

# OPEN GOVERNMENT PLAN

## U.S. DEPARTMENT OF JUSTICE



**April 7, 2010**

**OPEN GOV**

Open Government Initiative  
TRANSPARENCY + PARTICIPATION + COLLABORATION

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## EXECUTIVE SUMMARY

Through its leadership in administering the Freedom of Information Act (FOIA), the Department of Justice (the Department) has long played a key role in making government more transparent for all Americans. By law, the Attorney General has been charged with encouraging other federal agencies to comply with a statute that, for decades, has been the country's primary assurance of government transparency.

Under President Obama's leadership and the Open Government Directive issued by the Director of the Office of Management and Budget (OMB) on December 8, 2009, the Department's responsibility for opening up the processes of government runs deeper. While the Department's law enforcement and legal counseling responsibilities often cannot be met with full transparency, the core values that underlie the Open Government Initiative – transparency, participation and collaboration – can, used properly, enhance the Department's ability to fulfill its missions and serve the public.

Through this Open Government Plan, the Department sets forth ongoing and anticipated efforts to increase openness and collaboration with the public. The Open Government Plan is tied to the Department's core missions and includes both new initiatives and new efforts to improve ongoing programs.

**FOIA Leadership.** Through a flagship initiative, the Department will create a Web site that collects cross-government data about agency FOIA performance and presents it in an easy-to-understand, interactive format. With a few clicks on this "FOIA Dashboard," a user will be able to compare agencies' overall release records, see the extent to which agencies have reduced their backlogs over time, and filter data to focus on particular agencies of interest. The FOIA Dashboard, which will go "live" by the end of the year with an initial collection of data, will enable the public to hold agencies accountable for their performance. The Department will also undertake a number of initiatives to improve its own FOIA administration – from making it easier to request documents released to others to improving communication between FOIA professionals and Department leadership – and to support other agencies in their own efforts.

**Preventing Terrorism.** A renewed commitment to its partnerships with state, local and tribal law enforcement is a hallmark of Attorney General Holder's tenure. To keep the country safe, Department attorneys and law enforcement personnel must be able to collaborate with outside partners, share information through efficient and secure channels, and create a network that cannot be breached. Through intergovernmental efforts like the Terrorist Screening Center, National Counterterrorism Center and the Global Justice Information Sharing Initiative, the Department is working across jurisdictional lines to keep the country safe. This is not collaboration for its own sake. This collaboration is core to the Department's mission.

**Fighting Crime and Representing the United States.** The public is an important partner in the Department's law enforcement efforts. The Department is engaging the public in its Financial Fraud Enforcement Task Force, providing training on how to recognize fraud and seeking direct public input from across the country on mortgage fraud scams that are preying on those who seek only to play by the rules. The Department has undertaken significant consultation with tribal leaders on how it can better fulfill its trust responsibility as the primary law enforcer in many Native American communities. And the Department will be releasing more information about its representation of the United States in courts; where the public has traditionally relied on third parties to provide brief, incomplete descriptions of what it has done in court, the Department will now be proactively posting more of its significant court filings in a single location.

**Administering Justice.** Transparency means accountability, and the Department of Justice is accountable at the top. Pursuant to this Plan, the Department will begin posting the Attorney General's calendar on a monthly basis, and will improve the data that it provides about the Department's spending of taxpayer resources. It will empower the public directly to make their own communities safer, by doing more to share the best ideas in law enforcement and by making the public full partners in spreading the messages that improve public safety. And to enable others to pursue the same evidence-based, scientific approaches to law enforcement that the Department

promotes, it will release more and more of the raw data that underlies the many statistical reports that the Department prepares each year. As more people analyze the data, the public will benefit from new insights and better policies.

Open Government occurs not at a single moment, but through a process that unfolds over years. This Plan is an initial step.

## THE OPEN GOVERNMENT PLAN

The Department of Justice has a special responsibility in open government. While the FOIA imposes openness obligations on all Executive Branch agencies, it imposes unique responsibilities on the Department. Federal law requires the Department to provide guidance to other agencies on FOIA-related issues and requires the Department to collect information on FOIA compliance from across the government. The Department takes its roles under the FOIA seriously.

The principles of transparency, participation and collaboration that underlie the Open Government Initiative are also critical to fulfilling other core missions of the Department. The Department has three main missions:

- *Prevent terrorism and promote the nation's security;*
- *Prevent crime, enforce federal laws and represent the rights and interests of the American people; and*
- *Ensure the fair and efficient administration of justice.*

The Department's national security, law enforcement and legal counseling functions often require it to maintain confidentiality over critical information. However, in many other aspects of the Department's work, it can and must be more transparent.

Where the Open Government principles of transparency, participation and collaboration can enable the Department to better fulfill its missions, the Department must seize those opportunities. Where the Department can better inform the public without compromising its missions, it should.

This Plan continues the work of the Attorney General's March 19, 2009 Memorandum for Heads of Executive Departments and Agencies regarding the FOIA, sometimes referred to as "the Attorney General's Guidelines." That memorandum highlighted, among other things, two mandates: First, the memorandum emphasized that FOIA is everyone's responsibility. If we are to open up government, officials and employees at every level must dedicate themselves to taking a second look at old practices and considering, for example, whether information that has long been withheld could be released to the public without harm. Second, the memorandum exhorted agencies not just to employ a presumption of disclosure when they receive requests from the public, but also to work actively to identify ways in which their agency can provide information without being asked. As discussed below, the early results of the Attorney General's memorandum have shown significant improvement in the performance of many agencies' efforts to implement the FOIA. In that sense, the Department began its own Open Government Initiative more than a year ago.

That work continues with this Plan, which has been developed as part of the Administration-wide Open Government Initiative. The Department's Plan has been formulated with the considerable input of interested Department employees, stakeholders and members of the public who were invited to share their ideas on how to make the Department more open and accountable. Their ideas were sent to both a new e-mail account, [opengov@usdoj.gov](mailto:opengov@usdoj.gov), and to a temporary Web site, <https://opendoj.ideascale.com/>, at which contributors were invited not only to offer ideas, but to evaluate and vote on the submissions of others.

