NATIONAL ARCHIVES

OGIS OFFICE of GOVERNMENT INFORMATION SERVICES

Office of Government Information Services (OGIS)

Annual Open Meeting
July 20, 2020

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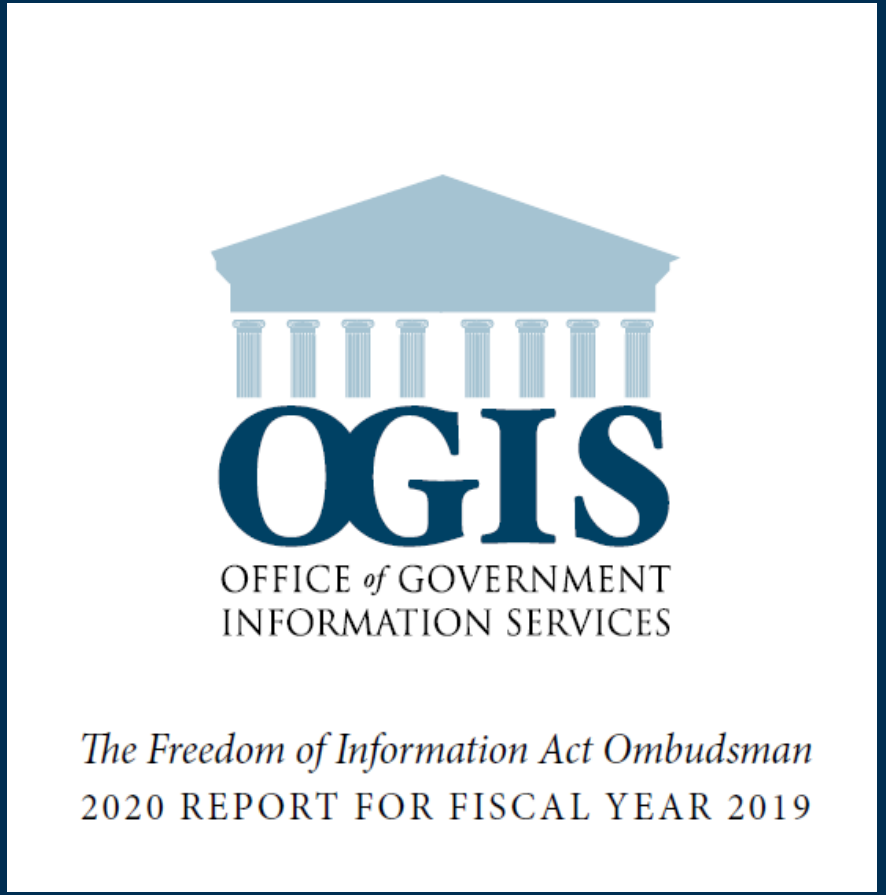
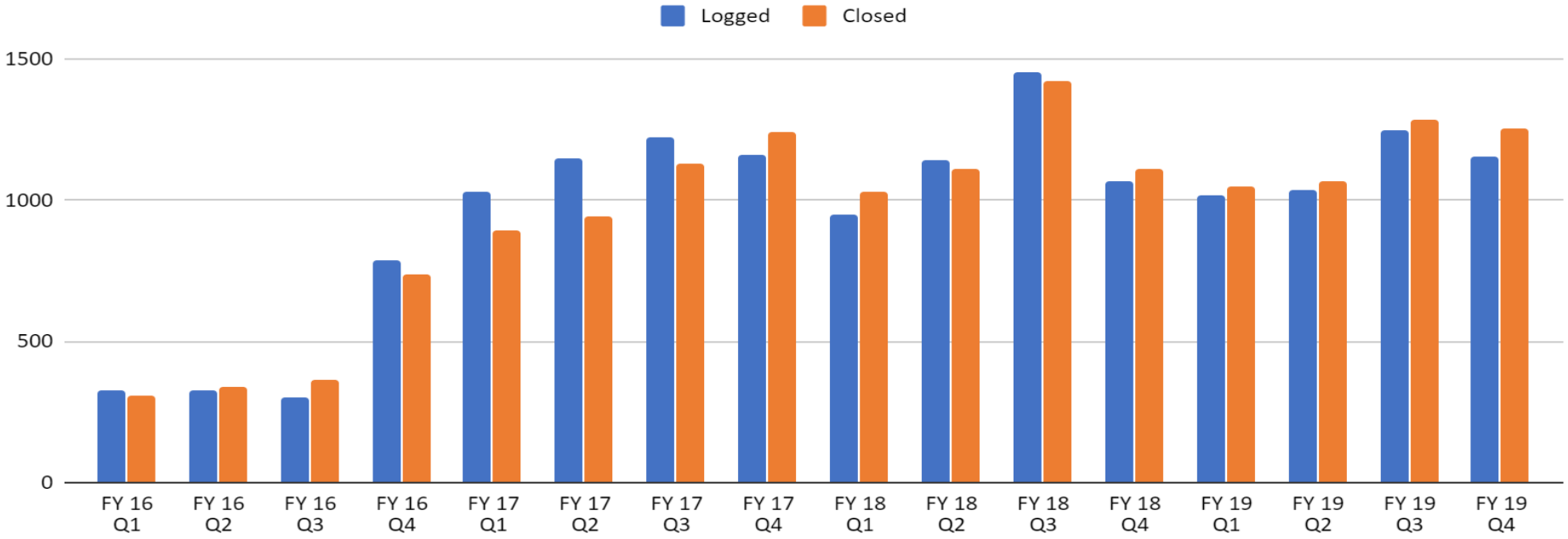
OFFICE of GOVERNMENT INFORMATION SERVICES



