UNITED STATES DEPARTMENT *of* JUSTICE

Chief FOIA Officer Council Meeting

October 4, 2018

Department of Justice FOIA Guidance

➢ Good Communication

➢ Effective Case Management

➢ Increased Proactive Disclosures

➢ Enhanced use of IT

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Good Communication

Since 2009, the Office of Information Policy has issued numerous guidance pieces on the importance good communication between agencies and requesters.

Additionally, OIP has held several Best Practices Workshops on this topic highlighting a range of best practices from both the requester community and agencies.

Assigning Tracking Numbers & Providing Status Information for Requests

➢ Providing individualized tracking numbers.

➢ Providing both the date of receipt and an estimated date of completion to requesters when asked for status.

➢ Explaining the FOIA process or any delays in processing when providing status.

https://www.justice.gov/oip/oip-guidance-1 (July 8, 2014)

Importance of Good Communication with FOIA Requesters 1.0

➢ Providing requesters with the point of contact for information about their request.

➢ Making it easy to discuss scope and status.

➢ Having a process for interim responses.

https://www.justice.gov/oip/blog/foia-post-2010-oip-guidance-importance-good-communication-foia-requesters (March 1, 2010)

<u>Importance of Good Communication with FOIA Requesters 2.0</u>

➢ Communicating electronically as a default.

➢ Providing links to public information.

➢ Making it easy to narrow requests.

➢ Providing detailed information on FOIA fee estimates.

https://www.justice.gov/oip/blog/foia-guidance-0 (November 22, 2013)

Importance of Quality Requester Services: Roles and Responsibilities of FRSCs and FPLs

FRSCs are the first place where the public can go to get information about the FOIA generally or about a specific request.

FPLs supervise the FRSC and ensure a "service-oriented response to FOIA requests and FOIA-related inquiries."

https://www.justice.gov/oip/oip-guidance-5 (June 12, 2018)

FOIA Requester Service Centers

➢ FRSCs are intended to be a helpful source of information about the FOIA and how it is administered at each agency.

➢ OIP's Guidance lists available resources to assist FRSCs:

- FOIA Reference Guide
- FOIA Regulations
- FOIA Website

https://www.justice.gov/oip/oip-guidance-5 (June 12, 2018)

FOIA Requester Service Centers

FRSCs should also be ready to assist in:

- ➢ Identifying records available online
- ➢ Describing types of records maintained by the agency
- ➢ Assisting in formulating requests
- ➢ Describing agency's processing tracks
- ➢ Answering questions about expedited processing and FOIA fee provisions

https://www.justice.gov/oip/oip-guidance-5 (June 12, 2018)

<u>FOIA Public Liaisons</u>

FPLs should be available to:

➢ Answer any additional questions about the status of a request provided by the FRSC

➢ Assist in narrowing requests when there are "unusual circumstances"

➢ Explain an agency's final decision

https://www.justice.gov/oip/oip-guidance-5 (June 12, 2018)

FOIA Public Liaisons

To improve timeliness, at a more systematic level, FPLs can:

➢ Conduct self-assessments to identify areas where processes could be streamlined

➢ Maximize use of technology to facilitate processing of records

https://www.justice.gov/oip/oip-guidance-5 (June 12, 2018)

Best Practices from Best Practices Workshops:

➢ Maintaining frequent and substantive communications

➢ Proactively communicating with requesters

➢ Memorializing discussions

➢ Leveraging multi-track processing

➢ Explaining type of records maintained

➢ Maintaining up-to-date contact information

➢ Making online records findable and accessible

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https://www.justice.gov/oip/oip-guidance-5 (June 12, 2018)

Effective Case Management

Multi-Track Processing

OIP has long encouraged multi-track processing

 ➢ Provides mechanism to process "simple" requests in a different queue from "complex" requests, thereby improving timeliness

 ➢ Also allows agencies to readily offer requesters option of tailoring requests so they fit within the "simple" tracks and can be processed more quickly

https://www.justice.gov/oip/blog/foia-guidance-10 (August 7, 2012)

