

# A Snapshot of FOIA Administration: *Examining Recent Trends to Inform Future Research*

Khaldoun AbouAssi, American University  
Tina Nabatchi, Syracuse University

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# Freedom of Information Act (5 U.S.C. § 552)

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- ▶ The law that keeps citizens in the know about their government (McDermott, 2010)
- ▶ FOIA is viewed as a pillar of democratic governance
  - Increases transparency, responsiveness, accountability, trust
  - Reduces corruption & other ethical violations
  - Shapes economic activities
- ▶ Numerous amendments since 1966 reflect ongoing tension between enabling public access to information and protecting government secrecy



# Our Motivation

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- ▶ 50<sup>th</sup> anniversary of FOIA in 2016
  - Lots of legal, political, and normative research
  - Little empirical research
- ▶ What do we know about the administration of FOIA in the U.S. federal government, and what do we need to further investigate?
  - Discover commonalities and anomalies
  - Identify key characteristics
  - Create a benchmark for future scholarly efforts – both empirical and theoretical



# Data and Methods

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- ▶ FOIA portal <https://www.foia.gov>
- ▶ Data
  - 102 federal agencies including cabinet level agencies
  - 2008-2016
  - Collated and analyzed in Excel
- ▶ Limitations
  - Limited time period
  - Descriptive statistics – no casual inference
  - Aggregate –level analyses
  - No data on individual cases



