

**NARA FOIA & FINANCIAL MALFEASANCE \$789,730?**

**“UNRELIABLE DATA TO DOJ”**

**ALTERATION OF RECORDS + FOIA?**

**[DOES ANYONE EVER GET FIRED?]**



**Public Comment**

by Robert Hammond  
[FOIAcompliance@gmail.com](mailto:FOIAcompliance@gmail.com)  
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False FOIA Reporting?

Does anyone ever get fired?

- Archivist?
- Deputy Archivist?
- Chief FOIA Officer?
- DOJ OIP who administers FOIA.gov and audits annual FOIA reports as part of its FOIA compliance oversight mission?
  - 5 USC §§ 552(e)(6)(A)-(B).
- NARA's Office of Government Information Services (OGIS) who also has statutory FOIA compliance oversight responsibility and purports to do annual audits?
  - 5 USC §§ 552(h)(2)(A)-(B), 5 USC § 552(h)(2)(C).

- As initial matter, I previously reported that FOIA.gov does not contain any NARA FY 22 first or second quarterly data. NARA and DOJ OIP are purportedly investigating.
- Next, I noted that NARA's FY 2021 Annual FOIA report raw data does not contain any open FOIA requests, in apparent violation of laws, regulations and policies. DOJ is purportedly investigating.
- Seven of my FY 21 closed FOIA requests cited in NARA status, purported to be from NARA's FY 2021 FOIA log, are not in NARA's FY 2021 FOIA raw data. NARA and DOJ OIP are investigating.
- In response to my FOIA request seeking NARA's FY 2017 "NGC" FOIA processing log, NARA has promised (but not delivered) the processing log by the end of this month.
- Inexplicably, NARA states that it cannot provide its FY 2021 FOIA processing log until June 2023 and has yet to provide an estimated completion date for release of its FY 22 year-to-date FOIA processing log, pursuant to my FOIA requests.

## TABLE – EGREGIOUS FY 21 ERROR

So, I did some math comparing NARA’s FOIA.gov quarterly numbers with true math for those quarters and with numbers cited in NARA’s FY 21 Annual FOIA Report. Third grade math – the numbers do not add up no matter how you do the math.

		NARA Reported Quarterly FOIA.gov	Discrepancy True Math	Discrepancy True Math	NARA’s FY21 Annual Report	NARA FY 21 Annual & Quarterly FOIA.gov
<b>FY 2021</b>	<b>Beginning backlog</b>				<b>3,511</b>	<b>3,511</b>
<b>Q1</b>	<b>Received</b>	<b>693</b>				<b>693</b>
	<b>Processed</b>	<b>561</b>				<b>-561</b>
	<b>Ending Backlog</b>	<b>1,740</b>				<b>3,643</b>
<b>Q2</b>	<b>Beginning backlog</b>	<b>1,740</b>	<b>1,740</b>			<b>3,643</b>
	<b>Received</b>	<b>704</b>	<b>704</b>			<b>704</b>
	<b>Processed</b>	<b>1,227</b>	<b>-1,227</b>			<b>-1,227</b>
	<b>Ending Backlog</b>	<b>1,217</b>	<b>1,217</b>			<b>3,120</b>
<b>Q3</b>	<b>Beginning backlog</b>	<b>1,217</b>	<b>1,217</b>			<b>3,120</b>
	<b>Received</b>	<b>1,218</b>	<b>1,218</b>			<b>1,218</b>
	<b>Processed</b>	<b>2,054</b>	<b>-2,054</b>			<b>-2,054</b>
	<b>Ending Backlog</b>	<b>1,198</b>	<b>381</b>			<b>2,284</b>
<b>Q4</b>	<b>Beginning backlog</b>	<b>1,198</b>	<b>1,198</b>	<b>381</b>		<b>2,284</b>
	<b>Received</b>	<b>1,352</b>	<b>1,352</b>	<b>1352</b>		<b>1,352</b>
	<b>Processed</b>	<b>513</b>	<b>-513</b>	<b>-513</b>		<b>-513</b>
	<b>Ending Backlog</b>	<b>2,034</b>	<b>2,037</b>	<b>1220</b>	<b>4,369</b>	<b>3,123</b>

<https://www.archives.gov/files/foia/reports/nara-fy21-final.pdf>

## NARA'S FOIA FY 21 DATA CALCULATIONS FAIL THIRD GRADE MATH

- So, I did some math comparing internal FY 2021 quarterly data on FOIA .gov and then comparing that data with NARA's published FY 2021 Annual FOIA report. To be blunt, the numbers do not add up and the discrepancies are gross.
- Methodology, third grade math.
- The ending backlog from one quarter is the beginning backlog for the next quarter.
- If you add to the beginning balance the requests received, then subtract the requests processed, you get the ending balance for that quarter.
- As you can see in the chart, the NARA Quarterly Reported Q3 ending balance (1,198 requests) does not match the True Math (381 requests) using NARA's reported numbers.
- Not knowing which number is correct, I first carried forward the Q3 backlog of 1,198 requests and did the math. The NARA reported ending balance (2,034 requests) does not match the True Math (2,013 requests).
- Then, not knowing which number is correct, I carried forward the Q3 backlog of 381 requests and did the math. The NARA reported ending balance (2,034 requests) does not match the True Math (1,220 requests).