OIP has Focused on Processing Simple Track Requests within 20 Days

➢ OIP Guidance for Improvement

- https://www.justice.gov/oip/blog/foia-guidance-10 (August 7, 2012)
- https://www.justice.gov/oip/blog/foia-guidance-2 (August 13, 2013)
- https://www.justice.gov/oip/oip-guidance-9 (July 23, 2015)
- https://www.justice.gov/oip/oip-guidance/%5BOIP_guidance_for_further_improvement_based_on_2017_Chief_FOIA_Officer_report_review_and_assessment%5D (June 15, 2017)

➢ Milestone in DOJ Assessment Since 2012

FOIA Management and Accountability – Reducing Backlogs and Improving Timeliness

➢ OIP Guidance: Reducing Backlogs and Improving Timelines (August 2014)

- https://www.justice.gov/oip/oip-guidance-0

➢ Best Practices Workshops (May 2014, December 2015)

- https://www.justice.gov/oip/best-practices-workshop-series

➢ Self-Assessment Tool-Kit (September 2017)

- https://www.justice.gov/oip/foia-resources/foia-self-assessment-toolkit/download

OIP Guidance: Reducing Backlogs and Improving Timeliness

➢ Obtaining Leadership Support

➢ Routinely Reviewing Processing Metrics

➢ Using Resources Effectively – Intelligent Case Management

➢ Staff Training and Engagement

https://www.justice.gov/oip/oip-guidance-0 (August 15, 2014)

Best Practices Workshops Have Provided Best Practices For:

- ➤ Obtaining Leadership Support
- ➤ Monitoring Metrics & Utilizing Active Case Management Techniques
- ➤ Ensuring Accountability and Engaging FOIA Staff
- ➤ Utilizing Multi-track Processing

Best Practices Workshops Have Provided Best Practices For:

➢ Focusing on the 10 Oldest Requests

➢ Leveraging Technology

➢ Building Relationships with Program Offices

➢ Getting Employee Buy-in and Developing Quality Staff

FOIA SELF-ASSESSMENT TOOLKIT

Office of Information Policy, Department of Justice

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Introduction and Methodology
- Self-Assessment Process
- Purpose and Planning
- Documenting Evidence
- Evaluating Performance
- Sample Milestone
- Implementing Improvements

Module 1: Initial Mail Intake and Mail Review
- A. Review of Current Mail Intake and Initial Mail Review Process

Module 2: Assigning Cases, Managing Tracks, and Identifying Frequently Requested Records
- A. Review of Current FOIA Workflow

Module 3: Acknowledgement Letters
- A. Review of Acknowledgement Letter Process

Module 4: Adjudicating Requests for Expedited Processing
- A. Review of Expedited Processing Procedures

Module 5: Fee Correspondence
- A. Fee Waiver/Fee Category Responses
- B. Fee Estimates

Module 6: Searching for Responsive Records
- A. Understanding Search Requirements and Fundamentals

- The Toolkit is composed of thirteen modules to help agencies conduct an in-depth analysis of their FOIA program.

- Agencies may complete the entire assessment or individual modules.

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Toolkit Modules

➢ Initial Mail Intake and Mail Review

➢ Assigning Cases, Managing Tracks, and Identifying Frequently Requested Records

➢ Acknowledgement Letters

➢ Adjudicating Requests for Expedited Processing

➢ Fee Correspondence

➢ Searching for Responsive Records

➢ Processing Procedures

Toolkit Modules

➢ Consultations and Referrals

➢ Response Language

➢ Training and Employee Development

➢ Requester Services

➢ FOIA Reporting

➢ FOIA Website Development and Maintenance

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Increased Proactive Disclosures

Proactive Disclosures

➢ Since 2009, the Department of Justice's FOIA Guidelines have encouraged agencies to "readily and systematically post information online in advance of any public request."

➢ Many examples of these proactive disclosures in agency Chief FOIA Officer Reports.

➢ OIP has also issued additional guidance and held Best Practices Workshops on Proactive Disclosures.

OIP Guidance and Suggested Best Practices for Improving Transparency

➢ Take steps to ensure an ongoing process for identifying proactive disclosures.

