

FOIA Advisory Committee Public Comment
Hammond Planned Chat Comments to 4.7.2022 FOIA Advisory Committee Meeting
Recommendations + False FOIA Reporting, Alteration & Destruction of Records

Comment	CH	YT	#
My email address is in the tile pages of my recent public comments. FOIA advocates and members of the media have already contacted me. I will reply and make time for you. FOIAcompliance@gmail.com .			1.
Join the fight to improve FOIA. Contact me. FOIA Advocate, FOIAcompliance@gmail.com .			2.
My comments and questions conform to the Chat 200-character limit, so each is brief.			3.
Questions to read aloud and answer are preceded by a question mark (e.g., ? OGIS, ? DOJ OIP, ? Advisory Committee (CMTE).			4.
? Advisory Committee (CMTE). Pls consider amending charter to require public posting of draft minutes within 30 days to allow for review.			5.
? OGIS DOJ OIP. Meeting Notices. Once again, notice of this meeting was poorly advertised and only listed on the OGIS website as of 5 March 2022 or late 4 March. Join the fight to improve FOIA. Contact FOIAcompliance@gmail.com .			6.
Wow! OGIS 2.0: Reimagining FOIA Oversight recommendations are the most consequential of any made by the Committee. Thank you, David Cuillier, A.Jay Wagner, Thomas M. Susman, Patricia A. Weth!!!			7.
Direct funding from Congress (\$1.8M to start) and the ability for OGIS to review records in camera and release them would dramatically improve FOIA and save agencies and requesters time and money.			8.
OGIS Budget. \$ in Thousands FY 2021 \$1,289 FY 2020 \$1,212 FY 2019 \$1,317 FY 2018 \$1,012 FY 2017 \$1,114 FY 2016 \$1,094 FY 2015 \$913 FY 2014 \$1,074 FY 2013 \$1,629 FY 2012 \$1,529			9.

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NARA did not seek increases consistent with inflation. OGIS should be moved under Congress. In 2013 with 1.629M & 300-400 mediation cases OGIS complained that they did not have enough people.			11.
? CMTE. Pls consider including a placeholder for next year's Committee to review whether OGIS and/or DOJ OIP should be able to make referrals to the Office of Special Council to deter to egregious behavior.			12.
My top priority over the last two years and lobbying to Congress has been securing adequate funding and authority for OGIS.			13.
? CMTE. My #2 priority is adequate funding and authority for DOJ OIP in their compliance oversight mission. Bobby is drowning. Pls consider including a recommendation to study OIP Funding & authority.	x		14.
<u>Twelve Major Issues Confronting FOIA:</u>			15.
1. Grossly inadequate NARA funding for the Office of Government Information Services to perform its statutorily mandated FOIA mediation and compliance functions, leading to mission failure in both.			2.
2. Grossly inadequate funding for DOJ OIP to perform its FOIA compliance oversight mission, leading to a lack of any meaningful oversight.			3.
a. (Accurately documenting FOIA noncompliance in OGIS ADR responses and DOJ OIP compliance inquiry responses & sending copies to Agency leadership by name will stop bad behavior in its tracks).			4.
3. Materially False DOD quarterly and annual FOIA Reports to the Attorney General and materially false raw statistical data, which omit several hundred open FOIA requests and appeals per agency.			5.
4. Alteration and/or destruction of records sought under FOIA. Failure by NARA to accurately investigate such reports supported by irrefutable record evidence. (44 USC 3106 and 36 CFR part 1230). OIG?			6.

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5. Disestablishment of FOIAonline.gov, what will become of those unique FOIA case records, FOIA record preservation generally, & suitable replacement with FOIAonline & Muckrock.com portal capability.			7.
6. Conduct of public FOIA meetings, including violations of law in failing to properly announce them in the Federal Register, refusing to post public comments, and more.			8.
7. Increased Litigation: The number of FOIA cases on the dockets have more than doubled in the last decade. (Failure of OGIS mediation).			9.
8. Over-redactions: The use of redactions, which are discretionary, remains excessive and often fails to comply with FOIA's presumption of openness.			10.
9. Excessive delays: FOIA requests may languish for years or even decades within agencies and delays are worsening while agency's FOIA volume continues to grow.			11.
10. Intentional misclassification of requests as "complex" and delayed processing, allowing records to then be deleted or rendered less useful to current issues if finally released.			12.
11. Transferring FOIA requests from the component which has records to higher headquarters which does not have records and other manipulation to obstruct response and shield accountability.			13.
(Also, internet search articles, "U.S. Navy Mistakenly Emails Reporter Plans to Dodge FOIA Requests" By Shadee Ashtari, and "Navy Reviews FOIA Office After Mistakenly Sent Email" By NBC Washington)			14.
12. Misapplication of FOIA and Privacy Act statutes in first party requests, unlawfully stating that records must be releasable under both statutes, when the opposite is true.			15.
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<u>#3 Priority DOD False Reporting & Integrity of DOD FOIA and Privacy Act Processes.</u>			17.

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<p>I want to work <u>amicably</u> with DOD’s Chief FOIA Officer, Ms. Joo Chung & her staff. I proudly served DOD all my adult working life since entering the Naval Academy decades ago. Integrity matters.</p>			18.
<p>Some entities within DOD that do FOIA as well as or better than any others. I have asked Defense Logistics Agency to consider appointing a rep to next year’s Committee. Dr. Duchak? Lewis Oleinick?</p>			19.
<p>DLA has RM and FOIA under Information Operations. Process simple requests in a day. On the leading edge of RM, digitization w. metadata, electronic records preservation, artificial intelligence.</p>			20.
<p>By engineering things on the front end (such as clearly releasable contracting information) DLA uses information as a force enabler in their core business processes, making FOIA much easier.</p>			21.
<p>Defense Logistics Agency coordinates with procurement up front for example, regarding “clearly releasable” records</p>			22.
<p>While DOD has massive problems, my primary issues have been with Walter Reed, Defense Health Agency, Navy & OSD.</p>			23.
<p>Internet search: “Freedom of Information Act Request: Public Comment, DOD Massive False FOIA Reporting, Part 1” Muckrock.com.</p>			24.
<p>? OGIS, DOJ OIP. In violation of law, DOD has not released FY 2016 raw data & 2017 Defense Health Agency data does not contain any case numbers. Doing what are you?</p>			25.
<p>FOIA Improvement Act requires FOIA raw data to be posted.</p>			26.
<p>? Advisory Committee. Will you consider my recommendation requiring Agencies to amend past reports and raw data with narrative as to how error/false reporting occurred?</p>			27.
<p>Reimagined OGIS. If OGIS could compel records release & OGIS/DOJ OIP make referrals to Special Council => effort, time & costs avoided, & the public’s timely understanding of FOIA integrity advanced.</p>			28.
<p>In May 27 & Sep 15, 2014 appeals of B5 denial of my April 1, 2014 FOIA Request to Navy BUMED seeking Walter Reed’s FY 2013 Annual FOIA Report, raw data and forwarding correspondence I state:</p>			29.

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<p><i>“this FOIA request and my appeal may have bearing on the accuracy of FOIA reporting in the Annual FOIA Report to the United States Congress and potentially on the integrity of FOIA request processing”</i></p>			30.
<p>Then, DOD added B6 => (b)(7c), (b)(7d) and (b)(7f) => removed B5 => removed B7 => stated B6 had been reduced from 53 – 15 cases and said log was being released. Never released despite court order.</p>			31.
<p>After eight years and six years in litigation, I still do not have those report/raw data records to share with you regarding whether Walter Reed, Navy, DOD were cookin’ the books.</p>			32.
<p>What I have is a materially altered 16-page Walter Reed FOIA processing log that does not comport with the 17-page log cited in DOD’s Vaughn Index, which Walter Reed admits during litigation to altering.</p>			33.
<p>Copies of logs entered into evidence contain dated alterations to my FOIA request as late as 29 Sep 2014, after DOD’s FOIA reports were finalized, after I sought the records, and after my administrative appeals.</p>			34.
<p>Dated alterations also cite litigation. Litigation was filed on March 2, 2016, indicating that those alterations to Walter Reed’s finalized FY 2013 FOIA processing log may be post start of litigation.</p>			35.
<p>What happened to the original Walter Reed and Navy BUMED records? After first stating that they never received reports from Walter Reed, BUMED now states that they DESTROYED THEM.</p>			36.
<p>Records BUMED purportedly destroyed were subject to FOIA and NARA GRS required preservation. Very bad, bad, bad.</p>			37.
<p>How do known altered records get into litigation?</p>			38.
<p>What is NARA’s Unauthorized Disposition Unit doing about this? Deputy Archivist? OIG? Response & proactive disclosure of records responsive to my NARA FOIA requests; release to one, release to all?</p>			39.
<p>I am not a lawyer, but I don’t think you should alter official final report records or destroy them when sought under FOIA.</p>			40.
<p>Again, providing DOJ OIP and OGIS sufficient funding for their compliance oversight missions (+ADR) and authority to release records/ make referrals to Special Council might avoid this in the future.</p>			41.

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<p>Again, I want to work <u>amicably</u> with DOD’s Chief FOIA Officer to fix problems, so I temporarily embargoed correspondence with Ms. Chung (NARA Public Comment, DOD Massive False Reporting, Part 1.”</p>			42.
<p>Wow! OGIS 2.0: Reimagining FOIA Oversight recommendations are the most consequential of any made by the Committee. Thank you, David Cuillier, A.Jay Wagner, Thomas M. Susman, Patricia A. Weth!!!</p>			43.
<p>? OGIS, DOJ OIP: Pls consider my public comments and questions today as “Records presented to the Committee” per the Federal Advisory Committee Act or FACA, preserved with contemporaneous availability for public inspection.</p>			44.
<p>? OGIS, DOJ OIP. Include a copy of these comments in meeting minutes as a report or other material received by the Committee in meeting minutes.</p>			45.
<p>Join the fight to improve FOIA. Contact FOIAcompliance@gmail.com</p>			46.