA front, with agencies generally processing more requests more quickly, but also increasing their reliance on the FOIA's nine exemptions to withhold more information from the public. Our analysis revealed an even more alarming truth: the government's FOIA data is flawed, making it impossible to assess key areas of progress and casting doubt on its overall reliability. As a result, what started as a statistical report on agencies' handling of FOIA requests ended as an expose of the problems with the data and tools the government has developed to measure its progress in implementing the FOIA.

The critical importance of valid data cannot be overstated. In amending the FOIA through the OPEN Government Act of 2007, Congress explained it was enhancing agency reporting requirements "to ensure that federal agencies provide the information needed to understand FOIA delays,"³ which are the most intransigent FOIA problem. Quite obviously, if the data agencies are reporting is flawed, or if the data being reported is not meaningful, neither Congress nor the public can accurately monitor the true status of agency delays--a central component of agency transparency. Flaws in FOIA.gov only compound this problem, and leave us with no tools to pierce the administration's rhetoric and determine whether it has made good on its promise to turn the tide of secrecy embraced by the Bush administration.

Accordingly, this report is in two parts. First, we outline the myriad data problems we encountered and how they impeded our effort to assess the level of this administration's transparency. Standing alone, many of the discrepancies seem relatively minor, but taken as a whole they impugn the reliability of the government's data base. This catalogue is by no means exhaustive, but we hope it is enough to compel the government to improve the quality of FOIA data it collects and DOJ to retool FOIA.gov. We also make suggestions for fixing

¹ Although we recognize the difference between an agency and cabinet-level department, for ease we refer to both as "agencies" in this report.

² Available at www.citizensforethics.org.

³ Sen. R. No. 110-59, at 4 (2007).

FOIA.gov, improving the quality of data collected, and adding new metrics to annual FOIA reports that would improve oversight of the FOIA processing system.

Second, we provide the results of the analyses we were able to complete, focusing on the agencies' rates of processing and use of the FOIA's nine exemptions as some of the most telling barometers of true transparency. The 15 agencies analyzed collectively received 11% more FOIA requests in 2010 than in 2008, yet managed to process 8% more requests in 2010 than in 2008. Further, they collectively had 8% fewer requests pending at the end of the 2010 fiscal year than at the end of the 2008 fiscal year. This data reveals, at the very least, a more productive federal government in terms of processing FOIA requests, which should result in more transparency.

The appendix includes a more detailed breakdown of the data by topic, specifically: (1) a comparison of requests pending, received, and processed at the end of fiscal year 2008 and 2010; (2) use of the FOIA exemptions; (3) a comparison of backlogs of requests and administrative appeals; and (4) agencies' grant or denial of fee waiver requests. Also included are charts for each agency, denoting the agency's progress in each of the areas analyzed.

While this data presents a fairly rosy picture overall, for five of the 15 agencies the data is less optimistic. Both DOJ and the Environmental Protection Agency processed fewer requests, and the numbers are somewhat alarming for three others: the Department of the Interior, the National Archives and Records Administration, and the Department of State.

At the same time, the 15 agencies collectively relied on exemptions 33% more frequently in 2010 than in 2008. More than half of the 15 agencies increased their reliance on FOIA Exemption 5, used often to protect internal deliberations from disclosure and targeted by Attorney General Eric Holder's FOIA guidance as ripe for discretionary releases.⁴ This data reveals the Obama administration has been less transparent than the Bush administration in allowing the public access to some of the internal workings of government.

With a year left in his first term, President Obama still has room to improve his administration's track record and improve the quality of agency FOIA data. The administration specifically should examine its reliance on FOIA exemptions and consider what additional specific steps could be taken to change the dominant agency culture from one of secrecy to one of transparency.

⁴ Memorandum from Attorney General Eric Holder to Heads of Executive Departments and Agencies (March 19, 2009), *available at* <http://www.justice.gov/ag/foia-memo-march2009.pdf>.

METHODOLOGY

This report analyzes the FOIA data reported by various federal government departments and agencies in 2008 (during the Bush administration) and in 2010 (during the Obama administration) in an effort to determine if the Obama administration is more transparent than the Bush administration.

In order to provide a streamlined comparison, CREW and OTG analyzed data from the following 15 agencies and departments (referred to hereafter as agencies):

1. Department of Homeland Security (“DHS”)
2. Department of Defense (“DOD”)
3. Department of Interior (“DOI”)
4. Department of Justice (“DOJ”)
5. Department of Labor (“DOL”)
6. Department of Transportation (“DOT”)
7. Environmental Protection Agency (“EPA”)
8. Department of Health and Human Services (“HHS”)
9. Department of Housing and Urban Development (“HUD”)
10. National Archives and Records Administration (“NARA”)
11. Office of Personnel Management (“OPM”)
12. Securities and Exchange Commission (“SEC”)
13. Social Security Administration (“SSA”)
14. Department of State (“State”)
15. Department of the Treasury (“Treasury”)

We selected these agencies because they received the most FOIA requests in fiscal years 2008 and 2010.⁵ While several other agencies received a large number of FOIA requests in 2010, including the Equal Employment Opportunity Commission, the Consumer Product Safety Commission, and the Department of Agriculture, they did not add 2008 data to FOIA.gov, making it impossible for CREW to do the comparison that underlies this report. Although the Department of Veterans Affairs also received a large number of FOIA requests in 2008 and 2010, we understand its numbers are skewed because in 2008 they included a large number of first-party requests better characterized as Privacy Act requests than FOIA requests.⁶

This report relies on information from FOIA.gov cross-referenced with each agency’s annual FOIA report posted on the Department of Justice’s Office of Information Policy’s website. We have indicated areas with discrepancies or problems, where applicable. Overall, the quality of the government’s data frustrated our efforts, especially pertaining to the average number of days of processing time for all perfected requests. The data generated on FOIA.gov and the data provided by each of the agencies in their annual reports often contradicted one another, calling into question the integrity of both the FOIA reports and the FOIA.gov database. At times the data did not make numeric sense and, despite much time and effort, we could not reconcile the problems and inconsistencies encountered.

⁵ All references herein to these years, unless otherwise denoted, refer to *fiscal years* 2008 and 2010.

⁶ Since 2010, all agencies have counted Privacy Act requests separately from FOIA requests.

Section 1

The Government's FOIA Data Is Flawed

1. Problems With Processing Response Time Data

Each agency and department is required to include in its annual FOIA report the average response time for processing all perfected simple, complex, and expedited FOIA requests. This data adds a critical component to the transparency picture; faster processing times increase the possibility of more releases. Accordingly, we sought to compare processing times between 2008 and 2010 in order to assess whether the agencies are processing requests more quickly under the Obama administration.

Unfortunately, significant flaws and conflicts in the government's data prevented us from conducting a complete analysis. The numerous errors, questionable data for multiple agencies, and lack of standardization in data and data reporting prevented us from accurately assessing changes in processing time between 2008 and 2010. The unreliability of this data also calls into question the integrity of all of the FOIA reports and the entire FOIA.gov site.

Examples of these data problems include:

- A report on processing times for the 15 agencies generated by FOIA.gov omitted any data for DOD, HUD, and OPM. In contrast, the Summary of Annual FOIA Reports for Fiscal Year 2010 prepared by DOJ's Office of Information Policy (OIP) states HUD reported the highest average processing time for simple requests at departments, 315 days.⁷
- HUD's individual annual 2010 FOIA report listed the average number of days it processed *all* perfected simple requests as 312, while OIP's report stated HUD's response time for processing only perfected requests in which information was granted was 315.
- FOIA.gov numbers contradict DOI's 2010 annual FOIA report on the agency's average processing time. Our calculation of DOI's average processing time, based on data from DOI's report, did not correspond to the average reported in either FOIA.gov or in DOI's report.
- The FOIA.gov numbers and the Treasury 2010 annual report numbers for average processing times were contradictory. FOIA.gov seemed to add together the averages for each of Treasury's components to create an agency overall average. Treasury's 2010 annual FOIA report also seemed to average the data, but the averaging calculations also were incorrect for expedited requests.

2. Problems With Data Of Pending Requests At Year-end

While we found minor discrepancies between the number of requests pending at year-end listed on FOIA.gov and those listed in agency annual reports, the existence of these discrepancies undermines confidence in the process FOIA.gov uses to extract information from the annual reports.

⁷ Office of Information Policy, Summary of Annual FOIA Reports for Fiscal Year 2010 10-11, *available at* <http://www.justice.gov/oip/foiapost/fy2010-ar-summary.pdf>.

Examples of these discrepancies include:

- There is a discrepancy between the DHS Annual FOIA Report and FOIA.gov regarding the number of requests pending at DHS at the end of fiscal year 2008. DHS reported 83,742 outstanding requests, while FOIA.gov reported 83,743 outstanding. The DHS report lists US-VISIT as having three requests pending while FOIA.gov lists four pending requests. For our analysis, we accepted the number reported in DHS's annual FOIA report.
- There also is a discrepancy between the DHS report and FOIA.gov for the number of requests pending at the end of the 2010 fiscal year. DHS reported 18,633 outstanding, while FOIA.gov reported 18,635 outstanding requests. The difference seems to be an addition error on the part of the DHS. For our analysis we used the number listed in FOIA.gov, which matched our own calculations.
- There is a discrepancy between the HHS Annual FOIA Report and FOIA.gov for the number of requests pending at the end of fiscal year 2008. HHS reported 19,470 outstanding requests, while FOIA.gov reported 19,460 outstanding requests. The difference seems to be in the HHS component ACF. Lacking any reason to doubt the HHS report, our analysis assumed the HHS report is correct.
- There is a discrepancy between NARA's Annual FOIA Report and FOIA.gov for the number of requests pending at the end of fiscal year 2008. NARA reported 5,781 outstanding requests, while FOIA.gov reported 5,780 outstanding requests. For our analysis, we assumed NARA's report is correct.

Pre-dating the launch of FOIA.gov, many who attempted to compare agency reports over multiple years noted numerical discrepancies from year-to-year and apparent mathematical errors. The launch of FOIA.gov confirms this. To help the public, congressional overseers, and federal managers understand how well agencies are – or are not – fulfilling their obligation to respond to public requests for information, the data must be improved.

Recommendations to Improve Data Quality:

- The Office of Information Policy (OIP) should provide additional training and guidance for agency personnel responsible for preparing annual reports.
- Chief FOIA Officers, positions created by the OPEN Government Act of 2007 to inject more accountability into the FOIA processing system by giving FOIA responsibilities to a high-ranking agency official, should be required to sign-off on all annual reports.
- OIP and/or the recently created Office of Government Information Services (OGIS) should audit agency annual reports. Audit results should be posted on FOIA.gov, sent to agency head, Chief FOIA officers, and other relevant administration officials and congressional committees.

3. Making Data Relevant

- There are additional metrics currently not collected or reported in annual reports and posted on FOIA.gov that would give users a clearer picture of how agencies are processing requests for information. Additionally, some of the metrics currently available are misleading. Adding the data points listed below and modifying problematic metrics would make the system more transparent increase accountability.

Recommendations for New and Modified Metrics

- Add data points to FOIA.gov relating to OGIS, which was created by the OPEN Government Act of 2007 to, among other things, mediate disputes between requesters and agencies. Relevant data points include how many cases are opened and how many times agencies refer requesters to OGIS. These statistics could be added to FOIA.gov by OGIS or to agency annual reports posted on FOIA.gov.
- Require agencies to report the number of discretionary releases. FOIA gives agencies the discretion to release some material that could be withheld under the law. If this metric were captured in annual reports and made public, it would be easier to tell if an agency is working under the “presumption of openness” the Obama administration’s policy requires.
- Require agencies to report the number of times they change initial determinations on fee waivers. Over the last few years, FOIA requesters and litigators have noted an uptick in the denial of fee waivers by agencies for requesters who meet FOIA’s eligibility requirements for fee waivers. Adding this data point would provide more transparency into the way agencies are granting and denying fee waivers.
- Modify the “Processing Time” metric so that the public, congressional overseers, and federal managers have a clear idea of how long it takes an agency to search for responsive material to a FOIA request and prepare a response, and when people outside the agency are responsible for delays. The new metric should list: (1) the “Total Processing Time,” defined as the number of days since the date the request was received; (2) “User Delay,” defined as the number of days the case was on hold while the agency waited to hear from requester; (3) “Consult Delay,” defined as the number of days the agency waited to hear back from another agency on a consult; and (4) “Referral Delay,” defined as the number of days it took an agency to act on a referral made to it.

4. Identified Problems With FOIA.gov

DOJ developed its FOIA dashboard, known as FOIA.gov, as its “flagship initiative” under the Open Government Directive, with a stated goal of presenting “government data about agency FOIA performances . . . in an easy-to-understand, interactive format” to “enable the public to hold agencies accountable for their performance.” The dashboard draws on statistics DOJ collects annually from agencies through their annual FOIA reports, and was intended to be a platform that would allow users to easily view an agency’s performance under the FOIA from year to year, and compare it to other agencies.

Unfortunately, to date the dashboard has not lived up to its promise and instead, as outlined above, has been plagued with problems that undermine confidence in the reliability of its data. Several

months ago [Openthegovernment.org](http://www.openthegovernment.org), a strong supporter of the concept of a FOIA dashboard, identified a number of problems with FOIA.gov,⁸ specifically:

- Two of the charts under “FOIA at a Glance” purportedly compare the government-wide total of requests received and backlogs in fiscal year 2008, 2009, and 2010, but the data for 2008 and 2009 are identified as incomplete. As a result, the comparison of each year’s “totals” is based on a comparison of different sets of agencies, an “apples-to-oranges” comparison problem.
- Technical glitches abound giving dashboard users incomplete or inaccurate pictures of FOIA processing. In addition to those discussed above, the numbers for the total costs to agencies of processing requests do not make sense. FOIA.gov generated a chart purporting to reflect the total costs to an agency -- a category that includes processing costs and litigation-related costs -- that listed as the “grand total” an amount lower than just the processing costs.
- If an agency leaves a category in the annual FOIA report blank rather than entering a “0,” FOIA.gov ignores this entry altogether. This yields charts that are misleading and inaccurate.
- When DOJ migrated several pre-existing resources to FOIA.gov, it omitted some that requesters have relied on in the past, or substituted other sources. For example, DOJ’s FOIA website used to include an easy-to-understand list of all agency FOIA public liaisons. That has now been replaced with a much more complicated interface that requires users to go through many layers of agency information to access the identities of its public liaisons.

Recommendations for Addressing FOIA.gov Issues:

The list of problems with FOIA.gov provided above is by no means exhaustive, but illustrates the range of data problems and how those problems yield unreliable and inaccurate results. We recommend the following steps to address these problems and restore public confidence in the site:

- DOJ should conduct a full audit of the site.
- To restore public confidence in FOIA.gov, DOJ should post on the site a list of all known problems and a schedule for when the problems will be resolved. Such a list should include both technical glitches, such as incorrect additions, and data quality problems, such as missing data.
- DOJ should add a transparent system for the users to report problems with the site.

⁸ See FOIA Dashboard on FOIA.gov Not Meeting Potential, available at <http://www.openthegovernment.org/node/3123>.

Section 2

Are Agencies Releasing More?

1. Productivity

Collectively the data reveals, at the very least, a more productive federal government in terms of processing FOIA requests, which should result in more transparency. The 15 agencies analyzed collectively received 11% more FOIA requests in 2010 than in 2008, yet managed to process 8% more requests in 2010 than in 2008. Further, they collectively had 8% fewer requests pending at the end of the 2010 fiscal year than at the end of the 2008 fiscal year.

Agency – by – agency, the data is more mixed. To determine agency productivity, we compared five factors: the number of pending FOIA requests at the start of each year, the number received, the number processed, the number pending at the end of the year, and the percentage of requests processed. If the agency did “better” in one area in 2010 versus 2008 (*i.e.*, they had fewer requests pending at the start of the year, received fewer, processed more, or processed a higher percentage of requests), the box is highlighted green; if the agency did worse, it is red; no color indicates no change between 2010 statistics and 2008.

Agency productivity – 2010 vs. 2008

Top Performers	Pending at start	Received	Processed	Pending - End	Percentage of requests processed
Department of Homeland Security (“DHS”)	down	more	more	less	more
Department of Defense (“DOD”)	down	more	more	less	more
Department of Health and Human Services (“HHS”)	down	more	more	less	more
Department of Housing and Urban Development (“HUD”)	down	more	more	less	more

Area of Concern	Pending at start	Received	Processed	Pending - End	Percentage of requests processed
Department of Transportation (“DOT”)	down	more	Less	less	more
Securities and Exchange Commission (“SEC”)	down	more	Less	less	more
Department of Labor (“DOL”)	down	less	Less	less	no change
Office of Personnel Management (“OPM”)	down	less	Less	less	more

Social Security Administration ("SSA")	down	less	Less	less	more
Department of the Treasury ("Treasury")	down	less	Less	less	more

Troubling	Pending at start	Received	Processed	Pending - End	Percentage of requests processed
Department of Interior ("DOI")	up	more	more	more	less
National Archives and Records Administration ("NARA")	up	more	more	more	less
Department of State ("State")	up	more	more	more	less
Department of Justice ("DOJ")	down	more	more	more	less
Environmental Protection Agency ("EPA")	down	less	Less	more	less

Four agencies – DHS, DOD, HHS, and HUD (our Top Performers) -- were clearly more productive in 2010 versus 2008. Five agencies did well in some of the areas, but failed to keep pace with 2008 in important ways. The performance of five agencies in 2010 – DOI, NARA, State, DOJ, and EPA – did not seem to measure up to their performance in the final year of the Bush administration.

Full statistics for each agency from each column are available in Appendix 1 of this report

2. Exemption Use

In response to a FOIA request, the FOIA authorizes agencies to withhold information that falls within one of the FOIA's nine statutory exemptions. In 2010, the 15 analyzed agencies relied on all of the exemptions collectively a total of 391,648 times. In 2008, the 15 agencies relied on all of the exemptions collectively a total of 293,675 times, a 97,973 difference. This means the agencies' collective use of all exemptions increased by 33% from 2008 to 2010. More than half of the 15 agencies increased their reliance on Exemption 5, targeted by Attorney General Eric Holder's FOIA guidance as ripe for discretionary release.⁹

DHS relied on exemptions most frequently, a total of 273,839 times in 2010, and had the greatest increase in the total number of exemptions used, 75,811 more in 2010 than in 2008. DOL demonstrated greatest decrease in reliance on exemptions, dropping 5,263 from 2008 to 2010, a 21% decrease. State had the greatest percentage increase in exemption use, 287%. OPM relied on exemptions the least – only 63 in 2008 and 112 in 2010. EPA had the lowest increase in exemption use between 2008 and 2010 (only 48 exemptions). The SEC had the lowest percentage increase between the two years, 2%.

Because agencies use the FOIA's nine exemptions to withhold information from the public, any change in their reliance offers a window on the extent to which they have become more or less transparency. Here the

⁹ Memorandum from Attorney General Eric Holder to Heads of Executive Departments and Agencies (March 19, 2009), available at <http://www.justice.gov/ag/foia-memo-march2009.pdf>.

data reveals an increased reliance on exemptions to withhold information, a trend entirely at odds with President Obama's FOIA directive and policy of openness and transparency.

As the chart below illustrates, data on each of the 15 agencies' use of FOIA exemptions in 2008 and 2010 reveals wide disparity in agencies response to the Obama administration's directives, and shows how far the administration has to go before it meets its commitment to create historical levels of transparency. If an agency increased its use of an exemption, the corresponding cell is red (up); if the agency decreased its use, it is green (down); if an agency either did not use the exemption in 2010 or 2008, or used it the same amount of times, the corresponding cell is white (same).

Agency Exemption Use – 2010 vs. 2008

Agency	1	2	3	4	5	6	7a	7b	7c	7d	7e	7f	8	9
Department of Labor ("DOL")	same	down	up	down	down	down	down	up	down	down	up	Up	same	same
Department of the Treasury ("Treasury")	down	down	up	down	down	up	down	up	down	down	down	Up	up	same
Social Security Administration ("SSA")	down	down	up	down	down	up	up	same	down	up	same	same	same	same
Department of Interior ("DOI")	up	up	up	down	down	up	down	up	up	down	down	down	same	up
Securities and Exchange Commission ("SEC")	same	down	up	down	up	up	down	same	up	up	down	same	up	same
Environmental Protection Agency ("EPA")	up	down	up	up	down	up	same	up	up	down	down	Up	same	same
Department of State ("State")	down	up	up	down	up	up	same	up	up	down	up	down	same	same
Department of Homeland Security ("DHS")	down	up	up	up	up	up	up	down	up	down	up	down	same	same
Office of Personnel Management ("OPM")	up	down	up	up	up	up	up	up	down	same	same	same	same	same
Department of Justice ("DOJ")	down	up	up	up	down	up	up	down	up	up	up	Up	same	same
Department of Transportation ("DOT")	up	up	up	down	up	up	up	up	down	up	down	Up	same	same
Department of Defense ("DOD")	down	up	up	up	down	up	up	up	up	up	up	Up	down	down

Department of Health and Human Services ("HHS")	same	up	up	up	up	up	down	down	up	up	up	Up	same	same
National Archives and Records Administration ("NARA")	up	up	up	up	up	up	down	same	up	up	up	Up	down	up
Department of Housing and Urban Development ("HUD")	same	up	up	up	up	up	up	same	up	up	up	Up	up	same

Treasury showed the most significant decrease in reliance on exemptions between 2008 and 2010 (8). DOL and SSA also reduced their use of exemptions overall. DOJ, the agency responsible for setting FOIA policy government-wide and implementing the administration's FOIA policy, used only three of the exemptions less often in 2010 than in 2008; its use of over half the exemptions actually increased. HUD failed to reduce its use of any exemptions in 2010 compared to 2008.

A full breakdown of each agency's use of each exemption, and a full description of each exemption, are included in Appendix 2 of this report.

3. Backlog

FOIA.gov. defines a backlog as a request or administrative appeal pending beyond the statutory time period for a response. As of the end of fiscal year 2010, the 15 agencies reported a collective total of 64,469 backlogged requests, down from the 126,247 backlogged requests pending at the end of fiscal year 2008 -- a 49% decrease. As of the end of 2010, the 15 agencies reported a collective total of 2,843 backlogged appeals, down from the 5,612 backlogged appeals pending at the end of 2008, also a 49% decrease. Clearly the Obama administration has made significant progress on this front, progress that has led to more transparency.

Ten of the 15 agencies had a decrease in their number of number of backlogged FOIA requests between 2008 and 2010, while the backlogs at five increased between 2008 and 2010. DHS had the greatest number of backlogged requests as of the end of fiscal year 2008, and also made the greatest progress in reducing the total number of backlogged requests by the end of fiscal year 2010.¹⁰ State had the greatest increase both in total number of backlogged requests and percentage of backlogged requests between fiscal years 2008 and 2010. OPM had the greatest percentage decrease in the number of backlogged FOIA requests between 2008 and 2010.

¹⁰ The *Associated Press* reported DHS was able to reduce its backlog through work done under a \$7.6 million federal contract approved during the Bush administration. The contractor forwarded tens of thousands of requests for immigrations records to the State Department, thereby decreasing DHS's backlog, but increasing the backlog at State.

Agency Breakdown

The following agencies had an increase in the number of backlogged FOIA requests between 2008 and 2010:

- DOL had 503 backlogged FOIA requests as of the end of 2010 and 416 as of the end of 2008. This is a difference of 87, a *21% increase*.
- DOI had 679 backlogged FOIA requests as of the end of 2010 and 666 as of the end of 2008. This is a difference of 13, a *2% increase*.
- DOJ had 5,160 backlogged FOIA requests as of the end of 2010 and 4,364 as of the end of 2008. This is a difference of 796, an *18% increase*.
- NARA had 7,064 backlogged FOIA requests as of the end of 2010 and 5,781 as of the end of 2008. This is a difference of 1,283, a *22% increase*.
- State had 20,519 backlogged FOIA requests as of the end of 2010 and 4,327 as of the end of 2008. This is a difference of 16,192, a *374% increase*.

