

The background of the slide is a stylized American flag. On the left side, there is a vertical strip of the flag's blue field with white stars. The rest of the slide is filled with a pattern of red and white stripes, some of which are slightly blurred or faded to create a sense of depth and movement.

FOIA Advisory Committee December 1, 2022 Meeting Hammond Comments

- **Foreseeable Harm Standard (DOJ will not defend)**
- **Individualized FOIA Tracking Numbers (mandatory)**
- **Agency FOIA Line-Item Budgets**
- **Estimated Completion Dates (mandatory)**
- **OGIS & DOJ OIP Funding**

by

**Robert Hammond, foiacompliance@gmail.com
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Copy to:

**United States Associate Attorney General Vanita Gupta
Attorney General Merrick Garland
'media@usdoj.gov'; '[AskDOJ@usdoj.gov](https://twitter.com/AskDOJ)'**

OUTLINE

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- Hammond Oral Comments Transcript
 - Foreseeable Harm Standard
 - (DOJ will not defend)
 - Individualized FOIA Tracking Numbers (mandatory)
 - Agency FOIA Line-Item Budgets
 - Estimated Completion Dates (mandatory)
 - OGIS & DOJ OIP Funding
- All Panelist Chat Comments
- Hammond Written Public Comments

PREFACE

BEST OPEN FOIA MEETING EVER!
Great Panel Discussion
FOIA Advisory Committee Invites Public Participation
<https://www.youtube.com/watch?v=ALcs0798QBo>

- The Office of Government Services (OGIS) and DOJ Office of Policy (DOJ OIP) turned off the YouTube chat comments depriving members of the public from making contemporaneous comments recorded with the YouTube livestream.
- I have asked the FOIA Advisory Committee to consider changing their Bylaws to require this and other changes to make participation from the public easier and more useful.
- Absent YouTube chat function, I entered some comments in the all-panelist chat, which is not ideal.
- DOJ continues to approve known false annual FOIA reports, and FOIA.gov data is garbage. There is no FOIA compliance oversight by OGIS or DOJ OIP and no mediation whatsoever by OGIS. DOJ and NARA must fund these entities to fulfil their statutory mandates.

TRUTH, transparency, and accountability matter!

MEETING AGENDA

FOIA Advisory Committee Meeting
(Virtual Event) Thursday,
December 1, 2022
10:00 a.m. – 12:30 p.m. ET*

<https://www.archives.gov/ogis/foia-advisory-committee/2022-2024-term/meetings/foiaac-12-1-2022>

| | |
|-------------------|---|
| 10:00 a.m. | Welcome Acting Archivist of the United States Debra Steidel Wall |
| 10:05 a.m. | Welcome and Housekeeping Committee Chair Alina M. Semo |
| 10:15 a.m. | Panel: Complex FOIA Requests and Litigation <ul style="list-style-type: none"> • Ryan Mulvey, Policy Counsel, Americans for Prosperity Foundation • Katie Townsend, Deputy Executive Director and Legal Director, Reporters Committee for Freedom of the Press • Anne Weismann, formerly Chief Counsel, Citizens for Responsibility and Ethics in Washington (CREW) |
| 11:30 a.m. | Break |
| 11:45 a.m. | Subcommittee Reports Implementation Subcommittee , David Cuillier and Catrina Pavlik-Keenan Modernization Subcommittee , Jason R. Baron and Gorka Garcia-Malene Resources Subcommittee , Ginger Quintero-McCall and Paul Chalmers |
| 12:15 p.m. | Public Comment |
| 12:30 p.m. | Closing Remarks and Adjournment Committee Chair Alina M. Semo |

HAMMOND ORAL COMMENTS TRANSCRIPT

Robert Hammond. This is Bob Hammond.

