Freedom of Information Act (FOIA) Advisory Committee

May 5, 2022

Trouble with your computer audio on Webex?

Call 888-251-2949
Access code 1233445#

We are also streaming at
https://www.youtube.com/usnationalarchives
Chat Tip

Chat “All Panelists” otherwise the Committee members and/or OGIS staff will not see your comments.
Debra Steidel Wall

Acting Archivist of the United States
Administrative Updates

Alina M. Semo

Director, Office of Government Information Services and Chair, FOIA Advisory Committee
Technology Subcommittee

Allyson Deitrick & Jason Gart
Subcommittee Co-Chairpersons

National Archives Identifier 594262
Encourage the 508 Compliance and Collaborative Tools Working Group of the Technology Committee of the Chief FOIA Officers Council to continue to research and recommend options for agencies to resolve the inherent conflicts that exist between FOIA’s proactive disclosure requirements and Section 508 of the Rehabilitation Act, until a suitable legislative solution is enacted.
We recommend that agencies proactively publish FOIA logs in the agency’s electronic reading room (often referred to as FOIA Libraries) on an ongoing basis, at least quarterly. Agencies should allow for the full text searching of FOIA logs.
To be most useful, agency FOIA logs should contain, at a minimum, each of the following fields in either Excel or CSV format, in preference to PDF:

a) Tracking number of the request.
b) Date of the request.
c) Name of the requester, provided it is not a first-party requester (i.e., someone asking for records on himself or herself) – to be most useful, the agency should publish the names of all third-party requesters; the agency should also alert requesters that they will publish the names of third-party requesters in their FOIA logs.
d) Organizational affiliation of the requester, if identified in the request.
e) Whether the request was processed under the Privacy Act as well.
f) Subject matter of the request.
g) Status of the request (pending, closed, etc.).
h) For requests that have been closed, the date closed and the result of the FOIA request (granted, granted in part, denied, withdrawn, etc.).
i) Fee Information
   a. Fee category assigned to requester, if applicable (commercial, educational, news media, other).
   b. Whether a fee waiver was requested.
   c. If a fee waiver was requested, whether it was granted.
   d. Amount of fees charged
   e. Amount of fees paid
Process Subcommittee

Alexis Graves & Michael Morisy
Subcommittee Co-Chairpersons

National Archives Identifier 6011170
Agencies should amend any regulations, directives, policies, and guidance to provide individuals, regardless of whether they have legal representation in agency proceedings, access to records about themselves.
Legislation Subcommittee

Patricia Weth & Kel McClanahan
Subcommittee Co-Chairpersons
Legislation Subcommittee
Reimagining OGIS Recommendations

1. Congress gives OGIS the authority to make binding decisions. *(Note: This recommendation was passed at the April 7 FOIA Advisory Committee meeting.)*

2. Congress gives OGIS the authority to review records *in camera.*
3. Congress directs the federal courts to give extra weight to OGIS decisions.

4. Congress creates a direct line-item budget for OGIS.

5. Congress increases OGIS’s budget.
6. The Archivist of the United States commissions a feasibility study, incorporating input from requesters and agencies, to more deeply explore the costs and benefits of these recommendations and refine the proposals to aid Congress in drafting legislation.

7. The Archivist returns OGIS as a direct report.
FOIA Advisory Committee is on a break: back soon!

Classification Subcommittee

Kristin Ellis & James R. Stocker
Subcommittee Co-Chairpersons
1. We recommend that either the FOIA statute or E.O. 13526, or both, be amended to clarify that information which does not comport with all of the requirements of the Executive Order is not properly classified for purposes of Exemption (b)(1).
2. We recommend that either the FOIA statute or E.O. 13526, or both, be amended to clarify that information may not be withheld under Exemption (b)(1) if it does not contain complete declassification instructions.
3. We recommend that either the FOIA statute or E.O. 13526, or both, be amended to clarify that information may not be withheld under Exemption (b)(1) if the markings specified in the governing Executive Order are not present in a manner that is immediately apparent.
4. We recommend that E.O. 13526 be amended to require that in cases where information withheld under the Freedom of Information Act or other requests or reviews does not contain the markings specified in the governing Executive Order, agencies must add these markings.
5. We recommend that the Archivist request that the Inspector General for the Intelligence Community conduct a review of agencies’ compliance with E.O. 13526, Sections 1.6 and 2.1, particularly as it relates to initial marking of classified information and also to how agencies handle classified information responsive to FOIA or other disclosure requests where markings are omitted.
Public Comments

https://www.archives.gov/ogis/foia-advisory-committee/public-comments
FOIA Advisory Committee

Mark your calendars!

Next meetings:

Thursday, June 9, 2022 – final meeting of the 2020–2022 term!

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