



**DOD FOIA Misconduct Part IV
Navy FY 2018 Appeals Disappeared
Hundreds of Thousands of Records Destroyed?**

**DOJ OIP & OGIS Underfunded
Thus Ineffective**

PUBLIC COMMENT

August 2, 2022

by

Robert Hammond

Whistleblower

foiacompliance@gmail.com

HYPERLINKED OUTLINE

Issues

- FY 2018 open appeals deleted in FOIA raw data
- False claims to have sent closure letters
- Violation of the Administrative Procedures Act in failing to upload (non-existent?) correspondence to FOIAonline
- Unlawful destruction of records (potentially hundreds of thousands)
- Unlawful claim of attorney-client privilege regarding appellate authority communications with the agency
- Unlawful claim that records of FOIA case files and searches are exempt from disclosure absent litigation
- DOD's Refusal to release FY 2016 & complete FY 2017 FOIA Report raw data
- NARA's Office of Government Information Services (OGIS) and DOJ's Office of Information Policy (DOJ OIP) are underfunded and ineffective.

Discussion of Non-Compliance Issues

Context

Sample Hammond Public Comments

Recommendations

BACKUP

- [DON-NAVY-2018-008376 02/13/2019 Final Disposition Alleged then deleted](#)
- [DON-NAVY-2018-008375 Appeal Correspondence Details](#)
- [Hammond FOIA Advisory Committee Nomination – Biography and Anticipated Contributions](#)

DISCUSSION OF NON-COMPLIANCE ISSUES

1. The eleven Navy FIOA appeals in Table 1 below are shown as open in DOD's Navy FY 2018 FOIA raw data. FOIAonline.gov shows purported closure dates in FY 2019, yet the appellate closures are not shown in either FY 2018 or FY 2019 FOIA raw data, meaning Navy never reported the appellate determinations.

Agencies are required to provide the raw data associated with their annual FOIA reports.

[DoD Open Government > Transparency > FOIA > DoD Annual Reports to AG \(defense.gov\)](#)

<https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/>

Table 1

#	Tracking Number	FY 18 FOIA Raw Data Receipt Date	FOIAonline Purported Closed Date
1	DON-NAVY-2018-011135	9/4/2018	1/17/2019
2	DON-NAVY-2018-010758	8/17/2018	1/25/2019
3	DON-NAVY-2018-010750	8/10/2018	1/25/2019
4	DON-NAVY-2018-009723	7/23/2018	1/25/2019
5	DON-NAVY-2018-008597	6/14/2018	2/13/2019
6	DON-NAVY-2018-008415	6/11/2018	1/25/2019
7	DON-NAVY-2018-008413	6/11/2018	1/25/2019
8	DON-NAVY-2018-008414	6/11/2018	1/25/2019
9	DON-NAVY-2018-008375	6/7/2018	1/25/2019
10	DON-NAVY-2018-008376	6/7/2018	6/11/2019
11	DON-NAVY-2018-007980	5/25/2018	1/25/2019

2. In nine of the eleven appeals, Navy never sent me the appellate determinations, which Navy is required to send via email. Those appeals therefore remain officially open.

3. In all eleven appeals Navy violated FOIAonline and Navy policy procedures in failing to post correspondence to the Correspondence Tab within FOIAonline as mandated. This is a violation of the Administrative Procedures Act.
 - a. FOIAonline.gov is a FOIA portal and records repository for records associated with requests and appeals.
 - b. In 2013 Navy mandated use of FOIAonline for all requests and appeals. Requesters with an account may enter requests and appeals directly; Navy FOIA offices are required to enter all requests and appeals received by other means.
 - c. FOIAonline requires that correspondence to requesters/appeals be initiated from within the application (where requesters have provided email addresses) or that agencies contemporaneously upload correspondence sent by other means. In all cases correspondence to me is required by email.
 - d. Navy further amplified the requirement to upload all correspondence into FOIAonline in its SECNAVINST 5720.4G of January 15, 2019.
 - e. Per Table 1 above, Navy made entries to all eleven appeals after January 15, 2019 stating that final determinations had been made.
 - f. Navy had to consciously override the FOIAonline default that would have sent me notices of the closures. This is both a procedural and ethical matter. Navy did not want me to be aware of the closure entries.
 - g. Then, Navy failed to place correspondence into the correspondence tab, which would provide a date and time stamped record of the correspondence and delivery.
4. In one instance, DON-NAVY-2018-008376, Navy suppressed the closure notification and then later deleted an initial appellate closure entry of 02/13/2019 after I replied on 06/05/2019 that I had not received any closure correspondence.

