

Chief Freedom of Information Act Officers Council Meeting

Meeting Minutes – July 27, 2017

The Chief FOIA Officers (CFO) Council Meeting convened at 10:00 a.m. on July 27, 2017, in the National Archives and Records Administration (NARA) McGowan Theater –700 Pennsylvania Ave. NW, Washington DC 20408.

A livestream video of the meeting was also made available, and in accordance with 5 U.S.C. § 552(k)(6)(B), the meeting was open to the public “permit[ting] interested persons to appear and present oral and written statements to the Council.”

All meeting materials are available on the Office of Information Policy’s (OIP) and Office of Government Information Services’ (OGIS) websites at: <https://www.justice.gov/oip> and <https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council>.

Speakers:

Gary M. Stern, General Counsel and Chief FOIA Officer, NARA

Melanie Ann Pustay, Director, OIP, Department of Justice (DOJ), Council Co-Chair

Alina M. Semo, Director, OGIS, NARA, Council Co-Chair

Panelists:

Michael Bell, Department of Health and Human Services (HHS)

Michael Morisy, MuckRock.com

Linda Frye, Social Security Administration (SSA)

Michael Ravnitzky, Frequent FOIA Requester

Carrie McGuire, OGIS

Introduction

- The meeting opened at 10:00 a.m. with remarks from Gary Stern.
- Mr. Stern welcomed everyone to the third Council meeting, provided a brief overview of the history of the use of dispute resolution services in FOIA, and noted that the meeting will focus on requester services provided by FOIA Public Liaisons and OGIS.

Overview of FOIA Notice Requirements and Duties of FOIA Public Requester Service Centers and FOIA Public Liaisons

- Ms. Pustay summarized the FOIA’s requirements and OIP Guidance regarding the provision of notice to requesters about the availability of services from FOIA Public Liaisons and OGIS at various points throughout the FOIA process.

- Ms. Pustay reviewed proposed updates to the sample language provided in OIP's 2016 guidance and asked for any comments from the audience.
- Ms. Pustay then reviewed the duties and responsibilities of FOIA Requester Service Centers and FOIA Public Liaisons. She noted that, among other things, these resources educate requesters about how the FOIA process works, provide status information on requests, and assist in increasing transparency and resolving any disputes.

Overview of Dispute Resolution in the FOIA Process and OGIS

- Ms. Semo provided an overview of the role of dispute resolution in FOIA and compared the types of assistance that FOIA Public Liaisons and OGIS can best provide.
- Ms. Semo also provided some statistics on how frequently agencies reported providing dispute resolution services, noting that OGIS anticipates quadrupling its mediation caseload in Fiscal Year 2017.
- Ms. Semo explained that OGIS does not compel agencies to release documents, process requests or review appeals, or dictate resolutions to disputes. She added that while a goal of OGIS's mediation service is to prevent litigation, the statute does not preclude a requester from filing suit after using OGIS's services.
- Ms. Semo explained that as the FOIA Ombudsman OGIS answers general questions about the FOIA process and exemptions, while also handling more complex cases, such as mediating discussions between agencies and requesters and facilitating communication between multiple agencies dealing with similar requests.
- Ms. Semo noted that OGIS also provides dispute resolution skills training sessions for FOIA professionals throughout the year or upon request at individualized training sessions for agencies.

Panel Discussion: Maximizing Effectiveness of Services Provided by FOIA Requester Service Centers, FOIA Public Liaisons, & OGIS

- Ms. Pustay moderated the panel consisting of two requesters and three agency representatives.
- Michael Bell (HHS) discussed the importance of communication throughout the request process and explained that HHS has emphasized the importance of communication across its FOIA offices and operations divisions. He noted that practices such as providing additional detail in brief responses to requests can help preemptively address a requester's questions. As an example, he suggested a "no records" response could include a brief explanation of the search process. He also explained that HHS's work to improve records management practices has helped improve FOIA efficiency.
- Michael Morisy (MuckRock.com) acknowledged the challenges agencies face resulting from the complexity of requests and records types, coupled with additional FOIA responsibilities and no new funding. He opined that the increased public awareness of

FOIA presents challenges and opportunities for agencies to educate and engage new communities of requesters. He suggested that agencies should continue to look for ways to make information proactively available and to consider how to “bake in” transparency from the beginning of projects and programs. Mr. Morisy emphasized the importance of properly setting requester expectations and providing context in communications with requesters.

- Linda Frye (SSA) discussed SSA’s improvements in communication with requesters, explaining that staff are now much more likely to reach out to requesters for clarification. She explained that her agency is working to improve its search procedures, such as requiring employees to provide responsive records to the FOIA staff electronically and educating non-FOIA employees on the FOIA’s time limits. She explained that to address staffing shortages, SSA began a “Skills Connect” program that allows SSA employees in other components to be trained to assist on other projects, including FOIA, which has started successfully.
- Michael Ravnitzky (Requester) highlighted recent successes in FOIA, such as reduced backlogs and improved communication, and suggested areas for improvement. He emphasized the importance of clarity in response letters and fee estimates, in addition to working with requesters to explain how records are kept and how to submit a properly worded request. He also provided suggestions for ensuring a user-friendly FOIA Library included creating a “what’s new” section, posting user-friendly files, and ensuring effective organization of material, noting that librarians or information specialists could assist with this.
- Carrie McGuire (OGIS) summarized lessons learned from OGIS’s recent mediation cases and explained how OGIS can assist agencies and requesters throughout the process. OGIS has observed that notices of unusual circumstances offer a good opportunity to work with the requester to narrow the scope of a request. With adverse determinations, OGIS can help the requester better understand the response by providing details about the FOIA process and potential next steps.
- Ms. Pustay concluded the panel and opened the floor to receive comments from the audience.

Public Comments

- Ms. Pustay opened the floor to discussion and the panelists responded to various questions and comments.

Conclusion

- Ms. Semo thanked everyone for attending and closed the meeting.

Chief FOIA Officers Council Meeting

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Registered Attendees (This list consists of individuals who registered to attend the meeting)

First Name	Last Name	Organization
Autumn	Agans	U.S. Commission on the Fine Arts
Faraz	Ahmed	
Hanie	Ala	
Vicki	Allums	Department of Defense
Emma	Altheide	Library of Congress
Candace	Ambrose	U.S. Commodity and Futures Trading Commission
David	Banisar	
Ann	Barnes	Millennium Challenge Corporation
Lisa	Barton	United States International Trade Commission
Sharon	Bellamy	United States International Trade Commission
Michael	Binder	Department of Defense, Air Force
Tyson	Brody	
Ramona	Buck	Federal Mediation and Conciliation Service
Sabrina	Burroughs	Department of Homeland Security, Customs and Border Protection
Cindy	Cafaro	Department of Interior
Collin	Cenci	Merit System Protection Board
Noelle	Chadwick	Occupational Safety and Health Review Commission
John	Chapman	National Security Agency
Doug	Choi	U.S. Trade and Development Agency
Beatriz	Collazo	American Battle Monuments Commission
Mahala	Dar	
Jeffrey	Davis	Department of Transportation
Erin	Dawson	National Science Foundation
Stacey	Demps-Barrett	Federal Mine and Safety Health Review Commission
David	DeVries	Office of Personnel Management
Rachel	Dickon	Federal Maritime Commission
Mina	Dixon	Department of Justice
Mina	Dixon	Department of Justice
Mary	Doocy	House Oversight and Government Reform Committee
Reed	Duecy-Gibbs	
Bill	Duffy	
Judith	Dupre	Federal Deposit Insurance Corporation
Stacy	Easter	Federal Housing Finance Agency
Michael	Elston	United States Postal Service
Jennifer	Everling	Merit System Protection Board

Ore	Fashola	Small Business Administration
Michele	Fennell	Federal Reserve Board
A	Fong	
Linda	Frye	Social Security Administration
Susan	Gerson	Institute of Museum and Library Services
Sharita	Gruberg	Center for American Progress
Helen	Guyton	Legal Services Corporation
Justin	Guz	National Science Foundation
Justin	Guz	National Science Foundation
Amanda	Haas	Federal Retirement Thrift Savings Board
Holly	Ham	Department of Education
Lauren	Harper	National Security Archive
Angela	Heverling	National Mediation Board
Katie	Higginbotham	Federal Election Commission
Michael	Hill	
James	Hogan	Department of Defense
Trent	holbrook	Office of Management and Budget
James	Holzer	Department of Homeland Security, Privacy Office
Alex	Howard	Sunlight Foundation
Dee	Hunter	
Emanuel	Ikador	
Lennell	Jackson	Export-Import Bank
Toyia	Johnson	Federal Energy Regulatory Commission
Ronda	Johnson	Department of Transportation, Federal Aviation Authority
Christopher	Julka	Department of Defense, Navy
Karin	Kelly	Merit System Protection Board
Trevor	Kenney	
Min Hee	Kim	Office of Science and Technology Policy
Ingrid	Kolb	Department of Energy
Stephanie	Kost	Federal Communications Commission
Dawn	Kral	Office of Special Counsel
Stephen	Kurylo	Department of Defense
John	Laster	National Archives and Records Administration
Brian	Lavin	Consumer Financial Protection Bureau
Ryan	Law	Department of the Treasury
Raynell	Lazier	Consumer Financial Protection Bureau
Jennifer	Lee	Office of Science and Technology Policy
Whitney	Levandusky	Library of Congress
Travis	Lewis	General Services Administration
Adam	Lipton	Office of Management and Budget
Barbara	Loggins	Farm Credit System Insurance Corporation

udvaldo	lopez	Millennium Challenge Corporation
Kirsten	Lucas	Social Security Administration
Matthew	Luecke	Federal Reserve Board
Sarah	Mackey	Federal Trade Commission
Nadine	Mancini	Occupational Safety and Health Review Commission
Michael	Marquis	Department of Health and Human Services
Wendy	Marshall	U.S. Access Board
Wendy	Marshall	US Access Board
Brian	May	
Molly	McCluskey	
Shawne	McGibbon	Administrative Conference of the United States
John	McLean	
Rebecca	Moser	Environmental Protection Agency
John	Moses	Nuclear Regulatory Commission
Fon	Muttamara	Merit System Protection Board
Lewis	Oleinick	Department of Defense, Defense Logistics Agency
Daniel	Olsen	Department of the Treasury
Lynn	Parker Dupree	Privacy and Civil Liberties Oversight Board
Don	Picard	
Trina	Porter	Office of Personnel Management
David	Pritzker	Administrative Conference of the United States
Kia	Rahnama	
Susan	Raposa	U.S. Commission on the Fine Arts
Michael	Ravnitzky	
Robin	Richard	Department of Defense
Monique	Ricker	United States Trade Representative
Mae	Ridges	Institute of Museum and Library Services
Alice	Ritter	
Lindsay	Roberts	Department of Justice
Loretta	Schuster	
Viktoria	Seale	Council on Environmental Quality
Ellen	Sebastian	
Margie	Shanks	Federal Reserve Board
Claire	Shanley	
Gregory	Sharma-Holt	
Lubna	Shirazi	Department of Justice
Anna	Sineva	
Sanquetta	Slater	Office of National Drug Control Policy
Greagory	Smith	Department of Education
Timothy	Smith	
Deborah	Snowden	Department of Housing and Urban Development

William	Stoppel	Peace Corps
Bobak	Talebian	Department of Justice
Cliff	Tatum	Election Assistance Commission
Douglas	Taylor	Department of Transportation, Federal Aviation Authority
Catherine	Teti	Department of Health and Human Services
Michael	Toland	Department of Commerce
Anh	Trinh	Department of Defense
Brian	Walch	U.S. Commission on Civil Rights
Melissa	Walker	Department of Defense
Holly	Walter	Consumer Financial Protection Bureau
Justine	Washington	
Tamiko	Watkins	Millennium Challenge Corporation
Robert	Wehausen	Department of Education
Nancy	Weiss	Institute of Museum and Library Services
Alesia	Williams	Department of Defense, Defense Intelligence Agency
Henry	Williams	Department of Defense
Paul	Wilson	Defense Nuclear Facility Safety Board
Victoria	Woods	Department of Justice
Hugo	Zia	Federal Deposit Insurance Corporation
Michael	Bell	Department of Health and Human Services
Michael	Morisy	
Melanie	Pustay	Department of Justice
Heather	Higgs	Department of Agriculture
Maria	Gamez	Pension Benefit Guaranty Corporation
D. Camilla	Perry	Pension Benefit Guaranty Corporation
Francesca	McCrary	House Oversight and Government Reform Committee