➢ Process should encompass FOIA, IT, and program personnel.

➢ Material should be posted in open formats and information should be readily searchable.

https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/best-practices-guidance-sept-2010.pdf (September 1, 2010)

OIP Guidance: Using Metadata in FOIA Documents Posted Online

➢ Encourages tagging for increased searchability.

➢ OIP introduces a uniform metadata "FOIA tag" for posting FOIA processed records online.

➢ Through the consistent use of this standardized "FOIA tag" agencies will in effect help create a "virtual" government-wide FOIA Library by significantly improving the searchability of these records.

https://www.justice.gov/oip/blog/foia-guidance-11 (March 12, 2013)

OIP Guidance: Proactive Disclosure of Non-Exempt Agency Information

➢ Emphasizing the Systematic Posting of Information and the Leveraging of Technology

➢ Overview of FOIA's Proactive Disclosure Provisions

➢ Identifying "Frequently Requested" Records

➢ Posting Records Even Before Receiving a Request

➢ Ensuring that Posted Information is Usable

➢ Choosing a Website Location

https://www.justice.gov/oip/oip-guidance/proactive_disclosure_of_non-exempt_information (March 15, 2015)

Proactive Disclosure Implementation Checklist – Identifying Frequently Requested Records

➢ Systematically review each request to determine whether your agency has received other similar ones.

➢ Even in absence of multiple requests, consider whether the records concern a popular topic.

➢ During the course of processing requests, flag records that are common to multiple requests.

➢ Consider posting logs of FOIA disclosures.

Proactive Disclosure Implementation Checklist – Posting Records

➢ Implement systems and establish procedures to identify records of interest to the public on an ongoing basis and to systematically post such records.

➢ Link FOIA Professionals and program offices to help identify records appropriate for posting.

➢ Establish procedures in key offices where officials routinely identify in advance, or as records are finalized, records that are good candidates for posting.

Proactive Disclosure Implementation Checklist – Posting Records

➢ Post material in a user-friendly format

- Consult with your IT professionals, and other resources such as the Open Data Policy, for steps and best practices on posting documents in a machine-readable format to optimize their usefulness to the public.

Proactive Disclosure Implementation Checklist – Posting Records

➢ Choose the proper website location:

- FOIA Library (default location for frequently requested records), or

- Other website location (such as a webpage devoted to the records' topic).

➢ Periodically review FOIA Library to ensure that it is organized, user-friendly, up-to-date, and that documents are easy to locate.

Best Practices Workshop – Proactive Disclosures & Making Online Information More Useful

➢ Engage with programmatic offices

➢ Make online information usable, not just accessible

➢ Utilize available expertise outside the FOIA office

➢ Collaborate with stakeholders outside the agency

Enhanced Use of IT

Modernizing FOIA – Leveraging Technology to Process Requests

Since 2009, DOJ has put a very large emphasis on exploring how new technologies and collaborations with technologists can assist with FOIA administration.

DOJ's FOIA Guidelines emphasize the importance of using modern technology to advance open government and FOIA administration.

Modernizing FOIA – Leveraging Technology to Process Requests

➢ Establishment of FOIA IT Working Group in 2010

   • Range of topics covered: online request forms; advanced processing tools; websites and FOIA postings; collaborating with technologists; social media; etc.

➢ DOJ's Digital-FOIA Pilot Program

➢ Best Practices Workshop on FOIA Technology

Digital FOIA Pilot Program – Making the Case

➢ Pilot demonstrated significant advantages in using automated and electronic procedures to search and de-duplicate records

- Decreased number of times that a search term had to be run

- Improved search times

- Decreased time spent on de-duplication

➢ Looking forward, DOJ is examining how we can further maximize these and other advanced tools. [37]

Best Practices Workshop – Implementing Technology to Improve FOIA Processing

Detailed importance of, and best practices, for:

- ➢ Leveraging all available agency resources

- ➢ Actively collaborating with technology professionals

- ➢ Examining different uses of technology for benefits throughout the entire FOIA process

- ➢ Continually evaluating effectiveness of tools

- ➢ Utilizing advanced document review tools

Questions?