## IT GETS WORSE.

- While the NARA reports in FOIA.gov, FY 21 Q4 an ending backlog of **2,034** requests, NARA's FY 2021 Annual FOIA report states that the ending backlog is **4,369** requests.

## IT GETS WORSE.

- NARA's FY 2021 Annual Report states that the beginning backlog for FY 2021 is 3,511 FOIA requests. Again, adding the FY 2021 beginning backlog (3,511 requests) to NARA's FOIA.gov reported total four quarterly requests received (3,967 requests) and subtracting the total four quarterly requests processed (4,355 requests) yields **3,123** requests for NARA's FY 2021 fourth quarterly backlog. **Five different numbers for NARA's FY 21 FOIA request ending backlog.**

## DOES THIS EXPLAIN WHY

- NARA's FOIA OFFICER, cannot give me the FY 2021 FOIA Log until June 2023,
- there is no FY 2022 first or second quarterly data in FOIA.gov,
- NARA has not given me an estimated completion date for my FOIA request seeking NARA's NGC Y 22 FOIA log?

## DOES ANYONE EVER GET FIRED?

- Chief FOIA Officer?
- DOJ OIP who administers FOIA.gov and audits annual FOIA reports as part of its FOIA compliance oversight mission?
- NARA's Office of Government Information Services (OGIS) who also has statutory FOIA compliance oversight responsibility and purports to do annual audits?



## IT GETS WORSE

The last NARA OIG audit of NARA's FOIA operations was in 2017, which concluded:

- Management oversight needs improvement.
- Annual FOIA costs are not adequately supported.
- FOIA requests are not processed timely.
- FOIA processing systems are not updated or centralized.
- FOIA staff are not adequately trained.
- FOIA policies and procedures are outdated and lack consistency.
- NARA's FOIA program will continue to face significant backlogs of over 4,100 FOIA requests and an added risk of accruing unnecessary costs related to FOIA litigation.
- **Additionally, NARA will continue to submit unreliable data to the Department of Justice** [... and more.]

# NARA FINANCIAL MALFEASANCE \$789,730 + EXPEDITED FOIA REQUESTS ?

- Many of my expedited open FOIA requests seek NARA budget, allocation and other financial data relating to OGIS and budget execution (potential impropriety is unknown).
- My concerns appear valid. In FY19 NARA obligated (overspent) \$789,730 in excess of available appropriations resulting in a violation of the Anti-deficiency Act (ADA).
- Penalties for Antideficiency Act violations include administrative discipline, such as suspension from duty without pay or removal from office. In addition, an officer or employee convicted of willfully and knowingly violating the law shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

## **I HAVE NEVER SEEN SUCH A GROSS VIOLATION - \$789,730 unlawfully overspent!**

From public reports (subject to FOIA), my assessment/opinion is gross malfeasance by NARA's Chief Financial Officer (CFO), Contracting Officer (KO), and Senior Leadership. **\$789,730**, is not misplaced pocket change. As to qualifications and what the taxpayer is paying these fools, NARA's CFO began as a GS 12 in 2008; rapidly promoted to Senior Executive Service in 2017 with only a bachelor's degree and in 2020 earned in excess of **\$185,294**, while NARA's contracting officer who began in 2005 earned more than **\$188,509**.  
<https://www.federalpay.org/employees/nat-archives-and-records-administration/murphy-colleen-v>      <https://www.federalpay.org/employees/national-archives-and-records-administration/fields-la-verne-a>

Does anyone ever get fired?

Through FIOA, NARA released approximately 107 records documenting NARA's (potentially unlawful) alteration of an exhibit photograph to a women's Washington DC march exhibit. In a weak public apology, The Archivist of the United States stated:

“Our credibility, so important to our mission, understandably has been questioned.

Our records allow Americans to claim their rights of citizenship, to hold their government accountable, and to understand their history so they can participate more effectively in their government.

Access to these records - and faith in the institution that provides them - is essential to our American democracy.

Together with NARA's employees, I am committed to working to rebuild your trust in the National Archives and Records Administration.”

Does anyone ever get fired?

**IS ANYONE EVER HELD ACCOUNTABLE?**

**IS ANYONE EVER FIRED?**