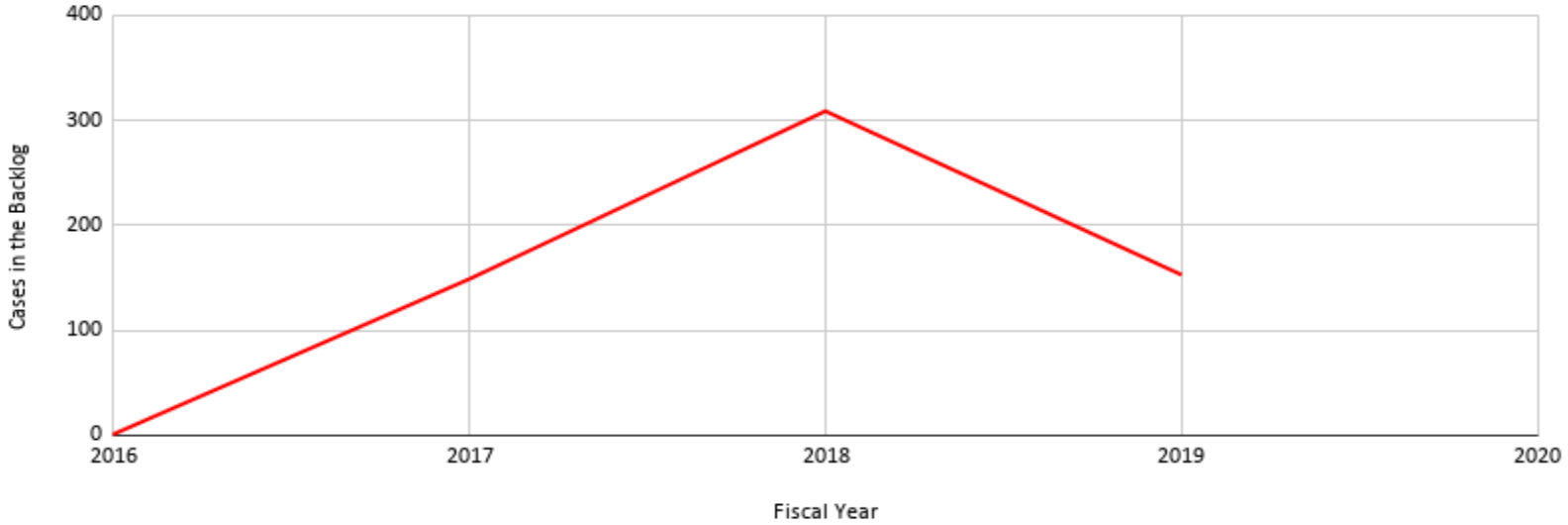
https://www.archives.gov/files/ogis/assets/ogis-2020-annual-report-for-fy-2019.pdf