So, life is good, family, new puppy at home, grandkids excited about Christmas. Meanwhile FOIA is on life support and going in the wrong direction due to a complete lack of FOIA compliance oversight by DOJ OIP and OGIS and no mediation whatsoever by OGIS despite their misleading and inaccurate reports to the President and Congress.

Bobby and Alina, please provide full funding figures to this Committee. US Associate Attorney General Vanita Gupta and Acting Archivist Debra Wall please find money now or certain functions should go elsewhere.

Agencies should include FOIA line-item budgets in their annual budgets, which holds agency heads accountable. I've talked to Congress; they're very excited about seeing that. Put it in there and say what you're gonna do with it we'll see if you did it next year.

Without effective oversight, certain agencies engage in massive false FOIA reporting, violations of law and fraud. Annual FOIA reports, their raw data and FOIA.gov data are massively false and unusable for any purpose, including GAO testimony to Congress.

Bobby Talebian, yes or no. No filibuster.

Is it DOJ policy not to defend agencies where no foreseeable harm is articulated, yes or no?

Bobby Talebian. That is in the Agency's guidelines. That is the Department's policy

Robert Hammond. See my multiple public comment presentations on the foreseeable harm standard. I am extremely interested in working with the Committee on this.

Bobby, new subject. Is there any circumstance where an individualized tracking number is not required for a FOIA request that will take more than 20 [ten] days to process? Your website states individualized tracking numbers are mandatory.

Bobby Talebian. Individualized tracking numbers are required for any request that needs that goes beyond it's not responding within 10 days. As a matter of administrator so we ask agencies to provide that they provide a number for each request.

Robert Hammond.

Got it, not ask. It's mandatory and it is in the FOIA statute.

Absent OGIS mediation, costly litigation ensues, and it is on the rise. I have been in court seeking Walter Reed National Military Medical Center's FY 2013 annual FOIA reports for nearly seven years with no end to litigation in sight unless all involved parties reach agreement on the 21st. This includes Walter Reed and Navy BUMED FOIA Officers [that's BUMED] (Judy Bizzell and Della Garcia); Walter Reed's Mail Services Supervisor (Meki Gulley), and DOD's Chief FOIA Officer.

Alina, new subject. Yes or no, no filibuster. Is Navy required to provide me estimated completion dates for my FOIA requests and appeals? Yes or no.

Alina Semo [OGIS Director]. If you have requested an estimated date of completion, yes, the statute requires that the agency provide you an estimated date of completion.

Robert Hammond. Ok. Ms Semo, you unlawfully refused mediation without even contacting Navy and unlawfully directed me to review FOIAonline records in lieu of Navy providing ECDs.

[Moderator muted further comment at three minutes. Below is the remainder of my oral comments.]

Robert Hammond.

Alina, you know that FOIAonline records do not provide ECDs at all and the data is grossly at odds with Navy's annual FOIA reports and raw data. False FOIA reporting. See my public comment, "OGIS and Navy FOIA Fraud. Mediation, ECDs, False FOIA Reporting."

Best FOIA Committee meeting I have yet seen. Awesome panel discussion and Committee reports.

I hope that this Committee will review the issues in my written public comments as well as my constructive recommendations to increase accountability and improve FOIA for everyone. As they taught us at the Naval Academy decades ago and former Defense Secretary Mattis reiterated, integrity matters above all else.

Thank you.

ALL-PANELIST CHAT COMMENTS

from Robert Hammond to all panelists: 9:45 AM

All Subcommittees. I want to help. I will work hard. Please review my public comments with recommendations.

