



NATIONAL ARCHIVES  
OFFICE OF GOVERNMENT INFORMATION SERVICES



10<sup>TH</sup> ANNIVERSARY  
CELEBRATION OF OGIS  
MARCH • 11 • 2019



## AGENDA

1:00: **Welcome by the Archivist of the United States**

1:10: **Remarks by Senator John Cornyn (R-TX)**

1:20: **A Conversation about Open Government, Transparency and the Legal Landscape**

David S. Ferriero, Archivist of the United States

Beryl A. Howell, Chief Judge, United States District Court for the District of Columbia

2:20: **OGIS @ 10: Past/Present/Future**

Miriam Nisbet, founding Director of OGIS

Alina M. Semo, current Director of OGIS

Krista Boyd, General Counsel, Democratic Staff, House Committee on Oversight and Reform

Lydia K. Griggsby, Judge, United States Court of Federal Claims

Thomas M. Susman, Director of Governmental Affairs for the American Bar Association  
(*Moderator*)

3:20: **Break**

3:35: **Crystal Ball: Imagining the Future of Electronic Recordkeeping**

Laurence Brewer, Chief Records Officer for the US Government

Courtney Anderson, Senior Electronic Records Policy Analyst, NARA

Jonathan M. Redgrave, Partner, Redgrave LLP

Jason R. Baron, Of Counsel, Information Governance and eDiscovery Group,  
Drinker, Biddle & Reath LLP (*Moderator*)

4:35: **Remarks by Senator Patrick Leahy (D-VT)**



## Speaker Biographies

**David S. Ferriero** was confirmed as the 10th Archivist of the United States on November 6, 2009. Early in 2010 he committed the National Archives and Records Administration (NARA) to the principles of Open Government—transparency, participation, and collaboration. To better position NARA to fulfill these goals, Mr. Ferriero initiated an agency transformation in 2010. The transformation restructured the organization and set goals to further the agency’s mission, meet the needs of those who rely on NARA, and find new, creative ways to approach the agency’s work. Early in his tenure, Mr. Ferriero celebrated the contributions of “citizen archivists,” and he encourages public participation in identifying historical Federal records and sharing knowledge about them. In August 2012, NARA produced the Managing Government Records Directive to modernize and improve Federal records management practices. Mr. Ferriero also instituted new security measures to deter theft or mishandling of records. Previously, Mr. Ferriero served as the Andrew W. Mellon Director of the New York Public Libraries (NYPL). He was part of the leadership team responsible for integrating the four research libraries and 87 branch libraries into one seamless service for users, creating the largest public library system in the United States and one of the largest research libraries in the world. Before joining the NYPL in 2004, Mr. Ferriero served in top positions at two of the nation’s major academic libraries, the Massachusetts Institute of Technology in Cambridge, MA, and Duke University in Durham, NC. In those positions, he led major initiatives including the expansion of facilities, the adoption of digital technologies, and a reengineering of printing and publications. Mr. Ferriero earned Bachelor’s and Master’s degrees in English literature from Northeastern University in Boston and a Master’s degree from the Simmons College of Library and Information Science, also in Boston. Mr. Ferriero served as a Navy hospital corpsman during the Vietnam War.

**Chief Judge Beryl A. Howell** was appointed to the District Court on December 27, 2010. She received her B.A., with honors in Philosophy, in 1978 from Bryn Mawr College and her J.D. in 1983 from Columbia University School of Law, where she was a Harlan Fiske Stone Scholar. From 1987 until 1993, Chief Judge Howell served as the Deputy Chief of the Narcotics Section and an Assistant U.S. Attorney in the U.S. Attorney’s office for the Eastern District of New York, where she was awarded the Attorney General’s Director’s Award for Superior Performance and commendations from the U.S. Attorney and Federal and local law enforcement agencies for her work on international narcotics, money laundering and public corruption cases. From 1993 until 2003, Chief Judge Howell served on the staff and as general counsel of the United States Senate Committee on the Judiciary. Following her service on the Judiciary Committee, Chief Judge Howell also worked, from 2003 until 2009, as executive managing director and general counsel of a cybersecurity and digital forensics consulting and technical services firm, for which she headed the largest regional office in Washington, D.C. During her tenure at the firm, Chief Judge Howell was awarded a Director’s Award by the Director of the Federal Bureau of Investigation for her “valuable contributions” to the successful investigation and prosecution of a cyber-extortion case. Among her



other awards, Chief Judge Howell has been inducted into the National Freedom of Information Act Hall of Fame and is the recipient of the 2004 First Amendment Award by the Society of Professional Journalists. Chief Judge Howell has taught Legal Ethics as an adjunct professor at American University's Washington College of Law, and is a member of the American Law Institute. She currently serves as a member of the Judicial Conference of the United States and previously served, from October 2013 until March 2016, as a member of the Judicial Conference Committee on Information Technology.

