

Committee request regarding Public Liaisons

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Posted in group: **FOIA Advisory Committee**

I write in response to the Committee's request for feedback on the efficacy of the FOIA Public Liaison role. As an active requester and representative of other requesters, I have interacted with several Public Liaisons in the past several years as I attempt to reach a compromise agreement with an agency to avoid litigation, and my experience has been generally negative, and there is a simple explanation why. Many agencies view the role of the Public Liaison as *solely* explaining to requesters why the agency did what it did, and give the Public Liaisons *zero* authority to change anything. This explanatory purpose does exist, obviously, but the role is broader than that. Requesters are also supposed to be able to approach the Public Liaisons with problems in the way the agency is processing their requests and seek to resolve difficulties in the process, much as they approach OGIS. However, when the only answer the Public Liaison gives is either "appeal it" or "we denied your appeal, so the request is closed," then there is no room to negotiate. (Some Public Liaisons will not even give additional information or explain the agency's reasons; they will just tell a requester to appeal a decision, submit a new request, or file a complaint in U.S. District Court.)

Part of the reason for this problem is undoubtedly the fact that in many agencies, the Public Liaison is *the Chief FOIA Officer*. As in, the person whose name is on the letter you are seeking help with, and who ostensibly approved that letter. Approaching that person, who is generally either directly responsible for or is allowing whatever problems you are having with the agency's processing of your requests, to ask for assistance in resolving said problem is virtually useless. If the Public Liaison's role is to resolve problems in the FOIA process, then he/she should *not be part of the FOIA process*. And even if budgetary and manpower concerns preclude the hiring of a person solely to be a Public Liaison, the person should *not be the one who is causing the problem*. The Public Liaison needs to have a degree of autonomy from the rest of the office. Right now it's sort of like making the Director of an agency also the Inspector General.

I have many more thoughts on this issue but will not include them all here in the interest of space. If anyone on the Committee would like to discuss this matter further with me, I would be happy to.

Kel McClanahan

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"As a general rule, the most successful man in life is the man who has the best information."
Benjamin Disraeli, 1880

"Quis custodiet ipsos custodes?" ("Who watches the watchers?")
Juvenal, Satire VI