



OFFICE *of* GOVERNMENT  
INFORMATION SERVICES

# Freedom of Information Act Advisory Committee

March 20, 2019



# A Snapshot of FOIA Administration

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# OGIS Snapshot

Martha W. Murphy

Deputy Director

Office of Government Information Services



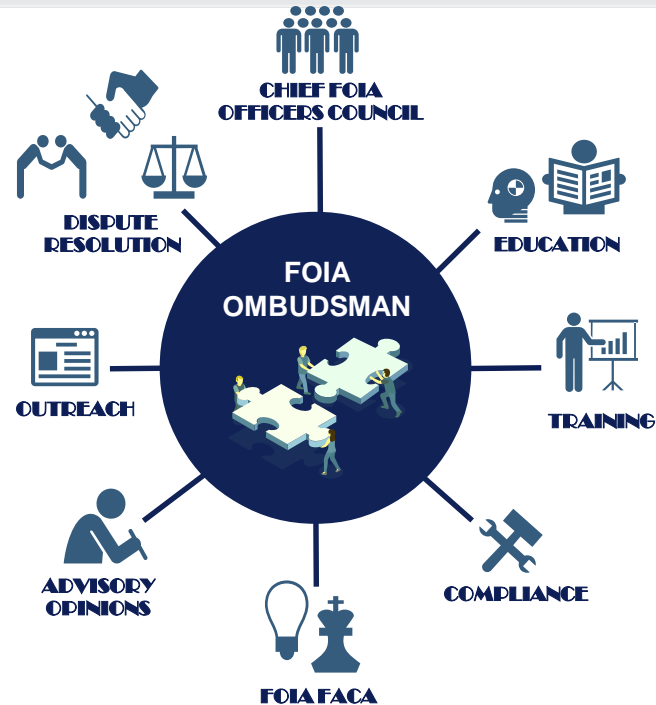
# OGIS Mission

5 U.S.C. §§ 552(h)(1)-(3)

- Provide mediation services to resolve FOIA disputes
- Review agencies' FOIA policies, procedures & compliance
- Identify procedures & methods for improving FOIA compliance

# The FOIA Ombudsman

## Improving the FOIA Process



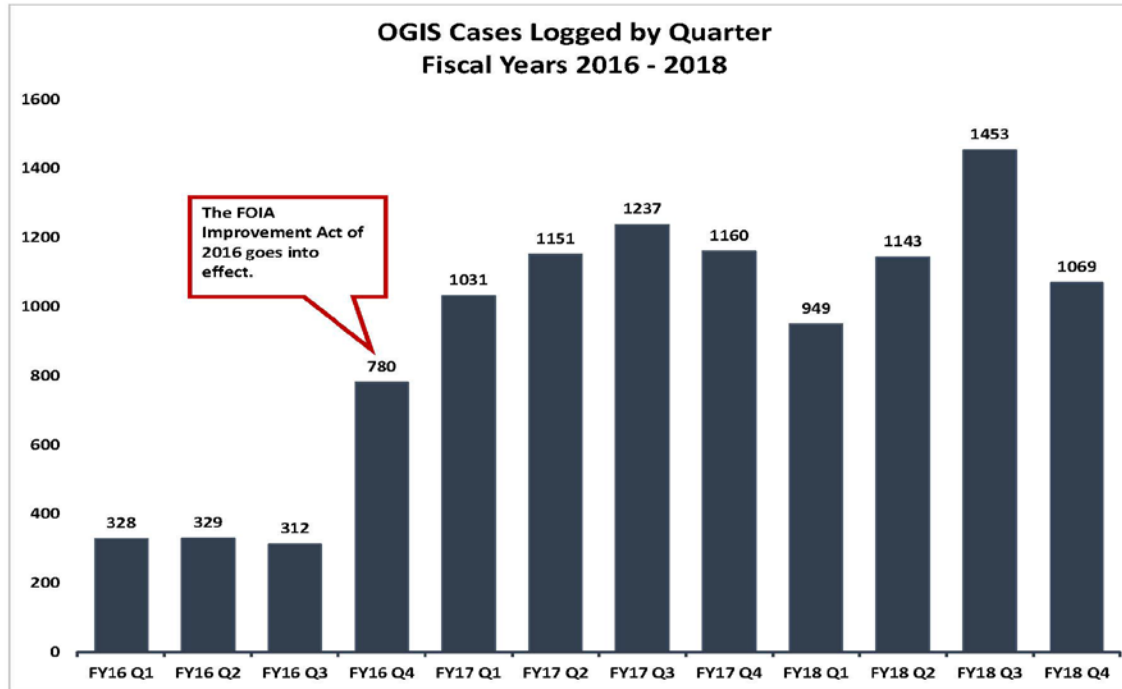


# Dispute Resolution

- Neutral third-party
- Assist agencies & requesters
- Voluntary
- Party-driven
- Goal of preventing litigation

