

# Final Report and Recommendations - 2018-2020 Committee Term

During the 2018-2020 term, the Committee formed three subcommittees to examine specific areas in which federal agencies could implement initiatives to improve records management practices, tackle time and volume issues, and adopt a vision of FOIA for the future.

The Committee has identified and approved 22 recommendations for delivery to the Archivist as mandated by the Committee's charter for actions to improve the implementation of FOIA.

## Contents

Vision.....	5
Mission.....	5
<b>NARA 1. Online Access</b> .....	6
<b>NARA 1.1. FOIA Websites</b> .....	6
<b>NARA 1.1.1. Filings</b> .....	6
<b>NARA 1.1.2. Guidance</b> .....	6
<b>NARA 1.2. Records Management</b> .....	6
<b>NARA 1.3. Standards</b> .....	6
<b>NARA 2. Training</b> .....	7
<b>NARA 2.1. Records Management</b> .....	7
<b>NARA 2.2. FOIA</b> .....	7
<b>NARA 2.3. Senior Leaders</b> .....	8
<b>NARA 3. Recognition</b> .....	9
<b>NARA 3.1. Performance Plans</b> .....	9
<b>NARA 3.2. FOIA Requests</b> .....	9
<b>NARA 3.3. E-Records Modernization</b> .....	9
<b>NARA 3.4. Data</b> .....	9
<b>NARA 4. Technologies</b> .....	11
<b>NARA 4.1. E-Discovery</b> .....	11
<b>NARA 4.2. Formats</b> .....	11
<b>NARA 4.3. Capabilities</b> .....	11
<b>NARA 5. Alternatives</b> .....	12
<b>NARA 5.1. Frequently Requested Records</b> .....	12
<b>NARA 5.2. Dissemination</b> .....	12
<b>CFOIAC 1. Collaboration &amp; Innovation</b> .....	13
<b>CFOIAC 1.1. Grants &amp; Revenues</b> .....	13
<b>CFOIAC 1.2. Career Paths</b> .....	13
<b>CFOIAC 1.3. Transparency</b> .....	13
<b>CFOIAC 2. Reminders</b> .....	14
<b>CFOIAC 2.1. Responsibilities &amp; Obligations</b> .....	14
<b>CFOIAC 2.2. Assistance</b> .....	14
<b>CIGIE 1. E-Records</b> .....	15
<b>Congress 1. Oversight, Communication, Authority &amp; Resources</b> .....	16
<b>Congress 1.1. Oversight</b> .....	16
<b>Congress 1.2. Hearings &amp; Communications</b> .....	16
<b>Congress 1.3. Authority &amp; Resources</b> .....	16
<b>Congress 2. Funding</b> .....	17
<b>Archivist 1. Future</b> .....	18
<b>Archivist 1.1. Data Strategies</b> .....	18
<b>Archivist 1.2. AI/ML</b> .....	18
<b>Archivist 1.2.1. Queries</b> .....	18

**Archivist 1.2.2.** Sensitive Records.....18  
Administrative Information.....19

DEMONSTRATION ONLY



## Freedom of Information Act Federal Advisory Committee (FOIAFAC)

### Stakeholder(s):

#### FOIAFAC Members

##### Alina M. Semo :

*Chair, Office of Government Information Services, National Archives and Records Administration*

