

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037



Phone: 202.994.7000
Fax: 202.994.7005
nsarchiv@gwu.edu
<http://www.nsarchive.org>

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Dear Director Semo,

Thank you for holding your annual meeting with the public and soliciting comments on OGIS's reviews and reports, in accordance with the new requirements of the Freedom of Information Act.

OGIS has done good work in 2016 and early 2017, including leading its annual Sunshine Week Celebration, ushering in the provisions of the FOIA Improvement Act, facilitating the FOIA Advisory Committee, publishing its blog, *The FOIA Ombudsman*, conducting five Compliance Reports, reviewing agency FOIA regulations updates, issuing government-wide FOIA recommendations, and authoring an illuminating Annual Report.

In the view of the National Security Archive, the OGIS report that had the largest tangible impact was its [three-part Compliance Assessment on the use of “still interested letters”](#) –letters sometimes dubiously used to close older FOIA cases if no response is received from the requester. Authored at the request of a coalition of open government groups, the report found that that the “available data [on the use of ‘still interested letters’] does not capture requester frustration.”

Moreover, after the publication of this report, OGIS fulfilled its role as the *bona fide* Ombuds Office. When requesters informed OGIS that some agencies were still sending improper “still interested letters,” OGIS went to these specific agencies and was ultimately able to correct their improper closing of requests. This was emblematic of the actions of the independent “FOIA beat cop” that Congress intended when it created OGIS in 2007.

It is the National Security Archive’s hope that OGIS will continue to expand its fulfillment of its legal requirement to “identify procedures and methods for improving [FOIA] compliance.” Since its founding nine years ago, OGIS has not yet utilized its statutory ability to issue a single FOIA Advisory Opinion. Despite the efforts of OGIS and others, government-wide FOIA compliance is clearly not at a satisfactory level. Clear Advisory Opinions by the FOIA Ombuds Office would do well to delineate what are acceptable FOIA practices, and what are not, to other government agencies.

Finally, The National Security Archive would like to underline the important and unique role that OGIS plays. The Freedom of Information Act is the crown jewel of America’s transparency repertoire; it is the only law that gives the public a chance to win the release of documents that their government may want to keep secret. Other executive branch agencies have competing priorities and may ignore or violate FOIA to achieve the aims that they deem more important. Fortunately, the public and agency FOIA officials have the Office of Government Information Service, whose only priority is ensuring that the law of the Freedom of Information Act is followed. The National Security Archive is optimistic that

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OGIS will continue growing into the FOIA Ombuds Office that Congress envisioned it to be and will continue using its statutory authority to improve agency compliance with FOIA.

Thank you,

Nate Jones
Director of the FOIA Project
for the National Security Archive