



OFFICE *of* GOVERNMENT
INFORMATION SERVICES

Freedom of Information Act (FOIA) Advisory Committee

May 5, 2022

<https://www.archives.gov/ogis/foia-advisory-committee/2020-2022-term/meetings>



Welcome

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We are also streaming at
<https://www.youtube.com/usnationalarchives>



National Archives Identifier 6600730



Welcome

Chat Tip

Chat “All Panelists” otherwise the Committee members and/or OGIS staff will not see your comments.



National Archives Identifier 208383217



Acting Archivist Welcome

Debra Steidel Wall

Acting Archivist of the United States





Administrative Updates

Alina M. Semo

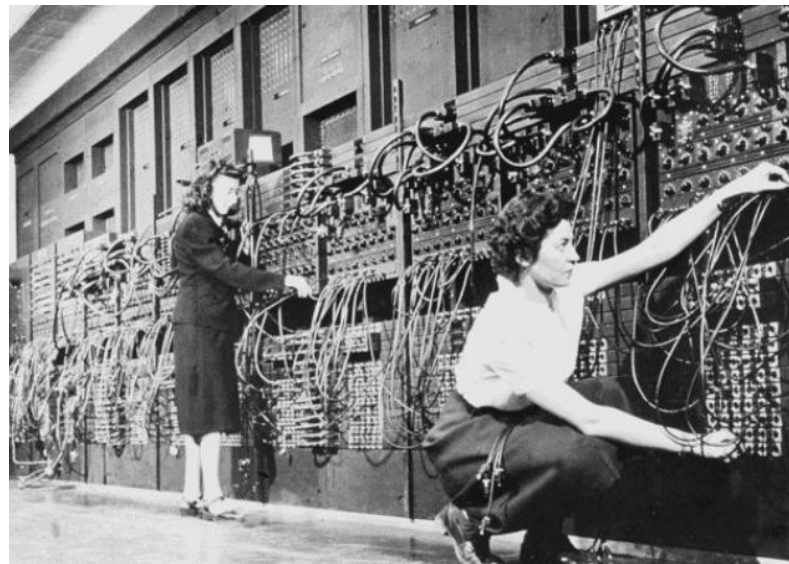
Director, Office of Government
Information Services
and Chair, FOIA Advisory Committee





Technology Subcommittee

Allyson Deitrick &
Jason Gart
Subcommittee
Co-Chairpersons



National Archives Identifier 594262



Technology Subcommittee: Draft Recommendation #3 (Part 1)

Encourage the 508 Compliance and Collaborative Tools Working Group of the Technology Committee of the Chief FOIA Officers Council to continue to research and recommend options for agencies to resolve the inherent conflicts that exist between FOIA's proactive disclosure requirements and Section 508 of the Rehabilitation Act, until a suitable legislative solution is enacted.



Technology Subcommittee: Draft Recommendation #3 (Part 2)

We recommend that agencies proactively publish FOIA logs in the agency's electronic reading room (often referred to as FOIA Libraries) on an ongoing basis, at least quarterly. Agencies should allow for the full text searching of FOIA logs.



Technology Subcommittee: Draft Recommendation #3 (Part 2)

To be most useful, agency FOIA logs should contain, at a minimum, each of the following fields in either Excel or CSV format, in preference to PDF:

- a) Tracking number of the request.
- b) Date of the request.
- c) Name of the requester, provided it is not a first-party requester (i.e., someone asking for records on himself or herself) – to be most useful, the agency should publish the names of all third-party requesters; the agency should also alert requesters that they will publish the names of third-party requesters in their FOIA logs.
- d) Organizational affiliation of the requester, if identified in the request.



Technology Subcommittee: Draft Recommendation #3 (Part 2)

- e) Whether the request was processed under the Privacy Act as well.
- f) Subject matter of the request.
- g) Status of the request (pending, closed, etc.).
- h) For requests that have been closed, the date closed and the result of the FOIA request (granted, granted in part, denied, withdrawn, etc.).
- i) Fee Information
 - a. Fee category assigned to requester, if applicable (commercial, educational, news media, other).
 - b. Whether a fee waiver was requested.
 - c. If a fee waiver was requested, whether it was granted.
 - d. Amount of fees charged
 - e. Amount of fees paid



Process Subcommittee



Alexis Graves & Michael Morisy
Subcommittee Co-Chairpersons

National Archives Identifier 6011170



Process Subcommittee - 1st Party Draft Recommendation #2

Agencies should amend any regulations, directives, policies, and guidance to provide individuals, regardless of whether they have legal representation in agency proceedings, access to records about themselves.



Legislation Subcommittee



Patricia Weth & Kel McClanahan
Subcommittee Co-Chairpersons

National Archives Identifier 7820630



Legislation Subcommittee

Reimagining OGIS Recommendations

1. Congress gives OGIS the authority to make binding decisions. (*Note: This recommendation was passed at the April 7 FOIA Advisory Committee meeting.*)
2. Congress gives OGIS the authority to review records *in camera*.



Legislation Subcommittee

Reimagining OGIS Recommendations

3. Congress directs the federal courts to give extra weight to OGIS decisions.
4. Congress creates a direct line-item budget for OGIS.
5. Congress increases OGIS's budget.



Legislation Subcommittee Reimagining OGIS Recommendation

6. The Archivist of the United States commissions a feasibility study, incorporating input from requesters and agencies, to more deeply explore the costs and benefits of these recommendations and refine the proposals to aid Congress in drafting legislation.

7. The Archivist returns OGIS as a direct report.



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FOIA Advisory Committee is on a break: back soon!

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National Archives Identifier 6656626



Classification Subcommittee



Kristin Ellis & James R. Stocker
Subcommittee Co-Chairpersons

National Archives Identifier 45641639



Classification Subcommittee – Draft Recommendation #5-1

1. We recommend that either the FOIA statute or E.O. 13526, or both, be amended to clarify that information which does not comport with all of the requirements of the Executive Order is not properly classified for purposes of Exemption (b)(1).



Classification Subcommittee – Draft Recommendation #5-2

2. We recommend that either the FOIA statute or E.O. 13526, or both, be amended to clarify that information may not be withheld under Exemption (b)(1) if it does not contain complete declassification instructions.



Classification Subcommittee - Draft Recommendation #5-3

3. We recommend that either the FOIA statute or E.O. 13526, or both, be amended to clarify that information may not be withheld under Exemption (b)(1) if the markings specified in the governing Executive Order are not present in a manner that is immediately apparent.



Classification Subcommittee - Draft Recommendation #5-4

4. We recommend that E.O. 13526 be amended to require that in cases where information withheld under the Freedom of Information Act or other requests or reviews does not contain the markings specified in the governing Executive Order, agencies must add these markings.



Classification Subcommittee - Draft Recommendation #5-5

5. We recommend that the Archivist request that the Inspector General for the Intelligence Community conduct a review of agencies' compliance with E.O. 13526, Sections 1.6 and 2.1, particularly as it relates to initial marking of classified information and also to how agencies handle classified information responsive to FOIA or other disclosure requests where markings are omitted.



FOIA Advisory Committee

Public Comments

<https://www.archives.gov/ogis/foia-advisory-committee/public-comments>



National Archives Identifier 205581775



FOIA Advisory Committee

Mark your calendars!

Next meetings:

Thursday, June 9, 2022—final meeting of the 2020–2022 term!



National Archives Identifier 44267671