

Chief Freedom of Information Act Officers Council Meeting

Meeting Minutes – July 19, 2018

The Chief FOIA Officers (CFO) Council Meeting convened at 10:00am on July 19, 2018, in the National Archives and Records Administration (NARA) McGowan Theater – 700 Pennsylvania Ave. NW, Washington, DC 20408.

A livestream video of the meeting was also made available, and in accordance with 5 U.S.C. § 552(k)(6)(B), the meeting was open to the public “permit[ting] interested persons to appear and present oral and written statements to the Council.”

All meeting materials are available on the Office of Information Policy’s (OIP) and Office of Government Information Services’ (OGIS) websites at: <https://www.justice.gov/oip/chief-foia-officers-council> and <https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council>.

Speakers:

David Ferriero, Archivist of the United States, NARA

Melanie Ann Pustay, Director, OIP, Department of Justice (DOJ), Council Co-Chair

Alina M. Semo, Director, OGIS, NARA, Council Co-Chair

Panelists:

Jim Hogan, FOIA Liaison Officer, Department of Defense (DOD)

Kim Hutchinson, Deputy Chief FOIA Officer, Department of Health and Human Services (HHS)

Sam Kaplan, Chief FOIA Officer, Department of Homeland Security (DHS)

Ryan Law, Deputy Chief FOIA Officer, Department of the Treasury

Gary Stern, Chief FOIA Officer, National Archives and Records Administration (NARA)

Introduction

- The meeting opened at 10:00 a.m. with brief remarks from Alina Semo, David Ferriero, and Melanie Pustay.
- Ms. Semo welcomed everyone to the fourth Council meeting and briefly outlined the agenda for the meeting.
- Mr. Ferriero observed that while openness and access to records has improved over the past few years, there are challenges that remain. He noted the importance of sharing strategies in overcoming challenges in FOIA implementation. Mr. Ferriero encouraged all

to review the 2016-2018 FOIA Advisory Committee's Final Report and Recommendations.

- Ms. Pustay passed along the regards of DOJ's Acting Associate Attorney General and Chief FOIA Officer, Jesse Panuccio. Ms. Pustay explained that Mr. Panuccio appreciates the challenges faced by all agency Chief FOIA Officers, particularly in light of ever-increasing demand, but at the same time, he has emphasized the ongoing need to leverage technology and to find more efficiencies.

Panel Discussion: Challenges Overcome and New Opportunities for Improvement

- Ms. Pustay introduced the panelists and moderated the panel.
- Jim Hogan (DOD) cited the diversity of employees, records, and activities at DOD and DOD's decentralization as challenges in the agency's FOIA program. He addressed other challenges including the high turnover rate in the FOIA career field, the complexity of decision-making involved in the FOIA career, and the current records management system. To handle these challenges, Mr. Hogan said DOD encourages open communication between its FOIA Liaisons and its professionals, supports FOIA training for those in the agency, and is working on improving FOIA processes.
- Kim Hutchinson (HHS) addressed the importance of discussing collaboration at all levels. She identified five areas to focus on to improve FOIA collaboration: 1) communication and internal/external collaboration; 2) using resources efficiently to minimize the backlog; 3) the importance of forming partnerships; 4) the need for enterprise solutions; and 5) the need to work as a team. Ms. Hutchinson noted that communication through all channels of FOIA workers helps with litigation, setting expectations, meeting deadlines, improving collaboration, and holding the agency accountable.
- Sam Kaplan (DHS) provided a background of DHS's FOIA structure, noted the agency receives the most FOIA requests of any executive agency, and provided statistics regarding the number of FOIA requests and appeals received and handled by DHS over the past year. Mr. Kaplan cited the growth of FOIA requests and litigation, the use of technology, data management and records management, and the use of biometrics as FOIA challenges for DHS. To help mitigate these challenges, Mr. Kaplan says DHS is looking towards technology, enterprise solutions, and a more efficient case management system. He hopes these means will increase efficiency, disclosure, and transparency.
- Ryan Law (Treasury) detailed challenges Treasury has encountered, including the increase in volume and complexity of FOIA requests, the difficulty of using resources efficiently, and the consultation and submitter-notice process. To address these challenges, he explained that Treasury has created a FOIA career path and learned to contract out FOIA processing during overwhelming times, is looking to use more advanced processing technology, and focused on effective communication. Mr. Law noted that Treasury has had successes with providing alternative means of accessing information, such as by publishing Treasury's FOIA logs, and partnering with other entities to improve transparency and disclosure.

- Gary Stern (NARA) stated that the three biggest challenges for NARA are its backlog of FOIA requests, consultations for sensitive information, and its limited resources and increasing FOIA workload. He noted that the Office of the Inspector General (OIG) and Government Accountability Office (GAO) both cited NARA's backlog as one of its largest challenges and that NARA is looking towards technology to make its FOIA processing system faster and more efficient. Mr. Stern also explained that NARA had two recent special access situations, the release of the JFK assassination records and records concerning the most recent Supreme Court nominee, which involved a large amount of work and took away manpower from reducing NARA's backlog. He stated that a success of NARA is its ability to be responsive to the public about high profile issues, such as in the special access situations.
- Ms. Pustay thanked the panelists for their insight and concluded the panel.

Discussion on DOJ Guidance and the Final Report and Recommendations of the 2016-2018 FOIA Advisory Committee

- Due to time, discussion on the Advisory Committee's Final Report and Recommendations was determined to be better suited for the next CFO Council Meeting.
- Ms. Semo announced that the Council was seeking volunteers for a subcommittee on technology. She also invited everyone to look at the best practices noted in the FOIA Federal Advisory Committee's Final Report and Recommendations to the Archivist.
- Ms. Pustay encouraged everyone to look at the 2018 agency CFO Reports to see all that agencies are doing across the government to improve FOIA. She also encouraged agencies to take a look at OIP's recent Summary and Assessment of Agency Progress in FOIA Administration and to provide any feedback for DOJ's Guidelines on the 2019 CFO Reports.

Public Comments

- Ms. Pustay and Ms. Semo opened the floor to discussion and the panelists responded to various questions and comments.

Conclusion

- Ms. Semo thanked everyone for attending and closed the meeting.