The Department of Justice Open Government Plan requires Department officials and employees at all levels to look for new opportunities to be more transparent, collaborative and participatory in conducting the Department's business. In doing so, employees should keep several points in mind.

***Making Openness More Effective.*** The Department has made a vast quantity of information available for the public, which can in turn put that information to its own uses. The Department will continue to make more information available. These efforts are valuable, however, only if the public knows that the information is there.

Department personnel need to tell them. Going forward, a component making a new category of information or data available should alert relevant audiences to its release.

The component that releases the data should also encourage a dialogue regarding the utility and quality of that data. Those conversations will help guide future efforts to make high-value data available, both by identifying additional data sets that might be of value and by identifying ways to improve the quality of information made public. Likewise, when these conversations reveal that certain data sets are *not* of significant value to the public, the Department may make informed decisions about how to allocate its resources. The redactions necessary to comply with the Privacy Act and other requirements may sometimes render an otherwise valuable data set of limited utility; in those instances, a constructive dialogue with the interested audience may reveal that the Department should put its resources to making other, more valuable data sets available.

**Ensuring Accessibility for All.** The Department is strongly committed not only to putting useful information into the public domain, but also to ensuring that the information it provides is accessible to all Americans. Except when making certain content available would impose an undue burden on the Department, all individuals with disabilities should have access to and the use of information comparable to that provided to individuals without disabilities. All Department public Web sites shall comply with the requirements of the Access Board set forth in response to Section 508 of the Rehabilitation Act.



Individuals who desire information that has not been made available more generally may nonetheless request it through the FOIA or other appropriate channels.

**Engaging Stakeholders and Collaborating with Partners.** The Department has a unique responsibility to the public, but in almost all of its work, it collaborates with and could not be successful without innumerable partners, including state, local and tribal law enforcement, prosecutors, defense attorneys, courts, social service agencies, researchers and others. A hallmark of Attorney General Holder's leadership is the reinvigoration of these partnerships.

As discussed below, the Department has and will continue to engage in robust collaboration with state, local and tribal law enforcement. The Department has, however, committed to much greater collaboration, for example, with the criminal defense bar on issues of access to justice; with researchers on ensuring accountability by focusing on evidence-based approaches; and with the courts on issues of mutual concern.

The Office of Intergovernmental and Public Liaison (OIPL) is the Department's leader in these collaborative efforts and serves as the Department's external liaison to the public. OIPL staff manages and coordinates the Department's efforts to inform and engage the public, by maintaining relationships between the Department and state, local and tribal law enforcement, as well as with non-governmental organizations, including academic institutions, the business community and others on matters relating to Department initiatives.

Consistent with the spirit of providing easier methods for public engagement, OIPL will continue reaching out and facilitating meetings among outside individuals, groups, elected officials and appropriate points of contact within the Department. To improve its public engagement efforts, OIPL has recently begun sending to external groups and stakeholders weekly collections of press clips and public events involving the Department's senior officials. Pursuant to the Open Government Directive, the office has begun distributing monthly newsletters concerning issues relevant to the Department. And beginning in April of this year, OIPL will host a regular conference call for outside groups that will cover a substantive policy issue or Department initiative.

**Ensuring the Quality of Data Provided.** As the Department strives to make additional information available in a more timely manner, there is an increased need to ensure the accuracy of that data. The Department recognizes that providing accurate information is an important government responsibility. To help ensure the quality of

information provided to the public, the Department has guidelines for components to use as a foundation for developing detailed procedures related to data quality. The Department's information-quality guidelines can be found at <http://www.justice.gov/igpr/dojinformationqualityguidelines.htm>. These guidelines represent the commitment of the Department's senior leadership to ensuring that information provided to outside parties has been subjected to quality control procedures and meets the Department's information quality standards.

***Sustaining Commitment.*** Opening government is not a single transaction, but an ongoing effort. To ensure that the Department's efforts continue, a responsible official from the Justice Management Division will be assigned to coordinate them. The official will work with components to identify information that can be released even in the absence of a request, with media and technology personnel to disseminate this information efficiently and accessibly and with other agencies to coordinate approaches for even greater results. The official will be responsible for coordinating review and updates of this Plan and will be reachable by the public and by Department employees at [opengov@usdoj.gov](mailto:opengov@usdoj.gov).

The Department will also continue to improve its use of new avenues to communicate with the public. Through a redesigned, more user-friendly Web site that was launched in October 2009, a Justice blog that features stories from across the Department and third-party social media tools, the Department is giving the public better access to information through platforms that are already a regular part of the public's daily online lives.

The Department's Office of Public Affairs will work with offices throughout the Department to improve these efforts.

## FOIA ADMINISTRATION

### | The Department's Leadership Role

The Freedom of Information Act is the key tool for transparency in government. It is often through the FOIA that the public learns what the government is doing and holds the government accountable for its decisions and actions. Improving FOIA

implementation is just one component of the Department's Open Government Initiative, but it is a critical one. The Department takes seriously its role as the policymaking entity with authority over the FOIA. It must lead both through policy and by example.



**FOIA Dashboard.** The Department's Flagship Open Government Initiative combines the Department's leadership and policymaking roles in FOIA. Our flagship initiative is the development of a Web site that will allow the public to "shine a light" on the government's compliance with the FOIA.

The FOIA Dashboard will apply the principles of transparency and openness to the administration of the FOIA itself, allowing the public to easily track information about FOIA compliance. The Dashboard will allow the public to generate statistics on FOIA compliance across the government and from year to year. Not only will this visual report card promote transparency, it should also have the effect of encouraging the Department's FOIA offices – and FOIA offices across the government – to improve their compliance efforts and release as much information to the public under FOIA as possible.