# FOIA Administration

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## Caseload

1. Requests
2. Exemptions
3. Denials
4. Appeals
5. Backlogs

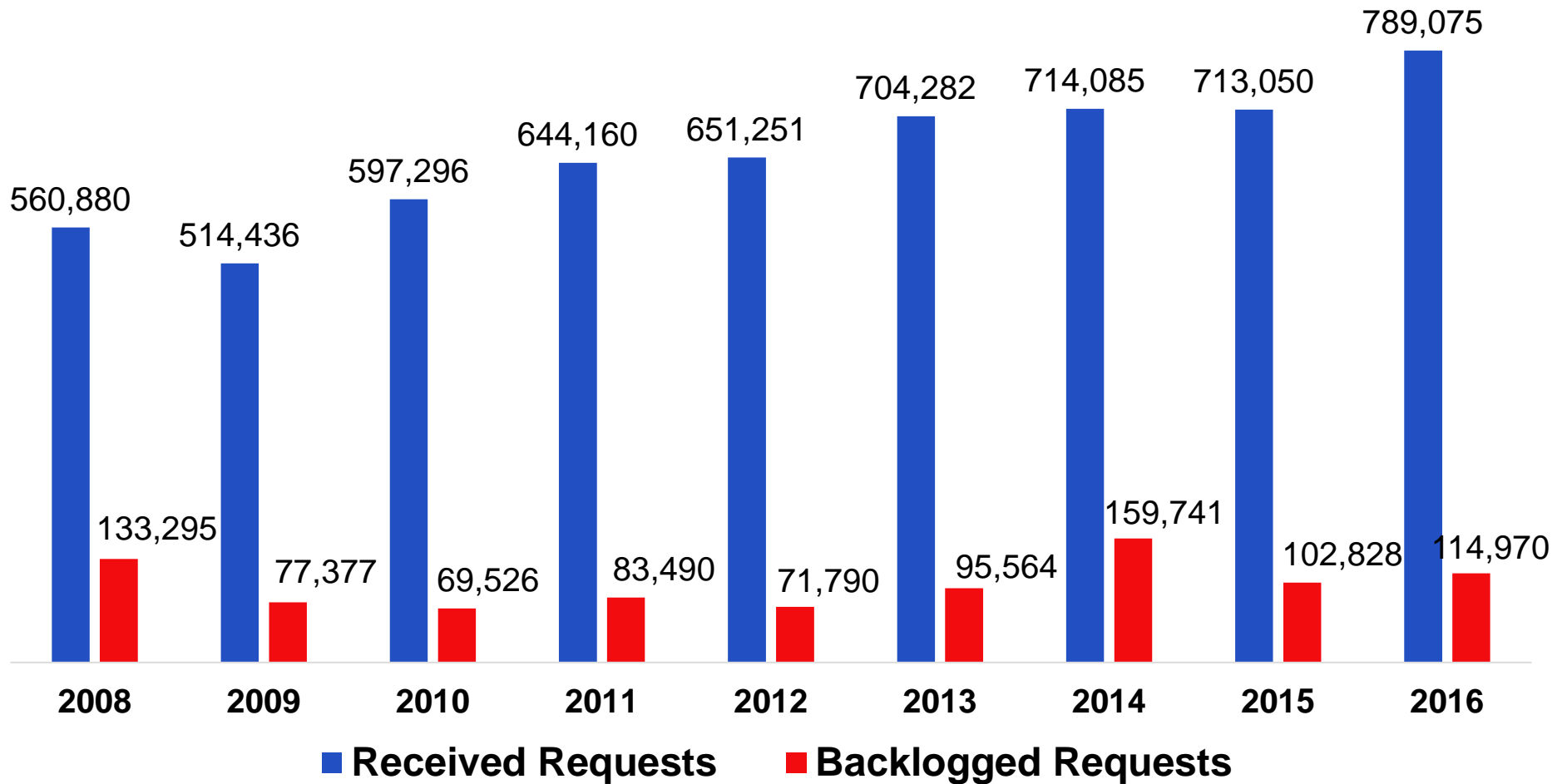
## Management Capacity

1. Staff
2. Financial Costs
3. Processing Times



# Caseload: Requests Received/Backlog

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# Caseload: Top 10 Agencies Receiving Requests

2008	2009	2010	2011	2012	2013	2014	2015	2016
DHS	DHS	DHS	DHS	DHS	DHS	DHS	DHS	DHS
VA	VA	DOD	DOD	DOJ	DOJ	DOJ	DOJ	DOJ
DOD	DOD	HHS	HHS	HHS	DOD	DOD	DOD	DOD
DOJ	DOJ	DOJ	DOJ	DOD	HHS	HHS	HHS	NARA
HHS	HHS	SSA	SSA	SSA	SSA	VA	VA	VA
SSA	SSA	DOS	VA	VA	VA	SSA	DOS	HHS
DOT	DOT	VA	USDA	USDA	USDA	NARA	SSA	SSA
DOL	NARA	USDA	EEOC	EEOC	EEOC	USDA	NARA	DOS
NARA	DOL	DOL	NARA	DOL	DOL	DOS	USDA	USDA
EPA	DOS	DOT	DOL	DOS	DOS	EEOC	EEOC	EEOC

## Top 10 Agencies Receiving FOIA Requests



# Caseload: Requests Granted/Denied

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<b>Year</b>	<b>Fully Granted Requests</b>	<b>Partially Granted/ Denied Requests</b>	<b>Fully Denied Requests</b>
<b>2008</b>	41.6	17.8	40.6
<b>2009</b>	34.6	26.3	39.1
<b>2010</b>	38.0	25.0	37.2
<b>2011</b>	37.5	27.2	35.3
<b>2012</b>	35.1	30.1	31.2
<b>2013</b>	35.0	30.0	35.0
<b>2014</b>	28.0	32.7	39.3
<b>2015</b>	22.6	40.0	37.4
<b>2016</b>	21.0	33.5	45.5

**Status of Requests as Percentages of Total Processed**

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# Caseload: Reasons for Denials

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<b>Reason</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>No Record</b>	1	1	1	1	1	1	1	1	1
<b>Improper Request</b>	2	2	2	2	2	2	3	2	2
<b>Records Referred</b>	3	4	3	3	3	4	5	6	7
<b>Request Withdrawn</b>	4	3	4	4	5	5	6	5	4
<b>Duplicate Request</b>	5	6	7	5	4	3	2	3	3
<b>Not Agency Record</b>	7	7	5	6	6	6	4	4	5
<b>Not Reasonably Described</b>	6	5	6	7	7	7	7	7	6
<b>Fee-Related Reason</b>	8	8	8	8	8	8	8	8	8

**Reasons for Denials- Ranked**

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# Caseload: Observations

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1. A minority of agencies receive a majority of FOIA requests & appeals; handle a majority of the backlog.
2. The nature or purpose of the request and the nature of the work performed by the agency are important variables.
3. Denials relate to the requester and the application process rather than the agency itself.
4. Caseload is not distributed equally across agencies; important to look at capacity.