OGIS Cases Received and Closed from Fiscal Year (FY) 2016 - 2019



OGIS Backlog* at end of the Fiscal Year (FY) from FY 2016-2019

* Cases pending ≥ 91days



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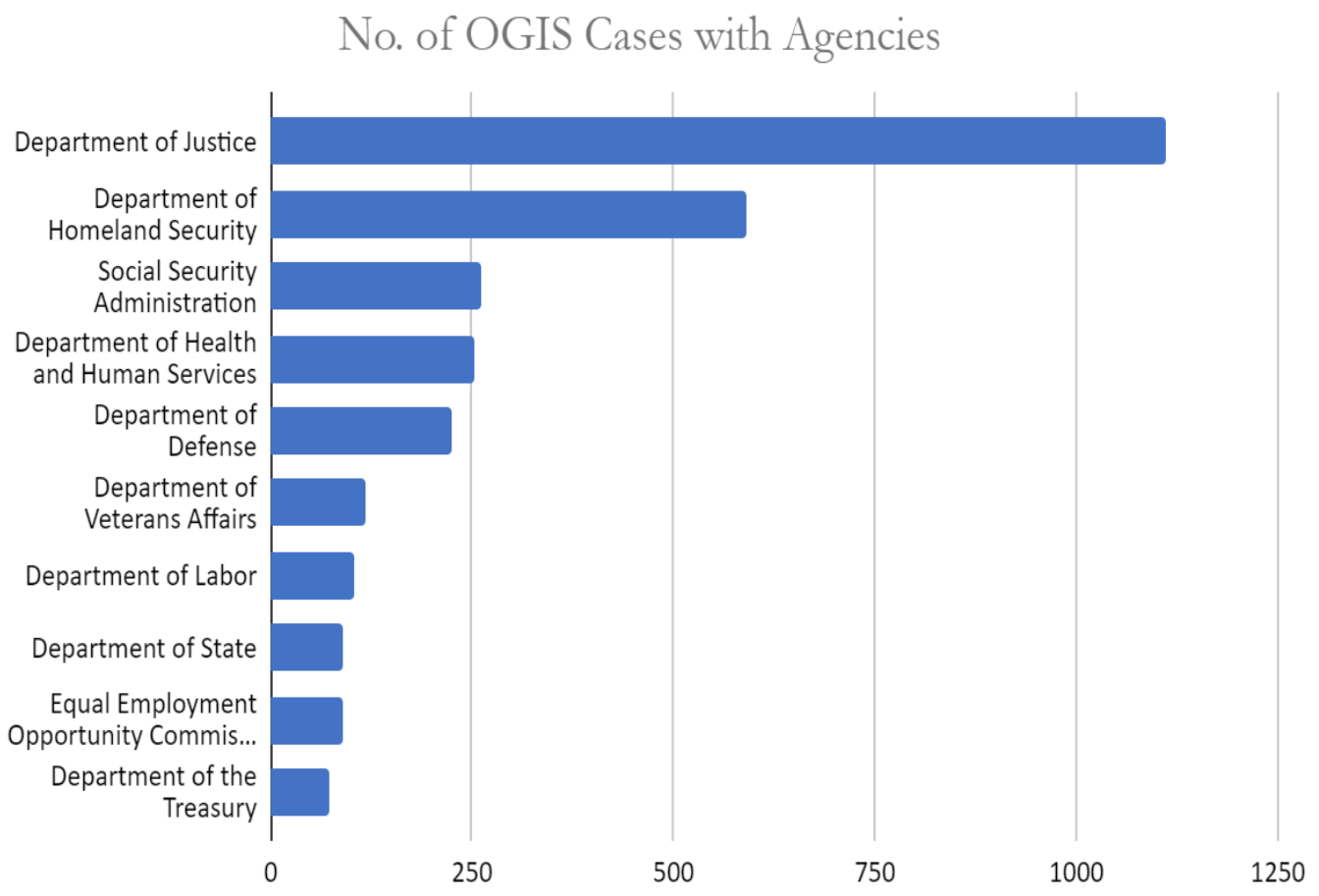

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OFFICE *of the* CHIEF RECORDS OFFICER

SUNSHINEWEEK
NATIONAL ARCHIVES
OFFICE OF GOVERNMENT INFORMATION SERVICES
NATIONAL ARCHIVES
10TH ANNIVERSARY
CELEBRATION OF OGIS
MARCH • 11 • 2019
OGIS

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Discussion of 2018-2020 Freedom of Information Act Advisory Committee Final Report and Recommendations
July 20, 2020

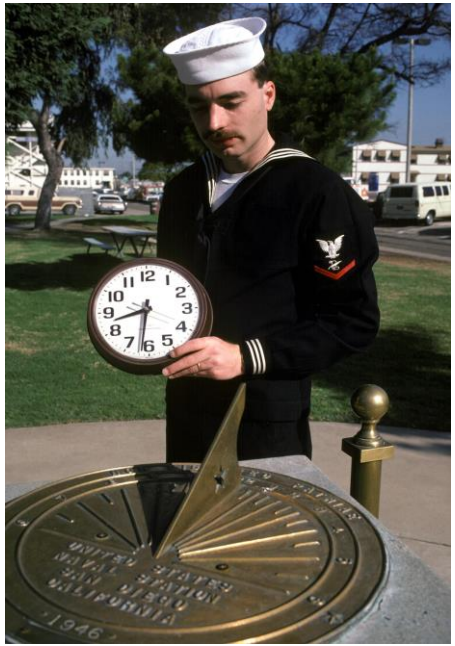
Jason R. Baron, Faegre Drinker LLP, Panelist
Patricia A. Weth, NLRB, Panelist
Kirsten B. Mitchell, NARA, Moderator