*Relationship to the Department of Justice's Mission.* As the lead agency responsible for implementation of the FOIA, the Department has a special role in encouraging agency compliance with the FOIA's mandates. The Department took an initial step last December by releasing a sample of the 2009 Annual FOIA Reports, mandated by 5 U.S.C. § 552(e)(1), in a more accessible format. The FOIA Dashboard takes the next step.

*Description.* The Dashboard will be an interactive Web site containing comprehensive data on FOIA compliance by 92 federal agencies. At present, federal agencies compile and publish this data each year in Annual FOIA Reports, and the Department makes those reports available at a single location on its Web site. For the first time, however, the Dashboard will present the annual reporting data graphically where it can be easily tracked and compared from year to year and agency to agency. The Dashboard will also take this previously available information and present it graphically, in new, easy-to-understand, interactive formats.

When the Dashboard is fully operational, a user will be able to easily track the number of FOIA requests received by federal agencies during the course of a year, how quickly the agencies handled their requests, whether the agencies granted or denied the requests, and, as the site is developed, how the handling of requests changed from year to year. The user will be able to sort and filter the available data, in order to access only information of interest. The user also will be able to derive basic calculations from the raw data. For example, the user will be able to compare one agency's FOIA backlog to the government's total backlog to determine how much one particular agency contributes to the government's total backlog. The Dashboard will allow the user to download the underlying raw data, as well as print the formatted data.

The Dashboard will have an educational component as well. In our experience, the public is often unaware of the nature and substance of the statutory FOIA exemptions that allow the government to withhold information for reasons related to national security, personal privacy and the need to protect witnesses and informants cooperating in law enforcement investigations. The Dashboard will provide a platform to impart a more complete understanding of the FOIA to the public, as well as the careful balances that Congress struck between disclosure and the integrity of certain government operations when it enacted the FOIA in 1966.



The FOIA Dashboard will be launched in two key phases. In the first phase, the Department will develop the functionality of the Dashboard with 2009 FOIA data from 25 key executive departments, including DOJ. We estimate this will be completed in September 2010. The second phase, estimated to be completed by March 2011, will involve supplementing this initial data with the 2010 FOIA compliance data from all 92 federal agencies that report it.

*Transparency and FOIA Operations Fostered by FOIA Dashboard.* As President Obama has said, “A democracy requires accountability, and accountability requires transparency.” By making the Department, and the government, more transparent, we make it easier for the public to hold the government accountable for its actions.

The FOIA Dashboard will make more transparent the job that the government is doing in administering the FOIA. The Dashboard will present data in a way that will make it easier for the public to analyze our FOIA compliance. For example, some agencies respond to a vast majority of their requests very quickly, while others have longer waiting periods and backlogs. Some of these differences are due to the nature of the work of a particular agency, the volume of requests received or budgetary constraints. Regardless of the reason, the Dashboard will illuminate these differences for public evaluation. The Dashboard will provide concrete tools for the public, and the agencies themselves, to judge whether the differences are due to agency-specific functions or whether they can be minimized.

A Dashboard user also will be able to easily compare the degree to which different agencies release records, either in full or in part, or withhold records in response to FOIA requests. As with backlogs, there are valid reasons for the differences between agencies concerning the volume of requests granted in full or in part. For example, some agencies handle more national security or personal privacy protected information and so have less ability to increase their releases as that information is properly – and necessarily – withheld under the FOIA. Giving the public the information that it needs to make these comparisons will be a benefit.

The type of scrutiny that the Dashboard will foster is also likely to have a favorable impact on the agencies’ compliance efforts in the future. The Dashboard will create an incentive for each agency to improve its FOIA operations, as improvements can be easily measured and quantified through the Dashboard. As agencies strive to “race to the top” to demonstrate their commitment to openness, the Dashboard will readily reflect the results.

*Public Participation.* The FOIA Dashboard was the product of an extensive public outreach process. Members of the public approached the Department with a proposal to create a FOIA Dashboard, suggesting that the Department could improve FOIA administration government-wide by empowering the public to evaluate the FOIA compliance data in a more meaningful way. The idea was then submitted to the Department’s open government forum ([www.opendoj.ideascale.com](http://www.opendoj.ideascale.com)), where the public, DOJ employees and other stakeholders had been invited to weigh in with their ideas on making the Department more transparent. The Dashboard quickly became one of the highest-ranking ideas on the forum. We foresee many opportunities for public participation as we move forward with development of the Dashboard. We also expect to reach out to the public and stakeholders for their input and expertise as the plan evolves.

*Continued Improvement and Sustainability.* Over the next year, we will launch the Dashboard and upload a full set of FOIA compliance data. We expect that the bulk of the work will be completed by March 2011. We will then assess whether there are any functionality or presentation improvements that should be made to the Dashboard, based on the public’s comments and available resources. After that time, we believe that the FOIA Dashboard should be readily sustainable, with updates each February when new Annual FOIA Reports are received.

**Updated FOIA Regulations.** The Department’s FOIA regulations were last updated in 1998. To ensure that the regulations are consistent with the President’s focus on transparency, the Department plans to review its regulations and will consider initiating the rulemaking process in the coming year.

**Government-wide FOIA Training and Guidance.** The Department of Justice takes its leadership role in FOIA seriously. Immediately after President Obama issued his order on the FOIA, the Department's Office of Information Policy (OIP) began training other federal agencies on how they could implement the new presumption of openness, and began working with representatives of the FOIA requester community. OIP also issued written guidance to agencies on implementing the Attorney General's Guidelines and included a thorough discussion of them in The Department of Justice Guide to the Freedom of Information Act.

These training efforts will continue in 2010. OIP will publish a report summarizing the Chief FOIA Officer Reports submitted by the other federal agencies, so that agencies and stakeholders alike can see where and how progress has been made and where there are areas in need of improvement. Based on those findings, OIP will tailor additional training seminars designed to address those issues and will issue written guidance as appropriate.

The Department will also host an inter-agency working group to discuss the use of technology in administering the FOIA, a factor on which extensive cross-government information was being collected in the Chief FOIA Officer Reports. This group will be able to share best practices on the important issue of technology.