- a. This is both a procedural and ethical matter altering the official record. There apparently was no closure letter.
 - b. On 06/11/19 Navy again made a closure entry; this time entering a document entitled Hammond 2018-008375and008376 (1).pdf, which has nothing whatsoever to do with the appellate determinations of either 2018-008375 or 008376.
 - c. I replied twice more and notified OGIS, who failed to engage in mediation and failed to accurately respond.
 - i. OGIS, apparently do to grossly inadequate staffing, simply contacts the agency FOIA public liaison and copies whatever false and nonsensical response they receive into a case closure letter. For example, OGIS unfathomably and wrongly stated that Navy was not required to upload correspondence because SECNAVINST 5720.4G of January 15, 2019 was not in effect at the time of the 6/11/2019 FOIAonline entry.
 - ii. OGIS failed to address Navy's incontrovertible false reporting and other matters.
 - iii. OGIS on its own cannot by law deny mediation, but that is their practice. It is likely that OGIS has not conducted mediation in several years, which should be confirmed by audit as it was in a past audit.
 - d. The right to seek ADR from the FOIA public liaison (FPL) is a separate non-exclusive statutory requester right. OGIS cannot convert mediation requests into FPL requests. Congress specifically cites OGIS mediation as a nonexclusive alternative to litigation.
5. In the two instances where Navy sent me appellate determinations, they were materially flawed and did not contain statutory mandated notification of the right to seek mediation/dispute resolution from OGIS.

6. In one instance (DON-NAVY-2018-008414), where (because of a DOJ OIP compliance inquiry years later) on May 11, 2021 DOJ OIP provided me an alleged closure letter, that letter also did not contain OGIS ADR rights.
 - a. DOJ OIP similarly failed to address Navy's incontrovertible false reporting and other matters.
 - b. DOJ failed to accurately address that Navy never sent me the alleged closure letter.
 - c. The following statement in DOJ's correspondence is a materially false statement; "The DON FOIA Office also confirmed with the FOIAonline Help Desk that, provided you had set up a FOIAonline account prior to submitting request DON-NAVY-2018-003238, you should be able to view a copy of all affiliated correspondence for request DON-NAVY-2018-003238 or appeal DON-NAVY-2018-008414 within the FOIAonline.gov platform."
 - i. Having already given DO OIP my April 22, 2019 12:46 AM email to Navy, I subsequently provided DOJ OIP a screenshot from my FOIAonline account showing that Navy had neither sent me the alleged closure letter nor posted it to FOIAonline.
7. Regarding DON-NAVY-2018-008414 Navy unlawfully destroyed records.
 - a. Navy states that FOIA case records were unlawfully destroyed: "as I have indicated to you on previous occasions, the Department of the Navy's Records Management Manual, SECNAVINST M-5210.1, authorizes deletion or destruction of FOIA correspondence records when "two years old or sooner if no longer needed for administrative use."
 - b. Navy claims - apparently unlawfully - to have destroyed records in anticipation of litigation.
 - c. SECNAVINST M-5210.1 for many years to 2019 did not comport with required retention for FOIA case files of "6 years after final

- agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use”
- d. It is likely that Navy unlawfully destroyed hundreds of thousands of FOIA case records early and relied on SECNAVINST M-5210.1 to deny requesters access to them claiming that records no longer existed because they were destroyed.
 - e. NARA’s Unauthorized Records Disposition Unit has failed to accurately act when such examples were brought to their attention. An audit of their funding and mission accomplishment/failure is required.
8. Regarding DON-NAVY-2018-008414 Navy unlawfully withheld records of communications between the appellate authority and the agency, improperly claiming Exemption 5 attorney work product privilege.
- a. There is no attorney-client relationship between the appellate authority and the agency at the appeal stage.
 - b. DOJ OIP and OGIS should issue clarifying guidance to agencies.
9. Regarding DON-NAVY-2018-008414 Navy falsely claims that it does not have to release records of FOIA searches absent litigation.