<https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20>

from Robert Hammond to all panelists: 9:45 AM

FOIacompliance@gmail.com

from Robert Hammond to all panelists: 9:46 AM

Please turn on the YouTube Chat function for today's FOIA Advisory Committee Meeting.

from Robert Hammond to all panelists: 9:46 AM

Failing to do so deprives members of the public of the opportunity to contemporaneously participate and have their comments recorded in meeting minutes.

from Robert Hammond to all panelists: 9:46 AM

I have some great thoughts on how to raise money for FOIA improvement initiatives while simultaneously improving FOIA compliance and accountability. More to follow.

from Robert Hammond to all panelists: 9:47 AM

Modernization Sub Committee. Please focus on preserving FOIAonline unique case processing records and FOIA.gov, which is broken – data therein is false, useless.

from Robert Hammond to all panelists: 9:47 AM

Complex Requests. NARA, DOJ & DOD classify all my requests as complex with dates years in the future. This is a ploy to foster records deletion, particularly emails. Email searches are not complex!

from Alexander Howard to everyone: 9:49 AM

I feel confident in saying that parts of my public comments in past year could have been summarized as "blah blah blah."

from Robert Hammond to all panelists: 9:49 AM

OGIS & DOJ OIP .Please include my panelist chat comments in meeting minutes. Thx.

from Robert Hammond to all panelists: 9:53 AM

Modernization Sub Committee. I have decades of experience in developing functional requirements, system development, contracting, and sustainment for complex Major Automated Information Systems (MAIS).

from Robert Hammond to all panelists: 10:01 AM

Please consider my public comment, 2022- 2024 FOIA Advisory Committee Bylaws - Recommended Changes

from Robert Hammond to all panelists: 10:06 AM

OGIS has not engaged in formal mediation in years. OGIS pls provide # of formal mediations in last two years to FOIA AC.

from Robert Hammond to all panelists: 10:08 AM

In all recommendations involving OGIS and DOJ OIP, recommend what is right. Add a statement that NARA and DOJ must provide funding for execution.

from Event Producer (privately): 10:10 AM

for audio issues, please log out of WebEx and then sign back in OR you can call via regular audio.

from Robert Hammond to all panelists: 10:11 AM

Chat function is part of meeting. Not recording in meeting minutes violates federal law. Federal Advisory Committee Act.

from Robert Hammond to all panelists: 10:12 AM

only 41 watching on YouTube.

from Robert Hammond to all panelists: 10:14 AM

Oral public comments should allow full 15 minutes. Allow member of the public to call back after 3 min to use remaining time.

from Event Producer to all attendees: 10:15 AM

IF anyone has any audio issues, please log out of WebEx and then sign back in OR you can call via regular audio.

from Robert Hammond to all panelists: 10:17 AM

Ryan Mulvey, Katie Townsend,, Anne Weismann,. I will contact you separately. You may reach me at FOIAcompliance@gmail.com, @FOIAcompliance on Twitter.

from Robert Hammond to all panelists: 10:20 AM

Recommendation. Require Agencies to include FOIA line item in their annual budgets and state what they will do with the funds, IT, AI, more staff, improve staff grades and training..

from Robert Hammond to all panelists: 10:20 AM

Include preempted still interested in your request.

from Robert Hammond to all panelists: 10:22 AM

Change unusual circumstances. Requirement to search for records not local is meaningless in today's IT world.

from Kirsten Mitchell to all attendees: 10:22 AM

ODNI = Office of the Director of National Intelligence

from Robert Hammond to all panelists: 10:23 AM

I work with POGO .May collaborate on litigation.

from Robert Hammond to all panelists: 10:26 AM

Absent OGIS mediation, costly litigation ensues, and it is on the rise. I have been in court seeking Walter Reed's FY 2013 annual FOIA reports for nearly seven years with no end to litigation in sight

from Robert Hammond to all panelists: 10:28 AM

DOJ policy is not to defend agencies where no foreseeable harm is articulated,

from Robert Hammond to all panelists: 10:29 AM

complete lack of FOIA compliance oversight by DOJ OIP and OGIS and no mediation whatsoever by OGIS despite what their inaccurate reports to the President and Congress infer.

from Robert Hammond to all panelists: 10:30 AM

Bobby and Alina, please provide full funding figures to this Committee. US Associate Attorney General Vanita Gupta and Acting Archivist Debra Wall please find money now or certain functions should go elsewhere

from Robert Hammond to all panelists: 10:36 AM

DOJ policy not to defend agencies where no foreseeable harm is articulated,

from Robert Hammond to all panelists: 10:38 AM

See my multiple public comment presentations on the foreseeable harm standard.

from Robert Hammond to all panelists: 10:41 AM

<https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20>

from Robert Hammond to all panelists: 10:41 AM

BEST FOIA AC MEETING EVER!

from Robert Hammond to all panelists: 10:43 AM

DOJ OIP Improperly assists federal agencies in litigation,. Conflict of interest with DOJ OIP compliance oversight. March 2022 testimony to Senate Judiciary.

from Robert Hammond to all panelists: 10:48 AM

“records”— (A) includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or

appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them;

from Robert Hammond to all panelists: 10:49 AM

44 U.S. Code § 3301

from Robert Hammond to all panelists: 10:51 AM

cite 44 U.S. Code § 3301 on your FOIA request. See my public comment. 8 Sample FOIA Template to Combat Agency Misconduct 20220616.

from Robert Hammond to all panelists: 10:52 AM

I have great thoughts/recommendations on litigation. More to follow.

from Robert Hammond to all panelists: 10:54 AM

Question. Bobby [Talebian], yes or no. No filibuster.

Is it DOJ policy not to defend agencies where no foreseeable harm is articulated, yes or no?

from Robert Hammond to all panelists: 10:59 AM

See my public comment, FOIA Line-Item Budgets Now. Let the citizens be heard. Retire FOIA Bob.

from Robert Hammond to all panelists: 11:00 AM

Need GAO audits of FOIA compliance and massively false reporting.

from Alexander Howard to everyone: 11:03 AM

I have a Q

from Robert Hammond to all panelists: 11:04 AM

of FOIA compliance oversight by DOJ OIP and OGIS and no mediation whatsoever by OGIS despite what their inaccurate reports to the President and Congress infer.

from Robert Hammond to all panelists: 11:04 AM

Bobby and Alina, please provide full funding figures to this Committee. US Associate Attorney General Vanita Gupta and Acting Archivist Debra Wall please find money now or certain functions should go elsewhere.

from Robert Hammond to all panelists: 11:11 AM

Line Items for FOIA in Agency Budgets will fix this.

from Robert Hammond to all panelists: 11:13 AM

Problem is agency leadership who benefit from withholding records. Ask for FOIA processing records to **see where the delay is.**

from Robert Hammond to all panelists: 11:15 AM

Move FOIA and RM under Information Systems in the Agency. That is where the records are. **Talk to Defense Logistics Agency. 2 days for simple FOIA request.**

from Robert Hammond to all panelists: 11:19 AM

Require Senior leadership participation by name in annual FOIA reports and require them to have FOIA critical elements in their performance plans.

from Robert Hammond to all panelists: 11:21 AM

https://www.huffpost.com/entry/us-navy-email-foia_n_4564068 U.S. Navy Mistakenly Emails Reporter Plans To Dodge FOIA Requests

from Robert Hammond to all panelists: 11:22 AM

Move RM and FOIA into IT, they will develop RM plans to store electronic records.

from Robert Hammond to all panelists: 11:24 AM

Include my Public comments in meeting minutes. YouTube chat is disabled, so panelist comments must be preserved and included in meeting minutes.

from Robert Hammond to all panelists: 11:24 AM

OGIS mediation would solve backlogs and litigation.

from Robert Hammond to all panelists: 11:29 AM

Agencies must open their FOIA portals, such as FOAI.gov, but most shield all requests from public view. NARA, NAVY, etc.

from Robert Hammond to all panelists: 11:29 AM

FOIAonline.gov portal.