**Chief FOIA Officer Meetings.** Given the Department's leadership role in the FOIA, the Associate Attorney General, who is the highest-ranking Chief FOIA Officer in government, will convene quarterly meetings of Chief FOIA Officers from the largest agencies to exchange ideas, promote the goals of the President's and the Attorney General's directives and sustain the commitment to openness and transparency. These meetings will begin concurrently with the issuance of this Plan.

## **| The Department's Own Performance**

**Increasing Transparency.** As numerous outside observers have recognized, the Department significantly improved its performance under the FOIA between FY 2008 and FY 2009. Even while the number of requests processed went down in FY 2009, the Department had more full releases and more partial releases than it had the year before, demonstrating the impact that a commitment to the presumption of disclosure can have. The Department will continue to put its full force behind the presumption of disclosure contained in the Attorney General's Guidelines.

**Increasing Proactive Disclosures.** A key aspect of both the President's and the Attorney General's FOIA orders is the focus on proactive disclosures of information. When agencies release information proactively, there is less need for the public to make individualized FOIA requests. As mentioned above, the Department will designate a responsible official from the Justice Management Division who will work with the OIP and the Department components to identify information that can be released proactively. By integrating component leadership, program personnel, public affairs officers, as well as component FOIA professionals and the OIP, the Department will ensure it is taking a comprehensive approach to identifying material for proactive disclosures.

**Reducing FOIA Backlogs.** Although many components dramatically reduced or even eliminated their backlogs, the Department of Justice's overall FOIA backlog increased from FY 2008 to FY 2009 by 470 requests. In significant respects, that increase is a consequence of important policy changes at the FBI designed to provide more complete responses to requests. In recent years, when a request was made to FBI headquarters, records from field offices were considered not responsive; to obtain records from both headquarters and field offices, a request had to be sent to all of the offices in question. Reasonable searches were conducted consistent with that requirement.

The FBI recently eliminated that requirement. Now, when the FBI receives a request at its headquarters, it identifies and processes both headquarters records and field office records. The FBI's processing demand has increased substantially, by nearly a million pages since April 2009. The results have been positive, from a transparency perspective: Since this policy change, the FBI has reduced by 20% its "no records" determinations and increased by 30% the number of pages responsive to requests. From a processing perspective, this change has

imposed significant extra burdens, and the FBI's backlog increased in FY 2009 by 635 requests – more than offsetting the rest of the Department's overall backlog reduction.

The Department of Justice views any backlog as a matter of significance that should be addressed. The seven components that are part of the Department's Backlog Reduction Plan (<http://www.justice.gov/oip/doj-backlog-reduction-plan100608.pdf>) should continue any of the backlog reduction steps necessary to bring about or continue reductions in the numbers of backlogged requests. All Department components with backlogs should continue to work to reduce those backlogs and close their 10 oldest pending requests each year by implementing the steps and meeting the milestones outlined below.

<b>Staffing Considerations</b>
<ol style="list-style-type: none"><li>1. Determine within 30 days what vacancies presently exist for positions with primary responsibility for FOIA operations, or for any position that solely performs FOIA duties for the component.</li><li>2. Within 30 days of the determination in step 1, initiate action to recruit or complete the recruiting process in order to fill any such vacancies.</li><li>3. In addition to steps 1 and 2 of this part, determine within 30 days whether the component needs to obtain contractor support for FOIA operations.</li><li>4. Within 30 days of the determination in step 3, initiate action to obtain contractor support if necessary.</li></ol>
<b>Processing Considerations</b>
<ol style="list-style-type: none"><li>1. Determine within 30 days whether second-level (or higher) review capacity should be increased such that initial-level processing recommendations can be reviewed more efficiently. This might involve the addition of one or more additional reviewers of initial processing recommendations or the re-assignment of work flow within the component.</li><li>2. Within 30 days of the determination in step 1 of this part, initiate action to add such review capacity if necessary.</li><li>3. Determine within 30 days whether the component has too many levels of review such that the review process can be streamlined.</li><li>4. Within 30 days of the determination in step 3 of this part, initiate action to eliminate redundant levels of review.</li></ol>
<b>Component Head Involvement</b>
<ol style="list-style-type: none"><li>1. Component staff will provide monthly backlog updates to the Component head.</li><li>2. Component heads will monitor the monthly backlog updates and initiate action to implement additional steps if necessary in order to reduce the backlog by at least 10 percent per year and to close the 10 oldest requests pending per year.</li><li>3. Component heads will provide twice-yearly backlog reporting to the Department's Chief FOIA Officer, on April 1 and October 1. Such reports will include the actual number of backlogged requests as well as the date of the oldest pending request, and should report measurable progress towards the yearly reduction milestone.</li></ol>

As discussed above, the increase in the FBI's processing demands is extraordinary, requiring additional steps beyond this plan. The Bureau is actively engaged in hiring additional personnel, and it projects that the steps it is

taking to increase staffing and thereby expand processing efforts will contribute significantly to a backlog reduction. Nonetheless, given the significant increase in its processing burden brought on by the additional offices that it searches in response to each request made to its headquarters, these efforts will take some time to have a positive backlog reduction effect. The Department expects that it will reduce its non-FBI backlog more quickly.

**Mediating FOIA Disputes.** The Department provides tens of thousands of requesters with the information they request every year. At the same time, many requests are denied in full, and those denials are upheld on appeal – putting requesters in the position of walking away or filing an action in federal court to obtain a judicial determination of whether the information should be released. This litigation can be costly for both the requester and the government, and when a dispute can be resolved more efficiently without a lawsuit, the Department should welcome that opportunity. When the Department upholds the denial of a FOIA request on appeal, it will advise the requester of the availability of mediation services through the Office of Government Information Services. Mediation has the potential to bridge unnecessary differences, and requesters ought to be made aware of its availability.

