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FOIA =
accountability
through
transparency =
democracy

FOIA in concept . . .

- 1 request (reasonably described)
- 2 for records (Executive Branch)
- 3 pay fees (or fee waiver)
- 4 records released in 20 working days

FOIA landscape

94 Executive Branch
entities: 15
departments and 79
agencies
= 350 or so components

FOIA landscape

FY 2009:

- almost 558,000 FOIA requests submitted
- just under 10,000 administrative appeals filed (2% of initial requests)
- costs to administer the FOIA (including litigation): slightly more than \$382 million (up nearly \$50M from 2008)

FOIA reform since 1966

- exemptions from disclosure
- fees
- time limits
- law enforcement
- technology

US Gov information inflation

- 30 billion e-mails each year
- multimedia documentation
- photographs
- maps
- databases
- audio and video recordings
- Web 2.0 applications

FOIA reform 2007

- Dispute resolution
- Customer service
- Executive responsibility

+ Open Government initiative of 2009



“FOIA Ombudsman”

- Review FOIA policy and procedures (improvement)
- Mediation services to resolve disputes (avoid litigation)

Office of Government Information Services (OGIS)

Resolving Federal FOIA Disputes



About OGIS (www.archives.gov/ogis)

The OPEN Government Act of 2007 amended the Freedom of Information Act (5 U.S.C. Section 552) to create an Office of Government Information Services (OGIS) within the National Archives and Records Administration (NARA).

OGIS opened in early September 2009, with its main office at NARA in College Park, Maryland. The OGIS staff has been working with the Department of Justice, other agencies and with private sector stakeholders to promote transparency, provide training and resolve requester and agency FOIA issues.

OGIS Mission

- 1. Review compliance and policy.** Review policies and procedures of administrative agencies under the Freedom of Information Act (FOIA). Review compliance with FOIA by agencies. Recommend policy changes to Congress and the President to improve the administration of FOIA.
- 2. Mediate disputes.** Offer mediation services to resolve disputes between persons making FOIA requests and agencies (non-exclusive alternative to litigation). May issue advisory opinions if mediation has not resolved the dispute.
- 3. Serve as ombudsman.** Solicit and receive comments and questions from Federal agencies and the public regarding the administration of FOIA to improve FOIA processes and facilitate communication between agencies and FOIA requesters.

OGIS Contact Information

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The amended portions of the FOIA, 5 U.S.C. Section 552, concerning OGIS as well as some other aspects of agency compliance and service are:

- (h)(1) There is established the Office of Government Information Services within the National Archives and Records Administration.
 - agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing this section
- (2) The Office of Government Information Services shall—
 - A. review policies and procedures of administrative agencies under this section
 - B. review compliance with this section by administrative agencies, and
 - C. recommend policy changes to Congress and the President to improve the administration of this section.
- (3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.
- (i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits.
- (j) Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).
- (k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—
 - 1) have agency-wide responsibility for efficient and appropriate compliance with this section
 - 2) monitor implementation of this section throughout the
- 3) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of this section
- 4) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing this section
- 5) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g), and the agency's annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply, and
- 6) designate one or more FOIA Public Liaisons.
 - (1) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

In addition, subsection (b)(6)(B)(ii) - which gives a FOIA requester and an agency the opportunity to modify the scope of a request and to agree to an alternative time frame for processing the request—was amended:

To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency.