



OFFICE *of* GOVERNMENT
INFORMATION SERVICES

Freedom of Information Act Advisory Committee

December 9, 2021

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



Welcome

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National Archives Identifier 6600730



Welcome

Chat How-to

Chat “Everyone” or “All Presenters”
otherwise the Committee
members/OGIS staff will *not* see your
comments



National Archives Identifier 6600730



Classification Subcommittee

Kristin Ellis

James R. Stocker

Subcommittee Co-Chairpersons



National Archives Identifier 45641639



Classification Subcommittee: Draft Recommendation #1

That OIP issue guidance to government agencies that they use the internationally recognized nomenclature of “neither confirm nor deny” (NCND) to refer to Glomar responses.



Classification Subcommittee: Draft Recommendation #2

That OIP require standardized tracking and reporting procedures for NCND [“neither confirm nor deny”] responses.



Classification Subcommittee: Draft Recommendation #2 (cont'd)

Government agencies should be required to track & report annually:

- The total number of NCND responses issued
- Whether these NCND responses were in whole or in part
- The relevant FOIA exemptions that justify Glomar responses and the number of corresponding cases in which these were used [*e.g.*, (b)(1), (b)(3), (b)(6), (b)(7)(C)]
- The number of NCND responses that have not been affirmed on administrative appeal
- The number of NCND responses that have not been upheld by a court in litigation

DOJ should annually report aggregated data on NCND responses



Classification Subcommittee: Draft Recommendation #3

That government agencies provide information to requesters on their websites regarding circumstances that will likely result in an NCND response, and, where possible, recommendations on how to avoid such a response.



Classification Subcommittee: Draft Recommendation #4

That relevant organization 1) conduct a review of the use & practice of NCND responses across government and 2) formulate a set of recommendations to ensure that these responses are being used in a manner consistent with the goals of the FOIA.

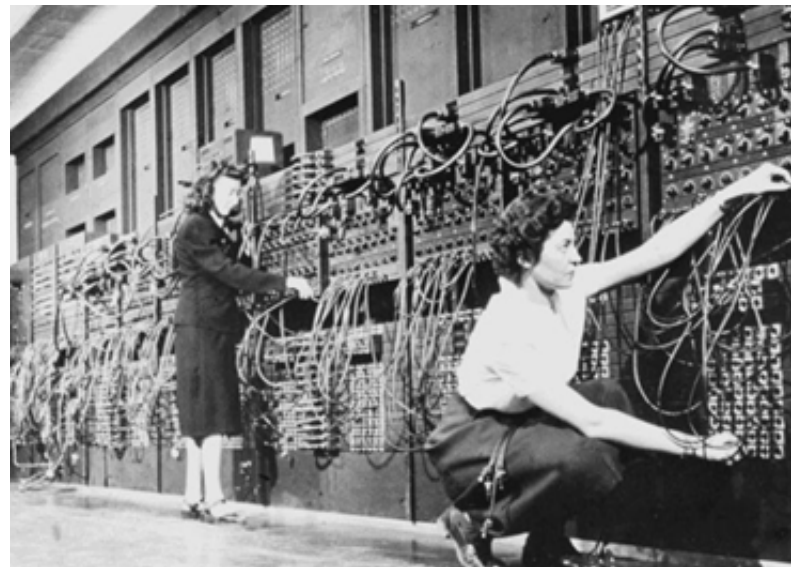


Technology Subcommittee

Allyson Deitrick

Jason Gart

Subcommittee Co-Chairpersons



National Archives Identifier 594262



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FOIA Advisory Committee

is on a break: back soon!

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National Archives Identifier 6656626



Legislation Subcommittee



Patricia Weth

Kel McClanahan

Subcommittee Co-Chairpersons

National Archives Identifier 7820630



Process Subcommittee



Alexis Graves

Michael Morisy

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National Archives Identifier 6011170



Process Subcommittee: Draft Recommendation #1

Records relied on by any agency that affect eligibility for benefits or adversely affects an individual in proceedings should be made automatically available and not require first-person FOIA practice.



Process Subcommittee: Draft Recommendation #2

Records access should not discriminate against *pro se* parties.

[*Pro se* = Latin for “on one’s own behalf.” Anyone who appears before a court without an attorney is considered *pro se*.]



Process Subcommittee: Draft Recommendation #3

Agencies should use technology to leverage their efforts to make first-person agency records more easily accessible outside of FOIA.



Process Subcommittee: Draft Recommendation #4

Agencies that receive frequent first-person requests can benefit from identifying the most commonly requested records and developing processes for processing such records to promote efficiency and good customer service.



Process Subcommittee: Draft Recommendation #5

Agencies that receive frequent first-person requests should consider the costs and benefits of moving to proactive systems for disclosure, such as those modeled by other agencies, such as the IRS and SSA.



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 meeting:

Thursday March 10, 2022

National Archives Identifier 44267671