The following agencies had a decrease in the number of backlogged FOIA requests between 2008 and 2010:

- DHS had 11,383 backlogged FOIA requests as of the end of 2010 and 74,879 as of the end of 2008. This is a difference of 63,496, an *85% decrease*.
- DOD had 7,657 backlogged FOIA requests as of the end of 2010 and 11,533 as of the end of 2008. This is a difference of 3,826, a *34% decrease*.
- DOT had 787 backlogged FOIA requests as of the end of 2010 and 1,583 as of the end of 2008. This is a difference of 796, a *50% decrease*.
- EPA had 329 backlogged FOIA requests as of the end of 2010 and 783 as of the end of 2008. This is a difference of 454, a *58% decrease*.
- HHS had 9,552 backlogged FOIA requests as of the end of 2010 and 19,361 backlogged as of the end of 2008. This is a difference of 9,809, a *51% decrease*.
- HUD had 182 backlogged FOIA requests as of the end of 2010 and 697 as of the end of 2008. This is a difference of 515, a *74% decrease*.
- OPM had 8 backlogged FOIA requests as of the end of 2010 and 93 as of the end of 2008. This is a difference of 85, a *91% decrease*.
- SEC had 159 backlogged FOIA requests as of the end of 2010 and 899 as of the end of 2008. This is a difference of 740, an *82% decrease*.
- SSA had 68 backlogged FOIA requests as of the end of 2010 and 147 as of the end of 2008. This is a difference of 79, a *54% decrease*.

- Treasury had 419 backlogged FOIA requests as of the end of 2010 and 718 as of the end of 2008. This is a difference of 299, a *42% decrease*.

Appeals

13 of the 15 agencies decreased their number of backlogged FOIA appeals between 2008 and 2010, while two increased their number of backlogged FOIA requests during that period. DHS had the greatest number of backlogged appeals as of the end of fiscal year 2008, and saw the largest decrease in total number of backlogged appeals by the end of fiscal year 2010. The SEC had the greatest percentage decrease in the number of backlogged FOIA appeals between 2008 and 2010. HUD had the greatest increase in total number of backlogged appeals between fiscal years 2008.

Agency Breakdown

The following entities had an increase in the number of backlogged FOIA appeals between 2008 and 2010:

- HUD had 11 backlogged FOIA appeals as of the end of 2010 and none as of the end of 2008. This is a difference of 11.
- SSA had 3 backlogged FOIA appeals as of the end of 2010 and 1 as of the end of 2008. This is a difference of 2, a *200% increase*.

The following agencies had a decrease in the number of backlogged FOIA appeals between 2008 and 2010:

- DHS had 601 backlogged FOIA appeals as of the end of 2010 and 2,401 as of the end of 2008. This is a difference of 1,800, a *75% decrease*.
- DOD had 657 backlogged FOIA appeals as of the end of 2010 and 675 as of the end of 2008. This is a difference of 18, a *3% decrease*.
- DOI had 274 backlogged FOIA appeals as of the end of 2010 and 537 as of the end of 2008. This is a difference of 263, a *49% decrease*.
- DOJ had 353 backlogged FOIA appeals as of the end of 2010 and 527 as of the end of 2008. This is a difference of 174, a *33% decrease*.
- DOL had 143 backlogged FOIA appeals as of the end of 2010 and 161 as of the end of 2008. This is a difference of 18, an *11% decrease*.
- DOT had 84 backlogged FOIA appeals as of the end of 2010 and 89 as of the end of 2008. This is a difference of 5, a *6% decrease*.
- EPA had 77 backlogged FOIA appeals as of the end of 2010 and 151 as of the end of 2008. This is a difference of 74, a *49% decrease*.
- HHS had 229 backlogged FOIA appeals as of the end of 2010 and 463 as of the end of 2008. This is a difference of 234, a *51% decrease*.

- NARA had 8 backlogged FOIA appeals as of the end of 2010 and 29 as of the end of 2008. This is a difference of 21, a *72% decrease*.
- OPM had 1 backlogged FOIA appeal as of the end of 2010 and 3 as of the end of 2008. This is a difference of 3, a *67% decrease*.
- SEC had 6 backlogged FOIA appeals as of the end of 2010 and 45 backlogged as of the end of 2008. This is a difference of 39, an *87% decrease*.
- State had 346 backlogged FOIA appeals as of the end of 2010 and 480 as of the end of 2008. This is a difference of 134, a *28% decrease*.
- Treasury had 50 backlogged FOIA appeals as of the end of both 2010 and 2008.

4. Fee Waivers

FOIA.gov defines a fee waiver request as a request that an agency waive any applicable fees for processing a FOIA request. 14 agencies included in this report have fee waiver statistics available on FOIA.gov.* In aggregate, the statistics indicate these agencies were more likely to grant fee waiver requests in 2010 than in 2008. These agencies granted 1,173 more fee waiver requests in 2010 than in 2008, a *47%*; they also denied 686 fewer fee waiver requests during this period, a *19% decrease*.

For this period, only 12 of the 15 agencies evaluated in this report provided fee waivers in both 2008 and 2010 and had data available on FOIA.gov.* Of these 12, over half were more likely to grant fee waiver requests in 2010 versus 2008.

Agency	Requests received 2010	Requests received 2008	% requests granted 2010	% requests granted 2008	% change from 2010 to 2008
Department of the Treasury ("Treasury")	324	187	40.7	1.6	2443.75
National Archives and Records Administration ("NARA")	65	152	16.9	0.7	2314.2857
Department of Defense ("DOD")	2349	2991	15.5	5.4	187.03704
Department of Homeland Security ("DHS")	237	199	31.2	21.6	44.444444
Department of Justice ("DOJ")	1317	1445	11.5	11.2	2.6785714
Department of Interior ("DOI")	501	570	92.2	90.4	1.9911504
Department of Health and Human Services ("HHS")	357	111	81.5	80.2	1.6209476
Department of Transportation ("DOT")	168	64	66.1	76.6	-13.70757

Environmental Protection Agency ("EPA")	541	181	62.7	74.6	-15.95174
Department of Labor ("DOL")	709	244	51.5	66.8	-22.90419
Department of State ("State")	99	31	1	6.5	-84.61538
Social Security Administration ("SSA")	18	90	0	42.2	-100

The likelihood of Treasury, NARA, and DOD granting a fee waiver request grew dramatically in 2010 versus 2008. DHS, DOJ, DOI, and HHS also increased the percentage of fee waiver requests received. DOT, EPA, DOL, State and SSA denied a larger percentage of fee waiver requests in 2010 versus 2008.

CONCLUSION

The government's own FOIA statistics tell a very mixed story. On the one hand, during the past few years agencies have made significant progress in reducing their backlogs of outstanding FOIA requests. Lessened backlogs should afford FOIA requesters more timely responses, which should in turn result in greater transparency. On the other hand, many agencies have increased their reliance on the FOIA's exemptions to withhold more information from the public, particularly information revealing why an agency chose a particular course or made a particular decision. This lessened access to information decreases both transparency and accountability.

The government has also stepped up its use of technology, posting annual FOIA reports on-line and employing a new data base, FOIA.gov. This data base, however, is plagued by inaccurate and inconsistent data, and fails to collect data on critical new initiatives, such as those launched by OGIS.

With a year left in President Obama's first term, we call on the administration to renew its pledge of providing unparalleled access to government information. The FOIA was enacted as a "check against corruption" and a tool "to hold the governors accountable to the governed."¹¹ Those purposes are as relevant today as they were in 1996, when the law was first enacted.

¹¹ *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

Appendix 1 – Agency Breakdown of Productivity Metrics

Requests Pending at the Start of the Fiscal Year

FOIA.gov defines a pending request as one for which an agency has not yet taken final action in all respects. At the start of the 2008 fiscal year, the 15 agencies analyzed in this report had a combined 163,223 pending FOIA requests to process. At the start of the 2010 fiscal year, they had a combined 91,292 pending FOIA requests to process. This is a difference of 71,931 pending FOIA requests, representing *a 44% decrease in pending requests*. DHS had the greatest decrease in the gross number of pending requests between the start of fiscal years 2008 and 2010, a decrease of 56,631 requests. The OPM had the greatest percentage decrease in requests pending between 2008 and 2010, a 94% decrease.¹²

Agency Breakdown

Twelve of the 15 agencies had a decrease in the number of pending requests comparing the start of fiscal year 2008 with fiscal year 2010; only three had an increase. While this data does not reveal whether the Obama administration fulfilled its promise to increase transparency in the federal government, the data seems to represent a more productive federal government in terms of processing FOIA requests.

The following agencies had more requests pending at the start of the 2010 fiscal year than at the start of the 2008 fiscal year:

- DOI had 1,018 requests pending at the start of 2010 and 845 requests pending at the start of 2008. This is a difference of 173 requests, a *20% increase*.
- NARA had 8,856 requests pending at the start of 2010 and 5,177 requests pending at the start of 2008. This is a difference of 1,679 requests, a *32% increase*.
- State had 9,315 requests pending at the start of 2010 and 4,297 requests pending at the start of 2008. This is a difference of 5,018 requests, a *117% increase*.

The following agencies had fewer requests pending at the start of the 2010 fiscal year than at the start of the 2008 fiscal year:

- DHS had 27,188 requests pending at the start of 2010 and 83,819 requests pending at the start of 2008. This is a difference of 56,631 requests, a *68% decrease*.
- DOD had 13,332 requests pending at the start of 2010 and 15,131 requests pending at the start of 2008. This is a difference of 1,799 requests, a *12% decrease*.

¹² We found a discrepancy in the data for the total number of requests pending at the start of the 2010 fiscal year at DHS. The DHS Annual FOIA Report states DHS had a total of 27,186 requests pending at the start 2010, while FOIA.gov states DHS had a total of 27,188 requests pending. Adding together the number of requests pending in 2010 for each of the DHS components yields a number (27,188) that matches the number on FOIA.gov and that we used for our calculations.

- DOJ had 7,224 requests pending at the start of 2010 and 7,959 requests pending at the start of 2008. This is a difference of 735 requests, a *9% decrease*.
- DOL had 1,170 requests pending at the start of 2010 year and 1,269 requests pending at the start of 2008. This is a difference of 99 requests, an *8% decrease*.
- DOT had 1,460 requests pending at the start of 2010 and 2,239 requests pending at the start of 2008. This is a difference of 779 requests, a *13% decrease*.
- EPA had 1,497 requests pending at the start of 2010 and 1,727 requests pending at the start of 2008. This is a difference of 230 requests, a *13% decrease*.
- HHS had 17,633 requests pending at the start of 2010 and 27,754 requests pending at the start of 2008. This is a difference of 10,121 requests, a *36% decrease*.
- HUD had 406 requests pending at the start of 2010 and 764 requests pending at the start of 2008. This is a difference of 358 requests, a *47% decrease*.
- OPM had 55 requests pending at the start of 2010 and 986 requests pending at the start of 2008. This is a difference of 931 requests, a *94% decrease*.
- SEC had 492 requests pending at the start of 2010 and 6,909 requests pending at the start of 2008. This is a difference of 6,417 requests, a *93% decrease*.
- SSA had 849 requests pending at the start of 2010 and 1,282 requests pending at the start of 2008. This is a difference of 433 requests, a *34% decrease*.
- Treasury had 2,797 requests pending at the start of 2010 and 3,065 requests pending at the start of 2008. This is a difference of 268 requests, a *9% decrease*.

Requests Received

In 2010, the 15 agencies received a total of 487,907 new FOIA requests. In 2008, these same agencies received 439,344 additional FOIA requests. This is a difference of 48,563 requests, or an *11% increase* between 2008 and 2010. State had the greatest increase in the number of requests received between 2008 and 2010, with 24,297 more requests in 2010 than 2008. Treasury had the largest decrease in the number of requests received between 2008 and 2010, with 4,032 fewer requests in 2010 than in 2008. State also had the highest percentage increase in the number of requests received between 2008 and 2010 – 411%. OPM had the largest percentage decrease in the number of requests received between 2008 and 2010 – 52%.

Agency Breakdown

Ten of the 15 agencies had an increase in the number of requests received between 2008 and 2010, while five had a decrease in the number of requests received. In terms of transparency, it is hard to say whether this shows a more transparent federal government. This data seems to indicate, however, that the federal government was more productive in terms of processing FOIA requests in 2010 than in 2008.

The following agencies received more FOIA requests in 2010 than in 2008:

- DHS received 13,098 requests in 2010 and 108,952 requests in 2008. This is a difference of 21,146 requests, a *19% increase*.
- DOD received 73,573 FOIA requests in 2010 and 71,228 FOIA requests in 2008. This is a difference of 2,345 requests, a *3% increase*.
- DOI received 6,127 FOIA requests in 2010 and 4,810 FOIA requests in 2008. This is a difference of 1,317 requests, a *27% increase*.
- DOJ received 63,682 requests in 2010 and 59,615 requests in 2008. This is a difference of 4,067 requests, a *7% increase*.
- DOT received 10,363 FOIA requests in 2010 and 9,958 FOIA requests in 2008. This is a difference of 405 requests, a *4% increase*.
- HHS received 63,839 requests in 2010 and 58,299 requests in 2008. This is a difference of 5,540 requests, a *10% increase*.
- HUD received 3,053 FOIA requests in 2010 and 2,999 FOIA requests in 2008. This is a difference of 54 requests, a *2% increase*.
- NARA received 15,781 FOIA requests in 2010 and 14,075 FOIA requests in 2008. This is a difference of 1,706 requests, a *12% increase*.
- SEC received 10,461 requests in 2010 and 9,586 requests in 2008. This is a difference of 875 requests, a *9% increase*.
- State received 30,206 FOIA requests in 2010 and 5,909 FOIA requests in 2008. This is a difference of 24,297 requests, a *411% increase*.

The following agencies received fewer FOIA requests in 2010 than in 2008:

- DOL received 17,398 FOIA requests in 2010 and 20,798 FOIA requests 2008. This is a difference of 3,400 requests, a *16% decrease*.
- EPA received 10,409 requests in 2010 and 11,492 requests in 2008. This is a difference of 1,083 requests, a *9% decrease*.
- OPM received 3,009 FOIA requests in 2010 and 6,236 FOIA requests in 2008. This is a difference of 3,227 requests, a *52% decrease*.
- SSA received 32,997 requests in 2010 and 34,444 requests in 2008. This is a difference of 1,447 requests, a *4% decrease*.
- Treasury received 16,911 FOIA requests in 2010 and 20,943 FOIA requests in 2008. This is a difference of 4,032 requests, a *19% decrease*.

Requests Processed

Of the 602,567 pending and new requests received in 2008, these 15 agencies processed 457,191 requests. This is a *process rate of 76%*. Of the 579,199 pending and new requests received in 2010, these agencies processed 492,853, reflecting a *process rate of 85%*. These 15 agencies processed 35,662 more requests in 2010 than in 2008, or 8% more requests in 2010 than in 2008. OPM had the greatest percentage decrease in the percentage of the number of requests processed, a 57% decrease from 2008 to 2010.

Agency Breakdown

Eight of the 15 agencies had an increase in the number of requests processed between 2008 and 2010, while seven processed fewer requests in 2008 than in 2010.¹³ Further, nine out of the 15 agencies had an increase in the percentage of requests processed between 2008 and 2010, while six had a decrease in the percentage of requests processed between 2008 and 2010

This data does not indicate whether the Obama administration fulfilled its promise to increase transparency in the federal government, but it does reveal these federal agencies were more productive in terms of processing FOIA requests in 2010 than in 2008.

The following agencies had more requests processed in 2010 than in 2008:

- DHS processed 138,651 FOIA requests in 2010 and 109,028 requests in 2008. This is a difference of 29,623 requests, a *27% increase*.
- DOD processed 74,790 requests in 2010 and 71,699 requests in 2008. This is a difference of 3,091 requests, a *4% increase*.
- DOI processed 5,945 FOIA requests in 2010 and 4,750 requests in 2008. This is a difference of 1,195 requests, a *25% increase*.
- DOJ processed 63,368 requests in 2010 and 61,272 requests in 2008. This is a difference of 2,096 requests, a *3% increase*.
- HHS processed 69,860 FOIA requests in 2010 and 66,583 requests in 2008. This is a difference of 3,277 requests, a *5% increase*.
- HUD processed 3,277 requests in 2010 and 3,066 requests in 2008. This is a difference of 211 requests, a *7% increase*.
- NARA processed 15,573 FOIA requests in 2010 and 13,472 requests in 2008. This is a difference of 2,101 requests, a *16 % increase*.

¹³ While there was a decrease in the number of requests processed by seven agencies, only six agencies had a decrease in the percentage of requests processed. This is Treasury processed fewer requests in 2010 than in 2008, but of those requests processed, Treasury processed a higher percentage of requests in 2010 than in 2008.

- State processed 18,386 requests in 2010 and 5,577 requests in 2008. This is a difference of 12,809 requests, a *357% increase*.

The following agencies had fewer requests processed in 2010 than in 2008:

- DOL processed 17,625 requests in 2010 and 20,970 requests in 2008. This is a difference of 3,345 requests, a *16% decrease*.
- DOT processed 10,121 requests in 2010 and 10,402 requests in 2008. This is a difference of 281 requests, a *3% decrease*.
- EPA processed 10,071 requests in 2010 and 11,635 requests in 2008. This is a difference of 1,564 requests, a *13% decrease*.
- OPM processed 3,056 requests in 2010 and 7,123 requests in 2008. This is a difference of 4,067 requests, a *57% decrease*.
- SEC processed 10,554 requests in 2010 and 15,596 requests in 2008. This is a difference of 5,042 requests, a *32% decrease*.
- SSA processed 33,012 requests in 2010 and 34,666 requests in 2008. This is a difference of 1,654 requests, a *5% decrease*.
- Treasury processed 18,564 requests in 2010 and 21,352 requests in 2008. This is a difference of 2,788 requests, a *13% decrease*.

Requests Pending at the End of the Fiscal Year

In 2008, the 15 agencies had a total of 145,376 requests pending at the end of the fiscal year. Compared to the total of 86,346 requests pending at the end of the 2010 fiscal year, *there were 59,030 less requests pending at the end of the year in 2010 than in 2008*. This is a *7% decrease in pending requests*, which seems to indicate a more productive government. State had the greatest increase in the number of requests pending at the end of the fiscal year, 16,506 more at the end of the 2010 fiscal year than the 2008 fiscal year. DHS had the greatest decrease in requests pending, 65,108 fewer at the end of the 2010 fiscal year than the 2008 fiscal year. State also had the greatest percentage increase in requests pending between the two years, 357%. OPM had the greatest decrease percentage in requests pending between 2008 and 2010, 92%.

Discrepancy notes

Ten of the 15 agencies had a decrease in the number of requests pending between the end of fiscal year 2008 and 2010, while five had more requests pending at the end of the 2010 fiscal year than at the end of the 2008 fiscal year. Again, this data does not indicate whether the Obama administration fulfilled its promise to increase transparency in the federal government, but it does reveal ten of these federal agencies were more productive in terms of processing FOIA requests in 2010 than in 2008.

The following agencies had more requests pending at the end of the 2010 fiscal year than at the end of the 2008 fiscal year:

- DOI had 1,200 requests pending at the end of the 2010 fiscal year and 905 requests pending at the end of the 2008 fiscal year. This is a difference of 1,195 requests a *33% increase*.

- DOJ had 7,538 requests pending at the end of the 2010 fiscal year and 6,302 requests pending at the end of the 2008 fiscal year. This is a difference of 1,236 requests, a *20% increase*.
- EPA had 1,835 requests pending at the end of the 2010 fiscal year and 1,584 requests pending at the end of the 2008 fiscal year. This is a difference of 251 requests, a *16% increase*.
- NARA had 7,064 requests pending at the end of the 2010 fiscal year and 5,781 requests pending at the end of the 2008 fiscal year. This is a difference of 1,283 requests, a *22% increase*.
- State had 21,135 requests pending at the end of the 2010 fiscal year and 4,629 requests pending at the end of the 2008 fiscal year. This is a difference of 16,506 requests pending, a *357% increase*.

The following agencies had fewer requests pending at the end of fiscal year 2010 than at the end of fiscal year 2008:

- DHS had 18,635 requests pending at the end of 2010 and 83,742 requests pending at the end of 2008. This is a difference of 65,107 requests, a *78% decrease*.
- DOD had 12,115 requests pending at the end of 2010 and 14,660 requests pending at the end of 2008. This is a difference of 2,545 requests, a *17% decrease*.
- DOL had 943 requests pending at the end of 2010 and 1,097 requests pending at the end of 2008. This is a difference of 154 requests, a *14% decrease*.
- DOT had 1,702 requests pending at the end of 2010 and 1,795 requests pending at the end of 2008. This is a difference of 93 requests, a *5% decrease*.
- HHS had 11,612 requests pending at the end of 2010 and 19,470 requests pending at the end of 2008. This is a difference of 7,858 requests, a *40% decrease*.
- HUD had 182 requests pending at the end of 2010 and 697 requests pending at the end of 2008. This is a difference of 515 requests, a *74% decrease*.
- OPM had 8 requests pending at the end of 2010 and 99 requests pending at the end of 2008. This is a difference of 91 requests, a *92% decrease*.
- SEC had 399 requests pending at the end of 2010 and 899 requests pending at the end of 2008. This is a difference of 500 requests, a *56% decrease*.
- SSA had 834 requests pending at the end of 2010 and 1060 requests pending at the end of 2008. This is a difference of 226 requests, a *21% decrease*.
- Treasury had 1,144 requests pending at the end of 2010 and 2,656 requests pending at the end of 2008. This is a difference of 1,512 requests, a *57% decrease*.

Appendix 2 – Agency Breakdown of Exemption Use

Exemption 1

Exemption 1 of the FOIA authorizes agencies to withhold information properly classified under criteria established by an executive order. 5 U.S.C. § 552(b)(1). Overall, the 15 agencies used Exemption 1 a total of 2,563 times in 2010, down from a total of 3,640 in 2008, a *decrease of 1,077, or 30%*. Only four of the 15 analyzed agencies increased their use of Exemption 1 between 2008 and 2010, five decreased their use of Exemption 1 between 2008 and 2010, and four had no change in their use of Exemption 1 between 2008 and 2010.

DOD used Exemption 1 the most number of times in either 2008 or 2010 – 2,150 times in 2008. EPA had the greatest increase in the number of times it invoked Exemption 1, from 1 in 2008 to 18 in 2010, also representing the greatest percentage increase in use of 1700%. Treasury had the greatest percentage decrease in use of Exemption 1 between 2008 and 2010, a 77% decrease.

Agency breakdown

The following entities increased their use of Exemption 1 between 2008 and 2010:

- DOI used Exemption 1 a total of 7 times in 2010 and 1 time in 2008. This is a difference of 6, a *600% increase*.
- 5. DOT used Exemption 1 a total of 3 times in 2010 and 2 times in 2008. This is a difference of 1, a *50% increase*.
- 6. EPA used Exemption 1 a total of 18 times in 2010 and 1 time in 2008. This is a difference of 17, a *1700% increase*.
- 7. NARA used Exemption 1 a total of 113 times in 2010 and 101 times in 2008. This is a difference of 12, a *12% increase*.
- 8. OPM used Exemption 1 a total of 0 times in 2010 and 1 time in 2008.

The following agencies decreased their use of Exemption 1 between 2008 and 2010:

- DHS used Exemption 1 a total of 92 times in 2010 and 138 times in 2008. This is a difference of 46, a *33% decrease*.
- 9. DOD used Exemption 1 a total of 1,279 times in 2010 and 2,150 times 2008. This is a difference of 871, a *41% decrease*.
- 10. DOJ used Exemption 1 a total of 639 times in 2010 and 696 times in 2008. This is a decrease of 57, an *8% decrease*.
- 11. SSA did not use Exemption 1 in 2010, and used it one time in 2008, a decrease of 100%.
- 12. State used Exemption 1 a total of 408 times in 2010 and 537 times 2008. This is a difference of 129, a *24% decrease*.

13. Treasury used Exemption 1 a total of 3 times in 2010 and 13 times 2008. This is a difference of 10, a 77% decrease.

The following agencies had no change in their use of Exemption 1 between 2008 and 2010: DOL, HHS, HUD, and SEC.