##### Jason R. Baron :

*Faegre Drinker Biddle & Reath LLP*

##### Emily Creighton :

*American Immigration Council*

##### Kevin M. Goldberg :

*Digital Media Association*

##### James R. Jacobs :

*Stanford University Libraries*

##### Joan Kaminer :

*U.S. Environmental Protection Agency*

##### Lizzette Katilius :

*U.S. Securities and Exchange Commission*

##### Chris Knox :

*Deloitte*

##### Sarah Kotler :

*Food and Drug Administration, U.S. Department of Health and Human Services*

##### Ryan Law :

*U.S. Department of the Treasury*

##### Abioye Mosheim :

*U.S. Consumer Product Safety Commission*

##### Michael Morisy :

*MuckRock*

##### Sean Moulton :

*Project On Government Oversight*

##### Suzanne J. Piotrowski :

*Rutgers University School of Public Affairs and Administration*

##### Lee Steven :

*Cause of Action Institute*

##### James R. Stocker :

*Trinity Washington University*

##### Thomas Susman :

*American Bar Association*

##### Bobak Talebian :

*Office of Information Policy, U.S. Department of Justice*

##### Patricia A. Weth :

*National Labor Relations Board*

##### Bradley White :

*U.S. Department of Homeland Security*

##### Andrew Johns :

*Past Member (2018-2020 Term) Brigham Young University*

##### Ginger McCall :

*Past Member (2018-2020 Term) State of Oregon*

##### Melanie A. Pustay :

*Past Member (2018-2020 Term) Office of Information Policy, U.S. Department of Justice*

#### Records Management Subcommittee :

*In connection with its ongoing work, the Records Management Subcommittee reviewed all available Chief FOIA Officer Reports submitted to OIP annually, as well as a sample of agency annual recordkeeping self-certification reports and SAORM Reports to NARA. The Subcommittee informally pursued lines of questioning about records management training with a liaison from NARA's Office of the Chief Records Officer. The Subcommittee also met with representatives of the Federal Records Officer Network and through them conducted an informal survey on various topics of interest including recommendations on how FOIA and federal recordkeeping practices could better be integrated. Finally, the Subcommittee reached its conclusions based on one or more public presentations by agency staff at FOIA Advisory Committee hearings held during this term, including in follow-up conversations with those individuals.*

#### Time/Volume Subcommittee :

*The Time/Volume Subcommittee focused on the current statutory time frames for responding to FOIA requests and the volume of requests received by federal agencies. The Subcommittee focused on whether any improvements could be made in either area to reduce the number of requests that agencies receive, and to reduce the amount of time it takes for agencies to respond. The Subcommittee met as a group and decided on four main activities: (1) review past recommendations relevant to time and volume and track the progress of those recommendations; (2) review annual FOIA reports to track any trends*

— continued next page

*Stakeholders (continued)*

that may contribute to backlogs; (3) review international right-to-information statutes to determine how foreign countries deal with the issue of time and volume; and (4) survey federal agency FOIA professionals and the requester community on these areas of interest.

**Vision Subcommittee :**

The Vision Subcommittee focused on five subparts of the mission statement: (1) raising the priority of FOIA within the executive branch, (2) reconsidering the model of OGIS within the FOIA community, (3) increasing accountability for FOIA and transparency, (4) managing expectations between agencies and the requester community, and (5) stressing the need for increased and continued financial support for agency FOIA programs.

**National Archives and Records Administration (NARA) :**

The National Archives and Records Administration (NARA) chartered the Freedom of Information Act (FOIA) Advisory Committee (Committee) to foster dialogue between the administration and the requester community, solicit public comments, and develop consensus recommendations for improving FOIA administration and proactive disclosures. Committee members represent a wide variety of stakeholders in the FOIA community, inside and outside of government, and the Committee serves as a deliberative body to advise the Archivist of the United States on improvements to FOIA administration.

**Kirsten B. Mitchell :**

Designated Federal Officer — Office of Government Information Services, National Archives and Records Administration

**Archivist of the United States :**

Given the Archivist's broad charge to the Committee to chart a course for the future of FOIA, the Committee believes it is appropriate and within the scope of our charge to offer recommendations not only for components of NARA and the U.S. Department of Justice's Office of Information Policy (OIP) to implement, but also for all federal agencies, the inspector general community, the Chief FOIA Officers (CFO) Council and Congress as important actors in the administration of FOIA.

**U.S. Department of Justice's Office of Information Policy (OIP)****Federal Agencies****Inspector General Community****Chief FOIA Officers (CFO) Council****Congress****Director, Office of Government Information Services (OGIS) :**

The Committee understands that the Archivist has the authority only to ensure implementation of those recommendations directed to components of NARA. However, the Director of the Office of Government Information Services (OGIS) commits to work with the Archivist to convey the Committee's recommendations to the named components of government to which they

are directed, including to OIP, federal agencies, the CFO Council, the Council of the Inspectors General on Integrity and Efficiency, and Congress.