**Meeting with FOIA Officials.** As Attorney General Holder stated in his FOIA Guidelines, FOIA is everyone’s responsibility, from agency leadership to the FOIA professionals who are working day in and day out to fulfill FOIA requests. Although each of them plays a different role in making government more open, it is important to have their lines of communication open. Those on the front lines of the FOIA process need to hear from Department leadership regarding the President’s and Attorney General’s FOIA priorities, and Department leadership needs to hear from the professionals about what can be done to improve agency performance. On a quarterly basis, the Department’s Chief FOIA Officer will meet with a selection of FOIA professionals from within the Department, to provide a forum for these discussions.

## PREVENTING TERRORISM AND PROMOTING THE NATION'S SECURITY

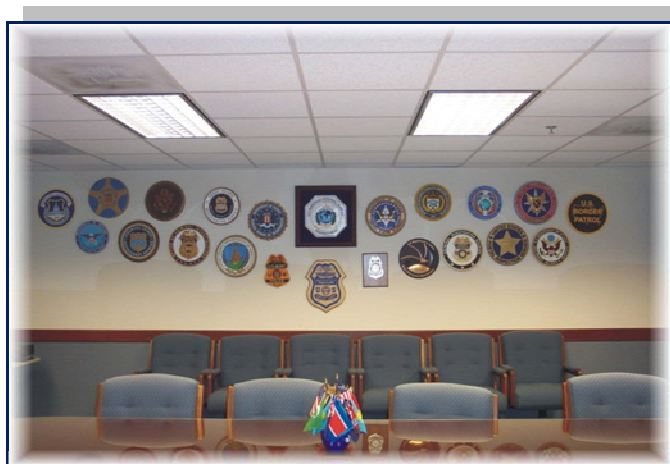
The Department's first priority is to protect the people of the United States from terrorist and other threats. Those efforts depend on effective collaboration with its federal, state, local and tribal partners, as well as with other governments and partners. These partnerships, including the two highlighted below, make America safer every day.



**Fighting Terrorism.** The FBI's Terrorist Screening Center (TSC) plays a vital role in the fight against terrorism by integrating terrorist information from the law enforcement and intelligence communities, including both domestic and international terrorist information, into a single database. TSC then assures the timely dissemination of the information to the various screening systems – from the TSA's no-fly and selectee lists to the State Department's consular lookout system – of federal agencies. The TSC also plays a crucial role in providing actionable intelligence to state and local law enforcement agencies.

The FBI's National Security Branch, of which TSC is now a part, combines the Bureau's counterterrorism, counterintelligence and weapons of mass destruction resources, smoothly integrating the disciplines of intelligence and investigations. The FBI is a partner with 15 other federal agencies in the National Counterterrorism Center (NCTC), where experts sit side by side with one mission: avoiding another major terrorist attack on U.S. soil.

Collaboration in these efforts has helped the Department make significant strides in its mission, and we will continue to look for new ways that collaboration can help protect the United States.



**Sharing Information.** With the Department of Homeland Security and other federal, state and local law enforcement agencies, the Department is engaged in a collaborative process to improve intelligence sharing and ultimately improve our ability to detect, prevent and solve crimes while safeguarding our homeland. Through the Global Justice Information Sharing Initiative, the Department has led efforts on justice information sharing. Global is a group of more than 30 independent organizations from across law enforcement, working together to promote standards for sharing timely, accurate, complete and accessible information in a secure and trusted environment. DOJ has also created national standards for the operation of these centers and defined how and when intelligence should be shared.

## PREVENTING CRIME, ENFORCING FEDERAL LAWS AND REPRESENTING THE RIGHTS AND INTERESTS OF THE AMERICAN PEOPLE

The Department of Justice enforces the law. It plays a critical role in fighting violent crime, illegal drugs, vicious gangs and gun violence. It fights white-collar crimes, such as health care fraud, corporate fraud and public corruption. It fights computer crimes, including identify theft, intellectual property crime and other cybercrimes. And it fights exploitation of the most vulnerable, particularly children, in all its various forms: pornography, trafficking and abuse.

The Department is also the nation's chief litigator, representing the U.S. Government and the people in court, enforcing federal civil and criminal statutes, including those protecting civil rights, safeguarding the environment, preserving a competitive market structure, defending the treasury against unwarranted claims and preserving the integrity of the nation's bankruptcy system.



Consistent with these missions, the Department is committed to helping the public better understand the government's actions through a more transparent, collaborative and participatory approach. The Department has already begun these efforts on a number of fronts and will continue and expand them in the coming years. As discussed above, the Attorney General has made increased collaboration and partnership throughout the public and private sector a high priority. A number of ongoing and planned efforts are discussed below.

### Collaboration with the Public and Partners in Law Enforcement

***Engaging the Public as Partners in Law Enforcement.*** The American public has been hit hard by the recent financial crisis, which has harmed the economy and individual lives across the country. Those who have preyed on the public by violating the law to bring the country to the point of crisis or by violating the law in their efforts to take unfair advantage of the crisis must be brought to justice. This is an issue in which every American has a stake.



By Executive Order, the President established the Financial Fraud Enforcement Task Force and directed the Attorney General, in conjunction with the Secretary of the Treasury and the Secretary of Housing and Urban Development, to lead efforts to address the financial crisis. The Task Force is one of the largest collaborative efforts in the history of federal law enforcement. It is far broader in scope than the Corporate Fraud Task Force it replaces because it focuses not only on major corporate and securities fraud, but also on mortgage fraud that has devastated individual Americans, lending discrimination and fraud on the federal treasury. The Task Force includes over 20 federal departments, agencies and offices, but unlike many prior federal task forces, also includes state and local law enforcement partners. In addition, the Task Force is focused not simply on bringing prosecutions, but also on training officials in the public and private sectors to recognize fraud, obtaining

compensation and assistance for victims, and on disseminating information and educating the public to reduce the risk of a future crisis.

The Task Force has recognized that it can learn much by hearing directly from the people who have been victims of scams and has been holding public listening sessions in the hardest-hit areas, hearing both from the public and from local law enforcement about the challenges facing particular areas. The Task Force recently met in Miami and Phoenix as it began a series of Mortgage Fraud Summits. As part of its mission to wage an aggressive,

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*“This task force’s mission is not just to hold accountable those who helped bring about the last financial meltdown, but to prevent another meltdown from happening.”*

**Attorney General Eric Holder**

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coordinated and active effort to investigate and prosecute financial crimes, the task force members met in Miami and Phoenix with community members; banking, mortgage and real estate industry representatives; and law enforcement officials to discuss the problem of mortgage fraud from a national, state and local perspective.

To provide more information directly to the public about these efforts, the Department will develop a Web site at StopFraud.gov. This site will give the public access to a number of resources to help them better understand, protect themselves against, and report fraud.

**Engaging the Public on Civil Rights.** The Department’s work in enforcing the civil rights of all Americans is core to its mission, and reinvigorating its Civil Rights Division is one of the Attorney General’s priorities. Yet while it has often been necessary to resort to the courtroom to protect civil rights, building a nation in which people are free from unlawful discrimination is not a goal that can be reached through litigation alone. Because many problems can be solved by engaging with the public directly, the Department will continue to convene a bi-monthly meeting that brings together leaders from the Muslim, Arab, Sikh and South Asian communities with officials from across the federal government to discuss civil rights issues that have faced these communities since the terrorist attacks of Sept. 11, 2001.

The Department must also engage in extensive outreach to immigrant workers, educating them on their right to be free from discrimination based on immigration status; and to employers, educating them on the anti-discrimination provisions of the Immigration and Nationality Act. And through its Project Civic Access, DOJ works with cities, counties, towns and villages across the country to ensure that their museums, polling places, sidewalks and other public facilities and services are accessible to all. These partnerships, and this outreach, have the capacity to bring about change that lawsuits cannot, and the Department must pursue them to fulfill its mission.

## Supporting Its Partners

**Disseminating Best Practices to State, Local and Tribal Law Enforcement.** Attorney General Holder has made reinvigorating relationships with state, local and tribal law enforcement a priority for all Department components. Through its grant-making components – the Office of Justice Programs (OJP), the Office on Violence against Women (OVW), and the Office on Community Oriented Policing Services (COPS) – the Department plays a critical role in identifying, researching and disseminating the most innovative ideas for increasing public safety and improving the justice system.

COPS makes available over 500 Problem Oriented Policing Guides, Grant Owners Manuals, fact sheets, best practices, curricula and other materials, at no cost, through its online Resource Information Center. This user-friendly publication search engine makes ordering or downloading these documents simple. Similarly, through a cooperative agreement with the University of Minnesota, OVW



supports the Violence Against Women Online Resources Web site that contains research and best practices for use by law enforcement, the judiciary, attorneys, tribal leaders, advocates, faith communities and human services providers. OJP, working with the Office of National Drug Control Policy, funds the National Criminal Justice Reference Service, which offers extensive reference and referral services to help the public find answers to their questions about crime and justice-related research, policy and practice.

In addition, the Department is seeking to more effectively disseminate information to its stakeholders, partners and the public about what works. In the President's FY 2011 budget request, the Department is seeking funding for a State and Local Help Desk and Diagnostic Center – a one-stop shop where state, local and tribal communities can obtain information about promising, evidence-based approaches to addressing criminal justice problems. And the Department is exploring – and will continue exploring – new vehicles for delivering support for local law enforcement. The Department has begun distributing podcasts on innovations in criminal justice. The Department's Bureau of Justice Assistance is working with Fox Valley Technical College to establish a dynamic, automated, web-based system for delivering training and technical assistance to potential partners. This National Training and Technical Assistance Center will allow consumers to request training and technical assistance online, post and obtain information about other opportunities and resources and connect to other providers and information sources.

## | Increasing Engagement with Tribal Nations



The Department takes its trust responsibility as the primary law enforcer in many Native American communities seriously and has launched an effort to significantly improve public safety in those communities. Violent crime in Indian Country is at unacceptable levels and has a devastating impact on the basic quality of life there. Many tribes experience rates of violent crime far higher than other Americans; indeed, some Native American women face murder rates more than 10 times the national average. Tribal law enforcement resources are typically scarce, a problem exacerbated by the geographic isolation and vast size of many reservations.

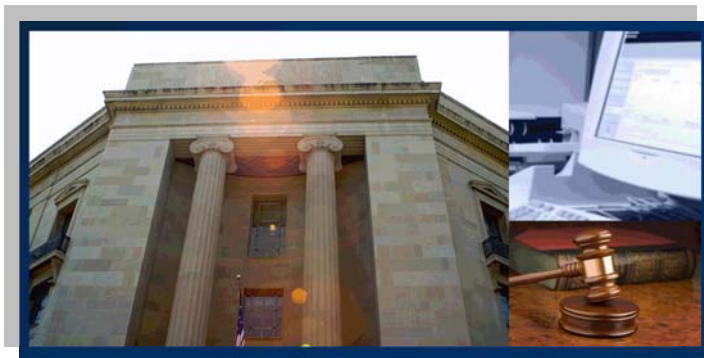
Consultation, as that term is formally defined in Executive Order 13175, and collaboration are at the heart of the federal-tribal relationship. Consistent with the Department's approach to be more open and collaborative with Tribal Nations, the Attorney General convened a listening session attended by approximately 400 tribal leaders. DOJ is taking a number of steps to increase its engagement with these communities.

First, the Department is developing a revised consultation plan pursuant to a directive from the President. Second, in January of 2010, the Deputy Attorney General directed every U.S. Attorney's Office to engage annually, in coordination with its law enforcement partners, in consultation with the tribes in that district. Third, the Attorney General is forming a Tribal Nations Leadership Council that will serve as a forum for ongoing communication and collaboration with tribal governments. Fourth, a new federal-tribal task force will develop strategies and provide guidance for federal and tribal prosecution of violent crime against women in tribal communities. These efforts – which are only examples – will form the basis for improving federal-tribal cooperation in the coming years. Information about these efforts is available at [TribalJusticeandSafety.gov](http://TribalJusticeandSafety.gov).