CONTEXT

General Context

- I am a private citizen Freedom of Information Act advocate, Naval Academy graduate/career veteran/DoD civilian and now reluctant whistleblower who loves our country and believes that “An informed citizenry is at the heart of a dynamic democracy.” (Thomas Jefferson). Integrity and accountability matter.
- If appointed to the 2022 – 2024 FOIA Advisory Committee, I will humbly and faithfully represent the interest of non-lawyer private citizen requesters and work to improve FOIA processes for all.
- There are countless of my DOD FOIA requests and appeals **from 2013** forward that are open and unreported or falsely reported in annual and quarterly FOIA reports.
- From my own records there are 2,000+ instances of false FOIA reporting or other malfeasance involving DOD, NARA, DOJ. Likely hundreds of thousands of similar issues federal agency wide.
- FOIA raw data and DOJ's FOIA.gov data upon which the public, auditors,, and researchers rely is materially inaccurate.
- Navy unlawfully destroyed potentially hundreds of thousands of FOIA case records over many years, some in anticipation of judicial review.
- FOIA mediation and compliance oversight fall under NARA's Office of Government Information Services (OGIS), while DOJ's Office of Information Policy (DOJ OIP) also has uncomfortable, confusing, overlapping FOIA compliance oversight responsibility.
- I have asked GAO to conduct Freedom of Information Act (FOIA) audits of DOJ OIP and OGIS regarding gross underfunding impacting mission accomplishment and inaccurate reporting to Congress and the President. Then, GAO should review staff training to achieve certifications, appropriate grade levels, and performance standards that reward quality.

See my public comment: [Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.](#)

- OGIS and DOJ OIP failed to act when confronted with false FOIA reporting.

March 29, 2022, Senate FOIA Hearings.

The March 29, 2022, Senate FOIA hearings again exposed an utter lack of FOIA oversight compliance and mediation due to both NARA's Office of Government Information Services and DOJ's Office of Information Policy being grossly underfunded. Nothing ever changes. The media summed up the hearings in articles, such as "Senators Unite to Slam FOIA Compliance" and "DOJ's Lack of Enforcement."

See my public comments:

- [Senators Unite to Slam FOIA Compliance + POGO](#);
- [Senate Hearing on FOIA. DOJ's Lack of Enforcement + Malfeasance + Open The Government Statement](#);
- [Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.](#)

Office of Government Information Services (OGIS) Underfunded and Ineffective.

As part of the OPEN Government Act of 2007, the FOIA was amended to create the Office of Government Information Services (OGIS) within the National Archives and Records Administration. OGIS was tasked with FOIA compliance oversight and offering of mediation to resolve disputes between requesters and agencies as a non-exclusive alternative to litigation. OGIS opened in September 2009 but did no mediation in the first two years. See my public comment [Mandatory Right to Dispute Resolution - OGIS Malfeasance??](#)

OGIS also has compliance oversight responsibility (5 U.S. Code § 552 (h)(2)(B): “review compliance with this section by administrative agencies”). OGIS and NARA’s Acting Archivist wrongfully deny compliance oversight responsibility, I believe due to a lack of resources. OGIS claims to have two people assigned to FOIA compliance and audits for over 800,000 FOIA requests per year (plus administrative appeals), yet OGIS’ Federal Advisory Committee Act reports to GAO state that compliance lead Kirstin Mitchell is the full time FOIA Advisory Committee Designated Federal Officer, leaving no time for FOIA Compliance.

For OGIS, the inadequacy of funding is dire. OGIS had **\$1.629M in 2013** for compliance and mediation 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.

It is physically impossible to mediate 4,600 cases with just three junior staff mediators, so OGIS closes cases rapidly without mediation and makes apparent false statements regarding alternative dispute resolution in its annual Ombuds Reports to Congress and the President. Office of Government Information Services (OGIS) Dispute Resolution Case Metrics (rewarding rapid case closure) are provably false, and OGIS discontinued posting its mediation case processing logs and closure letters (likely due to staffing shortfall and inaccuracy). This is like the Veterans Administration scandal where senior leadership reaped huge bonuses for reducing appointment backlogs by cookin’ the books, while veterans awaiting appointments became ill and some sadly died. See [Mediation Program | National Archives https://www.archives.gov/ogis/mediation-program](https://www.archives.gov/ogis/mediation-program) .

In lieu of contacting responsible agency staff to engage in mediation, OGIS wrongly contacts the Agency FOIA Public Liaison (FPL), which is a separate, non-exclusive requester statutory right for alternative dispute resolution. Then, OGIS copies whatever false, nonsensical response it receives from the FPL into closure letters without contacting the FOIA request or appeal processing entities directly or giving the requester a chance to respond – no mediation whatsoever even when specifically

sought. OGIS essentially converts every request for OGIS mediation into a request for FPL dispute resolution in clear violation of the intent and text of the statute. They do not have the resources to do otherwise, nor has NARA sought such resources.

OGIS apparently does not hire certified/accredited compliance auditors or mediators or promote training to achieve such certifications. Position descriptions should be modified to require certification and reevaluated to assess grade level based on the certifications and high-level interactions, and OGIS training plans should be modified to enable current staff to attain certification within a reasonable time.