The FOIA Advisory Committee charter:

- No more than 20 individuals from inside & outside government
- Study FOIA landscape across the executive branch
- Make recommendations to the Archivist of the United States

FOIA Advisory Committee materials, including members, available at

https://www.archives.gov/ogis/foia-advisory-committee/2018-2020-term/



Time/Volume Subcommittee

Co-Chairpersons:

Emily Creighton, American Immigration Council

Bradley White, Department of Homeland Security

Vision Subcommittee

Co-Chairpersons:

Joan Kaminer, Environmental Protection Agency

Chris Knox, Deloitte

Records Management Subcommittee Co-Chairpersons:

Jason R. Baron, Faegre Drinker LLP

Ryan Law, Department of the Treasury

Records Management Subcommittee Recommendations

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THE FOIA AND THE FEDERAL RECORDS ACT

BRIDGING THE GAP BETWEEN "SILOS"

Recommendation 4

Improving Training

"We recommend that the National Archives 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."

Recommendation 2

Enhancing Online Access

"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."

Recommendation 3

Enhancing Online Access

"We recommend that agencies work-towards 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."

Recommendation 9

Raising the Profile of FOIA within Agencies

"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 the NARA's Federal Electronic Records Modernization Initiative."

Recommendation 18

"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."

BRINGING NEW LEARNING AND NEW DISCIPLINES INTO FOIA

Machine Readable Docs

E-discovery Search

Chief Data Officer

Recommendation 12

Embracing New Technologies

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

Recommendation 11

Embracing New Technologies

"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."

Recommendation 10

Raising the Profile of FOIA 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 Officer 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."

RECOMMENDATIONS FROM THE TIME/VOLUME SUBCOMMITTEE

Recommendation 5

Improving Training

"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."

Recommendation 1

Enhancing Online Access

"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."

Recommendation 13

Embracing New Technologies

"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."

Recommendation 14

Providing Alternatives to FOIA Access

"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."

Recommendation 15

Providing Alternatives to FOIA Access

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

Recommendation 8

Raising the Profile of FOIA within Agencies

"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."

RECOMMENDATIONS FROM THE VISION SUBCOMMITTEE

VISION Subcommittee Mission Statement

The Vision Subcommittee's mission is to provide a strategic plan to achieve a shared vision of the Freedom of Information Act (FOIA) over the next 10 years. The Vision Subcommittee recognizes the benefits and value of freedom of information and FOIA's role as an essential part of a functioning democracy.

This strategic plan includes raising the priority of FOIA within the Executive Branch, reconsidering the model of the Office of Government Information Services (OGIS) within the FOIA community, increasing accountability for FOIA and transparency, managing expectations between agencies and the requester community, and stressing the need for increased and continued financial support for agency FOIA programs.

Recommendation 6

Improving Training

"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, expectations during the FOIA process, as well as on matters of records management."

Recommendation 7

Raising the Profile of FOIA within Agencies

"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 OGIS submit the results of its assessment and any recommendations to Congress and the President, in accordance with 5 U.S.C. § 552(h)(5)."

Recommendations for the Chief FOIA Officers Council

Recommendation 17

"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 the FOIA and encouraging the workforce to contact the agency's FOIA Officer for assistance with the FOIA process."

Recommendation 16

"We recommend that the Chief FOIA Officers Council create a committee for cross-agency collaboration and innovation to:

- Research and propose a cross-agency grant program and other revenue resources for FOIA programs;
- 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; and
- Explore and recommend models to align agency resources with a commitment to agency transparency."

Recommendations for Congress

Recommendation 19

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

Recommendation 20

"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."

PRESENT
FUTURE
PAST

Recommendation 21

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

Recommendation 22

"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, 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."

FOIA Advisory Committee meeting materials, including public comments, available at

https://www.archives.gov/ogis/foia-advisory-committee/2018-2020-term/meetings

Questions?

PUBLIC COMMENTS

ogisopenmeeting@nara.gov

Lt. Col. T. Arter, Public Relations Officer, U.S. Army and Lt. Col. Donald M. Schoor answer questions for members of the visiting Foreign Press Association, during their tour of American troops in Northern Ireland. (NARA Identifier 148727114)

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QUESTIONS? COMMENTS?

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