**Council of the Inspectors General on Integrity and Efficiency**

## Vision

Improved FOIA compliance

## Mission

To develop recommendations for improving FOIA administration and proactive disclosures.

DEMONSTRATION ONLY

## NARA 1. Online Access

### *Enhance Online Access*

#### NARA 1.1. FOIA Websites

*Assess the information agencies make publicly available on their FOIA websites.*

We recommend that the Office of Government Information Services undertake an assessment of the information agencies make publicly available on their FOIA websites to facilitate the FOIA filing process, and for the purpose of informing further guidance by the Office of Information Policy on how agencies may improve online descriptions of the process.

**Stakeholder(s):**

**Office of Government Information Services**

##### NARA 1.1.1. Filings

*Facilitate the FOIA filing process.*

##### NARA 1.1.2. Guidance

*Inform guidance on how agencies may improve online descriptions of the process.*

#### NARA 1.2. Records Management

*Require agencies to include records management-related materials as part of agency websites and FOIA handbooks.*

We recommend that the Office of Information Policy issue guidance to require agencies to include records management-related materials as part of agency websites and FOIA handbooks maintained pursuant to FOIA.

**Stakeholder(s):**

**Office of Information Policy**

#### NARA 1.3. Standards

*Collecting, describing, and giving access to FOIA-released records in standardized ways.*

We recommend that agencies work toward the goal of collecting, describing, and giving access to FOIA-released records in one or more central repositories in standardized ways, in addition to providing access on agency websites.

## NARA 2. Training

### *Improve Training*

#### NARA 2.1. Records Management

*Offer targeted training in selected topics in federal records management.*

We recommend that the National Archives and Records Administration and the Office of Information Policy offer targeted training in selected topics in federal records management to FOIA officers and FOIA Public Liaisons in federal agencies, and otherwise include a FOIA module in selected records management training courses open to all federal employees.

**Stakeholder(s):**

**National Archives and Records Administration**

**Office of Information Policy**

**FOIA Officers**

**FOIA Public Liaisons**

**Federal Employees**

#### NARA 2.2. FOIA

*Provide FOIA training annually to agency employees as well as to new employees and contractors.*

We recommend that the Office of Information Policy issue guidance requesting agencies to provide annual mandatory FOIA training to all agency employees, as well as provide FOIA training to all new agency employees and contractors onboarding with an agency, including program-specific training if applicable. We further recommend that the Office of Government Information Services and the Office of Information Policy undertake a study of agencies' current FOIA training requirements and content.

**Stakeholder(s):**

**Office of Information Policy**

**Office of Government Information Services**

### **NARA 2.3. Senior Leaders**

*Brief senior leaders on records management and FOIA resources, obligations, and expectations.*

We recommend that the Office of Government Information Services and the Office of Information Policy assist agencies in establishing briefings for senior leaders during transition to a new administration or any change in senior leadership, for the purpose of providing a thorough understanding of their agency's FOIA resources, obligations, and expectations during the FOIA process, as well as on matters of records management.

**Stakeholder(s):**

**Office of Government Information Services**

**Office of Information Policy**

**Senior Agency Leaders**

DEMONSTRATION ONLY

## NARA 3. Recognition

*Raise the Profile of FOIA within Agencies.*

### NARA 3.1. Performance Plans

*Encourage agencies to include FOIA in their performance plans.*

We recommend that the Office of Government Information Services and the Office of Information Policy examine the FOIA performance measures used in Agency Performance Plans and Reports to encourage agencies to include FOIA in their performance plans. We further recommend that the Office of Government Information Services submit the results of its assessment and any recommendations to Congress and the President in accordance with 5 U.S.C. § 552(h)(5).

