

SUBPOENA THREAT AND CONGRESSIONAL DEMAND FOR OGIS TO RELEASE RECORDS

OMB KILLS RECOMMENDATIONS

What has Changed?

FOIA Advisory Committee
Public Comment

by Robert Hammond
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November 21, 2021

Copy to:
Senator Patrick Leahy
Senator Charles Grassley

WHAT HAS CHANGED?

NARA, Please Fund OGIS!!



OGIS Budget. Not adjust for inflation or mandatory pay increases.	
	\$ in Thousands Requested
FY 2022	\$1,588 (Not funded.CR.)
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

The situation is worse than dire. OGIS had **\$1.629M In 2013** with a mediation caseload of 300 – 400 cases per year. That grew to over **4,600 cases in 2019** with only **\$1.2M by 2020**, despite inflation and mandatory pay raises. All the while, **NARA got every dime that they asked for in 2019: \$377.8M.**

OUTLINE

- Introduction
- Subpoena threat and Congressional demand for OGIS to Release Records
- Leahy and Grassley: We want those OGIS recommendations. We do, too.
- For OGIS, road to recommendations reveals not enough independence
- OGIS now has independence, but does not address mission shortfalls, gross lack of funding
- Highlights - Audit of NARA's Office of Government Information Service OIG Audit Report No. 1214 (What has changed?)
- OGIS 2017 Annual Open Meeting (What has changed?)
- NARA, Please Fund OGIS Part 1

INTRODUCTION

OGIS & DOJ OIP FUNDING

As many know, I have been working hard with Congress and others to secure adequate funding for OGIS and DOJ OIP for their statutorily mandated FOIA compliance missions, and in the case of OGIS their additional statutorily mandated mediation mission.

The situation is dire. Ms. Semo and Mr. Talebian state that it is. In fact, the situation is worse than dire. OGIS and OIP are the police officers on the beat for FOIA compliance, and as we have all seen when there are few cops on the beat lawlessness and anarchy ensue.

Some of the people that I am talking to fought to bring OGIS into existence. Some are openly disappointed. Some have stronger feelings. Congress intended for OGIS to be powerful and independent, but Congress did not allocate additional resources for OGIS or DOJ OIP in the FOIA Improvement Act of 2016. Some are now advocating for removing OGIS from NARA with direct funding from and reporting to Congress.

Whether OMB Budgetary Guidance is an impediment remains to be seen.

I want NARA to succeed. I want OGIS and OIP to succeed. I want this Committee to succeed.

SUBPOENA THREAT AND CONGRESSIONAL DEMAND FOR OGIS TO RELEASE RECORDS

(<https://unredacted.com/2012/05/08/frinformsum-5812/>)

“Last week, the Office of Information Services, also called the FOIA ombudsman, **was pressured into releasing** their own documents under threat of subpoena. Apparently unaware of irony, the Office of Government Information Services (OGIS) was asked to report its recommendations for improving FOIA to Congress on March 12, but did not comply until April 25.

The release of the recommendations was **likely delayed** by the Office of Management and Budget. OGIS’s most important recommendation was the creation of a government-wide FOIA portal –currently in development by OGIS, the Environmental Protection Agency, and the Department of Commerce– that will stream-line requests throughout the government, and provide a central location where all documents released under FOIA are posted for the public’s use.”

LEAHY AND GRASSLEY: WE WANT THOSE OGIS RECOMMENDATIONS. WE DO, TOO.

[Leahy and Grassley: We want those OGIS recommendations. We do, too. | The Sunshine in Government Blog \(wordpress.com\)](#)

A month after senators Patrick Leahy and Charles Grassley complained bitterly, the Office of Government Information Services (OGIS) has still not released its long-delayed recommendations to Congress and the President on improving the Freedom of Information Act (FOIA) process. OGIS should immediately release to the public recommendations for substantially improving how FOIA works for both agencies and requesters and regularly report on the government's progress.