See my public comments:

[NARA, PLEASE FUND OGIS!! \(PART 1\)](#)

- **[HOT! Semo OGIS. Budget Numbers do not Comport w. NARA Published Budgets!](#)**
- **[QUESTIONS for June 29, 2022 OGIS Annual FOIA Meeting v2](#)**
- **[OGIS Funding and Case Accountability Logs.pdf](#)**

DOJ OIP & Known Massively False Annual FOIA Reports and FOIA.gov data

DOJ OIP who also has FOIA compliance oversight responsibility is similarly grossly underfunded and unable to audit annual FOIA reports, which are massively, massively false. DOJ's FOIA.gov data is massively inaccurate as well. Everyone knows it.

See my public comments:

- **[NARA FY 22 FOIA Data Stripped from FOIA.gov?? + NARA False FOIA Reporting?](#)**
- **[DOD MASSIVE FALSE REPORTING PART II + "Still Interest" Abuse](#)**

- [DOD Massive False Reporting Part III July 2022. 5-yr. Late Acknowledgements](#)
- [DOD Massive False FOIA Reporting. Part 1. Letter to SECDEF, Complaint to DOJ OIG](#)
- [DOJ Office of Information Policy Compliance Inquiries](#)

U.S. Archivist’s FOIA Advisory Committee Involvement

Members of the 2020 – 2022 FOIA Advisory Committee have addressed inadequate funding in their recommendations and may be able to provide records to support audit. I certainly will.

One recommendation of the Committee is to return OGIS as a direct report to the Archivist with line-item funding from Congress. The Acting Archivist has not acted on that recommendation. The Committee considered recommending that OGIS be removed from the executive branch (due to conflicts and inadequate funding) and placed under Congress. This may be reconsidered during the 2022 – 2024 Committee term. OGIS is likely underfunded twenty-fold compared with state entities performing the same mission, yet OGIS’ Director has not highlighted funding deficiencies in annual Ombuds reports or testimony to Congress (likely due to pressure from NARA senior leadership) and NARA refuses to release internal budget request and execution records sought under FOIA.

Refusal to Release FY 2016 & Complete FY 2017 Raw Data

- In clear violation of the FOIA statute and DOJ OIP guidance, DOD has refused to post its FY 2016 FOIA raw data and DOD’s FY 2017 raw data for DHA does not contain any FOIA tracking numbers.
- See <https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/>
- I have been complaining about this to DOD and DOJ OIP for years and seeking action. DOD could not have produced the annual FOIA reports (although materially inaccurately) without the raw data.

- DOJ states:

The raw statistical data used in the report must be available without charge, in a searchable format, that is downloadable in bulk.

In addition to posting the human-readable and NIEM-XML version of your Annual FOIA Report, the FOIA Improvement Act of 2016 now requires that your agency also post the raw data that made up your Annual FOIA Report. See 5 U.S.C. § 552(e)(3)(A)-(C) (2014), amended by FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538. To meet this requirement, agencies will need to provide the underlying data elements behind each request, administrative appeal, and consultation received and processed that is used to create the Annual FOIA Report at the conclusion of each fiscal year. This data is used to create the aggregated data tables for Sections IV-VIII, X, and XII.A-XII.C of the Annual FOIA Report, and contains such fields as the date the request or appeal was received, the request or appeal disposition, and the date closed. To assist agencies with this new requirement, OIP created a [Raw Data Template](#) which contains all of the raw data fields used in creating an agency Annual FOIA Report.

- Column B of the [Raw Data Template](#) is the “Request N

SAMPLE HAMMOND PUBLIC COMMENTS

Many public comments are also posted in HTML to [Document Cloud](https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20):
<https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20> Examples:

1.	All Panelist Chat to June 9, 2022 FOIA Advisory Committee Meeting. OGIS & DOJ Funding + Missing FOIA.gov Data.”
2.	NARA FY 22 FOIA Data Stripped from FOIA.gov?? + NARA False FOIA Reporting?”
3.	Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter
4.	Comments to Unlawful Chief FOIA Officers Meeting of November 17, 2021
5.	Mandatory Right to Dispute Resolution - OGIS Malfeasance??
6.	DOD Massive False FOIA Reporting. Part1. Letter to SECDEF Complaint to DOJ OIG +v3
7.	Sample FOIA Template With Recent Developments to Combat Agency Misconduct
8.	HOT! Semo OGIS. Budget Numbers do not Comport w. NARA Published Budgets!
9.	DOD MASSIVE FALSE REPORTING PART II + “Still Interested” Abuse
10.	NARA, PLEASE FUND OGIS!! (PART 1)
11.	NARA FOIA & Financial Malfeasance \$789,730 + Alteration of Records and Loss of Public Trust?
12.	Archivist of USA & OGIS Posting Policy Does Not Comport with Law
13.	QUESTIONS for June 29, 2022 OGIS Annual FOIA Meeting v2
14.	The Uncommon Man. Response to Hon. David S. Ferriero June 10, 2021 Comments to FOIA Advisory Committee.”
15.	DOD’ Cites Change to CFR 32 CFR Part 286.4 as Unlawful Basis for Omitting OGIS Mediation Rights
16.	Senate Hearing on FOIA. DOJ's Lack of Enforcement + Malfeasance + Open The Government Statement
17.	Senators Unite to Slam FOIA Compliance + POGO
18.	OGIS Negligence Generally & Improper June 29, 2022 FOIA Meeting