**Krista Boyd** is currently the General Counsel for Chairman Elijah Cummings on the House Committee on Oversight and Reform. Ms. Boyd's primary oversight and legislative responsibilities include issues related to transparency, ethics laws, and whistleblower protections. Ms. Boyd has been with the Committee for 16 years. She previously served as Counsel for United States Senator Max Cleland. She is a graduate of Emory University School of Law and Florida State University.

**Judge Lydia Kay Griggsby** was appointed Judge of the United States Court of Federal Claims on December 5, 2014. Prior to her appointment, Judge Griggsby served as the Chief Counsel for Privacy and Information Policy for the Senate Judiciary Committee, a position to which she was appointed by Senator Patrick Leahy in 2009. From 2004 to 2008, Judge Griggsby served as Privacy Counsel for the Senate Judiciary Committee. During her tenure on the Committee, Judge Griggsby was the lead Senate counsel on several pieces of legislation enacted by Congress to reform the Freedom of Information Act, including the OPEN Government Act of 2007 and the OPEN FOIA Act of 2009. In 2004, Judge Griggsby was appointed counsel to the Senate Select Committee on Ethics. Prior to this appointment, she served six years as an Assistant United States Attorney with the United States Attorney's Office for the District of Columbia from 1998 to 2004. Between 1995 and 1998, Judge Griggsby was a trial attorney with the Civil Division of the United States Department of Justice, where she litigated complex civil matters before the United States Court of Federal Claims and the United States Court of Appeals for the Federal Circuit. Prior to her appointment to the Department of Justice, Judge Griggsby was an associate with the law firm of DLA Piper, LLP. Judge Griggsby has appeared frequently at national conferences to speak on issues related to government transparency, cybersecurity, and privacy in the digital age. A native of Baltimore, Maryland, Judge Griggsby earned a J.D. from Georgetown University Law Center and a B.A. in public policy political science from the University of Pennsylvania.

**Miriam Nisbet** has had a long and distinguished career as a devoted public servant who has dedicated her entire professional life to working for open access to government records from the perspective of both the Federal government and non-governmental institutions, as well as the international community. In 2009, Ms. Nisbet was appointed as the first Director of the Office of Government Information Services (OGIS), a position she held until her retirement in 2014. From 2007 to 2009, Ms. Nisbet served as the director of the Information Society Division of the United Nations Educational Scientific and Cultural Organization (UNESCO) in Paris, France. Prior to her UNESCO appointment, Ms. Nisbet was the legislative counsel at the American Library Association



where she was responsible for intellectual property issues raised by the digital information environment. Earlier in her career, Ms. Nisbet served as the Special Counsel for Information Policy at the National Archives and Records Administration, advising on legal issues concerning the Federal Records Act, the Presidential Records Act, FOIA and the Privacy Act. In 1982, Ms. Nisbet was appointed Deputy Director of the then Office Information and Privacy at the U.S. Department of Justice (DOJ), where she was responsible for final action on whether DOJ records could be opened under the FOIA and the Privacy Act, and provided training and guidance on FOIA interpretation, policy and administration. She has been inducted into the National Freedom of Information Act Hall of Fame. Ms. Nisbet is a graduate of the University of North Carolina, Chapel Hill and was awarded a J.D. from the University of North Carolina School of Law.

**Alina M. Semo** was appointed by Archivist of the United States David S. Ferriero as the third Director of the Office of Government Information Services (OGIS) in 2016. She serves as the Chair of the FOIA Advisory Committee and as Co-Chair of the Chief FOIA Officers Council. Previously, Ms. Semo served as the Director of Litigation in the Office of General Counsel at the National Archives and Records Administration (NARA), and worked closely with FOIA professionals across NARA to respond to FOIA requests and appeals. She provided frequent legal advice to ensure consistent agency responses, and helped rewrite the NARA's FOIA regulations. Before joining NARA, Ms. Semo led the FOIA Litigation Unit in the Federal Bureau of Investigation (FBI) Office of the General Counsel. She worked closely with her FBI FOIA clients to restructure, streamline and improve administrative and litigation processes, establish litigation tracking systems, and provide legal guidance on significant FBI FOIA policies. Prior to her time as an Associate General Counsel at the FBI, Ms. Semo was a trial attorney and senior counsel in the Federal Programs Branch of the Civil Division at the U.S. Department of Justice. Among other complex civil litigation matters that she handled, Ms. Semo represented NARA in complex litigation and mediation which ultimately resulted in the agreement to release the White House tape recordings of President Richard M. Nixon. Ms. Semo holds a B.A., *cum laude*, in Government and Politics from the University of Maryland, College Park, and a J.D. from Georgetown University Law School.

**Thomas M. Susman** is the Director of the Governmental Affairs Office of the American Bar Association (ABA), a position he has held since 2008. He joined the ABA after 27 years as a partner in the law firm of Ropes & Gray. Before that, he was Chief Counsel to the Senate Subcommittee on Administrative Practice and Procedure and held other government positions. Mr. Susman's involvement with FOIA began when, as a member of the U.S. Department of Justice in 1968, he advised federal agencies regarding the new law. In his Senate position, he was the principal staff lawyer for the enactment of the 1974 FOIA Amendments. At Ropes & Gray, he handled many FOIA-related litigations and regulatory matters, including the work that resulted in the issuance of President Reagan's Executive Order requiring agencies to give notice to submitters before releasing confidential business information. At the ABA, he has continued his leading role in addressing FOIA matters. He is Founding President and a Board Member of the D.C. Open Government Coalition; on the Board of the National Freedom of Information Coalition; on the Steering



Committee of OpenTheGovernment, has served on many other relevant boards and has been inducted into the National Freedom of Information Act Hall of Fame. Mr. Susman has often testified, addressed conferences and taught on FOIA and related subjects, Mr. Susman holds a B.A. from Yale University and a J.D. from the University of Texas School of Law.

**Laurence Brewer** was appointed as the Chief Records Officer for the U.S. Government by Archivist of the United States David S. Ferriero in 2016. As the Chief Records Officer, Mr. Brewer leads records management throughout the Federal government with an emphasis on electronic records. He provides overall direction and guidance for Federal agencies on all aspects of records and information management. This includes overseeing the scheduling and appraisal of Federal records, the development of records management regulations and guidance, and evaluating the effectiveness of records management programs in Federal agencies. Prior to his current appointment, Mr. Brewer held a number of positions in the records management program at the National Archives and Records Administration (NARA), including management positions working directly with Federal agencies to improve records management government-wide. Most recently, he directed the National Records Management Program, coordinating the activities of headquarters and field records management staff in support of NARA's overall strategic plan. Prior to joining NARA in 1999, Mr. Brewer was a records management consultant responsible for managing records management programs at the Environmental Protection Agency and the Virginia Department of Transportation. He has more than 25 years of experience in records and information management and earned his Certified Records Manager (CRM) designation in 1998. Mr. Brewer is also a senior fellow of the Partnership for Public Service's Excellence in Government Program, which focuses on developing the leadership skills of senior government employees. He holds an M.A. in Political Science from the University of Georgia, and a B.A. in Government from the College of William and Mary.

**Courtney Anderson** joined the National Archives and Records Administration (NARA) in 2015 as an Electronic Records Policy Analyst on the Records Management Policy and Program Support Team. At NARA, Ms. Anderson serves as the project lead for the Federal Electronic Records Modernization Initiative (FERMI), NARA's effort to develop a comprehensive Government-wide strategy for procuring records management services and solutions. Prior to joining NARA, she worked for eight years as a Management Analyst at the U.S. Government Accountability Office Records and Privacy Program, where she supported the implementation of a Capstone approach to email management and an agency-wide electronic records management system. Ms. Anderson has been working in the field of government records and information management for over 10 years. She is a senior fellow of the Partnership for Public Service's Excellence in Government Program, which focuses on developing the leadership skills of senior government employees. She earned her Master's in Library Science (MLS) from the University of Maryland, and currently serves as the Director of Education of the Metro Maryland Association of Records Managers & Administrators (ARMA) Chapter.