## Releasing More Information about the Department's Case Load

**Significant Court Filings.** As the Executive Branch's lawyer, much of the Department's most important work occurs in the courtroom, and much of that work is in the form of written papers filed in court. It is in our court filings that significant policy and legal positions are explained. The public will often learn about these filings from news reports, but those reports rarely give adequate context, and even more rarely give direct access to the very actions they are describing. Federal courts and numerous commercial services provide access to the documents, but often only at a cost and regularly only with some delay.



The Department is committed to making these papers more readily available. This information should be available to the public, so that Americans can review the documents themselves and gain a full understanding of the Department's actions. Given the thousands of papers that DOJ files in courts across the country every day, it is not possible to make every brief available, and the Department's litigating offices should welcome requests from the public to send copies of particular public filings that are of interest. In order to maximize access to the Department's most significant case filings, however, the Department will begin to make significant court filings available through its Web site when they are filed.

In addition, the Office of Public Affairs, when presented with a press inquiry, will offer to provide relevant court filings, so that reporters will have the opportunity to see the rationale for the Department's positions.

**Case Data.** In tens of thousands of cases across the country, working for scores of federal agencies, the Department handles litigation in dozens of areas: from prosecuting criminals to defending statutes passed by Congress, from enforcing civil rights law to defending federal agencies in contract disputes, and from pursuing tax cheats to protecting competitive markets.

To manage their voluminous dockets, the Department's several litigating components each maintain case management systems that collect certain basic information about their cases. As those systems are currently maintained, the data contained in them is of little collective value: cases that are jointly handled across multiple components are often tracked in multiple, separate systems; each component relies on different definitions of fundamental concepts, resulting in data that is consistent within a particular component but of little value when combined with data from other components; and the data is collected not for purposes of statistical analysis, but to track pending cases and matters.

The Department is in the development stages of a new platform that will, in certain ways, improve the data being collected. The purpose of the new system will still be to assist the Department to manage its workload, not to provide research-quality information in every conceivable area. Moreover, releases of case management data from a future system will undoubtedly require significant processing, not least to ensure that it does not compromise privacy, investigative or national security interests, and the costs of that processing will be weighed against the data's potential value. Nonetheless, a single, enterprise-wide system would have the potential to avoid some of the problems that reduce the value of current Department-wide information.

As the development process continues, the Department will consider whether there are aspects of the data that the system collects that could be of value to the public. Where there are cost-effective steps that will improve the data being collected without compromising the system's core purpose, the Department should pursue them.

## **| Other Efforts at Collaboration**

Additional information about the ways in which the Department collaborates with public and private entities to better serve the public in preventing crime, enforcing federal laws, and protecting the rights and interests of the American people is available at [www.justice.gov/open](http://www.justice.gov/open).

## ENSURING THE FAIR AND EFFICIENT ADMINISTRATION OF JUSTICE

In addition to its own work directly enforcing the law, the Department of Justice works to ensure fair and impartial administration of justice for all Americans. It applies the law in an even-handed manner, as all are equal before the law. It supports and trains other law enforcement agencies and groups engaged in making their communities safer. It undertakes evidence-based reviews of law-enforcement practices across the country, so that practices that succeed can be replicated and those that fail can be abandoned. In all of these efforts, the Department can better achieve its mission through more open approaches.

### Transparency in the Administration of Justice

**The Attorney General's Calendar.** At his confirmation hearing in January 2009, Attorney General Eric Holder made a pledge: "I will bring to office the principle that has guided my career – that the Department of Justice first and foremost represents the people of the United States." This commitment should guide every action that the Department takes, and it is those actions by which the Department should be judged. This commitment is also apparent, however, in the manner in which the Attorney General spends his time.

While there will always be aspects of the Attorney General's responsibilities that cannot be disclosed publicly, lest they compromise important national security, law enforcement or litigation interests, there is much that can be disclosed. Each month, DOJ will post the daily calendar of the Attorney General so that his meetings and activities will be readily accessible by the public. Redactions will be kept to a minimum, consistent with the principles laid out in the Attorney General's FOIA Guidelines.

**Stewardship of Taxpayer Resources.** A key aspect of the Open Government Initiative is to ensure transparency of resources provided by the taxpayers.



In a subsequent directive issued by the OMB's Deputy Director for Management on February 8, 2010, *Open Government Directive –*

*Framework for the Quality of Federal Spending Information*, OMB provided guidance for agencies to follow in evaluating internal controls over data quality for Federal spending. The directive also required agencies to develop and submit a data-quality plan for Federal spending to OMB that is consistent with the framework discussed within the guidance. The Department's plan for meeting this requirement can be found at <http://www.justice.gov/open>.

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*"I will bring to office the principle that has guided my career – that the Department of Justice first and foremost represents the people of the United States."*

**Attorney General Eric Holder**

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The Department data-quality plan discusses the Department's open government goals specifically related to the transparency and quality of Federal spending information. It describes the significant types of Federal spending information that are disseminated by the Department, along with related data quality internal control initiatives. The plan also addresses the coordination efforts that are occurring within the Department to ensure successful implementation of the data quality requirements and monitoring of progress and performance, including actions taken to identify areas of risk and complete corrective actions. In addition, the plan details the Department's processes and controls related to the compilation, review and monitoring of the Federal spending data which is reported through USASpending.gov.

## | Making Communities Safer by Sharing Effective Ideas

**Successful Grant Applications.** Through its grant-making offices, the Department of Justice provides billions of dollars every year to state, local and tribal law enforcement agencies, as well as other public and private service providers, to make their communities safer. The programs that DOJ funds are chosen for a variety of reasons, but chief among them are that the programs have been demonstrated to be effective or they employ new ideas with outstanding potential.