SAMPLE HAMMOND PUBLIC COMMENTS

19.	FOIAonline - Recommended System Changes
20.	Violations of the ADA in FOIA Redactions, Simple Solution
21.	Hammond Planned Chat Comments to 4.7.2022 FOIA Advisory Committee Meeting
22.	DOD Massive False Reporting. 5 yr. Late Acknowledgements, Unusual Circumstances Abuse
23.	OGIS Funding and Case Accountability Logs
24.	DOJ OIP Compliance Inquiries

RECOMMENDATIONS

GAO

- Conduct Freedom of Information Act (FOIA) audits of DOJ OIP and OGIS regarding gross underfunding affecting mission accomplishment and inaccurate reporting to Congress and the President. Then, GAO should review staff training to achieve certifications, appropriate grade levels, and performance standards that reward quality. *See my public comment: [Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.](#)*
- Conduct audits of Department of Navy's early destruction of FOIA case records over many years numbering potentially hundreds of thousands of pages of records, including destroying records in anticipation of litigation.
- Conduct audits of widely known massive inaccurate FOIA reporting by Department of Navy, Defense Health Agency, and National Archives I am prepared to identify 2,000 examples of false FOIA reporting and/or other violations of law from my own records and believe that there are hundreds of thousands of federal agency wide discrepancies just through computer matching of FOIA portal data (such as FOIAonline.gov) to agency FOIA annual report raw data.
- Note that unfavorable audit results if as the result of insufficient funding and/or misaligned responsibility are a blessing – an attachment to future budget requests.

GAO or NARA's OIG

Conduct an audit of NARA's underfunded and thus ineffective Unauthorized Records Disposition Unit including errant handling of cases regarding destruction of records sought under FOIA.

DOD Generally

- Post FOIA raw data for FY 2016 and re-post FY 2017 raw data for DHA to include individualized tracking numbers.

- Amend past FOIA reports and raw data to accurately reflect known inaccuracies, including past admissions thereof.
- Respond to my FOIA requests seeking DOD FOIA raw data.
- Proactively post DOD FOIA processing logs.

Navy

- Address the compliance issues identified herein through return email correspondence to me.
- Amend FOIA reports and raw data reports to DOD and DOJ's FOIA.gov.
- Provide accurate status and estimated completion dates for all my FOIA requests and appeals dating back to FY 2013 (including Walter Reed).
- In all correspondence to me provide my personal request number and verbatim citation of records sought to accurately identify such FOIA request or appeal. In any FOIA request or appellate determination include a copy of my FOIA request or appeal per the format sought in my requests or appeals.
- Provide all correspondence via email to perseverance2013@aol.com.
- Include OGIS and FPL rights in all correspondence as required by statute.
- Engage in OGIS mediation regarding the matters cited herein.

OGIS

- Initiate a comprehensive audit of Navy annual FOIA reporting using the data provided herein. Contact me for additional data.

- Report in the Ombuds report instances of materially false reporting and other non-compliance by DOD, Navy, DHA, NARA cited herein and in my other public comments.
- Engage in mediation with Navy regarding the matters cited herein.
- Amend past Ombuds reports to accurately report the number of times OGIS or the agency FPL ENGAGED in alternative dispute resolution (ADR) per statute, *vice* improperly reporting the number of times the requester sought ADR. The numbers are not the same.
- In future Ombuds reports include the number of times OGIS refused formal mediation and the number of times the agency refused mediation. Per statute:

“The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section.”

- Include the name of an accountable person in all OGIS correspondence rather than “The OGIS Staff.”
- Return to posting mediation logs and mediation closure letters.
- Return to including satisfaction surveys to evaluate the quality of OGIS mediation work.
- Modify position descriptions and performance standards to require mediation staff to be certified/accredited mediators and compliance staff to be certified/accredited auditors. Provide needed training on government time and at government expense, allowing sufficient time for current staff to achieve certifications. Reevaluate position descriptions to determine if certifications increase the grade levels.