Congress intended for OGIS to have an independent voice turning their experiences mediating disputes into ideas for making the process work better. The idea was for OGIS to identify FOIA's biggest weaknesses (delays? backlogs?), figure out their root causes (overbroad requests? agencies communicating by paper via snail mail?) and identify the solutions that give the biggest bang for the buck. OGIS would be helping make the next big FOIA reforms more likely to have an impact. By requiring the recommendations be sent to Congress and the President, Congress clearly anticipated that some recommendations would be action items for the executive branch, while others would fall to Congress to act.

In a Senate hearing March 15, during Sunshine Week, Leahy and Grassley pointedly questioned OGIS Director Miriam Nisbet over the recommendations. Senator Leahy even threatened to subpoena the documents, and at one point offered to drive over himself and pick up the recommendations "if they will let me in the building." Leahy later explained his

frustration was not directed at OGIS but at the Office of Management and Budget (OMB), which has many times delayed reports that Congress has required.

Under withering questioning from both Leahy and Grassley, Nisbet promised within 30 days to work very hard to work with OMB to deliver the report. It's now been a month. With the delay of these recommendations, the OMB review process, in which other agencies are given the chance to comment on a draft of the recommendations, is slowing public debate about needed updates to FOIA.

In addition, the OMB review process may even be filtering OGIS recommendations. Consider comments from a National Archives spokesperson quoted in [a piece](#) by POLITICO's Josh Gerstein:

'OGIS worked through OMB to get agency feedback on our initial proposals,' National Archives spokeswoman Susan Cooper said in an e-mail Tuesday [the day of the Senate hearing]. 'Based on this feedback and discussion with OMB, OGIS is exploring ways to accomplish its objectives expeditiously through administrative actions, and without the need for legislation.'

Despite these pleas, over a year after OGIS sent its draft recommendations to OMB for review and more than two years since OGIS opened its doors, [the public — and Congress — cannot read OGIS's recommendations.](#)

We suggest several next steps:

- In the near term, OMB should let OGIS release its first recommendations.
- Over the next year, OGIS should publish several recommendations for broadly improving FOIA without regard for whether those ideas would fall on Congress or the executive branch to implement.
- Over the longer term, OGIS should be freed to make recommendations as it sees fit, but no less than annually, without OMB review.
- These recommendations, and the independent, straight-shooting voice giving concrete ways to address FOIA's biggest problems that Congress sought, are long overdue.

FOR OGIS, ROAD TO RECOMMENDATIONS REVEALS NOT ENOUGH INDEPENDENCE

When the Office of Management and Budget cleared the FOIA Ombudsman to issue its [recommendations](#) for improving FOIA operations, it was a win in the battle for open government. However, the difficult process, in which we and others [made a stink](#) and [Congress had to become involved](#), has made clear that the Office of Government Information Services does not yet have the independence that Congress considered so crucial for it to succeed.

While its recommendations to Congress and the President were pending, OGIS made public some [“suggestions”](#) for agencies to improve their FOIA programs and scattered them around its website, blog and training programs. However, these ideas are not the same as broader recommendations for across-the-board improvements to FOIA that Congress or the White House could put in motion.

Let’s face it: Congress and the White House are fairly busy places, and FOIA reforms are not at the top of their agenda (as much as we would like it to be). So OGIS was to provide in-the-trenches ideas where senior leadership in both branches could act and have a significant impact.

We can debate the specifics that OGIS put forward and disagree, but that is the point: OGIS’s recommendations are supposed to spark conversation and discussion and lead to actions that will improve FOIA. Because the OGIS recommendations are not a completed legislative package, interagency input and OMB review is inappropriate; these

recommendations are OGIS's, not those of a number of agencies, based on its expertise and experience handling FOIA disputes.

Back in 2008, SGI laid out [a vision](#) for how OGIS should approach its work in its early years. We emphasized an independent OGIS should have a robust mediation program, rely on advisory opinions and make recommendations to contribute to a better FOIA for requesters and agencies. OGIS has an ambitious mandate, and while we may want to update certain ideas we had back then, we think this vision for an independent OGIS is just as relevant today as it was four years ago.