**Jonathan M. Redgrave** has extensive experience in all areas of complex litigation in both state and federal courts and focuses his practice in the areas of information law, which include electronic discovery, records and information management, and data protection and privacy issues. He has authored, co-authored, and edited numerous publications, including serving as Editor-in-Chief of "The Sedona Principles," 14 principles for the treatment of electronic data, and speaks around the world on topics including cross-border discovery, information governance, privacy, data security, and emerging technologies. Mr. Redgrave helped found, was the first Chair of, and is currently Chair Emeritus of The Sedona Conference Working Group on Electronic Document Retention and Production (WG1). He also serves on the Advisory Board of The Sedona Conference. Mr. Redgrave serves on the Georgetown University Law School eDiscovery Institute Advisory Board and was previously a co-chair of the institute. He has served on the Advisory Committee on the Electronic Records Archives for the National Archives and Records Administration (NARA) and is a member of the International Association of Privacy Professionals (IAPP) along with several other trade and bar associations. Mr. Redgrave received his J.D., *cum laude*, from the University of Minnesota Law School, a B.A., *cum laude*, from the University of Notre Dame, and he is admitted to practice in the District of Columbia, Virginia, and Minnesota.

**Jason R. Baron** is an internationally recognized speaker and author on the preservation of electronic documents. As Of Counsel in Drinker, Biddle & Reath LLP's Information Governance and eDiscovery Group in Washington, D.C., Mr. Baron's legal practice consists of creative problem-solving for clients with issues involving the management of records and information, including meeting their e-discovery and compliance obligations. Mr. Baron previously served as the first appointed Director of Litigation for the National Archives and Records Administration (NARA), where he led the administration's efforts to provide responsive White House email and other records in the massive *U.S. v. Philip Morris* RICO lawsuit, and assisted in the defense of lawsuits filed against the Archivist of the United States under the Freedom of Information Act (FOIA), Federal Records Act, and Presidential Records Act in a wide variety of high-profile cases. As a trial lawyer and senior counsel for the U.S. Department of Justice DOJ, he appeared as counsel of record in landmark cases involving the preservation of White House email, statistical adjustment of the U.S. census, and early attempts to regulate the internet. Mr. Baron holds a B.A. from Wesleyan University and a J.D. from Boston University School of Law.



## Special Guests

**Senator John Cornyn (R-TX)** was first elected to the United States Senate on November 5, 2002, and is currently serving his third term after being reelected in 2008 and 2014. Senator Cornyn serves on the Senate Finance, Intelligence, and Judiciary Committees. From 2013 until 2018, Senator Cornyn was chosen by his colleagues to serve as the Majority Whip, the second-highest ranking position in the Senate Republican Conference. A San Antonio native, Senator Cornyn has served the people of Texas for the last three decades, as a state district judge, a member of the Texas Supreme Court and as Texas Attorney General, before representing the Lone Star State in the U.S. Senate. He received his undergraduate degree from Trinity University, his law degree from St. Mary's School of Law, and his LLM from the University of Virginia Law School.

**Senator Patrick Leahy (D-VT)** was elected to the United States Senate in 1974 and remains the only Democrat elected to this office from Vermont. At 34, he was the youngest U.S. Senator ever to be elected from the Green Mountain State. Senator Leahy was born in Montpelier and grew up across from the State House. A graduate of Saint Michael's College in Colchester (1961), he received his J.D. from Georgetown University Law Center (1964). He served for eight years as State's Attorney in Chittenden County where he gained a national reputation for his law enforcement activities and was selected as one of three outstanding prosecutors in the United States in 1974. Senator Leahy has been the Senate's leading champion of open government and of the Freedom of Information Act (FOIA), and in 1996 was installed as a Charter Member in the National FOIA Hall of Fame in recognition of his efforts. Senator Leahy is the Vice Chair of the Senate Appropriations Committee. He is the senior-most member of the Senate Judiciary Committee and of the Senate Agriculture Committee. Senator Leahy is the Ranking Member of the Appropriations Subcommittee on State Department, Foreign Operations and Related Programs. He ranks first in seniority in the Senate.

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In 2005, the Project On Government Oversight, a government watchdog group, presented **Senator John Cornyn** and **Senator Patrick Leahy** with its first ever Bi-Partisan Leadership Award in honor of their cooperation on, and dedication to, issues of government oversight and transparency, including their co-sponsorship of the OPEN Government Act of 2005. Senator Cornyn and Senator Leahy were both instrumental in introducing and guiding to passage the OPEN Government Act of 2007, which implemented a number of Freedom of Information Act (FOIA) reforms, and created the Office of Government Information Services.