*Advocate for the FOIA process*

# Requests for Assistance







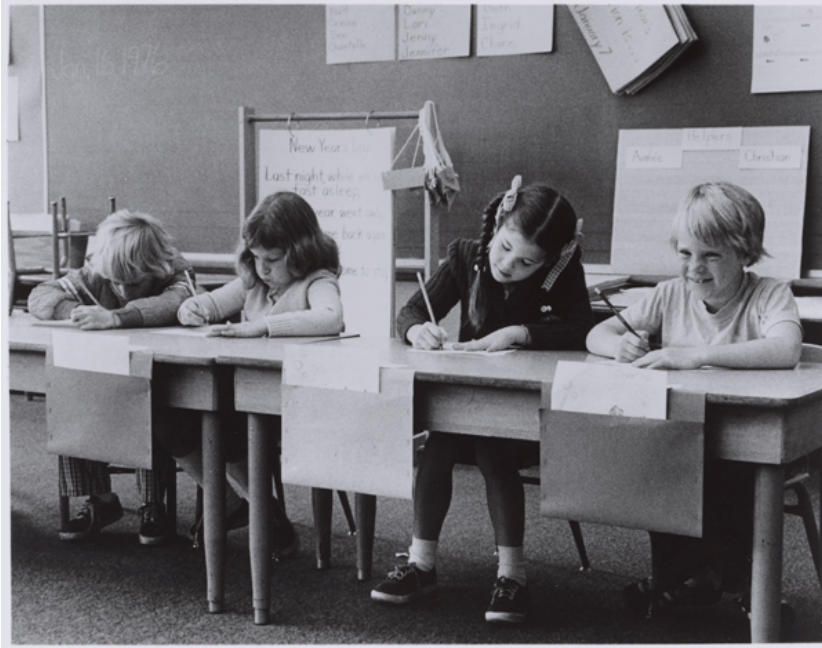
# Compliance

- Agency FOIA assessments
- FOIA issue assessments
- Records Management Self-Assessment
- FOIA regulations review

*Advocate for the FOIA process*



# Dispute Resolution Skills for FOIA Professionals Training



- Host several training sessions each year
- Focus on communication skills
- Registration fills up fast!



# Education & Outreach

- Listen to concerns
- Facilitate better understanding of all viewpoints
- Promote understanding of FOIA process

*Advocate for the FOIA process*



# Education & Outreach

- Ombuds Observer
- Advisory Opinions
- Chief FOIA Officers Council

*Advocate for the FOIA process*



# The FOIA Ombudsman

## Improving the FOIA Process





**QUESTIONS?**





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# Past FOIA Advisory Committee Recommendations Update

Martha W. Murphy

Deputy Director

Office of Government Information Services





# Recommendation #1

Propose that the Chief FOIA Officers (CFO) Council seek to establish a technology subcommittee, in partnership with the CIO Council, to study the utilization & deployment of FOIA technology across agencies & identify best practices & recommendations that can be implemented across agencies

**CFO Technology Subcommittee has been established.**

- **The Committee is looking at new ways to gather information, including a possible survey.**



## Recommendation #2

Request that OIP collect detailed information, as part of each agency's CFO Report, regarding the specific methods & technologies agencies are using to search their electronic records, including email. Potential topics to be covered include agencies' procurement of technology, ability to search email, acquisition of e-discovery tools, & availability of information on agencies' websites that helps requesters understand the agencies' record keeping systems & be better able to submit targeted requests.

**Complete – 2019 CFO Reports will include the answer to the following question:**

*“Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.”*



## Recommendation #3

Suggest a modification to the Federal Acquisition Regulation (FAR) to require all agencies, when acquiring electronic records management software, electronic mail software, & other records-related information technology, to consider features that will help facilitate the agencies' responsibilities under FOIA to provide access to Federal agency records.

**OGIS is working with NARA's FAR Council Representative & NARA's General Counsel staff to draft a business case to submit to the FAR**

**Goal: Spring 2019 – On schedule**



## Recommendation #4

Launch an interagency effort to develop standard requirements for FOIA processing tools, to ensure that both the tools & their outputs are Section 508-compliant

**OGIS anticipates that the work of the Technology Subcommittee of the CFO Council as well as our work on another recommendation writing a business case for including FOIA requirements in the Federal Acquisition Regulation (FAR) will cover some of the goals of this recommendation. In addition, OGIS will continue to work with the current FOIA Advisory Committee for additional input on how to proceed.**



## Recommendation #5

Request that OGIS conduct an assessment of the methods undertaken by agencies to prepare documents for posting on agency FOIA reading rooms.

**Will be addressed by OGIS Compliance Team once we have staff available**

**Goal: Launch in 4<sup>th</sup> quarter FY 2019**



## Recommendation #6

Encourage OGIS to highlight the issues with proactive disclosure and Section 508 compliance in its report to Congress by recommending that legislation be enacted to clarify agency requirements under the Rehabilitation Act, especially as they relate to proactive posting of large numbers of records.

**Complete - Recommendation published in the OGIS Annual Report:**

*OGIS recommends that Congress pass legislation to provide agencies with sufficient resources to comply with the requirements of both FOIA and Section 508 of the Rehabilitation Act of 1973, as amended, especially as they relate to proactive posting of large numbers of records.*



## Recommendation #7

Direct OGIS to examine the use of appropriate performance standards in federal employee appraisal records and work plans to ensure compliance with the requirements of FOIA. The Committee further recommends that OGIS submit the results of its assessment and any recommendations to Congress and the President in accordance with 5 U.S.C. § 552 (h)(5).

**Will be addressed by OGIS Compliance Team once we have staff available**

**Goal: Launch effort in FY 2020**



## FOIA Fees (From 2014-2016 term)

Recommend that the Archivist recommend to the Office of Management and Budget (OMB) that it update its 1987 OMB Guidelines for FOIA Fees. [2016 *Final Report*]

**Complete - The Archivist sent a letter to OMB dated August 26, 2016.**

- **OGIS has been in discussion with OMB to determine the best way forward.**





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