You can read [OGIS's recommendations](#) for improving FOIA here, as well as see the collection of [FOIA improvements](#) that OGIS has collected in one place on its website.

OGIS NOW HAS INDEPENDENCE, BUT DOES NOT ADDRESS MISSION SHORTFALLS, GROSS LACK OF FUNDING

Public Law No: 114-185, The FOIA Improvement Act of 2016:

“The Director of the Office of Government Information Services shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States, including the Department of Justice, the Archivist of the United States, or the Office of Management and Budget before submitting to Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments.”

However, a review of OGIS Annual Ombuds Reports talk of glowing success and do not document mission shortfall or the dire need for additional funding.

[OGIS's Reports – The FOIA Ombudsman \(archives.gov\)](#)

The situation is worse than dire. OGIS had **\$1.629M In 2013** with a mediation caseload of 300 – 400 cases per year. That grew to over **4,600 cases in 2019** with only **\$1.2M by 2020**, despite inflation and mandatory pay raises. All the while, **NARA got every dime that they asked for in 2019: \$377.8M.**

Whether Office of Management and Budget (OMB) budgetary guidance may have constrained NARA is an open question.

There were two overburdened people at OGIS on the Compliance Team and three on the Mediation Team for over 4,600 mediation cases with one of staff member allocated full time to the FOIA Advisory Committee (according to public records).

What outcome should we expect from this dire funding shortfall?

HIGHLIGHTS -AUDIT OF NARA'S OGIS OIG AUDIT REPORT NO. 12-14

(Recently removed from NARA OGIS Website. Why?)

Our review identified two issues related to a **lack of resources** that hindered OGIS's ability to close cases in a timely manner and prevented OGIS from implementing a more robust review process to better meet its mission.

The Office opened on September 8, 2009, with one staff member (the Director); 5 staff members were in place by December 2009, and a full staff of 7 (from both the agency access and FOIA requester communities) was realized by May 2010 and remained as of April 25, 2012.

OGIS opened 764 cases in response to requests for assistance - 391 in its first year and 373 in its second year, ending September 30, 2011.

During an interview OGIS's Director and Deputy Director stated that OGIS's relationship with the DOJ could be more cooperative, but OGIS was able to work with the DOJ in order to meet its statutory requirements.

What has changed?

\$1.629M in 2013 with a mediation caseload of 300 – 400 cases per year. That grew to over **4,600 cases by 2019** with only **\$1.2M by 2020**, despite inflation and mandatory pay raises. All the while, NARA got every dime that they asked for in 2019: **\$377.8M**.

ALINA SEMO:

The most notable impact of the FOIA Improvement Act of 2016 was on OGIS's dispute resolution program. The 2016 amendments now require agencies to alert requesters to OGIS's dispute resolution services much earlier in the FOIA process, prior to or during the pendency of an administrative appeal, in addition to at the conclusion of the administrative process. As you can see from these graphs, we experienced an immediate and substantial increase in our caseload. The implementation of the amendments led to 142% increase in requests for assistance in the fourth quarter of fiscal year 2016, compared to the number of cases we received during the entire 2015 fiscal year. The surge in demand for our services has continued since the reporting period, and right now we are on course to quadruple our caseload in fiscal year 2017 compared to fiscal year 2016.

KEL MCCLANAHAN:

I think I got in the way more than I helped. My name is Kel McClanahan. I am with National Security Counselors. And I was wanting to know what the plans were now that you have such a large increase in your workload. Is the Archivist or anyone going to put in a commensurate increase in your budget?

ADAM MARSHALL:

My name is Adam Marshall. I'm the Knight Foundation litigation attorney at the Reporters Committee for Freedom of the Press. We're a nonprofit association of reporters and editors based here in Washington, D.C. I certainly, like Rick, appreciate the opportunity to

comment today at OGIS's first annual public meeting. The Reporters Committee has long supported the creation and mission of an ombudsman office to assist reporters and others with requests made under the FOIA. As a member of the Sunshine in Government Initiative, the Reporters Committee was involved in the discussions that helped lay the foundation for OGIS's creation ...