DOJ OIP

- Require DOD to post its FY 2016 FOIA raw data and FY 2017 raw data with DHA FOIA and appeals tracking numbers.

- Require DOD to amend past errant FOIA reports and raw data and to publicly post same.
- Require DOD to correct FOIA.gov data.
- Conduct a comprehensive audit of DOD's annual FOIA reports and raw data, including data of my FOIA requests and appeals.
- Conduct compliance inquiries into the matters cited herein, independent of any OGIS actions.
- Clarify the calculation of FOIA request and appeal receipt dates as to calculating the first day received.
- Clarify that there is no attorney-client relationship between the appellate authority and the agency at the appeals stage and that communications with the applicable agency are not exempt under Exemption 5.
- Clarify that records of case records and searches performed for a FOIA request sought under a subsequent FOIA request are not exempt from disclosure until litigation (if any) occurs.

NARA

- Initiate a comprehensive audit of OGIS materially underfunding and mission accomplishment or failure thereof. OGIS is underfunded twenty-fold (\$34M).
- Include the name of an accountable person in all NARA correspondence rather than "The FOIA Staff."
- Modify OGIS performance metrics to reward quality of work rather than arbitrary case closure, which diminished quality.
- Initiate an OIG audit of underfunding and mission accomplishment/failure of the Unauthorized Records Disposition Unit.

DOJ

- Properly fund DOJ OIP to perform its compliance mission; else seek to transfer the audit function to GAO.

FOIA Advisory Committee 2022 - 2024

- Establish a Compliance Subcommittee; else elevate the responsibilities of the Process Subcommittee to meaningfully address FOIA compliance.
- Ask OGS and DOJ OIP to identify funding requirements to properly execute their missions.

BACKUP

This email and FOIAonline screenshot show a 02/13/2019 entry claiming final disposition without posting any correspondence. Navy also suppressed the automated FOIAonline notification to me of that entry.

In response to my complaint that Navy had not sent me any (presumed non-existent) closure letter nor posted correspondence to FOIAonline, Navy simply deleted the entry, which is shown in the next screenshot.

In subsequent FOIAonline entries, Navy similarly suppressed automated notifications to me, failed to send me the closure letter (if any) and failed to post correct correspondence to the Correspondence Tab

From: Bob Hammond <perseverance2013@aol.com>
Sent: Wednesday, June 5, 2019 11:28 PM
To: grant.lattin@navy.mil; wendy.winston@navy.mil
Subject: Appeal DON-NAVY-2018-008376 ; Please clarify

Grant/Wendy,

I do not have the purported 02/13/2019 final disposition: Partially Affirmed & Partially Reversed/Remanded.

Please provide me that correspondence.

With my respect,

Robert Hammond

FOIA Appeal DON-NAVY-2018-008376 Submitted	System	06/07/2018	
<p>This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows: Appeal Tracking Number: DON-NAVY-2018-008376 Request Tracking Number: DON-NAVY-2018-004028 Requester Name: robert hammond Date Submitted: 06/07/2018 Appeal Status: Submitted Description: Appeal of FOIA Request FOIA DON 18-S.1. Case Records of Appeal Assigned Case # 2013X040149; Walter Reed Failure to Timely Respond to 2013 Amendment Request; Afriyie & Leung *** This appeal will be timely for judicial review within twenty working days *** See Attached. 1.I am appealing the adequacy of the Agency’s search. 2.I am appealing that the Agency is improperly withholding, without any claim of exemption in the initial determination letter, the “Attachments: 0130801125241604.pdf “referenced in Bizzell email of August 01, 2013 13:30:01 Subject: MEMORANDUM FOR RECORD and accompanying Documents - Hammond Appeal Response. 3.I am appealing that the Agency has not and cannot meet its burden in claiming Exemption 6 with respect to any of the redactions. 4.I am appealing that the Agency has fraudulently claimed Exemption 5 wrt past denials and is doing so in this denial. See Fraudulent Claim of B5 above. 5.I am appealing that the Agency has not and cannot meet its burden in claiming Exemption 5 with respect to any of the redactions/withholdings. 6.I am appealing that the Agency committed a Privacy Act violation in transmitting Privacy Act protected information via unsecured email, which DON JAG knows is improper. See DON JAG Security Breach above.</p>			