Exemption 2

Exemption 2 of the FOIA authorizes agencies to withhold information “related solely to the internal personnel rules and practices of an agency.” 5 U.S.C. § 552(b)(2). Most of the 15 agencies had an increase in the number of times they invoked Exemption 2 between 2008 and 2010. Collectively, the 15 agencies used Exemption 2 a total of 62,855 times in 2010, an increase of 12,475 from 2008 when they used Exemption 2 a total of 50,380 times. This is a 25% increase in Exemption 2 use between 2008 and 2010. Nine of the 15 agencies increased their use of Exemption 2 between 2008 and 2010, while only 3 decreased their use of Exemption 2 during that time period.

DHS used Exemption 2 the most number of times in both 2008 and 2010. DHS also had the greatest increase in the number of times it invoked Exemption 2 – 11,062 more times in 2010 than in 2008. NARA had the greatest percentage increase in use, a 146% increase between 2008 and 2010. OPM had the greatest percentage decrease in use of Exemption 2, 100% less in 2010 than 2008. DOL had the greatest decrease in its use of Exemption 2 between 2008 and 2010, a drop of 195 uses.

This data shows that overall use of Exemption 2 increased, and thus transparency decreased, between 2008 and 2010. This is a particularly disturbing trend given DOJ’s DATE directive to agencies to not invoke what was then referred to as “low 2” to protect trivial internal matters. Of note, the Supreme Court on DATE ruled that the so-called “high 2” has no basis in law and therefore cannot be relied on to withhold information. CASE CITE

Agency Breakdown

The following entities increased their use of Exemption 2 between 2008 and 2010:

- DHS used Exemption 2 a total of 53,828 times in 2010 and 42,766 times in 2008. This is a difference of 11,062, a 26% increase.
14. DOD used Exemption 2 a total of 3,364 times in 2010 and 2,664 times in 2008. This is a difference of 700, a 26% increase.
15. DOI used Exemption 2 a total of 112 times in 2010 and 111 times in 2008. This is a difference of 1, a 1% increase.
16. DOJ used Exemption 2 a total of 4,100 times in 2010 and 3,179 times in 2008. This is a difference of 921, a 29% increase.
17. DOT used Exemption 2 a total of 189 times in 2010 and 141 times in 2008. This is a difference of 48, a 34% increase.
18. HHS used Exemption 2 a total of 142 times in 2010 and 70 times in 2008. This is a difference of 72, a 103% increase.

19. HUD used Exemption 2 a total of 46 times in 2010 and 30 times in 2008. This is a difference of 8, a 53% *increase*.
20. NARA used Exemption 2 a total of 32 times in 2010 and 13 times in 2008. This is a difference of 19, a 146% *increase*.
21. State used Exemption 2 a total of 162 times in 2010 and 99 times in 2008. This is a difference of 63, a 64% *increase*.

The following agencies decreased their use of Exemption 2 between 2008 and 2010:

22. EPA used Exemption 2 a total of 29 times in 2010 and 33 times in 2008. This is a difference of 4, a 12% *decrease*.
23. Treasury used Exemption 2 a total of 157 times in 2010 and 197 times 2008. This is a difference of 40, a 20% *decrease*.
24. DOL used Exemption 2 a total of 611 times in 2010 and 806 times in 2008. This is a difference of 195, a 24% *decrease*.
25. OPM did not use Exemption 2 in 2010 and used it 4 times in 2008. This is a 100% *decrease*.
26. SEC used Exemption 2 a total of 17 times in 2010 and 46 times in 2008. This is a difference of 29, a 63% *decrease*.
27. SSA used Exemption 2 a total of 66 times in 2010 and 221 times in 2008. This is a difference of 155, a 70% *decrease*.

Exemption 3

Exemption 3 of the FOIA authorizes agencies to withhold information “specifically exempted from disclosure by statute,” where the statute leaves the agency with “no discretion on the issue,” or establishes particular withholding criteria “or refers to particular types of matters to be withheld.” 5 U.S.C. § 552(b)(3). Overall, the 15 agencies increased their use of Exemption 3 by 96% between 2008 and 2010. In 2010, they used Exemption 3 a total of 14,005 times, up from a total of 7,142 times in 2008 (a difference of 6,863). State had the greatest reliance on Exemption 3 to withhold information with a total of 5,517 times in 2010, up from 4,573 times in 2008. DOL had the greatest percentage increase in use, from 11 uses in 2008 to 97 in 2010, a 782% increase. None of the 15 agencies decreased their use of Exemption 3 between 2008 and 2010.

Agency Breakdown

All of the 15 agencies had an increase in the number of times they invoked Exemption 3 between 2008 and 2010, specifically:

- DHS used Exemption 3 a total of 1,670 times in 2010 and 307 times in 2008. This is a difference of 1,363, a 444% *increase*.
- DOD used Exemption 3 a total of 2,512 times in 2010 and 2,247 times in 2008. This is a difference of 265, a 12% *increase*.

- DOI used Exemption 3 a total of 70 times in 2010 and 50 times in 2008. This is a difference of 20, a *40% increase*.
- DOJ used Exemption 3 a total of 1,360 times in 2010 and 944 times in 2008. This is a difference of 416, a *44% increase*.
- DOJ used Exemption 3 a total of 97 times in 2010 and 11 times in 2008. This is a difference of 86, a *782% increase*.
- DOT used Exemption 3 a total of 156 times in 2010 and 149 times in 2008. This is a difference of 7, a *5% increase*.
- EPA used Exemption 3 a total of 30 times in 2010 and 25 times in 2008. This is a difference of 5, a *20% increase*.
- HHS used Exemption 3 a total of 101 times in 2010 and 82 in 2008. This is a difference of 19, a *23% increase*.
- HUD used Exemption 3 a total of 21 times in 2010 and 8 times in 2008. This is a difference of 13, a *163% increase*.
- NARA used Exemption 3 a total of 80 times in 2010 and 61 times in 2008. This is a difference of 19, a *31% increase*.
- OPM used Exemption 3 a total of 1 time in 2010 and no times in 2008.
- SEC used Exemption 3 a total of 9 times in 2010 and 8 times in 2008. This is a difference of 1, a *13% increase*.
- SSA used f Exemption 3 a total of 61 times in 2010 and 90 times in 2008. This is a difference of 29, a *48% increase*.
- State used Exemption 3 a total of 5,517 times in 2010 and 944 times in 2008. This is a difference of 4,573, a *404% increase*.
- Treasury used Exemption 3 a total of 2,291 times in 2010 and 2,245 times in 2008. This is a difference of 46, a *2% increase*.

Exemption 4

Exemption 4 of the FOIA authorizes agencies to withhold “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4). While in gross numbers the 15 agencies’ collective use of Exemption 4 to withhold information decreased from a total of 8,453 instances in 2008 to a total of 7,924 instances in 2010, more than half of the 15 agencies actually increased their individual use of Exemption 4 during that period. Specifically, eight of the 15 agencies increased their use of Exemption 4 between 2008 and 2010. Seven agencies decreased their use of Exemption 4 between 2008 and 2010. DOL used Exemption 4 the most, a total of 4,483 times in 2008. DHS had the greatest increase in Exemption 4 use (680 instances) from 2008 to 2010, and the greatest percentage increase of use, 183%. Of note, agency use of Exemption 4 does not present the most accurate barometer of an agency’s level of

transparency, as agencies usually are acting to protect the interests of those who submit information to an agency.

Agency Breakdown

The following agencies increased their use of Exemption 4 between 2008 and 2010:

- DHS used Exemption 4 a total of 1,051 times in 2010 and 307 times in 2008. This is a difference of 680, a *183% increase*.
- 28. DOD used Exemption 4 a total of 2,020 times in 2010 and 2,247 times in 2008. This is a difference of 493, a *32% increase*.
- 29. DOJ used Exemption 4 a total of 224 times in 2010 and 145 times in 2008. This is a difference of 79, a *54% increase*.
- 30. EPA used Exemption 4 a total of 237 times in 2010 and 229 times in 2008. This is a difference of 8, a *3% increase*.
- 31. HHS used Exemption 4 a total of 736 times in 2010 and 470 times in 2008. This is a difference of 266, a *57% increase*.
- 32. HUD used Exemption 4 a total of 137 times in 2010 and 86 times in 2008 to 137. This is a difference of 51, a *59% increase*.
- 33. NARA used Exemption 4 a total of 14 times in 2010 and 13 times. This is a difference of 1, an *8% increase*.
- 34. OPM used Exemption 4 a total of 18 times in 2010 and 16 times in 2008. This is a difference of 2, a *13% increase*.

The following agencies decreased their use of Exemption 4 between 2008 and 2010:

- DOI used Exemption 4 a total of 158 times in 2010 and 163 times in 2008. This is a difference of 5, a *3% decrease*.
- 35. DOL used Exemption 4 a total of 3,522 times in 2010 and 4,483 in 2008. This is a difference of 1,961, a *44% decrease*.
- 36. DOT used Exemption 4 a total of 283 times in 2010 319 times 2008. This is a difference of 36, an *11% decrease*.
- 37. SEC used Exemption 4 a total of 87 times in 2010 and 160 times in 2008. This is a difference of 73, a *46% decrease*.
- 38. SSA used Exemption 4 a total of 35 times in 2010 and 50 times in 2008. This is a difference of 15, a *30% decrease*.
- 39. State used Exemption 4 a total of 95 times in 2010 and 104 times 2008. This is a difference of 9, a *9% decrease*.

40. Treasury used Exemption 4 a total of 307 times in 2010 and 317 times 2008. This is a difference of 10, a *3% decrease*.

Exemption 5

Exemption 5 of the FOIA authorizes agencies to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than a party in litigation with the agency,” 5 U.S.C. § 552(b)(5), which courts have construed as exempting documents that normally would be privileged in the civil discovery context. Collectively, the 15 analyzed agencies increased their use of Exemption 5 by 11% between 2008 and 2010. In 2008, they used Exemption 5 a total of 46,708 times, while in 2010 they used Exemption 5 a total of 51,967 times (a difference of 5,259). Eight of the 15 agencies increased their use of Exemption 5 between 2008 and 2010, while seven decreased their use of Exemption 5 during that period. DHS invoked Exemption 5 the most number of times in both 2008 and 2010. DHS also had the greatest increase in the number of times it invoked Exemption 5 from 2008 to 2010. NARA had the greatest percentage increase in its use of Exemption 5 (up 139%). DOL had the greatest decrease in the actual number of times it invoked Exemption 5 between 2008 and 2010, while SSA had the greatest percentage decrease in Exemption 5 use during this period (a 65% decrease).

These results suggest that despite the opportunity Exemption 5 provides for making the discretionary releases urged by both President Obama and Attorney General Holder, agencies are continuing to insist on less, not more, transparency.

Agency Breakdown

The following entities increased their use of Exemption 5 between 2008 and 2010:

41. DHS used Exemption 5 a total of 41,828 times in 2010 and 34,745 times in 2008. This is a difference of 7,083, a *20% increase*.
42. DOT used Exemption 5 a total of 699 times in 2010 and 614 times in 2008. This is a difference of 85, a *14% increase*.
43. HHS used Exemption 5 a total of 360 times in 2010 and 234 times in 2008. This is a difference of 126, a *54% increase*.
44. HUD used Exemption 5 a total of 68 times in 2008 and 111 times in 2010. This is a difference of 43, a *63% increase*.
45. NARA used Exemption 5 a total of 43 times in 2010 and 18 times in 2008. This is a difference of 25, a *139% increase*.
46. OPM used Exemption 5 a total of 10 times in 2008 and 14 times in 2010. This is a difference of 4, a *40% increase*.
47. SEC used Exemption 5 a total of 83 times in 2008 and 159 times in 2010. This is a difference of 76, a *92% increase*.
48. State used Exemption 5 a total of 240 times in 2010 166 times in 2008. This is a difference of 74, a *45% increase*.

The following agencies decreased their use of Exemption 5 between 2008 and 2010:

- DOD used Exemption 5 a total of 1,895 times in 2010 and 2,064 times in 2008. This is a difference of 169, an *8% decrease*.
- 49. DOI used Exemption 5 a total of 264 times in 2010 and 384 times 2008. This is a difference of 120, a *31% decrease*.
- 50. DOJ used Exemption 5 a total of 1,231 times in 2010 and 1,542 times 2008. This is a difference of 311, a *20% decrease*.
- 51. DOL used Exemption 5 a total of 5,581 times in 2008 and 4,136 times in 2010. This is a difference of 1,445, a *26% decrease*.
- 52. EPA used Exemption 5 a total of 292 times in 2010 and 295 times 2008. This is a difference of 3, a *1% decrease*.
- 53. The SSA used Exemption 5 a total of 212 times in 2008 and 75 times in 2010. This is a difference of 137, a *65% decrease*.
- 54. Treasury used Exemption 5 a total of 620 times in 2010 and 692 times 2008. This is a difference of 72, a *10% decrease*.

Exemption 6

Exemption 6 of the FOIA authorizes agencies to withhold information in “personnel and medical files and similar files” where disclosure “would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). In 2010, these 15 agencies used Exemption 6 a total of 92,919 times, an increase of 45% between 2008 and 2010. In 2008, they used Exemption 6 a total of 64,286 times or 28,743 fewer times from 2008 to 2010. Overall, 14 of the 15 agencies increased their use of Exemption 6 between 2008 and 2010.

DHS used Exemption 6 the most number of times in both 2008 and 2010. DHS also had the greatest increase in the number of times it invoked Exemption 6, 15,464 more times in 2010 than in 2008. State had the greatest percentage increase in use from 2008 to 2010, 561%. DOL had the greatest percentage decrease in Exemption 6 use from 2008 to 2010, 14%.

Agency Breakdown

The following agencies increased their use of Exemption 6 between 2008 and 2010:

- DHS used Exemption 6 a total of 54,548 times in 2010 and 39,084 times in 2008. This is a difference of 15,464, a *40% increase*.
- DOD used Exemption 6 a total of 13,083 times in 2010 and 10,513 times in 2008. This is a difference of 2,570, a *24% increase*.
- DOI used Exemption 6 a total of 862 times in 2010 and 767 times in 2008. This is a difference of 95, a *12% increase*.
- DOJ used Exemption 6 a total of 6,484 times in 2010 4,357 times in 2008. This is a difference of 2,217, a *49% increase*.

- DOT used Exemption 6 a total of 1,594 times in 2010 and 1,583 times in 2008. This is a difference of 11, a *1% increase*.
- EPA used Exemption 6 a total of 167 times in 2010 and a 132 times in 2008. This is a difference of 35, a *27% increase*.
- HHS used Exemption 6 a total of 8,482 times in 2010 and 2,879 times in 2008. This is a difference of 5,603, a *195% increase*.
- HUD used Exemption 6 a total of 338 times in 2010 and 266 times in 2008. This is a difference of 72, a *27% increase*.
- NARA used Exemption 6 a total of 158 times in 2010 and 87 times in 2008. This is a difference of 71, an *82% increase*.
- OPM used Exemption 6 a total of 72 times in 2010 and 30 times in 2008. This is a difference of 42, a *140% increase*.
- SEC used Exemption 6 a total of 228 times in 2010 and 72 times in 2008. This is a difference of 156, a *217% increase*.
- SSA used Exemption 6 a total of 1,288 times in 2010 and 749 times in 2008. This is a difference of 539, a *72% increase*.
- State used Exemption 6 a total of 2,669 times in 2010 and 404 times in 2008. This is a difference of 2,265, a *561% increase*.
- Treasury used Exemption 6 a total of 907 times in 2010 and 853 times in 2008. This is a difference of 54, a *6% increase*.

The following agency decreased its use of Exemption 6 between 2008 and 2010:

- DOL used Exemption 6 a total of 2,149 times in 2010 and 2,510 times in 2008. This is a difference of 361, a *14% decrease*.

Exemption 7(A)

Exemption 7(A) of the FOIA authorizes agencies to withhold records “compiled for law enforcement purposes” but where their production “could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552(b)(7)(A). Of note, because this exemption applies only to law enforcement records, agencies with no law enforcement mission are less likely to invoke 7(A).

These 15 agencies used Exemption 7(A) a total of 5,263 times, up 120 times from the 5,263 uses in 2008 or 2%. Seven of the 15 increased their use of Exemption 7(A) between 2008 and 2010, while six decreased their use of Exemption 7(A) during that time period. Two agencies did not change the number of times they used Exemption 7(A) between 2008 and 2010. DOL used Exemption 7(A) the most number of times in both 2010 and 2008. DOD had the greatest increase in the number of times it invoked Exemption 7(A), 287 more times in 2010 than in 2008. SSA had the greatest percentage increase between 2008 and 2010, up 600%. The SEC had the greatest decrease in the number of times it invoked Exemption 7(A), 226 fewer uses in 2010 than in 2008. NARA had the greatest percentage decrease in Exemption 7(A) use, a 91% decrease between 2008

and 2010. This data shows that with an overall increase in agency use of Exemption 7(A), transparency decreased between 2008 and 2010.

Agency breakdown

The following agencies increased their use of Exemption 7(A) between 2008 and 2010:

- DOD used Exemption 7(A) a total of 875 times in 2010 and 588 times in 2008. This is a difference of 287, a *49% increase*.
- 55. DOJ used Exemption 7(A) a total of 720 times in 2010 and 447 times in 2008. This is a difference of 273, a *61% increase*.
- 56. DOT used Exemption 7(A) a total of 227 times in 2010 and 99 times in 2008. This is a difference of 128, a *129% increase*.
- 57. HHS used Exemption 7(A) a total of 195 times in 2010 100 times in 2008. This is a difference of 95, a *95% increase*.
- 58. HUD used Exemption 7(A) a total of 25 times in 2010 and 24 times in 2008. This is a difference of 1, a *4% increase*.
- 59. OPM used Exemption 7(A) a total of 3 times in 2010 and 1 time in 2008. This is a difference of 2, a *200% increase*.
- 60. SSA used Exemption 7(A) a total of 7 times in 2010 and 1 time in 2008. This is a difference of 6, a *600% increase*.

The following agencies decreased their use of Exemption 7(A) between 2008 and 2010:

- DHS used Exemption 7A a total of 616 times in 2010 and 772 times in 2008. This is a difference of 156, a *20% decrease*.
- 61. DOI used Exemption 7(A) a total of 79 times in 2010 and 84 times 2008. This is a difference of 5, a *6% decrease*.
- 62. DOL used Exemption 7(A) a total of 1,543 times in 2010 and 1,665 times 2008. This is a difference of 122, a *7% decrease*.
- 63. NARA used Exemption 7A a total of 2 times in 2010 and 22 times 2008. This is a difference of 20, a *91% decrease*.
- 64. SEC used Exemption 7A a total of 479 times in 2010 and 705 times 2008. This is a difference of 226, a *32% decrease*.
- 65. Treasury used Exemption 7A a total of 343 times in 2010 and 486 times 2008. This is a difference of 143, a *29% decrease*.

The following agencies had no change in their use of Exemption 7(A) between 2008 and 2010:

- EPA used Exemption 7(A) a total of 123 times in both 2010 and 2008.

- State used Exemption 7(A) a total of 26 times in both 2010 and 2008.

Exemption 7(B)

Exemption 7(B) of the FOIA authorizes agencies to withhold from “records or information compiled for law enforcement purposes” information that “would deprive a person of a right to a fair trial or an impartial adjudication.” 5 U.S.C. § 552(b)(7)(B). In 2010, the 15 agencies collectively used Exemption 7(B) a total of 216 times, a 9% decrease from the 198 collective uses in 2008. Eight of the 15 increased their use of Exemption 7(B) between 2008 and 2010, three decreased their use of Exemption 7(B) between 2008 and 2010, and four did not use Exemption 7(B) in either 2008 or 2010. DOL used Exemption 7(B) the most number of times in both 2008 and 2010. DOL also had the greatest increase in the number of times it invoked Exemption 7(B). EPA had the greatest percentage increase in its invocation of 7(B) from 2008 to 2010, 700%. DHS had the greatest decrease in Exemption 7(B) use during that same period, while HSS had the greatest percentage decrease in Exemption 7(B) use.

Agency breakdown

The following agencies increased their use of Exemption 7(B) between 2008 and 2010:

- DOD used Exemption 7(B) a total of 45 times in 2010 and 30 times in 2008. This is a difference of 15, a *50% increase*.
- 66. DOI used Exemption 7(B) a total of 5 times in 2010 and 2 times in 2008. This is a difference of 3, a *150% increase*.
- 67. DOL used Exemption 7(B) a total of 82 times in 2010 and 48 times in 2008. This is a difference of 34, a *71% increase*.
- 68. DOT used Exemption 7(B) a total of 4 times in 2010 and 2 times in 2008. This is a difference of 2, a *100% increase*.
- 69. EPA used Exemption 7(B) a total of 8 times in 2010 and 1 time in 2008. This is a difference of 7, a *700% increase*.
- 70. OPM used Exemption 7(B) a total of 3 times in 2010 and no times in 2008. This is a difference of 3
- 71. State used Exemption 7(B) a total of 5 times in 2010 and 2 times in 2008. This is a difference of 3, a *150% increase*.
- 72. Treasury used Exemption 7(B) a total of 4 times 2010 and no times in 2008.

The following agencies decreased their use of Exemption 7(B) between 2008 and 2010:

- 73. DHS used Exemption 7(B) a total of 20 times in 2010 and 67 times in 2008. This is a difference of 47, a *70% decrease*.
- 74. DOJ used Exemption 7(B) a total of 40 times in 2010 and 45 times 2008. This is a difference of 5, an *11% decrease*.
- 75. HHS did not use Exemption 7(B) in 2010 and used it 1 time in 2008.

The following agencies did not use Exemption 7(B) in either 2008 or 2010: NARA, HUD, SEC, and SSA.

Exemption 7(C)

Exemption 7(C) of the FOIA authorizes agencies to withhold records compiled for law enforcement purposes where its disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C). In 2010, the 15 agencies used Exemption 7(C) a total of 87,655 times, a 41% increase from 2008. Ten agencies increased their use of Exemption 7(C) between 2008 and 2010, and five decreased their use. DHS used Exemption 7(C) the most number of times in either 2008 or 2010, and also the greatest increase in the number of times it invoked Exemption 7(C). HHS had the greatest percentage increase in use between 2008 and 2010, 232%. DOL had the greatest decrease in use in terms of numbers of uses, while OPM had the greatest percentage decrease in use between 2010 and 2008.

Agency breakdown

The following agencies increased their use of Exemption 7(C) between 2008 and 2010:

- DHS used Exemption 7(C) a total of 64,905 times in 2010 and 43,728 times in 2008. This is a difference of 21,177, a *48% increase*.
- DOD used Exemption 7(C) a total of 7,113 times in 2010 5,169 times in 2008. This is a difference of 1,944, a *38% increase*.
- DOI used Exemption 7(C) a total of 367 times in 2010 and 195 times in 2008. This is a difference of 172, an *88% increase*.
- DOJ used Exemption 7(C) a total of 8,158 times in 2010 and 5,538 times in 2008. This is a difference of 2,620, a *47% increase*.
- EPA used Exemption 7(C) a total of 49 times in 2010 and 48 times in 2008. This is a difference of 1, a *2% increase*.
- HHS used Exemption 7(C) a total of 269 times in 2010 and 81 times in 2008. This is a difference of a *232% increase*.
- HUD used Exemption 7(C) a total of 39 times in 2010 and 38 times in 2008. This is a difference of 1, a *3% increase*.
- NARA used Exemption 7(C) a total of 49 times in 2010 and 27 times in 2008. This increase of 22, an *81% increase*.
- SEC used Exemption 7(C) a total of 191 times in 2010 and 70 times in 2008. This is a difference of 121, a *173% increase*.
- State used Exemption 7(C) a total of 68 times in 2010 and 64 times in 2008. This is a difference of 4, a *6% increase*.

The following agencies decreased their use of Exemption 7(C) between 2008 and 2010:

76. DOL used Exemption 7(C) a total of 5,085 times in 2010 and 5,865 times 2008. This is a difference of 780, a *13% decrease*.
77. DOT used Exemption 7(C) a total of 384 times in 2010 and 442 times 2008. This is a difference of 58, a *13% decrease*.
78. OPM did not use Exemption 7(C) in 2010 and used it 2 times 2008. This is a difference of 2, a *100% decrease*.
79. SSA used Exemption 7(C) a total of 15 times in 2010 and 20 times in 2008. This is a difference of 5, a *25% decrease*.
80. Treasury used Exemption 7(C) a total of 963 times in 2010 1,059 times 2008. This is a difference of 96, a *9% decrease*.