The Reporters Committee is also troubled by a number of provisions in OGIS's proposed regulations that seek to impose secrecy on requesters who use its mediation services. For example, the rule states that OGIS's final response letters are confidential and cannot be used by any party, or rely on them in any subsequent proceedings. Not only is there no legal basis for this provision, but it is contrary to OGIS's mission, and will limit its usefulness to requesters who often contact OGIS in an effort to work with the agency to resolve their dispute before litigation.

If it is -- if those efforts are unsuccessful, it is important that the requester be able to inform the court that they attempted to resolve the dispute through mediation and were unsuccessful, as well as any advisory opinions or other determination that OGIS has made. OGIS should not be attempting to limit the disclosure of this important information.

What has changed?

NARA, PLEASE FUND OGIS!! (PART 1)

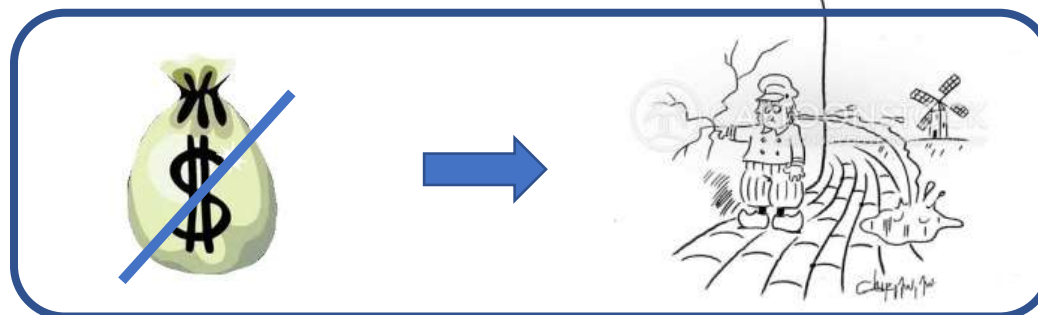
**HAMMOND SEPTEMBER 9, 2021
FOIA ADVISORY COMMITTEE MEETING SPEAKER NOTES**

**Chief FOIA Officers Council
Public Comment**

**by Robert Hammond
FOIAcompliance@gmail.com
October 13, 2021**

OUTLINE

- [Preface - I continue to support OGIS ...](#)
- [OGIS Budget Requests – NARA Congressional Justifications](#)
- [September 9, 2021 Meeting Speaker Notes: Oral Comments to FOIA Advisory Committee “OGIS Funding and Case Accountability Logs”](#)
- [September 9, 2021 Meeting Chat Comments](#)
- [NARA, Please Fund OGIS!!](#)



- [The FOIA](#)

PREFACE - I CONTINUE TO SUPPORT OGIS

With my deep respect ...

As an initial matter, I want to recognize the Archivist of the United States, **The Honorable David S. Ferriero**; the very accomplished Office of Government Services (OGIS) Director, **Alina Semo**; and the extraordinary, dedicated OGIS Staff, particularly the FOIA Compliance Team: **Kirstin B. Mitchell** and **Christa Lemelin**. the Mediation Team: **Carrie McGuire**, **Dwayne Bacon**, and **Jessica Hartman**.

Notwithstanding my September 9, 2021 speaker notes herein, I am currently seeking input from experts (including NARA staff) on how much funding OGIS needs to accomplish its critical, statutorily mandated, dual FOIA Compliance and Mediation missions, and I am working to obtain funding. Absent adequate OGIS funding, FOIA does not function properly; it dies in darkness and neglect. I have noted my concerns about OGIS budgets and pressed for increases, including reallocating FY 2021 and now FY 2022 funds during CR, as best NARA is able.

Going forward, I am advocating for NARA budget requests that fully fund OGIS - with strong, candid supporting justifications documenting what OGIS cannot accomplish absent such increased funding. Seemingly, a twenty-fold increase. Please inform Congress and the President.

I have pressed to discontinue unlawful, inaccurate citations in FOIA determination and appeal letters throughout the Federal government (including OGIS, DOJ, DOD, etc.) that “disappear” or reduce OGIS mediation workload by misinforming requesters of their statutory mandatory rights.