Those ideas are worth sharing. Upon making awards, the Department's grant-making offices will, consistent with applicable law, publish the applications of select successful applicants, as well as the identities of all grant recipients. Other governmental and non-governmental bodies that work in the field will benefit from seeing the kinds of ideas that are succeeding.

**Reaching More Communities.** The Department's grant-making offices fund some of the most promising and important work being done by state, local and tribal governments and by private service providers and others. Many of these efforts serve the public generally, but many are targeted at particular constituencies from victims of crime to juvenile offenders. Many of these constituencies communicate in ways that leave the Department's traditional models behind. The Department must explore new ways of reaching its stakeholders and those it aims to serve. Specifically, the grant-making offices should explore the use of new media to communicate more effectively with particular communities. The Department should take advantage of these new media where appropriate.

**Expanding Our Partners.** The Department is not simply seeking to collaborate with law enforcement and prosecutors. Our responsibility is to do justice, and that requires a robust collaboration with the courts and the defense bar. The Attorney General recently hosted a conference focusing on indigent defense, and DOJ intends to make access to justice a focus in the coming years. Recently, the Department named distinguished Professor Laurence Tribe as the Senior Counselor on Access to Justice. Through this new initiative DOJ will work collaboratively with courts, the defense bar and others in the criminal justice system to improve the quality of justice for all.

**Spreading the Message.** It takes more than effective law enforcement to keep communities safe. Where crime has become pervasive or where the public lacks information, concerned and active citizens can still, with proper support, turn the tide. Whereas much of the Department's work is focused on the data-driven, evidence-based analysis of the practices that improve public safety, there are also areas in which increased public consciousness would help reduce crime. For example, the Office on Violence against Women recently funded an online initiative that enlisted teens to think about acceptable online behavior. The initiative, through a website at [www.ThatsNotCool.com](http://www.ThatsNotCool.com), asks teens, "Where Do You Draw Your Digital Line?" and provides interactive, web-based tools and resources to prevent teen dating violence, raise awareness about the signs of abuse and educate teens about "digital gray areas." The Web site now offers online tools, including campaign materials that can be downloaded (including web videos, call-out cards, posters, TV and print PSAs), information from the focus group research, and tips on social media outreach – all available to help the general public to prevent teen dating violence.



Through grant programs like these, the Department has the capacity to enlist interested citizens in their shared mission. During FY 2010, the Department will initiate – either directly or through a grant to an administrator – a competition with prizes that invites the public to develop a public safety campaign on an appropriate issue. Through the development of these public safety messages, which may rely on traditional or new media, the

Department will invite Americans to become more than passive recipients of public safety. They will be actively engaged in making their communities safer.

## | Accountability through Science and Research

**Funding Research.** Central to its role as a leader in the criminal justice area is the Department's commitment to science and to evidence-based approaches to criminal justice and public safety. Openness and transparency are critical components of accountability, and accountability is best achieved when policy in the criminal justice area is evaluated based on science and research. The Department has demonstrated its commitment in a number of ways, researching, for example, whether certain initial treatment strategies for sexual assault victims are more likely to lead to guilty pleas and convictions, looking at how the passage of time affects criminal recidivism, and studying the cost-effectiveness of using DNA tests to identify possible suspects in crimes for which it has not been previously heavily used. In addition, the President's FY 2011 budget request seeks significant additional funding for research efforts like these.

**Research Information.** The Department publishes numerous reports on scores of law-enforcement related issues every year. Those reports are of high quality and often draw important conclusions from their data. It is important to recognize, however, that other researchers may use the same data to draw insightful conclusions that improve law enforcement or otherwise benefit the public. In order to facilitate such efforts, when an office or division of the Department publishes a report that summarizes quantitative data that the office or division has collected, there shall be a presumption that the office or division will also make the underlying data available through an appropriate channel. The appropriate channel may vary depending on the nature of the data being released. For information that will be of value to the general public, the appropriate channel may be Data.gov. For information that is primarily of value to researchers in a particular field, release to a research institution that serves that field may be more appropriate.

The presumption that underlying data should be released can be overcome when an evaluation of the totality of the circumstances weighs against release. This evaluation should be comprehensive, taking into account such factors as the public interest in that data or in similar data previously released, the quality of the data, the burden of necessary processing for release or other reasons. Components should take care to ensure that releases of data are made only after the component takes appropriate precautions to ensure that the release will not compromise legitimate privacy, law enforcement or national security interests. Data sets that cannot be released in full should be considered for partial releases.

Releasing data in a usable, accessible format requires resources. In order to optimize the use of scarce public resources, it will be important for components to monitor the public use of the data they have released. They may do so through a variety of means, including by considering the number of times that a data set has been accessed, uses of the data set, and feedback received from relevant stakeholders. Components should use the information they gather through this process as they consider future releases of information.

Finally, because it is easy to fall back into the easy pattern of awaiting the next FOIA request, it is important to provide accountability. When an office or division determines that it will not release the underlying data associated with a particular report that has been published, the head of that office should prepare a memorandum of explanation for the Chief FOIA Officer explaining the decision. The memorandum should describe possible partial releases of the data that were considered.

Additional information regarding other aspects of the Department's Open Government response can be found at <http://www.justice.gov/open/>, by linking to various subjects, including the Department's declassification programs, records management policies and how the Department responds to requests from Members of Congress. Additional information can also be found at that link on the transparency of information in programs including data.gov, Recovery.gov and USASpending.gov.

## CONCLUSION

The Department of Justice is one of the oldest Cabinet departments in the U.S. government. It has a rich and honorable history, and its employees and senior officials are always aware that the Department must rise above partisan concerns to see that justice is truly done. A large part of that tradition has included the mandate to hold information close – whether it was grand jury-protected, law enforcement-sensitive or national security-classified. But the Department must also ensure that the public has sufficient information to comprehend the actions taken by the Department to fulfill its missions. Department of Justice officials and employees must continue to look anew at its practices. Where the Department can better fulfill its mission through a new approach, we must embrace it. And where we can better inform the public while we fulfill those missions, we should do so.