Exemption 7(D)

Exemption 7(D) of the FOIA authorizes agencies to withhold records “compiled for law enforcement purposes” where their disclosure “could reasonably be expected to disclose the identity of a confidential source.” 5 U.S.C. § 552(b)(7)(D). Eight of the 15 agencies increased their use of Exemption 7(D) between 2008 and 2010, six decreased their use, and one agency did not use Exemption 7(D) in either 2008 or 2010. In 2008, the 15 agencies collectively used Exemption 7(D) a total of 5,906 times, compared to a total of 5,675 times in 2008. DOL used Exemption 7(D) the most number of times overall in both 2008 and 2010, but still had the greatest decrease in the actual number of times it invoked Exemption 7(D) between 2008 and 2010. DOJ had the greatest increase in the number of times it invoked Exemption 7(D), while the SEC had the greatest percentage increase in use, up 300% between 2008 and 2010. EPA had the greatest percentage decrease in use, down 62% between 2010 and 2008.

Agency Breakdown

The following agencies increased their use of Exemption 7(D) between 2008 and 2010:

- DOD used Exemption 7(D) a total of 286 times in 2010 and 136 times in 2008. This is a difference of 150, a *110% increase*.
- DOJ used Exemption 7(D) a total of 2,417 times in 2010 and 1,973 times in 2008. This is a difference of 444, a *23% increase*.
- DOT used Exemption 7(D) a total of 171 times in 2010 and 114 times in 2008. This is a difference of 57, a *50% increase*.
- HHS used Exemption 7(D) a total of 15 times in 2010 and 7 times in 2008. This is a difference of 8, a *114% increase*.
- HUD used Exemption 7(D) a total of 4 times in 2010 and no times in 2008. This is a difference of 4.
- NARA used Exemption 7(D) a total of 42 times in 2010 and 11 times in 2008. This is a difference of 31, a *282% increase*.

- SEC used Exemption 7(D) a total of 4 times in 2010 and 1 time in 2008. This is a difference of 3, a *300% increase*.
- SSA used Exemption 7(D) 1 time in 2010 and no times in 2008. This is a difference of 1.

The following agencies decreased their use of Exemption 7(D) between 2008 and 2010:

81. DHS used Exemption 7(D) a total of 68 times in 2010 and 162 times in 2008. This is a difference of 94, a *58% decrease*.
82. DOI used Exemption 7(D) a total of 14 times in 2010 and 16 times 2008. This is a difference of 2, a *13% decrease*.
83. DOL used Exemption 7(D) a total of 2,585 times in 2010 and 3,369 times in 2008. This is a difference of 784, a *23% decrease*.
84. EPA used Exemption 7(D) a total of 8 times in 2010 and 21 times 2008. This is a difference of 13, a *62% decrease*.
85. State used Exemption 7(D) a total of 5 times in 2010 and 12 times 2008. This is a difference of 7, a *58% decrease*.
86. Treasury used Exemption 7(D) a total of 55 times in 2010 and 84 times 2008. This is a difference of 29, a *35% decrease*.

OPM did not use Exemption 7(D) in either 2008 or 2010.

Exemption 7(E)

Exemption 7(E) of the FOIA authorizes agencies to withhold records “compiled for law enforcement purposes” where their disclosure would disclose law enforcement techniques, procedures and guidelines and “could reasonably be expected to risk circumvention of the law.” 5 U.S.C. § 552(b)(7)(E). The 15 agencies collectively used Exemption 7(E) a total of 58,927 times, up 54% from the 38,379 uses in 2008. Eight of the 15 increased their use of Exemption 7(E) between 2008 and 2010, five decreased their use, and two did not change the number of times they used Exemption 7(E) between 2008 and 2010. DHS used Exemption 7(E) the most number of times in either 2008 or 2010, and also had the greatest increase in the number of times it invoked Exemption 7(E). HHS had the greatest percentage increase in use, up 440% between 2008 and 2010. Treasury had the greatest decrease in its use of Exemption 7(E), while DOT had the greatest percentage decrease in its use, down 64% between 2010 and 2008.

Agency Breakdown

The following agencies increased their use of Exemption 7(E) between 2008 and 2010:

- DHS used Exemption 7(E) a total of 55,198 times in 2010 and 35,800 times in 2008. This is a difference of 19,398, a *54% increase*.
- DOD used Exemption 7(E) a total of 121 times in 2010 and 81 times in 2008. This is a difference of 40, a *49% increase*.

- DOJ used Exemption 7(E) a total of 1,717 times in 2010 and 776 times in 2008. This is a difference of 941, uses or a 121% increase in use.
- DOL used Exemption 7(E) a total of 894 times in 2010 and 633 times in 2008. This is a *41% increase*.
- HHS used Exemption 7(E) a total of 27 times in 2010 and 5 times in 2008. This is a difference of 22, a *440% increase*.
- HUD used Exemption 7(E) a total of 16 times in 2010 and 14 times in 2008. This is a difference of 2, a *14% increase*.
- NARA used Exemption 7(E) a total of 13 times in 2010 and 8 times in 2008. This is a difference of 5, a *63% increase*.
- State used Exemption 7(E) a total of 26 times in 2010 and 15 times in 2008. This is a difference of 11, a *73% increase*.

The following agencies decreased their use of Exemption 7(E) between 2008 and 2010:

87. DOI used Exemption 7(E) a total of 28 times in 2010 34 times in 2008. This is a difference of 6, an *18% decrease*.
88. DOT used Exemption 7(E) a total of 4 times in 2010 and 11 times 2008. This is a difference of 7, a *50% decrease*.
89. EPA used Exemption 7(E) a total of 6 times in 2010 and 12 times 2008. This is a difference of 6, a *50% decrease*.
90. SEC used Exemption 7(E) a total of 4 times in 2010 and 5 times in 2008. This is a difference of 1, a *20% decrease*.
91. Treasury used Exemption 7(E) a total of 873 times in 2010 and 985 times 2008. This is a difference of 112, an *11% decrease*.

The following agencies did not use Exemption 7(E) in either 2008 or 2010: OPM and the SSA.

Exemption 7(F)

Exemption 7(F) of the FOIA authorizes agencies to withhold records “compiled for law enforcement purpose” where disclosure “could reasonably be expected to endanger the life or physical safety of any individual.” 5 U.S.C. § 552(b)(7)(F). The 15 agencies used Exemption 7(F) a total of 1,390 times, down 65% from the 841 uses in 2008. Nine of the 15 agencies increased their use of Exemption 7(F) between 2008 and 2010, three decreased their use, and three did not use Exemption 7(F) in either 2008 or 2010. Three entities did not use Exemption 7F in 2008 and 2010. DOJ used Exemption 7(F) the most number of times in either 2008 or 2010, and also had the greatest increase in the number of times it invoked Exemption 7(F). DOT had the greatest percentage increase in use, up 100% between 2008 and 2010. DHS had both the greatest decrease in its use of Exemption 7(F), and the greatest percentage decrease in use, down 83% between 2010 and 2008.

Agency Breakdown

The following agencies increased their use of Exemption 7(F) between 2008 and 2010:

- DOD used Exemption 7(F) a total of 30 times in 2010 and 17 times in 2008. This is a difference of 13, a *76% increase*.
- DOJ used Exemption 7(F) a total of 1,300 times in 2010 and 696 times in 2008. This is a difference of 604, an *87% increase*.
- DOL used Exemption 7(F) a total of 4 times in 2010 and no times in 2008. This is a difference of 4.
- DOT used Exemption 7(F) a total of 2 times in 2010 and 1 time in 2008. This is a difference of 1, a *100% increase*.
- EPA used Exemption 7(F) a total of 1 time in 2010 and no times in 2008. This is a difference of 1.
- HHS used Exemption 7(F) a total of 3 times in 2010 and no times in 2008. This is a difference of 3.
- HUD used Exemption 7(F) a total of 1 time in 2010 and no times in 2008. This is a difference of 1.
- NARA used Exemption 7(F) a total of 2 times in 2010 and no times in 2008. This is a difference of 2.
- Treasury used Exemption 7(F) a total of 14 times in 2010 and 9 times in 2008. This is a difference of 5, a *56% increase*.

The following agencies decreased their use of Exemption 7(F) between 2008 and 2010:

92. DHS used Exemption 7(F) a total of 15 times in 2010 and 88 times in 2008. This is a difference of 73, an *83% decrease*.
93. DOI used Exemption 7(F) a total of 10 times in 2010 and 17 times 2008. This is a difference of 7, a *41% decrease*.
94. State used Exemption 7(F) a total of 8 times in 2010 and 13 times 2008. This is a difference of 5, a *38% decrease*.

The following agencies did not use Exemption 7(F) in either 2008 or 2010: OPM, SEC, and SSA.

Exemption 8

Exemption 8 of the FOIA authorizes agencies to withhold information from agency bank regulation or supervision reports. 5 U.S.C. §552(b)(8). Given its narrower focus and applicability, many agencies rarely, if ever rely on Exemption 8 to withhold information under the FOIA. Here, the 15 agencies used Exemption 8 collectively a total of 350 times in 2010, up 24% from the 283 uses in 2008. Three increased their use of Exemption 8 between 2008 and 2010, two decreased their use, and did not use Exemption 8 in either 2008 or 2010. Treasury, an agency with statutory authority to regulate and supervise banks, used Exemption 8 the most number of times in both 2008 and 2010, and also had the greatest increase in the number of times it invoked Exemption 8. The SEC had the greatest percentage increase in use, up 57% between 2008 and 2010. DOD had the greatest decrease in its use of Exemption and, together with NARA, had the greatest percentage decrease in use, down 100% between 2010 and 2008.

Agency Breakdown

The following agencies increased their use of Exemption 8 between 2008 and 2010:

- HUD used Exemption 8 a total of 2 times in 2010 and no times in 2008. This is a difference of 2.
- SEC used Exemption 8 a total of 66 times in 2010 and 42 times in 2008. This is a difference of 24, a *57% increase*.
- Treasury used Exemption 8 a total of 280 times in 2010 and 230 times in 2008. This is a difference of 50, a 22% increase.

The following agencies decreased their use of Exemption 8 between 2008 and 2010:

95. DOD did not use Exemption 8 in 2010 and used it a total of 8 times 2008. This is a difference of 8, a *100% decrease*.
96. NARA did not use Exemption 8 in 2010 and used it a total of 1 time in 2008. This is a difference of 1, a *100% decrease*.

The following agencies did not use Exemption 8 in either 2008 or 2010: DHS, DOI, DOL, DOT, EPA, HHS, OPM, SSA, and State.

Exemption 9

Exemption 9 of the FOIA authorizes agencies to withhold “geological and geophysical information and data, including maps, concerning wells.” 5 U.S.C. § 552(b)(9) and is the least invoked of the FOIA’s nine exemptions. The 15 agencies here collectively used Exemption 9 a total of 7 times, down 42% from 2008. Two of the 15 increased the number of times they invoked Exemption 9 between 2008 and 2010, one decreased its use, and 12 did not use Exemption 9 in either 2008 or 2010. DOD used Exemption 9 the most number of times in either 2008 or 2010, while DOI had the greatest increase in the number of times it invoked Exemption 9. DOI also had the greatest percentage increase in use, 50% between 2008 and 2010. DOD had the greatest decrease in its use of Exemption 9, and the greatest percentage decrease in use, 100% between 2008 and 2010.

Agency Breakdown

The following agencies increased their use of Exemption 9 between 2008 and 2010:.

- DOI used Exemption 9 a total of 6 times in 2010 and a 4 times in 2008. This is a difference of 2 , a *50% increase*.
- NARA used Exemption 9 a total of 1 time in 2010 and no times in 2008. This is a difference of 1.

The following agencies decreased their use of Exemption 9 between 2008 and 2010:

97. DOD did not use Exemption 9 in 2010 and used it a total of 8 times 2008. This is a difference of 8, a *100% decrease*.

The following agencies did not use Exemption 9 in either 2008 or 2010: DHS, DOJ, DOT, EPA, HHS, HUD, OPM, SEC, SSA, State, and Treasury.

Appendix 3 – Agency Breakdown of Fee Waivers

Agency Breakdown

Five of the 14¹⁴ agencies had a decrease in the number of fee waiver requests received comparing the start of fiscal year 2008 with fiscal year 2010; nine had an increase.

The following agencies received more fee waiver requests in the 2010 fiscal year in the 2008 fiscal year:

- DHS received 237 fee waiver requests in 2010 and 199 fee waiver requests in 2008. This is a difference of 38 requests, a *19% increase*.
- DOL received 709 fee waiver requests in 2010 and 244 fee waiver requests in 2008. This is a difference of 465 requests, a *191% increase*.
- DOT received 168 fee waiver requests in 2010 and 64 fee waiver requests in 2008. This is a difference of 104 requests, a *163% increase*.
- EPA received 541 fee waiver requests in 2010 and 181 fee waiver requests in 2008. This is a difference of 360 requests, a *199% increase*.
- HHS received 357 fee waiver requests in 2010 and 111 fee waiver requests in 2008. This is a difference of 246 requests, a *222% increase*.
- OPM received 14 fee waiver requests in 2010 and no fee waiver requests in 2008.
- SEC received 3 fee waiver requests in 2010 and no fee waiver requests in 2008.

¹² We found a discrepancy in the data for HUD. FOIA.gov states HUD did not receive, grant, or deny any fee waiver requests in 2008. The HUD Annual FOIA Report also states this, but includes a footnote that states HUD's "computer system cannot correctly track the number of expedited requests and fee waiver requests that were granted and denied." Thus, HUD actually did receive requests and granted and denied those requests, but the Report did not provide us with this data. As a result, this analysis does not include data for. Also, SSA stated it did not grant any fee waiver requests in 2010. SSA included a footnote with its data that said: "We review requests for fee waivers on a case-by-case basis. Only the SSA FOI Officer may waive or reduce a fee (in excess of \$7.50). We usually grant a fee waiver when it has been determined that furnishing the information will primarily benefit the general public. We normally grant fee waivers for members of the media and educational and scientific institutions when there is limited search time or duplication involved with the request." This seems to indicate SSA sometimes grants fee waiver requests, but did not do so in 2010. Thus, we trusted the data provided. Lastly, OPM and SEC also stated they had not received any requests, granted any requests, nor denied any requests in 2008. Having no reason to doubt these claims, we have included this data.

- State received 99 fee waiver requests in 2010 and 31 fee waiver requests in 2008. This is a difference of 68 requests, a *219% increase*.
- Treasury received 324 fee waiver requests in 2010 and 137 fee waiver requests in 2008. This is a difference of 187 requests, a *136% increase*.

The following agencies received fewer fee waiver requests in the 2010 fiscal year in the 2008 fiscal year:

- DOD received 2,349 fee waiver requests in 2010 and 2,991 fee waiver requests in 2008. This is a difference of 642 requests, a *21% decrease*.
- DOI received 501 fee waiver requests in 2010 and 570 fee waiver requests in 2008. This is a difference of 69 requests, a *12% decrease*.
- DOJ received 1,317 fee waiver requests in 2010 and 1,445 fee waiver requests in 2008. This is a difference of 128 requests, a *9% decrease*.
- NARA received 65 fee waiver requests in 2010 and 152 fee waiver requests in 2008. This is a difference of 87 requests, a *57% decrease*.
- SSA received 18 fee waiver requests in 2010 and 90 fee waiver requests in 2008. This is a difference of 72 requests, an *80% decrease*.

Fee Waivers Granted

Agency Breakdown

The following agencies granted more fee waiver requests in the 2010 fiscal year in the 2008 fiscal year:

- DHS granted 74 fee waiver requests in 2010 and 43 fee waiver requests in 2008. This is a difference of 31 requests, a *72% increase*. Of the 237 fee waiver requests received in 2010, DHS granted a fee waiver 31% of the time. Of the 199 fee waiver requests received in 2008, DHS granted a fee waiver 22% of the time. Thus, DHS granted fee waivers a higher percentage of time in 2010 than in 2008.
- DOL granted 365 fee waiver requests in 2010 and 163 fee waiver requests in 2008. This is a difference of 202 requests, a *124% increase*. Of the 709 fee waiver requests received in 2010, DOL granted a fee waiver 51% of the time. Of the 244 fee waiver requests received in 2008, DOL granted a fee waiver 67% of the time. DOL granted fee waivers a higher percentage of time in 2008 than in 2010.
- DOT granted 111 fee waiver requests in 2010 and 49 fee waiver requests in 2008. This is a difference of 62 requests, a *127% increase*. Of the 168 fee waiver requests received in 2010, DOT granted a fee waiver 66% of the time. Of the 64 fee waiver requests received in 2008, DOT granted a fee waiver 77% of the time. DOT granted fee waivers a higher percentage of time in 2008 than in 2010.
- EPA granted 339 fee waiver requests in 2010 and 135 fee waiver requests in 2008. This is a difference of 204 requests, a *151% increase*. Of the 541 fee waiver requests received in 2010, EPA granted a fee waiver 63% of the time. Of the 181 fee waiver requests received in 2008, EPA granted a fee waiver 75% of the time. Thus, EPA granted fee waivers a higher percentage of time in 2008 than in 2010.

- HHS granted 291 fee waiver requests in 2010 and 89 fee waiver requests in 2008. This is a difference of 202 requests, a 227% *increase*. Of the 357 fee waiver requests received in 2010, HHS granted a fee waiver 82% of the time. Of the 111 fee waiver requests received in 2008, HHS granted a fee waiver 80% of the time. Thus, HHS granted fee waivers a higher percentage of time in 2010 than in 2008.
- OPM granted 9 fee waiver requests in 2010 and no fee waiver requests in 2008. Of the 14 fee waiver requests received in 2010, OPM granted a fee waiver 64% of the time. Since OPM did not grant any fee waivers in 2008, OPM granted a higher percentage of fee waivers in 2010 than in 2008.
- SEC granted 2 fee waiver requests in 2010 and no fee waiver requests in 2008. Of the 3 fee waiver requests received in 2010, SEC granted a fee waiver 67% of the time. Since SEC did not grant any fee waivers in 2008, SEC granted a higher percentage of fee waivers in 2010 than in 2008.
- Treasury granted 132 fee waiver requests in 2010 and 3 fee waiver requests in 2008. This is a difference of 129 requests, a 4300% *increase*. Of the 324 fee waiver requests received in 2010, Treasury granted a fee waiver 41% of the time. Of the 137 fee waiver requests received in 2008, Treasury granted a fee waiver 2% of the time. Thus, Treasury granted fee waivers a higher percentage of time in 2010 than in 2008.

The following agencies granted fewer fee waiver requests in the 2010 fiscal year in the 2008 fiscal year:

- DOI granted 462 fee waiver requests in 2010 and 515 fee waiver requests in 2008. This is a difference of 53 requests, a 10% *decrease*. Of the 501 fee waiver requests received in 2010, DOI granted a fee waiver 92% of the time. Of the 570 fee waiver requests received in 2008, DOI granted a fee waiver 90% of the time. Thus, DOI granted fee waivers a higher percentage of time in 2010 than in 2008.
- DOJ granted 151 fee waiver requests in 2010 and 162 fee waiver requests in 2008. This is a difference of 11 requests, a 7% *decrease*. Of the 1,317 fee waiver requests received in 2010, DOJ granted a fee waiver 11% of the time. Of the 1,445 fee waiver requests received in 2008, DOJ granted a fee waiver 11% of the time. This reflects no change in the percentage of times DOJ granted a fee waiver between 2008 and 2010.
- SSA granted no fee waiver requests in 2010 and 38 fee waiver requests in 2008. This is a difference of 38 requests, a 100% *decrease*. Of the 18 fee waiver requests received in 2010, SSA granted a fee waiver 0% of the time. Of the 90 fee waiver requests received in 2008, SSA granted a fee waiver 42% of the time. Thus, SSA granted fee waivers a higher percentage of time in 2008 than in 2010.
- State granted 1 fee waiver request in 2010 and 2 fee waiver requests in 2008. This is a difference of 1 request, a 50% *decrease*. Of the 99 fee waiver requests received in 2010, State granted a fee waiver 1% of the time. Of the 31 fee waiver requests received in 2008, State granted a fee waiver 6% of the time. Thus, State granted fee waivers a higher percentage of time in 2008 than in 2010.

Fee Waivers Denied

Agency Breakdown

The following agencies denied more fee waiver requests in the 2010 fiscal year in the 2008 fiscal year:

- DHS denied 163 fee waiver requests in 2010 and 156 fee waiver requests in 2008. This is a difference of 7 requests, a *4% increase*. Of the 237 fee waiver requests received in 2010, DHS denied a fee waiver 69% of the time. Of the 199 fee waiver requests received in 2008, DHS denied a fee waiver 78% of the time. Thus, DHS denied a higher percentage of fee waivers in 2010 than in 2008.
- DOL denied 344 fee waiver requests in 2010 and 81 fee waiver requests in 2008. This is a difference of 263 requests, a *325% increase*. Of the 709 fee waiver requests received in 2010, DOL denied a fee waiver 49% of the time. Of the 244 fee waiver requests received in 2008, DOL denied a fee waiver 33% of the time. Thus, DOL denied a higher percentage of fee waivers in 2010 than in 2008.
- DOT denied 57 fee waiver requests in 2010 and 15 fee waiver requests in 2008. This is a difference of 42 requests, a *280% increase*. Of the 168 fee waiver requests received in 2010, DOT denied a fee waiver 34% of the time. Of the 64 fee waiver requests received in 2008, DOT denied a fee waiver 23% of the time. Thus, DOT denied a higher percentage of fee waivers in 2008 than in 2010.
- EPA denied 202 fee waiver requests in 2010 and 46 fee waiver requests in 2008. This is a difference of 156 requests, a *339% increase*. Of the 541 fee waiver requests received in 2010, EPA denied a fee waiver 37% of the time. Of the 181 fee waiver requests received in 2008, EPA denied a fee waiver 25% of the time. Thus, EPA denied a higher percentage of fee waivers in 2010 than in 2008.
- HHS denied 66 fee waiver requests in 2010 and 22 fee waiver requests in 2008. This is a difference of 44 requests, a *200% increase*. Of the 357 fee waiver requests received in 2010, HHS denied a fee waiver 18% of the time. Of the 111 fee waiver requests received in 2008, HHS denied a fee waiver 20% of the time. Thus, HHS denied a higher percentage of fee waivers in 2008 than in 2010.
- OPM denied 5 fee waiver requests in 2010 and no fee waiver requests in 2008. Of the 14 fee waiver requests received in 2010, OPM denied a fee waiver 33% of the time. Since OPM did not receive any fee waiver requests in 2008, it clearly denied a higher percentage of fee waivers in 2010 than in 2008.
- SEC denied 1 fee waiver requests in 2010 and no fee waiver requests in 2008. Of the 3 fee waiver requests received in 2010, SEC denied a fee waiver 67% of the time. Since SEC did not receive any fee waiver requests in 2008, it clearly denied a higher percentage of fee waivers in 2010 than in 2008.
- State denied 98 fee waiver requests in 2010 and 29 fee waiver requests in 2008. This is a difference of 69 requests, a *238% increase*. Of the 99 fee waiver requests received in 2010, State denied a fee waiver 99% of the time. Of the 31 fee waiver requests received in 2008, State denied a fee waiver 94% of the time. Thus, State denied a higher percentage of fee waivers in 2010 than in 2008.
- Treasury denied 192 fee waiver requests in 2010 and 134 fee waiver requests in 2008. This is a difference of 58 requests, a *43% increase*. Of the 324 fee waiver requests received in 2010, Treasury denied a fee waiver 59% of the time. Of the 137 fee waiver requests received in 2008, Treasury denied a fee waiver 98% of the time. Thus, Treasury denied a higher percentage of fee waivers in 2008 than in 2010.