**Stakeholder(s):**

**Office of Government Information Services**

**Office of Information Policy**

### NARA 3.2. FOIA Requests

*Collect information on standard operating procedures for the processing of FOIA requests.*

We recommend that the Office of Information Policy collect information as part of each agency's Chief FOIA Officer Report regarding standard operating procedures for the processing of FOIA requests to increase public transparency and to encourage agencies to improve their internal processes.

**Stakeholder(s):**

**Office of Information Policy**

**Chief FOIA Officers**

### NARA 3.3. E-Records Modernization

*Further develop the idea of public access to federal records.*

We recommend that the National Archives and Records Administration incorporate and further develop the idea of public access to federal records, including through FOIA, as part of its Federal Electronic Records Modernization Initiative.

**Stakeholder(s):**

**National Archives and Records Administration**

### NARA 3.4. Data

*Ensuring that Chief Data Officers understand the how federal recordkeeping and FOIA laws apply to data within agencies.*

We recommend that the National Archives and Records Administration and the Office of Information Policy each establish a liaison with the newly created Chief Data Officers Council for the purpose of ensuring that Council officials understand the importance of federal recordkeeping and FOIA requirements and how such laws apply to the maintenance of data within agencies.

**Stakeholder(s):**

**National Archives and Records  
Administration**

**Office of Information Policy**

**Chief Data Officers Council**

DEMONSTRATION ONLY

## NARA 4. Technologies

### *Embrace New Technologies*

#### NARA 4.1. E-Discovery

*Provide guidance on the use of e-discovery tools.*

We recommend that the Office of Information Policy provide further guidance on the use of e-discovery tools to assist agencies in meeting their obligations to conduct an adequate search of electronic records, including but not limited to email in Capstone repositories.

**Stakeholder(s):**

**Office of Information Policy**

#### NARA 4.2. Formats

*Release FOIA documents in open, legible, machine-readable and machine-actionable formats.*

We recommend that agencies release FOIA documents to the public on their FOIA websites and in FOIA portals in open, legible, machine-readable and machineactionable formats, to the extent feasible.

**Stakeholder(s):**

**Federal Agencies**

#### NARA 4.3. Capabilities

*Review technological and staffing capabilities.*

We recommend that agencies conduct a comprehensive review of their technological and staffing capabilities within two years to identify the resources needed to respond to current and anticipated future FOIA demands.

**Stakeholder(s):**

**Federal Agencies**

## NARA 5. Alternatives

### *Provide Alternatives to FOIA Access*

#### NARA 5.1. Frequently Requested Records

*Establish alternative processes for access to categories of frequently requested records.*

We recommend that the Office of Government Information Services and the Office of Information Policy have agencies identify common categories of records requested frequently under the FOIA and/or Privacy Act by or on behalf of individuals seeking records about themselves, for the purpose of establishing alternative processes for providing access to these records to requesters in a more efficient manner than the FOIA.

**Stakeholder(s):**

**Office of Government Information Services**

**Office of Information Policy**

#### NARA 5.2. Dissemination

*Disseminate information outside of FOIA.*

We recommend that agencies provide for the dissemination of information outside of FOIA, including in online databases where members of the public may access commonly requested types of documents.

**Stakeholder(s):**

**Federal Agencies**

## **CFOIAC 1. Collaboration & Innovation**

*Create a committee for cross-agency collaboration and innovation.*

### **Stakeholder(s)**

#### **Chief FOIA Officers Council**

We recommend that the Chief FOIA Officers Council create a committee for crossagency collaboration and innovation to:

#### **CFOIAC 1.1. Grants & Revenues**

*Research and propose a cross-agency grant program and other revenue resources for FOIA programs.*

#### **CFOIAC 1.2. Career Paths**

*Review and promote initiatives for clear career trajectories for FOIA professionals, building on the Government Information Specialist job series and in coordination with existing agency efforts.*

#### **CFOIAC 1.3. Transparency**

*Explore and recommend models to align agency resources with a commitment to agency transparency.*

## CFOIAC 2. Reminders

*Annually reissue a FOIA memorandum.*

**Stakeholder(s)**

**Chief FOIA Officers Council**

**Agency Leaders**

**Federal Workforce**

We propose that the Chief FOIA Officers Council recommend that agency leadership annually issue a memorandum reminding the workforce of its responsibilities and obligations under FOIA and encouraging the workforce to contact the agency's FOIA Officer for assistance with the FOIA process.