# Management Capacity: Staff

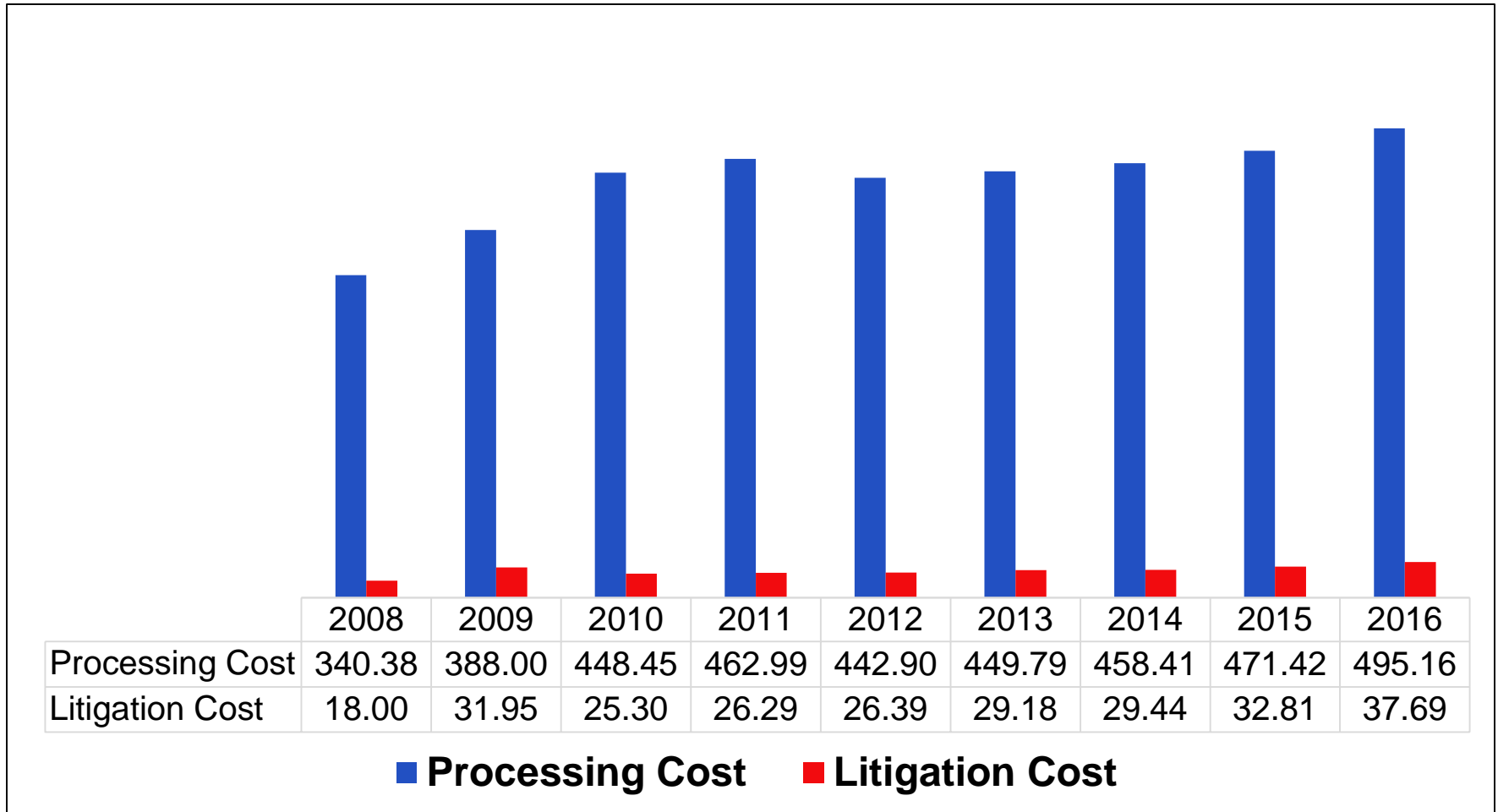
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Year	Ratio Employee : FOIA cases
2008	1 : 174.91
2009	1 : 147.13
2010	1 : 150.89
2011	1 : 148.83
2012	1 : 163.02
2013	1 : 169.98
2014	1 : 189.03
2015	1 : 181.43
2016	1 : 188.59