from Robert Hammond to all panelists: 11:34 AM

Navy stated in 2013 FOIA report that they developed a backlog reduction plan. After FOIA, stated they had not done so and allocated funding, potentially in violation of contract law and Anti Deficiency Act crossing fiscal years. Navy refuses to release those records.

from Robert Hammond to all panelists: 11:34 AM

violation

from Robert Hammond to all panelists: 11:36 AM

Complex request - release records incrementally. DOJ OIP owes me records from years ago.

from Robert Hammond to all panelists: 11:36 AM

Foreseeable harm must articulate the harm and it cannot be speculative.

from Robert Hammond to all panelists: 11:37 AM

stating they have considered standard is nonsense. Must articulate the harm.

from Robert Hammond to all panelists: 11:38 AM

Must articulate in determination letters. Can't wait for court to do this.

from Alexander Howard to everyone: 11:40 AM

I'm good with that; love to hear what Jason & Tom ask & the answers!

from Alexander Howard to everyone: 11:41 AM

Link confirming what Ryan said about the history going back to Reno
<https://sgp.fas.org/clinton/reno.html>

from Robert Hammond to all panelists: 11:43 AM

DOD falsely claims appeal communication records are B5, attorney client. FOIA AC, pls address this. I have records.

from Robert Hammond to all panelists: 11:44 AM

rolling records release in complex requests

from Robert Hammond to all panelists: 11:50 AM

I would love to participate in any future panel as a private citizen requester and litigant, including pro se.

from Robert Hammond to all panelists: 11:51 AM

Move RM and FOIA into IT, who will develop electronic records plans and auto archiving.

from Robert Hammond to all panelists: 11:56 AM

If private email is used, sender/receiver must forward to official work account, Per defense Logistics Agency policy. FOI AC, investigate.

from Robert Hammond to all panelists: 11:58 AM

OGIS needs funding, which NARA refuses to provide. Move OGIS directly under Congress.

from Robert Hammond to all panelists: 11:59 AM

If the issue is FOAI compliance submit compliance inquiry to DOJ OIP.

from Robert Hammond to all panelists: 12:03 PM

Happy to participate in working groups. I will work hard.

from Kirsten Mitchell to everyone: 12:06 PM

Both assessments – agency FOIA websites and FOIA in agency performance plans - are available here:

<https://www.archives.gov/ogis/foia-compliance-program>

from Robert Hammond to all panelists: 12:07 PM

Dashboard is materially inaccurate wrt requirement for agencies to proactively post their FOIA logs.

I will help with resources. 45 yrs. Govt. Also, financial management.

from Alexander Howard to everyone: 12:19 PM

I might suggest cultural change might be a priority or mission for the entire committee.

from Robert Hammond to all panelists: 12:19 PM

ORAL Public comments now

from Robert Hammond to all panelists: 12:20 PM

15 min

from Robert Hammond to all panelists: 12:20 PM

should not use oral comments time for other matters.

from Robert Hammond to all panelists: 12:22 PM

ORAL PUBLIC COMMENTS!!!

from Robert Hammond to all panelists: 12:23 PM

ORAL PUBLIC COMMENTS!!!

from Robert Hammond to all panelists: 12:24 PM

CHAT is not oral public comments.