I have not walked a mile in Mr. Ferriero’s or Ms. Semo’s shoes. My comments are observational.

I need your help. The American citizens need your help.

OGIS BUDGET REQUESTS – NARA CONGRESSIONAL JUSTIFICATIONS

Going into FY 2013 OGIS had a staff of seven. “OGIS asked for additional FTE's as part of the FY 2012 budget initiative, however this request for additional FTE's was not approved.”

I note that thru 2013 OGIS had not done any compliance audits. (OGIS “has not conducted any reviews of agencies' compliance with the law.”)

In a separate audit, OGIS stated that it could not split its mediation team to do audits. (“compliance ... Given OGIS's small staff, the establishment of such a team was not deemed feasible.”)

Déjà vu 2021 with a two-person compliance team and a three-person mediation team with 1,500% more mediation requests.)

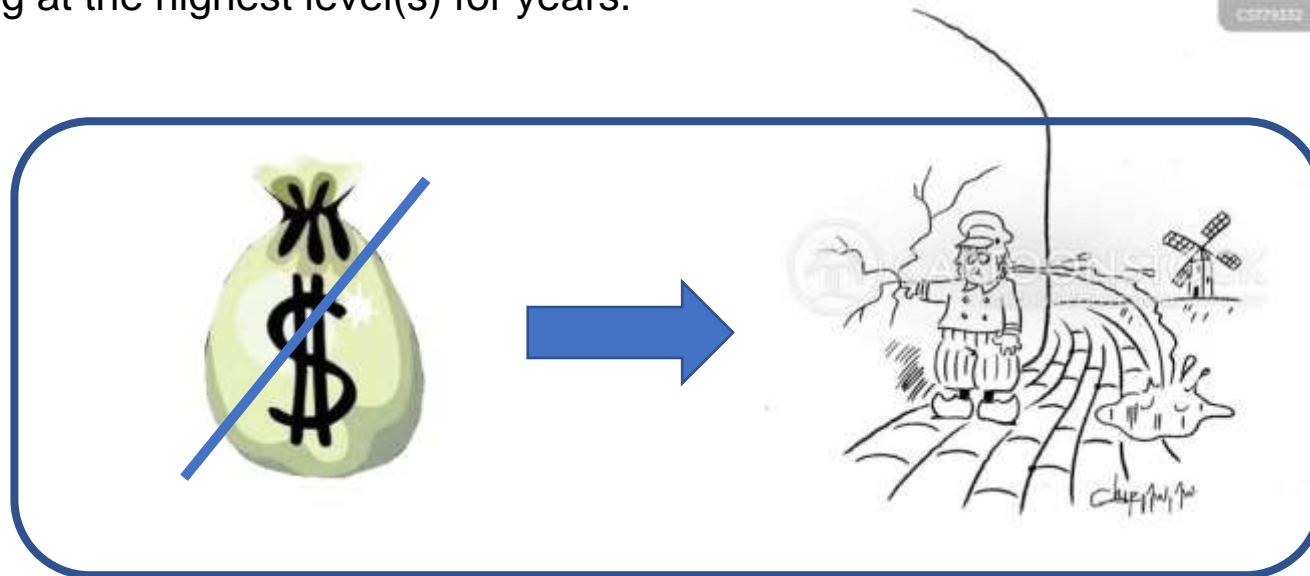
OGIS Budget. Not adjust for inflation or mandatory pay increases.	
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Then, OGIS is not able to do true mediation at all (per governing statutes). Rather – at best - only seeking untimely clarification from the agencies and parroting agency responses no matter how ludicrous or unlawful they are. Such is inadequate resourcing ...

Meanwhile, “Compliance,” in my view, is a complete failure of OGIS’s statutory mission. Not in my lifetime will OGIS make a single pass thru the Federal Agencies and sample a statistically significant number of requests and appeals for “marginal” assessment.