# FOIA Ombudsman

## 2019 REPORT ON FISCAL YEAR 2018

This year—2019—the Office of Government Information Services (OGIS) celebrates 10 years as the Freedom of Information Act (FOIA) Ombudsman. From the day we opened in September 2009, we have presented an alternative to the historical solution of litigation to resolve FOIA disputes. Today, we are fully woven into the FOIA process as an advocate for a fair process for requesters and agencies.

Fiscal Year 2018 was our busiest yet. We

- Handled 4,681 requests for assistance—from FOIA requesters and agencies alike.
- Responded to our 15,000th request since opening.
- Published five assessments—two of agency FOIA programs; two resulting from FOIA questions asked in the government-wide Records Management Self-Assessment; and one FOIA issue assessment.
- Led the second two-year term of the FOIA Advisory Committee to make seven recommendations to the Archivist of the United States, one of which resulted in the OGIS legislative recommendation— that Congress pass legislation to provide agencies with sufficient resources to comply with the requirements of both the FOIA and Section 508 of the Rehabilitation Act, as amended, particularly with regard to proactive posting of large numbers of records.
- Launched the 2018-2020 term of the FOIA Advisory Committee which established three areas of focus for its two-year term that resulted in the following subcommittees: Records Management, Time/Volume, and Vision of FOIA.
- Released our first advisory opinion (on agency communication with requesters).
- Published our first FOIA Ombuds Observer (on navigating FOIA to access immigration records).



Read our full report: <https://www.archives.gov/ogis/about-ogis/annual-reports>



## OGIS @ 10 HIGHLIGHTS

### 2007

- Openness Promotes Effectiveness in our National (OPEN) Government Act of 2007 signed into law by President George W. Bush—establishes Office of Government Information Services (OGIS)

### 2009

- NARA opens OGIS as the Federal FOIA Ombudsman
- Miriam Nisbet appointed as first Director

### 2010

- OGIS staff increases to seven and holds its first dispute resolution training session
- OGIS opens its 500<sup>th</sup> case and submits its first comments on agency FOIA regulations

### 2011

- OGIS launches its blog—*The FOIA Ombudsman: Information and Advice*
- OGIS moves from its original NARA at College Park location to 800 N. Capitol Street, N.W. in Washington, D.C.

### 2012

- OGIS makes five recommendations for improving FOIA process and opens its 1,000<sup>th</sup> case

### 2013

- OGIS makes four recommendations for improving FOIA process, including implementing dispute resolution for FOIA conflicts and opens its 1,500<sup>th</sup> case

### 2014

- OGIS establishes Compliance Team to review agency FOIA policies, procedures and compliance
- OGIS makes two recommendations for improving FOIA process, including ensuring that FOIA requirements are incorporated into new agency technology purchases
- NARA establishes FOIA Advisory Committee as part of Second U.S. Open Government National Action Plan



## OGIS @ 10 HIGHLIGHTS

### 2015

- James V.M.L. Holzer appointed second OGIS Director
- OGIS trains 600th attendee of Dispute Resolution for FOIA Professionals

### 2016

- FOIA Improvement Act of 2016 signed into law, providing requesters with expanded opportunities to seek dispute resolution from FOIA Public Liaisons and OGIS
- Based on recommendations from the FOIA Advisory Committee, the Archivist asks the Office of Management and Budget (OMB) to revise its 1987 FOIA fee guidance to reflect technological changes and to clarify fee issues
- Chief FOIA Officers Council, established in the FOIA Improvement Act of 2016 meets for the first time
- Alina M. Semo appointed third OGIS Director

### 2017

- OGIS completes 10<sup>th</sup> agency assessment of FOIA program and holds first Annual Open Meeting
- OGIS teams with NARA records management colleagues to participate in Records Management Self-Assessment survey
- OGIS moves to its new home in the Government Publishing Office building

### 2018

- OGIS opens its 15,000<sup>th</sup> case
- OGIS issues its first Advisory Opinion on agency communication with requesters; and issues its first *FOIA Ombuds Observer* on navigating FOIA to access immigration records
- FOIA Advisory Committee issues seven recommendations and 43 best practices for improving FOIA process
- Third term of FOIA Advisory Committee begins and its focus is on records management, time and volume of FOIA requests and vision for better FOIA

### 2019

- OGIS issues Ninth Annual Report and makes one recommendation to Congress regarding competing demands of issue of Section 508 compliance and proactive disclosure