HAMMOND WRITTEN PUBLIC COMMENTS

| # | Hammond Public Comments. Document Cloud Alphabetical (25 per page on web, not alphabetical) https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 |
|----|---|
| 1 | 2022- 2024 FOIA Advisory Committee Bylaws - Recommended Changes |
| 2 | 2022- 2024 FOIA Advisory Committee Inaugural Meeting. DOJ OIP OGIS Grossly Underfunded |
| 3 | All Panelist Chat to June 9 2022 FOIA Advisory Committee Meeting. OGIS DOJ Funding + Miss |
| 4 | DOD FOIA Misconduct Part IV. FY 2018 Appeals Disappeared + DOJ OIP & OGIS Underfunded, Thus Ineffective |
| 5 | DOD FOIA Misconduct Part V. Navy FY 2018 Appeals Dispositions Bases Not Reported |
| 6 | DOD Massive False FOIA Reporting. Part 1. Letter to SECDEF, Complaint to DOJ OIG |
| 7 | DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse. Updated July 27, 2022 |
| 8 | DOD Massive False Reporting Part III. 5-year Late Acknowledgements Unusual Circumstances Abuse + |
| 9 | DOD' Cites Change to CFR 32 CFR part 286.4 as Unlawful Basis for Omitting OGIS Mediation Rights |
| 10 | DOJ OIP (Inaccurate) CFO Report Assessment 2022 |
| 11 | DOJ OIP Compliance Inquiries |
| 12 | DOJ OIP Improper and Unlawful Standard Glomar Responses With Implicit (b)(1) & (b)(7) |
| 13 | Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter |
| 14 | FOIA Advisory Committee December 1, 2022 Meeting Hammond Comments |
| 15 | FOIA Line-Item Budgets Now. Let the citizens be heard. Retire FOIA Bob. |
| 16 | FOIAonline - Recommended System Changes |
| 17 | Foreseeable Harm Standard Vanita Gupta. November 3, 2022 CFO Meeting |
| 18 | Foreseeable Harm Standard. DOJ OIP Misinformation + Navy Misconduct and Idiocy? |
| 19 | Hammond FOIA Public Comments Posted to Document Cloud |
| 20 | Hammond Questions Comments for September 8 2022 Meeting. OGIS and DOJ OIP Lack of Funding w.attach1 |

| | |
|----|---|
| 21 | Hammond Recommendations and Chat Comments to 4.7.2022 FOIA Advisory Committee Meeting |
| 22 | HOT! Semo OGIS. Budget Numbers do not Comport w. NARA Published Budgets! |
| 23 | Individualized Tracking Numbers. NARA Fraud. hatch Act Violations |
| 24 | Mandatory Right to OGIS Dispute Resolution - OGIS Malfeasance 20220616 |
| 25 | Moot Appellate Determinations |
| 26 | NARA FOIA & Financial Malfeasance \$789,730 + Alteration of Records and Loss of Public Trust |
| 27 | NARA FY 2022 Data Stripped From FOIA.gov |
| 28 | NARA, PLEASE FUND OGIS!! (PART 1). Robert Hammond September 9, 2021 Speaker Notes |
| 29 | Navy Misconduct. No IDA Letter & Fee Abuse. DON-NAVY-2023-000588 |
| 30 | Navy FY 2018 Appeals Dispositions Bases Not Reported |
| 31 | OGIS & DOJ OIP Misstate Recommendation to Post FOIA Logs - Why |
| 32 | OGIS Funding and Case Accountability Logs |
| 33 | OGIS Negligence Generally & Improper June 29, 2022 FOIA Meeting |
| 34 | OGIS Posting Policy for Public Comments |
| 35 | Posting FOIA Logs. Tech Committee Recommendation #2. FOIA Ombudsman Inaccurate Citation |
| 36 | Preserve FOIAonline Records + Decertify FOIA.gov + Audit NARA + Post FOIA Logs |
| 37 | QUESTIONS for June 29, 2022 OGIS Annual FOIA Meeting v2 |
| 38 | Response to Hon. David S. Ferriero June 10 2021 Comments to FOIA Advisory Committee |
| 39 | Sample FOIA Template to Combat Agency Misconduct 20220616 |
| 40 | Senator Grassley - DOJ OIP'S Position Doesn't Pass the "Common Sense Test" |
| 41 | Senators Unite to Slam FOIA Compliance + POGO |
| 42 | Subpoena Threat and Congressional Demand for OGIS to Release Records. OMB Kills Recommendations |
| 43 | Sued into Oblivion. Foreseeable Harm Standard |
| 44 | Violations of the ADA in FOIA Redactions, Simple Solution |