The audit goal must be a statistically significant source records sample of the total request/appeal population each year, matched with FOIA raw data and Annual FOIA Reports (not a couple hundred records per year).

As OGIS is aware (DOJ OIP also), massive fraud – not error – exists in FOIA reporting, which I have been documenting at the highest level(s) for years.



Speaker Notes for Oral Comments to FOIA Advisory Committee: “OGIS Funding and Case Accountability Logs.”

I want to follow-up on a commitment that I made to help seek additional funding for the Office of Government Services, OGIS, in their important dual missions of compliance and mediation services to resolve disputes between persons making FOIA requests and administrative agencies,” per statute (5 U.S.C. § 552(h)(3)). I know that this Committee has also been seeking ways to get additional funding for OGIS. Recommendation # 19, “Congress strengthen the Office of Government Information Services with clearer authority and expanded resources.”

As an initial matter, “The Federal FOIA Advisory Committee reports to the Archivist of the United States. The Office of Government Information Services (OGIS) serves as the chair of the Committee, and OGIS staff provides administrative and logistical support.” The Honorable David S. Ferriero is the Archivist of the United States.

To the people doing the day-to-day work, I stand with you on the enormous need for more resources, more help. Many in this meeting may not know that OGIS has just two people assigned to the FOIA Compliance Team: **Kirstin B Mitchell** and **Christa Lemelin**. And just three people assigned to the Mediation Team: **Carrie McGuire**, **Dwaine Bacon**, and **Jessica Hartman**.

In correspondence and in a past meeting, I commented that from my experience in the budget world when you tell leadership that you are doing more with less, you get less. So (I said), I would rather have my requests take longer but be more thorough. And, because of the extremely important dual

OGIS missions, I made a commitment to advocate for additional OGIS funding, including writing to members of Congress.

It was time to make good on my promise. So, I looked to the OGIS FOIA Reports to Congress and the President to learn what I could that might be helpful. I learned that in FY 2020 OGIS processed **4,169** requests for assistance. I thought, “This is good stuff. I can divide three staff members into 4,169 requests for assistance and make a strong case.” I think that most of you would agree that is an impossible task for Carrie, Dwaine, and Jessica to do the quality of work that in their hearts want to do. They need more help.

But then I read - in that report to Congress and the President - that OGIS has “decreased our backlog by 83 percent from the end of FY 2019.” “Decreased our backlog by 83 percent.”

Then I learned from NARA’s FY 2020 & FY 2021 Congressional Budget Justifications that NARA sought for OGIS an increase of only \$77,000, barely the rate of inflation. NARA got everything that it asked for, including \$377,823,000 with \$1,212,000 for OGIS; barely enough for salaries and paperclips You will not get money if you don’t ask for it.

When I made that promise to advocate for more OGIS resources, it was from my heart. To the OGIS Team on the front lines, though I want to and stand with you, I cannot help you. No one on this committee can help you, in my view.

Yet, Congress and the President do step up when presented with facts of significant problems affecting our citizens. FOIA is important.

I am reminded of the recent horror affecting our veterans. This may not be a good analogy, so please don't take it literally. All the reports said that veteran patient backlogs were decreasing. Senior executives were getting fat bonuses. While the reality on the ground was that veterans were waiting weeks and months for appointments, becoming sicker and, sadly, in some cases passing away. When the reality on the ground became known, Congress and the President stepped up, provided substantial additional funding, and passed the Veterans Choice and Accountability Act of 2017 allowing veterans to see a local private doctor in certain cases and the VA would pay for it. Congress and the President do step up.

Carrie, Dwaine, and Jessica, I stand with you in your urgent need for more resources; more help.

But, what caused the case backlog to go away? Did something happen to make part of caseload go away? Are agencies (DOD) refusing to engage in dispute resolution? Have requesters become disillusioned and quit relying on OGIS? Is OGIS closing cases without dispute resolution? Is OGIS processing cases in the order received? (On that last issue, just a few days ago, I received a curious letter from Director, OGIS addressing three cases that were themselves only days old, while I have open cases dating back to 2018). Very curious.