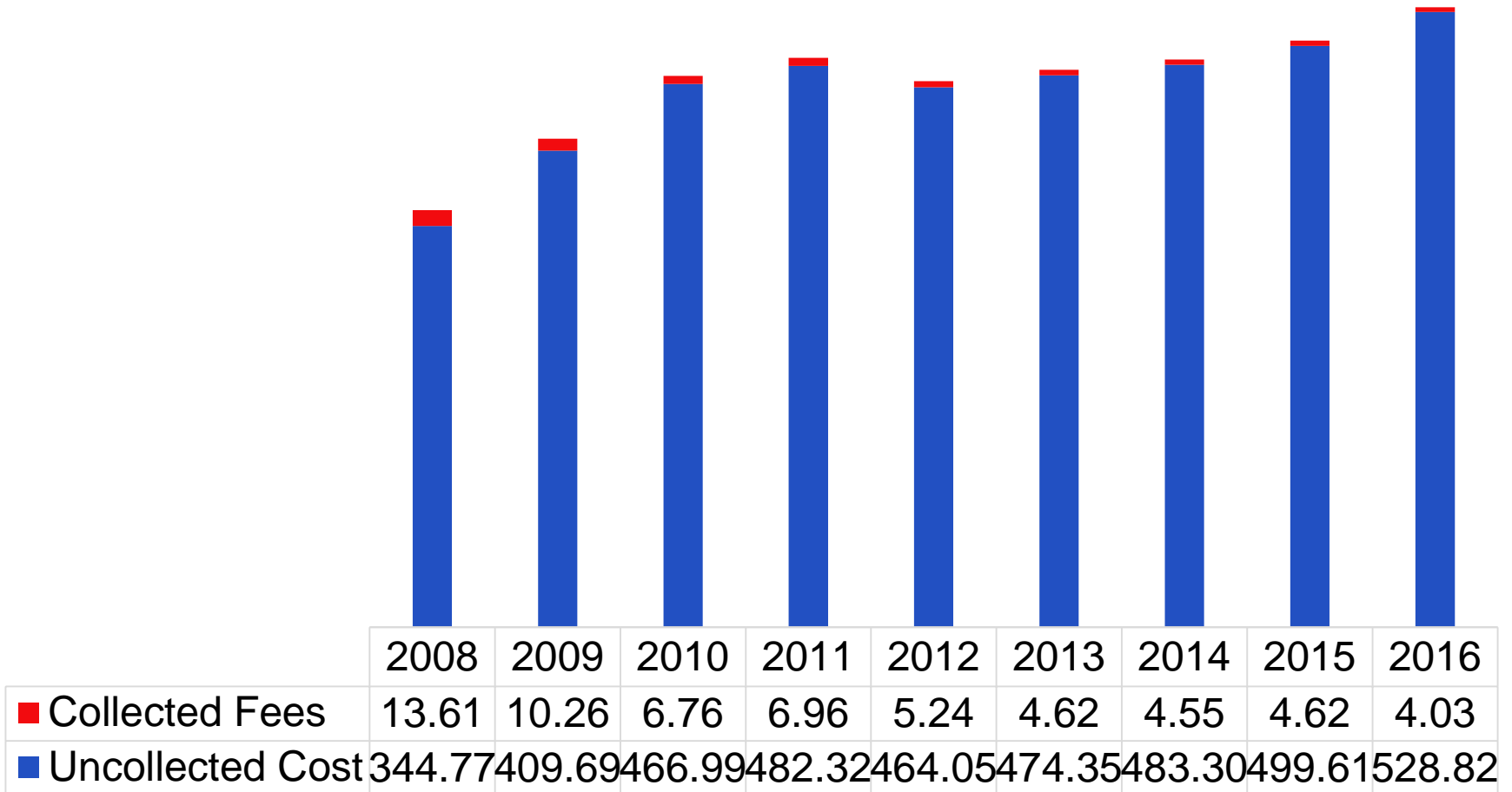
# Management Capacity: Cost

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# Management Capacity: Cost (Fees)

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# Management Capacity: Time

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Year	Simple Requests	Complex Requests
2008	25.83	82.52
2009	27.63	69.32
2010	28.34	118.93
2011	23.65	103.74
2012	22.66	82.35
2013	21.40	123.17
2014	20.51	118.74
2015	23.00	121.80
2016	28.50	90.33

**Average Processing Time in Days**

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# Management Capacity: Observations

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1. The capacity to manage FOIA is not equally distributed across agencies.
2. The relation between number of staff time and FOIA cases is not straightforward.
3. Increases in FOIA costs are unrelated to numbers of agency requests, appeals, and staff.
4. There is a variation in process efficiency overtime, between type of requests.



# Discussion

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- ▶ A lot unaccounted for in these analyses: politics, economics, historical events, etc.
- ▶ Cost and capacity issues – FOIA is not central to agency missions and not reflected in performance measures and budgets.
- ▶ There is a need for more research – both aggregate analysis and in-depth case studies.
- ▶ There is need to continue foia.gov into the future, and to add more historic (i.e., pre-2008) data.





# Baseline for Future Research

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- ▶ FOIA as an administrative obligation, financial burden
- ▶ FOIA as a tool for information, engagement, & advocacy
- ▶ Changes for greater efficiency
- ▶ Examination of process and organizational characteristics



# Future Research

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## Factors Affecting FOIA Administration

<b>Organizational Characteristics</b>	<b>Process Characteristics</b>
Field or Nature of Work Capacity Structure	Type of Requester Purpose of Request Clarity and Complexity of Request Costs of Request Means of Request



# Preliminary Results

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	# of Requests Received	# of FOIA Backlog
# of FT FOIA employees	+	+
Total # FT FOIA staff	+	+
Gross BA (\$mil)	+	
Gross Outlays (\$mil)	+	



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# Thank you

## ***Khaldoun AbouAssi, Ph.D.***

Assistant Professor

Department of Public Administration and Policy

School of Public Affairs, American University

Email: [abouassi@american.edu](mailto:abouassi@american.edu) | Twitter: abouassi

## ***Tina Nabatchi, Ph.D.***

Professor

Department of Public Administration and International Affairs

Maxwell School of Citizenship and Public Affairs

Email: [tnabatch@syr.edu](mailto:tnabatch@syr.edu) | Twitter: nabatchi

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