### CFOIAC 2.1. Responsibilities & Obligations

*Remind the workforce of its responsibilities and obligations under FOIA.*

**Stakeholder(s):**

**Federal Workforce**

### CFOIAC 2.2. Assistance

*Encourage the workforce to contact the agency's FOIA Officer for assistance with the FOIA process.*

**Stakeholder(s):**

**Federal Workforce**

**FOIA Officers**

## **CIGIE 1. E-Records**

*Provide access to agency records in electronic or digital form.*

### **Stakeholder(s)**

**Council of the Inspectors General on Integrity and Efficiency**

We recommend that the Chair of the Council of the Inspectors General on Integrity and Efficiency consider designating as a cross-cutting project or priority area the issue of how successful agencies are in providing FOIA access to agency records in electronic or digital form.

DEMONSTRATION ONLY

## Congress 1. Oversight, Communication, Authority & Resources

*Address oversight, communication, authority and resource requirements.*

### Stakeholder(s)

#### Congress

We recommend that Congress engage in more regular and robust oversight of FOIA and the long-standing problems with its implementation; that Congress hold more hearings, establish a more regular and coordinated stream of communication and inquiries to agencies around FOIA issues; and that Congress strengthen the Office of Government Information Services with clearer authority and expanded resources.

### Congress 1.1. Oversight

*Engage in regular and robust oversight of FOIA.*

### Congress 1.2. Hearings & Communications

*Hold more hearings, establish a more regular and coordinated stream of communication and inquiries to agencies around FOIA issues.*

### Congress 1.3. Authority & Resources

*Strengthen the Office of Government Information Services with clearer authority and expanded resources.*

#### Stakeholder(s):

**Office of Government Information Services**

## Congress 2. Funding

*Fund FOIA offices adequately.*

### Stakeholder(s)

**Congress**

### FOIA Offices

We recommend that Congress directly address the issue of funding for FOIA offices and ensure that agencies receive and commit sufficient dedicated resources to meet their legal obligations to respond to FOIA requests in a timely manner both today and in the future.

DEMONSTRATION ONLY

## Archivist 1. Future

*Look to the future.*

### Stakeholder(s)

#### Archivist of the United States

Additional Recommendations: Looking to the Future

### Archivist 1.1. Data Strategies

*Incorporate FOIA access and federal recordkeeping policies into federal data strategies.*

The Archivist should continue to take a leadership role in ensuring that ongoing and future federal data strategies incorporate existing FOIA access and federal recordkeeping policies.

### Archivist 1.2. AI/ML

*Promote research into artificial intelligence and machine learning.*

The Archivist should work with other governmental components and industry in promoting research into using artificial intelligence, including machine learning technologies, to (i) improve the ability to search through government electronic record repositories for responsive records to FOIA requests and (ii) identify sensitive material for potential segregation in government records, including but not limited to material otherwise within the scope of existing FOIA exemptions and exclusions.

#### Archivist 1.2.1. Queries

*Improve the ability to search through government electronic record repositories for responsive records to FOIA requests.*

#### Archivist 1.2.2. Sensitive Records

*Identify sensitive material for potential segregation in government records, including but not limited to material otherwise within the scope of existing FOIA exemptions and exclusions.*

### Administrative Information

**Start Date:** 2020-07-09

**End Date:**

**Publication Date:** 2020-07-12

**Source:** <https://www.archives.gov/files/ogis/assets/foiaac-final-report-and-recs-2020-07-09.pdf>

**Submitter:**

**Given Name:** Owen

**Surname:** Ambur

**Email:** [Owen.Ambur@verizon.net](mailto:Owen.Ambur@verizon.net)

**Phone:**

DEMONSTRATION COPY