The following agencies denied fewer fee waiver requests in the 2010 fiscal year in the 2008 fiscal year:

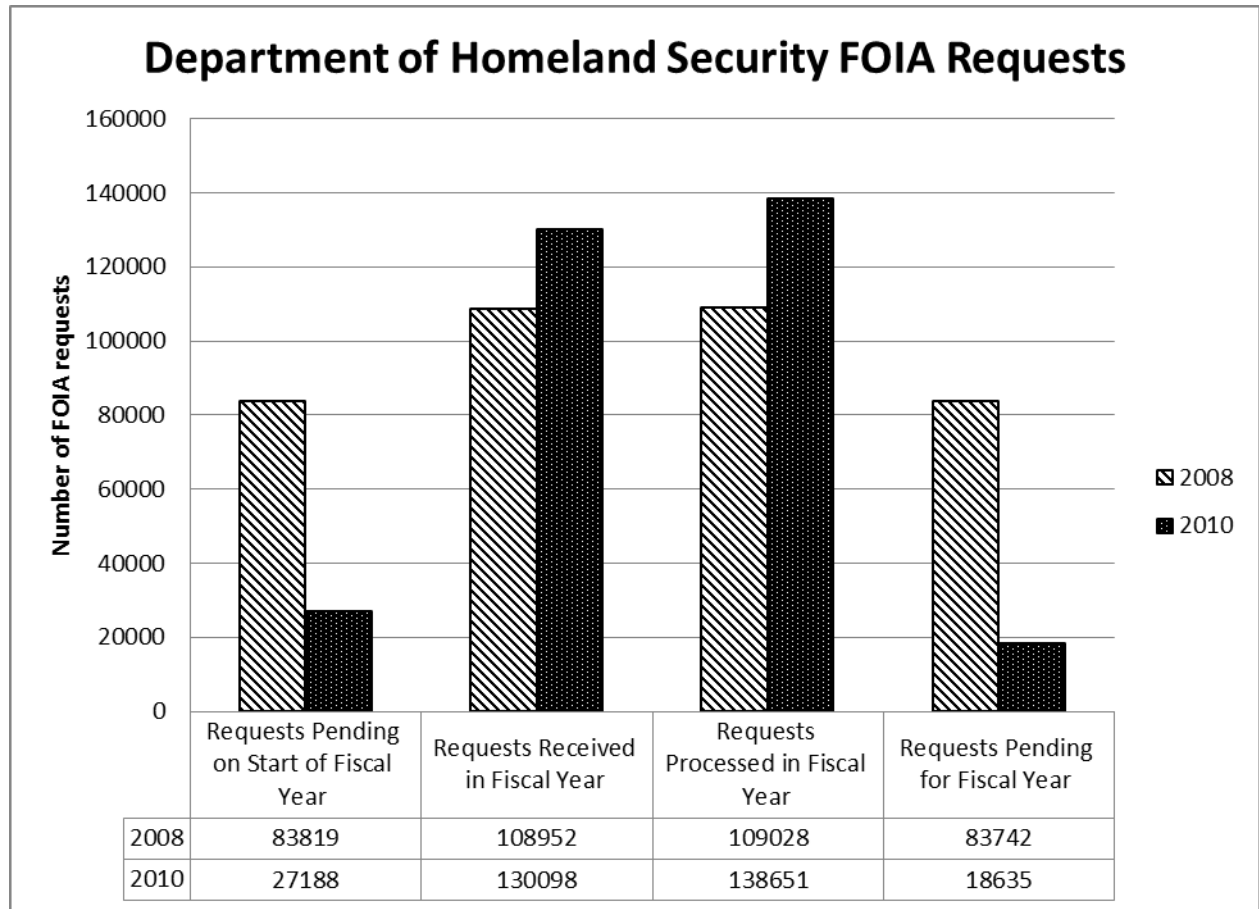
- DOD denied 613 fee waiver requests in 2010 and 1,680 fee waiver requests in 2008. This is a difference of 1,067 requests, a *64% decrease*. Of the 2,349 fee waiver requests received in 2010, DOD denied a

fee waiver 26% of the time. Of the 2,991 fee waiver requests received in 2008, DOD denied a fee waiver 56% of the time. Thus, DOD denied a higher percentage of fee waivers in 2008 than in 2010.

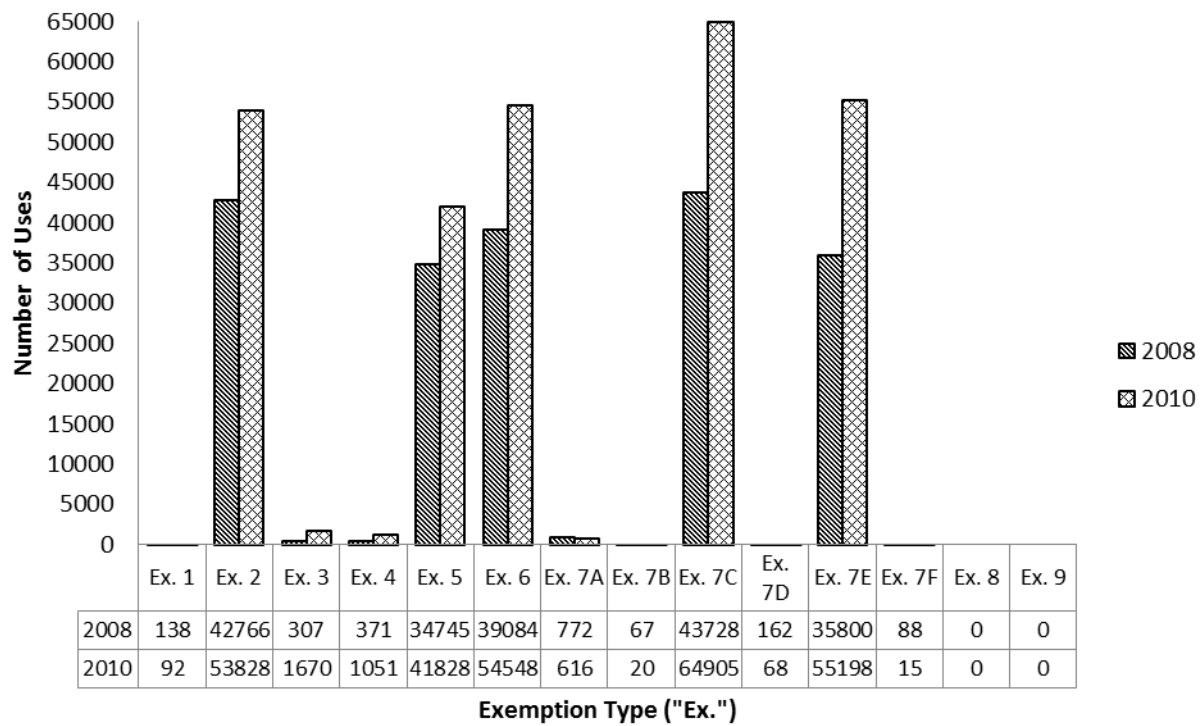
- DOI denied 39 fee waiver requests in 2010 and 55 fee waiver requests in 2008. This is a difference of 16 requests, a 29% *decrease*. Of the 501 fee waiver requests received in 2010, DOI denied a fee waiver 8% of the time. Of the 570 fee waiver requests received in 2008, DOI denied a fee waiver 10% of the time. Thus, DOI denied a higher percentage of fee waivers in 2008 than in 2010.
- DOJ denied 1,166 fee waiver requests in 2010 and 1,283 fee waiver requests in 2008. This is a difference of 117 requests, a 9% *decrease*. Of the 1,317 fee waiver requests received in 2010, DOJ denied a fee waiver 89% of the time. Of the 1,445 fee waiver requests received in 2008, DOJ denied a fee waiver 89% of the time. Thus, DOJ denied the same percentage of fee waivers in 2010 and 2008.
- NARA denied 54 fee waiver requests in 2010 and 151 fee waiver requests in 2008. This is a difference of 97 requests, a 64% *decrease*. Of the 65 fee waiver requests received in 2010, NARA denied a fee waiver 83% of the time. Of the 152 fee waiver requests received in 2008, NARA denied a fee waiver 99% of the time. Thus, NARA denied a higher percentage of fee waivers in 2008 than in 2010.
- SSA denied 18 fee waiver requests in 2010 and 52 fee waiver requests in 2008. This is a difference of 34 requests, a 65% *decrease*. Of the 18 fee waiver requests received in 2010, SSA denied a fee waiver 100% of the time. Of the 90 fee waiver requests received in 2008, SSA denied a fee waiver 58% of the time. Thus, SSA denied a higher percentage of fee waivers in 2010 than in 2008.

Appendix 4 – Information Presented by Agency Graphically.

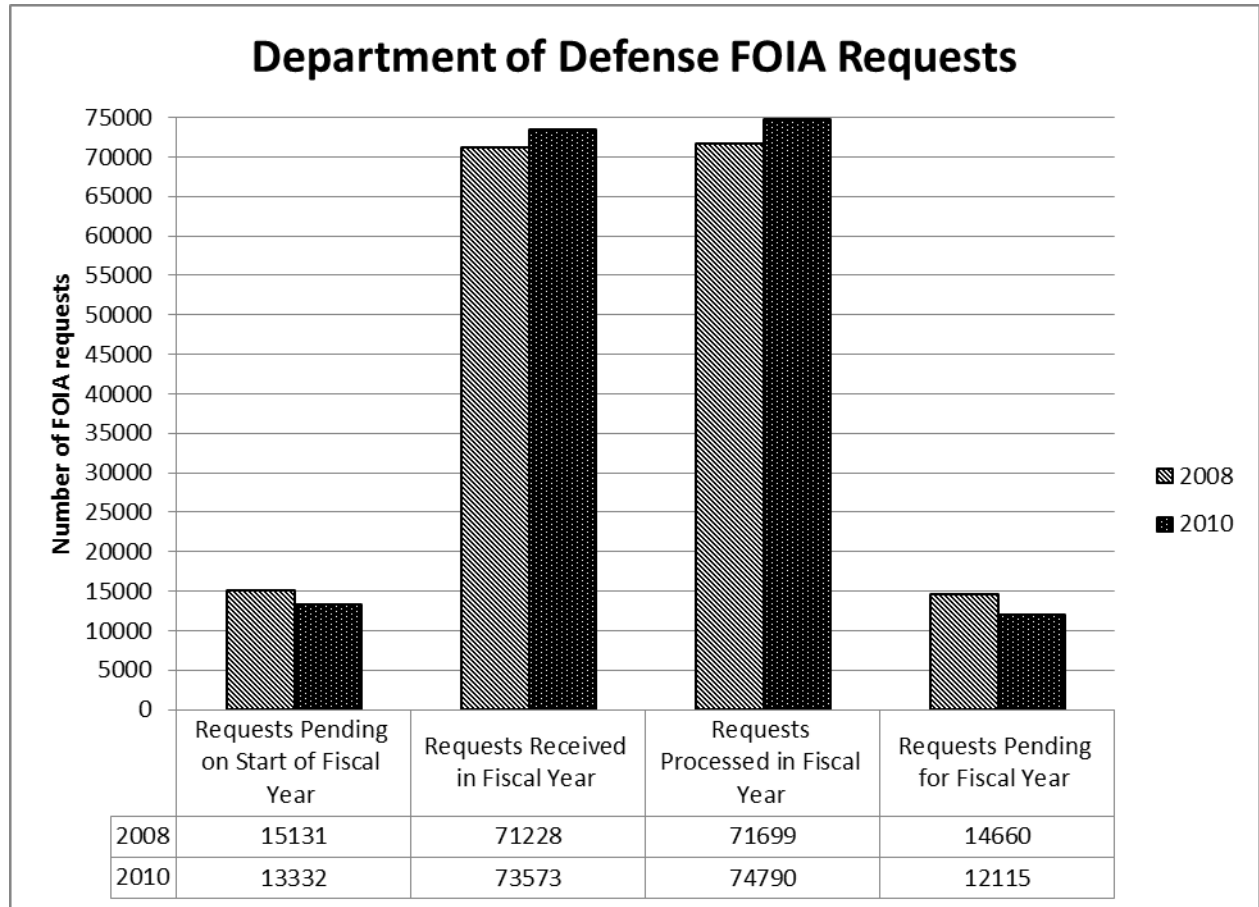
Department of Homeland Security



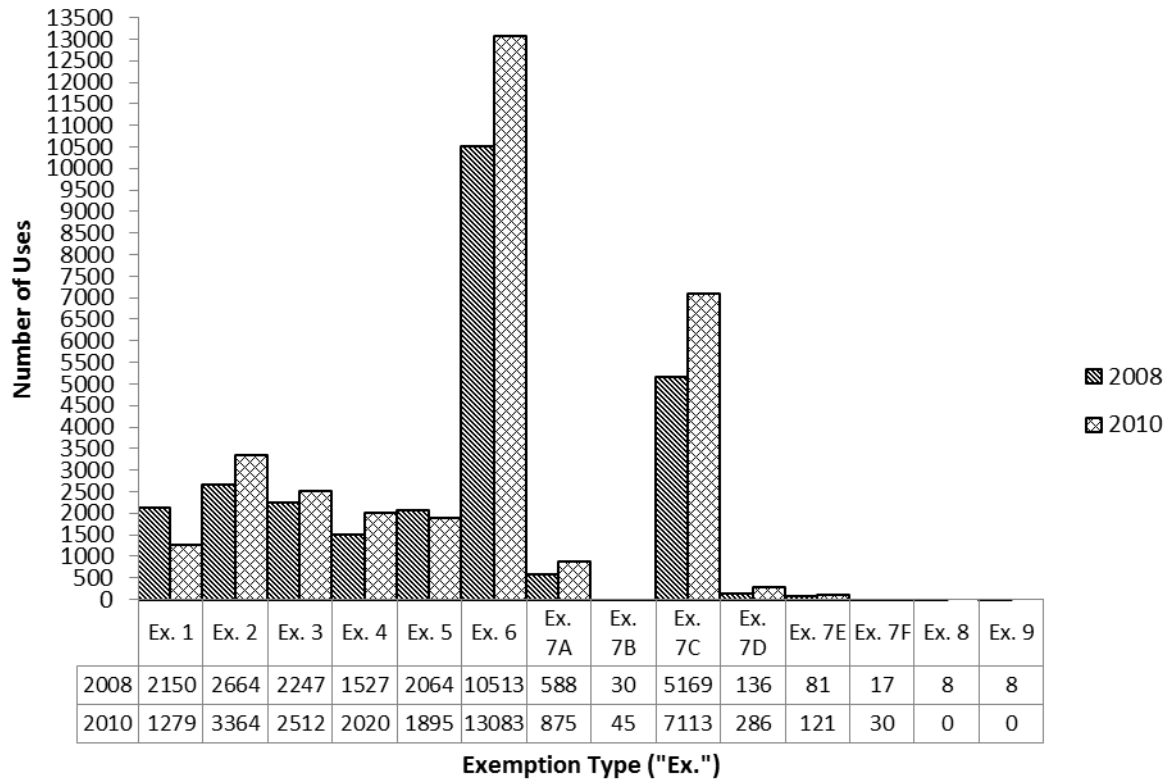
Department of Homeland Security Use of FOIA Exemptions



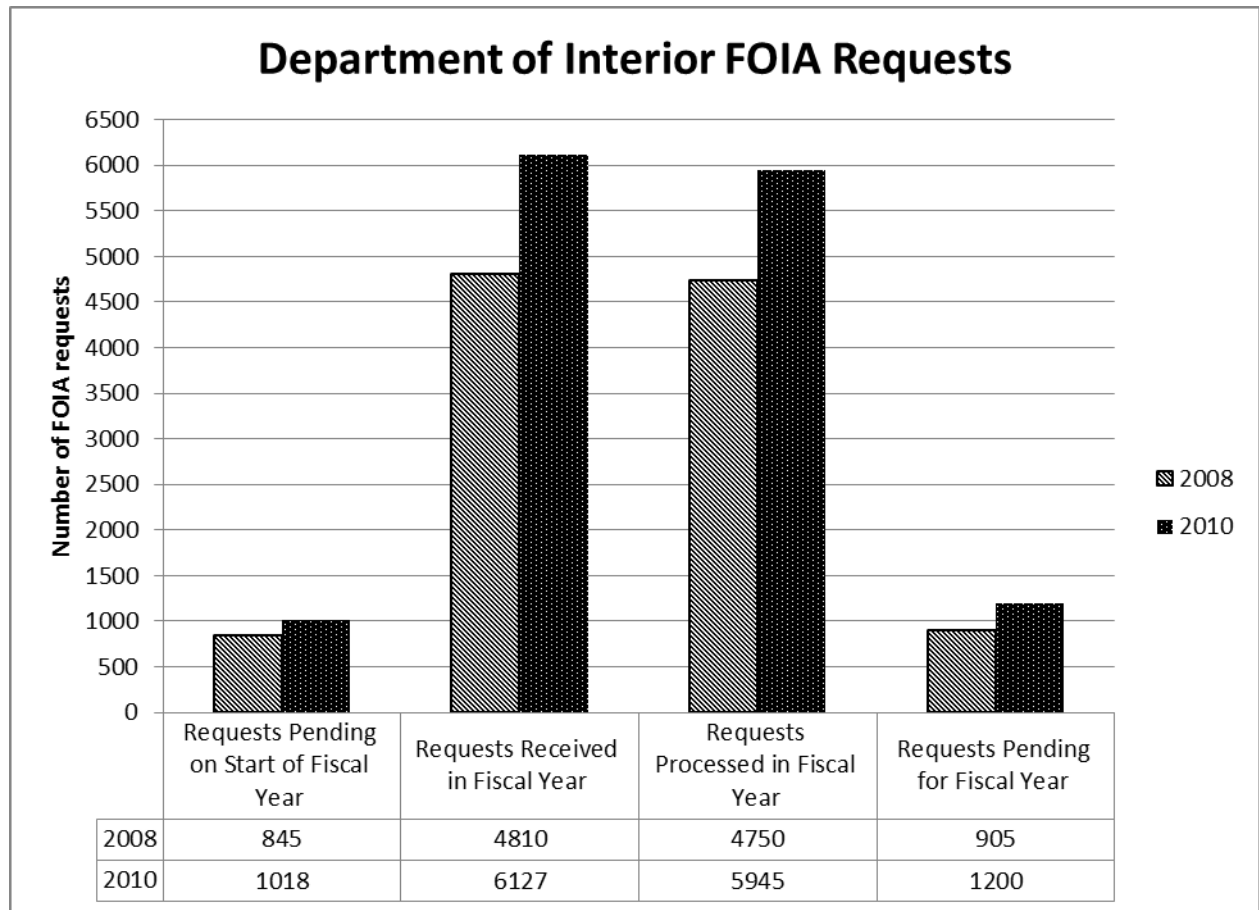
Department of Defense



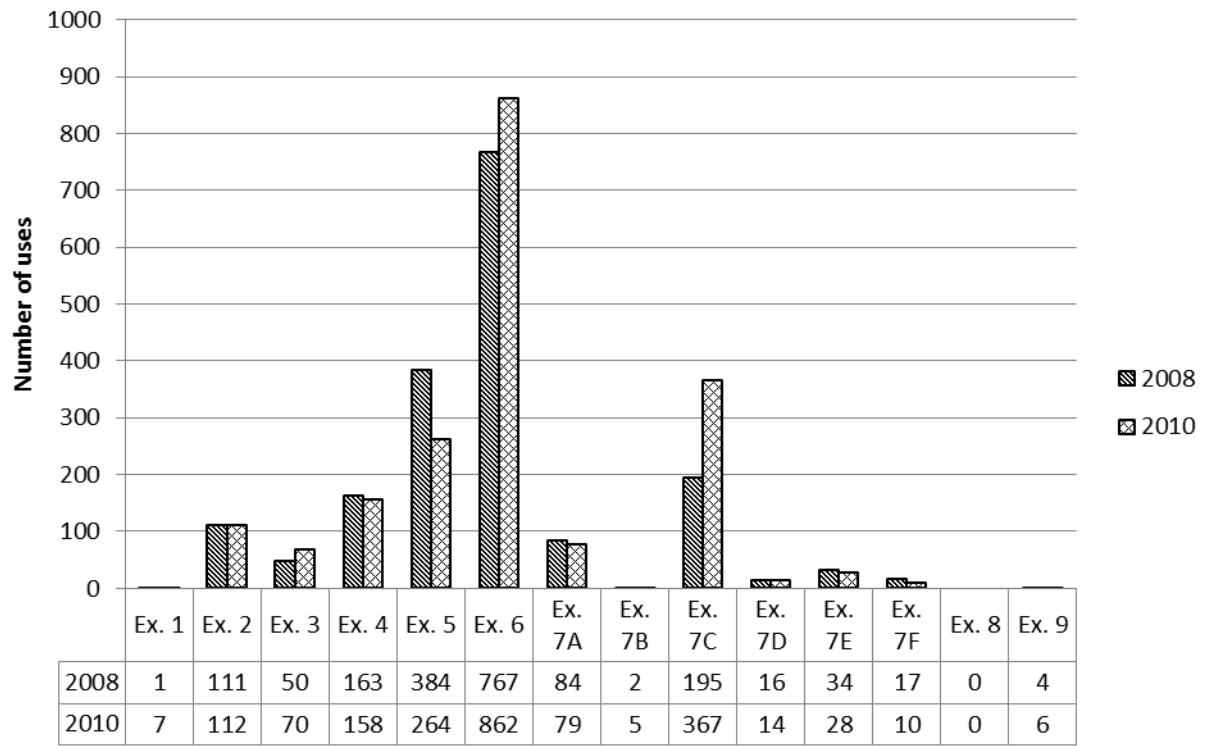
Department of Defense Use of FOIA Exemptions