Final Disposition, Request DON-NAVY-2018-008376	Wendy A Winston	02/13/2019	
<p>DON-NAVY-2018-008376 has been processed with the following final disposition: Partially Affirmed & Partially Reversed/Remanded Reply</p>			
Re: Final Disposition, Request DON-NAVY-2018-008376	Mr. robert hammond	03/30/2019	
<p>DON JAG has not sent me any appellate determination letter and there is no correspondence posted to FOIAonline. This appeal remains open for FOIA processing until DON JAG actually sends the determination letter. Pls send via email. Please also include your remand letter. Reply</p>			
Re: Re: Final Disposition, Request DON-NAVY-2018-008376	Mr. robert hammond	06/05/2019	
<p>DON JAG has not sent me an appellate decision. This appeal is very important to me. I greatly appreciate your support. Thank you. With my respect, Robert Hammond</p>			

DON-NAVY-2018-008375 Appeal Details

0	0	0	0	0
Submitted	Evaluation	Assignment	Processing	Closed

Correspondence

Subject	From	Date	Detail
	System		
FOIA Appeal DON-NAVY-2018-008375 Submitted	Ms. Wendy A Winston	06/07/2018	+
Final Disposition, Request DON-NAVY-2018-008375		01/25/2019	-----
DON-NAVY-2018-008375 has been processed with the following final disposition: Affirmed on Appeal Reply			
Re: Final Disposition, Request DON-NAVY-2018-008375	Mr. robert hammond	03/30/2019	

DON JAG has not sent me any determination letter, nor is any correspondence posted to FOIAonline. This request remains open until a response is sent. Pis send by email. Please include a copy of the remand letter
Reply

Re: Final Disposition, Request DON-NAVY-2018-008375

Mr. robert hammond

11/26/2020

From: perseverance2013@aol.com Sent: Thursday, November 26, 2020 3:42 PM To: DONFOIAPublicLiaison@navy.mil; Christopher.a.julka@navy.milCc: adam.yost@navy.mil; emilee.k.baldini@navy.mil; grant.lattin@navy.mil; griffin.farris@navy.mil; kirk.foster@navy.mil; laura.e.bishop@navy.mil; lawrence.lippolis@navy.mil; matthew.roush@navy.mil; paul.richelmi@navy.mil; soto.alaric@mail.mil; wendy.winston@navy.mil; Matthew.rouch@navy.mil; robin.patterson@navy.mil; perseverance2013@aol.comSubject: RE: FOIA Liaison Dispute Resolution. DON-NAVY-2018-008375 Appeal. Non-Compliance and False Annual Reporting View as HTMLDON FOIA Public Liaison, Mr. Julka, Please acknowledge receipt of this correspondence and provide your reply within 20 working days to the email address above and within FOIAonline.gov. Department of Navy Office of Judge Advocate General (DON JAG has violated FOIA statute, SECNAV INSTRUCTION 5720.42G and FOIAonline Requirement regarding this subject appeal and has engaged in false Annual FOIA reporting to the Attorney General and Congress. FOIAonline shows this appeal as closed, yet DON JAG never provided me a final determination letter as required by statute. Also, SECNAV INSTRUCTION 5720.42G states: "Denying an Appeal. The appellate authority must provide the appellant a final disposition "communication that decides the appeal with a reason for the decision. In all instances, the final denial letter shall contain the name and title of the official responsible for the denial and advise the requester of the right to seek judicial review. The final denial letter constitutes the final agency decision of the DON for the purposes of the FOIA. When a letter invokes FOIA exemption (1) because classified information is withheld, it should explain that a declassification review was undertaken (if it was undertaken), that the information cannot be released, and that information denied does not contain meaningful portions that are reasonably segregable. "DON JAG failed to post any determination letter in the FOIAonline application. SECNAV INSTRUCTION 5720.42G states that use of FOIAonline is mandatory and tasks Chief Information Officer (CIO) is the Senior FOIA Official for the DON. The OCIO shall: "h. Oversee participation in FOIA online, which is mandatory for all DON FOIA activities; "Ensure the full participation of their own commands and subordinate commands in FOIA online. Full participation includes providing all input to FOIA online necessary to ensure complete tracking and data availability for all mandated FOIA reports Uploading to FOIA online all response letters; Per FOIAonline Agency User Guide "Delivery Order# GS00Q09BGD0022, Task Order# EP-GIIH-00154, Project # TDD 11.10, Version 0.10, June 3, 2016, FOIAonline Agency User Guide: "Any communication with the requester is accomplished through the Create Correspondence action item. This section captures both system initiated and offline correspondence. "False Annual FOIA Reporting, Case Remains Open. Navy has not complied with the statutory requirements to provide me an appellate determination letter, so this case remains open. Navy was advised of same by my correspondence initiated in FOIAonline of 3/30/2019 .Navy failed to include this appeal in their FY 2019 Annual FOIA report, according to publicly released DOD FY19 Raw Data Report, even though FOIAonline correspondence from Wendy Winston states that the appeal was closed on 01/25/2019.Navy uses FOIAonline to generate the data for its Annual FOIA reports. To the extent that FOIAonline data is inaccurate or has been manipulated, false reporting has occurred. PUBLIC RELEASE OF RECORDS. The subject of the requested records