DOD has stated that they are not required to include the mandatory right to alternative dispute resolution in adverse determination letters and the OGIS Director agreed with DOD's position until just days ago in a limited retraction to one of those days-old cases. The facts are overwhelming. All public DOJ and OGIS documents and the statute itself state that mandatory right. DOJ and OGIS have posted Model Letters.

In 2020 DOD issued a change to the Code of Federal Regulations governing their FOIA processing. Among others, my presentation to this Committee related to this matter entitled “Mandatory Right to Dispute Resolution” has curiously not been posted, although it meets all OGIS Public Comments Posting Guidelines.

Then, I learned - from OGIS reports to Congress and the President - in FY 2019 OGIS handled 4,649 request cases. **4,649**. In FY 2020 OGIS received only **4,062** requests. What caused the workload to go away, what is ground truth about how the backlog is being cleared, and importantly what of the quality of work that the Mediation Team would in their hearts strive to do?

Here are my recommendations.

- I believe that this Committee, OGIS Compliance, and DOJ OIP must address the issue of DOD’s change to 32 CFR part 286, which does not contain the mandatory right of OGIS dispute resolution and does not appear to comport with laws, regulations, and policies. (Note, DOD INSTRUCTION 5145.05 requires DOD to “actively promote the use of ADR,” and “eliminate barriers to the use of ADR,” which contradicts 32 CFR part 286.4.)
- I believe an audit of OGIS processes, performance metrics, and raw data is also in order. It is also important that the Compliance and Mediation Team workers be evaluated fairly and rewarded for quality work in helping to “resolve disputes between persons making FOIA requests and administrative agencies.” I am awaiting relevant records.
- I believe that OGIS should resume posting response letters and logs and include anonymous surveys in response letters to ascertain effectiveness in executing FOIA dispute resolution. The

private sector uses them extensively to make corrections and keep their customers. The Mediation Team could be rewarded for quality work. Prior to September 22, 2016, OGIS posted logs of its dispute resolution cases and letters, which contained a statement and link, “We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.”

- The Archivist of the United States should reallocate FY 2021 funding within NARA to support the OGIS mission.

Carrie, Dwaine, and Jessica; Kirstin and Christa, I stand with you in your urgent need for more resources, more help.

Please post my associated Public Comments, “OGIS Funding and Case Accountability Logs.”

Thank you.

With my deep respect,

Robert Hammond

SEPTEMBER 9, 2021 MEETING CHAT COMMENTS

(Note, capitalization is not shouting. Needed as separator as chat removes all carriage returns and formatting).

Pls Announce.

On September 3, 2021 6:06 PM, I sent an email to 'foia-advisory-committee@nara.gov, seeking accommodation. I stated, "Per Federal Register Doc. 2021-18430 Filed 8-26-21; 8:45 am, please advise me how I may access a real-time transcript of the September 9, 2021 meeting. I am registered." I have not received a reply.

Pls Announce.

June 10, 2021 FOIA Advisory Committee Meeting link to transcripts is inaccurate; does not go there. Link to Public Comments does not go directly to Public Comments. Pls fix today, if possible. Certified meeting minutes are imprecise.

MINUTES. "Mr. Hammond further noted he submitted additional public comments and did not see them posted on the OGIS website. He noted emails dated May 13 and June 4 around violations of the ADA and FOIA Redactions that are not 508 compliant. He asked if the DOJ/OIP will issue an advisory opinion. Ms. Semo noted that OGIS is aware of the issue and that the FOIA Advisory Committee is not designed to discuss individual requests."

BUT THIS IS NOT ONE REQUEST & ADA BRIEFING CITES MULTIPLE.

ACTUAL. "Okay, so let me respond to two parts of that. First, this is not just one FOIA request. I get this a lot. So, it's a big problem. It's really easy to fix. And so, I think if unless the -- unless there's some kind of an advisory or something, many agents, agencies may not know that they're doing this."

Pls Announce. June 21 Minutes Wrong.

MINUTES. “Mr. Talebian noted his office will continue to work with Mr. Hammond about his concerns. Mr. Hammond asked about public responses to his questions. Mr. Talebian noted OIP has responded.”