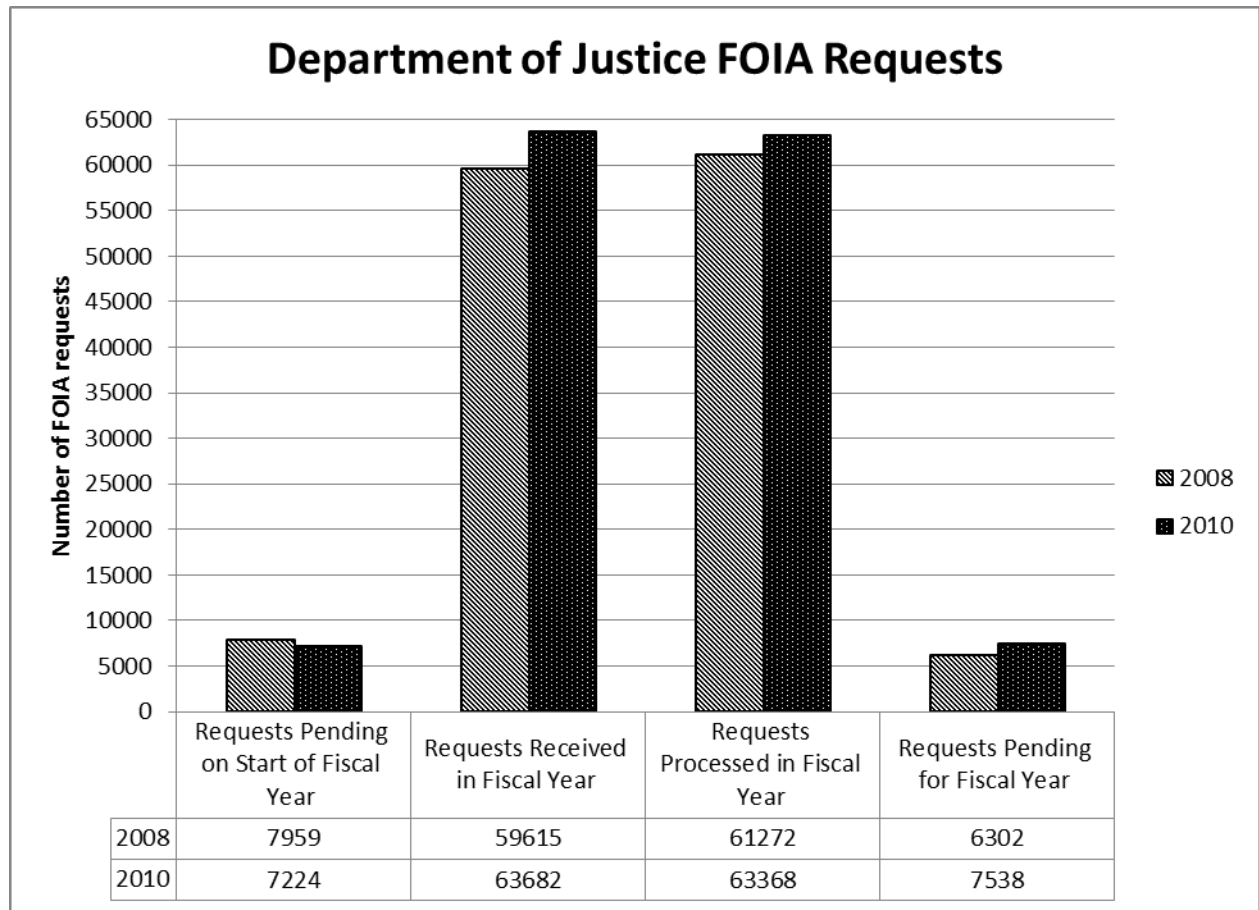
Department of Interior



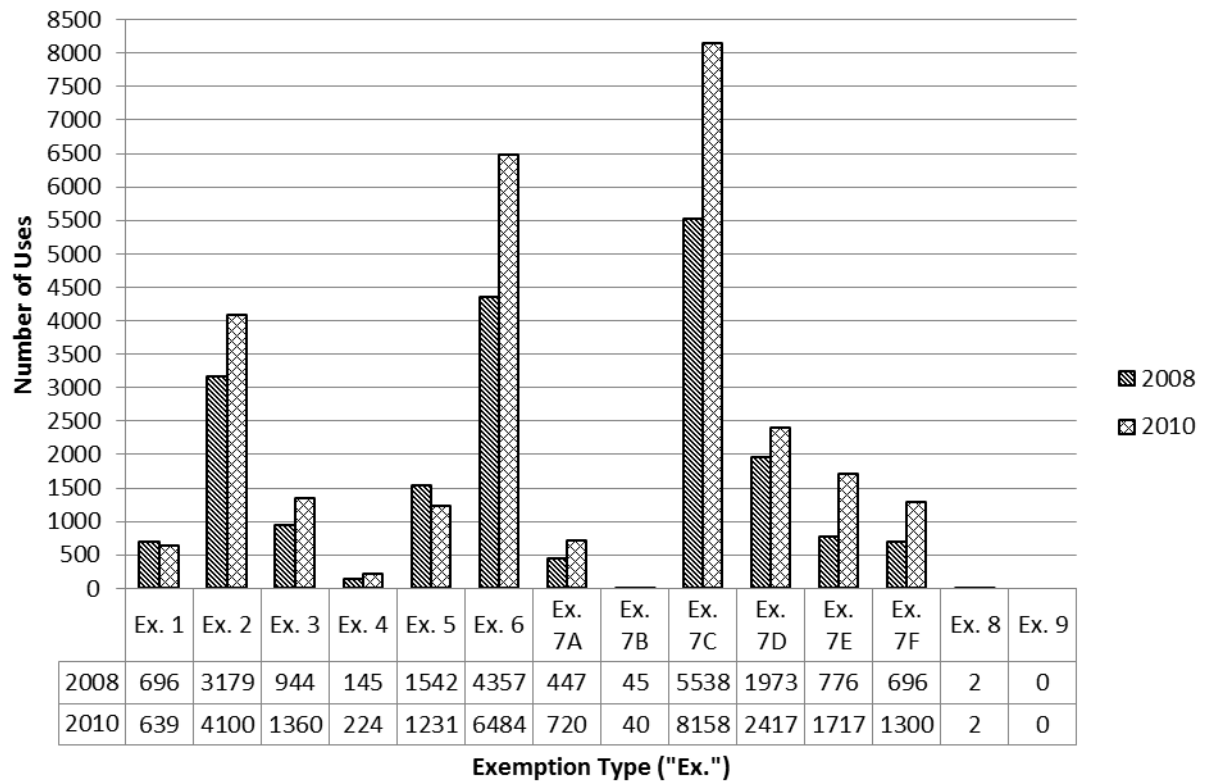
Department of Interior Exemption Uses



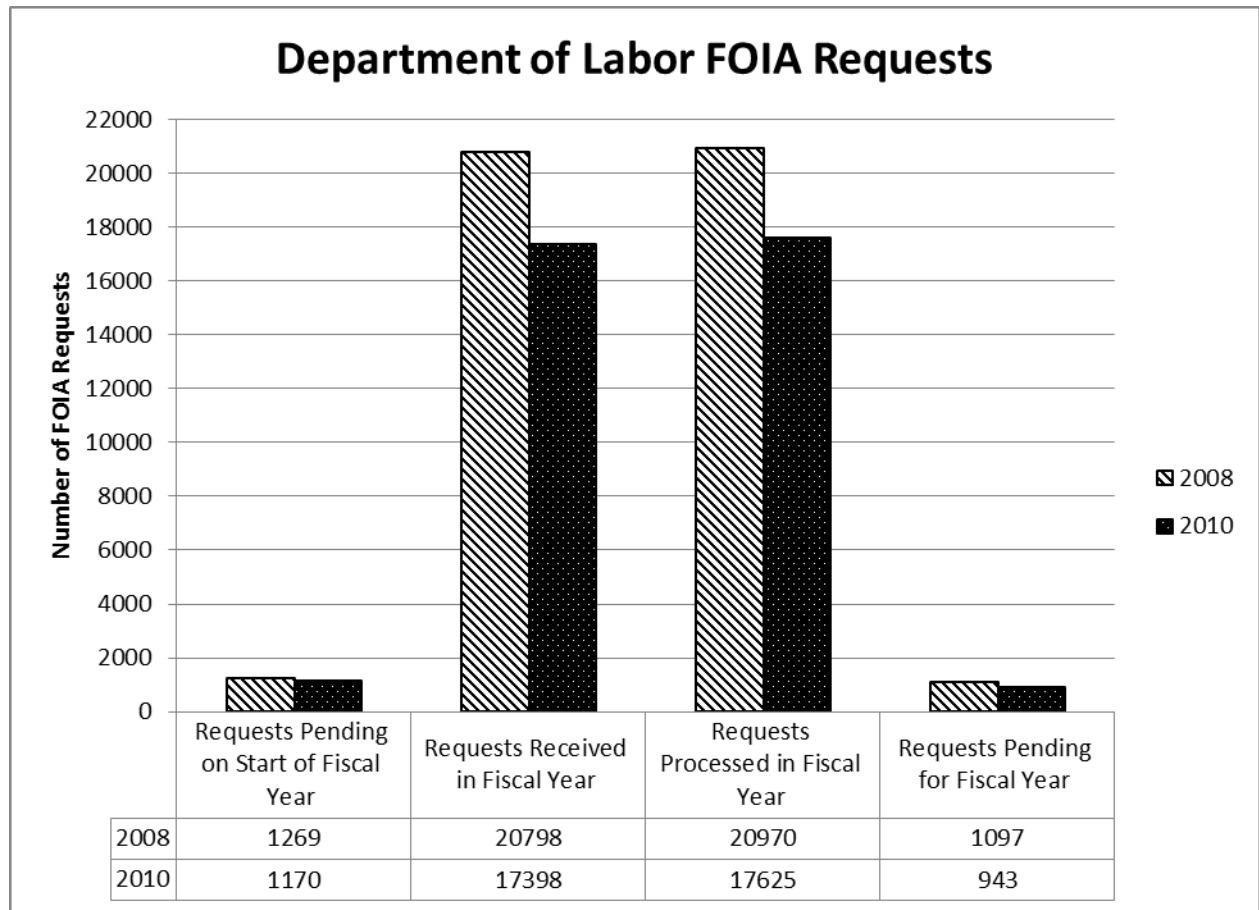
Department of Justice



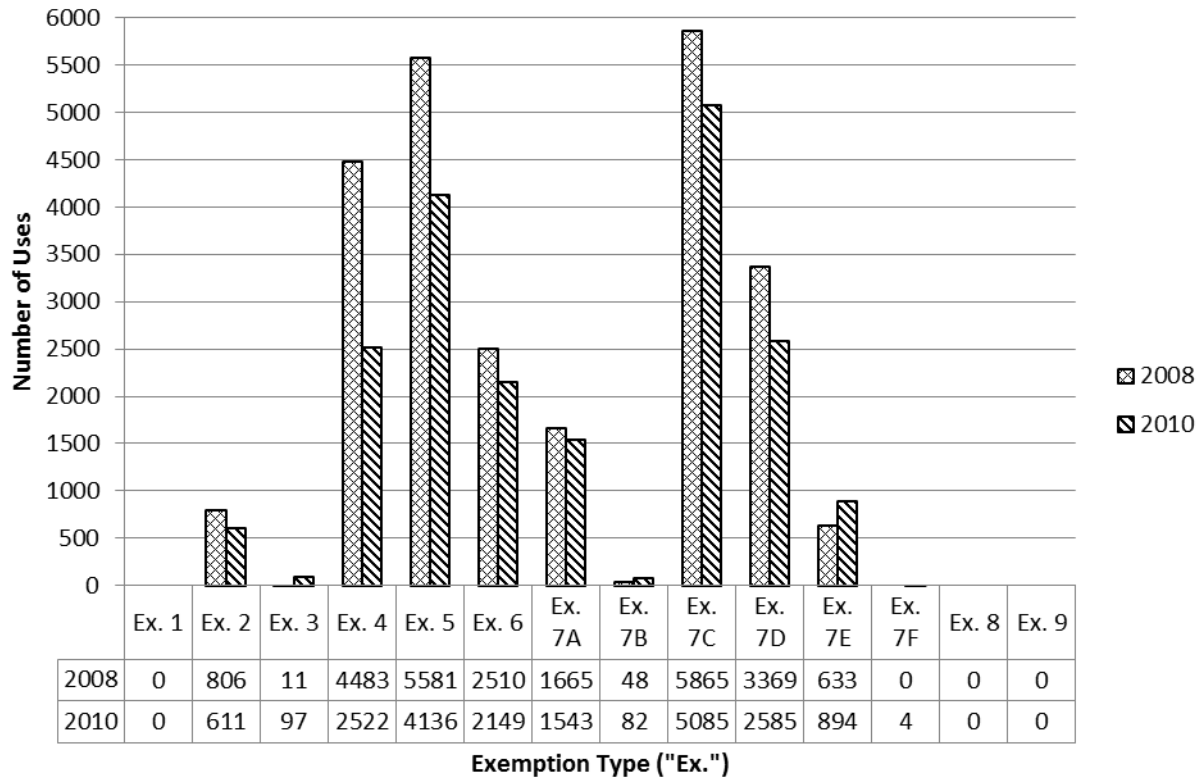
Department of Justice Use of FOIA Exemptions



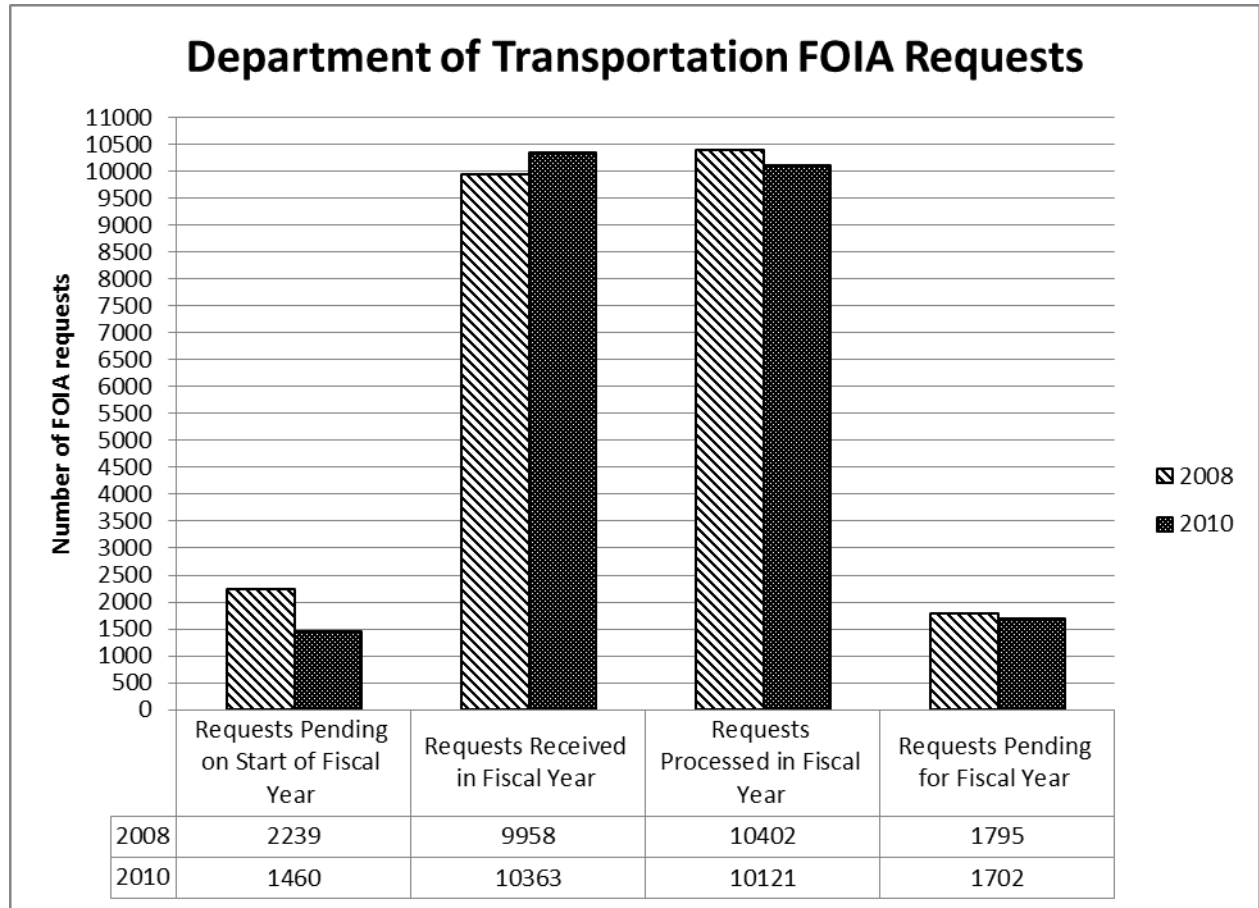
Department of Labor



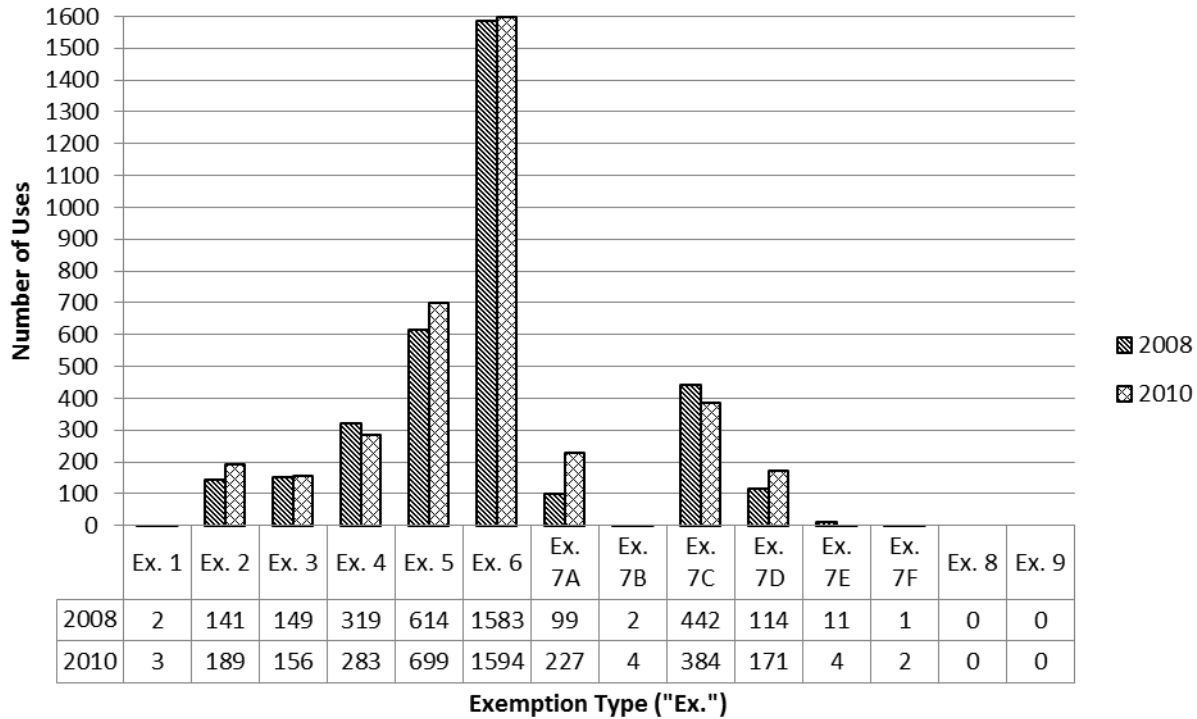
Department of Labor Use of FOIA Exemptions



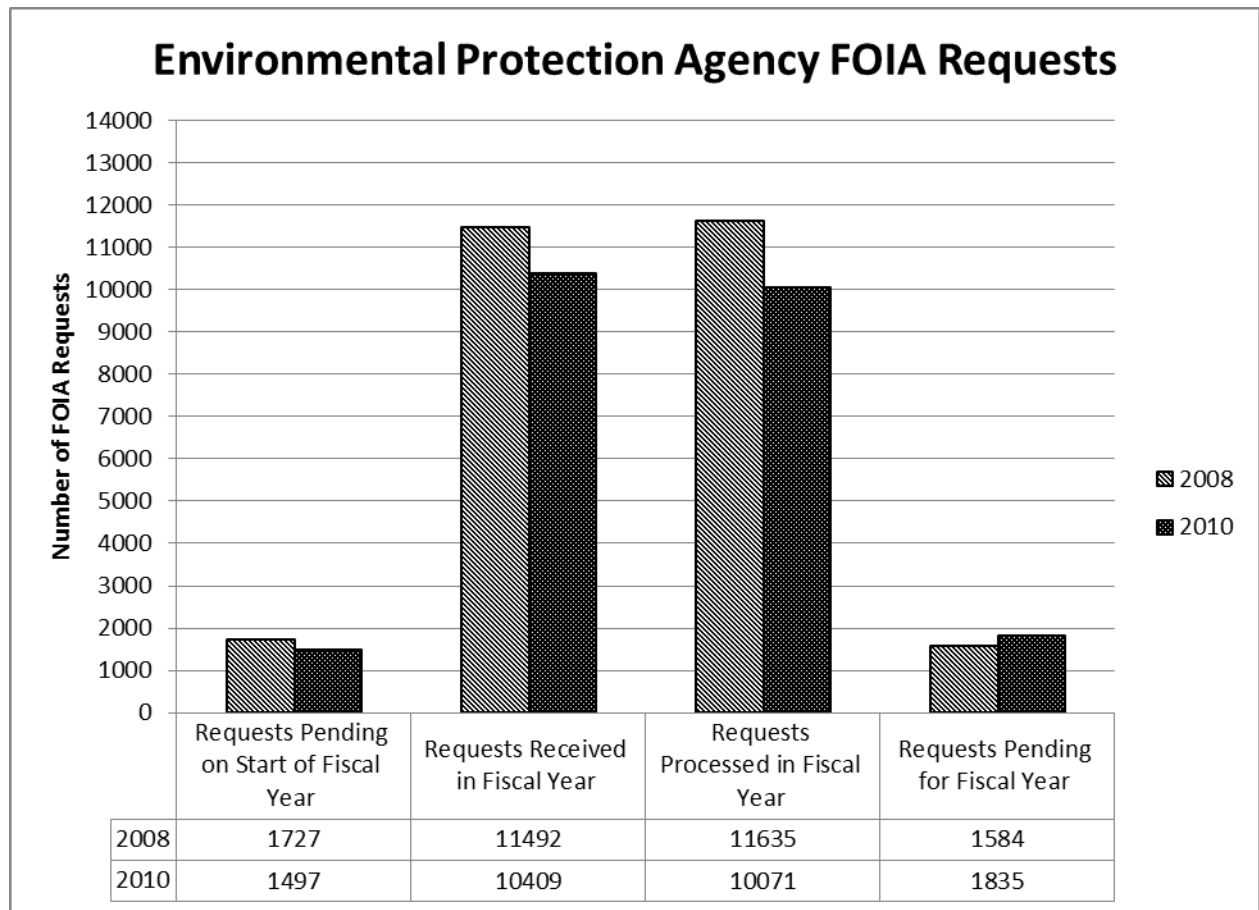
Department of Transportation



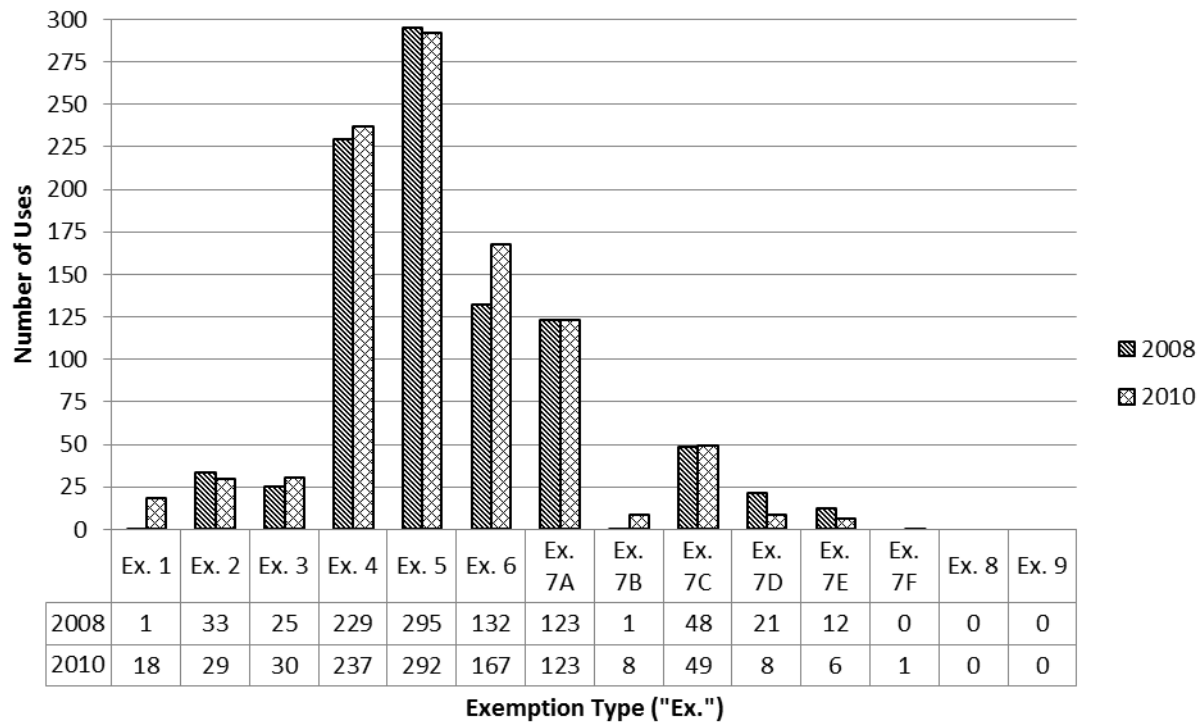
Department of Transportation Use of FOIA Exemptions