concerns "the operations or activities of the government." Post all correspondence to FOIAonline The release type must be set to "Unredacted - Releasable to the General Public: Will be available to the general public," or to "Redacted - Releasable to the General Public: Will be available to the general public."DON-NAVY-2018-008375AppealN/A06/07/2018N/A Closed Attached File Name Size (MB)File Type Appeal DON 18-S.1. w. attach.p.pdf6.3898Adobe PDF Document Appeal DON 18-S (1).1 (1). w (1). attach (1).p (1).pdf6.3898Adobe PDF Document Correspondence Collapse Showing 1 to 3 of 3 entries Show entries Subject From Date Detail FOIA Appeal DON- NAVY-2018-008375 SubmittedSystem06/07/2018Final Disposition, Request DON-NAVY-2018-008375Wendy A Winston01/25/2019DON-NAVY-2018-008375 has been processed with the following final disposition: Affirmed on Appeal Reply Re: Final Disposition, Request DON-NAVY-2018-008375 Mr. robert hammond03/30/2019DON JAG has not sent me any determination letter, nor is any correspondence posted to FOIAonline. This request remains open until a response is sent. Pls send by email. Please include a copy of the remand letter Basis for Appeal. Appeal of FOIA Request FOIA DON 18-S.1. Case Records of Appeal Assigned Case# 2013X040149; Walter Reed Failure to Timely Respond to 2013 Amendment Request; Afriyie & Leung*** This appeal will be timely for judicial review within twenty working days*** See Attached. 1. I am appealing the adequacy of the Agency's search. 2. I am appealing that the Agency is improperly withholding, without any claim of exemption in the initial determination letter, the "Attachments: 0130801125241604.pdf "referenced in Bizzell email of August 01, 201313:30:01 Subject: MEMORANDUM FOR RECORD and accompanying Documents - Hammond Appeal Response. 3. I am appealing that the Agency has not and cannot meet its burden in claiming Exemption 6 with respect to any of the redactions. 4. I am appealing that the Agency has fraudulently claimed Exemption 5 wrt past denials and is doing so in this denial. See Fraudulent Claim of BS above. 5. I am appealing that the Agency has not and cannot meet its burden in claiming Exemption 5 with respect to any of the redactions/withholdings. 6. I am appealing that the Agency committed a Privacy Act violation in transmitting Privacy Act protected information via unsecured email, which DON JAG knows is improper. See DON JAG Security Breach above. With my respect, Robert Hammond.
Reply

HAMMOND FOIA ADVISORY COMMITTEE NOMINATION

BIOGRAPHY AND ANTICIPATED CONTRIBUTIONS

I would be humbled and honored to serve as either an “all other requester” or as a recently retired 45-year federal employee, supporting the Technology, Process and/or other sub-committees where I can impact meaningful process improvements.

I volunteer in advance to participate in writing the final term report.

I am a “doer” who is extraordinarily efficient in drafting and coordinating process improvements to achieve consensus and excellent final work products.

Key Qualifications.

- Active non-attorney FOIA requester for over nine years, FOIA litigant (both with representation and pro se), who participated in two formal mediations.
- Actively use multiple FOIA portals.
- Passionately participated in every open FOIA meeting for the last two years, researching and preparing constructive oral and written public comments with recommendations to address serious process and funding deficiencies; the quality of which is evident. No one has done more.
- Routinely communicate with more than 1,000 FOIA professionals, media, interested parties, GAO, and Congress.
- Over 45 years of federal service and two+ years at Information Network Systems supporting DOD with extensive experience and high-level accreditations in information technology, finance, and as a warranted contracting officer – the Committee needs such expertise.
- Chaired high-level federal agency wide committees for over a decade, drafting and achieving consensus on process improvements in multiple functional areas and complex electronic data information exchange (including foreign with entities).
- Top Secret clearance – sensitive to records release. Participated in defending FOIA withholding as a fed.
- Multiple post-graduate degrees, certifications, high honors, trainer.