BUT OIP HAS NOT RESPONDED.

TRANSCRIPT. “I'll jump in here really quick because I know that slides are directed at OIG and Mr. Hammond we'd be happy to work with you. I believe your issues are regarding our working compliance inquiries, as well as a disposition of an agency on reporting. My team will continue to work with you on those issues.”

Pls Announce. June 21 Minutes.

MINUTES. “Mr. Hammond noted another question about the Department of Defense change to 32 CFR Part 286.4 that states participation in alternative dispute resolution is optional. Mr. Hammond stated this is contrary to the FOIA statute. Ms. Semo noted OGIS would respond privately to Mr. Hammond about the issue.”

BUT CHANGE TO CFR MUST BE ADDRESSED PUBLICLY & MS. SEMO CUT ME OFF. DOD IS RELYING ON 32 CFR 286 IN REFUSING TO INCLUDE THE MANDATORY RIGHT OF OGIS DISPUTE RESOLUTION IN ADVERSE DETERMINATIONS. DOD and Director, OGIS have stated that including the right to OGIS dispute resolution in adverse determinations is not mandatory, but optional, which is contrary to all posted DOJ OIP and NARA OGIS guidance and the FOIA itself.

Pls Announce. June 21 Minutes Omitted, Public Comments Posting:

TRANSCRIPT HAMMOND. Okay. I appreciate it. You know, the other thing, as to, you know, public comments, and addressing things, I'm not -- I don't know if I've -- if I ever put something in my public comments that you think don't comply with your posting requirements, I would really appreciate feedback on that. Well actually, I need feedback on that to know what it is that OGIS or OIP, I think OGIS posts these, believes is not in line with the posting requirements. So, I appreciate that. The other thing in your public comments, when I read -- and I read those, I read your guidelines very carefully to make sure that I comply, and I'm pretty certain that I do, but it also suggests the good submissions include anecdotes, and experiences, and those kinds of things. It's hard to make broad generalizations about an issue without citing specific examples. And in fact, your public comments call for that.”

Pls Announce. June 21 Minutes Omitted, Public Comments Posting Continued:

TRANSCRIPT HAMMOND. “So, my intent is not to embarrass any agency or anything like that. But again, this is one that I think is kind of a broad issue. And so, I'll appreciate a public response to that. Again, since my comments in the chat room apparently didn't go to all of the members of the panel, I'll post those after the meeting or ask that they be posted as public comments.”

I SENT THE CHAT ROOM COMMENTS. BUT THEY ARE NOT POSTED OR INCLUDED IN THE MINUTES.

OGIS STILL HAS NOT POSTED SOME OF MY PUBLIC COMMENTS, NOR STATED THE STATUTORY OR OTHER BASIS FOR NOT DOING SO. ALL ARE COMPLIANT.

Pls Announce. The April 29, 2021 Chief FOIA Officers Council meeting minutes and mandatory posting of associated records has not been done. Is there a performance metric for this?

Pls Announce. Question for Ms. Semo, NARA OGIS.

The Chief FOIA Officer Council statute mandates posting of all attendees; government, and non-government. Will you adopt the same protocol for posting all attendees for the FOIA Advisory Committee?

Pls Announce. Question for Ms. Semo, NARA OGIS.

OGIS has still not posted my Public Comments, Mandatory Right to Dispute Resolution. Pls publicly state the reason.

Pls Announce. Question for Ms. Semo, NARA OGIS.

OGIS has still not posted my Public Comments, “OGIS response Hammond public comments 9 July 2021.pdf”, which is your letter to me regarding Public Comments Posting and is clearly germane. Pls publicly state the reason.

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Thx.

Robert Hammond

NARA, PLEASE FUND OGIS!!



AMERICA! AMERICA! GOD SHED HIS GRACE ON THEE.

The FOIA

The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." As President Obama has declared a, "democracy requires accountability, and accountability requires transparency." The FOIA "encourages accountability through transparency.

VITAL TO DEMOCRACY