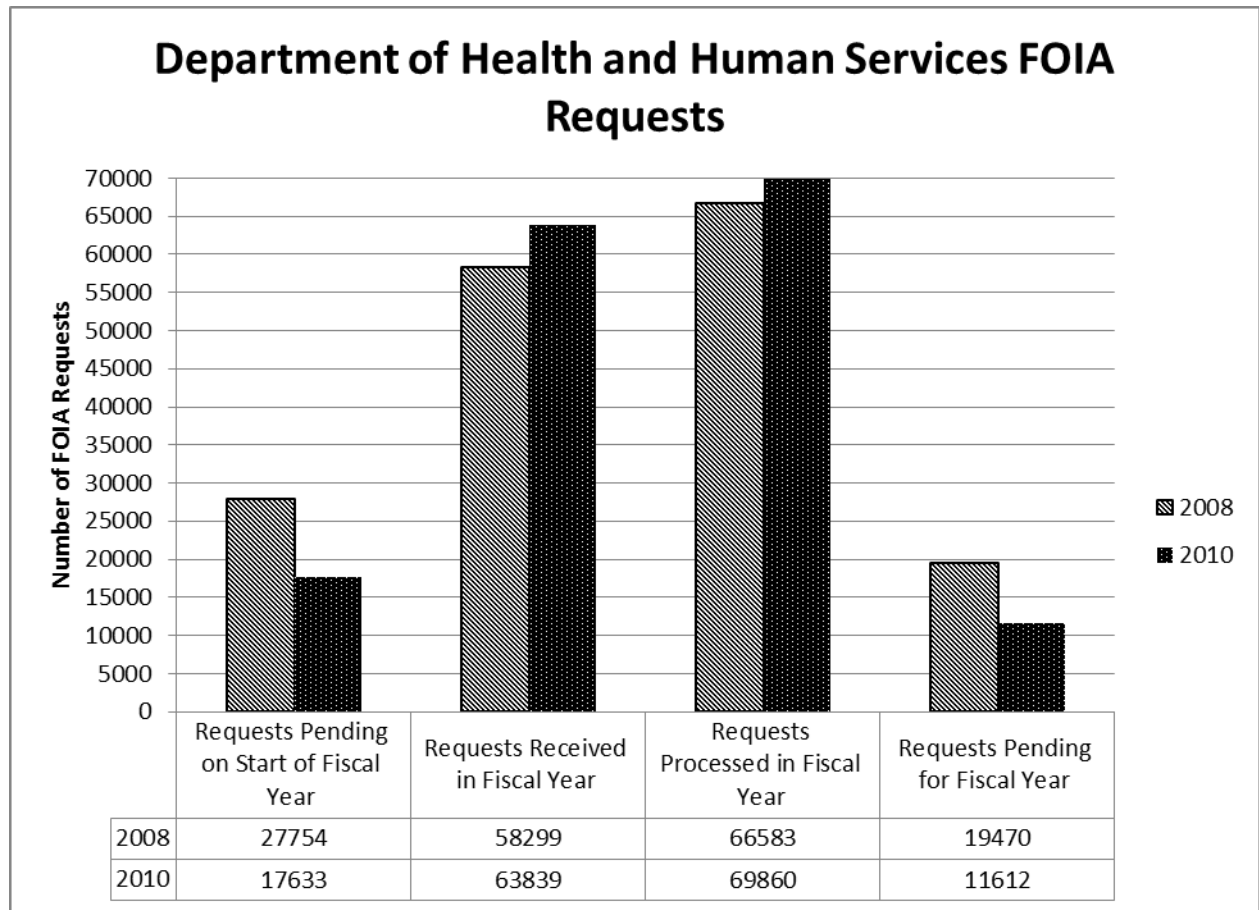
Environmental Protection Agency



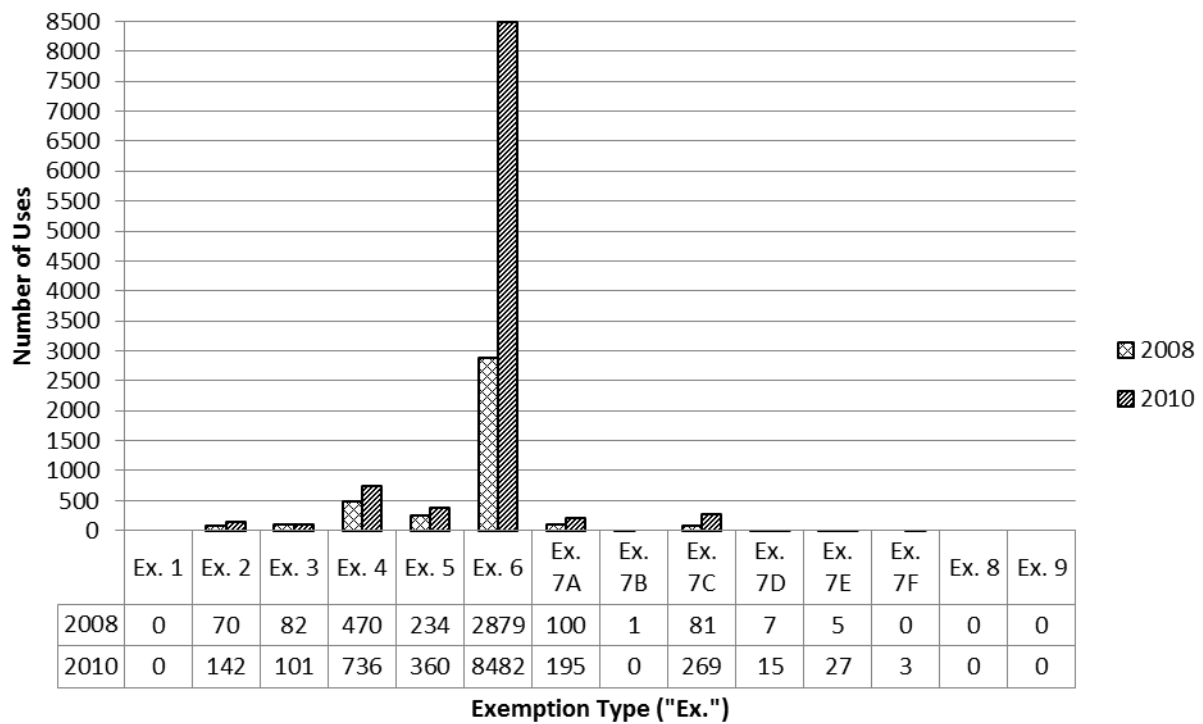
Enviromental Protection Agency Use of FOIA Exemptions



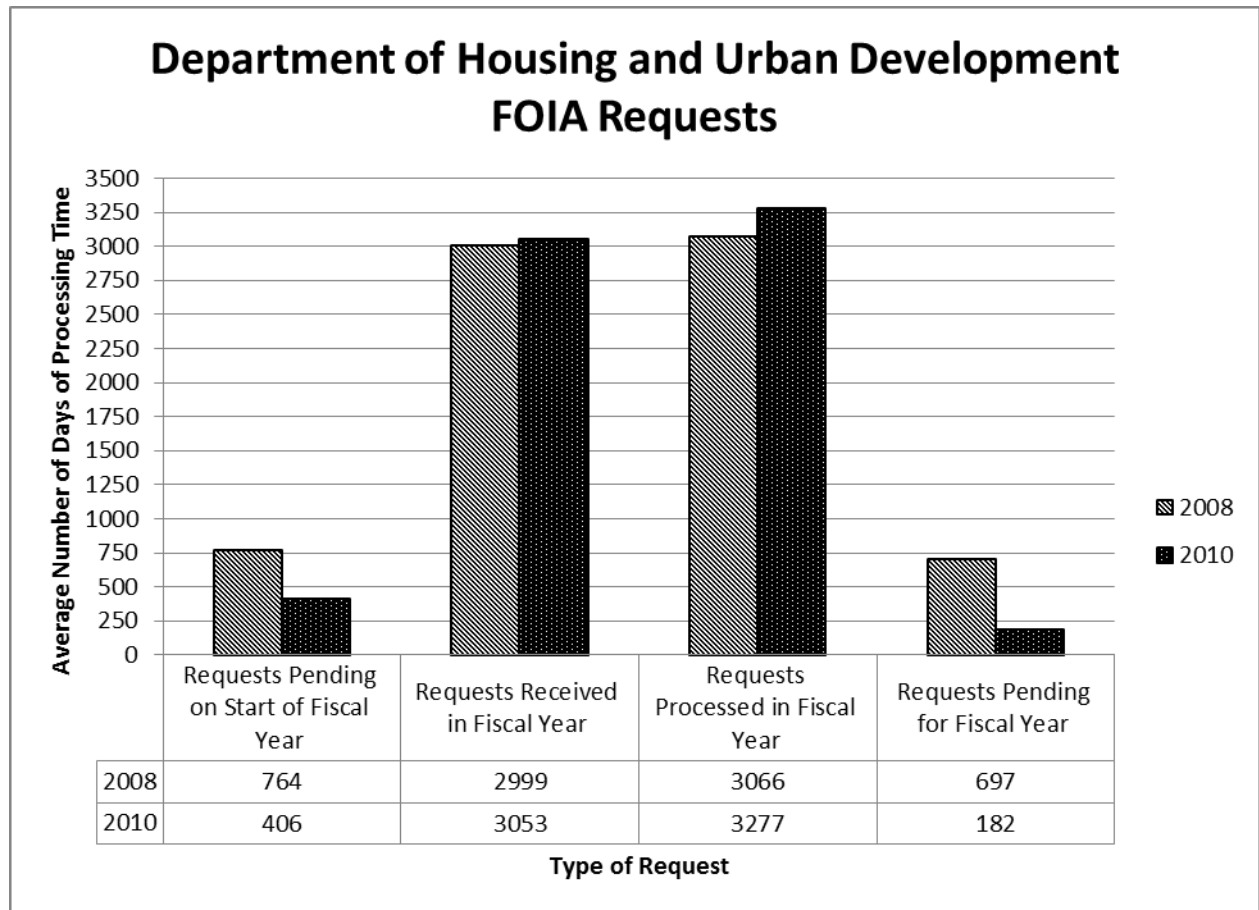
Department of Health and Human Services



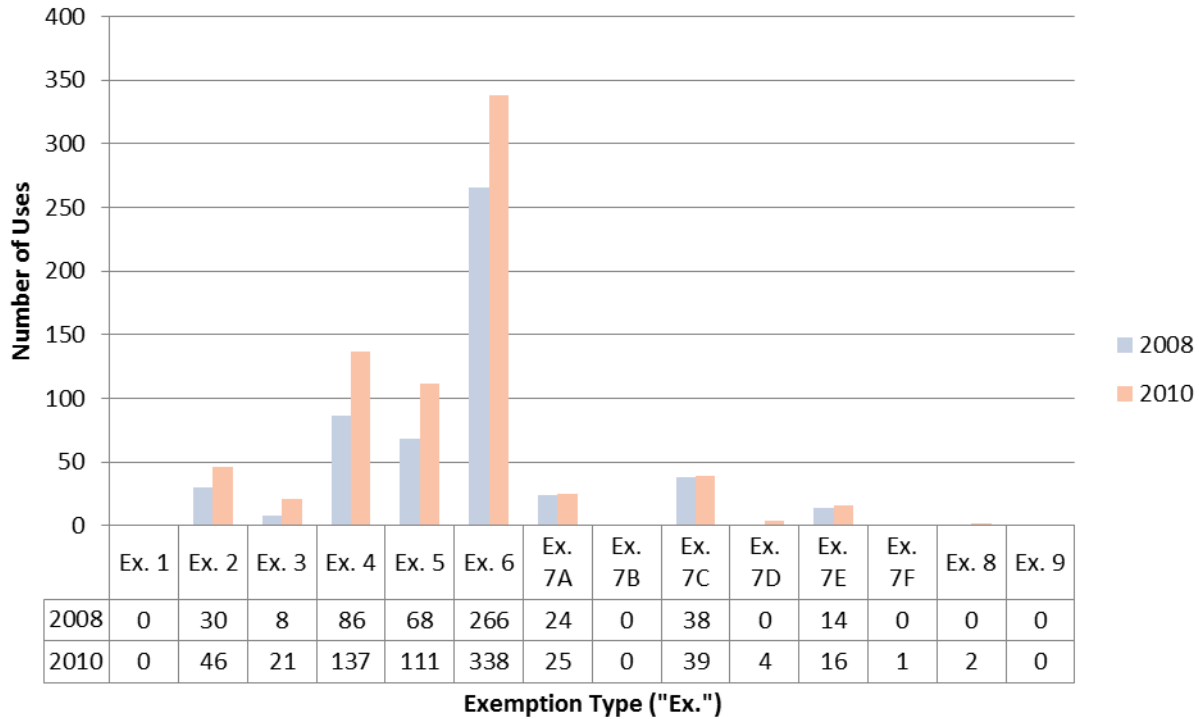
Department of Health and Human Services Use of FOIA Exemptions



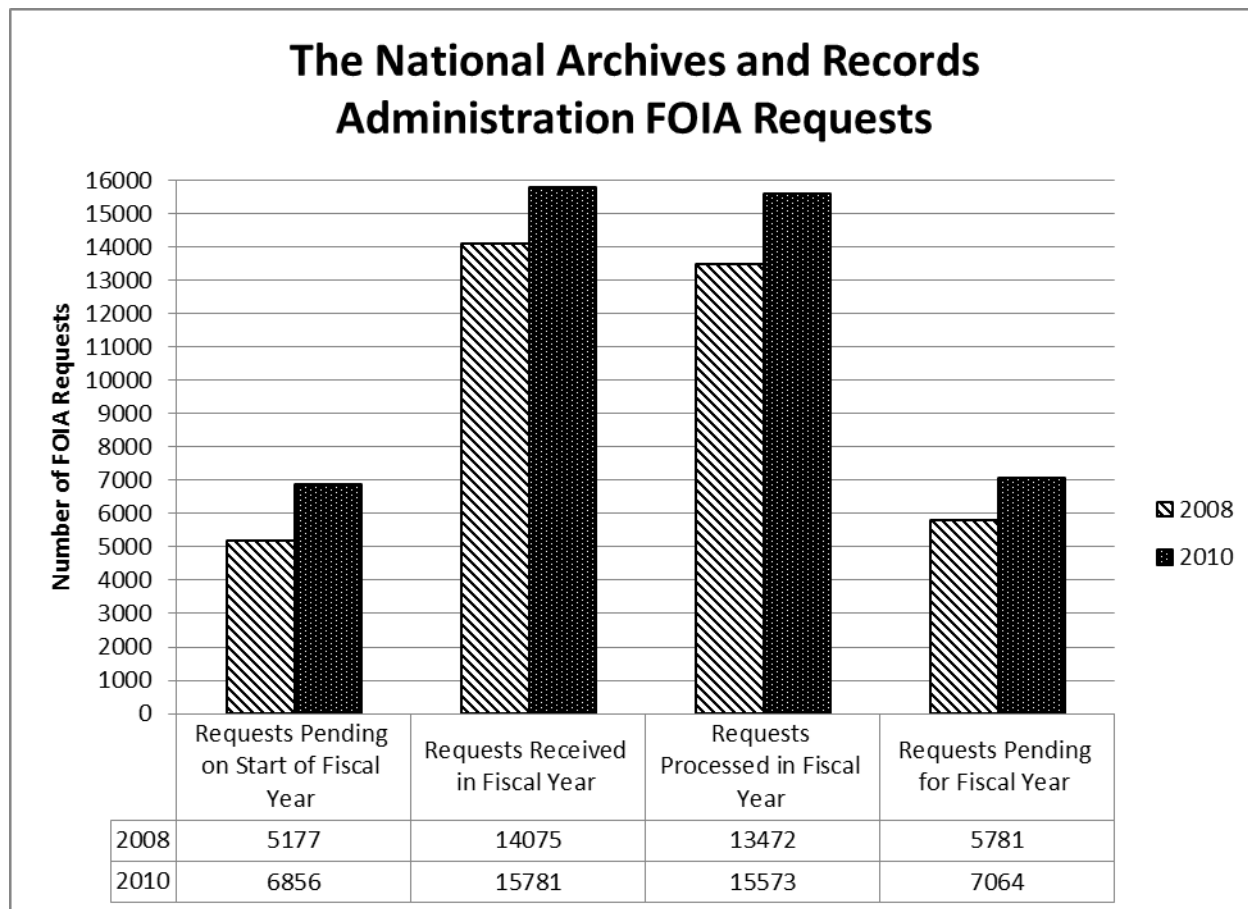
Department of Housing and Urban Development



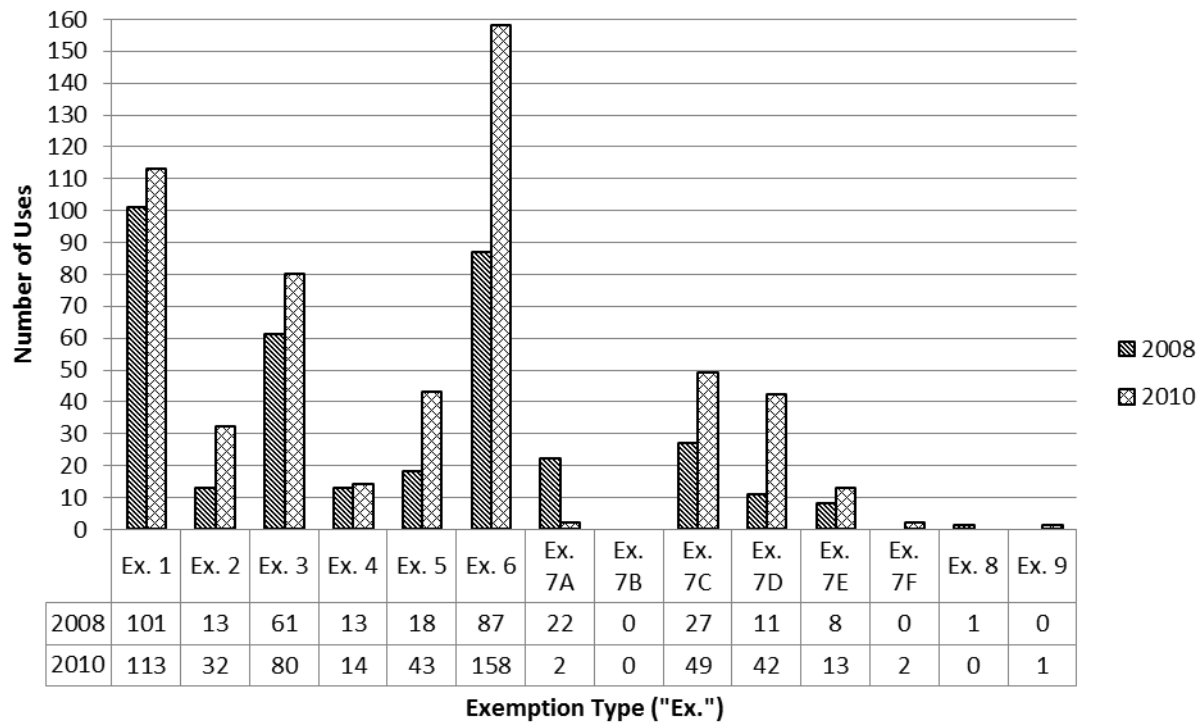
Department of Housing and Urban Development Use of FOIA Exemptions



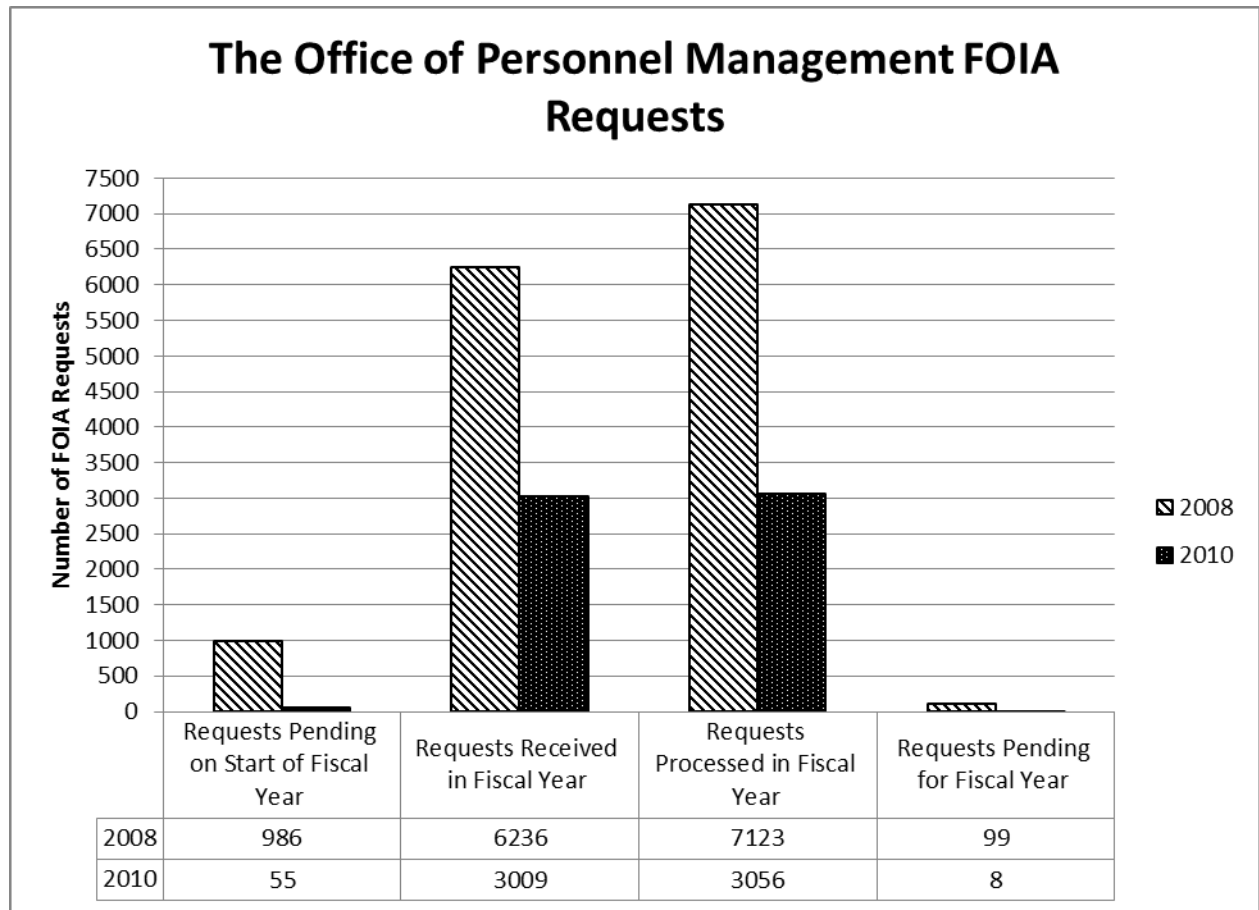
The National Archives and Records Administration



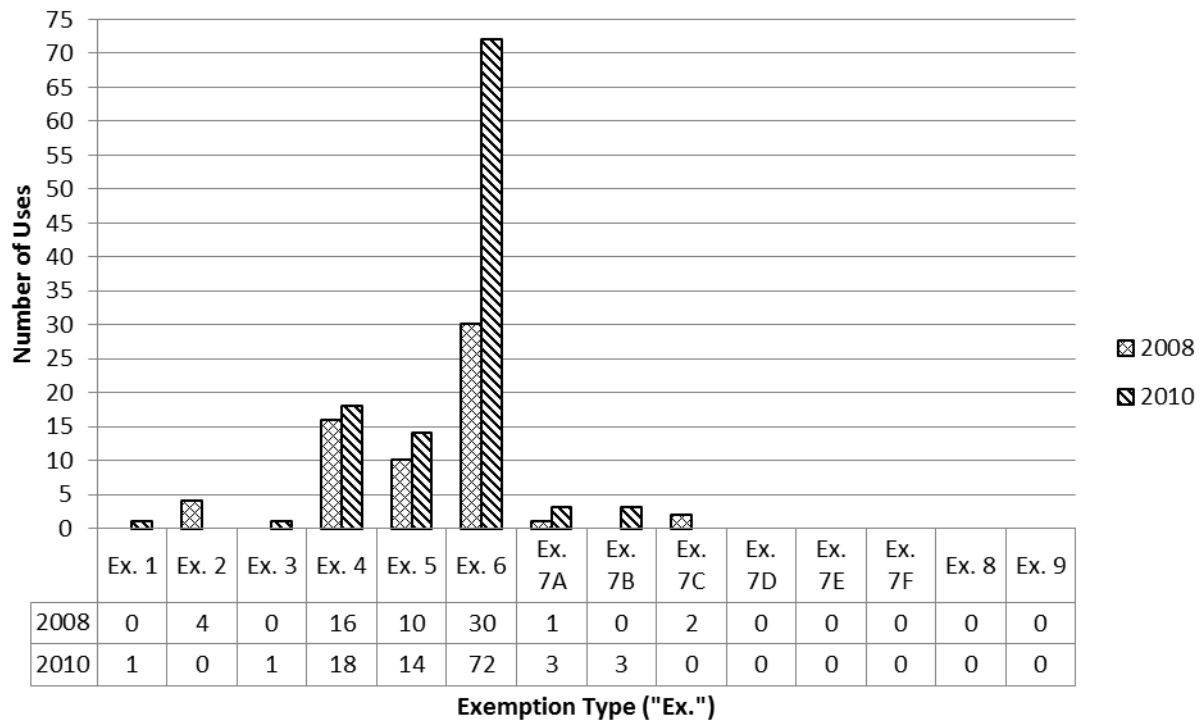
The National Archives and Record Administration Use of FOIA Exemptions



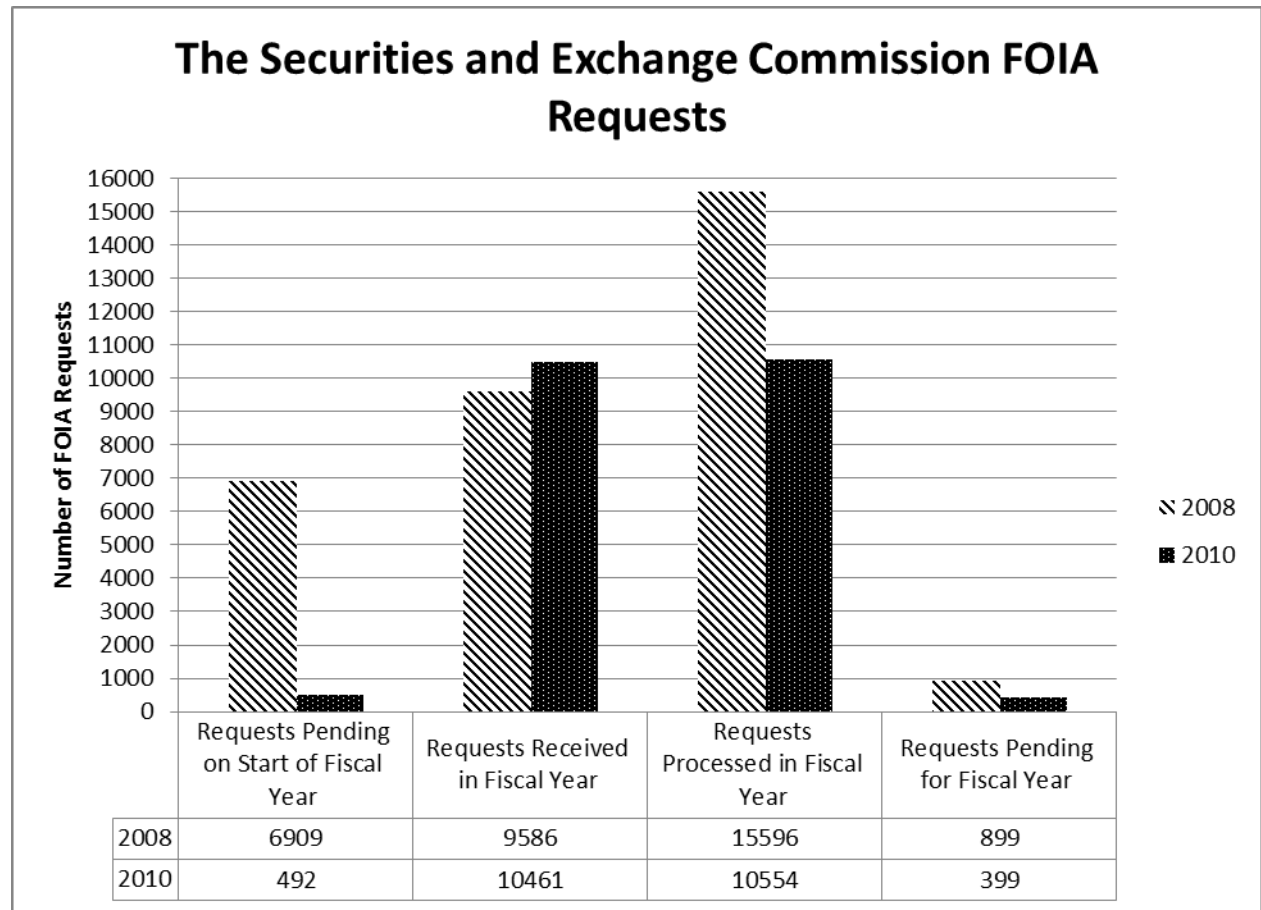
The Office of Personnel Management



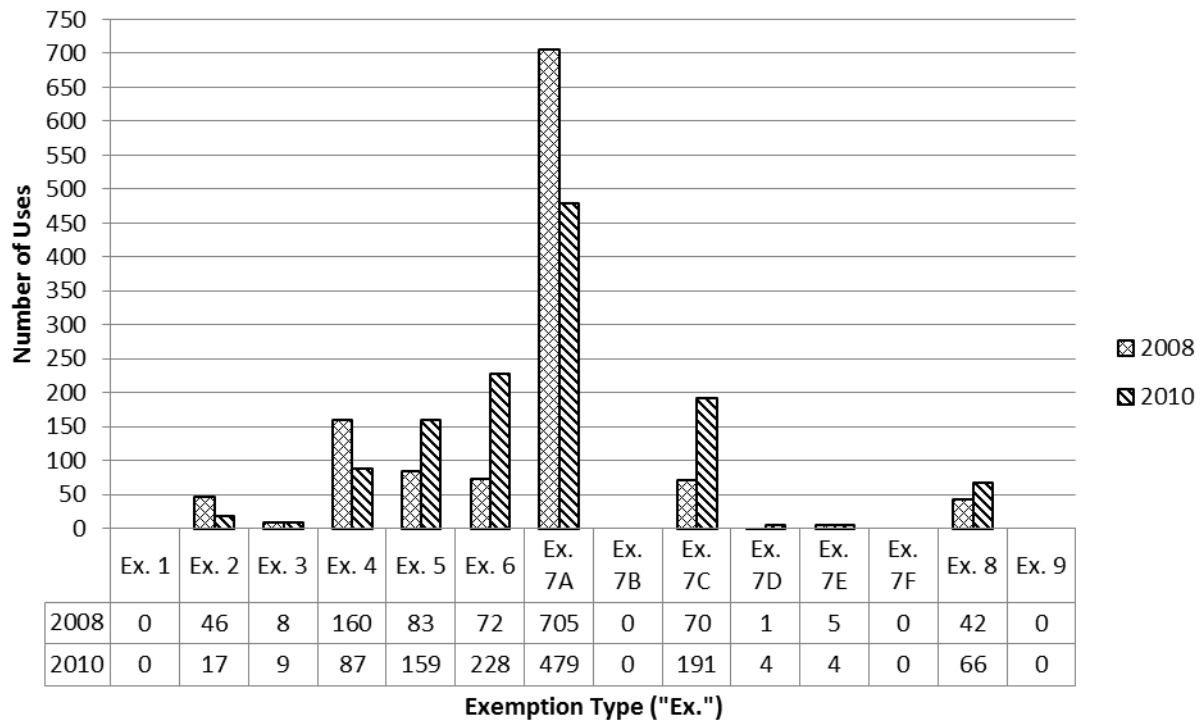
The Office of Personnel Management Use of FOIA Exemptions



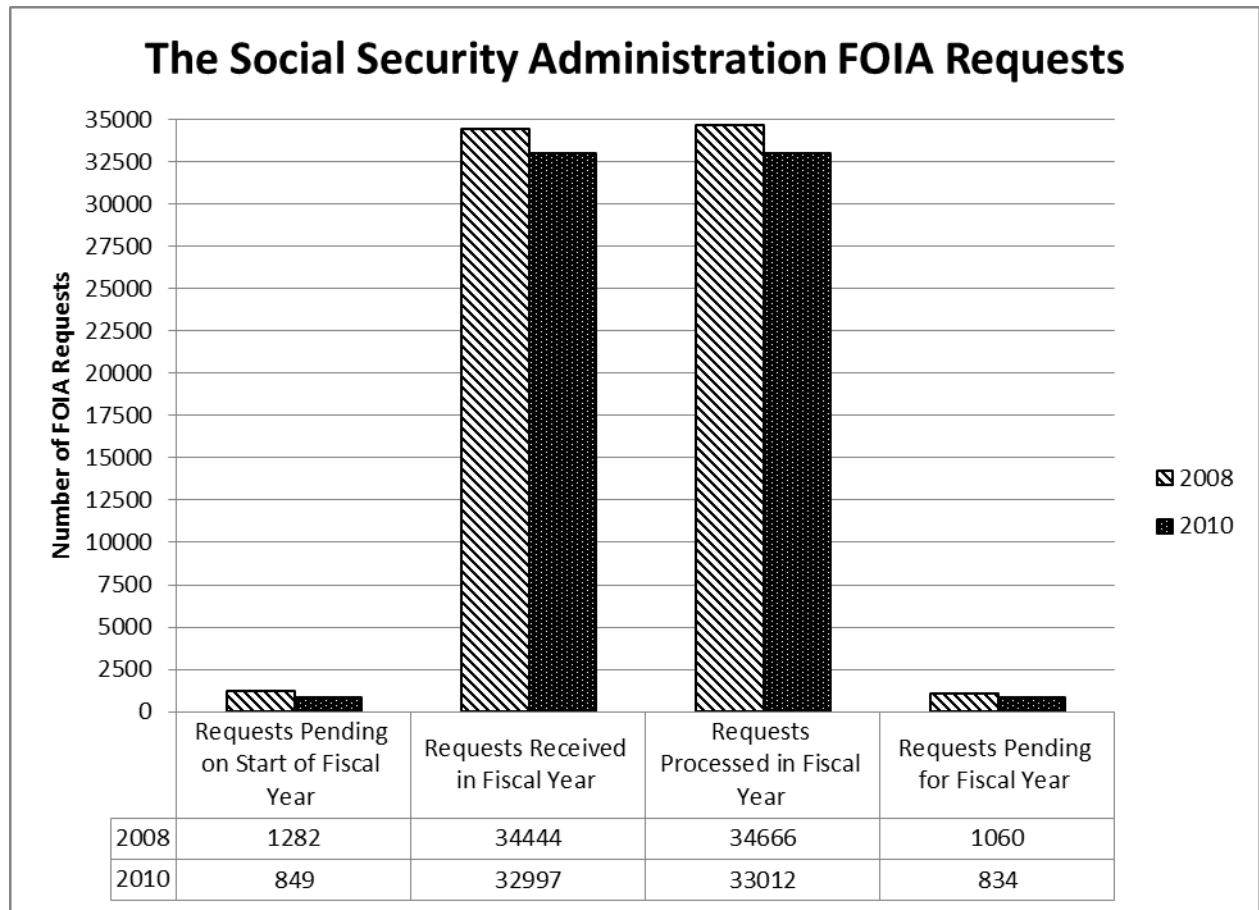
The Securities and Exchange Commission



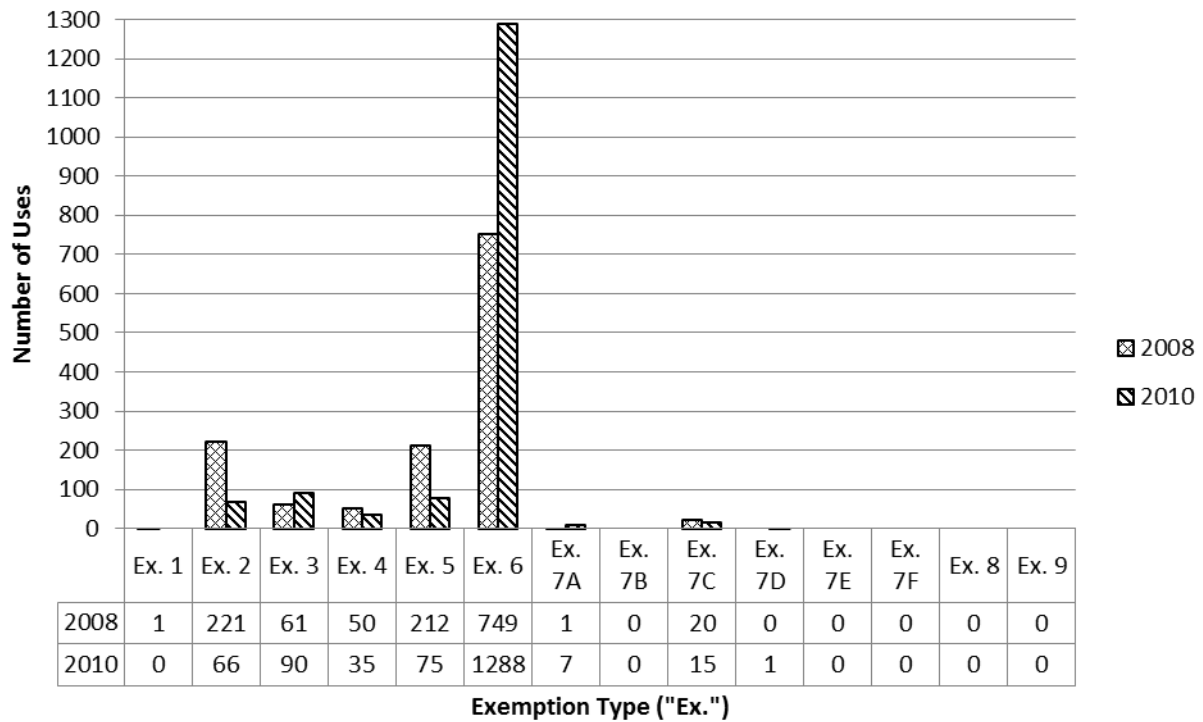
The Securities and Exchange Commission Use of FOIA Exemptions



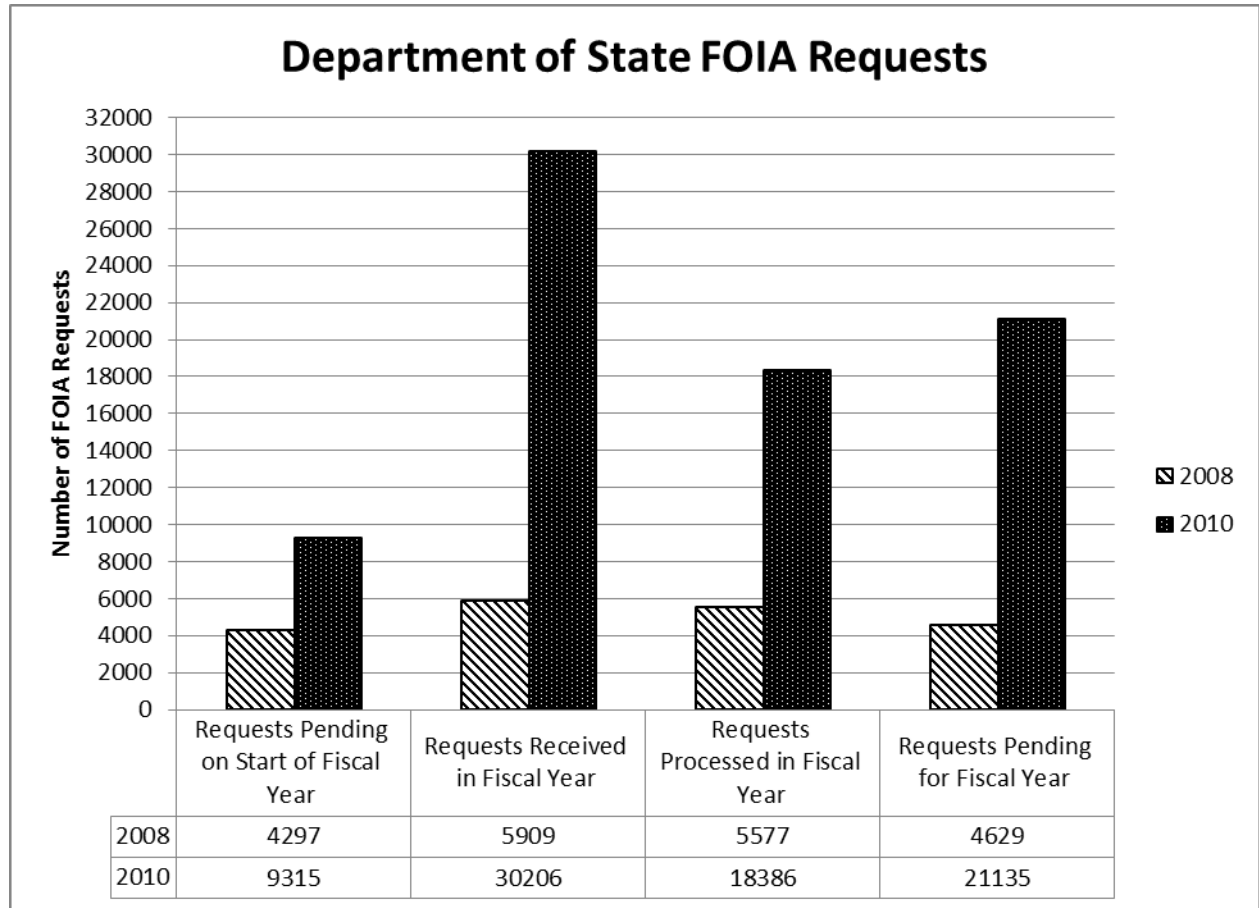
Social Security Administration



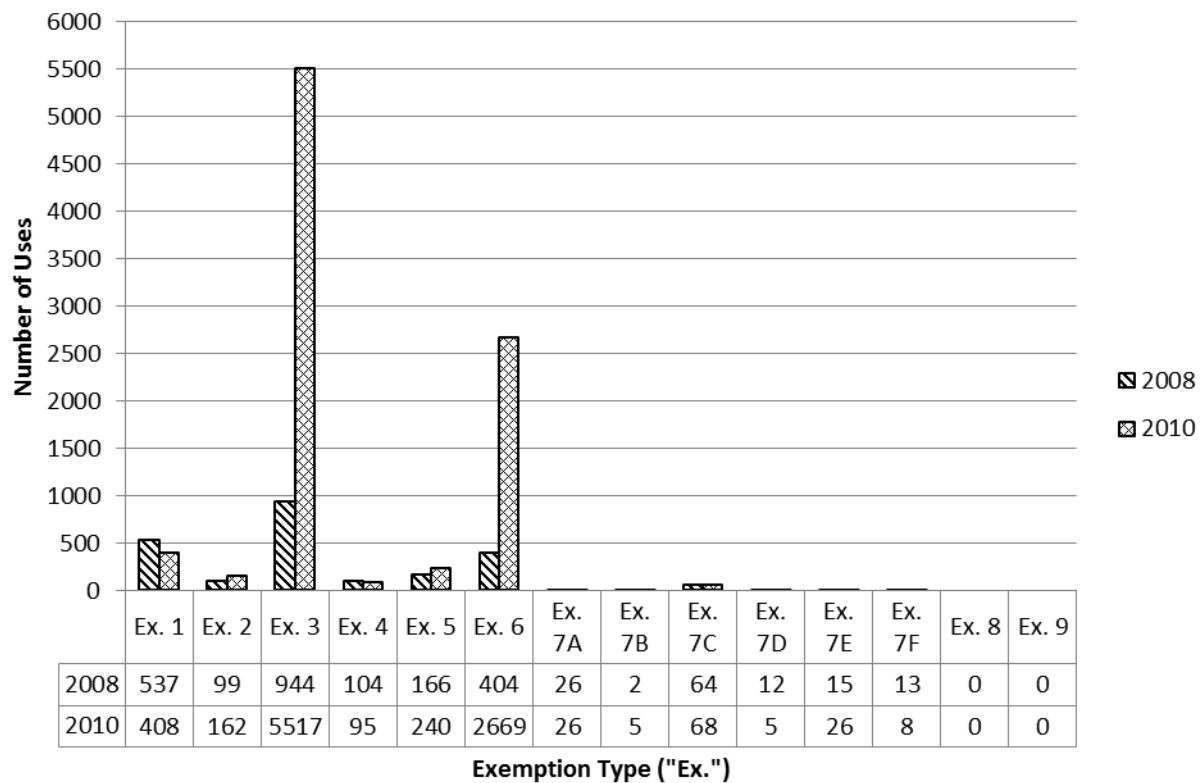
The Social Security Administration Use of FOIA Exemptions



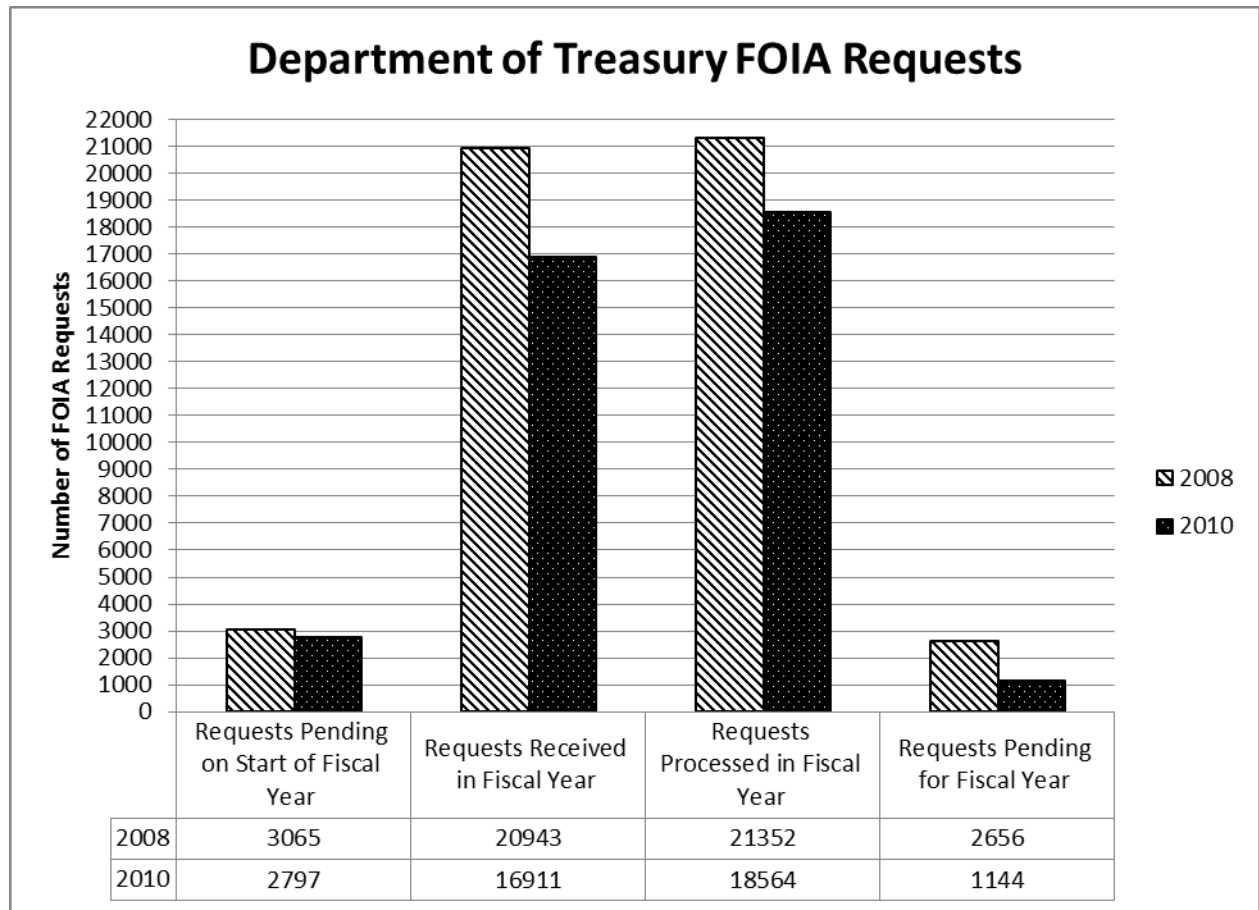
Department of State



Department of State Use of FOIA Exemptions



Treasury Department



Department of Treasury Use of FOIA Exemptions

